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Promises and Paradoxes of a Global Gaze


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**Migration and Governance I:
Promises and Paradoxes of a Global Gaze**

Ranabir Samaddar

2018

Promises and Paradoxes of a Global Gaze

Ranabir Samaddar *

The Birth of a Global Gaze

The Global Compact on Refugees and the Global Compact for Safe, Orderly, and Regular Migration, mandated by the New York Declaration for Refugees and Migrants, 2016 and currently being considered by the United Nations, have been widely considered as opportunities for the world to reconsider old approaches to refugee and migrant protection. The Declaration was in the form of a draft resolution in the seventy-first session of the UN General Assembly as a follow-up to the outcome of the Millennium Summit and as part of an integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations' efforts in the economic, social, and other related fields. The Declaration was unambiguous in linking the question of protecting the migrants and refugees with a global development agenda, and said, "In adopting the 2030 Agenda for Sustainable Development one year ago, we recognized clearly the positive contribution made by migrants for inclusive growth and sustainable development. Our world is a better place for that contribution. The benefits and opportunities of safe, orderly and regular migration are substantial and are often underestimated. Forced displacement and irregular migration in large movements, on the other hand, often present complex challenges."¹ It was a promise of a new orientation to a global issue. In reality, it had given birth to a new global developmental gaze which would link protection, safety, and security with sustainable development. In the wake of the new promise, one journal commented, "The global community should not miss the opportunity to strengthen refugee protection in an era of increased migration."²

Annexe 1 spoke of a comprehensive refugee response framework (which would include improved norms of reception and admission, support for immediate and ongoing needs, support for host countries and communities, and various steps towards durable solutions) and the resolution invited the Office of the United Nations High Commissioner for Refugees (UNHCR) to engage with States and consult with all relevant stakeholders over the coming two years, with a view to evaluating the detailed practical application of the comprehensive refugee response framework and assessing the scope for refinement and further development. It also specified that the objective was to ease pressures on the host countries involved, to enhance refugee self-reliance, to expand access to third-country solutions and to support conditions in countries of origin for return in safety and dignity. The UNHCR was asked to propose a Global Compact on Refugees in the annual report of the High

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Commissioner to the General Assembly in 2018, for consideration by the Assembly at its seventy-third session (Annexe 1, Paragraphs 18-19).

Annexe 2, likewise, proposed a process of intergovernmental negotiations leading to the adoption of a Global Compact for Safe, Orderly, and Regular migration. It said that the proposed global compact would set out a range of principles, commitments and understandings among Member States regarding international migration in all its dimensions, and thus make an important contribution to global governance and enhance coordination on international migration by dealing with all aspects of international migration, including the humanitarian, developmental, human rights-related and other aspects of migration. As set out in its draft “Vision and Guiding Principles”, the Migration Compact decided to focus on some of the following objectives, to be fulfilled through numerous actionable commitments, namely: collection and utilization of accurate, disaggregated data as a basis for evidence-based policies;³ minimization of the adverse drivers and structural factors that compel people to leave their country of origin; providing adequate and timely information at all stages of migration, and all migrants with proof of legal identity, proper identification and documentation; enhancing availability and flexibility of pathways for regular migration; facilitating fair and ethical recruitment and safeguard conditions that ensure decent work; addressing and reducing vulnerabilities in migration; managing borders in an integrated, secure and coordinated manner; strengthening certainty and predictability in migration procedures; using migration detention only as a measure of last resort and working towards alternatives; enhancing consular protection, assistance and cooperation throughout the migration cycle; providing access to basic services for migrants; eliminating all forms of discrimination and promoting fact-based public discourse to shape perceptions of migration and investing in skills development and facilitating recognition of skills, qualifications and competences; creating conditions for migrants and diasporas to fully contribute to sustainable development in all countries; promoting faster, safer and cheaper transfer of remittances and fostering financial inclusion of migrants; and establishing mechanisms for the portability of social security entitlements and earned benefits.⁴

These two compacts together promised a new global approach to the issue of global migration including forced migration. The slogan was to be “Making migration work for all.” The UN Secretary General said, “Rather than responding to refugee displacement through a purely and often underfunded humanitarian lens, the elements of the comprehensive refugee response framework are designed to provide a more systematic and sustainable response that benefits both refugees and the communities that host them. That is advanced through the engagement of a much broader group of stakeholders: government authorities, the United Nations and its national partners, international and regional financial institutions, and business and civil society actors. It seeks to ensure more sustainable responses by linking humanitarian and development efforts early on in a crisis and by strengthening inclusive service delivery, including through investment in national and local systems wherever possible.” It did not however mean that this new approach would ignore security considerations. Thus, “Security matters: States and the members of the public have legitimate reasons to demand secure borders and the capacity to determine who enters and stays on in their territory”, but the UBN cautioned about counterproductive results from undue restrictions on migration that “corrode the ability of States to deliver on these priorities, and make migrants more vulnerable.” However, the “rule of law at all levels must be strengthened. Migrants should respect the need for legal pathways, and move between countries in an orderly fashion; but to make this possible the governments need to open routes for regular migration that respond to the realities of labour demand and supply.” Further, “Migration should never be an act of desperation: migration works for all when those who travel make an informed and voluntary choice to go abroad through legal means,

but we have seen too many migrants on the move in large numbers in response to unsustainable pressures in their home countries in recent years. We should use all the developmental, governance and political tools at our disposal to prevent and mitigate the human and natural forces that drive such large movements of people, but we should also recognize that we have a duty to care for those who migrate out of desperation.”⁵

The Declaration was global not only because it emanated from a global institution, but also because of the following aspects to be detailed out in course of this article. First, a single Declaration covering subjects of migration and forced migration was an acknowledgement of the reality that the two had deep relations, and that population flows were increasingly mixed and massive in nature, defying neat categorisation. Second, the Declaration also highlighted the limits and/or unwillingness of States to carry primary responsibility of the refugees and migrants, and hence opened up the possibility to include the “whole of society”, which is to say the “whole of globe” covering various stakeholders including business and commercial segments. Third, the Declaration suggested uneven geographies of protection and labour market, and conceived of the globe in terms of sanctuaries, third countries, hotspots, border zones, safe corridors, legally run labour regimes, remittance-centric segments of global economy, as well places characterised by multi-stakeholder operations. These geographies were in part created by spatial planning for refugees and migrants, in part by financial and security operations. Fourth, the new approach was global because refugees and migrants were conceptualised as subjects of global development. Fifth, migration and refugee “crises” were going to be inevitable unless the world struggled for durable solutions – hence the need for globally relevant comprehensive response framework, such as the “comprehensive refugee response framework”, and what IOM popularised as a “framework for effective practices with regard to management capacity building.”⁶ Finally, solutions could become durable only by becoming global, first as indicated above, through practising a new geography of labour market and care, and second, through pursuing a technological mode of management that would circumvent borders and boundaries to cope with the complex reality of global migration.

A small point, perhaps not small, is that the Declaration in order to be global, by and large bypassed the issue of internal displacement and addressed global migration, though in few places it made references to the internally displaced. But in strategizing migration management, the issue was not of critical importance.⁷

Against this background, this article focuses on the initiative for a global compact on refugees. In course of the analysis it also refers to the global initiative on safe and orderly migration as the counterfoil, the *other scene* of refugee management. The article aims to show how a global gaze as an apparatus of power is born, how it becomes a material reality, how a particular ideology, in this case humanitarianism, works as the vehicle of such a global machine, how the global must become technological in its strategy, and finally what happens to the agenda of rights which had provided the backbone of much of the welfare and protection ethos in the preceding century.

The Roadmap of a Global

The UNDP spent nearly half a million dollars (USD) in 2017 in supporting the migration compact process. This was overseen by the Multi-Partner Trust Fund Office of the UNDP. Austria, Australia, Cyprus, Ireland, Norway, Slovakia, and Switzerland provided the money, with Norway putting up most of the support – USD 257,748. This was only one of the several indications of monetary and other investments to prepare consent over the global compact agenda and secure it. In this way, scores of funding agencies, countries, foundations, think tanks, and multilateral institutions got

involved in the process.⁸ Global conversations were initiated and held. Meetings were organised in the metropolises mostly in the North and some in the South. The agenda of preparing the world for a new regime of protection as part of global governance was shaped through these steps. If this was only a picture of one organisation (UNDP), one can only imagine the huge extent of money, number of meetings, presence of specialists, recycling of views of known specialists, and involvement of a thin layer of experts of the South that were required in the process of manufacturing consent over the idea of a global mandate. Indeed these were marks of the process. By and large, human rights activists, peace activists, political parties, governments, regional associations, and critical jurists of the postcolonial world were left out. The global compact/s was/were to become a reality in a short time. A detailed work plan was chalked out for “global compact for safe, orderly and regular migration”, with preparatory meetings to be held in three phases in New York, Geneva, and Vienna – the capitals of the global world. Thematic sessions, UN Regional Economic Commissions, regional consultative processes (discussions to be held in regional capital cities), multi-stakeholder meetings, global forum on migration and development, IOM conducted international dialogue on migration, and other preparatory stocktaking meetings, distribution of documents, and negotiations were steps towards building consensus on the compact.⁹

