

The Global Gaze of Protection, Care, and Power

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Article abstract

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The Global Gaze of Protection, Care, and Power¹

RANABIR SAMADDAR

Abstract

The Global Compacts on Refugees and Migrants have been widely considered as opportunities for the world to reconsider old approaches to refugee and migrant protection. The New York Declaration is global, not only because it emanates from a global institution, but also because of the following aspects, to be detailed in course of this article: First, a single declaration covering subjects of migration and forced migration is an acknowledgment of the reality that the two have deep relations, and that population flows are increasingly mixed and massive, defying neat categorization. Second, the declaration also highlights the limits and/or unwillingness of states to carry primary responsibility of refugees and migrants, and hence opens up the possibility to include the “whole of society,” which is to say the “whole of globe” covering stakeholders including business and commercial segments. Third, the new approach is global because refugees and migrants are conceptualized as subjects of global development. Fourth, migration and refugee “crises” are considered inevitable, hence the need for durable solutions, such as the need for a globally relevant comprehensive response framework. And finally, the article

touches on the changing nature of the rights question under such a technological mode of management. These aspects are not discussed separately in order, but in an interrelated way. The article is a post-colonial critique of an emerging global apparatus of care and power.

Résumé

Les Pactes Mondiaux pour les Réfugiés et les Migrants ont généralement été considérés comme des opportunités de repenser les vieilles approches concernant la protection des réfugiés et migrants. La Déclaration de New York est globale non seulement car elle émane d'une institution globale, mais aussi en raison des aspects suivants, qui seront détaillés dans cet article: Premièrement, une déclaration unique couvrant les sujets de la migration et de la migration forcée est une reconnaissance du fait que les deux ont une relation profonde et que les flux de population sont de plus en plus mixtes et massifs, défiant les catégorisations pures. Deuxièmement, la Déclaration souligne aussi les limites et/ou la réticence des États à porter la responsabilité principale des réfugiés et migrants, et, de ce fait, ouvre la possibilité d'inclure toute la société, ce qui en revient à dire « le monde

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entier» recouvrant diverses parties prenantes, dont les secteurs des affaires et du commerce. Troisièmement, la nouvelle approche est globale car les réfugiés et les migrants sont conceptualisés comme des sujets du développement global. Quatrièmement, les « crises » migratoires et des réfugiés sont considérées comme inévitables, et requérant par conséquent des solutions durables, telles qu'un cadre d'intervention global et pertinent au niveau mondial. Finalement, cet article traite de la nature changeante de la question des droits sous un mode de gestion aussi technocratique. Ces aspects ne sont pas traités séparément, mais de manière interreliée. Cet article est une critique postcoloniale d'un appareil global d'aide et de pouvoir en émergence.

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, have been widely considered as opportunities for the world to reconsider old approaches to refugee and migrant protection. The declaration was unambiguous in linking the question of protecting the migrants and refugees with a global development agenda.² It was also a promise of a new orientation to a global issue.

Annex 1 of the Compact on Refugees 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 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 all relevant stakeholders over the coming two years, with a view to evaluating the detailed practical application of the comprehensive refugee response framework (CRRF) 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 Commissioner to the General Assembly in 2018, for consideration by the Assembly at its seventy-third session.

Annex II likewise proposed 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 actionable commitments: collection and utilization of accurate, disaggregated data as a basis for evidence-based policies;³ minimization of the drivers and structural factors that compel people to leave their country of origin; provision of adequate and timely information at all stages of migration, and all migrants with proof of legal identity, proper identification and documentation; enhanced availability and flexibility of pathways for regular migration; fair and ethical recruitment and safeguard conditions that ensure decent work; address and reduce vulnerabilities in migration; manage borders in an integrated, secure, and coordinated manner; strengthen certainty and predictability in migration procedures; use migration detention only as a measure of last resort and work towards alternatives; enhance consular protection, assistance, and cooperation throughout the migration cycle; provide access to basic services for migrants; eliminate all forms of discrimination and promote fact-based public discourse to shape perceptions of migration and invest in skills development and facilitate recognition of skills, qualifications, and competences; create conditions for migrants and diasporas to fully contribute to sustainable development in all countries; promote faster, safer, and cheaper transfer of remittances and foster financial inclusion of migrants; and establish mechanisms for the portability of social security entitlements and earned benefits.⁴

These two compacts together promised a new global approach to global migration, including forced migration. The slogan was to be “Making migration work for all.”

