

Kaldor Centre Conference 2017 The Global Compacts on Refugees and Migration

For the first time in decades, world leaders are rethinking the global frameworks that govern the movement of people across borders. In September 2016, the UN General Assembly adopted the New York Declaration for Refugees and Migrants, a set of commitments to enhance the protection of refugees and migrants. In it, States agreed to work towards the adoption in 2018 of two Global Compacts, one on Refugees and one on Safe, Orderly and Regular Migration.

The Kaldor Centre Conference 2017 drew together key global, regional and Australian thinkers to discuss the two Compacts, raising critical issues and the potential in each agreement. This report highlights those insights and the opportunities and challenges ahead.



The Andrew & Renata Kaldor Centre for International Refugee Law at UNSW Sydney is the world's first and only research centre dedicated to the study of international refugee law. Founded in 2013, the Kaldor Centre undertakes rigorous research on pressing displacement issues in Australia, the Asia-Pacific region and around the world, and contributes to public policy by promoting legal, sustainable and humane solutions to forced migration. Through outstanding research and engagement, the Kaldor Centre has become recognised as an intellectual powerhouse with global impact.

Opening and keynote addresses

The processes and politics around the two Global Compacts are complicated and full of potential pitfalls, but the Kaldor Centre Conference 2017 opening and keynote addresses cited them as an opportunity to strengthen our global systems for responding to refugees and migrants. Speakers tempered any expectation that the Compacts would be a panacea, full of specific targets and measurable benchmarks, noting the current climate of resistance to additional obligations. Nonetheless these forthcoming agreements were seen to provide an opportunity not only to make life better for people on the move, but also to strengthen our multilateral systems of global governance. Much is at stake.

“Each day, we need to remind ourselves of the importance of cutting through the negative, and getting to effective action by focusing on that part of the whole where we can, or perhaps we can, make a difference”

– Guy S. Goodwin-Gill

Kaldor Centre Acting Director Professor Guy S. Goodwin-Gill surveyed the Compacts’ place in history, their potential as a springboard to the future. These agreements can encourage States to put in place rules or practices for sharing the international community’s responsibility – to provide protection, to find solutions for refugees and to create a principled, effective and collaborative way of managing international migration. Even though they are not binding, the Compacts have the potential to lead to the progressive development of international law.

Georgetown University Professor Elizabeth Ferris, the opening keynote speaker, drew on her experience in the negotiations for the New York Declaration for Refugees and Migrants at the United Nations General Assembly. In the current political climate, it is

significant that the Declaration expresses the commitment of all UN member states not only to responsibility-sharing but also to the existing principles and rules of the international legal framework.

Ferris noted that the processes of negotiating the Compacts are proceeding along two quite separate tracks. The Refugee Compact on is led by the United Nations High Commissioner for Refugees (UNHCR), while the Migration Compact is led by the President of the General Assembly, who nominated Mexico and Switzerland as co-facilitators. While the separation of the two Compacts suggests a lost opportunity for a more holistic approach to the movement of people, the process of developing the Compacts has nevertheless generated a tremendous amount of ‘creative... and potentially revolutionary’ thinking about both migration and refugees, Ferris suggested. Issues such as that of ‘vulnerable migrants’ – who are in need of international protection but are not refugees - are not yet adequately addressed and call for some degree of complementarity between the two Compacts.

She noted that chief amongst the dangers in the coming year is that the issue of responsibility-sharing will not be central to the final Compacts, or they will lack reference to mechanisms for accountability and follow-up.

Former Irish Ambassador David Donoghue, delivering the closing keynote, said the semantics of responsibility sharing, burden sharing and international cooperation would continue to be highly contested. He also highlighted the significant divergences in concerns

and interests between states in the global north and the global south. Nevertheless, part of the value of any UN milestone, as the Compacts will be, is that it can provide hooks to authorise new processes and maintain momentum, Donoghue said.

All speakers acknowledged that any concrete targets would face resistance from governments averse to new obligations. Negotiators will also need to manage the tension between border management and affirmation of the rights of those on the move. The issue of safe returns will be difficult, and protection will need constant reaffirmation.

Nevertheless, over the course of the next year, work on the Compacts has the potential to progress much-needed systemic change. They can set the agenda for future development by acknowledging the importance of key issues, by encouraging states and others to do further work on them, and by including follow-up mechanisms on specific topics.

