Any process of global consultations between stakeholders on a most pressing issue of our times, resulting in agreement on a common (if not legally binding) text – the Global Compact on Refugees (Refugee Compact) – is welcome, as it may help to promote international cooperation in dealing with the global refugee crisis. Its proposed new mechanisms of a Global Refugee Forum, Support Platforms, and possible solidarity conferences will surely help in responding to mass outflows of refugees. However, in my view, the Refugee Compact is a flawed text for several reasons: it avoids mention of the principal cause of recent refugee flows; dilutes established principles of international refugee law; may weaken the protection of children and women; is short on real mechanisms for responsibility sharing; is myopic in stressing ‘specific deliverables’ (para 43) in speaking of future academic work; and leaves to the United Nations High Commissioner for Refugees (UNHCR) the task of supervision which it is not equipped to perform (as the Compact itself, which it helped draft, demonstrates). I will make these points in a schematic manner, concluding with a reflection or two on the way forward.

First, while the Refugee Compact, to its credit, addresses the problem of root causes of refugee flows, it fails to mention the responsibility of third States, in particular Western States, for recent outflows of refugees linked to their acts of intervention. To be sure, interventions alone are not responsible for refugee outflows. The State of origin is most often responsible, as for instance in the case of Rohingya refugees. The Refugee Compact therefore rightly notes that ‘addressing root causes is the responsibility of countries at the origin of refugee movements’ (para 8). But unfortunately, the Compact is silent on the role of external actors in the production of refugees. The major refugee outflows in recent years have been from Afghanistan, Iraq, Libya, and Syria, all of which have been the objects of armed intervention or responsibility-to-protect efforts of Western States. These interventions, often driven by objectives such as regime change, have been a humanitarian disaster. In other words, it is very often external social forces and States which aggravate local conflicts through intervention that are responsible for the mass exodus of refugees. Thousands of children like Aylan Kurdi die, not because...
of acts of omission and commission of the State of origin alone, but also because of the doings of third States.

Secondly, the stated objectives of the Refugee Compact can end up diluting the fundamental principles of international refugee and human rights law. Thus, for instance, the Refugee Compact lists as a principal objective what should at best be a subsidiary objective, namely the need to ‘ease pressures on host countries’ (para 7). The principal goal should have been to strengthen the protection system by *inter alia* calling for the dismantling of the existing *non-entrée* regime established by developed nations. That regime is, among other things, responsible for the deaths of thousands of asylum seekers in the Mediterranean alone. The placing of emphasis on easing pressure on host States at the centre of proposed international cooperation is a misplaced priority, even though it deserves some attention. It is consequently also not surprising that the right to seek asylum finds a place only in footnote 5. But what use is international cooperation if it does not condemn the unfortunate effort of States to deny the right to seek asylum against the spirit of the 1951 Refugee Convention and, in many instances, its letter? In the final analysis, the Refugee Compact appears to replace humanitarian objectives with those of managing refugee flows on behalf of States already empowered by their sovereignty to keep asylum seekers out.

Another stated objective of the Refugee Compact is to ‘support conditions in countries of origin for return in safety and dignity’ (para 7). The text *inter alia* states that ‘[i]t is recognized that voluntary repatriation is not necessarily conditioned on the accomplishment of political solutions in the country of origin, in order not to impede the exercise of the right of refugees to return to their own country’ (para 87). Such a formulation can undermine the principle of voluntary repatriation. For if return is not linked to political solutions, it can mean the repatriation of refugees in conditions far from conducive to their return and rehabilitation. It would legitimize the actions of countries seeking to deprive refugees of a dignified life, or offering aid to States of origin to take back refugees even where there is little change in their approach towards the persecuted group. It is to accept the dilution of the principle of *non-refoulement* that is affirmed in the very preceding sentence. It is also no accident that the words ‘in full respect of the principle of non-refoulement’ that accompanied the sentence in the second draft of the Refugee Compact (para 91) were deleted. It is worth noting here that there are also refugee groups that are willing to return and cannot, as in the instance of Palestinian refugees. The absence of an accomplished political solution does not mean return but exile in camps. What is more, precisely at a time when the international community is calling for solidarity, the Trump administration has withdrawn funding from the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) used to finance *inter alia* the education of Palestinian refugee children.

Thirdly, the Refugee Compact may lead in some respects to the erosion of the rights of refugee children and women. Thus, for instance, it states that ‘[t]he development of non-custodial and community-based alternatives to detention, particularly for children, will also be supported’ (para 60). To prevent any misinterpretation, it would have been good to indicate the normative framework within which non-custodial alternatives to detention would take place by making reference to the Convention on the Rights of the Child, UNHCR’s 2008 Guidelines on Determining the Best Interests of the Child, and the United Nation’s 2010 Guidelines for the Alternative Care of Children. There is also
an absence of specific measures protecting the rights of women in the entire cycle of displacement.¹ But I want to make a larger point. If it is correct to argue that the Refugee Compact does not seek the dismantling of the non-entrée regime and undermines the basic principle of voluntary repatriation, it in any case is unlikely to advance the rights of children and women who constitute a dominant majority of refugees. To put it differently, the Compact’s approach to their rights should be examined after locating them in the management paradigm it embraces.