The declaration was global, not only because it emanated from a global institution, but also because of the following aspects to be detailed in the course of this article.

First, a single declaration covering migration and forced migration was an acknowledgment of the reality that the two had deep relations, and that population flows were increasingly mixed and massive, defying neat categorization.

Second, the declaration also highlighted the limits and/or unwillingness of states to carry primary responsibility for refugees and migrants, and hence opened up the possibility to include the “whole of society,” which is to say the “whole of globe” covering 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 characterized by multi-stakeholder operations. These geographies were created in part 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 conceptualized 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 a globally relevant comprehensive response framework, such as the CRRF, and what the IOM popularized as a “framework for effective practices with regard to management capacity building.”⁵

Finally, solutions could become durable only by becoming global, first as indicated above by practising a new geography of labour market and care, and second, by pursuing a technological mode of management that would circumvent borders and boundaries to cope with the complex reality of global migration.

In this background, this article focuses on the initiative for a global compact on refugees. 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 Plan

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—USD257,748. This was only one of several indications of monetary and other investments to prepare consent for 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.⁶ Global conversations were initiated and held. Meetings were organized in the metropolises, mostly in the Global North and some in the Global 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 organization (UNDP), one can only imagine the amount 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 to manufacture consent for 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 post-colonial world were left out.⁷ 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—three of the global capitals. Thematic sessions, UN regional economic commissions, regional consultations (discussions to be held in regional capital cities), multi-stakeholder meetings, global fora 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.⁸

The UNHCR’s roadmap to a global compact on refugees proposed two complementary parts: a comprehensive refugee response framework, as agreed to by states, and a program of action setting out measures to be taken 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 process would take special note of (1) the application of the CRRF in specific countries and situations; (2) a series of five thematic discussions, held in the second half of 2017; and (3) a stocktaking of progress made and lessons learned—which 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.⁹ 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.”¹⁰

The UNHCR was thus ambitious. Usually nations have compacts on war, peace, cessation of hostilities, development projects, regional trade, etc. Now the UNHCR was embarking on achieving a compact on human beings—a group of human beings.¹¹ 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).

What were to be the main aspects of this framework? It was to have four objectives: to (1) ease pressures on host

countries; (2) enhance refugee self-reliance; (3) expand access to third-country solutions; and (4) support conditions in countries of origin for return in safety and dignity. We can only note here that “easing pressure on host countries” indirectly alluded to countries of the North and not South (say Pakistan or Bangladesh); enhancing refugee self-reliance has implied increasing dependence on the market; expanding access to third-country solutions has meant shifting more burdens to countries of the South; and returning refugees has often been “forced return,” as in the ongoing case of the Rohingyas. These were time-worn policies, whose advocates never tired of repeating them, whose results had never been objectively analyzed, and that now came back under the call for a comprehensive refugee response framework, whose key pillars were equally time-worn: 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.”¹²

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 the existing variety of protection modes in the vast post-colonial world, and took a “modernistic” and 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.”¹³ It also meant understanding migration risk and resilience in disasters.¹⁴

The global nature of the refugee response was acknowledged in this way. It meant two things.

First, it meant a comprehensive response built around “emergencies,” an indirect acknowledgment that migrations were becoming mixed and massive, and displacements were increasingly protracted,¹⁵ 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 the nature of passage (say through a sea), or the refusal of a state like Australia to allow the asylum-seeking escapees to arrive—even sinking rickety

boats on the sea and confining them to islands away from human eyes—indeed what constituted 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, 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 take into account 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 an irregular manner—approaches that made stay more flexible. From the beginning, the whole-of-society approach was a captive of the myth of durable solutions, which had given birth to the UNHCR in the first place.

