



QUNO

Quaker United Nations Office



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Protecting Refugees and Migrants under the New York Declaration: Challenges and Opportunities at the UN Level

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Human Rights and Refugees

QUNO's belief in the inherent worth of every individual leads us to work for the promotion and protection of human rights for all. Our Human Rights & Refugees programme raises up the concerns of marginalized groups, so they are better understood by international policy makers, which leads to stronger international standards.

Frontline organizations can use these strengthened international standards as a tool to limit suffering, improve lives and challenge the root causes of injustice. Our work focuses on children of prisoners, children of parents sentenced to death or executed, conscientious objectors to military service, Indigenous peoples and refugees.

On September 19th 2016, the UN set a new agenda for responding to large movements of people crossing borders. Motivated by our testimonies and drawing on long experience of working on international peace and justice concerns, the Quaker United Nations Office (QUNO) is focussing on how current opportunities can be used to achieve a fair, ambitious and rights-respecting international response to people on the move.

Why does QUNO work on refugees and migrants?

QUNO has long worked on the issue of displaced people, helping to advance the international legal standards and structures designed to protect their rights and dignity. This stems from our principle to uphold the dignity and worth of every individual, regardless of their nationality or circumstance they find themselves in.

When large numbers of people are forced to cross borders, this is a symptom of a failure to prevent conflict and uphold rights, which runs counter to QUNO's vision of a world where peace and justice prevail. Much of our work at the UN focuses on addressing the root causes of conflict, which are also responsible for driving population displacement. This is reflected in our cross-cutting programme areas: Human Rights & Refugees, Peace & Disarmament, Climate Change; and Food & Sustainability; and Prevention of violent conflict. While our priority remains addressing the structural causes of conflict and injustice, until these are comprehensively addressed, humanity must be maintained in how we respond to the people most affected. QUNO therefore seeks to ensure that the principles of humanity, dignity and equality of all peoples are better reflected by the international community in the treatment of people on the move.

Our current work covers those who are forced to move and those who move across borders by choice, in part because they are often moving together and encountering the same violations and in part because the othering, blame and fear manipulated for political gain is directed at both.

Why now?

An increasingly complex number of drivers are forcing people from their homes: war, instability, economic crisis, human rights violations, climate change and environmental degradation. Economic and technological globalisation are encouraging more people than ever to migrate in search of new opportunities. People are increasingly moving together in 'mixed flows' of migrants and refugees and many of them need protection in the countries they travel through and arrive in, either due to factors forcing them to flee, situations arising on the move, or both.

How should countries collectively respond to this new global migration reality? This question is currently being grappled with by the international community. Given that migration is an inherently trans-national issue, meaningful collaboration between countries at an international level is vital. Yet so far, the global response can be characterised as system failure. Countries have tended to take a 'go-it-alone' response to migration issues, resulting in ad hoc, chaotic, and unequal treatment for those on the move. Poorer nations with weaker infrastructure shoulder the greatest share of responsibility for refugees and there is a persistent funding gap to support them, while other countries reject calls to host more. Responding to an increasingly toxic anti-migrant and refugee narrative, some countries flagrantly violate the rights of migrants and refugees, often seeking to justify their actions with a security agenda. With increasing boldness, some countries or groups of countries, have externalised their international obligations onto others. The need to protect human beings seems all too often to be lost.

Propelled by the increasing chaos, and because of concerted external pressure, countries woke up to the need come to a more coordinated effort. On 19 September 2016, a high-level summit was held at the UN in New York to address 'large scale movements of refugees and migrants'. It was the first time that all the UN Member States have come together on this topic and the political declaration

“An epidemic of amnesia is at the heart of this moral collapse... Many seem to have forgotten the two world wars – what happens when fear and anger are stoked by half-truths and outright lies.”

Zeid Ra'ad Al Hussein,
UN High Commissioner
for Human Rights

it adopted, known as **The New York Declaration**, outlines important commitments on this issue. The Declaration also sets in motion a series of processes over the next two years which seek to work towards fairer and more effective global governance of large scale movements of people.

Why refugees and migrants? Aren't they the same? Does the distinction matter?