Likewise, there was a simultaneous process of a compact on refugees. The New York Declaration for Refugees and Migrants, adopted by the United Nations General Assembly in September 2016, called for the United Nations High Commissioner for Refugees, in consultation with States and other stakeholders, to develop a global compact on refugees. It was an indirect admission that the Convention of 1951 had become highly inadequate. As outlined in UNHCR’s roadmap towards a global compact on refugees, the compact proposed by the High Commissioner would consist of two complementary parts: (a) a comprehensive refugee response framework (CRRF), as agreed upon by States, and (b) a programme of action setting out measures to be taken both by States and other relevant stakeholders, to “underpin the CRRF, support its application and, ultimately, ensure more equitable sharing of the responsibility for responding to large movements of refugees.” The compact would be informed by the outcomes of a process that had been pursued in cooperation and consultation with Member States and other relevant stakeholders, in a number of interconnected areas. The process would take special note of (a) the application of the CRRF in specific countries and situations; (b) a series of five thematic discussions, held in the second half of 2017; and (c) a stocktaking of progress made and lessons learned – a process that would identify good practices in refugee responses, actions that were required to bring about the type of response envisaged in the New York Declaration, and areas for future development.¹⁰ In line with the roadmap towards a compact, a series of formal consultations on the draft programme of action was convened in the first half of 2018. These formal consultations (six in number held between February and July 2018) were to be crucial steps in the development of the global compact on refugees before the compact would be proposed by the High Commissioner in his 2018 annual report at the General Assembly. It was also specifically mentioned that the path of the compact would be marked by a multi-stakeholder, “whole-of-society” approach endorsed by the General Assembly in the New York Declaration that would involve “national and local authorities, international organizations, international financial institutions, regional organizations, regional coordination and partnership mechanisms, civil society partners, including faith-based organizations and academia, the private sector, media and the refugees themselves.”¹¹

The UNHCR was thus ambitious. On 17 May 2017 the roadmap towards a global compact on refugees was drawn. Usually nations have compacts on war, peace, cessation of hostilities, development project, regional trade, etc. Now UNHCR was embarking on achieving a compact on

human beings – a group of human beings.¹² It was upheld as a political declaration (paragraph 1); member states were to reaffirm their commitments to migrants and refugees, and the UNHCR declared the need for “a framework for a comprehensive and people-centric refugee response to each situation involving large number of refugees” (paragraph 4). Crucial in the roadmap was to be the “comprehensive refugee response framework” towards “a global compact for safe, orderly, and regular migration” (Annexe 1 and 2).

What were to be the main aspects of this framework? It was to have four objectives, namely to: (a) ease pressures on host countries; (b) enhance refugee self-reliance; (c) expand access to third-country solutions; and (d) support conditions in countries of origin for return in safety and dignity. We can only note here that “easing pressure on host countries” indirectly meant countries of the North and not South (say Pakistan or Bangladesh), enhancing refugee self-reliance has implied more and more dependence on the market, expanding access to third country solutions has meant shifting more burdens to countries of the South, and returning refugees has been many a time “forced return” as in the case of Rohingyas. These were time-worn policies, whose advocates never tired of repeating them, whose results had never been objectively analysed, and which now returned under the call for a comprehensive refugee response framework, whose key pillars were equally time-worn, namely, reception and admission (thus they may be interned in camps and detention centres), support for immediate and ongoing needs (thus barely minimal), support for host countries and communities; and, that old pillar of protection, called “durable solutions”.¹³

Added to that was the advocacy of a multi-stakeholder, “whole-of-society” approach that included national and local authorities, international organizations, international financial institutions, regional organizations, regional coordination and partnership mechanisms, civil society partners, including faith-based organizations and academia, the private sector, media and the refugees themselves. The “whole-of-society” approach thus bypassed considering existing variety of protection modes in the vast postcolonial world, and took a “modernistic” and a global governance approach, which would focus on identifying or detecting an “emergency”. Thus the “whole-of-society” approach advocated, “more sustainable refugee responses by linking humanitarian and development efforts early on in a crisis, and by strengthening sustainable approaches that invest in the resilience of both refugees and local communities, including through investment in national and local systems wherever possible.”¹⁴ It would also mean understanding migration risk and resilience in the context of disasters.¹⁵

The global nature of the refugee response was acknowledged in this way. As said, it meant two things. First, it meant a comprehensive response built around “emergency” situations, an indirect acknowledgement that migrations were becoming mixed and massive, and displacements were increasingly protracted¹⁶ with refugees and migrants in limbo. Yet the “emergency” was never defined. What defined an emergency - the capacity of a host country, or number of escapees, or the complex of factors contributing to an intolerable situation of not only escape but also arrival (say in Calais or Idomeni) or even passage (say through a sea), or the refusal of a state like Australia to allow the escapees to arrive to seek asylum - even sinking rickety boats on the sea and confining them to islands away from human eyes – indeed what was an emergency? What would justify global attention?

Second, it called for widening the protection capacity through a “whole-of-society” approach, which again was an admission that states were not marshalling their protection capacity adequately – some were doing, while many were not. Therefore societies were to be mobilized widely and deeply. This could mean putting more stress on countries already reeling under the burden of protecting and caring, while others would not share the burden at all, or share less. In other words,

the “whole of society” was again a global gaze that would not fall upon or count variegated approaches and experiences of care and protection, such as cities of refuge, bilateral treaties and other arrangements, regional initiatives, local innovations, and steps to keep the borders relatively open so that refugees could come in, work, and go back in irregular manner – approaches that made stay more flexible. The “whole-of-society” approach was from the beginning a captive of the myth of durable solutions, which indeed in the first place had given birth to the UNHCR.

The whole of society was to be mobilised because other desperate attempts at durable solutions had failed, and in the context of the Mediterranean crisis and the European migration crisis something had to be done. Economy buttressed by demography has been always the other scene of refugee and migration management in the modern capitalist age. Yet this could be hardly acknowledged. Humanitarianism was the ground on which the new migration and refugee management mode was to be legitimised. The “whole-of-society” mode of management would enable the refugees and migrants to learn quickly new skills, adapt themselves relatively quickly – in a year or two - to new requirements of language, labour protocols, self-run business rules, and learn to straddle the two different but interacting worlds of formal economy and the informal economy. The eventual absorption of current immigrant flows of skilled, semi-skilled, and unskilled labour in labour markets of Europe and countries of other regions (Brazil, South Africa, Hong Kong, the Gulf countries, etc.), albeit in differential manner, would not be much different from what had happened in Europe, United States, Canada, and Australia in the pre-Second World War years.¹⁷ In a dense labour market scenario “whole-of-society” (that is involvement of all the “stakeholders”) meant pleas for labour market equality. But formal (political, legal) equality made sense only if they were relevant for entry in labour markets. Otherwise as labouring subject, the migrant’s lack of political equality was the other side of her/his economic ability to enter the labour market. For long, it was a case of political opportunity, but economic closure; now it was a case of economic opening (entry in the informal labour market), but political closure. In a way, this return of economy to the centre stage of discussions on refugees and migrants was strange, but perhaps should not have been considered so, if we recall that at the heart of the “durable solutions” debate in refugee studies circles, the issue of economic rehabilitation was always paramount. The formation of the UNHCR itself nudged by the UN Economic and Social Council was an effort towards finding out a durable solution to refugee crisis.¹⁸

In short, the roadmap avoided the political question of economy, and thus the issue of financial responsibility – responsibility of global powers unleashing wars and causing population displacements, responsibility of countries embarking on citizenship drives making many people stateless and turning them into wandering hordes of protection-less subjects, and responsibility of the institutions of global governance to ensure an equitable sharing of burden. The roadmap avoided the issue of reparations – at the heart of the issue of responsibility.

But perhaps the biggest paradox of this new global was that it treated a massive group of world population as a subject of compact as if it was a piece of land, a sea, a mineral rich territory, etc., and avoided the question of rights. But again, is this not how minorities were traded as subjects of international diplomacy since the “bad” Ottoman days? Migrants and refugees had no or little rights; there was to be no charter of rights of refugees and migrants. They were to be subjects of care, and hence international subjects. Thus, to be humanitarian, one had to be global. And paradoxically, the global could be only humanitarian. In this way the distance between the global and the humanitarian was bridged. And yet this could come only by erasing the contentious question of rights – a question to which we shall turn in due course.

Meanwhile, this was the way the Arendtian impasse had been resolved. Hanna Arendt had raised the reality of refugees as subjects of a basic “rightlessness”. Neoliberalism resolved the problematic of a neologism. One cannot be a subject of “rightlessness”, in other words, in such condition, one would not be a *subject* at all. Neoliberalism has rescued the refugee as a subject – subject of economy, subject of care of the whole of society, a subject for whom politics is redundant. Rights no longer make a subject; care does, economy does, global attention does.

