

POLICY BRIEF | VISITING SCHOLAR SERIES

THE GLOBAL COMPACTS ON REFUGEES AND ON SAFE, ORDERLY, AND REGULAR MIGRATION AND MISSING U.S. LEADERSHIP

By: Dr. Elizabeth Ferris

Professor Ferris spoke on September 13, 2018 at the SMU Tower Center & International Rescue Committee Global Refugee Symposium.

In September 2016, the UN General Assembly unanimously adopted the New York Declaration which outlined a process for the development of two new Global Compacts – one on refugees and one on safe, orderly and regular migration -- for adoption in 2018. This is a historic opportunity to strengthen global governance of refugees and migration – but also with many potential pitfalls.

From the beginning of preparations for the 2016 Summit, there was a recognition that refugees and migrants cannot be lumped in together in a single new global compact due to differences in the way the international system has structured its approach to these two groups. While the global refugee regime is characterized by a central convention (the 1951 Convention on Refugees), a central UN agency (UNHCR) and 70 plus years of jurisprudence on refugees, the global migration regime is a very different animal. There is no overarching legal framework comparable to the refugee convention but rather various instruments of international human rights law. There is no overarching UN agency on migration – rather the central agency working on migration (the International Organization for Migration) was outside the UN until 2016 and questions remain about how far IOM will integrate into the UN system. Unlike the refugee regime where UNHCR is the undisputed lead agency, there are many more institutional actors and processes (such as the Global Forum on Migration and Development) outside of the UN ambit.

And so two different processes were set up. UNHCR was asked to lead the process of developing the Global Compact on Refugees and for the past 18 months has convened a series of consultations with states and other actors and has also implemented a Comprehensive Refugee Response Framework (a central component of the GCR) in more than a dozen countries. The GCR will be presented this fall as part of UNHCR's regular report to the General Assembly and hopefully will be adopted.

On the migration side, the UN General Assembly took the leadership in developing the Global Compact on Migration. Following a series of consultations and meetings, formal negotiations on the text of the Global Compact were carried out

in New York under the direction of two skilled ambassadors from Mexico and Switzerland. The final text of the GCM will be presented – and hopefully adopted – at an intergovernmental conference in Morocco. While the GCR largely affirms existing good law and practice, the GCM is a new creature. On the positive side, it is breaking new ground for international cooperation. But the tensions between the human rights of migrants and border controls have been difficult to negotiate.

“There isn't even a single definition of the term 'migrant.'”

There are many pitfalls along the way. The final texts could be rejected. The US has pulled out of the Global Compact on Migration as has Hungary – and other countries may follow suit. Neither compact addresses internally displaced persons. I think both global compacts mark a step forward in international governance, but these are baby steps in terms of what is needed given the unprecedented numbers of people on the move.

Finally, US leadership has been missing from both of these path-breaking global compacts. Not just in terms of financial contributions or resettled refugees, but the US has exercised diplomatic leverage in encouraging and negotiating with governments to strengthen international cooperation and systems on refugees. At some points in time, the US government – notably under the administrations of Ronald Reagan and Barack Obama – was way out in front of these efforts. Today, the US has been largely a passive bystander to these historic processes.

Questions? Reach out to Dr. Ferris directly:

ELIZABETH.FERRIS@GEORGETOWN.EDU



SMU | John Goodwin Tower Center for Political Studies
DEDMAN COLLEGE OF HUMANITIES & SCIENCES