At the UN level, refugees and migrants are dealt with separately. A **refugee** is a legal definition for people fleeing conflict and persecution. Their protection under international law is defined by the 1951 UN Refugee Convention, which was created in the aftermath of the Second World War. There is no single definition for an international **migrant**, and different parts of the UN use different definitions. However, they are generally defined as anyone who crosses an international border, and the definitions do not specify a reason for their movement. 'Migrant' is therefore a broad term and there is no legal status for popular labels such as 'economic migrant,' or 'illegal migrant.'

The distinction should only matter in that there are additional protection responsibilities on other countries for those whose country of origin cannot or will not protect them. These terms are misrepresented and misused for political gain creating hierarchies of "good refugees" and "bad migrants" or economically beneficial migrants and needy refugees. Clarity is helpful to undermine these manipulations.



Secretary-General Ban Ki-moon addresses the UN high-level summit on large movements of refugees and migrants. (UN Photo/Cia Pak)

What does international law say?

Refugees are protected under the **Refugee Convention, and its Protocol**, which entitles those who are granted refugee status protection from being returned to countries where they face threats to their life or freedom. The impact of refugee law has been enormous, preventing many thousands of people from being returned to countries where they face threats to their life or freedom and enabling them to lead meaningful lives elsewhere with dignity and rights.

There is no single body of law governing the protection of migrants. Instead, legal standards are found in multiple places, including:

- **International law on migrant workers.** For example, the International Convention on Migrant Workers, which gives migrant workers the same rights as domestic workers in many aspects, as well as anti-trafficking and forced labour laws to protect migrants from exploitation. Non-migrant specific international labour standards, such as the Forced Labour Convention, also offer protection to migrants.
- **International human rights law.** This is made up of many international and regional treaties which

A refugee is a person who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.”

UN Refugee Convention

An international migrant has different definitions under international law, such as “any person who changes his or her country of usual residence.”

UN Statistics Division

set the standards for how people must be treated by countries on a wide range of issues, including non-discrimination, access to justice, basic health and education, etc. Migrants and refugees are not exempt from these standards and countries can only make limited distinctions between citizens and non-citizens in how they uphold these rights, for example on the right to vote.

- **International humanitarian law (the law of armed conflict).** This body of law provides certain protections for migrants and refugees who are caught in conflict situations.

These international legal standards have made a significant impact in improving treatment of people on the move and have been used as the basis for improving national law, and individuals or groups have used them to apply to international legal bodies and in domestic courts for redress for violations.

An example of international human rights law in practice:

In 2006 a woman at risk of female genital mutilation (FGM) was prevented from being sent back from the UK to Sierra Leone because she won an appeal at the European Court of Human Rights that her right to be free from torture had been violated. Because of this judgement, FGM is now recognised as a form of torture under domestic UK law, which prevents others from return to countries where they would be subject to this practice.

Why isn't this enough? Why is change needed?

The New York Declaration and its follow up processes offer an opportunity to address some of the gaps in international standards, especially for migrants, where there is not one clear legal framework governing their protection. Despite this, the changes envisioned in the New York Declaration are not intended to fundamentally reinvent international law on refugees and migrants, nor should they, given that a strong legal framework already exists.

The central challenge lies not with any lack of international legal standards but with the lack of political will to implement them. Long-standing and deeply entrenched norms are facing ever-increasing threats from countries unwilling to uphold the obligations they set out. Even one of the central principles of the Refugee Convention, non-refoulement (the right not to be returned to a country where there is a risk of persecution), has been attacked and undermined by governments in recent years. The New York Declaration offers value in reaffirming countries' commitments to meet existing standards, improve and develop them where needed and most importantly, improve current practice.

The New York Declaration, with its stated principles of 'international cooperation' and 'responsibility sharing' between countries, also commits governments to more equitable responses to large movements of people.

What is contained in the Declaration?

The declaration, agreed by consensus by heads of State, is a product of intense and difficult political negotiations and the outcome was met with a mixed response. On one hand, achieving a high-level political commitment on the protection of both refugees and migrants can be recognized as a huge success, especially as it includes robust language on human rights. However, there are some more problematic areas, for example the language it contains on detaining children for immigration purposes is weaker than existing standards. Despite its limitations, the declaration can be viewed as a useful tool in efforts to improve international governance on this issue.