It was necessary to mobilize the whole of society 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 hardly be acknowledged. Humanitarianism was the ground on which the new migration and refugee management mode was to be legitimized. The whole-of-society mode of management would enable refugees and migrants to learn quickly new skills, adapt themselves relatively quickly—in a year or two—to new requirements of language, labour protocols, and self-run business rules, and learn to straddle the two different but interacting worlds of the 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 states, etc.), albeit in differential manner, would not be substantially different from what had happened in Europe, the United States, Canada, and Australia in the pre-Second World War years.¹⁶ In a dense labour market scenario, “whole of society” (involvement of all “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 a labouring subject, the migrant’s lack of political equality was the other side of her economic ability to enter the labour market. For a long time, 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 to find a durable solution to the refugee crisis.

In short, the roadmap avoided the political question of economy, and thus the issue of financial responsibility—responsibility of global powers for unleashing wars and causing population displacements, responsibility of countries for embarking on citizenship drives, making many people stateless and turning them into wandering hordes of protectionless subjects—as well as the responsibility of the institutions of global governance to ensure an equitable sharing of burden. While there were ample references to the principle of responsibility, it avoided the issue of reparations—which was at the heart of the issue of burden and the shift from the idea of burden to that of responsibility—for wars and destruction of economies leading to massive migrations. This is the post-colonial wedge running through the world of global humanitarianism.

But perhaps the biggest paradox of this new global plan was that it treated a massive block of the world population as a subject of a 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 few rights, or none at all; 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.

The Arendtian impasse was resolved in this way. 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 such a 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 a set of dates for six consultations between February and July 2018, to be co-chaired by a member of the UNHCR’s Executive Committee Bureau, together with the UNHCR’s assistant high commissioner for protection, and

to be held in private at the Palais des Nations in Geneva. A zero draft of the compact was shared with states and other relevant stakeholders by the end of January 2018. Following the formal consultation, the UNHCR shared 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 or were members of the International Council of Voluntary Agencies, were invited to participate in the formal consultations.¹⁷ Meanwhile do-gooder intellectuals were to be encouraged to send written contributions to the process. Evidently, the figure of the rights-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—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. The Comprehensive Refugee Response Framework, mentioned earlier, was the keystone of the global-humanitarian machine. As with all other machines, it needed to be fed and lubricated, and in this case bodies were needed for the job. 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. The UNHCR declared that 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 expressed satisfaction that important work on many of the elements of CRRF was already underway in many other contexts, such as 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.”¹⁸

The machinic nature of the CRRF also devoured the spirit of the cities. The movement, “cities of refuge,” was turned into a

bureaucratic appendage of a gigantic machine. Pioneered by the Rockefeller Foundation, 100 “resilient cities” were lined up.¹⁹ 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. And of course cities were doing what they could, not because their national governments had directed them to do so, but often *against* national governments or independent of these governments, cities provided hospitality, and these stories of hospitality were marked invariably with conflicts and contentions. The ghosts of cities like Kolkata, Karachi, Bangkok, Nairobi, Istanbul, Johannesburg, and Mumbai had effected the mythical transformation of the urban landscape into one of kindness.²⁰ 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.²¹ 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 acknowledgment 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 and mothers, but that it was an outcome of the sheer persistent presence of the migrant in the city. The governmentalization of the movement attempted to take away that radical edge.

How did this governmentalization of a noble idea come about? To understand that, we must first take a look at the enormous range of inputs from institutions to the framing of the “zero draft” (at the heart of which sat the policy of a comprehensive framework). Just as a big factory works like an assembly of machinic inputs, here too an assembly process could be found at work—from the 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, International Labour Organisation, the UN Broadband Commission for Sustainable Development, Food and Agriculture Organization, International Fund for Agricultural Development and the World Food Programme, International Organisation for Migration, Inter Parliamentary Union), UN Women, World Bank, UNICEF, United Nations Relief and Works Agency for Palestine Refugees in the Near East, World Food Programme, UNDP, Office of the United Nations High

Commissioner for Human Rights, UN Habitat, Metropolis, WHO, Asylum Access, and several other international non-governmental organizations, and the International Refugee Congress. In addition, 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 May 10–11, 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.”²² “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).”²³ To be fair, the GCR spoke of rights, but as expected was minimal in its approach.

