

Climate Change, Migration and Displacement: Who will be affected?

Working paper submitted by the informal group on Migration/ Displacement and Climate Change of the IASC - 31 October 2008

In its Fourth Assessment Report, the Intergovernmental Panel on Climate Change (IPCC) notes migration and displacement as being likely key impacts of climate change due to changing patterns of extreme weather and climate events, which may be gradual or sudden. Fully recognizing the importance of this assertion for our current and future operations, an informal group, mandated by the Inter-Agency Standing Committee (IASC)¹ Working Group has made progress in defining a shared understanding about the main areas of concern and proposing appropriate typology and terminology on migration and displacement induced by climate change.²

This working paper provides a preliminary overview of this progress. It describes how existing international legal frameworks may apply to populations increasingly affected by the effects of climate change events and environmental degradation, and suggests appropriate terminology. It also outlines a number of potential operational and legal gaps, and calls for further research and cooperation on this issue.

There are complex linkages between climate change and human mobility. Current estimates of the number of people who will be obliged to move as a result of climate change and environmental degradation by the year 2050 range from 25 million to one billion. This raises important questions surrounding statistics and available data in this field, the methodologies used to collect data and estimate current and future flows, and the underlying assumptions behind them.

Neither the UN Framework Convention on Climate Change, nor its Kyoto Protocol includes any provisions concerning specific assistance or protection for those who will be directly affected by the effects of climate change.

It is foreseeable that the majority of movements prompted by climate change and environmental degradation will occur within countries although increased cross-border movement of people is also likely. The chart on the following page outlines a preliminary analysis of the nature of movement, the types of persons affected and applicable legal framework. This is followed by short summary of existing terminology that may be applicable to affected populations. IASC organizations are committed to continue to work on these issues, and encourage Member States to:

1. Take account of, and manage, the humanitarian consequences of climate change, including protecting those who may move as a result.
2. Launch a dialogue among Member States on how to fill existing and foreseeable legal, operational and capacity gaps associated with climate change and human mobility, and to allocate sufficient additional funding to this issue from both climate change specific funding mechanisms and ODA.
3. Recognize that significant further research and analysis is needed regarding the scale, nature and patterns of climate related population mobility, and regarding those who do not and cannot move, and draw on the IASC's considerable existing mechanisms, tools and capacities to support such efforts.

¹ The Inter-Agency Standing Committee (IASC) is a unique inter-agency forum for humanitarian coordination and for its members a policy development and decision making forum involving key UN and non-UN humanitarian actors. The IASC was established in June 1992 in response to UN General Assembly Resolution 46/182 on the strengthening of humanitarian assistance. More information can be found at www.humanitarianinfo.org/iasc. This paper was drafted by an informal task force, mandated by the IASC Working Group and convened by IOM in collaboration with UNHCR, the RSG on Human Rights of IDPs, OCHA and other interested IASC organizations.

² This paper should be read in conjunction with 'Reducing the Humanitarian Consequences of Climate Change', produced by the IASC and the International Strategy for Disaster Reduction (ISDR).

Nature of movement, affected persons and applicable framework

| Cause of movement | Nature of movement | Existing legal framework |
|--|--|---|
| 1. Hydro-meteorological extreme hazard events | <p>Temporary forced displacement as a result of a specific hazard event within national borders.</p> <p>Temporary forced displacement across international borders as a result of a specific hazard event.</p> <p>Temporary voluntary movement across international borders as a result of a specific hazard event.</p> <p>Forced displacement as a result of areas being designated as prohibited for habitation by authorities potentially resulting in internal displacement, forced cross-border movements and/or voluntary cross-border movements</p> | <p><u>Those moving within existing borders</u> are currently protected by:</p> <ul style="list-style-type: none"> • International human rights law if they move voluntarily • International human rights law and the Guiding Principles on internal displacement if they are forcibly displaced <p><u>Those moving across international borders:</u></p> <p>Potential gap 1: Those moving across international borders as a result of hazard events (and subsequent designation of prohibited areas) are protected by international human rights law, which, however, does not entitle them to admission and stay in another country. They are not automatically protected by the 1951 refugee convention, unless they meet established criteria. In some cases, they might be in need of protection and assistance temporarily pending return. More analysis is necessary to determine if some may be covered by existing regional conventions regardless of their formal status.</p> |
| 2. Environmental degradation and/or slow onset extreme hazard events | <p>Such processes will likely be gradual, beginning with voluntary movements (in- and outside the country) and potentially ending in forced displacement (in- and outside the country).</p> <p>Environmental degradation whether at early or advanced stages and/or slow onset disasters may also result in areas being prohibited for habitation by authorities leading to internal displacement, forced cross-border movements and/or voluntary cross-border movements (see above).</p> | <p>Those moving within existing borders are currently protected by:</p> <ul style="list-style-type: none"> • International human rights law if they move voluntarily • International human rights law and the Guiding Principles on Internal Displacement if they are forcibly displaced <p>Potential gap 1: Those moving across international borders (see above).</p> <p>Potential gap 2: There is a lack of criteria to distinguish between voluntary and forced movements in hazard related disaster settings.</p> |

