

Briefing Paper: Climate Change as a Driver for Displacement

Insights from the 2015 UNHCR High Commissioner's Dialogue on Protection Challenges; Understanding and addressing root causes of displacement

The UNHCR High Commissioner's Dialogue on Protection Challenges; Understanding and addressing root causes of displacement was held in Geneva, Switzerland on 16-17th December 2015, just three days after the adoption of the Paris Agreements under the UNFCCC. This briefing paper presents the issue with some background and offers insights gained from the dialogue. Specific adaptation and disaster risk reduction strategies and measures are not discussed here as more material on these topics is available on the Irish Aid Climate Change and Development Learning Platform website.

Displacement

The Nansen Initiative defines displacement as follows; "Displacement describes forced movements of people, while the term migration is used for voluntary movements". Displacement can be internal, where international borders are not crossed, or cross border. While the UNHCR aims to prevent displacement, "By prevention UNHCR does not mean preventing refugee movements or displacement but rather addressing the factors that trigger displacement, so people are not obliged to move".

Climate Change and Displacement¹

The majority of the people who are of concern to the UNHCR are on the frontlines of climate change. They are concentrated in least developed and developing countries that will suffer disproportionately from the impacts of climate change including increased food and water insecurity, loss of traditional livelihoods, and slow-onset events such as desertification. Furthermore, these impacts fall on the most vulnerable in those countries, including already displaced populations from conflict etc. It is widely believed that climate change related stress may exacerbate pre-existing tensions and discontent within communities and States, in some cases contributing to conflict and complicating required responses. Most people displaced in the context of disasters and climate change remain within their own countries. For those forced to flee across international borders, there are gaps in the current legal, institutional and operational frameworks for protecting them. Addressing displacement in the context of disasters and climate change will require a range of responses that go beyond traditional humanitarian approaches to encompass disaster risk reduction, climate change adaptation, and sustainable development. The IPCC Fifth Assessment Report (2014) projects that the effects of climate change, even up to 2°C, will increase the displacement of people. Adaptation and disaster risk reduction measures are very important in preventing migration and displacement and international support for these in developing countries will be crucial.

The Paris Outcome, Migration and Displacement

The Paris Agreement recognises the rights of migrants in the preamble; "*Acknowledging* that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity". Furthermore, the Paris decision requests the Executive Committee of the Warsaw International Mechanism on Loss and Damage to

¹ UNHCR (2015); Preliminary Concept Paper, 2015 Dialogue. Available at <http://www.unhcr.org/55e706599.html>

establish a task force to “develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change”. This builds on previous recognition of migration and displacement as impacts of climate change in UNFCCC decisions 1/CP16 paragraph 14(f), Cancún, and 3/CP18 paragraph 7(a)(vi), Doha.

How does Addressing Climate Change Related Displacement Differ or Go Beyond Adaptation Efforts?

1. Climate change can force international displacement but international law on migration and refugees does not protect climate migrants. There is no legal recognition of ‘climate refugees’. Therefore, the protection of such displaced people needs specific attention from administrations to ensure protection of their rights.
2. Planned relocation may be an important measure of last resort where increased impacts from climate change are projected, e.g. sea level rise and salination affecting low lying islands and coastal areas. This could be a feature of adaptation and disaster risk reduction plans. Relocation should be voluntary and the human rights of the displaced and the host communities should be maintained. It is important that such relocations are adequately planned and that both the displaced and the new hosting communities are adequately consulted to avoid development of tensions or conflict. Support to both the displaced and the host communities is also important to ensure adequate services and prospect of sustainable livelihoods, thus reducing the risk of conflict or onward migration.
3. Displacement can exacerbate climate vulnerabilities. Migration to cities can result in increased vulnerable populations in badly protected urban slums. Increased population due to migrants can lead to increased pressure on limited resources including fuelwood, sanitation, clean water etc. This can in turn lead to tensions and possible conflict. Projected migration should be a part of adaptation and disaster risk reduction planning.
4. Adaptation can sometimes be framed as maintaining a status quo. Migration is frequently driven by aspirations and hope for a future, in particular for migrants’ children. To prevent migration or onward migration involves looking at broader issues such as provision of services, in particular education for children, and access to sustainable and improved livelihoods. Where forced displacement is projected, e.g. due to salination or overburden of extreme events, education is particularly important to ensure that any such migrants are better equipped to settle in other countries and can migrate with dignity.
5. Climate change and natural resource scarcity can drive conflict (one example quoted was the link of Boko Haram to the drying up of lake Chad) but there is a disconnect between the conflict prevention, human rights, and climate change communities. For example; organisations such as UNEP and the FAO have a role to play in preventing conflict and displacement due to natural resources scarcity but they have difficulty engaging environment ministries on these topics. It should be a cross-government effort.

Legal Provisions for Migration or Displacement due to Climate Change and Natural Disasters

While people displaced within their own countries are covered by national laws, international human rights law, the UN Guiding Principles on Intern Displacement and some regional instruments, a serious legal gap exists with regard to cross-border movements in the context of disasters and the effects of climate change. Such people are in most cases not refugees under international refugee law, and human rights law does not address critical issues such as their admission, stay and basic rights. Criteria to distinguish between forced and voluntary movements in the context of disasters have not yet been elaborated.