The Humanitarian Machine

Yet at this point, we must note that in this roadmap in which consultation was given due bureaucratic place, human rights or civil rights bodies within countries were shunned. In place were given six sets of dates for six consultations between February to July 2018 to be co-chaired by a member of UNHCR’s Executive Committee Bureau, together with UNHCR’s Assistant High Commissioner for Protection, and to be held in private at the Palais des Nations in Geneva, Switzerland. A zero draft of the compact would be shared with States and other relevant stakeholders by the end of January. Following the formal consultation, UNHCR would share a revised draft of the global compact and the expected outcome at the end of the formal consultations would be a non-binding document, reflecting a consensus among all UN Member States. All Member and non-Member Observer States of the United Nations, and non-governmental organizations having consultative status with the United Nations Economic and Social Council (ECOSOC) or members of the International Council of Voluntary Agencies (ICVA), would be invited to participate in the formal consultations.¹⁹ Meanwhile do-gooder intellectuals were to be encouraged to send written contributions to the process at refugeecompact@unhcr.org and www.unhcr.org/fr/writtencontributions. Evidently, the figure of the right bearing migrant or the refugee was to be only a skeleton in this policy feast at Geneva. The humanitarian machine was given a new life in this way.

One telling instance of the machine being reset to work was the step to set up another bureaucratic body - an Asylum Capacity Support Group (ACSG) - by the UNHCR under the heading “Identifying International Protection Needs”, as if inadequate asylum-determining capacity was the reason behind states’ (read states of the North) reluctance to take in the asylum-seeking population. Blithely the document said, “Identifying who is in need of international protection is the first step in ensuring that refugees are properly protected, and have access to an adequate standard of treatment. The determination of refugee status is in principle the task and responsibility of States, and many States have dedicated institutions responsible for deciding on claims for refugee status. An RSD (refugee status determination) system encompasses, amongst other elements, the laws and policies, institutions, structures and resources that, taken together, form a crucial part of a State’s response to the arrival of people seeking international protection. An RSD system needs to be fair. Fairness in this context means that the outcomes of decisions on claims for international protection are in accordance with the rule of law...”²⁰ Four elements – fairness, efficiency, adaptability and integrity – were declared as ingredients of a quality RSD system.

The comprehensive refugee response framework (CRRF), earlier mentioned, was the keystone of the global-humanitarian machine. As with all other machines, in this case also, bodies were needed to feed and lubricate it. Marx spoke of human bodies and the machine in a factory. Here the bodies for the humanitarian machine were the poor states of the South, and not the reluctant countries of the North. UNHCR declared that to date the CRRF was being applied in thirteen countries and situations: Belize, Costa Rica, Guatemala, Honduras, Mexico, and Panama (who had come together under a regional approach, the Comprehensive Regional Protection and Solutions

Framework) and in Africa, seven countries - Djibouti, Ethiopia, Kenya, Uganda, the United Republic of Tanzania, Somalia, and Zambia. The UNHCR further declared that the “range of situations”, included “regional diversity and a variety of phases (new emergency, established situation, protracted situation).” The UNHCR also took satisfaction that important work on many of the elements of CRRF was already underway in many other contexts – for example, prevention and response to sexual and gender-based violence, or innovation in the delivery of assistance, such as cash-based interventions. It felt that the “process of assessment and refinement (was) key to the development of the global compact on refugees.”²¹

The machinic nature of the CRRF devoured also the spirit of the cities. The movement, “cities of refuge” was turned into some kind of a bureaucratic appendage of a gigantic machine. Pioneered by the Rockefeller Foundation, 100 “resilient cities” were lined up.²² Urban resilience was defined as the capacity of individuals, communities, institutions, businesses, and systems within a city to survive, adapt, and grow no matter what kinds of “chronic stresses and acute shocks” they experience. “Chronic stresses” weakened the fabric of a city on a daily or cyclical basis, and such stresses included high unemployment, inefficient public transportation systems, endemic violence, and chronic food and water shortages. “Acute shocks” such as earthquakes, floods, disease outbreaks, and terrorist attacks, were sudden and sharp events that threatened a city. The letter of 4 December 2017 to Filippo Grandi, the High Commissioner for Refugees, were written by some illustrious mayors of cities like Amman, Athens, Atlanta, Barcelona, Bristol, Chicago, District of Columbia, Dallas, Gothenburg, Los Angeles, Milan, New York City, Paris, Philadelphia, Elorza, and San Francisco. In their letter they declared, “Cities play a central role in addressing the needs of refugees, whether they arrive independently or through formal resettlement channels, and the international system needs to keep pace with present realities. Whereas the iconic image of a refugee is a person residing in a camp, today at least 60 percent of the world’s refugees reside in urban areas. Programs that provide these refugees with housing, healthcare, education, and social services are, in many cases, delivered at the local level, while designed and financed in close cooperation with the other levels of governance. For these interventions to be sustainable and efficient, they must integrate with existing city systems. Municipal authorities should be responsible for providing basic services for all residents, even when their numbers have surged unexpectedly... Local authorities need approaches that benefit refugees and host communities, alike — policies and programs that build resilient, inclusive, and prosperous communities from the outset. Refugees are members of our communities, whether they stay for one year or twenty.” And while writing these noble lines, the illustrious mayors forgot that cities did what they could not because their respective national governments had directed them to do so, but, as often, against respective national governments or independent of these governments, cities provided hospitality, and that these stories of hospitality were marked invariably with conflicts and contentions. Oblivious of this, the mayors urged the “UNHCR to use the practical application of the Comprehensive Refugee Response Framework to further refine operational responses to urban refugee populations, and in particular, to explore the potential for durable solutions in urban areas.”²³ This was the ghostly voice of the “global cities” that wanted us to forget the blood and expulsion of refugees and migrants from cities,²⁴ and the histories of how urban hospitality was a not a seamless story of hospitality and kindness but one of contention. The ghosts of cities like Kolkata, Karachi, Bangkok, Nairobi, Istanbul, Johannesburg, Mumbai, had effected the mythical transformation of the urban landscape into one of kindness.²⁵ There was an accompanying transformation – that of a movement inspired by thinkers like Derrida, Edward Said, Bourdieu, and others into another potential cog in the humanitarian machine.²⁶ Rights and justice were alien cries in this world of humanitarian machines. The radical edge of the idea of

“cities of refuge” had rested on an acknowledgement that urban spaces were marked with the materiality of control and contests, and that space for migrants and refugees had not been given benevolently by city fathers/mothers, but that it was an outcome of the sheer persistent presence of the migrant in the city. The governmentalisation of the movement attempted to take away that radical edge.

How did this transformation come about? To understand that, we must first take a look at the enormous, almost incredible, range of inputs from various institutions to the framing of the “zero draft” (at the heart of which sat the policy of a comprehensive framework). Exactly as a big factory works like an assembly of various machinic inputs, here too an assembly process could be found at work -from Council of Europe, the European Union, and the European Asylum Support Office to institutions like the Arab Regional Consultative Process on Migration and Refugee Affairs, the Vaccine Alliance, Global Youth Advisory Council, ICRC, Human Rights Council, ILO (International Labour Organisation), the UN Broadband Commission for Sustainable Development, Food and Agriculture Organization (FAO), International Fund for Agricultural Development (IFAD) and the World Food Programme (WFP), IOM (International Organisation for Migration), IPU (Inter Parliamentary Union), UN Women, World Bank, UNICEF (United Nations , UNRWA (United Nations Relief and Works Agency for Palestine Refugees in the Near East), WFP (World Food Programme), UNDP, OHCHR (The Office of the United Nations High Commissioner for Human Rights), UN Habitat, Metropolis, WHO, Asylum Access and several other international non-governmental organizations,²⁷ and the International Refugee Congress (IRC). Plus consider the hundreds of statements and inputs from the governments. The IRC spoke of itself as “We, 156 participants, representing 98 diverse institutions from 29 countries, including refugee led and host community civil society organisations and initiatives, academia, think tanks, municipalities and the private sector came together in Istanbul for the International Refugee Congress on 10-11 May 2018.” The gathering in Istanbul drew on the contributions of close to 600 organizations from 47 countries, which participated in consultations that were held over the past six months leading to the Congress.²⁸ “This preparation process and the meeting itself provided an important platform to demonstrate our shared quest for equal participation in decision making processes at all levels, as well as our common commitment to work together to put the voices and aspirations of refugees and host communities at the forefront of policy and program development, including the Global Compact on Refugees (GCR).”²⁹

To be fair, the GCR spoke of rights, but as expected was minimal in its approach. It said, “We urge collective action to realize the following priority goals in the five thematic areas... that were identified through our consultations: guarantees for refugee legal rights and asylum; access to quality services; durable solutions and sharing responsibilities; increased and focused support for displaced women and girls; and representation and participation at all levels of decision-making.” And further, “Legal rights are at the core of refugee protection. Guaranteeing access to these rights would shift the dialogue from people in need to people with rights. Building structures of access to legal rights is fundamental to progressive refugee policy, the pursuit of durable solutions, the enjoyment of basic rights in asylum, and the protection of refugees, especially women and girls and marginalized groups. Whether residing in countries of first asylum, repatriating to countries of origin or resettling in other countries, refugees need guarantees for their rights and freedoms, clarity about their legal status, and access to legal recourse and assistance.”³⁰