Fourthly, the arrangements for responsibility sharing in the Refugee Compact are not accompanied by effective measures or obligations. The proposed mechanisms will rely on voluntary contributions by States – whether by way of humanitarian or development assistance, or by their willingness to take in asylum seekers. It essentially leaves the situation where it is at present. What is called for are more concrete measures. The Compact states that it ‘envisages a mix of solutions, adapted to the specific context and taking into account the absorption capacity, level of development and demographic situation of different countries’ (para 85). It is difficult to see how such a broad formulation could help determine, for example, the number of refugees that a State should resettle. The United States (US) has this year proposed resettlement places for only 30,000 refugees, the lowest in recent history, stating that it has admitted too many in the past. Is the Refugee Compact formulation precise enough to convince the US to act otherwise? In so far as financial assistance is concerned, that coming from international financial institutions or through the private sector may be given with strings attached.² What is more, the private sector may be under no obligation to respect human rights law. Amnesty International has therefore rightly called for ‘explicit references to both the State duty to protect, and the business responsibility to respect, the safeguarding of refugees’ labour rights and human rights in general’.³

Fifthly, while efforts at the regional and sub-regional levels can constitute an effective solidarity community, the Refugee Compact does not identify either the unique problems and responses of particular regions in dealing with refugees, or the consequences of the acts of omission and commission of one region on other regions of the world. It simply states that regional and sub-regional approaches can ‘play an important role in comprehensive responses’ (para 28). There should have been separate sections in the Compact identifying the problems in different regions, especially in the case of North America and the European Union which are forcibly confining refugees to other regional spaces. In the case of the Asian region, the problem is that only a handful of States are parties to the 1951 Refugee Convention, and there is no regional convention on refugees (or, for that matter, on internally displaced persons and human rights). Asia’s distinct problems should have received attention.

Sixthly, the Refugee Compact states that ‘UNHCR will play a supportive and catalytic role’ in realizing the Compact’s objectives (para 33; see also para 106). It is required to provide to the Global Refugee Forum an ‘annual update’ on progress made to achieve the Compact’s objectives (para 105). Since at times UNHCR can be part of the problem, constrained as it is by voluntary funding from powerful States, there is a need for an independent body to assess progress and report on the fulfilment of the Compact’s objectives. The fact that UNHCR has led this exercise, which has the potential of undermining established principles, makes it difficult to place faith in it to play a principled role. Among the suggestions that have been made by scholars is to establish a Refugee Rights Committee along the lines of the human rights treaty-monitoring bodies. It is worth noting here that by linking the success of the Refugee Compact to ‘the achievement of its four objectives (para 7)’ and developing indicators in this regard (para 102), the exercise might generate data that gives a sanguine picture of the state of the global asylum system. The two problematic objectives would then reinforce a troubling response to refugees. The reports submitted to the Global Refugee Forum could be used by States to pretend that all is well and to justify their restrictive policies.

Seventhly, while the Refugee Compact recognizes the significance of the role of academia and the need to create an academic network to find answers to the global refugee problem, it mistakenly stresses the objective of ‘specific deliverables’ (para 43). At a time of crisis, refugee studies should be undertaking deep reflection on its failure to provide answers to the global refugee problem. Still dominated by Western academic institutions and international organizations that are under the influence of Western governments, such as UNHCR and the International Organization for Migration (IOM), the field of refugee studies does not explore ethical and innovative responses. Therefore, while the proposal to create a global academic network on refugee, forced displacement, and statelessness issues is welcome, it should not be focused merely on ‘specific deliverables in support of the objectives of the global compact’ (para 43). It should look at the wider constellation of complex factors that underlie the hostility towards asylum seekers.

The justification of not being distracted from the urgent task of finding concrete humanitarian responses to the problem of refugees is a red herring. It is surely important to identify pragmatic measures to improve the conditions of entry, reception, and stay in host countries. But this is not going to happen unless the material interests and ideologies that are hostile to them are contested. Any serious consideration of the history of humanitarianism would show its deep roots in the ideology and practices of imperialism. But the Refugee Compact ignores the real reasons for the problematic state of the global asylum system by hiding behind the need for an exercise that is ‘entirely non-political in nature’ (para 5). There is nothing more political than the approach to refugees, as was the case when the West gave refuge to asylum seekers fleeing Soviet bloc countries during the Cold War. It is strange to hear of the ‘non-political’ nature of the process when political parties in Europe and North America have made refugees a central issue in local and national elections. It is important to recognize the kind of politics at play, rather than display an ostrich-like attitude. There is an urgent need to deal with real-world issues that are central to shaping a just response to the global refugee problem. These include the crises in global capitalism, hyper-nationalism, xenophobia, the antagonistic relations of capitalism with nature, the growing reserve army of labour,
internal conflicts (both developmental and non-developmental), hegemonic interventions, competitive diplomacy, a cynical approach to international legal obligations, and Islamophobia. The Refugee Compact clearly bears the stamp of a text to which scholars and researchers of the global South appear to have contributed little.

In conclusion, I would like once again to draw attention to the troubling pragmatism of the language of the Refugee Compact which could come to haunt established principles of international refugee law. It appears to be an effort to escape the rigours of international refugee law and international human rights law. The underlying assumption is that balancing the concerns of host States in defining protection, and allowing return in less-than-happy conditions, is the way forward. In reality, that is the way towards eroding the protection system. Too much should not be made of the fact that the Refugee Compact is a non-binding text. States will justify their restrictive practices by cherry-picking its phrases and formulations. It is worth acknowledging that the Refugee Compact could also be viewed by courts as representing subsequent State practice under article 31 of the Vienna Convention on the Law of Treaties and deployed to uphold non-entrée practices. To put it differently, through the Refugee Compact, we may be seeing the informal rewriting of the cardinal principles of international refugee law.

What we need instead is a different social and political imagination to shape a truly humanitarian response to the global refugee problem in the 21st century. The hardened and extended borders of powerful States should be replaced by permeable borders in a spirit of genuine solidarity with those who suffer the consequences of an inhumane global order. To this end, the idea of belonging and its rather inflexible association with bounded space needs to be actively revisited in a global age. The answer does not lie in narrow nationalism. The refugee should instead be seen as an agent of a progressive, democratic, and just global order.