Currently protection frameworks don't allow people to move across borders as a response to risk. From a legal perspective, refugees need to show reasonable proof of persecution. Human rights law prevents people from being sent back to where there is an arbitrary risk to their life. In a climate change context is it possible to cumulatively show that conditions in a country, e.g. increased occurrence of extreme events, reach a level of insecurity that might amount to inhuman or degrading treatment or an arbitrary risk to life? Distant threats, years away are not sufficient under current legal frameworks. However, the current lack of a dedicated climate change legal regime is not a barrier to action.

In the absence of clear provisions in international law, some States in the Americas, in Africa and in Europe have developed a multitude of measures that allow them to admit foreigners from disaster-affected countries, at least temporarily, and not send them back home as long as the disaster lasts. Such measures are usually taken a) because the people concerned are directly and seriously affected by the disaster, b) out of solidarity with the disaster-affected country, or c) based upon wider humanitarian considerations. Some states admit cross border disaster-displaced persons using their regular migration laws. For example, Canada gave priority to immigration applications submitted by individuals or families from Haiti in 2010 and Nepal in 2015 after serious earthquakes. In Western Africa, the ECOWAS agreement on the free movement of people allows people from drought stricken areas to temporarily migrate to cities in neighbouring countries, make a living and send money back home until the rains come.

Some states provide for what are sometimes called humanitarian visas or temporary protection to temporarily admit individuals who cannot safely return to their own country because of the effects on an environmental catastrophe or natural disaster. The 1969 African Union Refugee Convention expanded the definition of refugees to include *inter alia* victims of an event "seriously disturbing public order in either part of the whole" of the country that compelled them to seek refuge abroad. The African Union Kampala Convention on internally displaced persons is also relevant. A few states in the Americas also granted refugee status to Haitians following the 2010 earthquake given the subsequent breakdown in public order.

It is clear that so far recognition for disaster induced displacement is a discretionary measure by states rather than a right of the individuals concerned. However, it is hoped that recognition of climate induced displacement and migration in the Paris Agreement will support the case for more formal treatment and recognition of rights for such displaced people.

Nansen Initiative

Based on the outcome of the Nansen Conference on Climate Change and Displacement in Oslo (June 2011), Norway and Switzerland pledged at the UNHCR Ministerial Conference in December 2011 to address the need for a more coherent approach to the protection of people displaced across borders in the context of disasters and the effects of climate change. The initiative produced the "Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change", a non-binding text. This 'Protection Agenda' was endorsed by 109 governmental delegations, including Ireland, in 2015. The purpose of the Protection Agenda is to enhance understanding, provide a conceptual framework, and identify effective practices for strengthening the protection of cross-border disaster-displaced persons. Rather than calling for a new binding international convention on cross-border disaster-displacement, the Agenda supports an approach that focuses on the integration of effective practices by States and (sub-) regional organizations into their own legal frameworks for migrants and refugees in accordance with their specific situations and challenges. At the same time,

the Agenda identifies effective practices to manage disaster displacement risk in the country of origin to prevent displacement by i) reducing vulnerability and building resilience to disaster displacement risk, ii) facilitating migration out of hazardous areas before disasters strike, iii) conducting planned relocation and iv) responding to the needs of internally displaced persons. The 'Protection Agenda' document is available [here](#)².

African Union Kampala Convention³

The African Union (AU) Kampala Convention came into force in 2012. Formally known as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, it is the world's first continental instrument that legally binds governments to protect the rights and wellbeing of people forced to flee their homes by conflict, violence, disasters and human rights abuses. The convention is a shared framework, but the continent's diverse realities and challenges mean that individual countries have taken different approaches to it.

African Union Refugee Convention

The 1969 Convention governing the Specific Aspects of Refugee Problems in Africa¹ ('1969 Convention') is the regional legal instrument governing refugee protection in Africa. It has been signed or ratified by 50 of the 53 Member States of the AU. The convention has its own definition for refugees that is more open to inclusion of disaster displaced persons; "the term refugee shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality." This unique definition explicitly introduces objective criteria, based on the conditions prevailing in the country of origin, for determining refugee status, and 'requires neither the elements of deliberateness nor discrimination inherent in the 1951 [UN] Convention definition'. Both definitions are employed by UNHCR in its operations in Africa.⁴

The Sustainable Development Goals, Migration and Displacement

The 8th goal on decent work and economic growth calls for the protection of labour rights and working conditions for all with specific recognition for migrant workers including women (goal 8.8). The 10th goal on reducing inequality, calls for the facilitation of migration and mobility including through well planned migration policies (goal 10.7). It also calls for a reduction in transaction costs of migrants' remittance payments (goal 10c).⁵

² <https://www.nanseninitiative.org/global-consultations/>

³ <http://www.unhcr.org/4ae9bede9.html>

⁴ Information drawn from UNHCR dialogue notes supplemented, the African Union website <http://www.achpr.org/instruments/> and <http://www.refugeelegalaidinformation.org/african-union-refugee-definition>

⁵ <https://sustainabledevelopment.un.org/?menu=1300>