To be sure, there was a pattern to global consultations preceding the drafting of the compact. Most of the input providers as evident from the random list of names given above were “international”, the forums were “international”, and UN institutions had been ploughed in - as if in

an orchestrated chorus of voices in support for the need of a new global compact. The UNHCR and other UN institutions could have used their country offices throughout the world, if they chose, to act as catalysts for intra-country and intra-regional discussions on what should go into a compact or what else should have been striven for towards a new global initiative, or if at all a new global compact was needed. In South Asia, the UNHCR took no such initiative; in India, none. In India, there was no discussion with rights groups, political movements, refugee advocacy platforms, scholars and their bodies, not even any discussion with humanitarian institutions providing aid and relief to the shelter seekers. And particularly the process avoided drawing any lesson from the vast corpus of experiences from the management of the fallouts from internal displacements. The UNHCR had blandly promised, “With active assistance from the international community, UNHCR will do its utmost to mobilize support for the application of the global compact. United Nations Member States and relevant stakeholders will be invited by UNHCR to make concrete pledges, and to provide updates on their endeavours to support the application of the global compact. The United Nations High Commissioner for Refugees will include, in his annual report to the United Nations General Assembly, information on progress made in its application. In consultation with States and relevant stakeholders, UNHCR will develop a set of key indicators to monitor and evaluate progress and outcomes of the global compact. These indicators will be measurable against the overall objectives of the global compact 54 and will be aligned with and contribute to the relevant goals of the sustainable development agenda. UNHCR, with input from States and relevant stakeholders, will monitor and evaluate progress towards the achievement of these indicators. United Nations Member States could also include refugees in their progress reporting on the Sustainable Development Goals.”³¹

Thus, it was a case of the “global” choosing to be global. The global was only reproducing the self. Though, from some of these communiqués, statements, manifestos, declarations, and representations, it seemed as if the muffled voice of rights of the victims of forced migration was trying break out of the iron clad of a global process. The voice however was weak. It did not have the wherewithal to point out the principle of responsibility on which the realisation of rights rested. It could not challenge the current global formulation of the “responsibility to protect” principle, which had empowered and legitimated interventions, and had remained silent about any responsibility for wars, denial of asylums, structural adjustment programmes, policies of meta-borders, and regime change campaigns, that had provoked the current phase of refugee and forced migration flows. The *Responsibility to Protect* (R2P) had reserved all powers for the big bosses of the world and their institutions of global governance, and had tasked the hapless UN agencies with “humanitarian” responsibility.³² Now when the R2P had backfired, the global consultation process remained silent on the complicity of the global governance regime busy with humanitarian tasks. It was clearly an act of bad faith. Humanitarianism was like the food for force-feeding coming out of a machine as in the Chaplin film, *Modern Times*.

And was there any postcolonial voice in this cacophony of anguished statements for humanitarian protection of the victims of forced migration? Indeed if India as an instance is taken as reference, the postcolonial was most materialistic as if the postcolonial had seen through the cacophony the issues at stake. Thus, the Indian concerns were: anxiety about “the proposed Global Refugee Forum ... as a global mechanism for international cooperation, implementation and follow-up of the compact in terms of its specific mandate, working modalities, funding and its relation with other extant mechanisms among others.”³³ These anxieties were also about protecting sovereignty and thus India’s freedom to decide on the matter of hospitality case by case – exactly as she had learnt from her erstwhile colonial master. Thus India said, “We recognize the fact that a number of States

not parties to the international refugee instruments have shown a generous approach to hosting refugees and that the commitments and obligations of those who are party to the Refugee Convention and its protocol and those who are not, differ. That the broad principles contained in the 'Agenda for humanity' and the 'Grand bargain' commitments made by UNHCR, particularly those related to bringing greater transparency, progressively increasing allocation of the program resources to national and local responders, expanding investments in institutional capacity building of national partners to help reinforce them and reducing the cost of procurement and logistics are important guiding principles... Further, we would like to see greater clarity and consistency in the definition and usage of important terms in the text. Like for instance, the word 'Refugees' itself." More crucially, the compact would be legally non-binding. Thus, India appealed, "the text could possibly be more explicit in stating that: i. The central objective of the Compact is to respond to large movements of refugees and protracted refugee situations and to ease the related burden of the host countries in most need of international support in the spirit of solidarity; ii. The national ownership of the implementation process and related capacity building and the provisioning of the requisite means and support by the international community would be critical to humanitarian action under the compact; iii. Both the implementation and follow-up of the compact would be in keeping with its apolitical and legally non-binding nature; iv. And the catalytic and supportive role of UNHCR would be consistent with its mandate on refugees."³⁴ India was concerned with the realistic possibility of "the 'Grand bargain' commitments related to funding and strengthening of the institutional capacity of local responders among other", which "as endorsed by UNHCR, must be retained." This was because "More than 4/5th of the world refugees continue to be hosted by developing countries which have constraints in terms of capacity and resource as well as pressing priorities and challenges, relating to both security and development. Some of them are not party to the international refugee law. Yet they host a large number of refugees and face protracted refugee situations."³⁵ In the context of follow-up and review, India sought more detailed information on the proposed Global Refugee Forum in terms of its specific mandate, working modalities, funding and its relation with other extant mechanisms among others, and reiterated that all follow-up and review must be fully cognizant of the existing refugee burden and capacities of countries as well as their rights and obligations under international refugee law, and that the follow up must be voluntary in keeping with the legally non-binding nature of the Compact itself.³⁶

The figure of the refugee and the migrant was thus up against two realities – the reality of a global economy and the reality of sovereignty. The refugee was thus never to be a subject of maximum justice, but historically conditioned justice. We can term this as "minimal justice".

In this bleak backdrop of dissociation of power and responsibility, the UNICEF as if in a last burst of humanitarian emotion cried out, "This is the moment for States to ensure that the provisions of the New York Declaration for Refugees and Migrants and the Convention on the Rights of the Child are fully realised for all children, especially those most at risk through no fault of their own."³⁷

Preparations for a Technocratic Gaze

Till now this article has shown, how in producing a global gaze the roadmap was important as was important the task of redefining and reproducing the humanitarian. However, there was another factor in producing the technocratic gaze which could make it global. This relates to the continuous improvements in successive drafts on detailing technocratic means and modes towards refugee protection. This was natural given the fact that political voices had been closed from the beginning,

the diversity of experiences had been ignored, human rights had been replaced by humanitarianism, the place of claims and justice had been given over to pity, kindness and compassion, and the principle of plural dialogues, decentralisation, and international legal pluralism for the task of protection had been replaced by technocratic modalities and central mode of salvation. If in the nineteenth century humanitarianism had been about saving the damned souls, and in the twentieth century about saving damned bodies, in the neoliberal twenty first century it was going to be about finding and refining technocratic, market based, digitally enabled modes of saving the damned world from humanitarian disasters. It was to be an apt signature of the age of the anthropocene. The problem now was not about rescuing the soul, or the body, but about the right mode and the right instrument to be resilient in face of disasters. In this technocratic turn, which was clearly away from the earlier dominantly legal turn in humanitarianism in the post-1951 time, getting the right platform and the right protocol for saving the world now got the place of honour.

One consequence of the technocratic turn was that politics was even more effaced from the refugee and migrant question. Let us take the example of race. There was only one reference to the word “race” in the final draft of the Global Compact (that too, a customary reference).³⁸ The deployment of the word was in the same context as in the first draft (paragraph 12), second draft (paragraph 10), and third draft (paragraph 9).³⁹ This singular reference in each of the three drafts, and same in nature, was in the context of non-discrimination only. The drafts never realised in their technocratic obsession that race was one of the pillars of the structure of forced migration. Same was with another key word “religion”. Again the word is to be found in the same paragraph and context in the final draft and the three previous drafts. It was a stunning near-omission in the background of the global discourse on terror, which had used race and religion (often mixing them) to unleash wars on countries and peoples and used counter-terrorism logic to deny refugees and other victims of forced migration protection, and the immigrant labour their rights. On the other hand, the draft was almost legitimising the discourse on terror that denies the rights of the refugees and other victims by saying as in the second draft, “Security considerations and international protection are complementary. The primary responsibility for safety and security lies with States which can benefit from the promotion of national integrated approaches that protect refugees and their human rights, while safeguarding national security, including from a counter-terrorism perspective. The legitimate security concerns of host States are fully recognized, as well as the need to uphold the civilian and humanitarian character of asylum.”⁴⁰ The final draft stepped back from the political blunder and reformulated in the following way the point under the heading (1.3) “Safety and Security”, “Security considerations and international protection are complementary. The primary responsibility for safety and security lies with States, which can benefit from the promotion of national integrated approaches that protect refugees and their human rights, while safeguarding national security. The legitimate security concerns of host States are fully recognized, as well as the importance of upholding the civilian and humanitarian character of international protection and applicable international law, both in emergency and protracted situations. At the request of concerned States, and in full respect of national laws and policies, UNHCR and relevant stakeholders will contribute resources and expertise to support protection-sensitive arrangements for timely security screening and health assessments of new arrivals. Support will also be provided for: capacity development of relevant authorities, for instance on international refugee protection and exclusion criteria; strengthening of international efforts to prevent and combat sexual and gender-based violence, as well as trafficking and smuggling in persons; capacity development for community-oriented policing and access to justice; and the identification and separation of fighters and combatants at border entry points or as early as possible after arrival in line with relevant protection safeguards. The development and implementation of

programmes for protection and assistance to children formerly associated with armed groups will also be supported” (Paragraphs 56-57).

