



# UNHCR

United Nations High Commissioner for Refugees

Haut Commissariat des Nations Unies pour les réfugiés

## Climate change, disaster and displacement in the Global Compacts: UNHCR's perspectives

The New York Declaration (September 2016)<sup>1</sup> and the Secretary General's report 'In Safety and Dignity: Addressing Large Movements of Refugees and Migrants' (May 2016)<sup>2</sup> explicitly acknowledge the challenge posed by climate change and disaster displacement. Both documents refer to the Nansen Initiative Protection Agenda<sup>3</sup> as part of efforts to work towards solutions for addressing large movements of refugees and migrants.

This paper sets out UNHCR's perspectives on the ways in which different aspects of the issue might find reflection in both global compacts.

### Global compact on refugees: the Comprehensive Refugee Response Framework (CRRF) and Programme of Action (PoA)

In Annex I to the New York Declaration, Member States have defined “a framework for a comprehensive and people-centered refugee response, which is in accordance with international law and best international practice”. The framework has four stated objectives, namely to: (a) ease pressures on host countries; (b) enhance refugee self-reliance; (c) expand access to third-country solutions; and (d) support conditions in countries of origin for return in safety and dignity. Annex I tasks the High Commissioner for Refugees with proposing a global compact on refugees that is to be attached to his annual report to the General Assembly in 2018. The global compact on refugees will comprise two complementary parts: (i) the comprehensive refugee response framework, as already agreed by Member States in Annex I to the New York Declaration; and (ii) a programme of action that sets out actions that can be taken—both by Member States and by other relevant stakeholders—to underpin and operationalize the comprehensive refugee response framework.

The four key pillars of the comprehensive refugee response framework relate to (i) reception and admission; (ii) support for immediate and ongoing needs; (iii) support for host countries and communities; and, (iv) durable solutions.

#### **(i) Reception and admission**

##### **International protection**

- Some people who are displaced in the context of climate change and disasters may fall within the refugee definition. Over the years, it has been accepted that individuals fleeing across borders may be refugees according to the 1951 Convention definition where they

<sup>1</sup> [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/71/L.1](http://www.un.org/ga/search/view_doc.asp?symbol=A/71/L.1)

<sup>2</sup> [http://refugeesmigrants.un.org/sites/default/files/in\\_safety\\_and\\_dignity\\_-\\_addressing\\_large\\_movements\\_of\\_refugees\\_and\\_migrants.pdf](http://refugeesmigrants.un.org/sites/default/files/in_safety_and_dignity_-_addressing_large_movements_of_refugees_and_migrants.pdf)

<sup>3</sup> *Nansen Initiative Protection Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change*, 2015, available at <https://nanseninitiative.org/wp-content/uploads/2015/02/PROTECTION-AGENDA-VOLUME-1.pdf>. UNHCR was closely involved in the development of the Nansen Initiative Protection Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change, which was endorsed in 2015 by 109 States. The Nansen Initiative Protection Agenda provides a conceptual framework for a comprehensive approach to disaster displacement focused on protecting cross-border disaster-displaced persons, and measures to manage risks in countries of origin as well as identifying effective practices for strengthening responses to cross-border movements. It also promotes linkage and coordination of responses to and root causes of, and calls for the increased collaboration of actors in these fields.



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are fleeing disasters, including drought or famine, where these phenomena are linked to situations of armed conflict rooted in racial, ethnic, religious, or political divides, or where such disasters disproportionately affect particular groups.<sup>4</sup>

- The 1951 Convention and its Protocol are complemented by **regional refugee instruments**, notably the 1969 OAU Convention,<sup>5</sup> the 1984 Cartagena Declaration,<sup>6</sup> the EU Qualification Directive, as well as the 1966 Bangkok Principles, which together provide the core global legal framework for international refugee protection.
- The refugee definitions set out in some of the regional instruments build upon the 1951 Convention definition, by including specific reference to a number of objective circumstances which those concerned have fled, such as ‘events seriously disturbing public order’ or ‘internal conflicts’. Whether or not one of these regional definitions applies to a particular situation or person, a person fleeing such circumstances is considered a refugee under UNHCR’s mandate. Further, a person fleeing such circumstances may often qualify as a refugee under the 1951 Convention definition, in line with UNHCR’s interpretative guidance.
- People fleeing extreme situations of disasters and adverse effects of climate change indeed may be compelled to leave their country of origin because of events seriously disturbing public order. In particular when the country is experiencing conflict or violence, the object and purpose of the regional definition of refugee would support such an interpretation.<sup>7</sup>

### **Protecting people otherwise in need of international protection in climate change and disaster contexts**

- Individuals who are outside their country of origin but who may not qualify as refugees under international or regional law, may in certain circumstances also require international protection, on a temporary or longer-term basis. This may include those who are displaced across an international border in the context of disasters or the adverse effects of climate change. In such situations, a need for international protection would reflect the inability of the country of origin to protect against serious harm.
- Ensuring access to international protection for people displaced across international borders in the context of climate change or disasters and who cannot return may best be achieved by promoting the use of complementary protection mechanisms<sup>8</sup> and temporary protection or stay arrangements.<sup>9</sup> In addition, States may offer protection—including leave

<sup>4</sup> See UNHCR, *Legal considerations on refugee protection for people fleeing conflict and famine affected countries*, 5 April 2017, [www.refworld.org/docid/5906e0824.html](http://www.refworld.org/docid/5906e0824.html). People fleeing famine linked to armed conflict, violence or other state conduct may in addition be refugees under the 1969 OAU Convention’s broader criteria, which protect those who are compelled to seek refuge as a result of ‘events seriously disturbing public order in either part or the whole [of the country of origin]’.