1. Declared commitments

The declaration outlines some important commitments made by countries. These commitments are not binding, but they can be used as advocacy tools and to hold countries to account in upholding them. For example, countries agreed to:

- “commit to a more equitable sharing of the burden and responsibility for hosting and supporting the world’s refugees”;
- “work towards the ending of” child detention;
- work towards ensuring that “all children are receiving education within a few months of arrival”;
- consider “removing criminal sanctions for illegal/unregulated entry”;
- “ensure that public officials and law enforcement officers who work in border areas are trained to uphold the human rights of all persons crossing, or seeking to cross, international borders”.

The Declaration also includes some commitments that create new initiatives. These include:

2. A commitment to improve refugee response, especially responsibility sharing

Led by the UN Refugee Agency, UNHCR, a Comprehensive Refugee Response Framework has been launched, which will examine good practice in specific refugee contexts around the world with the aim of replicating these elsewhere. The results of this will form the basis of a “Global Compact on Refugees”, a new global framework on responsibility sharing, due to be adopted by governments by the end of 2018. Its core intention is to improve responsibility sharing between countries in dealing with situations of large-scale refugee displacement (including more equitable resettlement of refugees). It will also focus on how host communities are affected by large influxes of refugees and how to better link humanitarian aid to refugees with longer-term international development work.

“The detention of a child because of their or their parent’s migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child”

UN Committee on the Rights of the Child

3. A commitment to find agreement on safe, orderly and regular migration

A Global Compact on “safe orderly and regular migration” as also announced. This process is much less clearly defined but focuses on creating an overarching framework on migration in “all its dimensions” and will “deal with all aspects”, including “humanitarian, developmental, human rights-related” and others. Unlike the process on refugees, it will be led by UN Member States, primarily developed through intergovernmental negotiations. There should be opportunities for non-governmental organisations, academics, migrants and others to feed into the process. This is due to be adopted in autumn 2018.

4. A campaign to combat xenophobia

The UN Secretary-General launched a campaign to “respond to rising xenophobia and turn fear into hope.” The Together Campaign for “Respect, Safety and Dignity for All” is led by the Secretary General’s office and will have a national and local level focus. More information is available at www.together.un.org

5. The development of principles on migrants in vulnerable situations

The declaration announced that countries will consider developing a State-led process to negotiate non-binding guiding principles and voluntary guidelines on the treatment of migrants in vulnerable situations. It is still

unclear what form this will take, who will lead it or even if it will be initiated at all.

“We must place the human rights of all refugees and migrants at the heart of our commitments.”

Ban Ki-Moon,
UN Secretary General
at the New York Summit

What are the challenges and opportunities?

There are significant opportunities in the New York Declaration and follow-up processes. Action between countries to share responsibility for refugees could have real, tangible impacts for refugees themselves. Concrete changes envisioned include more opportunities for refugees to be resettled in other countries through humanitarian admission programmes, family reunification etc., as well as improving refugees’ access to health, housing, education and employment.

For migrants, there is the potential for real change too, including better recognition of migrants at risk and in vulnerable situations, and more humane and rights-respecting ways to meet their needs. In light of the current negative rhetoric and action this process provides an opportunity for international leadership on a more positive narrative. An inclusive and far-reaching process that looks at all the dimensions of modern migration would help States acknowledge migration as a complex but largely positive phenomenon, highlighting the value of migrants, and of diversity.

The central question remains whether there is the political will to make these opportunities reality. Whilst recognising that the New York Declaration is itself an achievement, how much positive common ground exists between countries in its follow-up is unclear. For real responsibility sharing of refugees, there would need to be a significant shift; so far countries have not been

able to agree on the UN’s proposal to resettle 10% of the world’s refugees. There is a risk that what gets negotiated in the Compacts could undermine progress, entrenching standards below those we currently have. Given the current negative political climate around migration in many parts of the world, destructive narratives could be what shape this new agenda. These are ultimately State-driven agendas, and it is the sum of their collective efforts that will prevail. The short time frame also raises concerns, given the diverging opinions that will need to be ironed out before 2018. Finally, whilst the UN focuses on these initiatives, could this be a distraction from violations of people’s rights currently taking place on the ground?