Yet precisely on these grounds of security, health screening, “identification and separation of fighters and combatants at border entry points or as early as possible after arrival”, and “legitimate security concerns of host States”, the rights of the refugees have been denied. Not incidentally, these are the marks of the fundamental phenomenological principle of race. The refugee is the carrier of race, and this is one of the ways in which migration today appears as “crisis”. If blood in the not so ancient time determined race, religion today often acts as a determinant of race. The entire refugee protection regime from its inception has been guilty of maintaining silence over race as a fundamental fault line in the structure of population flows, and hence has never noticed how racism has transformed over time to create newer and newer forms of boundaries that the migrants and refugees would have to perpetually cross to reach the never finally reachable destinations of “safety and security” – the two words of concern of the Global Compact. The colour of the skin has been supplemented by the colour of religion today, and this became more than evident in the first full scale race war of the neoliberal age – the Balkan wars and the Rwandan genocide in the nineties of the last century. Race wars proliferated later under the cover of war on terror. Technocratic solutions such as, setting up a global refugee forum, support platforms, a multi-stakeholder and partnership approach, early warning system, preparedness and contingency planning, improvement of immediate reception arrangements for refugees, safety and security measures, improved procedures of registration and documentation, procedures for voluntary repatriation, resettlement and complementary pathways for admission to third countries, modes of local integration along with other local solutions, intensive data collection and management, and finally better social care such as education, health, accommodation, energy needs, resource management, nutrition, etc.⁴¹ cannot change the facts on the ground where refugees live, say in Idomeni, Chittagong, Calais, Darfur, and other places, or the way refugees and migrants are received and detained or turned back on the borders of the metropolitan world. These technocratic solutions in an attempt to resituate in concrete terms the various historical discourses of humanitarianism from which the administrative modes of governance have emerged⁴² at once introduce into our contemporary neoliberal time the infamous figure of an alien, someone belonging to an alien race and embodying the historical facts of invasion, appropriation of lands, and the enslavement of men, women, and children.⁴³ Technocratic solutions based on global humanitarianism filter the most vigorous and absolute fact of claims and will allow no aspect of the barbarian into history.

Given the reciprocity of determination of race and the status of the shelter seeker, one may ask, is the GCR meant to suppress the contemporary history of racism under the discourse of equality, care, and protection?

Of course we still have to locate concretely the secret relation between the ideology of humanitarianism, universalism, and the power of technological mode of care. How could humanitarianism that naturally essays into universalism become dependent on global technological power? A detailed answer is not possible here, but a short answer is necessary. Care, kindness, and hospitality collectively form the most accepted route through which people desire justice for the wronged, deprived, and the victim (we are leaving out here the question of punishment). They belong to what can be called *sentiment*, a highly developed emotion, a “thick feeling” – a feeling without an object. Yet sentiments - powerful as they may be - are not adequate as governing tools, which we conceptualise as “applied ethics”. They need a coherent formation, known as *ideology* – the ideology of going beyond boundaries, of becoming cosmopolitan in order to be humanitarian. And yet again, ideologies call for institutions – therefore global – to give shape to universalist ideologies, of which

refugee care is one. Institutional power operates through specific modes that must become technological to give shape to institutional mandates and agenda. The time of the last stage in the mutation of sentiment is also the time when emotion must die.⁴⁴ The more global is the operation of ideology, less will be the place of sentiment. Universalism must produce distinguishing categories, categories of choice, categories of determination, categories of differential care, and categories of tools meant to enable life.⁴⁵ Race and universalism or race and humanitarianism are the ever-quarrelling couple. It was true of the missionaries of the nineteenth century; it is true of the missionaries of the neoliberal times. Humanitarian truth must find its reality in the relation it has with politics.

In this age when the range of humanitarianism extends from humanitarian bombings to humanitarian protection, responsibility and burden sharing in order to be effective has to acquire technical solutions, such as mode and determination of the quantum of monetary support to host countries and communities, providing political, material, and technical resources, helping to prepare countries and agencies for large movements of refugees and to provide refugee protection, expanding access to third-country solutions including resettlement and complementary pathways,⁴⁶ such as regional mobility schemes, support to emerging resettlement countries, and identifying and involving relevant stakeholders according to their respective capacity – all these so that “burden” sharing becomes “responsibility” sharing.

In this way, the new humanitarian tools can assure that refugees will be no longer considered as burden but responsibility of the society.⁴⁷ This has been at the heart of the crucial strategy of “Comprehensive Refugee Response Framework” (CRRF), which means a globally coordinated policy involving tasks of mobilizing greater resources through innovative approaches, ensuring humanitarian assistance through local systems, education to build on sustainable development goals, concrete support for national health systems, energy and environment protection, and strengthening economic opportunities for refugees and members of local communities through structural analysis of and support to local labour markets and access by refugees to financial products and services. The CRRF echoes the sustainable development goals of development.⁴⁸ This is maximum humanitarianism – when humanitarianism removes the opprobrium of “refugees as burden” and reorients the task of protection as “refugees as subjects of development”. Similarly, migrants also become subjects of various strategies of protection and development.⁴⁹ A cursory glance at the topics of IOM theme papers will bear this transformation of the migrant as a figure of mobility into a figure of risk, resilience, and development. Some of the topics are: assisted voluntary return and reintegration, border management, climate change and environment degradation, smuggling and counter-smuggling, trafficking in persons, remittances, readmission, integration and social cohesion, expansion of mobility channels, family reunification, health, detention of immigrants, migrants from countries in crisis, management of migration statistics, responsibilities and obligations of the migrants, and facilitation of safe, orderly, and regular migration.⁵⁰ All these are issues that will mark the path of development. The migrant must negotiate these issues. S/he must be resilient.

Therefore, till development arrives, refugees and migrants must learn to live on. They must not clamour for rights. They must not disturb any system put in place for “safe and orderly migration”. Yet if we must conceptualise rights as the scene of politics whose displaced image only we find in the humanitarian mechanisms, we must while ending this paper look carefully, albeit briefly, into the fate of the rights agenda in the neoliberal age.

Who Cares for Law? Rights as the form of Claims and Justice

We must realize the implications of the fact that even though it can be claimed that the 1951 Convention is a rights-based document, the Convention does not contain a charter of refugee rights or suggestion towards the formulation of any such charter. The Convention also cannot be considered as a manifesto of rights of the migrants and refugees. It is a Convention primarily enjoining certain obligations on states with regard to refugees and asylum seekers from which international law and municipal laws the world over have tried to deduce certain refugee rights, even though the introductory note to the text of the Convention says that the latter is “Grounded in Article 14 of the Universal Declaration of human rights 1948, which recognizes the right of persons to seek asylum from persecution in other countries, the United Nations Convention relating to the Status of Refugees, adopted in 1951, is the centrepiece of international refugee protection today...”, and further, “The Convention is both a status and rights-based instrument and is underpinned by a number of fundamental principles, most notably non-discrimination, non-penalization and non-refoulement.” In scattered places in the text, rights of the refugees are mentioned, such as, “The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes” (Article 17.3).

Rights of the refugees in this situation became a matter of jurisprudence, a continuous tussle between legal and human rights activists and the states, and protection became a matter of following legal norms and certain protocols. In situations like the European migration “crisis”, refugee rights became an anachronism. Such situation showed on one hand the ever-increasing demand on humanitarian alertness and response and on the other hand the ineffectiveness of the half-hearted approach of a global body such as the UNHCR to the issue of rights. Yet as the overwhelming presence of humanitarian approach reaches a point of emptying the approach of all humanitarian content, the rights question creeps back to the political question of migration in contemporary global history.

This was evident in the report of 2016 of the Special Rapporteur on the human rights of migrants, François Crépeau, in accordance with the General Assembly resolution 70/147. The report, “Human Rights of Migrants” while concluding, referred to the events in the Andaman Sea, the Asia-Pacific region, Central America, the Mediterranean Sea and the Middle East, and suggested that the “The global compact should recognize the need for a stronger human rights-based normative and institutional framework for migration at the United Nations, which will, in turn, have a positive effect on informal migration governance outside of the United Nations..., and recommended assistance to States for developing strong and effective labour law frameworks (including on labour inspection, unionization and collective bargaining), protecting the rights of all workers, including migrant workers, regardless of status, and in ensuring effective access to justice for migrants whose labour rights or human rights have been violated.” It also took particular care to suggest the integration of the IOM into the United Nations system, with a process leading to the updating of its Constitution in order to include in it a strong human rights protection mandate in favour of migrants. Significantly amidst the din over trafficking, it suggested measures to ensure a robust gender analysis of the difference in the impacts of policies on men and women, with special attention to the ways in which restrictions on women’s mobility as a means of protection violate their rights and create favourable conditions for smuggling networks to thrive, including the use of a gender lens at all stages and in all aspects of the discussion as specific consideration of gender in the context of bilateral agreements,

detention/deportation and readmission/repatriation is also crucial. Finally, it spoke of ensuring “that the detention of migrants is always a measure of last resort, permissible only when reasonable, necessary and proportionate, decided on a case-by-case basis, and enforced for the shortest possible period of time; developing rights-based alternatives to detention for most cases; and ensuring that migrant children and families with children are never, ever, detained for reasons relating to their administrative immigration status.”⁵¹

