

# The UN Refugee Summit: What Can Be Achieved?

By T. Alexander Aleinikoff

The United Nations will convene a summit on large movements of migrants and refugees on September 19<sup>th</sup> in New York. While sparked by the well-publicized flows of people from the Middle East and Africa to Europe over the past many months, the high-level meeting will consider issues of migrants and refugees from a broader perspective. Though the summit itself is not scheduled to produce significant new commitments, it sets the stage for a process that could prove tremendously important.

UN Member States have negotiated a draft outcome document for the summit that will be submitted for adoption later this month. The document is a helpful intervention in a number of respects, although it falls short in others, as will be discussed below. It begins with the premise that migrants “make positive and profound contributions to economic and social development in their host societies and to global wealth creation” and extols the benefits of diversity that come from immigration. It takes note of the perilous situation of “vulnerable” migrants and refugees (with particular attention to women and unaccompanied children), and expresses “profound concern” at the thousands of persons who have lost their lives in transit. In adopting the document, states would commit to “protect[ing] the human rights and fundamental freedoms of refugee and migrant children, regardless of their status, and in accordance with the best interests of the child.” They would also pledge to support a global campaign to counter xenophobia, to be proposed by the UN Secretary-General. To make progress on facilitating migration and improving migration policies (as called for under the UN Sustainable Development Goals), the draft outcome document recommends launching intergovernmental negotiations towards adoption of a Global Compact for Safe, Orderly, and Regular Migration in 2018.

As to refugees, the draft stands firmly behind the 1951 Refugee Convention—and its core principle of non-return of refugees (“nonrefoulement”). This is no small achievement in a time of increasingly restrictive state and regional practices. The documents calls for improved coordinated among humanitarian and development agencies in responding to refugee emergencies and longstanding displacement situations, with the goals of improving refugee self-reliance and enhancing assistance to host communities. Furthermore, it emphasizes the “centrality of [international] responsibility sharing”—a recognition that countries neighboring a country in conflict typically bear most of the burdens of refugee flows. If implemented, these measures could provide a real advancement for millions of refugees who are living lives in limbo in camps, settlements, and marginal urban areas around the world.

## Issues Not Adequately Addressed

In the search for a consensus document, a number of issues were rendered in vague language or left out of the document entirely. The most significant include:

- **Attention to “root causes.”** The summit documents would commit states to addressing the causes of migrant and refugee flows (through peace-making, development, and preparedness)—that migration should be “a choice, not a necessity.” But little is said about how this can be accomplished.
- **Implementation of the new “business model.”** Working to ensure self-reliance and inclusion of refugees in local services as well as assist host communities and increase financial resources requires collective action by host and donor states, humanitarian and development actors, NGOs, and the private

sector. There is an appropriate call for a Comprehensive Refugee Response Framework, and the UN High Commissioner for Refugees (UNHCR) is given the responsibility to coordinate the efforts. But no system of overall accountability or for establishing collective goals is provided (indeed, the draft outcome document makes mention of a transition from humanitarian assistance to sustainable development—a formulation now outmoded, as all actors recognize that humanitarian and development work must be concurrent.)

- **Responsibility sharing.** Establishing a joint commitment to responsibility sharing is a key goal of the summit, as the Syria situation has demonstrated the shortfalls of the current system (labelled by UN Special Envoy Peter Sutherland as “responsibility by proximity”). But neither the draft document nor its Annex on Refugees provides or calls for a formal responsibility-sharing agreement or structure. To be sure, much is said about the traditional three solutions for refugees (repatriation, resettlement, and local integration). But in joining the summit documents, states will not be committing themselves to any new obligations or establishing a process for generating such obligations.
- **Refugee rights.** The rights guaranteed by the 1951 Convention are routinely violated by states. In most countries, refugees are not given the right to work or establish businesses; some states deny the right to free movement by restricting refugees to camps; refugee children may face detention; and restrictions on free speech and the practice of one’s religion may be imposed. It does not appear that the summit will address these issues, other than calling for compliance with international refugee and human-rights law. Soft language is included on the right to work for refugees: in the draft outcome document host governments are “encourage[d]” to open labor markets to refugees wherever possible—a far cry from the bold declarations of the refugee convention.
- **Internally Displaced Persons.** Focusing on flows of persons across borders, the draft only mentions internally displaced persons (IDPs) as an aside. But two-thirds of the world’s forced migrants remain within their countries of origin, and many of the challenges faced by refugees and hosting states apply with equal vigor to IDPs and the communities in which they are located. Some Member States and advocacy groups have pushed to have IDPs included in the September program, but to no avail.
- **Recognition of other categories of persons in need of international protection.** Persons fleeing conflict and violence are protected in several regional instruments but are not expressly included in the definition of “refugee” in the 1951 Convention (although, as a matter of practice, UNHCR treats such individuals as persons of concern). So too, existing international norms say little about persons forced from their homes because of natural disasters or climate change. The outcome document could initiate a formal process for considering how international protection can be extended to these and other groups in “refugee-like” situations.
- **The role of the private sector and civil society.** Given the challenges facing states, migrants, and refugees, it makes sense to look to the private sector for resources, talent, and innovation. But the summit documents make only a brief and vague reference to what role the private sector could play. For migrants and refugees, the private sector could be a source of jobs; it could also support research and advocacy underscoring the summit’s core view that migration provides benefits to migrants, as well as receiving and sending states. Foundations, NGOs, and corporations (through corporate social responsibility) could significantly contribute to efforts to change the discourse on migrants and refugees.

### Where To After the Summit?

The important question is whether anything will have changed the day after the summit. To some degree the answer will be “no”—or at least not much. The summit will do little to ameliorate the humanitarian crisis facing migrants undertaking dangerous journeys to Europe. It will not call for the convening of a global conference on Syrian refugees (or Afghan, Somali, or Eritrean refugees). It will not establish new norms for forced migrants who do not fit within the Convention’s definition of refugee. Nor will it provide

a system of accountability for implementation of the new business model of refugee protection and assistance. It is widely recognized that millions of persons will be forced from their homes in the future because of natural disasters and climate change, yet the summit will not produce outcomes concerning these issues.

Indeed, the outcome document itself will only be hortatory. It will not purport to establish any new obligations on UN Member States.

However, in the face of increasingly contentious discussions and vitriolic rhetoric, the summit will have made a difference if Member States—through adoption of the outcome document—affirm the benefits of migration, promote international norms that protect migrants and refugees, commit to programs to counter xenophobia and discrimination, and call for international cooperation and responsibility sharing for refugee protection and solutions (including assistance to hosting states).

But perhaps the most significant contribution of the summit will be the commitment of the Member States to draft a Global Compact on Safe, Orderly, and Regular Migration and a Global Compact on Refugees. This work, which will take place over the next two years, can carry forward on the commitments of the summit and also address the gaps identified above.

*T. Alexander Aleinikoff is a Senior Fellow at the Migration Policy Institute, a Visiting Professor of Law at Columbia Law School, and former Deputy High Commissioner for Refugees. This is adapted from a policy brief he wrote for the Development and Peace Foundation.*