“If the Global Compacts fail, the relevance of the UN and multilateralism generally will be weakened. If they succeed... multilateralism will get a much-needed boost.”
– Elizabeth Ferris

The Global Compact for Refugees

The opportunities and challenges to enhancing protection through the Refugee Compact were discussed by the speakers in this session: Dr Madeline Garlick (Chief of the Protection Policy and Legal Advice Section, Division of International Protection, UNHCR); Dr Phil Orchard (University of Queensland); and Dr Linda Bartolomei and Associate Professor Eileen Pittaway (UNSW Sydney).

Although the Compact does not set binding new standards, it provides an opportunity to identify better ways of ensuring respect for the existing rules, which cannot be taken for granted today, Garlick said. The challenge will be how to move beyond merely reaffirming protection principles to devise a document that will ensure better respect for refugees in practice, setting out concrete measures for states to take.

The Refugee Compact will comprise a Comprehensive Refugee Response Framework (CRRF), and a program of action which aims to facilitate the implementation of the CRRF in a given refugee situation. Thematic discussion held so far have yielded a range of proposals for potential inclusion in the program of action.

This includes measures to ensure better preparedness for, and rapid responses to, large movements of refugees, such as convening a Solidarity Conference at the outset of a refugee emergency to mobilise early support for a comprehensive refugee response. Support to host states is crucial, Garlick noted, and refugees should be included in national systems and services rather than parallel structures. Discussions in this area have focused on how to mobilise more resources for humanitarian and development assistance in host states and ensure complementary financing and programming of these responses to benefit both refugees and host communities. Measures being considered to enhance economic

inclusion and livelihood opportunities for refugees include establishing links with the private sector and global supply chains for products made by refugees.

Durable solutions are arguably amongst the most sensitive and difficult issues in the Compact discussions, Garlick noted. UNHCR is exploring ways to ensure support to voluntary sustainable return, including technical and financial assistance to countries of origin. The agency is calling on states to progressively increase the size of their resettlement programs and to resettle at least 25% of annual targets within six months of UNHCR referral, with at least 10% of their resettlement programs dedicated to emergency cases. Local integration has been a particularly sensitive subject, but UNHCR has sought to argue that local solutions for some refugees should form part of comprehensive multi-year, multi-partner solutions strategies, particularly for refugees with close ties to host communities.

Orchard noted that the CRRF reflects a vision of shared responsibility that includes efforts to support the voluntary return of refugees in safety and dignity. Refugees returning to their country of origin often become internally displaced, yet it remains unclear how or if the Refugee Compact will address the protection of IDPs, who comprise two-thirds of forced migrants globally. Ensuring that voluntary return is durable will be a major challenge if the needs of IDPs are not addressed.

“Despite the layers of discrimination faced by women and girls, they are not just passive victims.”
– Eileen Pittaway

Gender was a recurring theme of conference discussion, with strong arguments made that both Compacts need to address the specific needs of women and girls. Having just completed a gender audit for UNHCR as part of the Compact process, Bartolomei and Pittaway urged a shift away from discussing women and girls as a ‘vulnerable minority’ to recognising them as people with knowledge, experience and agency.

Another constant theme was the critical importance of involving people on the move themselves in the discussions about improving the rules governing the refugee and migration systems. The importance of supporting the capacity for resilience among refugees was also raised repeatedly in discussions.

The Global Compact for Safe, Orderly and Regular Migration

The Migration Compact offers an opportunity to build coherent global migration governance within and beyond the United Nations, but why? how? and for whom? were the questions for speakers in this session: Professor Alexander Betts (Oxford University); Associate Professor Alan Gamlen (Monash University); and Fiona David (Executive Director of Global Research, Walk Free Foundation).

The Migration Compact implicitly aims to improve global migration governance, but it does so without an agreed purpose, argued Betts. Beyond epithets of making migration ‘safer’, ‘more regular’ and ‘more orderly’, it is unclear what improved ‘performance’ entails in this politically contested field. Meaningful progress depends on measurable targets, which would

mean reconciling tensions between the security, economic and human rights dimensions of migration. For example, an index of ‘reducing irregular migration’ might be in tension with one of ‘protecting vulnerable migrants’, Betts noted. Achieving coherent commitments, metrics and institutional mechanisms in the longer term will require us to grapple with the question of purpose in migration governance.