Yet with all these exhortations to make the rights approach central to the global compact, the global crisis of migration has been seen as a crisis of the prevailing migration management mode in the wake of massive and mixed flows. Hence, improvement of management mode and new strategies get the pride of place in the strategy laid out by the compact. The return of rights to the discourse of a global compact is thus due not to law, but to the persistence of massive and mixed migratory flows, whose unruly nature nullifies the well laid out plans for safe and orderly migration. These flows continuously pound on the walls of the protected states and regions. They are evidence of what some thinkers call as the “autonomy of migration”. Flows of people are autonomous of laws, procedures, and controls; and they defy the refugee regime, not because the victims of forced migration are unruly subjects of international law, but because these flows are mixed. They do not belong to one pure type and are massive.⁵² Also the displacements are increasingly protracted. This is not to say that the policies of the UNHCR and other similar institutions do not impact migration or do not act as governing modes, but our global mandates singularly ignore the interface and entanglements of autonomy of migration, state control policies and practices, and global governance regimes. The inherently subversive and oppositional nature of migration expressed in various acts of freedom has been the greatest worry for the refugee regime, and the reactive nature of the migratory flows as resistance to control practices is also matched by the fact that the migrant resistance anticipates many of the control measures. Thus, as some have suggested, “the relation between control and escape is one of temporal difference: escape comes first.”⁵³ Or, one can say that the migrant autonomy is already “entangled in and regulated by control”.⁵⁴ Well thought out policies and measures meet as adversary migration practices; both anticipate each other, and the end result is an enormous difficulty to make migration an orderly and regulated process.⁵⁵

Claims to justice have emerged in this situation. In a milieu marked by the autonomy of population movements, these claims now confront the humanitarian order. They create a new politics of rights, different from the ones recognized reluctantly in the Convention of 1951 or the balancing acts of the UNHCR and the IOM. In the post Second World War era, rights related to welfare and a regime of Keynesianism. But Keynesianism began collapsing in the eighties of the last decade. The theory of income and employment buttressed by a welfare-oriented stable state developed major cracks. Protection of citizens and aliens through welfare schemes promulgated in the global Keynesian age proved difficult. Now protection strategies had to be market enabled to save the refugees, and hence developed the idea of reorienting protection policies as sustainable development strategy. As refugees became subjects of development, welfare declined. Wars increased. Population movements became even more daring and desperate.

Population movements as a matter of governance acquired global importance because the movements became mixed and could not be categorised any more. And, yet they could be governed only by being categorized according to policies and strategies.⁵⁶ It was not only a paradox, it produced a crisis also. The crisis is thus of the refugee and migration regime, which wants to impose order and rules on migratory flows, while population movements are little concerned with the aims of a migration regime. It is thus a contradictory situation.⁵⁷ The dissociation of law and claims forms the context in which the rights politics reorients itself, and the GCR occupies an awkward position in

this confrontation between a regulatory mode of humanitarianism and the autonomous claim to move and secure justice. The GCR is an evidence of the new situation and wants to address this new situation. That is its promise. The global humanitarian regime had been preparing for this turn for some years, particularly since 2013 when the General Assembly passed the “Declaration of the High-level Dialogue on International Migration and Development” (Resolution 68/4). But, building on humanitarian principles and a global ambition to do well for the world, it cannot venture into the *other scene* – the scene of unregulated flows, claims to autonomy and rights as the form of justice, local modes of protection, legal pluralism, scores of bilateral treaties to save refugees and restore citizenship to groups of stateless population, older histories of protection in the great decades of decolonization, and the variegated histories of care and reconciliation. Hence the humanitarian promises appear to be limited. That is in fact the paradox. The paradox cannot be solved with globalization of protection strategy, inclusion of business houses to broaden the capacity base for protection, privatization of care, and fine tuning strategies and policies.

Indeed, one may ask, if these were the answers, what was the question? Why did we need the compacts in the first place?

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Notes

¹http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1 (accessed on 1 July 2018), paragraph 4, pp. 1-2

²Kevin Appleby, “Strengthening the Global Refugee Protection System: Recommendations for the Global Compact on Refugees”, *Journal on Migration and Human Security*, Volume 5 (4), 2017 (pp. 780-799), p. 797

³It never occurred to the IOM that data collection can be counter-productive for a large section of the migrants. See for instance, Frank Laczko of the IOM Global Migration Data Analysis Centre, “Improving Data on International Migration - Towards Agenda 2030 and the Global Compact on Migration”, IOM Discussion paper - <https://gmdac.iom.int/sites/default/files/presentations/Laczko.pdf> (accessed on 17 August 2018); also <https://migrationdataportal.org/themes/global-compact-migration> (accessed on 17 August 2018)

⁴Summarised - <http://www.kaldorcentre.unsw.edu.au/publication/2018-global-compacts-refugees-and-migration> (accessed on 16 August 2018)

⁵All citations in this paragraph are from “Making Migration Work for All”, Report of the Secretary-General to the 72nd session of the General Assembly, 12 December 2017 – <https://reliefweb.int/sites/reliefweb.int/files/resources/N1743962.pdf> (accesses on 20 August 2018)

⁶“The Berne Initiative: International Agenda for Migration Management - <https://www.iom.int/berne-initiative> (accessed on 5 August 2018)

⁷The UN Secretary General’s Report, titled, “In Safety and Dignity: Addressing Large Movements and Refugees and Migrants” to the General Assembly (70th session, 21 April 2016) made considerable references to the IDPs, and had said, “To incorporate the Guiding Principles on Internal Displacement into national laws and policies and fully implement those policies to protect those who have been forced from their homes but remain within national borders...”, paragraph 101.2 –

https://refugeesmigrants.un.org/sites/default/files/in_safety_and_dignity_-_addressing_large_movements_of_refugees_and_migrants.pdf (accessed on 11 August 2018); however by the time the Declaration was finalised the issue of IDPs had receded to the margins.

⁸“Migration Compact Support MPTF: Financial Reporting on Sources and Uses of Funds for the period ending 31 December 2017”, UNDP, 2018

⁹https://refugeesmigrants.un.org/sites/default/files/work_plan_gcm.pdf (accessed on 1 August 2018), p. 2

¹⁰As set out in the New York Declaration, the High Commissioner would include the global compact on refugees in the annual report to the General Assembly in 2018, so that it could be considered by the General Assembly during its seventy-third session, in conjunction with its annual resolution on UNHCR. See A/RES/71/1; for further information, www.unhcr.org/newyorkdeclaration; the roadmap and other background information available at www.unhcr.org/refugeecomact (accessed on 1 August 2018)

¹¹www.unhcr.org/newyorkdeclaration (accessed on 1 August 2018)

¹²<http://www.unhcr.org/events/conferences/58e625aa7/towards-global-compact-refugees-roadmap.html> (accessed on 11 August 2018)

¹³<http://www.unhcr.org/58d135517.pdf> (accessed on 15 August 2018)

¹⁴<http://www.unhcr.org/events/conferences/58e625aa7/towards-global-compact-refugees-roadmap.html>

(accessed on 11 August 2018); the concept of resilience played a big part in the framework of the compact on migration, and resilience needed technical means to build up. Thus, the IOM study paper, “Migration, Risk, and Resilience in the Context of Sudden and Slow-Onset Disaster”, rolled out the technical road to build resilience of the migrants. It implied four priorities: (a) Understanding disaster risk, (b) Strengthening disaster risk governance to manage disaster risk, (c) Investing in disaster risk reduction for resilience, and (d) Enhancing disaster preparedness for effective response and to “build back better” in recovery, rehabilitation and reconstruction (p. 2). It further meant investment in risk analysis and disaster prevention, developing disaster risk reduction policies, improving capacity to anticipate, ensuring the inclusion of international migrants in disaster preparedness for response and recovery action, and improving disaster resilience in recovery and reconstruction. (pp. 4-5) - https://www.iom.int/sites/default/files/our_work/ODG/GCM/IOM-Thematic-Paper-Migration-Risk-and-Resilience-in-the-Context.pdf (accessed on 17 August 2018); IOM thematic papers deserve separate study in the context of this paper; however constraints of space make such an analysis here difficult.