There was a pattern to global consultations preceding the drafting of the compact. Most 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 a new global compact. If they chose, the UNHCR and other UN institutions could have used their country offices throughout the world 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 a new global compact was needed at all. 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 fallouts from internal displacements.

Thus, it was a case of the “global plan” choosing to be global. The global was only self-reproducing, though from some communiqués, statements, manifestos, declarations, and representations it seemed as if the muffled voice of rights of the victims of forced migration was trying to break out. However, it was a weak voice that could not question the formulation of the principle of responsibility on which the realization of rights rested. The “responsibility to protect” principle had empowered and legitimized interventions while

remaining silent about any responsibility for wars, denial of asylums, structural adjustment programs, 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 major countries of the world and the institutions of global governance, and had tasked the hapless UN agencies with “humanitarian” responsibility.²⁴ 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. One may ask why the question of R2P suddenly vanished from the global protection agenda. Or was it now to be invoked only selectively so that it could no longer be formulated as a major component of the principle of responsibility?

The figure of the refugee and the migrant was thus up against two realities—the reality of sovereignty and the reality of a global economy, which could think of the refugee only as cheap labour employed in informal economies and supply chains. In this bleak backdrop of dissociation of power and responsibility, as if in a last burst of humanitarian emotion the UNICEF 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.”²⁵

The Global Gaze is a Technocratic Gaze

Till now this article has shown how, in producing a global gaze, the roadmap was as important as the task of redefining and reproducing humanitarianism. However, there was another factor, which related to the need to develop a technocratic gaze that could make care global. Continuous improvements in successive drafts on detailing technocratic means and modes to refugee protection were signs of the evolution of such a technocratic gaze. Also, this technologic gaze was natural, given that political voices had been silenced 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, decentralization, and international legal pluralism for the task of protection had been replaced by technocratic modalities and the 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 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 got the place of honour now.

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).²⁶ 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).²⁷ This singular reference in each of the three drafts, and same in nature, was in the context of non-discrimination only. The makers of the drafts never realized in their technocratic obsession that race was a pillar of the structure of forced migration. It was the same with another keyword, *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 immigrant labour their rights. On the other hand, the draft was almost legitimizing the discourse on terror that denies the rights of 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.”²⁸ The final draft stepped back from the political blunder and reformulated the point under the heading “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. (paras 56–7)

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 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 to create newer and newer forms of boundaries that 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. 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.²⁹—cannot change the facts where refugees live, say in Idomeni, Chittagong, Calais, or Darfur, or the way refugees and migrants are received and detained or turned back at the borders of the metropolitan world. These technocratic solutions attempt to resituate in concrete terms the historical discourses of humanitarianism from which the administrative modes of governance have emerged.³⁰ They 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. 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.

The task therefore is to locate concretely the secret relation between the ideology of humanitarianism, universalism,

and the power of technological mode of care. The question will be, How could humanitarianism that naturally essays into universalism become dependent on global technological power?

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, help 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,³¹ 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 ensure that refugees will be no longer considered a burden but a responsibility of the society.³² This has been at the heart of the crucial strategy of the CRRF, which we have discussed earlier, and which means a globally coordinated policy that involves 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.³³ 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.” This is the way in which the global presence of the postcolonial in the forced migration scenario is addressed. With arrival of the global principle of responsibility, refugees and migrants are encouraged to learn to live on till development arrives. They must not clamour for rights. They must not disturb any system put in place for “safe and orderly migration.”

Yet if we have to conceptualize rights as the scene of politics whose displaced image we find only in the humanitarian mechanisms, we must, while ending this article, look carefully, albeit briefly, into the fate of the rights agenda in the neoliberal age.

