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OFFICE OF THE PRIME MINISTER

JOINT EVALUATION OF THE PROTECTION OF THE FUNDAMENTAL RIGHTS OF REFUGEES DURING THE COVID-19 PANDEMIC

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PREAMBLE

The ability of refugees to exercise their human rightsⁱ is being challenged during COVID-19. In addition to the particular concern around the closure of borders to those seeking asylumⁱⁱ, the wider human rights of refugees and those affected by conflict and violence, the threat of *refoulement* and legal and physical safety both in-situ and on the move are, in many regions, being threatened. The responsibilities and opportunities for the international community to support refugees in exercising their human rights is operationalized, *inter alia*, through the Global Compact on Refugees (GCR). This compact establishes an architecture for a more equitable and predictable sharing of the burden and responsibility for hosting and supporting the world's refugees. It seeks to mobilize the international community as-a-whole for improved responses to refugee situations, including through the inclusion of refugees in national systems and services.

This concept note outlines a framework for a joint evaluation of the role of international cooperation, including through the GCR, in protecting the rights of refugees in the context of national COVID19 responses. This implies that the evaluation will involve and look at the work of the combined contribution of states and agencies and non-state actors towards refugee protection in the context of COVID-19. The forthcoming High Commissioner's Dialogue on Protection Challenges During Pandemics provides an opportunity to launch this evaluation and generate inputs to help shape its scope of work.

The note is aimed at governments from the south and north, international institutions, refugee-led organizations, non-governmental organizations and networksⁱⁱⁱ that are directly involved in the protection of refugees. A small management group of evaluation leads from key interested and committed states and relevant multilateral agencies will be established in the coming weeks to lead the evaluation. A wider reference group will also be established to oversee and input into the process.

Those interested in engaging in this evaluative exercise should contact one or other of the lead institutions.

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JOINT EVALUATION OF THE PROTECTION OF THE FUNDAMENTAL RIGHTS OF REFUGEES DURING THE COVID-19

	INDICATIVE EVALUATION QUESTIONS
<p>PURPOSE Examine the effectiveness of international and bilateral cooperation on nation states adherence to international obligations with respect to the protection of refugees following the onset of COVID-19.</p> <p>RATIONALE</p> <p>COVID-19 appears to have challenged core international obligations in a way that is profound and with possible lasting impact. Understanding how widespread this is, how effective international and bilateral cooperation has been, and what we can learn from positive and less positive responses will be crucial to the implementation of current operations and the design of future strategies.</p> <p>USERS</p> <p>All States and international agencies active in the area of refugee protection.</p>	<ul style="list-style-type: none"> ● To what extent has the protection of refugees and their rights been recognized and addressed in the international response to COVID-19? ● How effective has the international community been at enabling refugees to exercise their protection rights, such as asylum, non-refoulement, shelter and protection from violence, and where are their good examples of this? ● How cognizant has the international community been to the gendered impacts of COVID-19, including SGBV, and in addressing individuals with specific needs, including the older persons and persons with disabilities and how well has it responded to these needs through maintaining and scaling services? ● How effective have communication and feedback/complaints mechanisms been for allowing refugees to have access to critical information, to claim their rights, and in the direct provision of services in the context of COVID-19? ● To what extent has the GCR provided an effective framework to coordinate the response to the needs of refugees? Have the principles of the GCR proven relevant in the context of COVID-19? To what extent have States and stakeholders drawn on the principles and arrangements of the GCR in their response to COVID-19? ● What good examples^{iv} exist of progressive actions by Governments to continue to protect the rights of refugees and other groups in vulnerable situations, and what role has the international community played in this?

SCOPE

The international response in relation to those in the most vulnerable position can be categorized into three broad areas; healthcare and containing the spread of the virus (as part of the wider effort); protecting and advocating for the rights of those in the most vulnerable position to avoid exclusion and discrimination; and the provision and inclusion in social service provision, benefits and opportunities^v. This evaluation framework proposes to focus on the second of these, the international response to protecting the rights of refugees to avoid exclusion and discrimination –. This will include:

- **Protecting the rights people on the move, especially those in the vulnerable positions:** as border closures and other movement restrictions to curb the spread of COVID-19 have a severe impact on the rights of many people on the move, international organizations are working with national agencies, human rights bodies and NGOs to address cases of denial of entry, the push-back of asylum seekers and unaccompanied migrant children; refusal for refugees and migrants rescued at sea to disembark; and even forcible returns in violation of the principle of *non-refoulement*.