¹⁵ “Migration, Risk, and Resilience in the Context of Sudden and Slow-Onset Disaster”, p. 3

¹⁶Jessica Brandt and Lucy Earle commented, “The Global Compact for Refugees: Bringing Mayors to the Table”, Brookings Policy Brief, January 2018, “Displacement is increasingly protracted. Today, those who take flight are more likely than ever before to remain in exile for extended periods. At the end of last year, more than two-thirds of all refugees, some 11 million of them, were in a protracted refugee situation—one in which 25,000 or more refugees of the same nationality have been in exile for at least five consecutive years, with no immediate prospect of finding a durable solution.” Figures based on UNHCR, “Global Trends: Forced Displacement in 2016,” UNHCR, Geneva, 2017 - <http://www.refworld.org/docid/594aa38e0.html>

¹⁷Stephen Castles discussed the role of immigrant labour in Nazi Germany and post war France, where immigrant workers accounted for at least 15 per cent of the work force. See his article “Migration” in *A Companion to Racial and Ethnic Studies*, pp. 571-572

¹⁸See in this context, the discussion by Peter Gatrell, *The Making of the Modern Refugee* (Oxford: Oxford University Press, 2015), chapter 3, “Europe Uprooted: Refugee Crisis in the Mid-Century and ‘Durable Solutions’”, pp. 89-117

¹⁹<http://www.unhcr.org/5a60b9409.pdf> (accessed on 15 August 2018)

²⁰<http://www.unhcr.org/publications/legal/5b1558104/non-paper-asylum-capacity-support-group-4-june-2018.html> (accessed on 15 August 2018)

²¹All citations in this paragraph are from - <http://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/07/BringingTheNewYorkDeclarationToLife.pdf> (accessed on 15 August 2018)

²²“Global Migration: Resilient Cities at the Forefront,” <http://www.100resilientcities.org/turning-migration-challenges-into-opportunities-to-build-resilience/> (accessed on 15 August 2018)

²³All citations in this paragraph are from <http://www.unhcr.org/5a33d4447.pdf> (accessed on 11 December 2018)

²⁴Read, Saskia Sassen, *Expulsions: Brutality and Complexity in the Global Economy* (Harvard: Belknap Press, 2014)

²⁵On the histories of three of the well-known of postcolonial cities (Kolkata, Mumbai, Delhi) marked with massive migrant presence, R. Samaddar (ed.), *Migrant and the Neoliberal City* (Hyderabad: Orient Blackswan, 2018)

²⁶Costas Douzinas, “Cities of Refuge”, <https://www.opendemocracy.net/can-europe-make-it/costas-douzinas/cities-of-refuge> (accessed on 12 April 2016); the idea originally comes from an ancient tale that speaks of the cities of refuge as part of the distribution of the Promised Land among the twelve tribes of Israel. Only one tribe, the Levites, was not given land to develop. The Mosaic Law stated that anyone who committed a murder was to be put to death. But for unintentional deaths, God set aside these cities to which the murderer could flee for refuge, and would be safe from the avenger, the family member charged with avenging the victim’s death. The establishment of those privileged sanctuaries among the cities of the Levites is probably traceable to the idea that the Levites would be the most suitable and impartial judges. The cities of refuge were imagined in the model of Christ as places where sinners would find a refuge from the destroyer of souls. Christ provided safety to all who come to him for refuge from sin and its punishment. On the current idea and the movement of “cities of refuge”, see Jonathan Mark Darling, *Cities of Refuge: Asylum and the Politics of Hospitality*, PhD dissertation, Durham University, 2008 - http://etheses.dur.ac.uk/2228/1/2228_238.pdf (accessed on 25 July 2018); J. Derrida, *On Cosmopolitanism and Forgiveness*, trans. M. Dooley and M Hughes (London: Routledge, 2001); also K. Koser, “Social Networks and the Asylum Cycle”, *International Migration Review*, 31(3), 1997, pp. 591-611; on cities becoming places of refuge, Jessica Brandt and Lucy Earle, “The Global Compact for Refugees: Bringing Mayors to the Table”, Brookings Policy Brief, January 2018

²⁷Four largest international NGOs (Danish Refugee Council, Save the Children, Norwegian Refugee Council and Rescue) made a joint submission on “Key Recommendations to a Final Draft of the Global Compact on Refugees”. In distinct acknowledgement of the reality, they proposed that the Global Compact should recognise that the focus has to be “be context-specific. It would include host States; where appropriate in a solutions context, the country of origin; regional neighbours; and other cooperating States that are engaged and committed to making significant contributions (including financial, material and technical assistance, and third-country solutions) as well as representatives from the refugee and host community populations. “ and further, “The programme of action therefore envisages a mix of solutions, adapted to the specific context and circumstances of displacement and taking into account the absorption capacity, level of development and demographic situation of different countries, as well as assessed preferences of individual refugees themselves. ..” – https://drc.ngo/media/4585168/ngo-4-recommendations-to-a-final-gcr_may18.pdf(accessed on 1 August 2018) and <http://www.unhcr.org/5b3c8eaa7.pdf> (accessed on 1 August 2018)

²⁸In the preparation for of the compact on safe, orderly, and regular migration, several institutions were likewise involved. However in both cases, primarily global institutions were thinking globally, and where countries were involved, mostly Ambassadors were involved in the discussions. Besides there were regional meetings where prominent NGOs were involved. All these were steps towards an inter-governmental conference to adopt the global compact – UN General Assembly Resolution at the 72nd session, 24 September 2017 Indeed the resolution (72/244) went onto extreme procedural details to make the conference for the adoption of the compact possible - http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/244 (accessed on 16 August 2018)

²⁹“Shared Responsibility, Shared Humanity”, Communiqué from the International Refugee Congress, 2018) - <http://jhrmk.org/index.php/2018/05/18/international-refugee-congress-2018-shared-responsibility-shared-humanity/?lang=en> (accessed on 13 August 2018)

³⁰*Ibid*, p. 2

³¹“The Global Compact on Refugees “, Zero Draft (as at 31 January 2018), p. 14, Paragraphs 76-77 - <https://reliefweb.int/sites/reliefweb.int/files/resources/Zero-Draft.pdf> (accessed on 13 August 2018)

³²There is a voluminous literature on the “Responsibility to Protect”. On some of the reports, <http://responsibilitytoprotect.org/ICISS%20Report.pdf> (2001), <https://www.files.ethz.ch/isn/181082/R2P.pdf> (2011), and <http://www.globalr2p.org/media/files/libyaandr2poccasionalpaper-1.pdf> (2012)

³³ “Statement by India made on Agenda item 2 (Part III.A – Programme of action: Mechanisms for burden and responsibility sharing) during the fourth round of formal consultations on the Global compact on Refugees”, delivered by Sadre Alam, First Secretary - <http://www.pmindiaun.org/pages.php?id=1648> (accessed on 12 August 2018)

³⁴<http://www.unhcr.org/5b2ba4e27.pdf> (accessed on 12 August 2018); indeed the scepticism of India was clear as she emphasised the need to “follow up of the commitments of Donors to share burden and responsibility and the ‘Grand Bargain’ commitments endorsed by UNHCR; (and) flow up of the support provided to Countries of origin and of their commitment to share responsibility, address the root causes and find durable solutions for voluntary return of refugees in safety and dignity.”– Statement by the Indian Mission, Geneva during the Second round of formal consultations on the Global compact on refugees (Agenda item 3) - Delivered by Dr. Sadre Alam, First Secretary” - <http://www.pmindiaun.org/pages.php?id=1627> (accessed on 12 August 2018)

³⁵<http://www.pmindiaun.org/pages.php?id=1647> (accessed on 12 August 2018)

³⁶All citations in this paragraph are from “Statement by India made on Agenda item 6 (Part IV – Follow-up and review arrangements) during the fourth round of formal consultations on the Global compact on Refugees”, Delivered by Dr. Sadre Alam, First Secretary <http://pmindiaun.org/pages.php?id=1790> (accessed on 12 August 2018)

³⁷ “The Time for Action Children Uprooted is Now”, UNICEF, 8 June 2018 – <http://www.unhcr.org/5a4374d47.pdf> (accessed on 15 August 2018)

³⁸“Against this background, the global compact complements ongoing United Nations endeavours in the areas of prevention, peace, security, sustainable development, migration and peacebuilding. All States and relevant stakeholders are called on to tackle the root causes of large refugee situations, including through heightened international efforts to prevent and resolve conflict; to uphold the Charter of the United Nations, international law, including international humanitarian law, as well as the rule of law at the national and international levels; to promote, respect, protect and fulfil human rights and fundamental freedoms for all; and to end exploitation and abuse, as well as discrimination of any kind on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability, age, or other status. The international community as a whole is also called on to support efforts to alleviate poverty, reduce disaster risks, and provide development assistance to countries of origin, in line with the 2030 Agenda for Sustainable Development and other relevant frameworks.” – Final Draft of the Global Compact on Refugees, 26 June 2018, paragraph 9 - <http://www.unhcr.org/5b3295167.pdf> (accessed on 15 August 2018)

³⁹For the first draft - <http://www.unhcr.org/5aa2b3287.pdf> (accessed on 15 August 2018), second draft – <http://www.unhcr.org/events/conferences/5ae758d07/official-version-draft-2-global-compact-refugees-30-april-2018.html> (accessed on 15 August 2018), and third draft – <http://www.unhcr.org/events/conferences/5b1579427/official-version-draft-3-global-compact-refugees-4-june-2018.html> (accessed on 15 August 2018)

⁴⁰Second draft, paragraph 59, p. 12

⁴¹ The changes in the successive drafts are instructive. For fine changes with regard to solutions, see, “Global Compact on Refugees: From draft 2 (30 April) to draft 3 (4 June), Explanatory Memorandum on Main Changes “ - <http://www.unhcr.org/5b1579b17.pdf> (accessed on 16 August 2018)

⁴²The IOM vision statement explicitly accords importance to a proper governance framework to realize safe and orderly migration. See, “IOM Vision on the Global Compact on Migration”, paragraphs 6-10 - https://www.iom.int/sites/default/files/our_work/ODG/GCM/IOM-vision-on-the-global-compact-on-migration-13April2017.pdf (accessed on 17 August 2018)