Rights under a Global Regime of Care and Power

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 about the formulation of any such charter. The convention also cannot be considered as a manifesto of rights of migrants and refugees. It primarily enjoins certain obligations on states to refugees and asylum seekers from which international law and municipal laws the world over have tried to deduce refugee rights. Rights of the refugees in such situations become, as has happened, a matter of jurisprudence, a continuous tussle between legal and human rights activists and the states, and protection has become a matter of following legal norms and certain protocols. In situations like the European migration “crisis,” refugee rights became an anachronism. Such a situation shows 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 the humanitarian approach reaches a point of emptying it of all humanitarian content, the rights question creeps back to the political question of migration in contemporary global history.

In this situation, the notion of rights becomes subordinate to the power to protect, and care becomes a part of protection. Refugees are then less rights-bearing subjects, and more dispossessed victims to be protected and thus cared for. Care and protection in the form of a migration management mode form the dominant reality. Hence, improvement of management modes gets pride of place in the strategy laid out by the compact. In the wake of the so-called migration crisis, to the extent there is a return of rights to the discourse of a global compact, it 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 the “autonomy of migration.” Flows of people are unrestricted by 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 they are massive.³⁴ Also the displacements are increasingly protracted. The inherently subversive and oppositional nature of migration expressed in 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 refugee and 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.”³⁵ Or one can say that the migrant autonomy is already “entangled in and regulated by control.”³⁶ Well-considered policies and measures meet migration practices

as an adversary; each anticipates the other, and the result is an enormous difficulty of making migration orderly and regulated.³⁷ 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 were connected with welfare and a regime of Keynesianism. Now they are linked to a global neoliberal regime of protection, which subsumes the former and with it the notion of care.

It is thus a contradictory situation.³⁸ 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. Building on humanitarian principles and a global ambition to do well for the world, the GCR cannot venture into the *other scene*—the scene of unregulated flows, claims to autonomy and rights as the form of justice or claim to citizenship in conditions of statelessness, customary and local modes of protection, legal pluralism, scores of bilateral treaties to save refugees, 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 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?

NOTES

- 1 The arguments are discussed in greater detail in the author’s *The Postcolonial Age of Migration* (Routledge, forthcoming).
- 2 UN General Assembly, “New York Declaration for Refugees and Migrants,” September 19, 2016, para. 4, pp. 1–2, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1.
- 3 It never occurred to the IOM that data collection can be counter-productive for a large section of 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, December 2016, <https://gmdac.iom.int/sites/default/files/presentations/Laczko.pdf>; also Migration Data Portal, “GCM Development