Despite these concerns, and in part motivated by them, we remain steadfast in our commitment to these issues and take courage from the many times the international community has come together and done the apparently politically impossible, driven by moral necessity. States can, do and will make agreements that are based on something more than national interest and which speak to a common humanity.

How is QUNO approaching this work?

In a time of so many risks and uncertainties, we feel it is more important than ever to push for ambitious and rights-based agreements and to seek to ensure that existing protection standards do not slip. Using QUNO’s traditional methods of bringing people together, we are engaging in quiet diplomacy work, convening informal, off-the-record conversations with a wide range of people working on the migrant and refugee issue. These spaces offer opportunities for participants to listen, explore sensitive issues and exchange ideas on how to move forward. By working across division, ensuring civil society is properly heard and giving diplomats safe spaces to explore ideas, we are supporting stronger, more human-centred outcomes.

We are also using our long-standing work with existing human rights institutions at the UN to encourage a human rights-based refugee and migrant agenda. Effective use of these mechanisms will ground the two Compacts in the existing legal framework and its accountability structures, and prevent countries from shirking their obligations.

How can Friends engage?

These opportunities will not be effective without people holding their governments to account. The UN, and its member States, are accountable to all of us, and it is our responsibility to challenge the lack of political will to protect migrants and refugees. Whilst recognising that there is no replacement for local and national work on this issue, the international agenda can complement and enhance local initiatives. Here are some ways that Friends around the world can engage:

1. Use the New York Declaration

The Declaration is a powerful advocacy tool for anyone with an interest in these issues, as it contains strong commitments that all countries have agreed to. You can use it to hold your Government to account, for example by asking your elected representative what action your Government is taking to implement the commitments made by your head of state in the Declaration.

“The time for this is now. ‘We the peoples’ can take a stand for rights. Local actions can add up to a global movement to save the rights that a global movement, composed of countless committed individuals and some inspired leaders, created in the first place.”

Zeid Ra’ad Al Hussein,
UN High Commissioner
for Human Rights

QUNO’s Laurel Townhead co-hosts a side event on refugees and migrants at the 32nd Human Rights Council in September 2016.



2. Engage in consultations

The initiatives outlined above will include thematic and regional consultations, meaning there will be opportunities for organisations and individuals to engage directly. Refugees and migrants themselves are especially encouraged to speak about their experiences and make recommendations on how countries can better uphold their rights. Quakers around the world can participate directly, support others to engage, and spread the word when more information is available. Information will be publicised on the campaign website refugeesmigrants.un.org.

3. Join the Together Campaign

Launched by the Secretary General at the 19th September Summit, this is a global campaign that aims to change negative perceptions and attitudes towards refugees and migrants, and to strengthen the social contract between host countries and refugees and migrants. Subscribe to the campaign [newsletter](#), support their [partner campaigns](#), join an [event](#) where you are and share what actions you are taking.

4. Using the Universal Periodic Review process

The Universal Periodic Review (UPR) is a UN process where every country has its human rights record reviewed by other member States once every 4 and a half years. The process is directly State-State, however there are opportunities for civil society organisations to send information about human rights violations happening in their countries. Information from the ground about violations of migrants' and refugees' rights massively enhances the effectiveness of this process. Check when your country is coming up for review and how to submit information here: ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx. Another useful resource is: upr-info.org/en.

Without the concerted efforts of each of us to push States in the right direction, destructive narratives and behaviours will have free reign to undermine these efforts to create a more humane approach to human mobility. Our collective efforts are critical at this moment in ensuring that the opportunity is not lost.



To maintain this work in this critical period, we seek financial support from individuals, meetings and foundations

*To contribute, please visit quino.org/donate or for more information contact our Representative for Human Rights and Refugees, **Laurel Townhead** at ltownhead@quino.ch.*