⁴³On the relation between race and alien hood, Michel Foucault, “*Society Must be Defended*”, *Lectures at the College de France*, 1975-76, trans. David Macey (New York: Picador, 2003); on the relation between race, universalism, and migration, Etienne Balibar, “Is There a Neo-Racism?” and “Racism and Nationalism” in Etienne Balibar and Immanuel Wallerstein, *Race, Nation, Class: Ambiguous Identities* (London: Verso, 1991), chapter 1, pp. 17-28 and chapter 3, pp. 37-67; also, R. Samaddar, “Pangs of Ambiguity: *Race, Nation, Class* Deciphered for India” in Manuel Bojadzjev and Katrin Klingan (eds.), *Balibar / Wallerstein’s “Race, nation, Class: Rereading a Dialogue for Our Times* (Hamburg and Berlin: Argument Verlag and Haus der Kulturen der Welt), pp. 171-198

⁴⁴In the context of refugee protection, I discussed the relation in details in *The Politics of Dialogue: Living Under the Geopolitical Histories of War and Peace* (Aldershot: Ashgate, 2004), chapter 9, “The Non-dialogic World of the Humanitarian”, pp. 271-310

⁴⁵ The Summary of the High Commissioner’s Dialogue on Protection Challenges 2017: “Towards a Global Compact on Refugees”, 12-13 December 2017, Thematic session 4: Contemporary protection challenges , admitted the reality of the overwhelming presence of categorizing strategy, and said, “It is important not to adopt a ‘categorization’ approach to addressing specific needs, or to fall into the trap of seeking to identify which groups are the ‘most vulnerable’; holistic and intersectional approaches work best. At the same time, prioritization of those who are least protected, including women at risk, children and the disabled, was urged. Decisive measures to address the root causes of displacement built on cooperation, including by regional and municipal stakeholders as well as development actors, were called for. Several participants also urged more collaboration between UN agencies”. The paradox thus remains. – See <http://www.unhcr.org/5a5890137.pdf> (accessed on 16 August 2018)

⁴⁶ The technical nature of the idea of “complimentary pathways” will be clear from the way the concept paper for thematic discussion IV (measures to be taken in pursuit of solutions) and thematic discussion V (issues that cut across all four substantive sections of the comprehensive refugee responses, and overarching issues) in the discussion on “Towards a Global Compact on Refugees” , Palais des Nations (room XIX), Geneva, 14 – 15 November 2017, formulated the following: “As a complement to resettlement opportunities, safe and regulated pathways for the admission of refugees to third countries can facilitate access to protection and solutions, and are an important expression of burden- and responsibility-sharing. In line with the commitments contained in the New York Declaration,¹⁵ this panel will consider ways that the programme of action can support the establishment or expansion of complementary pathways as part of a comprehensive refugee response, including by: (i) expanding family reunification; (ii) leveraging private and community sponsorship; (iii) increasing access to educational opportunities in third countries; (iv) facilitating labour mobility schemes; and (v) data collection on and overall monitoring of complementary pathways for admission.” - <http://www.unhcr.org/5a0019467.pdf> (accessed on 17 August 2018)

⁴⁷To make sense of the technical evolution one should study the UN Refugee High Commissioner’s Annual Dialogues. For instance, for the 2017 dialogue where these points of emphasis were laid out - <http://www.unhcr.org/high-commissioners-dialogue-on-protection-challenges-2017.html> (accessed on 17 August 2018);

⁴⁸ See paragraph 29 of “Transforming Our World: The 2030 Agenda for Sustainable Development”, where the manifesto speaks of the positive contribution of refugees and migrants for “inclusive growth and sustainable development” - http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E (accessed on 15 August 2018)

⁴⁹Volker Turk, a senior UNHCR officer speaks of the interface of humanitarian and the developmental tasks. See, Volker Turk, “Prospects for Responsibility Sharing in the Refugee Context”, *Journal on Migration and Human Security*, Volume 4 (3), 2016, pp. 45-59; In this context, Volker also noted, “Labour mobility schemes, either within the country of asylum or a third country, are making headway in realizing the right to work and are beneficial for refugees, companies, and national and regional economies. They enable refugees to move to increase their levels of income and standard of living. They can address human resource and capital shortages as well as promote innovation and the transfer of skills. The protection benefits of labour mobility schemes are myriad, as employment and improved household income contribute to self-reliance and resilience, reduce

negative coping mechanisms, prepare refugees for longer-term solutions either in or outside the country, reduce dependency on humanitarian aid and, in some cases, facilitate a path to permanent residency or naturalization. We are already starting to see this emerge in regional arrangements that may help facilitate the movement of refugees with specific skills to the countries where such skills are most needed. UNHCR has also recently entered into memoranda of understanding with the OECD and the International Labour Organization, respectively, to promote employment opportunities for refugees both within their countries of asylum and beyond.” – p. 55

⁵⁰ IOM theme papers available at - <https://www.iom.int/iom-thematic-papers> (accessed on 1 August 2018)

⁵¹ All citations in this paragraph are from Section IV, paragraphs 121-123, pp. 23-24 - <https://reliefweb.int/sites/reliefweb.int/files/resources/N1624876.pdf> (accessed on 17 August 2018); the emphasis on rights was also in the Report of Peter Sutherland, Special Representative of the Secretary General on Migration, 2017 - http://www.un.org/en/ga/search/view_doc.asp?symbol=A/71/728&=E%20 (accessed on 18 August 2018)

⁵² The UNHCR realized the mixed nature of migratory flows in 2007 as it drew a “Refugee Protection and Mixed Migration: A 10-Point Plan of Action”, though the plan of action showed the bind of humanitarian thought. See - <http://www.unhcr.org/uk/protection/migration/4742a30b4/refugee-protection-mixed-migration-10-point-plan-action.html> (accessed on 17 August 2018); on this debate see among others, Christoph Tometten, “Juridical Response to mixed and massive Population Flows”, *Refugee Watch*, 39-40, 2012; Khadija Elmadmad, “Mixed Flows and the Protection of Migrants with Special Reference to Sub-Saharan Migrants”, ISPI (Istituto Per GLI Studi Di Politica Interzazionale) Working Paper, 26, 2008 – https://www.ispionline.it/it/documents/wp_26_2008.pdf (accessed on 1 August 2018)

⁵³ Dimitris Papadopoulos, Niamh Stephenson, and Vassilis Tsianos, *Escape Routes: Control and Subversion in the Twenty-first Century* (London: Pluto Press, 2006), p. 56

⁵⁴ *Ibid.*, p. 43

⁵⁵ For a comprehensive discussion on the concept of autonomy of migration, see Stephan Scheel, “Autonomy of Migration despite Its Securitisation? Facing the Terms and Conditions of Biometric Re-bordering”, *Millennium: Journal of International Studies*, Volume 41 (3), pp. 575-600; Scheel in “Studying Embodied Encounters: Autonomy of Migration beyond its Romanticisation” speaks of the interface of the principle of autonomy and government as embodied encounters, for instance between migrant’s autonomous practices of movement and myriad of regulations, including biometric surveillance. See his “Studying Embodied Encounters: Autonomy of Migration beyond its Romanticisation”, *Postcolonial Studies*, Volume 16 (3), pp. 279-288

⁵⁶ The UNHCR kept on insisting that refugees were not migrants, and that its goal was to safeguard the refugee exemption from restrictive policies. As one scholar has commented, “Sceptical media and political entrepreneurs in turn dismissively label people trying to get in as “migrants” - not “genuine refugees” with legitimate claims to enter and be protected. The notion that migrants and refugees are distinct extends throughout the academy for historical and contemporary political reasons. The great wave of transoceanic European immigration to the New World in the late nineteenth and early twentieth century took place at a time when there was no separate track for refugee admissions, nor an international refugee regime. As a result, foundational theories of immigration typically ignored the refugee question even if many of those early migratory movements, from Russian Jews fleeing pogroms to Irish escaping the Great Famine, can be reconceptualised as forced migrations. Immigration studies in the United States, Canada, and Australia address post-World War II refugee admissions, but they easily conflate all people who moved to settler states as “immigrants,” regardless of why they came”. – David Scott FitzGerald and Rawan Arar, “The Sociology of Refugee Migration”, *Annual Review of Sociology*, 44, 2018 (pp. 387-406), p. 388

⁵⁷ The IOM vision also carries evidence of such contradiction. It states, “The Global Compact presents an historical opportunity for achieving a world in which migrants move as a matter of choice rather than necessity, through safe, orderly and regular channels, and in which migration is well governed and able to act as a positive force for individuals, societies and States. IOM envisions a global compact that will place the rights, needs,

capacities and contributions of migrants at its core, with a view to ensuring their safety, dignity and human rights. Central to this vision are four core elements: (1) protecting the rights of migrants; (2) facilitating safe, orderly and regular migration; (3) reducing the incidence and impacts of forced and irregular migration; and (4) addressing mobility consequences of natural and human-induced disasters.” - “IOM Vision on the Global Compact on Migration”, 13 April 2017, paragraph 2, also paragraph 10 – https://www.iom.int/sites/default/files/our_work/ODG/GCM/IOM-vision-on-the-global-compact-on-migration-13April2017.pdf (accessed on 17 August 2018)

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