<sup>5</sup> The 1969 OAU Convention refugee definition set out at Article 1 covers, in addition to those included in the 1951 Convention definition, ‘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.’

<sup>6</sup> Paragraph III(3) of the Cartagena Declaration recommends a refugee definition that covers, in addition to those included in the 1951 Convention definition, ‘persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.’

<sup>7</sup> See in this regard UNHCR Guidelines on International Protection No. 12 paras. 56 to 50.

<sup>8</sup> UNHCR, *Providing International Protection Including Through Complementary Forms of Protection*, 2 June 2005, EC/55/SC/CRP.16, and UNHCR ExCom, *Conclusion on the Provision on International Protection Including Through Complementary Forms of Protection*, No. 103 (LVI) of 2005.

<sup>9</sup> UNHCR, *Guidelines on Temporary Protection or Stay Arrangements*, February 2014, [www.refworld.org/docid/52fba2404.html](http://www.refworld.org/docid/52fba2404.html). See also the Nansen Initiative *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change* (“Nansen Initiative Protection Agenda”), endorsed by 109 States, which aims to enhance understanding, provide a conceptual framework, and identify effective practices for strengthening the protection of cross-border disaster-displaced persons: <http://disasterdisplacement.org/the-platform/our-response>



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to remain—on a humanitarian basis to persons whose own country is unable, for some period of time, to protect them against serious harms, for instance in the context of natural hazards.<sup>10</sup>

## (ii) Support for immediate and ongoing needs

- **Reducing the risk of secondary displacement for refugees and displacement of host communities situated in climate change and disaster hotspots.** Many refugees are situated in countries vulnerable to the effects of climate change and disasters. Given this fact, alongside the environmental challenges of hosting a large population in a small area, it is essential to increase the preparedness and resilience of displaced persons and their host communities, including through disaster risk reduction, contingency planning, climate change adaptation and sustainable development activities.<sup>11</sup> States committed in the New York Declaration to implementing the Sendai Framework on Disaster Risk Reduction and the Sustainable Development Goals, which is important for refugees because it reduces the risk of secondary displacement.

## (iii) Support for host countries and communities

- **Strengthen infrastructure and protect environment in areas where large movements of refugees live.** Most refugees rely on their surrounding natural environment for food, water, livelihoods, shelter and fuel. A large population can put substantial pressure on the surrounding resources, with consequences for those dependent on the environment. Additionally, limited access to sustainable energy can have severe repercussions on the socio-economic situation and safety of host communities and refugees. As a consequence, humanitarian operations need to consider energy access and environmental management to enhance the well-being and protection of affected populations, and the sustainability of humanitarian operations, as well as to prevent secondary displacement.

## (iv) Durable solutions

- **Increasing opportunities for sustainable return for refugees.** Sustainable and timely return in safety and dignity is a crucial durable solution for many refugees.<sup>12</sup> However, a country of origin may be affected by environmental degradation and the adverse effects of climate change, including sudden onset disasters, such as storms and floods as well as slow onset events such as droughts and sea level rise. It is therefore essential to support countries of origin in addressing these phenomena, including through climate change adaptation and sustainable development activities.<sup>13</sup> The international community, including States as well as competent development, environment and other agencies, supported by UNHCR from a protection perspective, needs to enhance collaboration and bring together expertise and resources to provide support to concerned countries in this context.
- **Addressing root causes of refugee movements and displacement.** The risk of disaster displacement has doubled since 1970,<sup>14</sup> and there is widespread agreement among scientists of IPCC that climate change, alongside other factors, will increase likelihood of displacement in the future.<sup>15</sup> Climate change is also a threat multiplier, and exacerbates potential for conflict, including over scarce resources, which may also lead to displacement.

<sup>10</sup> For instance, in 2010-2011, UNHCR and OHCHR jointly issued return advisories in respect of people fleeing the impacts of the 2010 earthquake, calling on States to refrain from returns to Haiti and to renew mechanisms allowing Haitians to remain outside their country. UNHCR, *Lineamientos sobre el retorno de ciudadanos haitianos*, 9 June 2011, [www.refworld.org/docid/5600f60c4.html](http://www.refworld.org/docid/5600f60c4.html).

<sup>11</sup> New York Declaration Paragraph 17, 18, 43

<sup>12</sup> New York Declaration Paragraphs 75, 76; Annex I Paragraph 12(f)

<sup>13</sup> New York Declaration Paragraphs 17, 18, 43

<sup>14</sup> IDMC. 2015. *Global Estimates 2015 - People Displaced by Disasters*.