- **Protecting the rights of people in vulnerable positions in situ:** In addition to those voluntarily or forcibly moving during the crisis, there are an additional set of issues for those caught in limbo without being granted access to their rights, where, for example, as access to asylum procedures have been hindered, or in other cases suspended. Government responses to COVID-19 have in some cases exposed refugees to increased risk of detention, family separation and forced or risky returns without due process and basic safeguards. As the risks for those in the most vulnerable position, including women, children, persons living with disabilities and others have risen, so the need to access services, including around SGBV have increased. International organizations, multilaterals are working with and through national^{vi} and local institutions to advocate for human rights of refugee and host populations; to prevent and address risks of marginalization and discrimination of these groups; enhanced community engagement – access to trusted and accurate information; and protection and social, psychological, legal and justice services to all – including refugees. International cooperation has substantial role to play when it comes to enabling inclusive responses and access to services – at a time when developing States are facing their own incredible challenges to respond to this crisis, international support is needed to enable them to ensure that refugees are including in their national responses.

The geographical scope of the evaluation must necessarily address all countries from which refugees are fleeing, seeking asylum in and residing at the time of COVID-19. The pandemic itself has been indiscriminate, and the impact and response has affected all nations. This evaluation should look at the international response in a holistic sense, the cooperation and relationships in line with the Global Compact. From a practical perspective, besides the global overview, detailed cases will be drawn from a sample during the inception phase of the work to represent different scenarios and responses.

The scope of work implies addressing each of these themes, mapped against the relevant evaluation questions. In each case, the protection issue would be considered, with the response of the states involved, and the relative role and contribution of the international community in protecting the rights in question.

APPROACH / TIMELINE

The following steps are envisaged:

- Establish a small evaluation management group of evaluation leads from institutions^{vii} that have a critical stake and interest in this evaluation topic. This is expected to include governments from the south and north, refugee-led organizations, and if feasible, refugees themselves, international institutions and non-governmental organizations that are directly involved in protection of refugees, internally displaced and the stateless.
- Establish a wider reference group of experienced and independent-minded individuals from member states, refugee-led organizations, international institutions, non-governmental and civil society organizations, and academia who will generate wider buy-in for evaluation and guide the evaluation process and product.
- Present the concept note and seek inputs through the HC's Dialogue in October and November 2020.
- Global Joint Evaluation: Prepare a Terms of Reference to recruit an evaluation team to start before the end of 2020. Evaluation process to take place during period Jan – April 2021. Evaluation report by June 2021.
- Embedding Evaluation Questions: Map out which evaluations and reviews these institutions have planned over the next 12-18 months that might seek to incorporate some of the proposed refugee protection questions in them and identify where the gaps are.
- Products: In addition to the evaluation report, prepare an evaluation synthesis brief that draws on other evaluative exercises covering refugee protection issues. The work is envisaged to start in September 2020 and carry on until December 2022. An interim report will be delivered in December 2021, and the overall final report December 2022.

END NOTES

ⁱ Enshrined in various international and regional instruments, including the Universal Declaration of Human Rights; the African Charter on Human and People's Rights and the Charter of Fundamental Right of the European Union. These rights include the right to seek asylum from persecution, and the principle of *non-refoulement*, which is contained in the 1951 Refugee Convention.

ⁱⁱ As of 6 July, 168 countries had fully or partially closed their borders to contain the spread of the virus of which well over half are making no exception for people seeking asylum. Source: https://im.unhcr.org/covid19_platform/.

ⁱⁱⁱ Such as the Global Protection Cluster: a network of nongovernmental organizations (NGOs), international organizations and UN agencies, engaged in protection work in humanitarian crises including armed conflict, climate change related and natural disaster.

^{iv} <https://globalcompactrefugees.org/index.php/channel/good-practices>.

^v Results in first area of action will be addressed by the evaluation commissioned by the World Health Assembly focusing on the lessons from the international health response to COVID-19^v. The third, the focus on social service provision, benefits and wider livelihoods is expected to be addressed through a range of evaluations, coordinated under the auspices of the OECD-DAC led COVID-19 [Global Evaluation Coalition](#)^v and under the authority of the soon-to-be-established [UN System-Wide-Evaluation Unit](#) in the UNSGs office.

^{vi} Good examples include: Ecuador has extended the deadline for Venezuelan migrants on its territory to apply for a humanitarian visa until the end of the state of emergency; Chile has set up an online system through which visas and stay permits are automatically extended for six months, upon request; Uganda has waived the usual fines applied to visa overstayers for permits expiring during the lockdown period.

^{vii} This management group could be, or be linked to, a working group as envisaged under the OECD DAC-led Global Evaluation Coalition response to COVID-19, which brings together OECD member states evaluation units, and, in this particular case the UN system and IFI evaluation units.