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| <p>3. Significant permanent losses in state territory as a result of sea level rise etc.</p> | <p>Such processes if not prevented by sufficient mitigation, could be gradual, beginning with voluntary movements (in- and outside the country) and potentially ending in forced displacement (in- and outside the country). These could include:</p> <ul style="list-style-type: none"> • Voluntary movements inside the country (to safe parts of country) and across internationally recognized borders. • Displacement within the national territory • Forced cross-border movements, including in extreme cases the entire loss of state territory. | <p>Those moving within existing borders are currently protected by:</p> <ul style="list-style-type: none"> • International human rights law if they move voluntarily • International human rights law and the Guiding Principles on internal displacement if they are forcibly displaced <p>Potential gaps 1 & 2: (see above)</p> <p>Potential gap 3: Should a state lose its entire territory, one of the constituent elements of statehood, it is not clear whether its statehood would continue to be recognized by the international community. There is a risk that its population would be rendered stateless. While UNHCR has a mandate for the prevention of statelessness and the protection of stateless persons, specific arrangements will need to be forged which permit for their movement elsewhere and prevent statelessness.</p> |
| <p>4. Armed conflict/violence over shrinking natural resources</p> | <p>Forced displacement in the case of such armed conflict or violence could result internal displacement or in people crossing international borders as refugees or persons under temporary or subsidiary forms of protection.</p> | <p>Those moving within existing borders are currently protected by:</p> <ul style="list-style-type: none"> • International humanitarian law (IHL) • International human rights law • The Guiding Principles on Internal Displacement <p>Those moving across international borders could be protected by</p> <ul style="list-style-type: none"> • International humanitarian law (IHL) • International human rights law • International refugee law • Subsidiary and temporary protection regimes for persons fleeing from or displaced by armed conflicts |

Existing terminology on displacement and migration

Internally displaced persons (IDPs)

The currently accepted definition of IDPs are “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.” (*Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2.*). This definition includes all those forcibly displaced within their country due to the effects of climate change.

The Guiding Principles are recognized by the international community as important international framework for the protection of IDPs (2005 World Summit Outcome). They reflect existing international human rights law and international humanitarian law. An increasing number of States have made use of them in the development of national laws or policies and in Africa, States that have ratified the Great Lakes Protocol on internal displacement are obliged to incorporate them into their domestic law.

Refugees:

In international or regional refugee law a refugee is a person, who meets the criteria under the applicable refugee definition provided for in international or regional refugee instruments, UNHCR’s mandate, and/or in national legislation.

Environmental factors that cause movements across international borders are not grounds, *in and of themselves*, for the grant of refugee status under the 1951 Refugee Convention. The terms “environmental refugee” and “climate refugee” therefore have no legal basis in international refugee law, and it is recommended that they not be used in official or unofficial documentation. Their use could potentially undermine the international legal regime for the protection of refugees, misdescribe what are projected to be essentially *internal* movements, and create confusion regarding the link between climate change, environmental degradation and migration.

The refugee definition has evolved over the past six decades. Under international law, a refugee is a person who “owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside of the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it” (1951 Convention relating to the Status of Refugees, Art. 1A(2), 1951, as modified by the 1967 Protocol).

UNHCR has been mandated to protect as refugees, persons who fear serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order, in addition to persons falling within the 1951 Convention definition.

In Africa, the refugee definition has been broadened to encompass persons compelled to leave their country not only as a result of persecution, but also “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.” (*Art. 1(2) Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969*)

In Latin America, the 1984 Cartagena Declaration on Refugees adds the criterion “massive violation of human rights.” (Section III(3) *Cartagena Declaration on Refugees, adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*)

Stateless persons

A stateless person is defined as a “a person who is not considered as a national by any state under the operation of its law”. (1954 Convention Relating to the Status of Stateless Persons, Article 1) Persons who possess a nationality in formal terms but whose nationality is ineffective are generally referred to as de facto stateless persons. Additionally, stateless refugees are defined in the 1951 Refugee Convention as persons “who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”. Stateless refugees are protected under the 1951 Refugee Convention.

IASC organizations have committed to further analysis and collaboration regarding these typologies and terminologies.