<sup>15</sup> IPCC. "Chapter 12: Human Security." In *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, 755–91. Available at: [https://www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-Chap12\\_FINAL.pdf](https://www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-Chap12_FINAL.pdf)



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In addition, persons already displaced for other reasons – including refugees, stateless persons, and conflict IDPs – often reside in climate change hotspots, and are exposed to secondary displacement related to disasters and the effects of climate change. This perspective was articulated in the 2015 High Commissioner’s Dialogue on Protection Challenges focused on “Understanding and addressing root causes of displacement”,<sup>16</sup> which called for more concerted and coordinated work among States and other stakeholders to address this challenge in the longer term.

## Global Compact on Safe, Orderly, and Regular Migration

Climate change and disaster displacement also feature in discussions around the Global Compact on Safe, Orderly, and Regular Migration.

- **Addressing drivers of migration.** Environmental degradation, disasters and climate change can, in combination with other factors, create and exacerbate large movements of migrants and displaced persons.<sup>17</sup> In some cases, people migrate as a strategy to cope with the slow-onset effects of climate change. Preventive measures such as climate change adaptation measures, disaster risk reduction, sustainable development, voluntary migration as an adaptation strategy and planned relocation as a last resort are essential to avert and minimize forced displacement and large movements of migrants. This includes measures undertaken as part of the implementation of relevant international instruments such as the UNFCCC Paris Agreement and the Sendai Framework on Disaster Risk Reduction.
- **Human rights.** Environmental degradation, disasters and climate change can hinder the effective enjoyment of a broad range of human rights, such as access to water, sanitation, food, housing, health, and self-determination, all of which can lead to migration and displacement. Assisting and ensuring respect for the human rights of all migrants, including those caught in situations of crisis and of displaced persons is essential through the implementation of relevant existing instruments, including the Nansen Initiative Protection Agenda, MICIC, and UNHCR guidance and instruments (such as the *10 Point Plan in Action*).<sup>18</sup>
- **Protecting migrants in vulnerable situations.** Persons in countries other than their own who are not in need of international protection<sup>19</sup> but who may require protection and assistance due to their situational or individual vulnerability could benefit, per the New York Declaration, from guidelines on the treatment of ‘migrants in vulnerable situations’.<sup>20</sup> Migrants may find themselves in vulnerable situations for a wide range of reasons, which often overlap. ‘Situational vulnerability’, refers to circumstances *en-route* or in countries of destination that render migrants at risk. Migrants who find themselves in third countries beset by conflict, disaster, or other humanitarian crisis would also fall within this category. The human rights of migrants in vulnerable situations need to be respected and their immediate and specific needs met, including through rescue; appropriate reception arrangements; family reunification; access to medical assistance, including psychosocial

<sup>16</sup> See Co-Chairs’ Summary <http://www.unhcr.org/58be72337> and High commissioner closing remarks <http://www.unhcr.org/high-commissioners-dialogue-on-protection-challenges-2015.html>

<sup>17</sup> New York Declaration Paragraph 43, paragraph 7 of Annex II

<sup>18</sup> New York Declaration Paragraph 50, 51; Annex II Paragraph 8(i) and (n)

<sup>19</sup> See also ExCom, Conclusion on the return of persons found not to be in need of international protection No. 96 (LIV) of 2003. For the purposes of that Conclusion, ExCom defined the term ‘persons found not to be in need of international protection’ to mean persons who have sought international protection and who after due consideration of their claims in fair procedures, are found neither to qualify for refugee status on the basis of criteria laid down in the 1951 Convention, nor to be in need of international protection in accordance with other international obligations or national law.

<sup>20</sup> The New York Declaration for Refugees and Migrants (“NYD”), paragraph 52, calling on Member States to consider developing principles and guidelines on the treatment of migrants in vulnerable situations, which would complement national efforts to protect and assist migrants.





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services; and help in availing themselves of national or consular services.<sup>21</sup> UNHCR's recently updated *10-Point Plan in Action*<sup>22</sup> on refugee protection and mixed migration brings together a range of tools and practices for timely and effective responses. Migrants in a country which is itself affected by conflict, disaster or other humanitarian crisis may need particular assistance both to meet their security and humanitarian needs, and to return home or, in certain cases, to relocate or evacuate to transit or other States, especially if they do not enjoy effective consular protection.<sup>23</sup>

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<sup>21</sup> Refugees with specific needs likewise require appropriate support. However, unlike migrants, they have no possibility of access to national protection (including consular assistance).

<sup>22</sup> UNHCR, *The 10-Point Plan in Action: 2016 Update*, December 2016,

[www.refworld.org/10pointplaninaction2016update.html](http://www.refworld.org/10pointplaninaction2016update.html).

<sup>23</sup> The State-led *Migrants in Countries in Crisis (MICIC) Initiative*, which UNHCR supports, aims to respond to a particular type of 'vulnerable situation'. It has led to non-binding *Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster* (June 2016), available at <https://micicinitiative.iom.int>.