



Summary of Deliberations on Climate Change and Displacement

UNHCR organized an expert roundtable on climate change and displacement, which was held in Bellagio, Italy, from 22 to 25 February 2011, with the support of the Rockefeller Foundation. The discussion was informed by a number of research papers.¹ Participants included 19 experts from 15 countries, drawn from governments, NGOs, academia and international organizations. The roundtable is one in a series of events organized to commemorate the 60th anniversary of the 1951 Convention relating to the Status of Refugees (“1951 Convention”) and the 50th anniversary of the 1961 Convention on the Reduction of Statelessness.²

The following summary does not necessarily represent the individual views of participants or of UNHCR, but reflects broadly the themes, issues and understandings emerging from the discussion.

Main messages

- Displacement is likely to be a significant consequence of global climate change processes of both a rapid and slow-onset nature, but there is a need for better understanding and research of these processes as well as the impacts and scale of displacement related to climate change.
- Responses to climate-related displacement need to be guided by the fundamental principles of humanity, human dignity, human rights and international cooperation. They need furthermore to be guided by consent, empowerment, participation and partnership and to reflect age, gender and diversity aspects.
- While the 1951 Convention and some regional refugee instruments provide answers to certain cases of external displacement related to climate change, and these ought to be analyzed further, they are limited.
- The terms of “climate refugee” and “environmental refugee” should be avoided as they are inaccurate and misleading.
- There is a need to develop a global guiding framework or instrument to apply to situations of external displacement other than those covered by the 1951 Convention, especially displacement resulting from sudden-onset disasters. States, together with UNHCR and other international organizations, are encouraged to explore this further. Consideration would need to be given to whether any such framework or instrument ought also to cover other contemporary forms of external displacement.
- The Guiding Principles on Internal Displacement, as a reflection of existing international law, apply to situations of internal displacement caused by

¹ See, S. Park, “Climate Change and the Risk of Statelessness: The Situation of ‘Sinking Island States’”, April 2011; J. McAdam, “Climate Change Displacement and International Law: Complementary Protection Standards”, April 2011; K. Warner, “Climate Change Induced Displacement: Adaptation Policy in the Context of the UNFCCC Climate Negotiations”, April 2011; R. Zetter, “Protecting Environmentally Displaced People: Developing the Capacity of Legal and Normative Frameworks”, Refugee Studies Centre Research Report, February 2011.

² For more information and documentation on the commemorations see, www.unhcr.org/commemorations.

climate-related processes. Thus, there is no need for a new set of principles in relation to internal displacement in the context of climate change.

- Although designed to address internal displacement, the Guiding Principles on Internal Displacement contain a number of principles that may be applicable in external displacement situations. In addition, there are other relevant standards - for example, those developed in response to mass influx of refugees - which could be considered.
- Climate-related displacement – both internal and external – is likely to take different forms and to require diverse responses at national, sub-regional, regional and international levels to address the specificities of different situations, guided by basic universal principles.
- National legislation, policies and institutions are central to developing appropriate responses to both the internal and external dimensions of climate-related displacement.
- Pre-existing regional and sub-regional governance forums and arrangements, including mechanisms promoting free movement, could be explored further to determine the extent to which they apply to climate-related displacement and migration.
- In relation to small island and/or low-lying coastal states, the legal presumption of continuity of statehood needs to be emphasized and the notion and language that such states will “disappear” (*i.e.*, lose their international legal personality) or “sink” ought to be avoided.
- Migration is widely acknowledged as a rational adaptation strategy to climate change processes and needs to be supported as such.
- Given the magnitude of the issues involved, there is a need for a collaborative approach based on principles of international cooperation and burden- and responsibility-sharing. UNHCR’s expertise on the protection dimensions of displacement makes it a particularly valuable actor.

Setting the scene

1. It is widely acknowledged that climate change will – over the short- and long-term – lead to an increase in the severity of droughts, land degradation, desertification, salinization, riverbank and coastal erosion, sea-level rise and the intensity of floods, tropical cyclones and other geophysical events. This in turn will impact crop yields and food production, water supplies, health, livelihoods and human settlements.³ An impact of particular concern is the potential for human displacement and migration.

2. The impacts of climate change also interact with several global mega-trends, such as population growth, human mobility, urbanization, as well as food, water and energy insecurity. Climate change acts as an impact multiplier and accelerator. While it is not likely to be the sole or the primary cause, climate change can be a factor in triggering migration and displacement. While the precise scale, location and timing of such movements are uncertain, there is growing evidence that they will be substantial and will increase in years to come. The majority of movement is predicted to be internal. However, some international migration and displacement are inevitable and may also increase over time. There is growing certainty that, as the climate system warms, developing nations, and the most vulnerable communities and populations, will be the worst affected.

3. Future climate-related displacement, whether internal or external, is likely to be characterized by multiple causality, such as conflict and loss of livelihoods. The

³ IPCC, *Fourth Assessment Report: Climate Change*, 2007.

“tipping point” for a disaster is not just a physical one; in fact the social “tipping point” often occurs much earlier and can trigger a decision to leave one’s community.

4. In responding to displacement, it is important to recall the impact – and not solely the causes – of displacement, on those forced to leave their communities or countries. Although climate change seems to be increasing the frequency of certain kinds of disasters, notably hydro-meteorological disasters, the rights of all those affected by natural or human-made disasters need to be upheld. Thus it is neither appropriate nor necessary to develop different standards for those displaced by non-hydro-meteorological events. Furthermore, the voices of those displaced or threatened with loss of home or livelihood must be heard and taken into account in any discussions on these subjects.

5. The 1992 United Nations Framework Convention on Climate Change (“UNFCCC”) and its Kyoto Protocol of 1997 neither address displacement nor migration explicitly. These instruments focus on climate change mitigation and adaptation, and related funding and support mechanisms. However, the Cancun Agreements of 2010 invite all parties to undertake adaptation action, including “measures to enhance understanding, coordination and cooperation related to national, regional and international climate change induced displacement, migration and planned relocation.”⁴ This provision may facilitate funding support for such actions relating to displacement, as and when formulated by governments.

6. There are few fora at the multilateral level that are currently considering climate-related displacement in its various dimensions, especially the protection-related dimensions of affected populations. Protection concerns that arise in relation to climate-related displacement need to be considered in the framework of existing international and regional laws and institutions. The International Law Commission (“ILC”), for example, is engaged in drafting articles on the protection of persons in the event of disasters,⁵ and this is likely to be relevant in the climate change context. The ILC has already confirmed, for example, the relevance of long-standing elementary principles of international law to climate-related displacement. These principles include those of humanity and human dignity, while the principle of international cooperation merits further consideration. Issues pertaining to climate-related displacement should be considered in the future work of the ILC draft articles and related comments. The ILC is encouraged to pursue consultations with key humanitarian actors in this area.

External displacement, particularly protection responses to sudden-onset disasters

Global Framework

7. There is a range of international and regional instruments that may provide responses to various forms of external displacement related to climate change. However, these instruments only cover a limited group of displaced persons. They generally have not been applied to persons who are forced or compelled to cross an international border because of natural disasters, or who cannot return as a result of such events, either temporarily or permanently. Nor do they apply to people who cannot return because their land has become uninhabitable as a result of the long-term effects of climate change.

8. The 1951 Convention, as amended by its 1967 Protocol, remains the primary refugee protection instrument and the principle of *non-refoulement*, upon which it is

⁴ Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention, in Report of the Conference of the Parties on its sixteenth session, Addendum, Part Two: Action taken by the Conference of the Parties, FCCC/CP/2010/7/Add.1, 15 March 2011, para. 14 (f).

⁵ All documentation related to the ILC’s work on the Protection of Persons in the Event of Disasters is available at: http://untreaty.un.org/ilc/guide/6_3.htm.

based, is considered a norm of customary international law.⁶ It was recognized that the terms “climate refugees” and “environmental refugees” are not accurate or useful nomenclatures and should, therefore, be avoided. At the same time, it is clear that the 1951 Convention may apply in specific situations, for instance, where “victims of natural disasters flee because their government has consciously withheld or obstructed assistance in order to punish or marginalize them on one of the five [Convention] grounds.”⁷ These actions may take place during armed conflicts, situations of generalized violence, public disorder or political instability, or even in peacetime.

9. Similarly, some regional refugee instruments, such as the 1969 OAU Convention governing Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration on Refugees, extend the definition of a “refugee” to persons fleeing “events seriously disturbing public order”, which may equally apply to persons fleeing sudden-onset disasters. However, this position has yet to be fully tested. Nonetheless, it has become common practice or custom in some regions to offer temporary protection to persons who cross an international border to escape the effects of natural disasters.

10. International human rights law also establishes the basis for a number of forms of complementary protection, yet only a few rights are currently recognised as giving rise to an obligation of *non-refoulement*. In the present context, the most relevant rights are the prohibition on return to a real risk of arbitrary deprivation of life, or to inhuman or degrading treatment. It remains to be seen whether flight from the impacts of climate change could meet the threshold set in existing human rights jurisprudence. Nonetheless, at the national level, the practice of a diverse number of countries in granting some form of permission to remain to persons fleeing natural disasters supports an understanding that such persons are in need of international protection, even if only temporarily.

11. Additionally, a large number of countries provide various forms of “humanitarian” or other statuses to persons who, at the time of a natural disaster, were already within their jurisdiction but cannot be returned to their countries of origin owing to the destruction caused by the natural disaster. This shows a trend at the national level to accept such persons on an individual basis.

12. In order to develop a more coherent and consistent approach to the protection needs of people displaced externally due to sudden-onset disasters, it was suggested that states in conjunction with UNHCR develop a guiding framework or instrument. Such discussions will need to consider whether any such framework or instrument would address other forms of displacement that equally fall outside the scope of application of the 1951 Convention or any regional instrument, such as victims of the indiscriminate effects of generalized violence, extreme socio-economic deprivation, or persons facing serious humanitarian concerns within mixed migration flows, including stranded migrants.⁸

13. Although drafted in the context of internal displacement, the Guiding Principles on Internal Displacement, which reflect and consolidate existing international law, might provide a useful template for the treatment of and assistance for those displaced *externally*. While it was recognised that their provisions could not be adopted wholesale,

⁶ Declaration of States Parties to the 1951 Convention and or the 1967 Protocol Relating to the Status of Refugees, pmb1 para. 4, UN Doc. HCR/MMSP/2001/09, 16 January 2002, available at: <http://www.unhcr.org/refworld/docid/3d60f5557.html>.

⁷ UNHCR, “Forced Displacement in the Context of Climate Change: Challenges for States under International Law”, Submission to the 6th Session of the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention, 20 May 2009, pp. 9-10.

⁸ UNHCR, High Commissioner’s Dialogue, “Closing Remarks”, 2010 Dialogue on Protection Gaps and Responses, Palais des Nations, Geneva, 9 December 2010, available at: <http://www.unhcr.org/4d0732389.html>.

some may be relevant, or may apply *mutatis mutandis*, to persons displaced externally. This would obviously require further examination.

14. In mass influx situations, states have already acknowledged minimum obligations to ensure admission to safety, respect for basic human rights, protection against *refoulement* and safe return when conditions permit to the country of origin.⁹ In an analogous situation where persons are in distress at sea, states have accepted time honoured duties to come to their rescue.¹⁰

15. Protection and assistance responses to externally displaced persons must be informed by fundamental principles of humanity, human dignity, human rights and international cooperation. Such responses need also to be guided by consent, empowerment, participation and partnership. They must equally take into account particular vulnerabilities and protection needs based on age, gender, disability and other forms of diversity. Climate change may further have particular impacts for indigenous peoples as well as nomadic and other mobile communities.

Regional level

16. In situations of large-scale disasters leading to mass external displacement it will be important to rely on burden- and responsibility-sharing arrangements, including through the development of comprehensive regional approaches. Responses to such events may require consideration and implementation of such arrangements as emergency humanitarian evacuation, temporary protection or third-country resettlement.

National level

17. In some situations of external displacement following natural disasters or other sudden-onset events, a practical response would be for states to grant admission and some form of provisional, interim or temporary stay, either on an individual or group basis. In other situations, or for some individuals, migration schemes could also address people's needs. For example, extending stay permits granted on work, study or family grounds for those already abroad, or establishing new visa categories or regimes, could be explored.

18. If return proves not possible in the medium to longer term, a more stable basis to remain and incremental improvement in standards of treatment will become necessary.

Internal displacement, including protection responses to sudden- as well as slow-onset disasters

Global Framework

19. The Guiding Principles on Internal Displacement reflect and consolidate existing international law and expressly apply to situations of “natural and human-made disasters.”¹¹ They thus broadly cover persons displaced internally (“IDPs”) by sudden-onset disasters linked to climate change and/or variability as well as those displaced internally by such slow-onset disasters as drought, desertification and salinization. There is, therefore, no need for a new set of principles in relation to climate-related internal displacement.

20. Further, the “IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters” offer important directions to those involved in efforts to

⁹ See, Executive Committee of the High Commissioner's Programme, Conclusion No. 22 (XXXII) (1981), Protection of Asylum-Seekers in Situations of Large-Scale Influx.

¹⁰ See, e.g., International Convention on the Safety of Life at Sea, as updated in 1974 and the International Convention on Maritime Search and Rescue of 1979.

¹¹ Guiding Principles on Internal Displacement, definition, introductory para. 2.

prevent, respond to and support recovery after disasters; as does the “Global Protection Cluster Working Group Handbook for the Protection of Internally Displaced Persons”. There nonetheless remain many gaps in protection delivery at the field level, including in relation to the security and safety of affected communities, particularly women, children, older persons and persons with disabilities; access to emergency treatment and other health services; replacement of identity documentation; access to shelter; and services, programmes and resources for rehabilitation and reconstruction.

Regional and sub-regional frameworks and responses

21. Guided by the examples of the 2009 African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa, the 2006 Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons and the Association of South East Asian Nations’ 2005 Agreement on Disaster Management and Emergency Response, the potential for regional and sub-regional legal, policy and operational frameworks to address regional specificities in climate-related displacement ought to be explored further. Regional forums could provide the mechanisms for the coordination of humanitarian assistance, planned relocation or migration schemes, or to address broader development goals. In addition, regional forums could be a channel to access adaptation funding under the climate change funding mechanisms.

National standards and implementation

22. While the Guiding Principles on Internal Displacement have contributed to the establishment of laws and policies in many countries, more work is needed to disseminate them to relevant government institutions and civil society actors, and to operationalize their application in appropriate ways, including through national legislation, policies and institutions.

Institutional responses

23. Different institutions – at international and national levels – are tasked with responding to the needs of IDPs, including those whose displacement is prompted by the effects of climate change. It was acknowledged that UNHCR has particular expertise in the protection dimensions of displacement within the framework of the global cluster approach and the Inter-Agency Standing Committee and in collaboration with other international organizations.

24. A range of actors will need to be engaged to address various issues, including the prevention of the causes of displacement, as well as the needs of those affected in post-emergency and/or return or relocation phases. Where return is possible, measures need to be taken to facilitate the planned return of communities, including the rehabilitation of areas damaged by disasters and the establishment of systems for the recovery of property and/or compensation for loss. A basic principle, as reflected in the “World Bank Operational Policy on Involuntary Resettlement 4.12 (updated 2007)”, is that the standard of living of those relocated should be at least as high as it was before displacement. Engagement with development actors will be more important than ever.

25. As recognized in the UNFCCC process, planned relocation and/or migration of communities affected by climate change are key adaptation strategies. Incorporating displacement-specific policies into the international climate regime could be explored, including by strengthening the Cancun Agreements relating to issues of integration and relocation.

Principles guiding any planned relocation of populations affected by climate change

26. Any decisions to relocate individuals or communities internally need to ensure the effective participation of the displaced. Decisions about where, when and how to relocate communities need to be sensitive to cultural and ethnic identities and

boundaries to avoid possible tension and conflict. They also need to safeguard livelihoods, traditions, access to land, and respect for land rights and inheritance. The interests of persons with particular vulnerabilities – e.g., the elderly, indigenous people, ethnic minorities and persons with disabilities – need to be recognized at all stages in any relocation process. Participation of all persons must be based on principles of equality, respect and diversity. Moreover, leadership and decision-making roles for women need to be ensured.

Small islands and low-lying coastal states at risk of sea-level rise and whole-nation displacement

27. Many small island and/or low-lying coastal states are particularly vulnerable to the impacts of climate change, including whole-nation displacement. These impacts include loss of coastal land and infrastructure due to erosion, inundation, sea-level rise and storm surges; an increase in the frequency and severity of cyclones, creating risks to life, health and homes; loss of coral reefs, with attendant implications for food security and the ecosystems on which many islanders' livelihoods depend; changing rainfall patterns, leading to flooding in some areas, drought in others and threats to fresh water supplies; salt-water intrusion into agricultural land; and extreme temperatures.¹²

28. Over time, their cumulative effects – when compounded by pre-existing pressures such as overcrowding, unemployment, poor infrastructure, pollution, environmental fragility, etc. – may render these territories uninhabitable. In this sense, climate change may provide a “tipping point”. In particular, a lack of fresh water supplies, as the water lens shrinks, will be a primary reason why people cannot remain in the longer term. It is therefore likely that the large majority of the population will have had to leave long before the land is submerged by sea-level rise.

29. Like climate change processes themselves, movement away from small island and/or low-lying coastal states is likely to be slow and gradual, although some events such as cyclones or king tides may, in the interim period, trigger more sudden, but probably temporary (and internal), movements.

30. It has been suggested that some small island and/or low-lying coastal states may cease to exist owing to sea-level rise and the impacts of this on the state and its people. Noting that there is a general presumption of continuity of statehood and international legal personality under international law, it was confirmed that statehood is not lost automatically with the loss of habitable territory nor is it necessarily affected by population movements. The language of “disappearing” or “sinking” islands ought to be avoided.

31. Nonetheless, there are profound humanitarian and protection issues that remain to be addressed, and the international community is encouraged to examine policy, legal, operational, humanitarian and resource responses. It is a particularly complex area, which is likely to require various strategies and responses. These may include adaptation measures, such as planned relocation and/or migration. Any measures put forward to affected communities should respect their rights to self-determination. Also in this context, states may have a responsibility to protect their populations, which may entail in turn the mobilization of relevant regional and international organizations, arrangements and resources.

32. The planned relocation of whole populations or communities may in some cases be necessary. Any relocation plans need to ensure the enjoyment of the full range of relevant rights and a secure status for those relocated. Particular attention would need to

¹² *Otin Taai Declaration: A Statement and Recommendations from the Pacific Churches' Consultation on Climate Change*, Tarawa, Kiribati, March 2004.

be given to rights to enjoy and practice one's own culture and traditions and to continue to exercise economic rights in their areas or countries of origin. In particular, individuals ought to have access to information about the reasons and procedures for their movement and, where applicable, on compensation and relocation.¹³ They have a right to participate in the planning and management of any planned movement and to enjoy their rights to life, dignity, liberty, security and self-determination. Additionally, the needs and interests of host communities need to be respected and carefully balanced in this process.

Regional mechanisms and their role in managing displacement/migration caused by slow-onset disasters

33. Slow-onset disasters, such as extreme drought, are another consequence of climate change processes that necessitate protection responses. While they may be distinct from rapid-onset extreme weather events, slow-onset disasters can cause catastrophic disruption to society, the economy and the environment of one or more countries. The manifestation of slow-onset climate change processes may also increase the frequency and severity of other environmental disasters.¹⁴

34. The predicted scale, magnitude and impact of displacement and migration caused by slow-onset events is likely to exceed the capacity of a single national jurisdiction. In such situations, inter-governmental organizations that are part of regional integration arrangements can play an important role in helping affected national jurisdictions to coordinate their actions in managing displacement events of regional significance.

35. Further, the limited human, technical and financial resources of developing states makes it especially important to pool those resources through regional cooperation and institutions in order to avoid duplication and to achieve complementarity of assistance.

36. Some regional integration groupings possess many useful mechanisms that can serve as vehicles for the design and implementation of programmes for the assistance and protection of persons whose livelihoods are affected by climate processes. Free movement agreements such as those of the Economic Union of the Organization of Eastern Caribbean States and the Caribbean Single Market and Economy or the Economic Community of West African States, are examples of integration arrangements that can promote the assimilation of displaced persons and migrants into the society and economy of a receiving country.

37. International organizations, including in particular the United Nations, can also play key roles in assisting affected states to develop efficient and effective assistance mechanisms. The programming, administrative and implementation capacities of those countries can further be improved with the support of member nations and other donors.

38. More specifically, UNHCR, the International Organization for Migration (IOM), the International Labour Organization (ILO) and other relevant international organizations, can:

- Support regional and sub-regional organizations to implement regional approaches, including the development of relevant expertise, the design and

¹³ Guiding Principles on Internal Displacement, Principles 7–9.

¹⁴ See, further, Barbados Programme of Action, which has identified 14 agreed priority areas and different actions in the context of responses to climate change and the threats to low-lying coastal states in the Caribbean, in United Nations General Assembly, “Report on Global Conference on the Sustainable Development of Small Island Developing States”, October 1994. pp. 9-10, http://climatelab.org/Barbados_Programme_of_Action.

implementation of early warning systems, vulnerability assessments and adaptation strategies.

- Improve access to financial and technical resources for developing states and/or strengthen the capacity of regional bodies to respond to the needs of persons displaced by climate-related events.
- Coordinate regional efforts at the political and technical levels to build adaptive capacity within countries in the first instance.
- Assist countries in developing bilateral agreements that would ensure appropriate safeguards are in place for those individuals/communities that choose to migrate either in anticipation of, or due to, the manifestations of slow-onset climate related disasters.
- Support the design and implementation of migration programmes within and outside an affected country or region.

Migration as an adaptation strategy

39. Pre-emptive movement is a rational adaptation response.¹⁵ Although migration has long been a natural human adaptation strategy to environmental variability, the legal (and sometimes physical) barriers to entry imposed by states today considerably restrict the ability of many persons to access migration options. Anticipating and planning for such movement can avoid disruption, loss of property and loss of life, as well as sudden influxes of persons moving spontaneously.

40. For many, migration represents an adaptation strategy to climate change and needs to be supported as such. Migration is a particularly complex phenomenon as it is often temporary, circular and/or seasonal. At the same time, it is important to recognize that most people do not want to leave their communities and those who are unable to leave may be particularly vulnerable. Adaptation strategies must thus support both those who leave and those who stay.

Research

41. Many areas in relation to climate-related displacement remain to be studied, including further empirical research on: vulnerability to displacement; adaptation, relocation and migration responses; regional and national governance schemes; and the inter-linkages between climate change, conflict and displacement.

International cooperation and shared state responsibilities

42. The primary, albeit non-exclusive, duty and responsibility of states is to prevent and protect people from displacement, mitigate its consequences, provide protection and humanitarian assistance and find durable solutions. The context of climate change, however, raises particular questions around shared state responsibilities and international cooperation.

43. As climate change is a global phenomenon, and climate-related displacement will affect many countries, collaborative approaches and partnerships based on principles of international cooperation and burden- and responsibility-sharing are called for.

UNHCR
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¹⁵ For more detail, please see IOM, *Policy Brief on Migration, Climate Change and Environment* (2009), available at: <https://www.iom.int/envmig>.