- Process,” last modified August 20, 2019, <https://migration-dataportal.org/themes/global-compact-migration>.
- 4 USNW Sydney, “The Global Compacts on Refugees and Migration,” January 23, 2019, <http://www.kaldorcentre.unsw.edu.au/publication/2018-global-compacts-refugees-and-migration>.
 - 5 IOM, “Berne Initiative,” 2020, <https://www.iom.int/berne-initiative>.
 - 6 UNDP, “Migration Compact Support MPTF: Financial Reporting on Sources and Uses of Funds for the Period Ending 31 December 2017,” 2018.
 - 7 Although we cannot give an exact figure on how many such persons were invited to such discussions hosted by the UNHCR or the IOM, India can be taken as an instance. See p. 11.
 - 8 September 20, 2017, https://refugeesmigrants.un.org/sites/default/files/work_plan_gcm.pdf, 2.
 - 9 For further information, see UNHCR, “New York Declaration for Refugees and Migrants,” www.unhcr.org/newyorkdeclaration. The roadmap and other background information is available at UNHCR, “The Global Compact on Refugees,” www.unhcr.org/refugeecom pact.
 - 10 UNHCR, “New York Declaration for Refugees and Migrants.” However, it is to be noted that the invocation of “society” to protect migrants and refugees meant that human rights and humanitarian activists, who are part of the “whole of society,” could be “at war” with another side of the same society: officials and policy-makers. Humanitarianism was thus not just legitimized, it also became a site of contestation.
 - 11 UNHCR, “Towards a Global Compact on Refugees: A Roadmap,” May 17, 2017, <http://www.unhcr.org/events/conferences/58e625aa7/towards-global-compact-refugees-roadmap.html>.
 - 12 UNHCR, “Towards a Global Compact on Refugees: Key elements of the Roadmap,” May 17, 2017, <http://www.unhcr.org/58d135517.pdf>.
 - 13 UNHCR, “Towards a Global Compact on Refugees: A Roadmap”; 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 migrants’ resilience. https://www.iom.int/sites/default/files/our_work/ODG/GCM/IOM-Thematic-Paper-Migration-Risk-and-Resilience-in-the-Context.pdf.
 - 14 UNHCR, “Migration, Risk, and Resilience in the Context of Sudden and Slow-Onset Disaster,” 3.
 - 15 Jessica Brandt and Lucy Earle commented in “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* (Geneva: UNHCR, 2017), <http://www.refworld.org/docid/594aa38eo.html>.
 - 16 Stephen Castles discussed the role of immigrant labour in Nazi Germany and postwar France, where immigrant workers accounted for at least 15 per cent of the workforce. See David Theo Goldberg and John Solomos, eds., *A Companion to Racial and Ethnic Studies* (Oxford: Blackwell Publishers, 2002), 571–2.
 - 17 UNHCR, “Towards a Global Compact on Refugees: Roadmap on the Formal Consultations Process,” April 16, 2018, <http://www.unhcr.org/5a60b9409.pdf>.
 - 18 All citations in this paragraph are from UNHCR, “Bringing the New York Declaration to Life: Applying the Comprehensive Refugee Response Framework (CRRF),” June 2017, <http://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/07/BringingTheNewYorkDeclarationToLife.pdf>.
 - 19 100 Resilient Cities, “Global Migration: Resilient Cities at the Forefront,” 2017, <http://www.100resilientcities.org/turning-migration-challenges-into-opportunities-to-build-resilience/>.
 - 20 On the histories of three well-known of post-colonial cities (Kolkata, Mumbai, Delhi) marked with massive migrant presence, see R. Samaddar (ed.), *Migrant and the Neoliberal City* (Hyderabad: Orient Blackswan, 2018).
 - 21 Costas Douzinas, “Cities of Refuge,” openDemocracy, <https://www.opendemocracy.net/can-europe-make-it/costas-douzinas/cities-of-refuge>; Jonathan Mark Darling, “Cities of Refuge: Asylum and the Politics of Hospitality” (PhD diss., Durham University, 2008) http://etheses.dur.ac.uk/2228/1/2228_238.pdf; J. Derrida, *On Cosmopolitanism and Forgiveness*, trans. M. Dooley and M Hughes. (London: Routledge, 2001); also 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.
 - 22 In preparation for a 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 were steps towards an intergovernmental conference to adopt the global compact—UN General Assembly Resolution at the 72nd session, September 24, 2017. Indeed the resolution (72/244) went on to extreme procedural details to make the conference for the adoption of the compact possible: UN General Assembly, “Modalities for the Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration,” December 24, 2017, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/244.

- 23 International Refugee Congress, “Shared Responsibility, Shared Humanity,” communiqué, June 10–11, 2018, <http://jhrmk.org/index.php/2018/05/18/international-refugee-congress-2018-shared-responsibility-shared-humanity/?lang=en>.
- 24 There is a voluminous literature on the “Responsibility to Protect.” On some of the reports, ICISS, *Report of the International Commission on Intervention and State Sovereignty*, December 2001, <http://responsibilitytoprotect.org/ICISS%20Report.pdf>; e-International Relations, “The Responsibility to Protect,” November 2011, <https://www.files.ethz.ch/isn/181082/R2P.pdf>.
- 25 UNICEF, “The Time for Action Children Uprooted Is Now,” June 8, 2018, <http://www.unhcr.org/5a4374d47.pdf>.
- 26 UNHCR, “The Global Compact on Refugees: Final Draft,” June 26, 2018, para. 9, <http://www.unhcr.org/5b3295167.pdf>.
- 27 UNHCR, “The Global Compact on Refugees: Draft 1,” March 9, 2018, <http://www.unhcr.org/5aa2b3287.pdf>; UNHCR, “The Global Compact on Refugees: Draft 2,” April 30, 2018, <http://www.unhcr.org/events/conferences/5ae758d07/official-version-draft-2-global-compact-refugees-30-april-2018.html>; and UNHCR, “The Global Compact on Refugees: Draft 3,” June 4, 2018, <http://www.unhcr.org/events/conferences/5b1579427/official-version-draft-3-global-compact-refugees-4-june-2018.html>.
- 28 Second draft, para. 59, p. 12.
- 29 Changes in the successive drafts are instructive. For fine changes with regard to solutions, see UNHCR, “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>.
- 30 The IOM vision statement explicitly accords importance to a proper governance framework to realize safe and orderly migration. See IOM, “IOM Vision on the Global Compact on Migration,” April 13, 2017, paras. 6–10, https://www.iom.int/sites/default/files/our_work/ODG/GCM/IOM-vision-on-the-global-compact-on-migration-13April2017.pdf.
- 31 The technical nature of the idea of “complementary 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, November 14–15, 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>.
- 32 To make sense of the technical evolution, one should study the UN Refugee High Commissioner’s Annual Dialogues. For instance, these points of emphasis were laid out in UNHCR, “High Commissioner’s Dialogue on Protection Challenges, 2017,” <http://www.unhcr.org/high-commissioners-dialogue-on-protection-challenges-2017.html>.
- 33 See UN General Assembly, “Transforming Our World: The 2030 Agenda for Sustainable Development,” para. 29, http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E, where the manifesto speaks of the positive contribution of refugees and migrants to “inclusive growth and sustainable development.”
- 34 The UNHCR realized the mixed nature of migratory flows in 2007 as it drew up “Refugee Protection and Mixed Migration: A 10-Point Plan of Action,” <http://www.unhcr.org/uk/protection/migration/4742a30b4/refugee-protection-mixed-migration-10-point-plan-action.html>, though the plan of action showed the bind of humanitarian thought. On this debate see, among others, Christoph Tometten, “Juridical Response to Mixed and Massive Population Flows,” *Refugee Watch* 39–40 (2012): 125–40, http://www.mcrg.ac.in/rw%20files/RW39_40/11.pdf; Khadija Elmadmad, “Mixed Flows and the Protection of Migrants with Special Reference to Sub-Saharan Migrants,” Istituto Per GLI Studi Di Politica Internazionale (ISPI), Working Paper 26, 2008, https://www.ispionline.it/it/documents/wp_26_2008.pdf.
- 35 Dimitris Papadopoulos, Niamh Stephenson, and Vassilis Tsianos, *Escape Routes: Control and Subversion in the Twenty-First Century* (London: Pluto, 2006), 56.
- 36 Papadopoulos, Stephenson, and Tsianos, *Escape Routes*, 43.
- 37 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* 41, no. 3 (2013): 575–600; Scheel speaks of the interface of the principle of autonomy and government as embodied encounters, such as between migrants’ autonomous practices of movement and myriad regulations, including biometric surveillance. See his “Studying Embodied Encounters: Autonomy of Migration beyond Its Romanticisation,” *Postcolonial Studies* 16, no. 3 (2013): 279–88.
- 38 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, “IOM Vision on the Global Compact on Migration,” April 13, 2017, para. 2; also para. 10, <https://www.iom.int/sites/>

[default/files/our_work/ODG/GCM/IOM-vision-on-the-global-compact-on-migration-13April2017.pdf](https://www.iom.int/sites/default/files/our_work/ODG/GCM/IOM-vision-on-the-global-compact-on-migration-13April2017.pdf).

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