The Compact would need to reckon with the millions of victims of modern slavery among today’s migrants, many of whom are subject to forced labour and forced marriage, David said, adding that 70% of those affected were women. By focussing on unskilled migration, bringing business into the process, and ensuring that migration policies grapple more effectively with modern slavery practices, the Compact could enhance protection for trafficked migrants.

In research comparing policies that engage diaspora communities – a potentially powerful force for good in promoting beneficial migration and inter-community links – Gamlen found that states tended to ‘shop’ from a worldwide consultant industry profiting from repackaging off-the-shelf ‘best practice’ models. Sometimes this provides cover for ambitious and innovative policy, but it also means bad policy gets recycled, he said. As world leaders consider creating new migration policy, this research suggested the need for agreed principles at a global level to safeguard against unregulated global policy shopping.

Negotiating the Compacts: process, content and expectations

Ensuring the two Global Compacts yield real and practical outcomes was a key concern for all speakers in this question-and-answer panel: David Wilden (First Assistant Secretary, Immigration and Citizenship Policy Division at the Department of Immigration and Border Protection (DIBP)); Jamie Isbister (First Assistant Secretary, Humanitarian Coordinator, Humanitarian NGOs and Partnerships Division at the Department of Foreign Affairs and Trade (DFAT)); Rifaie Tammam (Syrian refugee and PhD candidate at Macquarie University); and Dr Madeline Garlick (UNHCR).

DIBP leads the Australian government’s engagement with the Migration Compact. Wilden noted that Australia has a mature migration system and long and positive experience with managed migration that it can contribute to the Compact discussions. He emphasised that keeping two Compacts distinct, rather than conflated, was crucial to getting aspirational, practical, implementable results. Wilden observed that in comparison to the Refugee Compact, whose foundations are more established, the Migration Compact encompasses numerous highly competing interests in ‘an international environment not without challenge at the moment in and of itself’, noting the United States’ approach was still uncertain. Threshold talks in coming weeks in Mexico and Geneva would clarify the likely shape of the Compacts, and Wilden was optimistic that realistic, pragmatic, implementable outcomes could be achieved for global, regional and national state and non-state actors.

Isbister too was upbeat about the potential for meaningful outcomes from the Refugee Compact, for which DFAT and DIBP co-lead the Australian government’s engagement. He noted that Australia aims to ensure that the ambitions of the Refugee Compact could be

quickly translated into practice on the ground. Acknowledging ‘the multilateral system is under a fair bit of pressure,’ he noted the risk that some States would try to use the Compact as a way to deal with other issues and thus stymie progress. Likewise there would be resistance to specific new targets. However, a solid program of action could hold States to account and ensure ongoing, holistic reflection about better ways to achieve positive results. ‘It’s about how it becomes a living document,’ Isbister said.

Pragmatic plans for supporting host countries would be important to ensuring continued protection for refugees in countries of asylum. Isbister noted the progress already underway to move away from short-term humanitarian relief toward multi-year donor contributions and more holistic responses encompassing development and other actors. Garlick noted that responses to refugee situations were ‘drastically underfunded’ and States could not expect countries near crisis points to host displaced people indefinitely.

Panellists agreed on the importance of ensuring refugees play an active role in the Compacts process and that their agency to be part of the solution is recognised. Tamm stressed the need for these voices not just to be raised but also to be heard. He called for more partnerships between government and private actors, including universities, to cut through red tape and provide refugees with new opportunities.

The Compacts already are catalysing collaborative work, and there was agreement from DIBP to pursue a business forum akin to its regular NGO consultations, to facilitate private-sector action and support. Australia already is working with Talent Beyond Boundaries to trial a refugee labour-mobility visa, which conference participants urged should be, if successful, additional to the annual humanitarian quota.

Because refugees and migrants have sometimes-overlapping experiences, the question of coherence between the two Compacts will be important to resolve. But already compelling ideas were having a positive effect and changing lives, Isbister said, noting a few examples: scrapping bank fees for remittance transfers after disaster, shifting towards direct cash assistance in humanitarian programs, and tech companies bringing mobile curriculum support to displaced teachers.

The Compacts provide a genuine opportunity to build international goodwill to address the global challenges of migration and increasing refugee flows. The challenge ahead is to leverage this opportunity to achieve real and lasting change.

Further reading

Podcasts of all conference sessions and further resources available at:

<http://www.kaldorcentre.unsw.edu.au/resource/173>

Thank you to the following organisations for their support to the Kaldor Centre Conference 2017:

