

Issue 49
May 2015

FORCED MIGRATION

review

Disasters and displacement in a changing climate

*plus articles on: Cartagena +30, organ trafficking, animals,
distrust on the Thai-Burma border, and sweet tea in Jordan
and mini-feature on FGM*



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Forced Migration Review

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From the editors

In light of the projected increase in the frequency and intensity of disasters associated with climate change, it is anticipated that the number of people displaced in the context of disasters – already significant – will rise. In the years since our 2008 issue on 'Climate change and displacement', the relocation of people at risk, the need for adaptation to the effects of climate change and the legal challenges around people displaced by climate-related threats are all being widely debated and researched.

Existing national, regional and international legal regimes, however, respond to only some of the protection concerns arising from displacement in the context of disasters. Crafting an appropriate response will demand a cross-sectoral approach – technical and scientific, political, humanitarian, human rights and developmental, among others – that addresses different forms of human mobility (displacement, migration and planned relocation). But while the voices of scientists, academics, politicians and development practitioners dominate the climate change debates, one of the authors here reminds us that "local knowledge, values and beliefs are essential elements of navigating the way forward for affected communities". The articles in this issue attempt to reflect the research, the debates and the voices.

In 2015, the Nansen Initiative, led by the Governments of Norway and Switzerland, is bringing together states to discuss a Protection Agenda addressing the needs of people displaced in the context of disasters caused by natural hazards, including those linked to climate change. Some articles in this issue of FMR emanate from the Nansen Initiative's regional consultations and civil society meetings that have been taking place since 2013.

We would like to thank Hannah Entwisle Chapuisat of the Nansen Initiative and Jeff Crisp for their assistance as advisors on this issue.

The full issue and all the individual articles are online in html, pdf and audio formats at www.fmreview.org/climatechange-disasters. This issue will be available in print and online in English, Arabic, French and Spanish. An expanded contents listing for the issue is available at www.fmreview.org/climatechange-disasters/FMR49listing.pdf. Email fmr@qeh.ox.ac.uk if you would like print copies.

This issue also contains a mini-feature on **female genital mutilation (FGM) in the context of asylum in Europe**, available both inside this issue and as a stand-alone pdf at www.fmreview.org/climatechange-disasters/FGM.pdf for separate use.

Please help disseminate this issue as widely as possible by circulating to networks, posting links, mentioning it on Twitter and Facebook and adding it to resources lists.

Details of our **forthcoming issues** – on the Western Balkans '20 years on from the Dayton Agreement', and on 'Thinking ahead: displacement, transition and solutions' – can be found at www.fmreview.org/forthcoming. Join us on Facebook or Twitter or sign up for email alerts at www.fmreview.org/request/alerts.

With our best wishes

Marion Couldrey and Maurice Herson
Editors, Forced Migration Review

Foreword

Børge Brende and Didier Burkhalter

While the international community has already been addressing many aspects of disasters, climate change and human mobility, in order to really make progress it is essential to bring together different strands of the discussion so as to develop a comprehensive response that also anticipates future challenges associated with climate change. The Governments of Norway and Switzerland are contributing to the development of future responses to disaster displacement through the Nansen Initiative.

On 12 March 2015, the Pacific island state of Vanuatu was hit by a Category 5 tropical cyclone – stronger than anything previously experienced on the islands – that affected 166,000 inhabitants, leaving 75,000 of them without adequate shelter and 110,000 in need of fresh water.

Projections indicate that previously unprecedented extreme weather events may become the norm rather than the exception. Worldwide, sudden-onset hazards such as earthquakes, floods, landslides and tropical storms displaced some 165 million people between 2008 and 2013. Consequently, both sudden- and slow-onset climate-related hazards – combined with rapid urbanisation, population growth and pre-existing social vulnerabilities and poverty – are likely to increase displacement and migration in the future, including across international borders.

States prepared the ground for linking climate change and migration when they agreed on paragraph 14(f) of the Cancun Adaptation Framework in December 2010, calling upon themselves to undertake “measures to enhance understanding, coordination and cooperation with regard to climate change-induced displacement, migration and planned relocation, where appropriate, at the national, regional and international levels”.

The Nansen Initiative

The Nansen Initiative was launched by the governments of Norway and Switzerland in late 2012 with the aim of building consensus on key principles and elements regarding the protection of people displaced across international borders in the context of

disasters, including those linked to the effect of climate change. It has since organised a series of regional consultations to bring together a wide range of representatives from governments, civil society, international organisations and experts.

As a consequence of the consultations we now know a lot more about the impacts of disasters and climate change on displacement and migration, and have identified effective practices currently used to prevent, prepare for and respond to such challenges, such as when people are forced to flee across international borders. Potential areas of future action have been compiled in a ‘Protection Agenda’ on cross-border displacement in the context of disasters and climate change, which will be presented and discussed during a global intergovernmental consultation in Geneva in October 2015.¹

Findings from the Initiative have already been fed into various international policy agendas. Prevention of displacement and migration as adaptation turned out to be major concerns of stakeholders and for this reason it was important to bring these issues to the table of the negotiators of the Post-2015 Framework for Disaster Risk Reduction. We are happy that the language about displacement adopted by the Sendai meeting in Japan reflects this.² The initiative has also fed similar language into regional instruments like the Cartagena +30 declaration.

The timing of this issue of FMR about how climate change will affect us in terms of human mobility could not have been better. With the final global consultation of the

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Nansen Initiative coming up in Geneva in October and the COP 21 meeting in Paris one month later,³ the international community has a significant opportunity to make sure that human mobility in the context of natural disasters is addressed in a more coherent and comprehensive manner.

Børge Brende and Didier Burkhalter are the Foreign Ministers of Norway and Switzerland respectively.

1. www.nanseninitiative.org/global-consultations/
2. www.wcdrr.org/uploads/Political_Declaration_WCDRR.pdf
3. www.cop21paris.org/

The Nansen Initiative: building consensus on displacement in disaster contexts

Walter Kälin

Over almost three years, the Nansen Initiative consultative process has identified a toolbox of potential policy options to prevent, prepare for and respond to the challenges of cross-border displacement in disaster contexts, including the effects of climate change.

The Nansen Initiative was initially launched by the Governments of Switzerland and Norway in October 2012, recognising that under existing international law there is no assurance that people forced by disasters to flee across international borders will be admitted and receive assistance, let alone find durable solutions to their displacement. Such displacement creates not only legal protection problems but also operational, institutional and funding challenges, since no international organisation has a clear mandate for such people.

However, over the course of the Nansen Initiative's consultative process with states, civil society, academics, international organisations and affected communities, it quickly became evident that a holistic approach to the topic would also need to look at prevention of displacement; planned relocation or voluntary and regular migration to avoid a situation where displacement with all its negative impacts becomes inevitable; and better protection and sustainable solutions for internally displaced persons too. The consultations have also brought out the multi-causal nature of displacement, particularly following slow-onset hazards and other gradual effects associated with climate change, and highlighted that such population movements are occurring **in the context of**

disasters and climate change rather than being exclusively **caused by** such events.

Building consensus

The Nansen Initiative's primary purpose is to build consensus among affected states about how they could adequately respond to the challenge of cross-border displacement in the context of disasters, including the adverse impacts of climate change. To this end, it has held inter-governmental consultations hosted by members of the Nansen Initiative Steering Group¹ within five sub-regions (the Pacific, Central America, the Greater Horn of Africa, Southeast Asia and South Asia), and separate civil society meetings in these same regions. These consultations emphasised the diverse and distinct dynamics of cross-border displacement, and human mobility more generally within disaster contexts. Furthermore, the consultations highlighted the largely regional nature of these movements and the numerous processes under way for responding to displacement in disasters.

Disaster displacement, including across international borders, is either already a reality in many parts of the world or is likely to increase or occur, since climate change is likely to increase the magnitude and frequency of disasters. The consultations have affirmed the primary responsibility

of states to prevent displacement when possible, and, when it cannot be avoided, to protect displaced people as well as find durable solutions for their displacement. The consultations have also confirmed that the existing international and regional mechanisms, laws and policies do not sufficiently address the challenge of cross-border displacement in the context of disasters, and have identified the need for improved preparedness.

Overall, the Initiative has generated strong interest because it provides somewhere to discuss what needs to be done to adequately prepare for and respond to such displacement by bringing together stakeholders dealing with humanitarian action, human rights protection, migration management, disaster risk reduction, climate change adaptation, refugee protection, and development. In particular, the consultative process has highlighted the important role of regional and sub-regional organisations in complementing national efforts to identify solutions to the challenge by building upon and strengthening existing laws and mechanisms.

Tools and more

The Initiative has identified a wide variety of protection and migration measures for disaster-affected people. These include issuing humanitarian visas, stays of deportation, granting refugee status in exceptional cases, bilateral or regional arrangements on free movement of persons, expediting normal migratory channels, or the issuance of work permits. The consultations identified the need to review the potential applicability of existing regional agreements to address cross-border displacement in disaster contexts, or, when absent, to consider the development of temporary protection, admission and stay arrangements linked to durable solutions.

The consultations have also emphasised the need for a 'toolbox' of policy options that go beyond protecting the displaced and address other forms of human mobility – such as by helping people to avoid becoming displaced, including (when appropriate) by moving

Key findings from the regional consultations

Within the conclusions developed during each regional consultation a number of key global themes emerged. However, each region identified specific priorities to respond to their unique challenges. Reports from the consultations are available online at www2.nanseninitiative.org/#consultations and several articles in this issue of FMR are derived either from reports prepared in preparation for or from reports resulting from the regional consultations.

internally or across borders in regular or planned ways before displacement occurs.

For example, disaster risk reduction activities, climate change adaptation, contingency planning exercises, infrastructure improvements, relocating people at risk of displacement to safer areas, land reform and other measures to improve resiliency are all potential actions to help people stay in their homes for as long as possible. Ensuring that existing legal and policy frameworks for internally displaced persons are fully implemented was also identified as a way to improve the overall response to disaster-related displacement. Finally, particularly in the context of slow-onset natural hazards and the effects of climate change, voluntary migration to another part of the country or (when appropriate) to another country can provide an opportunity to seek employment and reduce the risk of displacement in times of humanitarian crisis.

Framing and feeding messages

There will be numerous opportunities during 2015 and 2016 to bring the recommendations and findings from the Nansen Initiative into global and regional processes addressing issues essential to developing a comprehensive response to cross-border displacement in the context of disasters. At the global level, relevant conclusions from the Initiative's findings supported the prominent inclusion of disaster displacement, both internal and cross-border, within the Sendai Framework for Disaster Risk Reduction 2015-2030. The Initiative has also contributed to conversations surrounding the negotiations on the 2015 Paris

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UNHCR

Ruins of a home destroyed by Cyclone Nargis, Myanmar. May 2008.

Climate Change Agreement, and actively participated in the 2016 World Humanitarian Summit consultative process. Regionally, the findings from the consultations have been taken up by states within the December 2014 Cartagena +30 Brasilia Declaration and Action Plan, the draft Strategy for Climate and Disaster Resilient Development in the Pacific, and the Regional Conference on Migration (Puebla Process) February 2015 workshop, where Central and North American Member States discussed effective practices for utilising temporary humanitarian protection mechanisms in disaster contexts.

In October 2015, states will meet in Geneva to adopt a 'Protection Agenda' on cross-border displacement in the context of disasters and climate change, identifying effective practices and setting out areas of future action at domestic, regional and international levels.² The Protection Agenda will not suggest creating new international law but rather include a set of common understandings of the issue, its dimensions and the challenges faced by relevant stakeholders. It will identify and reiterate key principles in the areas of

protection and international and regional cooperation, and provide examples of existing practices and tools to prevent, prepare for and respond to internal and, in particular, cross-border displacement in disaster contexts. Finally, it will include recommendations on the way ahead for follow-up when the Nansen Initiative ends in December 2015.

Thus far the work of the Nansen Initiative has taken place outside the United Nations (UN) system. However, it is now time to place cross-border displacement in the context of disasters and climate change back on the UN's agenda. To do so requires finding an institutional arrangement for the topic, and for states to take forward the Protection Agenda's action plan as their own.

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1. The Steering Group includes representatives from Australia, Bangladesh, Costa Rica, Germany, Kenya, Mexico, Norway, the Philippines and Switzerland, with UNHCR and IOM as Standing Invitees.

2. Draft Protection Agenda online at www2.nanseninitiative.org/global-consultations/

National Adaptation Plans and human mobility

Koko Warner, Walter Kälin, Susan Martin and Youssef Nassef

In order to avoid displacement when possible, displacement and human mobility issues need to be better integrated within national and regional adaptation planning processes.

When movement cannot be avoided, adaptation measures can help people to move voluntarily and with dignity long before a crisis situation occurs. National Adaptation Plans – established under the Cancun Adaptation Framework¹ – can play an important role in achieving this by incorporating human mobility within regional climate change strategies.

The national adaptation planning process provides an opportunity to ensure that migration, displacement and planned relocation are fully addressed, as both potential challenges and potential opportunities. Human mobility is relevant to adaptation planning in the sense of seeking to avoid displacement or migration that erodes human welfare where there is a discernible risk of it arising as a result of the effects of climate change. It is also relevant when attempting to capitalise on the potential for migration or planned relocation where these are deemed the most viable adaptive strategies.

National Adaptation Plans build upon the National Adaptation Programmes of Action (NAPAs) that were developed by Least Developed Countries prior to the 2010 United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties in Cancún. Many NAPAs recognised that loss of habitats and livelihoods can precipitate large-scale migration. Some of them proposed adaptation strategies to reduce pressure to migrate and allow individuals to remain in their homes for as long as possible. The strategies proposed generally sought to adapt agricultural practices, the management of pastoral lands, infrastructures such as dykes and coastal barriers, fishing patterns and other strategies to reduce the

pressure on fragile ecosystems, thereby allowing populations to remain in place.

Approaches to reduce displacement in the context of disasters associated with climate change often focus on early warning and emergency preparedness or on post-disaster resettlement and rescue plans. NAPAs also address the role of the planned relocation of individuals as an adaptive strategy, particularly in the context of rising sea levels. Few NAPAs view the spontaneous movement of people from rural to urban areas as a positive adaptation strategy; in fact, governments have generally decried rural-to-urban migration and sought programmes to deter people from leaving home rather than facilitate their movement.

Although migration emerged as a theme in NAPAs, the documents generally provided little detail on strategies to prevent movements or to facilitate them when needed.² The subsequent National Adaptation Plan (NAP) process provides an opportunity, however, to bring migration expertise to bear in thinking through both sides of adaptation strategies – preventing unwanted ‘distress migration’ and displacement while facilitating beneficial movements that enable better adjustment to the impacts of climate change.

NAPs are new and have yet to be developed and submitted. It is advisable that NAPs be developed through processes that are participatory and transparent, and also be gender-sensitive; governments should also take into account, when appropriate, traditional and indigenous knowledge. NAPs can address migration issues related to climate change both by reducing the pressures to migrate or be displaced, and by envisioning migration and the need for planned relocation as adaptive strategies.

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Putting migration into national adaptation planning is essential to effective implementation.³ Policymakers and practitioners need clear and concrete guidance on how to link human mobility to climate change adaptation. It is advisable that NAPs guidelines support policy coherence across migration and adaptation policies and be piloted in a number of states.

A number of gaps in the knowledge base exist which – if filled – would contribute to national adaptation planning around human mobility. They include:

- the relationship between mobility and adaptation processes, including the extent to which different forms of mobility are positive or negative for those who move as well as for their communities of origin and destination
- what kinds of trade-offs may be involved, and what the relationship is between climate change-related human movements and sustainable development processes, in particular around issues of erosive coping (that has a negative impact on long-term sustainability) and resilience.
- providing governments with more data on specific ways in which climate change will affect (and be affected by) mobility as they formulate their NAPs
- ensuring that governments involve appropriate experts and practitioners on human mobility in the formulation of NAPs
- ensuring that governments have access to an inventory of good practices to ensure that NAPs include strategies that address both sides of the inter-connection between climate change and human mobility.

Outlook for adaptation planning and human mobility

As climate negotiators prepare for the critical 2015 Paris agreement,⁴ it will be important for states to assume their responsibilities to prevent, when possible, future displacement associated with the impacts of climate change. However, affected states also need to receive the necessary technical and financial assistance to carry out this responsibility.

In particular, to ensure that NAPs are effective mechanisms in addressing human mobility within the context of climate change, four challenges must be addressed. These are:

- providing technical advice and operational guidance for governments on how to incorporate mobility

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This article is based on UNU-EHS Policy Brief No. 9 (2014) 'Integrating Human Mobility Issues within National Adaptation Plans' <http://ehs.unu.edu/file/get/11786.pdf> which was co-authored in addition by the following, who are acknowledged with thanks: Sieun Lee, Susanne Melde, Marine Franck and Tamer Affi.

1. Adopted as part of the Cancun Agreements at the 2010 Climate Change Conference in Cancún, Mexico. <http://unfccc.int/adaptation/items/5852.php>
2. All the National Adaptation Programmes of Action reviewed for the report on which this article is based are available at http://unfccc.int/adaptation/workstreams/national_adaptation_programmes_of_action/items/4585.php.
3. For further details, see International Dialogue on Migration (2011). Available from www.iom.int/idmclimatechange
4. www.cop21.gouv.fr/en

FMR podcasts

All the articles in this issue are available as podcasts on the FMR website and also on iTunesU. Click on the icon to view FMR podcasts, or visit <http://tinyurl.com/iTunesU-FMR>.



Modelling displacement

Justin Ginnetti

Although those seeking a single global prediction will be disappointed, today's models of climate change- and disaster-induced displacement can provide a range of scenarios for specific countries, regions or hotspots.

Empirical models of climate change- and disaster-induced displacement and migration are used to predict how people would be likely to migrate in different scenarios. They have been around for decades¹ but the way such models are being used has evolved over time. The Internal Displacement Monitoring Centre (IDMC) and Climate Interactive² have developed a system dynamics model which not only simulates the impacts of droughts, floods and climate change on displacement in northern Kenya but also simulates what happens when different measures are implemented to prevent, mitigate or respond to displacement.

Before undertaking work on a model, IDMC had to decide if an inherently mobile population of pastoralists in the Horn of Africa could become displaced in the first place, coming to the conclusion that pastoralists become displaced by virtue of the loss of their pastoralist livelihood. The next step was to figure out how, when and why pastoralists become displaced. Articulating this causal theory of displacement meant working with other researchers, government officials, NGOs and pastoralists themselves. Over a period of months, this disparate group of actors collectively mapped all of the important factors and causal relationships that connect rainfall and displacement outcomes. These include the interactions between the climate and weather systems, pasture productivity, livestock herd dynamics, livestock prices, and pastoralist decision-making and marketing strategies. Once the causal theory was mapped, stakeholders identified potential entry points for addressing drought-related displacement.

We tested the behaviour of the pastoralist displacement model against historical

behaviour of key indicators, in this case dating back to 1990, to see whether the model was able to reproduce the same outcomes. Since pastoralist displacement itself has not been well recorded – or even recognised – this validation and calibration of the model involved other relevant factors such as livestock market prices, livestock and human population data, and livestock birth and death rates. Finding ample historical data to validate every component of the model was impossible, resulting in an increase in uncertainty.

The initial findings of the analysis are both counter-intuitive and encouraging. If droughts become more frequent and severe in the future due to climate change, it will lead to more displacement – but not a large amount more. Secondly, the analysis suggests that the arid and semi-arid lands, particularly in Kenya, could potentially support more livestock and more pastoralists. That said, a greater number of subsistence pastoralists will result in more displaced pastoralists when droughts occur, unless actions are taken to mitigate that risk.

Modelling for policymakers

The model also allowed policymakers to test preventive measures. The Government of Kenya's National Drought Management Authority (NDMA) has used the system dynamics model to test the impacts of different land-use and livestock policies on reducing the risk of drought-induced displacement in the future. IDMC and Climate Interactive plan to work together with the NDMA to simulate the effectiveness of the different policy options and investments outlined in the country's Ending Drought Emergencies plan. The aim of this collaboration is to use the displacement model to take evidence-based decisions to reduce drought-related displacement in the future.

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IDMC and Climate Interactive are also using models to help the Government of Nigeria, where four million people have been displaced by floods since 2008. The country's National Emergency Management Authority is interested in identifying the drivers of flood risk and opportunities to address them. IDMC and Climate Interactive are also exploring ways to develop new models and to customise existing ones to support National Adaptation Plans and the World Meteorological Organization's Global Framework for Climate Services.

Some countries that perceive themselves to be likely destinations of people uprooted in relation to disasters and climate change have already invested in understanding these patterns of mobility.³ Simultaneously, many countries consider themselves to be particularly vulnerable to the impacts of climate change, which is why the Least Developed Countries proposed a displacement coordination mechanism in the latest round of climate change negotiations.

As more and more policymakers and practitioners use these tools, they will better understand how models can be used and, just as importantly, how they cannot. Perhaps ironically, the one question that our models cannot (or, rather, no longer try to) answer is how many people are likely to be displaced globally by 2050 or 2100. While the popular media still crave a single global figure, policymakers, practitioners and modellers have instead focused on more specific and actionable questions.

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1. See Smith C, Kniveton D, Wood S & Black R (2008) 'Predictive modelling', *Forced Migration Review* issue 31 www.fmreview.org/climatechange p59.

2. www.climateinteractive.org

3. See, for example, the UK government's Foresight project 'Migration and global environmental change', the European Union's support of initiatives such as 'Climate Change and Migration: Knowledge, Law and Policy, and Theory' and the US Department of Defense's '2014 Climate Change Adaptation Roadmap'.



The Ngomeni rock water catchment dam in Mwingi district, Kenya, which serves hundreds of households, drying up for the first time in years in 2011, according to residents.

The state of the evidence

Susan Martin

Researchers have much to do, not only to understand climate- and disaster-induced migration but also to transmit their understanding for the use of policymakers and practitioners.

While some estimates of the number of people displaced by sudden-onset disasters exist, little is known about the patterns and cycles of displacement. Governmental tracking systems are inadequate, particularly for those who are displaced and do not go to official shelters. And many questions remain over how many times people are displaced and where people go when they leave temporary shelters and are unable to return home. An improved evidence base would help create a set of criteria for assessing the threat people are under and determining whether they can return home or should be relocated elsewhere.

More attention also needs to be devoted to the intersection between sudden- and slow-onset disasters as sudden-onset disasters can exacerbate slow-onset processes. The natural hazard often becomes the tipping point, as when drought in Somalia triggered a famine in the context of persistent political instability. What adaptation strategies in slow-onset scenarios create greater resilience in disaster situations and allow people to stay and adapt in situ?

Forecasting environmental migration remains an area of immense potential. Is it possible to identify vulnerable populations and who is exposed and at what points? There are currently no good forecasting tools to help identify who may be displaced in the future – and research shows, moreover, that trapped populations are in danger just as much as those who move. Better forecasting is essential in both sudden- and slow-onset situations. Agent-based modelling methodologies, forecasting and hotspot mapping may all help to identify vulnerable populations in areas both of origin and of destination. While historical analogues and the experience of development-induced resettlement are helpful to frame discussions,

vulnerable populations may not have the opportunity to move to uninhabited places, and thus instead move to areas of risk. The scarcity of available land today could mean that comparisons with historical case studies are neither feasible nor helpful.

It is known that decisions to migrate as well as the impacts of these movements are strongly affected by family and household vulnerability and resilience. Many of those who benefit most from migration are those who are already more resilient than their neighbours. A better understanding of ways to increase social protection of particularly vulnerable households will help policymakers identify ways to increase resilience among those who stay in place as well as those who move away from areas affected by climate change. In the context of environmental migration, micro-scale analysis is important since it questions assumptions that researchers may have about human environmental systems.

Hazards manifest themselves very differently. The impact of flooding on a vulnerable population, for example, depends on geographic location and may actually be beneficial for farming practices. Including environmental and migration questions in national censuses and in Demographic and Health (DHS), Living Standards Measurement (LSMS) or Multiple Indicator Cluster (MICS) surveys may help capture household- or region-specific characteristics. Asking participants what questions they think are most relevant helps avoid imposing incorrect assumptions.

Despite the potential for using mobile-phone data to study migratory patterns of people in the wake of sudden-onset events, several limitations exist. For instance,

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billing information and privacy concerns complicate easy data collection while SIM cards can represent individuals, households or communities. Mobile-phone data suffers the same limitations as other types of data in that it needs to be cleaned and vetted if proper analysis is to be done. And it would be important to capture the characteristics of migrants (e.g. their motives) rather than just see where they are going.

Long-term data and studies

There is a need for longitudinal data and studies to help researchers both to understand the long-term effects of environmental change on migration decisions and to properly study the impact of migration on adaptation and resilience. Longitudinal studies are also needed to ensure that the impacts of adaptation programmes, including those involving movements of people, are assessed over time. Economic, social, cultural and other impacts are likely to change as people move through the adaptation process, and understanding the long-term effects of different adaptation strategies will help policymakers and practitioners undertake better planning and implementation.

Funding multi-year research is challenging and the use of existing datasets, therefore, may serve as a useful approach when funding for longitudinal research is restricted, even though few datasets possess all the necessary pieces, particularly longitudinal datasets that capture slow-onset emergencies. The few longitudinal studies that exist are usually funded by governments, illustrating the policy as well as the research importance of these questions.

Usefulness for policymakers

Since most migration, displacement and relocation are likely to involve movements within and between developing countries, greater understanding of internal migration – including rural-urban, urban-rural and rural-rural movements, and cross-border South-South migration – will help policymakers plan more effectively to address the impacts on both source and receiving

communities; currently very little research exists that captures the impact of migrants on the host communities. Of particular importance is research on ways to ensure greater reliability, security and use of South-South remittance flows in the context of movements linked to climate change. There is little evidence about the mechanisms for remittances to be facilitated as an adaptation strategy, and National Adaptation Plans, for instance, do not generally mention them.

The institutional frameworks for addressing migration, displacement and relocation in the context of climate change at the national, regional and global levels are not well articulated. A mapping exercise to identify effective mechanisms for cooperation and coordination among different ministries and agencies would help provide guidance to governments and international organisations as they move ahead in developing adaptation strategies involving human mobility. Continuing monitoring of the ways in which National Adaptation Plans, Poverty Reduction Strategy Papers and Disaster Risk Reduction strategies address issues related to environmental change, migration and development would also be useful in order to identify potential improvements in planning for migration, displacement and planned relocation.

Finally, research alone will be insufficient in affecting policies unless it is presented in a manner that is easily digestible and practical, for donors as well as for policymakers and operational institutions.

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The necessity for an ethnographic approach in Peru

Geremia Cometti

A movement of people is rarely explained by environmental or climatic factors alone. Therefore an analysis which does not take into consideration the cultural consequences of climate change for affected societies is incomplete.

Most research into the links between climate change and migration does not sufficiently consider the perspectives of the affected societies. An ethnographic approach which takes into account the way that these societies represent climate change gives more rigour to the analysis and allows those who are working on the issue to better understand the challenges.

The Q'eros are an indigenous group living in three levels of altitude on the eastern slopes of the Andes in Peru, each with their own ecology. Over the past ten years large numbers of Q'eros have begun to migrate – for education, for work and in response to climate change. Some of them just leave and others move back and forth or extend their nomadic movements to include the city. The Q'eros are agreed that potato crop productivity has been diminishing and that its quality is also suffering because of the changing pattern of precipitation. They claim this change is also responsible for the spread of a parasite affecting the potatoes, and for hunger and deaths among their flocks of alpacas and llamas.

Although economic, social and environmental factors explain to some extent the migration of the Q'eros, the explanation is incomplete because it lacks the inclusion of the way that the Q'eros make sense of climate change. The standard Western approach is built on the dichotomy between people and their culture on the one hand and nature and the environment on the other. In that determinist perspective, migration can be seen as a form of adaptation; climate change in some sense leads to migration. In the Q'ero worldview, relationships between nature and people

are conceived as continuous, not disjointed. Most Q'eros explain the changing climate as the result of the breakdown of the reciprocal relationship they have with their divinities; some of them have turned to other religions and abandoned their traditional practices and others are using their reputation as shamans to turn a profit from tourists and city-dwellers.

So the Q'eros do see a link between climate change and migration but it is not the kind of causal link arising from the dichotomy between people and nature. They would say that their migration – away from their traditional areas, away from their rituals, or instrumentalising those rituals – brings about climate change. With them no longer keeping up the collective ceremonies that were designed to guarantee their harvest and the health of their animals, the climate has begun to change.

Taking into account the point of view of the Q'eros helps, firstly, to highlight the symbolic significance of climate change and, secondly, to posit an interaction between climate change and migration that is more complex and goes beyond classic causality. Besides, an analysis which does not take into consideration the cultural consequences of climate change for affected societies – putting the dominant Western discourse together with the viewpoint of the society involved – is incomplete.

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An integrated focus

William Lacy Swing

The key to successfully addressing the challenges of environmental, climatic and natural disasters is integrating migration concerns – including displacement – into all climate change, disaster risk reduction and development policies and frameworks.

One of every seven people in the world is a migrant and more people are moving today in the context of disasters than ever before, mainly as a result of the concentration of populations and livelihoods in disaster-prone areas. Migrants are often among the worst affected by disasters, being more exposed to hazards, less prepared and consequently less able to cope with and recover from the impacts of disasters.

One of the main challenges in protecting and assisting those displaced by environmental processes and events, and across national borders in particular, is coordination among policy actors and practitioners. Relevant laws and good practices exist, even though approaches vary depending on whether the policies are adopted as part of migration, climate, security or human rights frameworks. Protectionist and institutional blind spots persist, given the fragmented, sometimes partial approach to linking climate change and human mobility in many regional and national policy settings.

Research and operational experience show that moving is neither an inevitable nor necessarily a negative consequence of environmental shocks and change. In fact, a number of efforts are already being made – as part of disaster risk reduction and climate change adaptation – to prevent environmentally induced displacements; to assist those moving, as well as home and host communities; and to realise the positive potential of moving in the context of disasters and environmental change.

We do not need another new policy framework; we need to integrate migration into the existing frameworks at national, regional and global levels. This will

provide the coherence required for coordinating an effective response.

Collect and share better data

Data on displacement is essential to understanding vulnerabilities, delivering humanitarian assistance and designing durable solutions. Most of the available data are not disaggregated by the duration and distance of displacement. This makes it difficult to distinguish between the types and address the different effects.

The key to good data is partnership. For its annual reports, the Internal Displacement Monitoring Centre (IDMC) uses national data to describe displacement caused by natural disasters. National data are complemented by the International Organization for Migration (IOM)'s Displacement Tracking Matrix (DTM). DTM supports national and local partners, and collects information in a series of 'snapshots' to show trends in flows and conditions of displaced persons.

There is a strong need to collect quantitative, longitudinal data on how migration and planned relocation can strengthen adaptive strategies – particularly by identifying the risks they mitigate. Unfortunately, some regions are very under-studied. Although in 2013 almost 9 out of 10 newly displaced persons forced to move by disasters were in Asia,¹ only 26% of global research on migration and the environment – including climate change – was on Asia. Europe (7%) and the Middle East (2%) are also under-studied, despite environmental processes that can trigger population displacement in these regions.

To address the lack of comparable data on displaced populations, the Migration,

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IOM, in collaboration with the Philippine government's Department of Social Welfare and Development, facilitates a Camp Coordination and Camp Management workshop in January 2013 as part of disaster preparedness planning.

Environment and Climate Change: Evidence for Policy project, funded by the European Union, has developed a cross-country comparative analysis of six pilot countries.² The surveys of internal migrants' places of origin and destination inform policy on how human mobility promotes resilience and the ability to cope with environmental change. Lessons identified and good practices will be based on the types of mobility (migration, displacement, planned relocation) rather than the country specificities, thereby providing comparative insights for other countries with similar migrant populations and environmental contexts.

Enhance partnerships

National Disaster Management Authorities (NDMAs) play a central role in preparing

for, responding to, managing and addressing displacement in disasters, and can greatly reduce risks and vulnerabilities. A key priority should be building strategic and operational partnerships among NDMAs – and between NDMAs and humanitarian actors – to strengthen their capacities before, during and after disasters.

Most countries have disaster response plans but approaches and experiences differ greatly. Partnerships between NDMAs from different parts of the world enable the exchange of experiences, tools and methods that cover all aspects of disaster risk management. International actors' global mandates and partnerships help bring together NDMAs as peers across the world. In addition, international humanitarian

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IOM/Billy Jamisolanin

actors contribute to planning for and managing displacement by promoting impartiality in assisting and protecting affected populations.

An example of how partnerships can be used to this end is the Comprehensive Guide for Planning Mass Evacuations in Natural Disasters (MEND Guide), published in 2014.³ Experience showed that there was a lack of relevant tools to guide NDMAs and humanitarian actors in planning mass evacuations. To address this shortcoming, 11 countries and a number of international organisations and academic experts collaborated under IOM's leadership to produce the MEND Guide, which contains a template to use and adapt in developing national evacuation plans.

The growth in the number of migrants around the world emphasises the need to include migrants and mobility in humanitarian response mechanisms. Labour migrants from Latin America, for example, were disproportionately affected by Hurricane Sandy in New York in 2012, and were less likely than non-migrants to be entitled to and able to access relief and recovery assistance. In the 2011 floods that affected Bangkok and one fifth of Thailand, at least 600,000 migrant workers from Myanmar were trapped in affected areas and faced challenges in accessing information and assistance. Assisting these migrant populations required concerted action from the authorities. The state-led Migrants in Countries in Crisis (MICIC) initiative, launched in 2014, aims to develop guiding principles and effective practices to improve the ability of states and other actors to be prepared to alleviate the suffering and protect the dignity and rights of migrants caught in countries during acute crises, whether due to conflict or natural disasters.⁴

Coherence in policy and practice

Coordination efforts are well underway at the operational, research and policy levels

but to remove obstacles to this coordination, human mobility concerns must be included in strategic frameworks at the international, national and community levels.

At the international level, the Hyogo Framework for Action II, the UN Framework Convention on Climate Change, the Sustainable Development Goals and the World Humanitarian Summit all provide opportunities to advance and share knowledge. At the regional level, the Regional Consultative Processes (RCP) on migration offer a privileged space for informal and non-binding state-led discussions on migration. Progress in dialogue and in cooperation initiatives on migration and displacement linked to environmental degradation and climate change are largely the result of RCPs and their consensus-building nature.⁵ At the national level, National Adaptation Plans, the UN Development Assistance Framework and local development plans should include migration concerns to support making internal and international migration a positive and safe choice, reducing displacement and drivers of 'desperation migration', and increasing resilience.

It is clear that we need to integrate migration concerns, including displacement, in climate change, disaster risk reduction and development policies at all levels. This is necessary for coherent and comprehensive responses to the changes and crises we all face.

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2. Dominican Republic, Haiti, Kenya, Mauritius, Papua New Guinea and Vietnam. www.environmentalmigration.iom.int
3. www.globalccmcluster.org/system/files/publications/MEND_download.pdf
4. <http://tinyurl.com/IOM-MICIC>
5. IOM (2013) *Regional Inter-State Consultation Mechanisms on Migration: Approaches, Recent Activities and Implications for Global Governance of Migration*, Migration Research Series No 45. <http://tinyurl.com/IOM-ResearchSeries45>

West Africa: a testing ground for regional solutions

Julia Blocher, Dalila Gharbaoui and Sara Vigil

West Africa has a very mobile population and high vulnerability to natural hazards. It also, however, has a number of regional cooperation agreements and may therefore be a useful testing ground for addressing cross-border disaster displacement.

Nearly all the states of West Africa have been incorporated into a relatively unified political space within the Economic Community of West African States (ECOWAS),¹ making the region politically much less fragmented than many other parts of the world. With the resultant porous borders, the concept of 'cross-border' movement in this context is relatively loose and the area has an unusually high level of intra-regional migration – over 58% of migration in West Africa takes place within the region.

Migration flows are related not only to economic inequality, political unrest and environmental degradation but also to the traditional mobility-based livelihoods which national boundaries drawn post-decolonisation have not interrupted. In addition, displacement due to natural hazard-induced disasters is a frequent occurrence, with nearly 9.3 million people reported displaced by disasters in the region between 2008 and 2013.²

Current protection mechanisms

There is currently no consensus internationally or in the West African region on procedures to admit or protect people crossing borders in disaster contexts. Whether people can be admitted into another state to seek assistance and for how long they may be permitted to stay are key questions.

The 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa (1969 Convention) broadens the obligations in the 1951 Refugee Convention and expands the definition of *non-refoulement* to include "events seriously disturbing public order".³ It is unclear if natural hazard-induced disasters are included within this phrase. Its interpretation has varied among states, partly because of a

lack of consensus concerning the threshold for applying the expanded definition. The limited evidence there is suggests that African states have taken a relatively restrictive approach to the definition. In addition, no treaty covers people leaving their homes due to, or in anticipation of, a slow-onset crisis.

As no right to admission to a foreign state in the case of displacement due to natural hazard-induced disasters is enshrined in international law, a discussion of ways to address this type of mobility in the region must necessarily consider the migration and asylum policies of ECOWAS and its member states. ECOWAS has expanded its initial mandate to entrench mobility within its political project. Its Protocol on Free Movement of Persons, Right of Residence and Establishment (signed in 1975, revised in 1986) allows each citizen of ECOWAS member states the right to live and work in another member state for 90 days.

An exception to the 90-day rule of the Protocol lies in the ECOWAS programme for the sustainable management of pastoral resources and observation of transhumance,⁴ which is the most developed policy area directly concerned with environment-related and seasonal human mobility. During the 2000s, a special document was designed for nomadic herders, the International Transhumance Certificate (CIT) which could be compared to a passport that facilitates cross-border transhumance for pastoralists and their livestock.

Assistance, good practices and weaknesses

The Common Humanitarian Policy of ECOWAS seeks to expand national and regional capacities to provide context-specific

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and people-centred responses to humanitarian concerns. Importantly, obligations to assist migrants appear to have been purposely left out. For displaced people who cross borders because of disasters, specific provisions will thus have to be developed within the Protocol to enable them to avail themselves of humanitarian assistance as well as to establish conditions and length of stay.

In practice, the ECOWAS Protocol fails to bring down key barriers that may prevent displaced people from enjoying the full exercise of their rights. For example, the necessary steps to obtain legal documents to enter the labour market and health-care system can be extremely long and complex. West African states are nonetheless working to increase the portability of social rights within the region. The ECOWAS General Convention on Social Security represents an important milestone in ensuring strong protection of rights in the implementation of regional free movement protocols. ECOWAS states and the International Organization for Migration (IOM) have committed in the regional strategy for 2014-16 to work towards greater protection of 'distressed' and 'stranded' migrants, particularly in relation to situations of human trafficking. Increased protection afforded to people in such conditions may ultimately help improve the overall level of protection for other mobile peoples.

On a positive note, the ECOWAS free movement agreements have cut down on threats for migrants within the region who may otherwise be forced to rely on smugglers and dangerous routes (as compared to the Horn of Africa, for example).

Within the structures of ECOWAS, disaster risk reduction is conflated with disaster management and handled within the Humanitarian and Social Affairs Directorate. A Technical Committee on Disaster Management was established to put into effect the most recent regional action plan (2010-15).



UNHCR/G. Gordon

A family of Ivorian refugees walking along a forest track towards Zwedru, a town in south-eastern Liberia, following an eruption of violence in Côte d' Ivoire in 2011.

Among regional organisations with developed frameworks on disaster risk reduction and management, ECOWAS is one of very few globally to officially organise joint simulation exercises to promote technical cooperation and to improve training for disaster response; in addition, development of a regional disaster relief fund is ongoing and an Emergency Response Team serves as a regional response tool for situations of disaster and conflict.

Despite the numerous provisions in place for West African states to respond to disasters and provide protection and assistance to displaced people, however, responses to date have been largely makeshift. The inability to mobilise funds and the lack of a coordinated response adequate to meet the scale of humanitarian needs are often cited as causes of weakness.

There have not so far been any cases for which the countries of origin and of destination are called upon to coordinate in the context of disaster displacement. For refugee movements, tripartite commissions established between the country of origin, country of asylum and the United Nations High Commissioner for Refugees play an important role in establishing good practices and could serve as a good basis for cross-border displacement following disasters. Confidence-building measures built between the countries of asylum and of origin following the population movements related to armed conflict are also essential.

Outlook

West Africa is in a position to serve as a global model of collaboration and cooperation in pioneering solutions. The ECOWAS Vision 2020 programme sets an ambitious goal of a coherent 'borderless' and 'people-centred' region;⁵ burden sharing and cooperation to assist displaced people are core to achieving this vision. Numerous concerns remain, however, in regard to population movements in the region. The ECOWAS Protocol on Free Movement allows in principle all ECOWAS citizens the right of admission in member states but relies heavily on political cooperation and goodwill.

Establishing national policies and temporary protection schemes within West Africa is paramount, since higher-level agreements need domestic implementation to be of any use. Domestic policy making and implementation should be guided by higher-level agreements such as: extension of the temporary stay period and special provisions for people displaced by disasters; special provisions for disaster-affected migrants, which could reasonably take the CIT 'passport' as a model; greater consideration of the specific needs of displaced people in implementation of existing international frameworks; and greater consideration of potential cross-border displacement within frameworks for protection and delivery of humanitarian assistance. Although policies already in place are a good foundation, it will be important to clarify the rights and responsibilities of people displaced by disasters for the duration of their stay, whether temporarily or until longer-term solutions are achieved.

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1. The exceptions are Mauritania, Saint Helena, and Sao Tome and Principe.
2. IDMC 'Global Estimates 2014: People displaced by Disasters' <http://tinyurl.com/IDMC-2014-GlobalEstimates>
3. Article I (2) and Article II (3).
4. ECOWAS Decision A/DEC.5/10/98
5. ECOWAS Commission (2011) 'ECOWAS vision 2020. Towards a Democratic and Prosperous Community' <http://tinyurl.com/ECOWASVision2020>

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Development and displacement risks

Glaucia Boyer and Matthew McKinnon

Climate change has such significant implications for emergencies that sometimes the development facet of the challenge can be overlooked. Yet the impact of climate change induces systemic patterns of socio-economic erosion that also affect the dynamics of disaster displacement and that require parallel responses.

It is widely recognised that most displaced persons live on or below the poverty line, and that lower-income groups are disproportionately affected by weather-related disasters. Furthermore, disasters aside, a host of different consequences also associated with a changing climate weaken resilience, especially of subsistence farming groups, and thereby breed further vulnerability. These are then an amplifying factor for rural to urban migration, even if climate issues are largely concealed by 'economic' explanations for migrant flows and both groups of migrants often end up in the same slums.¹

Hotter days, longer and more intense dry seasons and less overall rain but heavier downpours place significant pressures on low-income rural communities. Health, for instance, suffers due to more favourable conditions for food-, water- and vector-borne diseases. Shorter, less predictable growing seasons, less rain and more flooding all cut farm outputs, while the increase in the number of extremely hot days makes outdoor work (the great majority of all work in subsistence farming communities) less productive and more dangerous because of exhaustion and dehydration. As it becomes harder for farmers to grow produce and to work, food insecurity climbs, with child malnutrition rates typically increasing in tandem.

Governance capacity defines resilience

Challenging conditions like these are common to rural communities across tropical developing regions. Particularly vulnerable are countries and communities with very high agricultural sector contributions to economic output or to the workforce, and large numbers of subsistence-level households.

Although the specifics vary, the outcome is frequently the same: people, especially youths, hasten decline by leaving in growing numbers for cities and their slums. Problems are not only transposed to the urban realm; the process also compounds risks for communities of both origin and destination.

While climate-stressed rural communities of sub-Saharan Africa, South America, Asia and even the Middle East furnish a ready supply of new inhabitants to urban slums, geographically similar areas of the south-western US or of Australia, for instance, are not affected in the same way despite analogous climate pressures. This fact underscores the significance of community capacity and governance systems to deal with such change.

Rural renewal

A wide variety of measures and approaches to adapt to climate change have been developed, as highlighted for instance by the breadth of activities foreseen by National Adaptation Programmes for Action.² Among predominantly subsistence communities, however, the key factor restricting responses is a lack of reliable means to initiate and sustain such measures. Higher quality, more drought-resistant seeds, improved water installations or meteorological micro-insurance schemes, among other initiatives, all typically require effectively unachievable outlays, circumscribing access for those most in a position to benefit.

Not all initiatives to adapt to climate change require resources but increased capacity and resilience-based approaches greatly expand the feasible range of responses. In the specific case of northern Ghana [see box overleaf],

Rural erosion in Ghana's Upper East Region

The effects of increases in heat on subsistence communities have been most pronounced in this region of Ghana, once the breadbasket of the country. One way to compensate for diminished growing seasons or productive capacity is to extend the amount of land under cultivation; however, this is very often at the expense of trees and therefore at the expense of biodiversity, land integrity and shade for farmers and crops. Deforestation and the degradation of trees and forests not only contribute to more climate change through the loss of carbon sinks but can also intensify local heat, drought and flood vulnerabilities. Moreover, only the least productive lands remain to be brought under cultivation, so these diminishing yields come at great expense.

Private revenue losses likewise affect public services. Declining investment in local water infrastructure is particularly problematic because it shrinks the area of arable land available during the dry season, leading more people to migrate seasonally. Indications of societal strains are evident too. As smallholder farmers keep fewer livestock, for example, they also entrust fewer to the care of nomadic Fulani herdsman who frequent marginal lands in the region. Previously reliant on the mutually beneficial interchange of herding services for food or income, the erosion of this exchange demonstrates how livelihood shocks for settled communities can be transmitted through economic chains, harming traditional social ties.

reversing the trend of livelihood erosion is a critical step for securing investment in water and irrigation infrastructure, for maintaining conservation zones, for accessing insurance and the countless other measures that could increasingly fall within reach as capacity expands.

While governments can stimulate change through fiscal incentives or education campaigns, many stakeholders, such as community interest groups or religious organisations, also have opportunities to foster resilience and rural renewal in the face of climate change. A more vibrant rural economy would additionally enable greater dividends to be reaped from seasonal and permanent migration by increasing the probability that exchanges of skills, business links and remittances are of real local benefit. In these ways, migration can form part of an adaptation strategy rather than simply be a last resort.

Conclusion

The United Nations Development Programme (UNDP) has made resilience to climate change and natural disasters central to its 2014-17 Strategic Plan and the World Bank is placing growing emphasis on climate change adaptation and mitigation. UNDP has also been centrally involved in efforts

to provide development solutions to today's increasingly protracted displacement challenges through initiatives such as the Solutions Alliance and Syria's Regional Refugee and Resilience Plan (3RP).³

The countries and communities most vulnerable to climate change do however face a major challenge in overcoming the propensity to rural decline and migratory pressure as climate and environmental change continues apace. Understanding the evolving nature of climate-related displacement will require thinking in terms of development, with the effectiveness of development responses central to reaching durable solutions for these challenges.

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1. See FMR 34 'Adapting to urban displacement' www.fmreview.org/urban-displacement

2. See Warner *et al* article pp8-9.

3. www.3rpsyriacrisis.org and www.solutionsalliance.org
Note that FMR issue 51 will cover this subject: see www.fmreview.org/solutions

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Developing temporary protection in Africa

Tamara Wood

Formalised temporary protection arrangements in Africa could significantly improve access to territory and human rights for people displaced across borders by disasters. Such arrangements must adhere to states' existing protection obligations.

Some people displaced across borders by disasters and the effects of climate change in Africa will be eligible for protection as refugees, either under the 1951 Refugee Convention or under the 1969 African Refugee Convention. However, existing legal and policy frameworks in Africa are inadequate to ensure that all disaster-displaced persons, including those displaced by drought, flooding, volcanoes and desertification, will be able to secure protection outside their country of origin. The Nansen Initiative's May 2014 Horn of Africa Regional Consultation concluded that African states should therefore consider "the development and use of temporary protection measures in disaster contexts where cross-border displaced people are not recognised under the [1969 African] Refugee Convention but are still in need of international protection and assistance".¹

The provision of temporary refuge to neighbours in distress, including in the disaster context, has a strong tradition in Africa. In 2002, those fleeing the eruption of Mount Nyiragongo in the Democratic Republic of Congo were permitted to stay in Uganda until it was safe to return, despite not being granted refugee status. Botswana and Tanzania have also admitted people fleeing flooding in neighbouring states. However, such arrangements have generally been ad hoc and informal, with those displaced across borders relying on the goodwill of host communities and non-governmental organisations for their safety and survival.

According to the United Nations High Commissioner for Refugees' new *Guidelines on Temporary Protection or Stay Arrangements*, temporary protection is a "pragmatic tool" for "offering sanctuary to those fleeing humanitarian crises".² In practice, however,

temporary protection arrangements have sometimes been criticised for their discretionary and ad hoc nature, and for being used by states to circumvent their more comprehensive protection obligations under international refugee and human rights law.

Building on what exists

Against this background, the Nansen Initiative's Horn of Africa Regional Consultation recommended that temporary protection measures in Africa "build upon existing laws, policies and practices in the region". Such an approach would not only promote temporary protection among African states; it would also help to ensure that any such measures are consistent with states' existing protection obligations, under international and regional instruments, as well as customary law.

African states have already expressed their commitment to addressing disaster-related displacement. The Migration Policy Framework for Africa, adopted by Member States of the African Union (AU) in 2006, recognises disasters and other environmental factors as major sources of displacement and recommends that this fact be addressed through national and regional migration policies. The AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (known as the Kampala Convention), although it does not address cross-border displacement, articulates states' recognition of the protection needs of disaster-displaced persons by including in its definition of IDPs persons who have been forced to flee their homes as a result of, or in order to avoid the effects of, "natural or human-made disasters".³

For temporary protection to promote, rather than undermine, protection in the region

it must, as a minimum, be consistent with African states' existing obligations under international and regional law. Existing regional law and policy frameworks could also provide a useful basis for the negotiation and development of temporary protection in Africa, by articulating principles that have already been agreed on by states and which could be extended to disaster-displaced persons.

At a minimum, the development of temporary protection measures in Africa must respect states' *non-refoulement* obligations under international and regional human rights instruments, according to which states are prohibited from returning persons to territories where they are at risk of certain kinds of harm. This prohibition may encompass conditions in some disaster-affected areas, in situations where the harm faced by those returning is imminent and particularly serious.

In addition, the widespread practice of African states in providing temporary refuge to disaster-affected populations from neighbouring states may suggest the development of a regional customary norm of protection, although in general the practice of providing temporary refuge in these circumstances has been explained by African states with reference to principles of African hospitality and good neighbourliness, rather than legal obligation.

States Party to the 1981 African Charter on Human and Peoples' Rights (the Banjul Charter) must assure a range of rights – including the right to life and integrity of the person, freedom of movement within the state, right to leave and return to one's country, and rights to property and to physical and mental health – for every person within their territory, including non-nationals. Significantly, and in contrast to most international human rights instruments, the African Charter does not contain a derogation clause, meaning that limitations on the rights provided by the Charter cannot be justified by emergencies or other special circumstances. In order

for temporary protection measures to conform to states' human rights obligations they must guarantee these rights for beneficiaries of temporary protection.

Refugee protection

As noted above, at least some people displaced by disasters and the negative effects of climate change will be eligible for protection under international and regional refugee law. The Nansen Initiative's Horn of Africa Regional Consultation's concluding document recognises the potential applicability of the 1969 Convention – in particular, the phrase "events seriously disturbing public order" – to disaster situations, at least in cases where the protection and assistance available to affected communities are hampered by conflict. This was the case in 2011, when tens of thousands of people fleeing drought and famine in southern Somalia were granted *prima facie* refugee status in Kenya.

Refugee protection is itself 'temporary', in the sense that it does not entail a right to permanent residence and its duration is circumscribed by cessation clauses which provide an end to refugee status when conditions in one's country of origin change. However, as long as a person remains a refugee within the terms of refugee law they are entitled to the comprehensive set of rights provided for under international and regional refugee regimes. The development of temporary protection measures in Africa must not undermine, nor circumscribe, the provision of refugee-specific rights to those persons who qualify for refugee status.

Freedom of movement arrangements

Finally, the development of temporary protection measures in Africa could build upon existing frameworks for the free movement of people between countries in the region. The Horn of Africa Regional Consultation recommended, for example, that freedom of movement arrangements currently being developed in Africa's sub-regional economic communities, such as the EAC and Intergovernmental Authority for Development (IGAD), could be applied

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in a way which facilitates the admission of displaced persons during a disaster.

It is important to note, however, that freedom of movement arrangements are not protection-oriented; rather, they are designed to promote regional development and facilitate the movement of labour between countries. As such, they do not address the particular needs of displaced persons – indeed they may be suspended in times of emergency, such as a disaster, and their operation depends on individuals being able to access identity documents and secure employment. Nevertheless, the relaxation of entry requirements between African states could facilitate ease of movement for those affected, or likely to be affected, by disasters and climate change. For example, in February 2014 the governments of Kenya, Uganda and Rwanda signed an agreement to allow citizens to travel between the three countries using national identity cards. At the practical level, arrangements such as these could be used to assist in the admission and management of displaced persons under a temporary protection regime.

The development of formalised temporary protection measures in Africa for people displaced in the context of disasters and climate change could thus significantly improve access to protection for those who are forced to flee across borders. By removing such protection from the realm of ad hoc and informal arrangements, a temporary protection regime could provide more guaranteed access to territory and human rights, and promote the more consistent reception and treatment of disaster-displaced populations outside their countries of origin. In order to do so, however, temporary protection must uphold African states' existing protection obligations under regional refugee protection and other human rights instruments.

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1. <http://tinyurl.com/NansenInitiativeHornConclusion>
2. www.refworld.org/docid/52fba2404.html
3. <http://tinyurl.com/KampalaConventionAU>

Climate effects on nomadic pastoralist societies

Dawn Chatty and Troy Sternberg

Oman and Mongolia reflect the modern climatic and social challenges to mobile pastoral livelihoods.

Nomadic or mobile pastoralism has long been a sustainable livelihood in a diverse range of countries because of herders' ability to move and manage risk in marginal landscapes where domesticated animals efficiently convert limited ecological productivity into sustenance. However, today pastoralism is being seriously affected by new environmental and social forces exemplified by climate change and government policy restricting movement and other practices.

In Oman and Mongolia, the governments encourage settlement or provide only limited support for customary mobile lifestyles

whilst favouring extractive industries for tax revenue. At the same time, climate change is affecting pasture quality and water resources and disrupts the rural landscape. Furthermore, mining and large-scale resource extraction competes for, and reconfigures, the land that pastoralists inhabit. This has the effect of changing land use, just as the ability to make a living from animals is being affected by increasing drought, extreme cold, storms and reduced availability of vegetation for livestock herding.

Changing climates have a significant influence on pastoralists who pursue

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A caravan of camels transporting the dismantled tents of Mongolian nomads to a new location in Northern Mongolia.

environmentally dependent livelihoods. In harsh hot or cold landscapes the ability to obtain adequate fodder to fatten animals is the endemic challenge. Shifts in weather patterns, seasonality of precipitation and recharge of sub-surface water sources are vital to the viability of herding.

In Oman, a 0.6°C annual temperature increase and a 21% decrease in precipitation from 1990 to 2008 have intensified water scarcity and increased evapotranspiration in the pastoral interior of the country, resulting in catastrophic storm episodes and reduced ecological productivity. Infrastructure related to extractive industry has also restricted movement and access to water. Mongolia meanwhile has experienced a 2°C warming trend since 1940, recurrent drought, changes in precipitation and in seasonality and reduced water sources. The detrimental impact of a changing climate manifests in the resultant rural poverty and out-migration to cities.

Years go by with rainfall in one region and not in a neighbouring one. With little

and highly variable rainfall large areas are needed to support a relatively small herding population. It is inevitable then that most areas will be seldom used because of local drought. The oil extractive industry in Oman operates largely in these same hyper-arid deserts resulting in serious challenges to the resilience of pastoralism and creating substantial vulnerability among these social groups. In Oman and in Mongolia too what might seem to a non-pastoralist an unused site is nevertheless an important part of the overall pastoral economy and land tenure systems.

Whilst in Mongolia pastoral production rather than wage labour remains the major source of income, in Oman wage labour now contributes more to household income than the sale of animals or animal products but the vast majority of that income is channelled in support of their livestock. In Mongolia, policy to encourage mining often disadvantages pastoralists, resulting in reduced access to pasture, rights and empowerment. The ongoing struggle to craft equitable mining laws, benefit the population and both preserve

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social custom and create new resource streams has proved elusive. In Oman, the role of labour and the long legacy of employment discrimination against herders has bred cynicism about extractive operations. These factors increase vulnerability to climate dynamics and resulting social change.

When customary physical and social systems are affected by climate or governance, herders can become 'environmental migrants', forced to migrate away from home territories, a process that often necessitates leaving pastoralism altogether. In the past this displacement might have resulted in cross-border movement. Today fixed frontiers, fences and politics restrict migration to within nation states. This

often channels herders to towns and cities where pastoral skills have limited value.

Thus climate change becomes a threat-multiplier for pastoralists who have reduced resilience to adapt, particularly financially, to climate threats. This centres on drought in Oman and extreme cold in Mongolia (often in combination with drought).

In both regions these factors instigate out-migration to towns and cities with devastating implications for pastoralists.

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Guidance for 'managed' relocation

Brent Doberstein and Anne Tadgell

While the potential for climate change-related displacement has been recognised for over 20 years, the international community has been slow to develop climate change-specific instruments to guide the relocation process beyond those that relate to displacement generally.

Planned or managed relocation is increasingly being seen as a logical and legitimate climate change adaptation strategy. Although climate change-related migration can occur on a scale ranging from intercontinental to local, the majority of climate change-related movements have been, and are expected to be, within a country or even local in scale. This article looks at some of the existing guidelines, principles and statements of best practice for local and urban managed retreat as a deliberate climate change adaptation strategy for developing country cities.

Careful attention must be paid in the managed relocation process so as to not accentuate some vulnerabilities while reducing others. For example, climate change-related retreat might reduce physical vulnerability to hazard through reduced exposure, while simultaneously increasing social and

economic vulnerability through reductions in social capital and/or livelihood opportunities.

The literature on climate change-related relocation divides the concept into realignment and resettlement. Realignment is mostly practised in developed nations, and involves shifting communities away from climate change-threatened areas and restricting development in these risk areas. In less developed nations, the process is often referred to as relocation or resettlement, which is the facilitated movement of populations from an area of high environmental risk to another of lower risk. Resettlement is not a new concept, and has been used in the past for political purposes, conflict avoidance, development projects and disaster risk reduction. Although useful guidance about how best to carry out resettlement exists in these bodies of literature, it is still worth

developing climate change-specific guidance, particularly at the individual country level.

Five guidance documents

There are numerous documents which offer useful guidance for climate change-related resettlement despite not having been drafted specifically for that purpose. Due to the significant variation in vulnerability reduction approaches promoted by such documents we suggest that the climate change-specific documents below are the most appropriate source of guidance for climate change-related resettlement projects and programmes.

The Nansen Principles (2011) are designed to “guide actions to prevent or manage displacement, and protect displaced people in the face of climate change”.¹ The Principles are very general, and so provide somewhat limited on-the-ground guidance, yet are nonetheless useful starting points. For example, participation and partnership with potentially resettled communities is seen to be an important foundation of resettlement actions. Furthermore, close attention to economic vulnerability must be paid in resettlement actions, to ensure that livelihoods of resettled residents are maintained, or ideally enhanced, by the resettlement process. The Principles also promote the creation of country-specific climate change resettlement legislation, policies and institutions.

Populations at risk of disaster: a resettlement guide (2011) is focused on resettlement due to natural disasters.² However, it is framed within the context of a changing climate, which “is likely to exacerbate” natural hazard risks for some communities, and the understanding that these increased risks will translate into increased need for resettlement. As such, much of the guidance provided in this document is also guidance for climate change resettlement. The document promotes a comprehensive approach (i.e. physical, economic, social, ecological and political vulnerability reduction) to resettlement. Post-resettlement, the guide

suggests social and economic conditions of relocated persons must be re-established or enhanced, social networks rebuilt, and the vacated land modified physically or legally to ensure that new residents do not settle there and thus re-create conditions of risk.

Protection and Planned Relocations in the Context of Climate Change (2012) was commissioned by the United Nations High Commissioner for Refugees (UNHCR) and written under the auspices of the Brookings-LSE Project on Internal Displacement.³ The paper uses lessons learned in development-forced displacement and resettlement as a point of departure for the creation of 22 “preliminary understandings for upholding the rights of communities who are or will be relocated as a result of climate change” which collectively promote comprehensive vulnerability reduction through resettlement. Examples of ideas promoted in this paper include: preserving existing social and cultural institutions, promoting livelihoods and economic prosperity in resettled communities, using participatory planning processes, developing monitoring mechanisms and grievance procedures, and ensuring that resettlement sites are environmentally healthy and robust in the face of climate change.

The Peninsula Principles on Climate Displacement Within States (2013) were developed through a consultative process organised by the NGO Displacement Solutions and involving lawyers, jurists, law professors and UNHCR, UN University and non-governmental organisation staff.⁴ The Peninsula Principles are arguably the clearest example to date of guidance which promotes comprehensive vulnerability reduction through climate change resettlement. They suggest that the resettlement process should preserve existing social and cultural institutions, ensure the resettlement site is not also at risk of climate change-related hazards, maintain or enhance housing and land tenure for resettled residents, provide compensation for lost assets, maintain or strengthen

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Informal settlements located alongside Pasig River, Manila, are extremely vulnerable to climate change-related flooding.

livelihoods, and strengthen capacities at multiple levels to deal with resettlement.

Planned Relocations, Disasters and Climate Change was a background paper for a March 2014 UNHCR-Brookings-Georgetown consultation designed to support the Nansen Initiative.⁵ Although the document's main focus is on cross-border resettlement, many of the document's suggestions are also relevant to local resettlement. Rather than offering specific guidelines for climate change resettlement, it refers to the large and well-established body of available guidance from the development-, disaster- and conflict-induced resettlement literature, and then references some of the emerging climate change resettlement guidance.

There remains, however, much work to be done to make climate change resettlement guidance available to national and city-level officials in developing countries. In particular, country-specific climate change resettlement instruments which incorporate a multi-dimensional vulnerability reduction perspective should be developed or adapted to reflect the vulnerability of each country's context, and perhaps even further contextualised for use in specific urban settings.

Conditions attached to climate change adaptation funding, from sources such as the Adaptation Fund and Green Climate Fund, will undoubtedly require well-structured climate change adaptation plans. Since resettlement is likely to play a part in these plans, efforts taken now to develop a range of guidance will help developing countries qualify for the funding needed to adapt to climate change over the coming decades.

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1. <http://tinyurl.com/NMFA-NansenPrinciples>
2. www.gfdrr.org/sites/gfdrr.org/files/publication/resettlement_guide_150.pdf
3. www.refworld.org/docid/5023774e2.html
4. <http://displacementsolutions.org/ds-initiatives/the-peninsula-principles>. See also Leckie and Simperingham article p34-5.
5. www.unhcr.org/53c4d6f99.pdf

Preparing for planned relocation

Governments will increasingly need to consider relocating communities in order to protect them from the adverse effects of climate change, exercising the state's duty to move populations out of harm's way in the face of foreseeable hazards. Planning for relocation is essential and requires the creation of an enabling environment, including a legal basis for undertaking planned relocation, capacity building and a whole-of-government approach. It involves risk assessments and consultation with, and the active participation of, affected communities – those to be relocated, those left behind and host communities. Focusing on the human dimensions includes systematic efforts to allow people to maintain their identity, ties, and connections to land and traditional ways of life.

Relocating communities is a complex and difficult undertaking and there is a need for cross-pollination of expertise, ideas and action among a variety of experts and institutions, including development, humanitarian assistance, human rights, disaster risk management, environment and climate change, and

urban and regional planning. Lessons, experience and existing guidance from existing guidelines and experiences in other contexts could usefully be extrapolated to planned relocation in the context of disasters and climate change. Especially needed now are practical tools and action plans to assist national and local authorities and those who support them in undertaking planned relocation.

Finally, independent, short- and long-term, quantitative and qualitative monitoring and evaluation systems should be created to assess the impacts and outcomes of planned relocation, and mechanisms should be established to ensure accountability and to provide remedies to affected populations.

For preliminary guidance and further information, see *Planned Relocation, Disasters and Climate Change: Consolidating Good Practices and Preparing for the Future*, report from expert consultation in Sanremo, Italy, 12-14 March 2014 www.unhcr.org/54082cc69.html

Lessons from planned relocation and resettlement in the past

Jane McAdam

Placing contemporary deliberations about relocation within a longer historical and intellectual framework reveals unexpected connections and salutary lessons.

Planned relocation¹ has recently gained prominence as a strategy to reduce vulnerable communities' exposure to the impacts of climate change and disasters. Among scholars and policymakers, there have been two widespread assumptions about historical relocations of communities: first, that they have occurred almost exclusively within countries, not across international borders; and secondly, that most have resulted from large-scale development projects. Indeed, the only comparable examples of cross-border relocation in this context are three historical cases from the Pacific from the mid-20th century, thought to be isolated instances. These were the relocation of the Banabans from present-day Kiribati to Fiji in 1945; the partial relocation of the

Vaitupuans from present-day Tuvalu to Fiji, beginning in 1947; and the relocation of Gilbertese to Gizo and Wagina in the Solomon Islands between 1955 and 1964.²

But from the late 18th century to the mid-20th century, population redistribution was regarded as a legitimate means of addressing problems of overcrowding, resource scarcity and, in turn, conflict.³ Relocation was understood both as a pre-emptive solution to anticipated overpopulation and resource scarcity, and as an answer to existing displacement. Throughout this period, scholars and statesmen alike were busy concocting schemes to address concerns about global population. Many genuinely believed that migration, population

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transfers and colonisation (also described as ‘migration for settlement’) could redistribute the world’s people from densely populated regions to low-density or ‘empty’ areas.

For instance, at the 1927 World Population Conference, population growth was posited as the most important problem confronting the world. In 1937, the International Institute of Intellectual Cooperation brought together 150 scholars at its Peaceful Change conference to examine the idea of ‘international de-crowding’. In February 1938, the International Labour Office (ILO) held a conference on the ‘Organisation of Migration for Settlement’.

At the infamous Evian refugee conference of July 1938, US President Roosevelt sought not only immediate solutions for those already displaced in Europe but also long-term plans to address future overcrowding. He argued that land was needed for new settlements of 50,000 to 100,000 people, and for some 10 to 20 million people altogether. In 1942 Roosevelt created a covert research initiative, the ‘M Project’ (‘M’ for migration), appointing a small team of experts to study

possible resettlement sites across the world. At the project’s conclusion in November 1945, they had compiled over 660 land studies, spanning 96 volumes. Argentina, Brazil, Bolivia, Venezuela, Australia’s Northern Territory, Canada and Manchuria were identified as the best prospects for settlement.

But not everyone shared the President’s zeal for resettlement. Even if land could be found, resettlement would be neither an easy nor a rapid process. Population experts noted impediments, such as its high costs, incompatible skill sets (merchants and professionals moving to rural areas, for instance), inadequate transportation facilities, concerns about adaptability to tropical climates, questions about disease, and states’ disinclination to accept groups large enough to resist absorption. Attention also had to be given to legal requirements for admission and stay, local attitudes towards the newcomers, and the adaptability of the settlers themselves (including their willingness to accept, for a time, standards of living below those of the home country).



A monument on Rabi Island (Fiji) showing a map of Banaba (Kiribati), the home island of the Banabans who relocated to Fiji in 1945.

These factors help to explain why – despite powerful political champions and elaborate theoretical proposals – the reality of large-scale cross-border resettlement was far more limited than the visions. Proposed resettlement schemes in Alaska, the Philippines, Africa and Latin America either failed to materialise or in the end involved only very small numbers. In addition, political brinkmanship between Britain and the US meant that both seemed enthusiastic when the projected resettlement area was in the sphere of the other nation, but were reluctant to commit resources or amend domestic immigration law to translate ideas into concrete plans.

Familiar factors

There are important precedents showing the many considerations to be taken into account in any proposed move. For instance, the ILO's 1938 conference compiled a long list of practical and legal issues requiring consideration before any movement was contemplated.⁴ Arguably, similar problems impede action today to address mobility relating to the impact of climate change and disasters. Contemporary discussions about planned relocation echo deliberations a century earlier: concerns about the carrying capacity of land, resource scarcity and potential conflict. There are concerns in common about whether the benefits of movement outweigh its significant psychological and practical challenges. And governments now, as in the past, commonly cite the need for more research before they can take concrete steps, despite a plethora of empirical evidence. While some knowledge gaps remain, there are already many clear priorities for policy development.

There are also familiar methodological debates about how to identify who may need to move, and over what timeframe. Now, as in the 1920s, there are concerns that determining the on-going habitability of land solely based on population size and projected hazards is too crude. Then, the concern was that this failed to take into account the mitigating impact of technological or agricultural advances. Today,

the concern is that such projections overlook people's adaptive capacity and resilience, in addition to possible technical developments.

Finally, contemporary concerns about 'climate justice' evoke early 20th century ideas about entitlement to territory. In the 1920s and 1930s some thinkers suggested that countries should cede their territory to people who needed land (and food) if their own citizens were not cultivating it. Why should growing populations not benefit, they argued, as other countries had previously done by acquiring their land and wealth when the world was open to colonisation? Today, some argue that countries with the highest greenhouse gas emissions should be obliged to compensate those most affected by anthropogenic climate change, which are typically countries that have contributed the least to global warming.

Looking at relocation through a historical lens, there is much we can learn – substantively, procedurally and conceptually. The history of relocation is characterised by a gulf between grand theoretical visions on the one hand and the challenges of practical implementation on the other. The political and practical obstacles that stood in the way of relocation in the past still remain today, and those experiences reinforce the findings of modern scholarship that resettlement is a fraught and complex undertaking, and rarely considered successful by those who move.

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1. This article uses the terms 'relocation' and 'resettlement' interchangeably, drawing on the language of the historical periods being examined.
2. See McAdam J (2014) 'Historical Cross-Border Relocations in the Pacific: Lessons for Planned Relocations in the Context of Climate Change', *Journal of Pacific History* 49, 301.
3. See McAdam J (2015) 'Relocation and Resettlement from Colonisation to Climate Change: The Perennial Solution to "Danger Zones"', *London Review of International Law* 3, 93.
4. See International Labour Office (1938) 'The Organisation of Migration for Settlement', *International Labour Review* 37, 561 <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-8292.1938.tb00554.x/pdf>.

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Post-disaster resettlement in urban Bolivia

Gemma Sou

Post-disaster resettlement programmes can be unsuitable and ineffective, often exacerbating the vulnerability of people to the effects of climate change.

Following climate-related disasters in cities of the Global South, resettlement is often the ‘intervention of choice’ for urban authorities. However, research in Cochabamba reveals several reasons why resettlement programmes can be ineffective at encouraging people to migrate and how these programmes can leave people living in uncomfortable and precarious living conditions which increase their vulnerability.

In 2008 a landslide severely affected 85 households in a densely populated and low-income community of Cochabamba city. Many residents commented that this was heavily linked to increased rainfall, which many – regardless of age, gender, ethnicity, religion or occupation – believed to be linked to climate change. Climate change is part of the lexicon not only of professionals but also of ordinary people in Bolivia, not altogether surprising given that the Bolivia is one of the countries most affected by climate change.

After the landslide, the municipality of Cochabamba created a risk map of the area that indicated ‘high-risk’ and ‘low-risk’ zones. Problematically, this map framed landslides as natural phenomena, obscuring any political or social questions about why this population is more vulnerable to the effects of climate change, and ultimately implied that ‘escape’ from the area was the only viable solution.

The risk map was distributed to residents as a tool to encourage people living in ‘high-risk’ zones to resettle in a rural area 35km away. US\$5,000 was offered to each house-owner as an incentive (US\$320 being

the average monthly household income) and residents were told that no support would be given to rebuild their house, that they may not sell their house, nor reconstruct it above one storey in height.

Many households refused the US\$5,000 and did not relocate. The fundamental reason why the resettlement programme was largely ineffective is because it was informed by an assumption that there is a direct causal relationship between risk information, risk perceptions and responses. However, this is a caricature of human behaviour that does not account for the social, economic, political and cultural processes that may encourage people to live in a ‘risky’ area.

Perceived benefits of living with risk

People are often willing to live in ‘risky’ urban areas if there are greater income-earning opportunities and access to services, and food is often less expensive. However, investigations in Cochabamba also show that ‘place attachment’ – which relates to an individual’s sense of identity and belonging – heavily discourages people from relocating.



Post-landslide risk map of the Cochabamba area.



Walls propped up, post-landslide, Cochabamba.

"I made this house, how could I sell it? ...My mother does not want to sell either because of the memories, because we grew up here, they brought us up here, they don't want to move." (Resident)

"I like this house, I like that I grew up since being a little girl here. Lots of adventures have happened here, lots of things here, so I have a good memory of this house." (Resident)

Problematically, however, the effectiveness of resettlement programmes is not always determined by people making cost-benefit analyses about leaving or staying. Some residents wanted to leave but were unable to because of the negative impacts of the resettlement programme, which reduces their ability to move away from the area.

Trapped in limbo

Residents living in the 'high-risk' zones did not want to resettle because they would

lose significant investments that they had made in their house. Furthermore, the \$5,000 that was offered by the municipality was significantly less than their house and land were worth.

Three years after the landslide, residents who refused to resettle have done little more than prop up their walls and roofs with wooden poles and/or cover up the damage with sheeting. People perceive reconstruction as futile because they believe landslides will happen again and that no amount of reconstruction can prevent damage.

"Why invest when it could happen again, and it probably will. It's the red zone here. It's a pointless investment ... We were thinking about selling [the house], but they will not let us sell either..." (Resident)

Accordingly, residents often remain living in uncomfortable and precarious living conditions, which increases their vulnerability to the effects of climate change and puts them at greater risk of future disasters.

The problem lies in a reductive understanding of human behaviour that underpins the resettlement programme. It does not account for the many reasons why people choose to live in 'risky' areas, nor does it account for the indirect and detrimental effects that resettlement can have on people who choose to stay put. Any post-disaster intervention would benefit from a better understanding of the many things that people value so that these can be incorporated, rather than treated as largely irrelevant or obstructive.

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Focusing on climate-related internal displacement

Scott Leckie and Ezekiel Simperingham

Global attention should place a primary focus on the application of best practice and the development of innovative initiatives to solve climate-related internal displacement, rather than on grappling with the far rarer movements of people across borders.

States and communities already facing climate-related displacement within their borders need massive increases in technical and financial expertise and support to develop solutions to this new challenge. Experience shows that the majority of such displacement will not be about individual migration decisions but about risks faced by entire communities. Experience also shows that communities almost always want to stay but, if necessary, they want to move together and want safer land with adequate socio-economic support, including schools, hospitals and livelihoods.

Perhaps the reason that insufficient attention is given to these issues is simply that the relocation of communities is conceptually and practically more challenging than focusing on individual migration decisions. In cases of community relocation there is a need for genuine community consultation, a need for effective selection and preparation of relocation sites and ongoing support at the point of relocation. These are all seen as challenging and time-consuming processes.

There is also an apparent unwillingness or inability to accept that displacement events happening now are already linked to climate change, perhaps because of the perceived difficulty in determining a precise causal link between climate change and an individual's displacement, the 'causation conundrum'.

Donors and others who care about climate displacement can play a key role in developing and implementing innovative solutions, through political, financial and technical assistance, and support that is designed to resolve such displacement in the best possible manner. This includes the imperative to focus attention on the planned relocation of communities away from areas of high vulnerability, with communities guiding the process from the outset. Ensuring that climate-displaced persons within states receive adequate support will require a shift that is overdue in the mindset of the international community.

The Peninsula Principles on Climate Displacement within States (agreed August 2013) provide a useful normative and practical framework to achieve this change and deliver this support.¹ They provide a



Filling sandbags at Bonriki on the island of Tarawa, Kiribati.

consolidated rights-based framework for preparing for and responding to climate-related displacement within states, including measures of disaster risk reduction and community-level adaptation, the planned relocation of communities, measures to be undertaken during the emergency humanitarian phase of displacement and, finally, the implementation of rights-based durable solutions. The Principles are grounded in binding international legal standards, customary law, and best practice and experience from across the globe.

Individual governments and the international community still have a long way to go towards ensuring that the rights of every climate-displaced person – particularly those rights most at threat, such as livelihoods

and housing, land and property rights – are respected, protected and fulfilled. States should not just prevent violations of the rights of climate-displaced persons but also take proactive measures to create comprehensive institutional frameworks (with specialised laws, policies, institutions and programmes) to help states prepare adequately for climate displacement and respond effectively when displacement occurs.

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1. <http://displacementsolutions.org/ds-initiatives/the-peninsula-principles>. A further volume, *Repairing domestic climate displacement: the Peninsula Principles*, containing a legal commentary on the Peninsula Principles, will be published by Routledge in 2015.

Brazil's draft migration law

Isabela Piacentini de Andrade

Brazil is developing a long-term solution for filling a legislative gap affecting environmental migrants.

Confronted with an increasing number of Haitian migrants after the 2010 earthquake,¹ Brazilian legislation was not adequate to deal with this new category of migrants properly. In the understanding of the Brazilian authorities, the Haitian migrants did not fall within the definition of a refugee as their reasons for migrating were environmental disasters and instability. As a result, Brazil had no legal grounds to accept them as refugees.

The legal issue was temporarily solved by the promulgation of Normative Resolution 97 – exceptional legislation limited in time and in scope, granting visas to Haitian nationals for a period of five years on humanitarian grounds. These grounds are expressly “those resulting from the aggravation of the living conditions of the Haitian population as a result of the January 12th, 2010 Haitian earthquake”. The Resolution was to remain in force for two years only and the visas were to be granted to no more than 1,200 people

per year. However, subsequent Normative Resolutions in 2013 and 2014 removed the limit on the granting of visas and Resolution 97 will now remain in force until 30 October 2015.

Nonetheless, Brazil’s humanitarian visa is not a long-term solution to this widespread problem, given that its application is restricted to the disaster in Haiti and its people, and it does not meet the need of other countries and other people who are facing similar concerns. A durable and comprehensive solution would require a reform of the present Foreigner’s Statute.

In order to update this law and meet contemporary demands, the Ministry of Justice created a committee of experts whose purpose was to present a proposal for a draft law on migration and promotion of migrants’ rights in Brazil. The proposal was discussed for about a year by academics, experts and representatives of government

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agencies and civil society organisations. The Draft establishes general principles that guide migration policy as a whole, such as the respect of human rights, repudiation of xenophobia and social discrimination, non-criminalisation of immigrants, equal treatment between aliens and nationals, and the development of public policies for the inclusion of migrants in the labour market.

More importantly, the Draft has provisions² allowing for the granting of temporary visas for humanitarian purposes, including in cases involving nationals of any country or stateless persons facing internal conflicts, crisis, calamities or serious and generalised human rights violations recognised as such by the Brazilian government. By admitting calamities as one of the reasons for humanitarian visas, the Draft indirectly establishes the category of environmental migrants, innovating and filling a considerable gap not only in domestic law but also in international law. The temporary visa for humanitarian purposes set out in the Draft can also be granted to unaccompanied immigrant minors and for family reunification purposes. The wording seems broad enough to enable any victim of large-scale environmental

disasters to qualify for a humanitarian visa, regardless of their country of origin.

Despite being a local initiative, the Draft follows a regional trend. In December 2014 Brazil hosted the Cartagena +30 meeting to celebrate the 30th anniversary of the Cartagena Declaration on Refugees of 1984.³ The Brazil Declaration and Plan of Action adopted by that meeting expressly refers to climate-induced migration as a concern; approval of the Brazilian Draft would contribute to addressing this concern while filling a legislative gap affecting environmental migrants worldwide.

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1. See also www.fmreview.org/fragilestates/ponthieu-derderian
2. Articles 33 and 44.
3. See Maldonado Castillo article pp89-91.

Disasters, displacement and a new framework in the Americas

David James Cantor

There is a startling range of positive examples of national law, policy and practice all across the Americas that states have used to respond to the migratory consequences of disasters.

In the Americas, as elsewhere in the world, neither universal nor regional standards presently exist to determine whether migrants or displaced persons affected by a disaster in their country are eligible for travel or admission to, or stay in, the territory of another state.

There are two types of population movement from countries in the Americas affected by rapid-onset disasters. Firstly,

there are hasty and often temporary migrations across a land border to avoid a disaster or its more immediate negative consequences ('trans-border displacement'). Secondly, there are longer-term migrations over a greater distance provoked by a disaster's extensive damage including to infrastructure ('displacement abroad'). Both flows tend to take place from poorer countries in the region and follow traditional migration routes for that nationality.

A study on the Americas about the seemingly intractable problem of developing appropriate legal responses to cross-border displacement in the context of disasters caused by natural hazards was conducted for a Nansen Initiative-sponsored workshop in February 2015, attended by representatives from the eleven member states of the Regional Conference on Migration (RCM).¹

The Nansen Initiative study does not seek to infer an applicable legal framework from existing international law but rather is a pragmatic review of national laws, policies and practices from across the Americas in order to assess how they actually deal with the protection and assistance needs of disaster-affected displaced persons at present, or would do if faced with an alien (a foreign national) in this situation. Moreover, the study does not limit the inquiry to human rights or refugee protection law only but considers them alongside the broader range of national immigration laws of each country.

Immigration law as the principal tool

It is evident that most states in the region view immigration law (rather than refugee law) as the principal tool for responding to the situation of aliens affected by disasters. Such situations may arise with people who are fleeing a disaster in their own country and seek permission to travel to, enter or stay in another country. Equally, a disaster overseas may affect non-nationals present on the territory of a third state by affecting their migratory situation or rendering their removal unsafe. Finally, aliens face particular vulnerabilities in the event of a disaster occurring in the country in which they are present.

In many cases, states in the Americas facilitate the travel, entry and/or stay of aliens in their territories through the application of regular migration categories, in order that the affected persons may benefit from as stable a migratory status as possible. For example, expedited consideration of immigration applications may take place or a requirement of the immigration rules (e.g. relating to

stay as a student or as a family member) may be waived on humanitarian grounds for persons affected by a disaster overseas.

For those persons affected by a disaster and whose migratory situation cannot be resolved easily by application of the regular migration categories, many states in the region do make recourse to exceptional migratory categories in their national law in order to allow travel, entry or stay. These categories tend to confer a more precarious and temporary form of stay than the regular categories do, and permission is often required in order to be able to work. Even so, they play a useful role in responding to the immediate aftermath of a disaster.

In these contexts, the grant of permission to travel, enter or stay in the country is usually based on some form of decision-making discretion that a state official exercises on humanitarian grounds. Often the law confers this power in broad, non-specific terms. However, in a number of countries in the Americas, national law and/or policy expressly mentions disasters as a basis on which this discretion should normally be positively exercised.

In this regard, state officials across the Americas are calling to be provided with clearer guidance on when this humanitarian discretion in migration law should be exercised positively for the disaster migrant's benefit. In response, the participants at the RCM workshop recommended developing a Guide to Effective Practices on Admission and Stay for Moving across Borders in the Context of Disasters (Effective Practices Guide, in short). Building on regional practices, such a guide could be based on the principle that humanitarian discretion should usually be exercised positively where an alien is personally and seriously affected by the disaster overseas.

However, there is a range of situations in which the negative exercise of this humanitarian discretion should be exercised within strictly defined limits. For disaster migrants, this is most often the case in

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relation to admission and non-removal decisions. Thus, for example, where the effect of the negative decision would be to expose a migrant to a real risk to life or personal safety due to the disaster or its consequences, then the negative exercise of discretion would be contrary to binding human rights rules. Here, the discretion must rather than should be exercised positively.

The migratory impact of disasters may manifest itself not only for migrants from the affected country but also for migrants living in a disaster-affected country (e.g. Central American migrants in the United States at the time of Hurricane Katrina). An Effective Practices Guide could thus build on existing practice in the Americas to make targeted recommendations about the ways in which these migrants should be afforded special consideration during relief efforts. This challenge is particularly acute for undocumented or irregular migrants, especially if they are in transit to another destination.

The role of refugee law

On the question of protection under refugee law for disaster migrants, states in the Americas do not generally view a disaster caused by natural hazards as in itself a ground for refugee status. Cuba is presently the only exception to this in that its national migration legislation includes among refugees those who flee their country “due to cataclysm or other phenomena of nature”.

Even so, it is recognised across the Americas that the destruction wrought by disasters can generate risks of persecution and/or interrupt national protection in the affected state, as happened in Haiti after the 2010 earthquake. An Effective Practices Guide could suggest that questions of entry, non-removal and stay for some disaster migrants may be resolved by reference to refugee law and national laws of complementary protection.

Role of regional cooperation

Regional and sub-regional bodies in the Americas play a role in promoting the

adoption of special migratory measures on humanitarian grounds by their member states; where such practices already exist, they have been encouraged or endorsed. Drawing on this, an Effective Practices Guide might include a series of proposals as to how the RCM can be used by member states to develop a more coordinated and cooperative legal approach when the migratory consequences of a disaster have a severe impact on one or more RCM states.

Adoption of such a guide by the RCM later this year would position the organisation as a world leader in responding to the humanitarian consequences of disasters. Moreover, such a guide would offer an intriguing new model for states in the Americas – and perhaps in other regions of the world – for resolving this humanitarian challenge.

Overall, the Nansen Initiative study identifies an important range of existing national law, policy and practice relating to disaster-affected migrants in the Americas. Promoting a consistent and harmonised application of these national frameworks in the disaster context may at present be more effective than seeking to supersede them with new international ‘protection’ law.

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The author researched and drafted the Nansen Initiative study and Discussion Paper with the generous support of a Future Research Leaders grant from the Economic and Social Research Council (grant number ES/K001051/1).

1. Cantor DJ (2014) *Existing State Law, Policy and Practice on Temporary Protection Mechanisms for Natural Disasters: States of the Regional Conference on Migration and Others in the Americas*, Nansen Initiative.

The RCM is comprised predominantly of North and Central American States: Belize, Canada, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and the United States.

Temporary protection arrangements to fill a gap in the protection regime

Volker Türk

Predictable measures are needed to provide protection for people displaced across borders by disasters, where there is currently a gap.

There is no international instrument today which protects people who are displaced across borders as a consequence of climate change. If, as expected, cross-border displacement in the context of disasters and climate change increases, the gaps that exist in the protection of people displaced in these contexts will become more prominent.

Although human rights law provides an indirect right to be admitted and to stay when the removal of a person back to the country of origin would amount to inhuman treatment, this does not address all displacement situations. While, for example, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provides some protection for migrant workers, it does not grant them a right to admission or continued stay in the country. Moreover, national law and regional agreements generally do not consistently address transit situations, such as when a migrant's country of origin has been affected by disaster.

Some countries' disaster relief laws allow for the provision of humanitarian assistance for all people during the immediate phase following a disaster regardless of their legal status in the country, although over time such assistance may be restricted to nationals. But a legal gap generally exists with respect to cross-border displacement

in the context of disasters. While there are examples of continued stay and even admission of people displaced across borders in disaster contexts, such measures are largely ad hoc and uncoordinated.

Measures for temporary protection

In the event that persons displaced across borders are allowed to stay in or to enter a new country, it will be important to clarify their rights and responsibilities for the duration of their stay, taking into account the capacity of the receiving state and host communities. The Office of the United Nations High Commissioner for Refugees (UNHCR) believes that temporary protection or stay arrangements may provide the answer to this challenge and developed *Guidelines on Temporary Protection or Stay Arrangements* (TPSAs) in February 2014, following two expert meetings in 2012 and 2013.

The Guidelines aim to assist governments to respond to humanitarian crises and complex or mixed population movements, in situations where existing responses are unsuitable or inadequate. To encourage predictability in responses, the Guidelines call for 'standing arrangements' to be agreed on a multilateral/regional basis and to be activated in response to particular situations or events when they arise. The emphasis on such arrangements, rather than unilateral action or ad hoc action, aims to encourage

In a case in 2014, the Immigration and Protection Tribunal of New Zealand rejected the climate change-related claim of a Tuvaluan family for refugee status under the 1951 Refugee Convention. The family of four argued, among other things, that the effects of climate change – in particular, sea-level rise and a lack of fresh drinking water – would

have adverse impacts on them if they were forced to return home. While the Tribunal stayed their deportation and granted them residency, this was an exercise of the Tribunal's discretion on humanitarian grounds because of their strong family ties within New Zealand.¹ The decision was not based on any domestic or international legal obligation.

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harmonisation of standards of treatment across countries in the same region and thus reduce motivations for onward movement.

Temporary protection is a decades-old concept that has been applied in many different situations and countries, notably in mass influx situations. The new Guidelines acknowledge the many achievements in providing temporary protection over the years in many different contexts but we were concerned that confusion remained over the scope and meaning of the concept. In addition we recognised the need for predictable and harmonised yet flexible responses to humanitarian crises and complex population movements. The Guidelines therefore clarify what temporary protection/stay **is**, what it **is not**, and what it **should not be**.

They also identify four scenarios in which individual refugee status determination may not be applicable or feasible and therefore where TPSAs may be particularly suited:

- large-scale influxes of asylum seekers or other similar humanitarian crises
- complex or mixed cross-border population movements, including boat arrivals and rescue at sea scenarios
- fluid or transitional contexts
- other exceptional and temporary conditions in the country of origin necessitating international protection and which prevent return in safety and dignity.

The Guidelines also call for a transition from temporary protection or stay to other statuses or solutions. In the Guidelines the approach to ending temporary protection is situation-specific or based on circumstances, rather than being determined on the basis of a pre-determined timeframe. At the first expert meeting, it was widely agreed that the upper limit of such protection should not exceed three years. However, at the same time, it was felt that no lower limits should be set, as it is rarely possible in the

initial stages of a humanitarian crisis and complex population movements to determine with any certainty the length of stay that would be needed. Further, setting minimum periods could discourage the activation of the regime if they are considered too long.

In order to provide a solid degree of protection for beneficiaries to be assured of a dignified stay, the Guidelines also cover operational and practical aspects of TPSAs around entry and reception, minimum standards of protection, international cooperation and burden-sharing, and consultation and coordination. They also make clear that the standards of protection are intended to improve as stay extends.

Importantly, the Guidelines make clear that TPSAs are without prejudice to the obligations of states under international law, including particularly the 1951 Refugee Convention and/or its 1967 Protocol, as well as other human rights and/or regional refugee instruments to which states are party. Rather they should be seen as complementary to and building on the international refugee protection regime.

As the Nansen Initiative on Disaster-Induced Cross-Border Displacement draws to a close in 2015, it is hoped that states, in defining a Protection Agenda for the future, will take the opportunity to give serious consideration to the value of taking pre-emptive action to agree and set in place predictable temporary protection and stay agreements, including in their national legislation. The need to do this is likely to become particularly pressing in regions that are already or will be prone to disasters, including disasters linked to climate change.

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The Guidelines are available at:
<http://refworld.org/docid/52fba240a.html>

1. Decision of the Tribunal, 4 June 2014, available at https://forms.justice.govt.nz/search/IPT/Documents/Deportation/pdf/rem_20140604_501370.pdf

Refugees, climate change and international law

María José Fernández

How can the category of 'climate refugee' be considered within international law in the 21st century?

If we accept that anthropogenic climate change does exist, we cannot deny the obvious implications of this in terms of human rights. What is not so obvious is how and to what extent the effects may be described as violations in the strict legal sense. Legally the concept of 'climate refugee' does not exist, despite the term being in frequent use, as climate and environmental issues do not fall within the definition of refugee in the 1951 Refugee Convention.

Nevertheless the principle of *non-refoulement* could apply in situations where there was little reasonable hope that migrants will return to life-threatening situations. Climate change is frequently viewed as a risk multiplier in the context of the pre-existing social, economic and environmental conditions that constitute the key risk factors for each community. Although it could also be argued that individuals facing extreme poverty in their countries of origin could be subject to the same justification on the understanding that there are underlying structural and economic questions beyond their control, this is where the element of 'responsibility' is vital and, in this sense, agreement on the cause of climate change is fundamental. We live in a global situation where even contamination is globalised and where extra-territorial responsibility is, at the very least, difficult to establish.

There is a disconnect between human rights and climate change. The issue involves two totally separate discourses that are mutually exclusive in any practical sense. Of a sample of 65 documents selected from 294 relevant United Nations (UN) General Assembly Resolutions, Treaties and Conventions, other reports and documents, some 23% were found to mention climate change and 25% were on issues referring

to migrants and refugees but only 6% established a connection between the two.

The lack of a link between climate change, migration and the legal treatment of the category of refugee is clear. The legal instruments currently at our disposal, many of them shaped years ago, do not consider aspects that generate debate today, while others can only serve as subsidiary instruments (such as the UN's Universal Declaration of Human Rights and its International Covenants, the Convention on the Reduction of Statelessness and the Cartagena Declaration on Refugees). Defining state responsibility for climate change is one of the most complex issues.

Given that no legal instrument offers protection relating to people displaced by climate or environmental factors, some people see the need for a new and specific instrument. The most effective responses would have to consider movements related to climate change within a broad human rights framework. In 2010, a second version was presented of a 2008 draft, drawn up by specialists from the University of Limoges, which is one of the most complete proposals to date.¹ It is a valuable contribution as it combines protection, assistance and responsibility, incorporating the principles of proximity, proportionality and non-discrimination, and highlighting the principle of common but differentiated responsibilities.

There are some currently unavoidable obstacles in the way of establishing an international agreement, some of which are linked to political will. In recent years, the number of international forums on climate and environmental issues has multiplied but none of these has arrived at any binding solutions. However, even were

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one adopted, we could expect ratification to be less complete than is necessary, resulting in an instrument that is weak.

At the moment, then, it would be difficult, perhaps impossible, to achieve global consensus on the issue of international population movements and climate change. Also, it is a risky move to transfer into international law a debate which continues to generate controversy in the scientific sphere and, worse still, for that transferral to lead to the modification of legal entities that currently function – in spite of their deficiencies – to protect refugees. Any change to the statutes in force could endanger the advances achieved so far in the early years of the 21st century. The number of refugees (by the current definition) has increased in recent years; swelling that number further would serve no purpose if this is not translated into an improvement in terms of the human rights and dignity of those affected.

On the other hand, restricting protection to those affected by climate change issues would marginalise others affected by geo-environmental phenomena and changes (whether anthropogenic or not), which could be discussed legally in terms of

responsibilities but not in terms of human rights. Perhaps current conditions do not allow for an adequate definition of a problem that is still mired in uncertainties. An *a posteriori* definition of the legal status of these migrants would have to be created, establishing whether they can in some way be differentiated as a group with their own characteristics.

Once this approach is established, regional or bilateral solutions would be the preferred way forward. This would mean working with affected governments on solutions that involve in situ measures and adaptation strategies, accompanied by a real commitment to the reduction of contaminating emissions. A regional response of this type, although it may appear a little ambitious, could constitute the first step towards more widespread international efforts.

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1. Project for a Convention on the International Status of Environmentally Displaced Persons
<http://tinyurl.com/CIDCE-Environmental-displaced>

Displacement as a consequence of climate change mitigation policies

Sara Vigil

Climate change mitigation policies and 'green solutions', such as biofuels, are also creating displacement.

Current and projected climate change impacts have led to a wave of mitigation policies that, despite their well-intentioned motives, can actually lead to added pressures on the land of the most economically, environmentally and socially vulnerable groups in developing societies. A visible example of this occurs when policies aimed at biofuel production incentivise the acquisition of large tracts of land in the Global South, often overlooking

the rights of local populations and leading to the displacement of whole communities. Climate change is seen to legitimise a large proportion of such acquisitions. Examples of this commodification of nature include carbon offsets, eco-tourism and biofuel production. Whilst proponents of such land investments highlight their positive potential, detractors – referring to them as the appropriation of natural resources

for environmental ends¹ or 'green grabs' – point to the various threats that these deals can pose to the environment, to local food security and to traditional livelihoods.²

Official policies have been vital in incentivising what has been referred to as the 'biofuel boom'. The European Union, the United States and other countries have included targets to achieve a higher use of biofuels in transport, whilst offering financial incentives and tax exemptions for those involved in 'clean' energy. Although the motives at the root of such policies are arguably well-intentioned, they often compete with food production, thereby increasing local food insecurity, and can lead to important human rights violations that include displacement. Although most of these projects claim to be using unoccupied or marginal land, empirical research shows that in reality these lands are often inhabited, forested, used for grazing or utilised as a communal resource.

Consequences on mobility

The World Bank has acknowledged that displacement is one of the risks of land investments, notably in countries where governance is weak and land rights are not well defined.³ In 2007 the UN Special Rapporteur on the Rights of Indigenous Peoples estimated that biofuel expansion could threaten the land and livelihoods of 60 million tribal people.⁴ Yet the issue of displacement resulting from such 'green' investments has merely been listed as one of the negative consequences. Additionally, the impacts of such infrastructure projects can place further stress on fragile environments, causing more displacement.

In Indonesia, Malaysia, Papua New Guinea and India, exponential demand for palm oil for export is displacing millions of indigenous people from their lands. In Colombia paramilitary forces have used fear and violence to force the displacement of Afro-Colombian communities for the production of sugarcane and cassava. The Ethnic Community Development Forum claimed that

14% of all refugees entering Thailand from Burma during 2006 and 2007 had been forcibly displaced by the jatropha biofuel campaign.⁵ Brazil, the giant of ethanol, has equally experienced the displacement of millions of smallholders following land acquisitions for soya production. And there are many other examples.

When prior consultation with affected communities is undertaken (as is now most often the case in relatively stable countries such as Senegal), investors put promises of employment and infrastructure forward as a way for populations to accept voluntary resettlement. However, 'voluntary' resettlement can become forced resettlement following an outcome that does not meet expectations.

Whilst those analysing the social consequences of land investments need to pay more attention to displacement as an outcome, there is also a need for environmental migration scholars and practitioners to broaden their analyses. Though the causes of displacement are often blurred and overlapping, the outcomes that the displaced encounter are strikingly similar. 'Green grabbing-induced displacement' is a clear example of the overlap between the traditional categories of forced displacement (conflict, development and environment).

Current protection mechanisms and gaps

There have been attempts to control the negative impacts and processes of land grabbing through the development of codes of conduct and principles for responsible agricultural investment that respects rights, livelihoods and resources.⁶ In order to attain 'win-win' outcomes, the issues most frequently addressed are transparency in negotiations, respect for existing land rights, sharing of benefits, environmental sustainability and adherence to national trade policies. These seem to suggest that good governance would diminish the dispossession and displacement of rural communities. However, the voluntary nature of such principles makes it arduous or impossible to

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Members of the K'Quinich community in the Polochic Valley, Guatemala, look over the land from which the community was evicted.

track down and penalise those who fail to follow them. Although existing protection mechanisms for people displaced following conflict, development or environmental degradation could eventually apply, there is first a need to acknowledge, truly understand and quantify such displacement.

Given the exponential rise of green grabbing around the world, there is a need to move beyond the category of environmentally induced displacement in order to include the impacts of climate change mitigation policies as a factor that influences displacement outcomes or migratory decisions.

The argument that it is the responsibility of the state to impose socially sustainable rules on these investments does not minimise the moral and ethical responsibilities of the investors and consumers in the North too, especially when their 'green' policies have a significant responsibility for evicting the rural poor off their lands. Transparent and well-coordinated certification schemes, that include

human rights principles and protection mechanisms for the most vulnerable, should be a condition of the consumption of products that result from those investments.

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5. ECDF (2008) 'Biofuel by decree. Unmasking Burma's Biofuel Fiasco.' www.cban.ca/Resources/Topics/Agrofuels/Biofuels-By-Decree-Burma-Report
6. FAO, IFAD, UNCTAD and the World Bank developed in 2010 the Principles for Responsible Agricultural Investment <http://unctad.org/en/Pages/DIAE/G-20/PRAL.aspx> The United Nations Economic Commission for Africa, the African Union, the African Development Bank and the EU have also developed frameworks and guidelines.

Statelessness and environmental displacement

Jessie Connell

Stateless people and migrants are at greater risk of displacement and are less likely to receive assistance; in turn, environmental displacement (especially multiple migrations) heightens the risk of becoming stateless.

Stateless people and other 'non-citizens' often reside in areas which are highly vulnerable to the effects of climate change and have few options available to them to mitigate its impacts. One of the barriers to improving support for stateless people in the context of climate change, especially its potential to create displacement, is the paucity of reliable data which might inform appropriate responses. Further research is needed to map the potential points of vulnerability created by statelessness in circumstances of environmental displacement and other impacts of disasters and climate change. Some of the areas where empirical research is needed include:

- the degree of influence that environmental factors play in displacing or motivating stateless persons to migrate
- the nature of this movement in different contexts and the barriers stateless people face in seeking assistance
- the potential exclusion of stateless persons in receiving humanitarian assistance following disasters, or in receiving climate adaptation finance and support
- whether 'environmental displacement' contributes to people becoming stateless.

To be stateless is to not be considered a citizen by any state under the operation of its law. There are estimated to be at least 11 million stateless people in the world, and many more who are unable to prove their nationality through appropriate documentation or registration.¹ Little research has been done on how stateless populations residing within nations such as Bangladesh, Myanmar and Malaysia are affected by environmental

change, and how their status as non-citizens affects access to services, 'climate finance', development assistance, humanitarian aid and other support designed to help communities recover from disasters or facilitate adaptation to climate change.

Stateless people and migrants often reside in shelter that is temporary, 'illegal' and in settings which are geographically most vulnerable to environmental impacts. In addition these groups are particularly vulnerable to both environmental displacement and development-induced displacement, due to their tenuous legal standing and the ease with which they can be 'moved on' without compensation or support. There is also evidence to suggest that being stateless or residing as a migrant (legally or illegally) in places affected by environmental processes, such as disasters, makes it difficult to access support services.

An example of the complex interaction of statelessness and environmental displacement can be found in the aftermath of the 2004 Indian Ocean tsunami. Some sources estimate that there are around one million stateless children living in Thailand, many of whom are children of migrants from Myanmar. Local organisations working with communities following the disaster estimated that 127,714 people from Myanmar were living in Thailand's five tsunami-affected provinces; of these only 22,504 (less than 18%) were registered with the Thai authorities, and many migrants were ineligible for official aid following the tsunami due to their uncertain legal standing.

Stateless people are not prioritised in efforts to support communities to recover

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from disasters or adapt to climate change. Climate finance is usually channelled through national governments rather than directly to the most affected individuals, making citizenship a potential condition for support. Beyond the consideration of stateless people in some environmental mitigation strategies, it seems that there is no substantial research currently underway that links environmental processes and statelessness, with the exception of

work relating to climate change and the disappearance of low-lying island states.

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1. See *Forced Migration Review* issue 32 (2009) on Statelessness www.fmreview.org/statelessness

A role for strategic litigation

Matthew Scott

Strategic litigation to protect individuals at risk can usefully support higher-level protection initiatives.

Strategic litigation seeks to achieve significant changes in the law, practice or public awareness using methods such as the bringing of test cases to court, submitting *amicus curiae* briefs in ongoing cases, consistently advancing arguable points across a range of similar cases over time and so forth.

Discussion of protection gaps relating to cross-border displacement in the context of disasters and the adverse effects of climate change often takes place at the relatively abstract level of provisions of international legal instruments. Less attention has been paid to the practicalities of securing protection for individuals at risk of disaster-related harm both in terms of how the law can be interpreted against specific factual scenarios and in terms of the roles that academics, NGOs, lawyers and courts can play in addressing individual protection needs and clarifying the scope of host state obligations.

In addition to the (sometimes surmountable) challenges presented by the law itself, a further 'protection gap' may operate if lawyers are not identifying cases where individuals may risk being exposed to

disaster-related harm on return to their home countries.¹ Lawyers may be constrained from asking relevant questions because they are conditioned by mental or actual checklists relating to the requirements for securing refugee status or complementary forms of protection, and it can be difficult to think outside of that box. Or claimants may not point to a fear of disaster-related harm because they feel they need to present their protection narrative in terms easily reconcilable with established refugee categories.

A strategic litigation initiative around these matters should, firstly, provide the opportunity to test the actual scope of host-state protection obligations. Two cases in New Zealand have made useful contributions to our jurisprudential understanding of how the law applies in this emerging area, despite the fact that in both cases the claimants were considered **not** to be in need of international protection.²

Secondly, it provides the opportunity to raise public awareness. Media coverage of the above-mentioned cases was substantial, with articles appearing in a number of international as well as local newspapers.

Thirdly, strategic litigation can add some political pressure on states to focus on the phenomenon. A strategic litigation initiative that brings actual cases of human suffering linked to disasters and the adverse effects of climate change through media and judicial channels can focus attention on finding appropriate responses where existing instruments currently are inadequate.

Finally, it signals to individuals that their risk of exposure to serious disaster-related harm can support a claim for international protection, thereby promoting claimant self-identification and ongoing development of the law.

The strength of strategic litigation lies in its ability to incrementally develop the law against real-life scenarios. Close judicial scrutiny of the kinds of harm that individuals fear being exposed to in concrete disaster contexts, assessment of the sufficiency of protection that is available in the home country, and application of relevant law have the potential to deepen our understanding of the circumstances in which people displaced across borders in the context of disasters and the adverse effects of climate change are in need of international protection and when such people are actually entitled to it.

Some of the elements of a strategic litigation initiative would include:

Arguments: It would entail the identification of legal arguments that go beyond the perceived limitations of existing instruments. Lawyers who make it their daily task to find effective legal arguments in novel scenarios are very well placed to advance thinking in this area.

Training: Drawing on arguments about the scope of host-state protection obligations, training and other awareness-raising activities aimed at practitioners can promote a more active engagement by lawyers with the possibility that clients from disaster-affected areas may have an arguable case if the facts are suitable. Lawyers will be better

placed to advise such individuals of the strengths and weaknesses of their case.

Strategy: Where an arguable case is identified, lawyers should be encouraged to collaborate with leading counsel, organisations with an interest in strategic litigation, country experts including those from disaster response backgrounds, and – depending on the nature of the argument – climate scientists. The possibility of litigating a case that results in a restrictive precedent is ever present in a situation where the perception, however ill-placed, is that it will open ‘floodgates’ but such risks can be mitigated by taking expert advice.

Funding: One concrete recommendation to support strategic litigation would be the creation of a Strategic Litigation Fund (such as the Strategic Legal Fund for Vulnerable Young Migrants in the United Kingdom³). A similar initiative focusing on protection in the context of disasters and the adverse effects of climate change could promote active identification of protection needs and development of strategic approaches to securing protection in practice. The European Commission, along with other international as well as domestic actors may be well placed to contribute to such a fund.

The international protection framework will not be remade by a strategic litigation initiative. However, where individuals face a substantial risk of being exposed to serious harm, strategic litigation has the potential to extend the currently prevailing restrictive interpretation of host state obligations in some cases.

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1. A qualitative pilot study conducted between 2013-2014 involving in-depth semi-structured interviews with leading asylum and immigration lawyers in the United Kingdom and Sweden suggested that practitioners in these jurisdictions may not be attuned to disaster risks in claimant countries of origin, and claimants themselves may not reference such risks in their asylum narratives. See http://works.bepress.com/matthew_scott/6/

2. *Teitiota v The Chief Executive of the Ministry of Business Innovation and Employment* [2013] NZHC 3125 and *AC (Tuvalu)* [2014] NZIPT 800517-520

3. www.strategiclegalfund.org.uk

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Floods and migration in the Czech Republic

Robert Stojanov, Ilan Kelman and Barbora Duží

Residents' strategies are generally aimed at either protection from or adaptation to flooding. Large-scale migration from the floodplains of rivers has not been seriously considered, even in high-risk zones.

The Czech Republic is of particular interest in the European context due to several recent flooding disasters which were national emergencies, including in 1997, 2002, 2006, 2010 and 2013. Weather extremes and climate variability are not the sole causes of floods in Central Europe. Other causal factors include housing, industrial buildings, transport and other infrastructure, river engineering, and agriculture in flood-prone zones near riverbeds.

Our research focused on households living in 22 smaller municipalities mainly in the Bečva River basin located in the north-eastern part of the Czech Republic. Our analyses based on data from households show an increasing intensity and frequency of the impacts of floods over the last two decades, often attributed (rightly or wrongly) to climate change. We found various household-level coping and adaptation strategies there, both inside and outside houses (such as terraces, elevated ground floor construction and water barriers).

After flood damage, insurance companies tended not to be willing to reimburse more than 50-60% of losses and some houses were not eligible for insurance compensation; this meant that many affected people had very limited opportunities for resettlement due to lack of funds, even if they wished to relocate. Furthermore, groups of people who moved away tended to consist of more active and more educated people and their departure (and abandonment of their houses) has been detrimental to community development.

One house is located at the confluence of two small streams. In recent years, almost every spring or summer the streams have overflowed and flooded the property; the

couple who live there state that when the house was built flooding did not occur so frequently. *"We would like to move from our house", the wife told us, "but the house is unsaleable and no insurance company will insure it. We have to stay here. We can't do anything else."*

Because the house is unsaleable and the owners are retired, they do not have sufficient income to repair it. They cannot get a bank loan to buy a new property elsewhere, while renting would be difficult to afford as well. The couple are left with no option but to remain and live with the floods. Their daughter lives with her family on the highest hill in the village, so the parents go there to shelter from the floods.

As another example, in 1997, two parents and their daughter with her husband lost their house by a creek when the biggest Czech floods so far damaged it beyond repair. The municipal government offered them social housing in small dwellings for a limited time. Within three years, partly with money from insurance, along with savings, loans and the help of their friends, they built a new house on a hill with less risk of flooding. This is an example of successful cooperation between the municipality and the local residents, where all parties are satisfied. The village did not lose its residents (and thus its taxes and state subsidies) while the family did not lose their friends or their base and remained part of the community.

Mainly because people are reluctant to move due to the costs and the loss of home, households have a tendency to repair damage rather than to implement costly adaptation measures. There is a range of migration responses, from those who gain by moving, using the flood as an impetus, to those who

would wish to move but cannot leave. So far, there is no support (e.g. subsidies or tax breaks) in the Czech Republic for policies that would support these households. In the future, an increasing need will be seen for more comprehensive and integrated adaptation solutions along with communication and consultation with those affected.

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'One Safe Future' in the Philippines

Lloyd Ranque and Melissa Quetulio-Navarra

The Philippine government's 'One Safe Future' programme relocated disaster-affected poor families in areas where structures enabling opportunities are lacking.

In 2013 Typhoon Yolanda (internationally named 'Haiyan') put the Philippines on the television screens of the entire world when it drove the country to its knees, with a toll in lives in the thousands and damage to property in the tens of billions of dollars. Typhoon Yolanda had found its place in human history as the strongest typhoon ever formed and had notoriously become the evil face of climate change.

The world is dealing with the reality that it had never been as vulnerable to calamity as it is now, due to climate change. As for the Philippines, whether one calls it an act of nature or climate change, experiences of disasters have imposed the need on the government and its policymakers to prepare in terms of laws and policies (either enforcing those that exist or creating new ones) to prepare the country. Changes can now be seen in the strengthening of disaster risk reduction programmes, the formulation of preventive action plans from the upper to lower tier of the leadership, and the establishment of coordinating councils to facilitate the fast dissemination of information.

Left and right, national and local, there have been initiatives and efforts to fix the defect

in the country's shield against disaster by re-thinking its urban and rural land use. This renewal entails the uprooting of families from one place and transplanting them to government-prepared relocation sites. In the national capital region of Metro Manila, for instance, where the population has grown in part due to economic migrations of families from distant rural parts of the country, the administration launched a five-year housing programme (2011-16) to relocate families living in danger, from high-risk areas that are not suitable for housing to safer ground.

The programme, called 'One Safe Future', is commendable as it aims to rescue families living alongside or on stilts in waterways. In fact, the families did not take much convincing, partly because there is an allotted budget but mainly because the families themselves had had enough. They were quite willing to move out for their own safety, especially after the experience of Typhoon Ondoy in 2009 which flooded Metro Manila to a depth of 20-30 feet. This willingness of the families who historically have been adamant about continuing to live in their dangerous dwellings is a development that the government



UNICEF/R. Rocamora

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has to take advantage of, especially in this country that has a lot to improve in practising just and humane demolition and eviction.

There are some 104,000 affected families with an average household size of slightly more than five persons and an average family income below the official poverty line. In their view, if there was ever a reason to give up their present living conditions – apart from leaving the danger areas – it was to start their life anew and escape chronic poverty by getting some fresh opportunities that relocation could offer them. They also mentioned getting back their pride by moving on from being squatters to home-owners.

But nothing could be more dramatic than leaving the place that for a long time you consider your home regardless of how dismal the situation is, and establishing a new life in an environment that has been chosen for you. Thus, as every resettlement practitioner knows, involuntary relocation of families incurs many accompanying risks to life and livelihood whose impact can only be mitigated if the government carries this out under a social development lens.

Evaluating the programme

Therefore the Presidential Commission for the Urban Poor through its Informal

Settler Families Unit conducted research on the short-term impact of the programme on the well-being of families that had been relocated to ten resettlement sites between 2013 and August 2014.

Going to the sites, it is noticeable how far they are from the commercial centre and with poor accessibility to the road network. The sites are tracts of land in far-flung locations with thousands of houses in rows. Being detached from the hub of the formal economy and livelihood, there has to be something that can compensate for this problem in distance and opportunities in order for these communities to thrive.

At first sight the families did what we Filipinos do – they smiled as if all is fine. But when we asked them how they are and they realised what we had come to discover, people in the community readily aired their anxieties. They lamented that although they escaped the dangers in their previous dwellings, they did not escape the disaster brought about by hunger. Sixty per cent of the surveyed families reported a decrease in family income, with some remaining unemployed since being resettled. This is further exacerbated by the inadequate and irregular provision of basic services, like drinking water and power, access to health, and education for school-age children. They assert that life in the resettlement site is doubly hard.

From a danger zone, they say, they seemed to have been relocated to a death zone. They had never experienced such difficulty, in which they have to beg for basic services. Some of their neighbours had gone back to the city, feeling betrayed by the government. This is very disturbing to hear, and alarming. Why, despite all its efforts, did the government fall short of meeting its promises of improved well-being for every family they relocate? It is not clear whether the fault is a policy lapse and an ambiguous working framework or the poor implementation of the programme by the agency tasked to carry it out under the operational framework.



Destruction wrought by Typhoon Haiyan in the town of Tanauan in the Philippines, November 2013.

Worsening poverty in every resettlement site is the result of a collapse in the very structure of opportunities. These opportunities should have been created prior to the relocation of families or, at the very least, there should have been a subsidy programme to help families gradually restore their quality of life.

Back in their former communities they used to have a source of income and reliable networks in the neighbourhood. Almost everything they needed was within reach in the city. Displacement has taken away this life and replaced it with distance, unmet provision of basic services and unknown neighbours. If this practice continues, the government can never achieve its goal of One Safe Future for the resettlers.

The One Safe Future resettlement programme is laudable in terms of its multi-sectoral approach and a wider participation space for the affected families. Nonetheless, the short-sighted view of a 'safe future' for the resettled families that involves no more

than keeping them safe from flooding gets in the way of seeing the greater demands of actually securing a safe future for the resettlers in the new context. Taking them away from the waterways is only the first and easiest of many challenging subsequent steps. Current post-resettlement efforts of the programme should capitalise on its multi-sectoral and participatory approach, and redirect resources towards meeting the basic needs of the families and rebuilding social trust by re-establishing our society's structure of opportunities. A nation can never overspend on the basic needs of its people.

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The views expressed in this article are those of the authors alone and do not represent the views of the institution they are connected to.

Post-disaster resettlement in the Philippines: a risky strategy

Alice R Thomas

Experience in the Philippines following Typhoon Haiyan suggests that resettlement as a strategy for mitigating disaster-induced displacement can create significant protection risks.

In 2013, super Typhoon Haiyan hit the Philippines, displacing four million people. In the disaster's wake, the government announced that, given the country's exposure to typhoons, it would enforce 'no build zones' (NBZs) within 40 metres of the high water mark in all typhoon-affected areas. Those previously living in these areas would be prohibited from returning and rebuilding, and the government would implement a relocation and resettlement programme for them. The policy was in part targeted at overcrowded, informal settlements that had sprung up along the shoreline in urban areas like Tacloban City.

Due to insufficient advance planning and slow implementation, however, the NBZ policy and relocation programme has only served to prolong displacement and potentially increase the vulnerability of hundreds of thousands of primarily poor, landless households.

The majority of those displaced by the storm previously lived in huts and other forms of non-permanent housing adjacent to the sea (or in some cases, on stilts over it) that were obliterated by the typhoon's winds and storm surge. Having lost family members or neighbours in the storm, many want to be

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relocated to safer areas. However, while the NBZ policy was well-intentioned as a measure to protect vulnerable populations exposed to future typhoons and storm surges, it ran into legal obstacles and did not conform to human rights standards. It did not appear to be based on any law or regulation, and the 40-metre line seemed arbitrary, especially in the absence of any hazard risk mapping. In some places, the typhoon's storm surge travelled a kilometre inland, rendering the 40-metre delineation meaningless. The government has since revised the policy – in part due to advocacy by the Philippine Commission on Human Rights, humanitarian agencies and others – which now requires local authorities in affected municipalities to delineate high, moderate and low hazard risk zones based on hazard risk mapping and to include restrictions on the types of structures that can be built in these areas.

Another, more intractable, challenge is the enormous scale of the resettlement programme especially since many local government authorities charged with implementing resettlement lack the requisite human, technical and financial capacity. As proposed, this programme will involve the construction of 205,000 permanent homes across 116 municipalities and will affect approximately one million people. The primary challenge has been finding available, affordable land for resettlement, and it is not clear whether the selected sites will ultimately prove suitable for residential construction. At the handful of sites that have been approved for resettlement, bureaucratic delays, insufficient funding and limited political will threaten to slow and undermine the projects' success. The slow pace of identification of permanent resettlement sites has also impinged on the delivery of much-needed livelihood assistance which is generally tied to geographic location.

Making matters worse, in many municipalities in which the NBZ policy has been enforced, humanitarian actors were prohibited from providing assistance to displaced families who did return to these areas. Given the

poor conditions in evacuation centres and the lack of transitional shelter sites, it is understandable that many of the displaced chose to return to their former communities and reconstruct their homes despite the prohibition on rebuilding. The lack of humanitarian assistance has left many returnees more vulnerable to the next storm.

Moreover, where resettlement projects are moving forward, the primary approach has been to construct shelters on vacant, often remote plots of land regardless of the lack of access to utilities, social services and livelihoods. Displaced families selected for resettlement are concerned that the remote location of the sites will limit their access to jobs and schools, and dislocate them from urban centres and community life. Relocation is also taking place in the absence of public transportation systems or subsidies for private transport that would allow resettled families to work or access jobs, schools, hospitals or other social services. On the positive side, several resettlement projects have promised security of land tenure. Other municipalities have rejected this approach as they fear that beneficiaries will sell their new homes and move elsewhere.

UN agencies and other international and local humanitarian organisations engaged in the typhoon response ran into difficulties navigating the NBZ policy and resettlement programme especially where municipalities were prohibiting them from providing assistance to those who had returned to NBZs. Undoubtedly, the main cause of confusion was the government's lack of clarity regarding implementation of the NBZ policy and relocation programme. Ultimately, the UN humanitarian country team (HCT) developed guidance regarding the provision of assistance to people residing in NBZs and to help shelter agencies decide whether or not to become involved in the relocation and resettlement process, given the inherent risks. Given that those affected by the NBZ policy were among the most vulnerable, a stronger, more unified approach by the HCT was needed from the outset.

The post-Haiyan resettlement programme will require long-term monitoring. Meanwhile, both governments and shelter agencies must think beyond physically relocating people to empty plots of land in remote areas; an alternative, for example, could be the use of 'in-filling' in urban areas. In Tacloban City, several organisations are implementing more flexible shelter solutions, such as identifying plots or structures in the existing urban landscape to accommodate displaced families through the construction of multi-storey housing, instituting landlord-tenant arrangements, and the like.

Resettlement is a long process that in most post-disaster scenarios will outlast the presence of humanitarian actors. Where people are being prevented from returning pending resettlement, people will not only be displaced for longer periods but also face increased protection risks. In the case of Typhoon Haiyan, the remaining one million people or so who are either still displaced or are living in makeshift shelters in 'unsafe areas' are testimony to this.

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Facilitating voluntary adaptive migration in the Pacific

Bruce Burson and Richard Bedford

Voluntary adaptive migration across international borders will be a critical component of an overall adaptation strategy for at-risk individuals and households in the Pacific region in order to increase their resilience to natural hazards and prevent future displacement.

Both the colonisation process and the mandate and trusteeship systems developed in the aftermath of the first and second World Wars had a profound effect on regional mobility in Oceania. They provided the foundations for a multiplicity of sub-regional 'clusters' of the Pacific Island countries and territories (PICTs) within which the members have varying levels of privileges. Former or continuing colonial, mandate or trustee states (such as New Zealand, France and the United States) act as cluster 'hubs'.

The effect of this clustering has been to greatly enhance the capacity for cross-border mobility overall but with considerable variation. The range of rights include the granting of unrestricted right of entry and stay by way of an entitlement to citizenship in the hub state; preferential entitlement to residence by targeted quotas; and privileged access to the hub-state labour market and temporary work in certain sectors of the hub-state economy.

In contrast, a sub-regional cluster, The Melanesian Spearhead Group, including the four independent states of Papua New Guinea, Fiji, Solomon Islands and Vanuatu as well as the indigenous Kanak-led party in New Caledonia (still a French colony), has no central hub. Consequently, the effect of cluster membership is more homogeneous, relating to privileged rights of entry as visitors and temporary access to selected occupations within the labour markets of member of the cluster.

In absolute terms, the numbers of persons displaced by disasters in Oceania is low compared to other regions. An estimated 318,000 people have been displaced by sudden-onset disasters over the past five years. However, in per capita terms, the picture is different; in 2012 Samoa and Fiji were among the ten countries worldwide with the highest per capita levels of displacement.

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The clustering of states into sub-regional groupings is not static; new clusters continue to emerge as an aspect of the ongoing and continual alignment of state interests at a sub-regional level. This dynamism has the potential to greatly enhance mobility in the region by fostering new agreements providing for the temporary or permanent cross-border movement of Pacific peoples. The status of citizens within the cluster can be crucial in determining the scale and type of post-disaster assistance and, in particular, the extent to which that assistance has implications for cross-border movement.

The current regional legal framework

In a region of islands where most borders are lines on a map through vast ocean spaces, affecting cross-border movement is difficult. Existing regional immigration frameworks typically do not have policies specifically aimed at facilitating cross-border movement in response to natural disasters or in anticipation of future disasters linked to climate change.

Between PICTs, there is a large degree of mutual privileging in terms of granting visa-free or visa-on-arrival entry as visitors. This stands in contrast to the countries of the Pacific Rim which do not generally grant waiver or visa-on-arrival status to citizens of Pacific islands. This may mean that individuals or households wishing to cross borders in response to natural disasters are more likely to be able to do so by travelling to another island country than to the Pacific Rim countries.

In respect of work, some features of the present legal framework potentially limit opportunities for voluntary adaptive migration. When granted, access to employment in Pacific countries is often highly regulated and controlled and many have binding post-employment repatriation requirements. These features, common to many regional systems, may affect the ability of these systems to respond to natural disasters by facilitating cross-border migration in a timely or economically sustained fashion.

This issue will need to be factored into discussions around both voluntary adaptive migration and resettlement, along with more familiar regional issues such as land tenure and access to land by non-citizens.

Immigration frameworks in the region contain a range of pathways to residence. In many cases residence is granted for spouses and dependent children of host-state citizens. In host states with an established diaspora, this will be a useful policy mechanism for facilitating voluntary adaptive migration over time. However, although family life throughout the Pacific typically involves extended family networks spanning close-knit communities or villages, most immigration policies in the region have no specific provisions aimed at facilitating the migration of the wider family group.

While the introduction of new policy mechanisms dealing with the specific situation of those affected by natural disasters is to be encouraged, current policy mechanisms are amenable to adjustment. They could be amended to allow people affected by natural disasters, including those linked with climate change, to make voluntary choices about moving from places where environmental change is severely compromising long-term residence, especially in those Pacific states where the largest population growth is expected to occur in coming decades.

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<http://tinyurl.com/Nansen-PacificRegional>



'Canoes vs Coal' Pacific Climate Warriors flotilla

On 17 October 2014, Pacific Climate Warriors from the Pacific Islands, supported by hundreds of people from around Australia and the world, blockaded the world's biggest coal-exporting port, in Newcastle, New South Wales, Australia.



Not drowning but fighting: Pacific Islands activists

Hannah Fair

Focusing on climate-induced migration rather than mitigation can be at odds with grassroots demands and can make the future uninhabitability of some Pacific Islands appear as a foregone conclusion.

Eleven coal ships were due to collect their cargo from Newcastle in Australia during the daytime of 17 October 2014. Only one ship succeeded in doing so. The other ten were turned away because thirty Pacific Islanders and hundreds of Australians had decided to resist, sailing out, blockading and occupying the harbour using kayaks and traditionally built canoes. The action, organised by climate advocacy network '350 Pacific', was part of the Pacific Climate Warriors campaign, designed to make the connections between the actions of the Australian fossil fuel industry and the impacts that anthropogenic climate change is having on many Pacific Islands.

The Pacific Climate Warriors tour united activists from twelve different Pacific Island countries, received international media attention and followed Australian coal from the pits to the coast. It also targeted the company offices and banks that are facilitating the expansion of Australian coal, concluding with an exuberant eight-hour occupation of the global headquarters of ANZ, a major fossil fuel investor and the primary banking service open to many Pacific Islanders.¹



What can be learned from the sight of two brave men from the islands of Tokelau facing up to the might of the Australian coal industry in a wooden, hand-made canoe?

Firstly, it can challenge us to re-think the relationship between climate change, displacement and Pacific island states, and recognise that while low-lying atoll countries are sometimes treated as foregone victims of climate change, already lost to sea-level

rise, many communities in these countries have not given up the fight. Indisputably, there is a severe threat that people will be displaced, internally or internationally, and in the case of the Carteret Islands this displacement has already begun. Yet if we focus solely on managing displacement in these countries then we run the risk of making the loss of those homes a self-fulfilling prophecy. The Pacific Climate Warriors did not stop ships in order to secure their future as climate refugees. Instead they issued a call for large polluting companies and states to take responsibility for their environmentally destructive actions and take mitigating action before it is too late.

Secondly, the narrative of Pacific Islands as inescapably lost to rising seas is often tied to representations of the affected populations as passive victims of climate change. The Pacific Climate Warriors actively reject this stance and offer a positive alternative vision of climate-threatened communities – “We are not drowning, we are fighting”. Their campaign articulates a culturally grounded narrative of strength, agency and courage in the face of potential displacement.

Thirdly, the actions of the Pacific Climate Warriors encourage us to think about whose voices we are listening to in relation to issues of potential climate-induced displacement, and where those voices can be heard. The growth of 350 Pacific indicates that grassroots civil society advocacy networks are an ever more significant force to be reckoned with.

While it is still early days for their campaign, the Pacific Climate Warriors present a grassroots message of hope and agency, in contrast to narratives of inevitable climate-induced population displacement. They

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remind us that all is not lost in Oceania and that, with committed effective action on climate change, mass forced migration in the Pacific may never come to pass.

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1. For more on the Pacific Climate Warriors see <http://world.350.org/pacificwarriors/>.

Samoa: local knowledge, climate change and population movements

Ximena Flores-Palacios

The voices of scientists, academics, politicians and development practitioners dominate the climate change debate, yet local knowledge, values and beliefs are essential elements of navigating the way forward for affected communities.

Samoa, located in the southern Pacific Ocean and with a population of around 190,000 people concentrated on two main islands (Savaii and Upolu), is very vulnerable to climate change with at least 70% of the population and infrastructure located in low-lying coastal areas. The village of Lotofaga on the south coast of Upolu Island has a population of just over a thousand which is decreasing due to significant levels of out-migration.

Life in Lotofaga is largely guided by *fa'a Samoa*, the Samoan way of life, an umbrella term that encompasses the social structure of the village. *Fa'a Samoa* has remained strong, despite long exposure to Western influences. Land is held in accordance with Samoan custom and usage, and it represents identity, culture and community. Traditional coping mechanisms in times of hardship include customary safety nets, where remittances undoubtedly play a key role, and migration to diversify family income.

It is clear that climate change is affecting people in different ways. Those who suffer the most are the most vulnerable, such as families who do not have access to remittances or enough support from family members, and people – in particular women and elders – who have to rely on themselves to

sustain their livelihoods. There are also differentiated gender impacts as a result of women's limited access to information and resources. In addition, in a situation of environmental stress women have reduced mobility because they are the ones who care for children and the elderly.

"Some family members have gone away to America, New Zealand and Australia. They have gone away in search of fortune ... and because of the change of weather and to look for work to help and support family, but no one cares, no one loves me and my small children. I would leave this place only if and when it is God's will. But I can't go away." (40-year-old widow)

Although the majority of people in Lotofaga are familiar with the term 'climate change', it is not clear for them how the 'scientific information' can be applied to their daily lives. In contrast, they are absolutely aware of the changes in their own environment and the effects that climate change has been having on their lives and livelihoods. Some people rely on their traditional knowledge to interpret the changes occurring in their environment and believe that climate change is part of a cycle, while others associate climate change with God's will. In general, people in Lotofaga do not describe themselves as victims of climate change. They said they have been

dealing with a changing environment for centuries and they have learnt to adapt to these changes for generations.

Village residents need better access to information about climate change and its implications. An interviewed male village chief stated:

"... we hear all this very technological terminology from government and others, and on the radio, but we really need to make sure that we understand what climate change is ... because many of these concepts are in terms of global processes when it's very important for rural people to better align what they are doing at the village level ... and what we can do in our own villages."

Young people and migrants have better access to information through mass and social media and also through education campaigns about climate change and disaster risk reduction. Migrants living abroad are aware of the impacts of climate change in Samoa and they support family members when natural disasters occur. However, increasing needs increase the burden on migrants.

Village residents and migrants have political concerns related to climate change. One male village chief who lives in the capital, Apia, in referring to climate justice said:

"It's quite unfair to start talking about climate change, how you adapt to climate change or how much contribution you have to make towards a global responsibility when we have contributed a negligible amount or even nothing to the problem."

Population movements

In the case of Lotofaga, population movements have been influenced by a combination of economic, social and environmental factors, although it is difficult to disentangle climate change from other drivers of migration. Decisions to move are made by individuals or families, inland from coastal areas, to Apia temporarily or permanently, or abroad.

Mobility is a strategy to diversify family income, to seek better access to education

and employment, to expand social networks, as well as to respond to environmental and climate changes. It is possible to define four types of population movements linked to climate change in the village.

Mobility within the village: Over recent decades, a significant number of families have moved inland. Lotofaga was once located directly on the coast but now there are only a few houses left there. One explanation is that some people moved inland as better access roads were built. Another reason is that a combination of slow-onset environmental events (e.g. coastal erosion) and sudden-onset events (such as the 2009 tsunami and Cyclone Evan in 2012) has forced people to relocate inland. Very few families are still living on the coast, although they are aware of the risks associated with their decision to stay.

Circular mobility: In Lotofaga there is evidence of circulation between the village and Apia or the countries of the Pacific Rim to diversify income.

Rural-urban migration: Although village residents mentioned economic and social factors as the main drivers of migration, subsistence agriculture is greatly affected by climate variability and it does not provide enough income.

Migration abroad: In the case of migration to New Zealand and Australia, work opportunities, education and family reunion are the main reasons indicated by people for leaving the country. The opportunities offered by foreign countries attract mainly young people, who have the perception that life in the village is getting harder.

Internal population movements, although within the village, have modified traditional cultural structures. Every piece of land has a history, a significance which embodies cultural heritage. In some cases, these movements involve a rupture of the connection between the family and the community land which is difficult to recover afterwards.

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Migrants – although they have a strong connection with their village because it provides them with a sense of identity and belonging – now have to navigate two worlds. Migrants living in Apia can participate in the life of the community more frequently, while for migrants living abroad returning to the village is a difficult endeavour. Migrants are committed to ceremonial, family and village obligations, and also are expected to provide help to family members affected by environmental problems and natural disasters.

Far from being fatalistic about climate change, people have developed adaptation strategies using their own knowledge. They have not been seeking solutions aimed only at adapting to climate change but rather holistic solutions to increase their resilience to a wide range of challenges. However, climate change is now threatening the very roots of the traditional knowledge by which their livelihoods are supported.

Although population movements are not a new phenomenon in Lotofaga, climate change now appears as a real contributory factor. Based on the village study findings, at the national level:

- there is a need to combine different knowledge systems to understand the impacts of climate change



- migration is an adaptation strategy to climate change and has to be addressed at the policy level
- traditional knowledge has to be integrated into climate change adaptation policies
- policy responses to environmental migration and climate change have to start at the village level.

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Cross-border migration with dignity in Kiribati

Karen E McNamara

The 'migration with dignity' policy is part of Kiribati's long-term nation-wide relocation strategy.

The cross-border labour migration scheme proposed by the Kiribati government is an example of a governmental response to climate-induced change, where the demographic focal point is at the individual or household level.

Kiribati is made up of 32 atolls scattered across the southern Pacific Ocean. Long-term habitability of these low-lying islands is threatened by sea-level rise and, in an effort to plan for the challenges ahead, a number of policies and programmes have surfaced to reduce the country's vulnerability to climate change. Kiribati has no sustainable long-term internal migration option as there is simply no higher ground to move to, with most islands being less than three metres above sea level. The country's leaders have therefore attempted to develop new opportunities for its citizens to migrate abroad.

The 'migration with dignity' policy is part of Kiribati's long-term nation-wide relocation strategy. The first part of this policy is to create opportunities for those who wish to migrate abroad now and in the near future. The goal is to forge expatriate communities in various receiving countries, such as Australia and New Zealand, so that they may support other migrants in the longer term, and also

to enhance the opportunity for remittances to be sent back. With costs largely subsidised by the government, the second part of this policy is to improve the levels of educational and vocational qualifications that can be obtained in Kiribati, so that they match those that are available in the places where residents may migrate to. It is hoped that this training and upskilling will provide opportunities to migrate abroad 'with dignity' and build on existing cross-border labour arrangements.

This policy, however, only helps pave the way for those who are ready and willing to migrate but it does not reach everyone, especially those with very limited literacy skills or those with largely subsistence livelihoods. Given that this option to safeguard livelihoods is only centred on a restricted number of people, this policy falls short of equitably ensuring protective migration mechanisms for all. A further consideration relates to whether or not such a policy will result in long-term positive outcomes in both sending and receiving countries.

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Planting mangroves in Tarawa, the capital of Kiribati, to help protect the coast from sea-level rise and storms.

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Land, disasters and mobility in the South Pacific

Daniel Fitzpatrick

The adaptive characteristics of customary land systems deserve greater recognition in disaster or climate change policy frameworks.

Policy frameworks on disasters and human mobility tend to focus on the role of governments in responding to displacement and on state-based mechanisms for facilitating relocation. However, Pacific states face a number of governance constraints in responding to disaster-related human mobility, not least of which is the fact that more than 80% of land in most Pacific countries is classified as customary land, that is, is held by local groups.

There is a reluctance by Pacific governments to select customary land as a site for planned resettlement, or temporary shelter for IDPs, due to fears of conflict with customary claimants, or uncertainty as to the identification of customary owners. Most Pacific states prefer to select state land as sites for temporary shelter or planned resettlement in order to avoid the necessity for agreements with a customary landholding group. Yet this reluctance substantially limits the amount of land available for resettlement. Site selection by the state based on the legal status of land may preclude the potential for alternatives where the people concerned prefer family- or kin-based pathways of migration. Movement within the land of a customary group is far less likely to raise land issues than movement beyond the boundaries of customary territory. Relatively successful examples of movement within a customary territory include the inland resettlement of Samoan families after the 2009 tsunami, and the recent resettlement of the Narikoso community in Fiji as a result of coastal erosion. At the same time, customary land management has the potential to marginalise internally displaced persons who do not have kinship links to the local landholding group.

The legal rules that mandate an intermediary role for the state in formal dealings over customary land often fail to reflect the thin administrative capacity of most Pacific

states, particularly in terms of resolving land conflicts, and have the potential to undermine the adaptive capacity of customary land systems to reach direct agreement with displaced persons. Besides, the selection of state-owned land does not remove the need for consultation with local communities and for measures to reduce the risks of conflict with local communities. Where the state must act as an intermediary in transfers of rights to customary land, procedures to ensure informed consent to voluntary acquisition of land by the state are important in order to reduce the potential for later contestation over land provided for resettlement. In addition, voluntary agreements to acquire land for resettlement should be registered in state systems of land administration.

Historical pathways for adaptive migration deserve greater recognition in state guidelines for resettlement. One example is the Papua New Guinea guidelines for the relocation of Carteret Islanders, which establish criteria for priority assistance that include the ability to relocate to areas held or owned by relatives through the maternal line. The adaptive characteristics of customary land systems deserve greater recognition in disaster or climate change policy frameworks.

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Integrating resilience in South Asia

Mi Zhou and Dorien Braam

Communities can strengthen their resilience by integrating disaster risk reduction, climate change adaptation and poverty reduction measures.

The complexity of the drivers that displace communities increases the risks associated with future natural hazards, while exacerbating their existing vulnerabilities. Communities can reduce their vulnerability to displacement by better preparing for disasters and climate change; if displacement does occur, more resilient communities are able to reduce the risks associated with displacement by a more efficient restoration of their essential structures and functions. What makes a community resilient differs from place to place, considering the geography, climate, economy, politics, people and so on. Put simply: the more resilient a community, the less the risk and impact of displacement.

There is growing consensus that resilience measures need to integrate disaster risk reduction (DRR), climate change adaptation (CCA) and poverty reduction (PR). Across South Asia, these areas of action are usually compartmentalised and separately tasked to different institutions, or in segregated departments within institutions, whereas for communities exposed to climate change risks, the conceptual distinctions between DRR, CCA and PR are academic. In addition, it is confusing for communities in multi-risk environments to engage with different organisations working separately with different agendas. Working in 'silos' within these domains can lead to contradictory or counterproductive interventions, and duplication of efforts.

Many disaster management agencies in South Asia were established or re-structured after the 2004 Indian Ocean tsunami but are generally primarily administrative bodies and often lack the authority and status to influence planning and development agendas. Most national and sub-national disaster agencies have to persuade line

ministries to incorporate effective DRR strategies into their day-to-day functioning and provide funding. A lack of resources and influence leads the disaster management agencies to have a limited view of their own tasks, and disaster management effectively becomes a form of disaster response. Such disaster management agencies should be strengthened, as they have the potential to integrate DRR – to avoid repeating past mistakes – and CCA – to anticipate projected effects of climate change and mitigate them.

Community resilience strategies

Communities affected by disasters often mitigate the risks of displacement through migration. Selected members of the family go to urban centres or overseas – in circular movements or temporarily – to diversify their asset base beyond that which is derived from disaster-affected land or agriculture.

Communities vary in levels of risk awareness and resilience initiatives. In many cases, there are traditional practices and knowledge that can help mitigate the risks, even if communities do not link these to climate change. In Afghanistan, for example, communities with previous experience of flooding have early warning systems based on the water sharing mechanisms where a *mirab* (water master) warns downstream villages of impending floods. By contrast, refugee returnees had no awareness of flash flooding, had no emergency response strategies and suffered loss of lives and food stores.

While community-based solutions are likely to have local ownership and communities must be actively involved in the identification of needs, vulnerabilities and solutions, new technologies can be introduced to augment existing knowledge. The *mirab* system, for example, can be supplemented or adapted

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through dissemination of technical knowledge and expertise to improve water resource management, particularly during droughts.

Many community resilience strategies are based on securing existing assets and diversifying them. Similarly, governments

should aim to diversify their risk financing strategies and create cost-sharing mechanisms.

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“Everyone likes it here”

Himani Upadhyay, Ilan Kelman and Divya Mohan

Sea-level rise threatens communities of the Lakshadweep islands. But what happens when belongingness, religious beliefs and the identity of being an islander make them stay?

The global narrative of the impacts of climate change on islands often presents island communities as refugees in waiting. This popular discourse is at odds with the local perceptions of climate change in Lakshadweep, a group of islands off the south-western coast of India.

In Lakshadweep, climate change has not yet fully entered the vocabulary of the islanders. In recent years they have noted increased storm surges or ‘big waves’, flooding, and changes in temperature and rainfall patterns. They often connect these changes to the 2004 Indian Ocean tsunami (and not to climate change) as the tsunami was a big event that they have personally experienced. Even if they do observe local changes, they are unable to link them with global processes such as climate change. The islanders cannot envisage the melting of glaciers or thermal expansion, both of which contribute to sea-level rise. This different worldview serves to widen the gap between risks communicated by the scientific community and those perceived by the vulnerable populations.

On the other hand the problem of beach erosion which affects the local jetties is of serious concern to the islanders as it has a direct impact on the working

of the ferries that cater to their day-to-day needs of food and fuel and it hinders inter-island transport. Climate change does not yet manifest as a survival threat or as a risk to their livelihoods; it makes sense to outsiders but not to the islanders.

Migration or belongingness

In Lakshadweep a sense of belonging to place shapes the identity of people. “Everyone likes it here” is the common phrase when questioned about the possibility of moving. Though islanders move for employment and education, there is a strong preference for coming back to the tranquility and peace of living on the island and community bonding. Moving,



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whether voluntarily or involuntarily, poses a threat to their values and belief systems.

Regular public discussions are a source of information exchange and cooperation amongst islanders. These dialogues are a forum for expressing any community concern and finding inclusive solutions – but climate change is not a topic that has found a prominent place in these discussions. While islanders of Lakshadweep are ostensibly vulnerable to climate change, their way of life on the island can have a positive bearing for adaptation to the effects of climate change. Their attachment to place and their traditional knowledge in managing environmental stressors can motivate them for climate change adaptation activities. Meanwhile, the high level of reciprocity amongst islanders, both on the island and between islands, could be used to disseminate information and awareness.

Climate induced-migration, if it occurs, is likely to erode exactly the identity, local culture and traditional knowledge that can be useful in making them resilient. This kind of loss cannot easily be assigned a value. There needs to be a constructive debate on how to compensate for loss of homeland, culture and values – and what the criteria will be for distributing resources when it is so challenging to establish what the loss is and how much the damage is.

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Building adaptive capacity in Assam

Soumyadeep Banerjee, Suman Bisht and Bidhubhusan Mahapatra

A starting point for adapting to longer-term climate change could be adaptation to short-term climate variability and extreme events. Making more informed choices about the use of remittances can enhance the adaptive capacity of remittance-receiving households.

Assam state in north-eastern India experiences annual floods which displace people, destroy crops, kill livestock and damage infrastructure. Dependence on natural resource-based livelihoods in an area that is also less developed makes local households vulnerable to floods. Lakhimpur district of Assam is among the worst flood-affected districts in the state. Remittances are increasingly becoming a vital component of household income in Lakhimpur and can be a potential financing mechanism to fulfil the unmet adaptation requirements of recipient households.¹

The migrant workers from this district who send back the remittances are generally male and work in the informal sector in urban

centres within Assam or across India. This out-migration of men exposes women to new tasks related to disaster preparedness, food security and farm management, for which they are often unprepared. Women will not have had the same opportunities to access markets, extension services and government programmes as men do. Out-migration of men therefore requires women to acquire new skills, capacities and knowledge to deal with new challenges.

Remittance inflow increases in the aftermath of the floods that occur in this area and is used to procure provisions, rebuild livelihoods and repair houses. The recipient households' flood responses are primarily focused on coping during the flood (e.g. temporary shelter for

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livestock and people, storing food or drinking water) and on recovery in the immediate aftermath of the flood. Flood preparedness is sporadic and constrained by: uncertainty about the benefits of building household-level adaptive capacity while basic needs (e.g. food, health care, shelter) remain unaddressed, low volume of remittances, lack of financial literacy and access to financial services (particularly among women who are often the recipients and managers of remittances), and lack of understanding and access to technical inputs on how to invest remittances in 'low-cost' disaster preparedness and livelihood diversification options.

Financial literacy

In action research conducted by the International Centre for Integrated Mountain Development's Himalayan Climate Change Adaptation Programme with the Institute of Integrated Resource Management, and Swayam Sikshan Prayog, women recipients of remittances are envisaged as the household level 'change-makers'. Financial

literacy and flood preparedness trainings are envisaged to enhance the human capital of the recipient households whom this action research identifies as a special interest group in the rural communities.

Financial literacy training in particular aims to maximise the financial returns, avoid unnecessary expenses and support saving in the recipient households. The training on flood preparedness envisages training the women in aligning flood preparedness with the savings plan. The investment of remittances in high-priority and low-cost flood preparedness measures (e.g. emergency food storage, safe drinking water and improved cook stoves) will build the adaptive capacity of recipient households – the first step towards adaptation. These training sessions are complemented by community-level extension services for the beneficiary households (e.g. regular meetings and household visits, support to access financial institutions, dissemination of information on government schemes) that are provided by the village coordinators.

While some of these interventions may be commonplace in poverty reduction, disaster risk reduction or development, their linkages with adaptation, adaptive capacity and remittances are new. Women from the selected recipient households have shown a lot of enthusiasm for the training and extension services. This highlights that these women are, probably for the first time, considering flood preparedness as a feasible long-term activity for the household, and not just leaving it to the government and NGOs.

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1. Based on a joint study by ICIMOD and Aaranyak.

Mixed motivations and complex causality in the Mekong

Jessica Marsh

Many climate change-affected communities have already been using migration as a means to adapt to and withstand the challenges to their livelihoods and security. Strengthening of existing protections for all migrants is clearly advantageous in the context of climate change.

In the Greater Mekong Subregion¹ there is a strong correlation between people's perception of negative environmental changes and decisions about migration. However, it is also clear that other factors are equally if not more important in decisions about migration, and that economic and environmental factors are inextricably linked.

In Ma Gyi Chay Htaut Village in Myanmar's central dry zone, conditions are arid all year round, with limited rainfall. Residents report experiencing lower average rainfall and more extreme warm weather. Research partners ECODEV and the Foundation for Education and Development found that

environmental changes are affecting lives, in particular in relation to increasing debt and decreasing income, increasing food insecurity, negative health impacts, and decreasing quality and quantity of crops.

Low income means that it is difficult for residents to accrue savings which could act as a buffer during periods of climatic variability, water stress and environmental change. Currently out-migration – mostly to nearby towns, with smaller numbers migrating further afield – is occurring primarily as a result of a lack of jobs, environmental changes and health hazards. A majority of people cited environmental changes

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as among the primary considerations in why they would migrate from the village, with equal numbers citing lack of jobs, and many others citing low earnings.

A big gap between rich and poor was noted, reflecting the complexity of causal factors of migration and the central role of economic factors in migration decisions. Widespread poverty was limiting people's responses in relation to negative environmental changes and the most vulnerable people in the communities were often unable even to access migration as a coping strategy.

The community referred to several key needs if they are to be able to cope with the environmental changes and related impacts. The highest number of respondents stated that they need a wider variety of employment opportunities in the village that are not so heavily tied to natural resources and agriculture. Following this, people desire improved access to credit and government assistance to allow them to survive in their place of origin. Access to information is also an important factor, with some respondents expressing a desire for more information about migration in order to manage the associated risks.

In Vietnam's Mekong Delta, research partner the Center for Research and Consultancy for Development found that environmental changes were having negative effects on the health of local people, the water quality and the soil quality. A majority of respondents said that environmental changes were causing a decrease in the quality of life, a decrease in incomes and livelihoods, less employment, increasing debt and less economic development.

One resident, a 55 year-old woman working as a daily wage labourer, reflected:

"The livelihood of local people living along the channel depends much on the quality and quantity of flood water but, unfortunately, the flood in recent years hasn't been as good as expected, resulting in little silt, which is needed to have a good crop. And

the heat seems so terrible that nobody can do their field work in the late morning and early afternoon. We have to reverse our daily routines, meaning that we stay at home during the daytime and go to the rice field to work at night-time ... working shifts are messed up and we must adjust our bio-rhythm. In recent years ... weather conditions are much more irregular and disordered."

The most pressing community needs for coping with environmental changes, as expressed by residents, are access to information regarding environmental issues so that they can better understand the expected environmental changes and make more informed decisions, and availability of different jobs and skills training in the home community.

The Climate Change Coordination Office in Cantho City is undertaking studies investigating the threshold below which people can no longer tolerate their local conditions and must move to ensure their quality of life. It aims to use its research as a basis for a socio-economic development plan for the region so that people in Cantho are not forced to move away.

It is vitally important that policy responses to climate change-affected communities do not automatically assume that permanent migration is an appropriate or desirable adaptive strategy. Within the Greater Mekong Subregion, much stronger genuine cooperation on the trans-border issues of climate change and migration is crucial.

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1. Cambodia, the People's Republic of China (specifically Yunnan Province and Guangxi Zhuang Autonomous Region), Lao People's Democratic Republic, Myanmar, Thailand and Vietnam.

One good reason to speak of 'climate refugees'

François Gemenne

The concept of 'environmental refugees', or 'climate refugees', has been progressively abandoned, as having no legal basis. I want to argue that there are good reasons to use the term.

The difficulty of isolating environmental factors from other drivers of migration¹ still exists but no-one now seems to deny their importance as a driving force of displacement. The concept of 'environmental migration' is now a common feature in migration studies, and the number of research projects, workshops and conferences on this topic has vastly expanded in recent years.

Some geologists advocate the use of the term 'Anthropocene' to signal a new geological era, the Age of Humans, where we have become the major force of transformation of the Earth. This is a formidable political statement. And it is also a statement for the social sciences: that the world – the social and political organisation of the Earth – can no longer be thought of separately from the Earth. Both the world and the Earth need to be conceived of as one global system; geopolitics is no longer about power over territories, about land and sea, but about the Earth as a whole. Geopolitics is transformed into the politics of the Earth.

But there's another way to see this. We also need to be aware of the de-politicisation of subjects that this can imply. Even if humans have indeed replaced natural drivers of changes as the principal agents of changes on this planet, most humans are actually the victims of these changes, and not their agents.

Migration as a commodity

As the concept of 'environmental migration' gained currency, migration was less perceived as a decision of last resort that people take when they have exhausted all possible options for adaptation in their place of origin. Many scholars, including myself, had insisted that this depiction of migrants did not match reality, and that migration was often a resource used by migrants to deal

with environmental changes. We insisted that migrants should not be perceived as resourceless victims, paying the price of climate change, but rather as resourceful agents of their own adaptation. We argued that migration could indeed prove to be a powerful adaptation strategy whereby migrants could diversify their incomes, alleviate environmental pressures in the region of origin, send remittances, or simply put themselves and their families out of harm's way. And this view was soon embraced by many institutions and organisations. It even made its way into the international negotiations on climate change. In 2010, the Cancun Adaptation Framework spoke of "measures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation (...)".²

That was a paradigm shift: that migration in the context of climate change was no longer a disaster to avoid at all costs but a strategy that ought to be encouraged and facilitated. The movement of people was no longer a matter of migration policy but rather of environmental policy – an adaptation strategy.

What about those who were forced to flee as a result of environmental disruptions, those who would have liked to stay but had no other choice? These displacements were now considered as a sort of a collateral damage that could be addressed through the Loss and Damage mechanism designed in the climate negotiations.

Migration related to climate change had become something that we could enable, facilitate and manage. And this is something that we, as a research community, had pushed forward and wished for.

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Why we let migrants down

Upon further thought, however, I am forced to realise that there is something that we had missed out in this process of 'de-victimisation' of migrants. We had used environmental change to de-politicise migration and, in our quest to make research policy-relevant, we had let policies take over politics. In our attempt to stress the agency of the migrants, we had forgotten the responsibility that we had towards them, because we humans have become the main agents of transformation of the Earth. And the result of this transformation has been to make their places on the Earth increasingly uninhabitable for a growing number of people.

A fundamental difficulty in the collective action against climate change is that those who need to undertake most of the effort to cut greenhouse gas emissions – the industrialised countries – are also those that will be comparatively less affected by the impacts of global warming. Industrialised nations have thus little incentive to act; our agency is undone by our self-interest.

Climate change, indeed, is rooted in the inequalities between rich and poor; and migration is the mode through which these inequalities materialise. Early theories on migration assumed that migration could be an adjustment between inequalities, yet it is the symptom rather than the cure.

De-politicising migration

In the press and in public debates, those uprooted by climate change were once often called 'climate refugees'. Legal scholars and international organisations, however, have been very keen to dismiss the term as having no legal basis. Most scholars – logically – agreed not to use the term and to use more clinical terms such as 'climate-induced migrants', 'mobility in the context of climate change', etc. I was one of them, and I think I was wrong.

By forgoing the term 'climate refugee' we had also de-politicised the reality of these migrations. A central element in the concept

of 'refugee' is persecution: in order to qualify as a refugee, you need to be fleeing persecution, or to fear persecution. Forgoing the term 'climate refugee' is also, in a way, forgoing the idea that climate change is a form of persecution against the most vulnerable and that climate-induced migration is a very political matter, rather than an environmental one.³ For this reason, and contrary to what I might have thought (and written) in the past, and despite the legal difficulties, I think this is a very strong reason to use the term again: because it recognises that these migrations are first and foremost the result of a persecution that we are inflicting on the most vulnerable.

In April 2013 in Bangladesh the Rana Plaza garment factory collapsed with the death of more than 1,000 workers. At that time, I was struck by the international reaction to the disaster: not only was there a wide-ranging outcry at the working conditions in these factories but many people held the clothing companies responsible for the disaster. Some stopped buying clothes from high-street retail chains and called for a boycott, or demanded better working conditions for the garment workers in Bangladesh. It was as if people had suddenly realised that their buying clothes had consequences for people on the other side of the planet.

But Bangladesh is also a country at the forefront of climate impacts, where displacements are already a common feature. Yet the connection between the action of some and the suffering of others, which was made on the occasion of the Rana Plaza tragedy, does not seem to be made for climate change. And this is why there is at least one very good reason to speak of 'climate refugees'.

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1. See Dun O & Gemenne F, 'Defining "environmental migration"', *Forced Migration Review* issue 31 www.fmreview.org/en/FMRpdfs/FMR31/10-11.pdf
2. Article 14 (f)
3. Conisbee M & Simms A (2003) *Environmental Refugees. The case for Recognition*. London, New Economics Foundation.

Governance questions for the international community

Alexander Betts

The Nansen Initiative has highlighted significant questions about how the international community should collectively think about displacement and mobility issues relating to natural disasters and climate change, and how to improve the governance thereof.

The Nansen Initiative focused initially on cross-border displacement in the context of natural disasters and climate change. In practice, though, as the initiative has evolved, its focus has broadened, in recognition that to consider cross-border displacement it is also necessary to reflect on internal displacement, as well as the underlying causes of mobility, prevention, resilience and disaster risk reduction. Furthermore, there was growing recognition of the complex analytical challenges in defining the line between displacement and migration.

The Initiative has enhanced understanding of the regional dynamics of environmental displacement, revealing examples of rapid-onset cross-border displacement – it has highlighted cross-border displacement resulting from the Haitian earthquake, for example – as well as improving understanding of the complex causality relating to slow-onset movements. And it has had a direct and measurable impact on policy processes. For example, the Cartagena +30 Brazil Declaration's recognition of the impact of climate change on cross-border displacement was as a direct result of input from the Nansen Initiative secretariat.¹

A broader focus creates a significant choice about how to frame the issue in moving forwards from the Nansen Initiative. The advantage of the narrower focus on cross-border displacement is that it keeps the problem specification clear. Many stakeholders have argued that, from a protection standpoint, the greatest need is for an open and frank discussion relating to the right to *non-refoulement* in the context

of changing drivers of displacement. Indeed, many have suggested that, given the complex multi-causality associated with slow-onset environmental displacement, the real institutional gap is for new tools relating, for example, to temporary protection and humanitarian visas.

The disadvantage of a narrow framing around cross-border displacement is that the numbers of people who cross borders may be relatively low. Furthermore, in practice, regional consultations reveal that many migrant-receiving states have been far more interested in discussing prevention, disaster risk reduction and resilience than protection related to cross-border displacement.

While the initial narrow framing served political and analytical needs at the start of the Initiative, there seems to have been a growing recognition of the need to situate cross-border displacement within a broader institutional context. The Initiative has been able to highlight the issue across a range of policy fields and institutional contexts, including development, climate change, humanitarianism, migration and human rights, at local, national, regional and global levels. While the Initiative highlights particular normative and institutional gaps, the next steps are probably best situated within the broader framework of human mobility in the context of natural disasters and climate change.

Can existing organisations address the issue?

So how can or should the international community build on the groundwork of the Initiative? As the work has evolved, it has

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highlighted three major framing challenges: 1) the internal/external distinction, 2) the rapid-onset/slow-onset distinction and 3) the displacement/migration distinction. In each of these areas, the Initiative's consultations and overall focus have gradually expanded. The question therefore remains: what will come next?

One obvious approach is to ask what existing mandates exist and where an emerging problem might fit. Given the nature of the issue, the two most obvious candidates to house aspects of the Nansen Initiative's 'Protection Agenda' (to be unveiled at its final conference later in 2015²) are the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM).

UNHCR is well placed to take on responsibility for the protection of people displaced in the context of natural disasters and climate change. It is the global Protection Cluster lead and it often provides protection for 'de facto refugees' (and has issued Temporary Protection Guidelines for the latter³). Under High Commissioner António Guterres, UNHCR has pushed for a greater role in natural disasters but has faced significant resistance from both donor and host governments to a formally extended mandate. However, each year it submits its annual report to the UN General Assembly, and now regards ratification by the Assembly as approval of its *de facto* mandate.

Some people see risks in simply handing the issue over to UNHCR. The first concern is whether UNHCR would have the capacity to discharge the responsibility and would make it a priority within the organisation. The second concern is that persons displaced across borders by environmental causes will be a very different kind of population from refugees; most displacements will be because of drought, created by slow-onset drivers, for which it will be very hard to engage in individual status determination. Taking on a role in this area will require UNHCR to go beyond its usual ways of working.

IOM is, despite being outside the UN system, the most significant international organisation working on migration. It has substantial comparative advantages to work on mobility beyond the common migration/displacement distinction, and has published extensive research on the issue. IOM is actively involved in the protection of displaced populations as co-lead with UNHCR of the global Camp Coordination and Camp Management Cluster and has developed a Migration Crisis Operational Framework to build partnerships to protect vulnerable migrants caught in humanitarian crisis. It has also recently developed a Displacement Tracking Matrix and it now has a Migration Governance Framework, which offers to governments the sets of normative and practical tools needed to allow states to respond effectively to contemporary human mobility challenges.⁴

IOM's work covers almost all aspects of human mobility in the context of natural disasters and climate change, and it also has significant flexibility as an organisation. The one reservation expressed by some commentators is that, although IOM does increasingly engage in protection activities, it has a less clearly defined protection mandate than, for example, UNHCR.

While both UNHCR and IOM have the most important international roles to play in responding to internal and cross-border displacement in the context of natural disasters, other organisations also have important contributions to make. A number of their mandates and work are also highly relevant to the Nansen Initiative follow-up. Development actors, including the United Nations Development Programme (UNDP), are important, especially in relation to prevention and resilience, and UNDP has recently made displacement a key part of its new strategy. The UN Office for the Coordination of Humanitarian Assistance (OCHA) and its chief, the Emergency Relief Coordinator (ERC), have responsibility to coordinate responses in both conflict and natural disaster settings. The ERC can appeal

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Tacloban airport, post Typhoon Haiyan, November 2013.

to UN Country Representatives and has access to a series of soft mechanisms such as the UN Development Assistance Framework.

The UN Office for Disaster Risk Reduction (UNISDR) plays a crucial role in facilitating the development of a post-2015 framework for disaster risk reduction. The draft text of the Sendai Framework for Disaster Risk Reduction 2015-2030⁵ contains multiple references to displacement and could constitute a focal point for future efforts to address environmental displacement as part of international disaster risk reduction and climate change adaptation strategies. The work of the UN Framework Convention on Climate Change (UNFCCC) was and continues to be an important platform for the Nansen Initiative to raise the issue of environmental displacement in the context of climate change. The FCCC's Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts work plan 2015-2016⁶ specifically refers to environmental displacement and the need to strengthen research in this area.

This leaves open the question of whether the issue may not be ready yet to be fully absorbed by the UN system. Despite the capacities of these actors, one of the insights from the Nansen Initiative has been recognition of the importance of state-led and regional organisation-focused initiatives, with an advocacy structure outside the UN system.

A coordination model?

Beyond the option of giving one organisation lead responsibility, a number of options exist for coordination mechanisms in this area. Option 1 would be improved UNHCR-

IOM collaboration. IOM has a comparative advantage in the area of migration and on the operation side, while UNHCR has a comparative advantage in the area of displacement and on the protection side. IOM-UNHCR relations have improved considerably in recent years, and the organisations worked effectively together in contexts such as the Libya Humanitarian Evacuation Programme in 2011. Option 2 would be a broader inter-agency mechanism on human mobility and natural disasters, with a rotating chair and possibly a small secretariat. The advantages of this kind of mechanism are that it would keep the issue on the table and ensure that a range of organisations, including UNDP, UNISDR, UNFCCC, the UN Environment Programme and OCHA, for example, continued to engage with the issue. Option 3 might be a Joint Support Unit with an inter-agency secretariat which would be directly accountable to state leadership. This kind of model has been used in other processes such as the International Conference on Refugees in Central America, for which a joint UNHCR-UNDP secretariat worked regionally from San José in order to coordinate finding durable solutions for Central American refugees in the aftermath of the Cold War.

There is a general recognition that the issue still requires a 'champion' to advocate and raise awareness among international and regional organisations and governments. This is likely to be important because of the sheer number of actors, forums and issue areas within which mobility in the context of climate change would need to be addressed.

One of the lessons that emerges from the relative success of the process to build a

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regime to support the human rights of internally displaced persons (IDPs), for instance, is that individuals matter. With the support of the Brookings Institute and a small group of supportive states, Roberta Cohen and Francis Deng were instrumental in mobilising knowledge and advocacy around the issue. Their championing of the issue contributed significantly to the creation of the Special Representative of the Secretary-General (now Special Rapporteur) on the Human Rights of Internally Displaced Persons, and to the creation of an institutional framework for the protection of IDPs. Such a role, for example, could be within an organisation, it could be a new role or it could be part of an existing role.

One possibility would be to create a Special Procedure of the Human Rights Council,² relating to the human rights of people displaced in the context of natural disasters and climate change (perhaps Special Rapporteur on the Human Rights of Persons Displaced in the Context of Natural Disasters and Climate Change). However, Special Procedures usually have limited capacity unless they have a strong supporting institution or access to a secretariat. The issue also falls between the mandates of several existing Special Procedures: the Special Rapporteur on the Human Rights of IDPs (currently Chaloka Beyani), the Rapporteur on the Human Rights of Migrants (François Crépeau) and the Independent Expert on the Environment (John Knox). An alternative might be to extend an existing mandate. For example, the mandate of the Special Rapporteur on the Human Rights of IDPs is up for renewal in 2016. The inclusion of cross-border is likely to attract resistance and it risks overloading the mandate.

A second possibility might be to create a Special Representative (or Special Advisor) of the Secretary-General (an SRSG). The advantage to going outside the Special Procedures framework is that it enables the issue to be promoted more broadly than as a human rights issue. The advantages of an SRSG are both the legitimacy to work across policy fields and institutions and the high

status of the role within world politics. The main disadvantages are that creating such a role would rely upon high-level backing by the Secretary-General and, by extension, major governments in the UN system, and that there is already an SRSG for migration (currently Peter Sutherland), whose mandate is broadly conceived and who is currently focusing on related areas of work such as migrants in crisis and reflecting upon the future of global migration governance as a whole.

Final thoughts

The Nansen Initiative has placed the issue of environmental displacement on the global agenda and advanced understanding of the issue through its regional consultations and the studies it has commissioned. It will produce a 'Protection Agenda' to offer guidance on how states in particular can better respond to emerging challenges. However, significant questions remain. This is a complex area, not only because of the knowledge gaps but also because it straddles so many different policy fields and levels of governance. At this stage, the main challenge is not to come up with definitive answers; it is instead to build flexible structures that can continue to advance understanding and framing of the issue while still ensuring that people in need of international protection – irrespective of the cause – do not fall through the cracks between existing institutional mandates.

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1. See Maldonado Castillo article pp89-91.
2. Draft online at www2.nanseninitiative.org/global-consultations/
3. See Türk article pp40-1.
4. See Lacy Swing article pp15-17.
5. www.wcdrr.org/uploads/Sendai_Framework_for_Disaster_Risk_Reduction_2015-2030.pdf
6. Area 6 <http://unfccc.int/resource/docs/2014/sb/eng/04.pdf>
7. www.ohchr.org/EN/HRBodies/SP/

FORCED MIGRATION Review

DISASTERS AND DISPLACEMENT IN A CHANGING CLIMATE

This issue of Forced Migration Review was made possible through a project funded by the European Union and administered by UNHCR on 'Climate change and displacement: building an evidence base and equipping States with tools and guidance for action'.

Disasters, Climate Change and Displacement: Evidence for Action is a multi-partner project funded by the European Union whose overall aim is to address a legal gap regarding cross-border displacement in the context of disasters and climate change. The project brings together the expertise of three distinct partners (UNHCR, NRC/IDMC and the Nansen Initiative) and seeks to:

- 1) **increase the understanding** of States and relevant international community actors about displacement related to disasters and climate change;
- 2) **equip them to plan for and manage** internal relocations of populations in a protection-sensitive and rights-respecting manner; and
- 3) **provide States and other relevant actors with tools and guidance** to protect persons who cross international borders owing to disasters, including those linked to climate change.

In particular, the activities carried out within the project seek to contribute to the Nansen Initiative. The Nansen Initiative, led by the Governments of Norway and Switzerland, is a bottom-up consultative process intended to build consensus on the development of a Protection Agenda addressing the needs of people displaced across borders in the context of disasters and the effects of climate change.

Among other activities:

- › **The Nansen Initiative** organised five intergovernmental regional consultations in the Pacific, Central America, the

Greater Horn of Africa, Southeast Asia and South Asia, which contributed to a global consultation in Geneva, Switzerland on the Protection Agenda. The Nansen Initiative also drafted background papers and commissioned research to address knowledge gaps related to disasters, climate change and human mobility within each region. More information is available at www.nanseninitiative.org

- › **UNHCR** supported the Nansen Initiative programme of activities and developed preliminary guidance on planned relocation in the context of disasters and climate change, in partnership with the Brookings Institution and Georgetown University School of Foreign Services Institute for the Study of International Migration. UNHCR also serves as the Secretariat of the Advisory Group on Climate Change and Human Mobility that provides information and inputs for the UNFCCC process. More information is available at www.unhcr.org/pages/49e4a5096.html
- › **NRC/IDMC** supported the Nansen Initiative by producing quantitative estimates and projections of past and future displacement related to disasters and climate change, revealing how large displacement has been and the scale of the risk it poses in the future. In addition, NRC and IDMC have provided in-depth thematic analyses that have highlighted protection risks as well as opportunities for effective action to prevent displacement, protect the displaced and achieve durable solutions for them. More information is available at www.nrc.no/?aid=9137078 and at www.internal-displacement.org/publications?Theme=Disasters

DISASTERS
CLIMATE CHANGE AND
DISPLACEMENT

EVIDENCE
FOR ACTION



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Mini-feature on FGM and asylum in Europe

Editors' Introduction

The issue of female genital mutilation (FGM) has become a rallying point for advocacy and legal challenge both within some of the societies where it is practised and elsewhere, particularly in countries where members of those societies have come to live but where the practice is seen as an abuse of girls and women and of their rights.

This FMR mini-feature addresses some of the issues relating to the practice of FGM in respect of asylum. Of necessity – but also by choice – we have included some material on the practice of FGM itself. The focus is on asylum in Europe in particular, and this

mini-feature has been produced in collaboration with UNHCR's Bureau for Europe. However, it is obvious – and right – that the implications are applicable beyond the borders of Europe.

The mini-feature is also available (in English) as a stand-alone pdf at www.fmreview.org/climatechange-disasters/FGM.pdf; for French, Spanish and Arabic versions, please visit www.fmreview.org/climatechange-disasters and click on the appropriate language tab. We encourage you to use and disseminate it widely.

Female Genital Mutilation (FGM) comprises all procedures involving partial or total removal of the external female genitalia, or other injury to the female genital organs, carried out for traditional, cultural or religious reasons. In other words, the procedure is for non-medical reasons.

All forms of FGM are considered harmful, although the consequences tend to be more severe the more extensive the procedure. Other factors, such as age and social situation, may also have an impact on the gravity of the consequences. FGM is mostly carried out on girls under the age of 15 years, although it is occasionally also performed on adult and married women. The procedure is often performed with

rudimentary tools and without anaesthesia while the girl or woman is held down. Almost all those who are subjected to FGM experience extreme pain and bleeding. Other health complications include shock, psychological trauma, infections, urine retention, damage to the urethra and anus, and even death. The 'medicalisation' of FGM, whereby the procedure is performed by trained health professionals rather than traditional practitioners, does not necessarily make it less severe.

Taken from UNHCR (May 2009) *Guidance Note on Refugee Claims relating to Female Genital Mutilation*
www.refworld.org/docid/4a0c28492.html

Female genital mutilation: a case for asylum in Europe

Fadela Novak-Irons

With some 71% of female EU asylum applicants from FGM-practising countries estimated to be survivors of this harmful traditional practice, it is time to accept that this subject demands greater scrutiny and a more dedicated response.

UNHCR has estimated that 18,500 of the 25,855 women and girls from FGM-practising countries seeking asylum in the EU in the first three quarters of 2014 may have been survivors of female genital mutilation (FGM), translating into an estimated 71% prevalence rate of FGM in EU asylum systems. The main countries of origin for these women and girls include Eritrea, Nigeria, Somalia, Guinea and

Ethiopia, most of which have persistently high prevalence rates for FGM.¹ These numbers debunk the still all too common view that the practice is so insignificant in the asylum system as not to merit dedicated attention and specific responses.

There are a number of misconceptions relating to FGM that may create obstacles

to meeting the specific protection needs and vulnerabilities of these women and girls. Many workers in the European asylum systems are not familiar with the practice and it is not uncommon to hear or read opinions that FGM is not a problem for these women because it is part of their culture; that educated parents should be able to protect their daughters from it; that 'intact' teenage girls and young women are too old to be at risk; that the increasingly medicalised practice of FGM is a minor procedure with no ill effects²; or that women should simply refuse to become 'cutters' and carry out this practice like their mothers.

Many of these misconceptions stem from a lack of awareness of the gender dimension in general and its role in this harmful traditional practice in particular, and from limited (or lack of) knowledge of the practice, its regional variations and its life-long consequences. This often leads to incorrect assumptions about the forms of persecution these women and girls may fear, the risks they may face if returned, the protection of which they could avail themselves, the specific interventions they may need during the asylum procedure (and later when/if settling in Europe), and the prevention of the practice by the communities in exile in Europe.

Complex asylum claims

For the first three quarters of 2014, the main countries of asylum for women and girls from FGM-practising countries were Germany, Sweden, France, Switzerland, UK, the Netherlands, Italy, Belgium, Norway and – a new entrant into the list – Denmark.

The fact that only a handful of states collect data on the grounds on which applications are made and decided limits our ability to better understand the extent of this phenomenon. Gathering better statistical data on FGM in European asylum systems should be a priority; data should include the number of FGM survivors assisted in European asylum centres as well as the number of asylum claims involving FGM issues. It is estimated, however, that asylum

systems in the EU receive a few thousand applications every year relating directly to FGM, pointing again to the fact that this is not a negligible ground for asylum. In addition, these asylum claims are particularly complex and involve a variety of risk profiles.

"I fled my country because of the persecution I had been subjected to because of my activism against excision³ and my political engagement to promote the rights of women." (Halimatou Barry⁴)

In addition to the women and men activists persecuted for their opinions and commitment to end FGM in their countries of origin and/or their perceived threat to religious beliefs, European Member States have also been receiving claims from:

- women and (unaccompanied and separated) girls who seek protection from being subjected to FGM whether they come directly from FGM-practising countries or have lived most of their lives in Europe and may be at risk of being cut upon return
- women and girls who have already been subjected to FGM and seek protection from re-excision, defibulation or reinfibulation⁵ upon marriage (including child marriage⁶) or at childbirth
- parents who claim international protection to protect their daughters from FGM
- women who are under pressure from their family and community but refuse to become 'cutters' in countries of origin
- women who had been subjected to FGM, have accessed reconstructive surgery (often while in Europe) and who fear being cut again upon return

When members of communities flee, they bring with them their customs and traditions, which may include harmful traditional practices such as FGM. Beyond the asylum system, we need to learn how to work with the FGM-practising communities in exile in Europe to prevent the practice of

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FGM in Europe. Lessons can be learned from the progress achieved in countries of origin, in particular how ending FGM has involved changing the social norms of practising communities, the participation of the communities, and the empowerment of women and girls but also of men, young and old, to urge their respective communities to abandon the practice.

"It is horrible; it is painful, mentally, emotionally and physically; and I wished it had not happened to me. Whatever happened to me can never be turned back; it cannot disappear. The pain will remain forever." (Ifrah Ahmed⁷)

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and Jessica Davila, interns at the UNHCR Bureau for Europe, for their assistance in the compilation of the data for 2014. The views expressed in this article are not necessarily those of UNHCR.

1. See UNHCR (2014) *Too Much Pain: Female Genital Mutilation & Asylum in the European Union - A Statistical Update* www.refworld.org/pdfid/5316e6db4.pdf
See also www.unhcr.org/pages/5315def56.html
2. See Foldes article pp82-3.
3. Excision: a form of FGM (in French, used to denote FGM in general).
4. In UNHCR (2014) *Too Much Pain – the Voices of Refugee Women* www.youtube.com/watch?v=pW3TFcLXiW
5. Infibulation: surgical removal of the external female genitalia and the suturing of the vulva. Defibulation: reconstructive surgery of the infibulated scar.
6. Child marriage is poorly understood in the asylum system, too often conflated with 'arranged' marriage (i.e. culturally acceptable), rather than a way of subjugating girls to a submissive gender role. In this sense, its purpose is closely allied to that of FGM. The practices of FGM and child marriage are generally prevalent in the same countries.
7. Anti-FGM activist, in UNHCR (2014) *Too Much Pain – the Voices of Refugee Women*

FGM terminology

Initially the procedure was generally referred to as 'female circumcision' but the expression 'female genital mutilation' (FGM) gained support from the late 1970s in order to establish a clear distinction from male circumcision and to emphasise the gravity and harm of the procedure.

From the late 1990s, the terms 'female genital cutting' (FGC) and 'female genital mutilation/cutting' (FGM/C) have also been used, partly due to dissatisfaction with the negative connotations of

'mutilation' for survivors and partly because there is some evidence that the use of the term 'mutilation' may alienate communities that practise FGM and thereby perhaps hinder the process of social change.

Abstracted from World Health Organization (2008) *Eliminating Female genital mutilation: An interagency statement*, p22.
www.who.int/reproductivehealth/publications/fgm/9789241596442/en/

FGM: challenges for asylum applicants and officials

Christine Flamand

Asylum authorities in the European Union need to establish better procedures to help address the specific vulnerabilities and protection needs of women and girls who have undergone or are at risk of female genital mutilation.

The asylum process examines whether an applicant has a well-founded fear of persecution based on one or more of the grounds in the 1951 Convention relating to the Status of Refugees or faces an actual risk of being subjected to serious harm. There are a number of grounds on which female genital mutilation (FGM) can support a claim for asylum. It is a form of gender-

based violence and a child-specific form of persecution. It also violates the principle of non-discrimination (as it only affects women and girls) and the right of the girlchild to be protected against practices that are harmful for her health. FGM has short- and long-term health consequences and is therefore considered as a continuous form of persecution and also as a form of torture.¹

FGM constitutes a form of gender-related persecution under the 1951 Refugee Convention that can be related to the grounds of political opinion, membership of a particular social group or religious beliefs. FGM is mentioned as an example of persecution based on membership of a particular social group in the EU Qualification Directive,² and also constitutes 'serious harm' in the context of the qualification for subsidiary protection under Article 15 of the EU Qualification Directive.³ However, FGM survivors (or persons at risk) experience various procedural challenges in establishing the facts of their account and securing protection.⁴

Reception and information

EU Member States are required to identify vulnerable asylum seekers at an early stage but some vulnerabilities can be hard to identify. FGM is usually a taboo subject which many survivors do not want to speak about; in addition, sometimes they do not realise that it is a form of violence against women nor realise the impact of FGM on their mental and physical health.

It is standard practice in many EU member states that asylum seekers undergo a medical examination; this could be an opportunity to ask women coming from countries where the practice is prevalent specific FGM-related questions. However, this requires reception centre professionals to be trained on the issue and to be well informed about asylum seekers' country of origin and ethnic background.⁵ Some countries use special tools to detect indicators of vulnerability, such as the Protect Questionnaire which is currently used by some Member States such as France, Bulgaria and the Netherlands.⁶

It is essential to provide asylum seekers with information about the asylum process in a language that they can understand, as the process is new to most of them and highly complex. They also need to be informed about specific aspects related to FGM, in particular its prohibition in the receiving country and the consequences

of FGM on health. This can help women understand that they have been victims of violence that may give rise to a ground for asylum. It can also help prevent FGM for other family members. Understanding the asylum procedure will prepare them for having to tell their story and to talk about the violence they have undergone.

Establishing the facts and assessing credibility

The asylum authority will interview the asylum seeker to gather the relevant facts related to their testimony and assess the credibility of their claim but asylum seekers often lack knowledge about the aim of the interview. FGM survivors may face additional barriers to communication such as discomfort in discussing the subject and disclosing traumatic experience, the desire to hide shameful experiences and mistrust in authority figures. Trauma and/or lack of education can also hinder disclosure of information. Communicating with an applicant is done through the filter of language and culture, and often through interpreters whose presence may further impede disclosure.

Gathering evidence is not required if the testimony is generally coherent and consistent. However, many asylum authorities require material evidence and will cite a lack of cooperation if the asylum seeker is not able to substantiate his or her testimony.

In general, victims of gender-related persecution face major difficulty in providing evidence of past persecution. A medical examination or a psychological report can be useful to prove sexual violence or trauma but this evidence should not be a condition of qualifying as a refugee. The burden of proof is lighter if the asylum seeker has been a victim of past persecution and if he or she is considered as belonging to a vulnerable group. However, for women and girls who are survivors or at risk of FGM, the principle of the benefit of the doubt should be applied liberally.

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In assessing credibility, the decision maker must look into the individual and contextual circumstances of the asylum seeker. An asylum officer may conclude that a woman claimant should be able to protect her child from FGM in the event of return but this overlooks the fact that the girl belongs to the community and that her mother is not necessarily in a position to protect her child from such harmful traditional practices.

Country of Origin Information

The individual situation of the asylum seeker needs to be assessed against objective information about the country of origin. The prevalence rate of FGM in the asylum seeker's home country is a very important indicator; Country of Origin Information (COI) also includes information on access to state protection for women who fear that their daughter will be subjected to FGM. If a law prohibits the practice of FGM in the home country, the implementation of the law in practice needs to be assessed. Is it possible to file a complaint for a survivor of FGM? Will the police react diligently if a woman asks for protection for her daughter?

COI should be gathered from different sources (both governmental and non-governmental), be child-specific and include a gender dimension; the European Asylum Support Office has committed to improving these aspects and is also developing a training module on gender and interviewing techniques for vulnerable groups.

However, if no corroboration of facts is found in COI, this cannot in itself challenge the claimant's overall credibility. This is particularly relevant regarding the issue of re-excision (re-cutting at a later date); as this is an even more taboo subject than the initial FGM, no corroboration of the practice is found in COI – but the absence of supporting facts does not mean it is not a reality.

Some asylum authorities consider whether applicants could relocate to another part of their country, where the practice of FGM is less widespread. In those cases, it is necessary

to determine whether such an alternative is both safe, relevant, accessible and reasonable.⁷

Child-specific persecution and family unity

As previously mentioned, FGM is a child-specific form of persecution. If an unaccompanied child applies for asylum on this ground, the asylum authorities need to ensure that the procedure, the interviewing techniques and the credibility assessment are appropriate for a child.

In some countries (such as France), when a family applies for international protection due to fear of FGM being performed on a child, protection is only granted to the girl. In these cases, asylum authorities consider that the parents do not have legitimate reasons for claiming asylum for themselves, because their opposition to the practice will not lead to persecution or serious harm for them. However, family unity and the best interests of the child are fundamental principles in international and regional human rights and refugee law, and should be prioritised in asylum claims related to FGM where the overarching objective is to protect women and girls from persecution or serious harm.

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1. Manfred Nowak (15 January 2008) *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment* www.refworld.org/pdfid/47c2c5452.pdf
2. Consideration no. 30 <http://tinyurl.com/EU-QualificationDirective>
3. A complementary form of protection against torture and inhuman and degrading treatment that is not linked to the five persecution grounds of the 1951 Refugee Convention.
4. A 2012 report of a comparative analysis of gender-related asylum claims in nine EU Member States includes a range of examples of good (and bad) practice. See <http://tinyurl.com/EU-Gender-asylum-claims-2012>
5. See, for example, the e-Learning course 'United to END FGM/C': www.uefgm.org/
6. <http://protect-able.eu/resources/>
7. See UNHCR (May 2009) *Guidance Note on Refugee Claims relating to Female Genital Mutilation*, section C. www.refworld.org/docid/4a0c28492.html
8. INTACT is a legal expertise centre in Belgium, working on the issues of FGM, forced marriage and honour-related crime.

The medicalisation of female genital mutilation

Pierre Foldes and Frédérique Martz

The ‘medicalisation’ of female genital mutilation should be denounced on two counts. Firstly, it is usually anatomically more damaging and, secondly, it goes against the ethical basis of the medical profession.

The ‘medicalisation’ of female genital mutilation/cutting (FGM/C) refers to the act being performed by doctors or other members of the health profession. The phenomenon is neither new nor unknown. The medical and paramedical professions have traditionally practised acts of mutilation in numerous countries in East Africa, primarily Egypt, Sudan, Eritrea and Somalia. It is a more recent, emerging phenomenon in West Africa where an increasing number of members of the nursing profession, midwives and *matrones* (traditional midwives) – and also doctors or surgeons – in Côte d’Ivoire, Mali and the rest of the sub-region are involved. Clinics that practise FGM/C have been identified in Kenya and Guinea.

Such acts of FGM/C are usually paid for, sometimes at a high price, on the pretext of ‘better quality’ or for safety reasons. Even in Europe, a few practitioners have offered ‘safe’ forms of FGM/C and even ‘minimal’ cutting to comply with tradition.

This practice is of growing relevance in asylum procedures where medicalisation tends to be viewed by non-medical experts (such as asylum officials) as a minor procedure and therefore not to be considered as persecution (unlike ‘more severe’, traditionally performed FGM/C). However, our experience over 25 years of treating and managing female genital mutilation and carrying out surgical repairs has given us a detailed understanding of the reality and impact of ‘medicalisation’, and we have no hesitation in denouncing these practices.

Anatomically more damaging

We have carried out reconstructive surgery on women who have been subjected to FGM/C and been able to compare the consequences of

so-called medicalised practices with cutting carried out by traditional practitioners.¹ The immediate and inevitable conclusion is that in the vast majority of cases, medicalisation is clearly an aggravating factor in mutilation.

Ritual cutting consists of cutting off a larger or smaller portion of the clitoral glans by a more or less clean cut that extends more or less towards the apex of the clitoral shaft. Traditional cutters are very well aware of how far they can go, particularly in terms of bleeding, and they understand that the death of young girls will neither serve their reputation nor help with recruiting new clients. As a result, the main nerve trunks are – paradoxically – avoided and thereby protected, as injuring them would also involve opening up blood vessels, resulting in an uncontrollable haemorrhage. The same applies to the *labia minora* and vulvar tissue, which are difficult to access on a terrified young girl.

However, the use of anaesthesia – whether local, locoregional or general – makes it possible to cut, unhindered, a body that is open and at rest. Worse, a doctor, surgeon or health-care professional knows how to prevent haemorrhage and is therefore much less constrained by the presence of major blood vessels – and can cut much more extensively, as we have observed. Moreover, the fact of being a surgeon or gynaecologist increases their ability to cut more, without risk, because of their greater knowledge of this part of the body. Medicalised cases performed by specialists have often been the ones that were most difficult to repair.

A breach of ethics

Medicine must not be used for harmful practices; furthermore, carrying out acts without a person’s consent or against their

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wishes is a crime. The medicalisation of FGM/C is an absolute breach of ethics that affects and tarnishes the entire health-care community. Historically, any other attitude has led to appalling practice, such as the experiments conducted during the Holocaust or assistance in prolonging torture sessions. The same applies to medical support for harmful practices such as FGM/C.

For the last 25 years, medicine has helped us understand the reality of FGM/C and its consequences. This new understanding must serve the needs of women. A doctor

or carer who carries out an act of mutilation commits a crime against the women who trust them, against the spirit and ethics of medicine, and against society.

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1. We have data from over 250 cases of medicalised FGM/C (some carried out in France). In addition, interviews with traditional female cutters have enabled us to gain a clearer understanding of their practices, while surgery on 4,500 cases (of all forms of FGM/C) has allowed us to understand the physiopathology of mutilation.

The Istanbul Convention: new treaty, new tool

Elise Petitpas and Johanna Nelles

The new Istanbul Convention provides a powerful tool for more effectively guaranteeing the protection of asylum seekers at risk of gender-based persecution and at risk of FGM in particular.

The Council of Europe Convention on preventing and combating violence against women and domestic violence, also known as the Istanbul Convention, is the first European treaty specifically devoted to addressing violence against women, including female genital mutilation. FGM is a threat to women and girls around the globe, including in Europe – a fact that has remained unacknowledged for too long.

With its entry into force in 2014, the Istanbul Convention legally obliges States Parties to accelerate preventive measures to protect and support FGM-affected women and girls, or those at risk, and to ensure effective and child-sensitive investigations and prosecution. These obligations include improvements in the area of refugee determination procedures for asylum seekers.

“What I remember from the interview is that the person who received me did not seem to believe me. It is true that some people leave their countries for economic reasons. But when you tell someone “I do not want my girls to be cut”, I want that this person’s vision changes.

In Europe, when a child falls and breaks her arm in the playground, everyone comes to help. I want to see the same reaction when we speak of a little girl at risk of FGM.” (FGM survivor Aissatou Diallo who fled Guinea to protect her two daughters from the practice and is now an anti-FGM activist in Belgium)

International protection under the Istanbul Convention

Building on existing international human rights law obligations, the Istanbul Convention clearly acknowledges that women and girls who suffer from gender-based violence can seek protection in another state when their own fails to prevent persecution or to offer adequate protection and effective remedies. The Istanbul Convention calls for more gender sensitivity in refugee determination procedures and obliges States Parties to take the necessary legislative and other measures to ensure that gender-based violence against women is recognised as a valid ground for claiming asylum.

The extent to which European states currently recognise refugee status for women and

girls at risk of gender-based persecution varies significantly. Possible reasons for such variations include the lack of explicit laws and guidance nationally, and inadequate provision of legal support and other services. In addition, some states regard gender-based violence as a 'private' matter; when occurring in the private sphere, gender-based violence may be more difficult to prove, creating credibility issues for asylum seekers with gender-related claims.¹

The Convention provides a set of obligations for States Parties to better guarantee the protection of asylum seekers at risk of gender-based persecution and at risk of FGM in particular.² States Parties are required to:

Ensure a gender-sensitive interpretation of each of the 1951 Refugee Convention grounds (Article 60, paragraph 2): As is often the case in gender-based persecution, there is a trend to consider FGM as falling within the grounds of membership of a particular social group and to overlook other grounds. Parents who oppose FGM for their daughters may come under the grounds of political opinion. Similarly, where it is considered a religious practice, if a woman or a girl does not behave in accordance with the interpretation of her religion, such as by refusing to undergo FGM or to have it performed on her children, she may have a well-founded fear of being persecuted for reasons of religion.

Develop gender-sensitive reception conditions and support services for asylum seekers (Article 60, paragraph 3): The identification of and response to the gender-sensitive reception needs of women affected by FGM require measures to address legal and social barriers that may prevent women and girls from accessing vital health or other services. Restrictions on freedom of movement in detention can hinder women from accessing specialist health-care or counselling services. Barriers may include language, a lack of competent or non-judgmental interpreters, and different ways of understanding and viewing health issues. Some women asylum seekers may not be aware that they have undergone

FGM, particularly if it was performed at an early age and if their reason for fleeing their country of origin is unrelated to FGM. Women may come to health professionals with long-term complications resulting from FGM but may not know that these complications are associated with it. There is also a need to address its psychological consequences which may include fear of sexual intercourse, post-traumatic stress disorder, anxiety, depression and memory loss.³

Develop gender-sensitive procedures for asylum seekers (Article 60, paragraph 3): According to the Istanbul Convention, States Parties will need to put in place a refugee determination process that is respectful of cultural sensitivities, ensures that women and girls do not face further stigmatisation upon arrival in destination countries, and guarantees a supportive environment allowing women to disclose relevant information. In particular, gender-sensitive procedures should include:

- the provision of information on gender-specific aspects of the asylum procedure
- the opportunity to have a personal interview separately from their husband/partner and without the presence of family members (especially children)
- the opportunity for women to mention independent needs for protection and gender-specific grounds leading to a separate application for international protection
- gender-sensitive and child-sensitive interviews led by a trained interviewer, and assisted by a trained interpreter when necessary
- the possibility for the applicant to express a preference for the sex of their interviewer and interpreter
- the development of gender guidelines on the adjudication of asylum claims, and training to ensure their implementation.



Photo by Lorenzo Colantoni, property of End FGM European Network

Respect the principle of *non-refoulement* (Article 61): The Convention creates the obligation to protect female victims of violence, regardless of their residence status. In this respect, states should guarantee that women in need of protection are not returned to any country where their life would be at risk or where they may be subjected to torture or inhumane or degrading treatment or punishment. Such obligation should extend to abuses by individuals who perpetrate FGM when the authorities in the country concerned are complicit, fail to exercise due diligence or are negligent in preventing or redressing the abuse.

Conclusion

The Istanbul Convention gives hope for real change in how women and girls are protected from gender-based violence. Official monitoring and evaluation of these new obligations by governments ratifying the treaty will help shed more light on what is being done to prevent and combat FGM, and will thus be an important element in ensuring that states live up to their responsibility to guarantee the physical, psychological and sexual integrity of all women.

The Istanbul Convention provides States Parties with a unique opportunity to lift the silence surrounding FGM in Europe. It is hoped that under the watchful eyes of civil society and national parliaments (both of which are allowed to contribute to the monitoring of the Convention), States

Parties will support women like Aissatou in realising their dream of being part of the last generation to have undergone the practice of female genital mutilation.

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The opinions expressed in this article are the responsibility of the authors and do not necessarily reflect the official policy of the Council of Europe.

1. Asylum Aid (UK) et al (2012) *Gender related asylum claims in Europe: A comparative analysis of law, policies and practice focusing on women in nine EU Member States*, p41. <http://tinyurl.com/EU-Gender-asylum-claims-2012>
2. For detailed guidance on what the obligations of the Istanbul Convention in relation to FGM mean in practice, and how they can be put into practice, see Council of Europe and Amnesty International (2014) *The Council of Europe Convention on preventing and combating violence against women. A tool to end female genital mutilation*, Strasbourg. See box below re 'Promising practice'. <http://tinyurl.com/CoE-AI-2014-Istanbul-Conv-tool>
3. Irish Family Planning Association (2011) *Sexual health and asylum. Handbook for people working with women seeking asylum in Ireland*. <http://tinyurl.com/IFPA-2011-Asylum-handbook>
4. The End FGM European Network (END FGM) is a European umbrella organisation set up by eleven national non-governmental organisations to ensure sustainable, coordinated and comprehensive action by European decision-makers to end FGM and other forms of violence against women and girls. Its vision is of a world where women and girls are empowered and free from all forms of gender-based violence, in particular female genital mutilation, where their voices are heard, and where they can enjoy their rights and make informed choices about their lives. The principles of respect and promotion of human rights and gender equality are at the core of this work.

Promising practice

The Netherlands: In 2011, the Dutch government developed an official document – *Statement opposing female circumcision* – to help parents withstand pressure when visiting their families in their country of origin. This document outlines the health consequences of FGM and explains relevant Dutch legislation. Parents are given a copy by children's health-care centres and school doctors. www.pharos.nl/documents/doc/pp5056-verklaring-uk-2011_definitief.pdf

Germany: In 2013, the German government set up a national, free telephone helpline 08000 116 016 offering victims of all forms of violence against women – including FGM – advice on demand; around 60 trained counsellors provide confidential

support in 15 languages, around the clock, 365 days a year. www.hilfetelefon.de/en/about-us.html

United Kingdom: In 2008, London's Metropolitan Police issued standard operating procedures on FGM which provide police with an overview of FGM and describe the procedures to be adopted when a girl is at risk of FGM or a girl or an adult woman has already been subjected to the practice. The objective is to ensure that those at risk are protected and supported, and to achieve best evidence for prosecution and protection orders. www.londonscb.gov.uk/fgm/

For more examples, see <http://tinyurl.com/CoE-AI-2014-Istanbul-Conv-tool>

May 2015

Changing attitudes in Finland towards FGM

Saido Mohamed and Solomie Teshome

Former refugee women are now working as professional educators among immigrant and refugee communities in Finland to tackle ignorance of the impact and extent of female genital mutilation/cutting.

The objective of the Finnish League for Human Rights' Whole Woman Project¹ is that no girl living in Finland be cut in Finland or taken abroad to be cut. Talking about female genital mutilation/cutting (FGM/C) from the perspective of human rights, equality and health, we concentrate on changing attitudes in the affected communities and on educating immigrants as well as professionals and students in areas such as health care, child welfare and daycare.

Nowadays FGM/C is globally recognised as a practice that violates human rights and, like other forms of violence, is an attack on the dignity, equality and integrity of girls and women. In addition to violating many international human rights conventions, the practice has been criminalised in many countries. We achieved one of our earlier objectives in 2012 when Finland published a National Action Plan on the Prevention of Circumcision of Women and Girls 2012-2016; we were involved in preparing the contents of the Action Plan and today we monitor its implementation and lobby the authorities to meet their responsibilities.

Two of our advisors were themselves refugees – from Somalia and Ethiopia – and are now professional educators.

Saido

My name is Saido Mohamed. I came to Finland as an asylum seeker from Somalia in 1992. In 2001 while working as a nurse, I attended a training-of-trainers course for immigrant women and men organised by the Whole Woman project. The topic of training was FGM/C – more precisely, its consequences for health and its relation to women's rights and human rights. Despite the fact that I was not unaware of the phenomenon, the course

gave me new tools to approach the issue and I began volunteering in my own community, spreading information about FGM/C.

In the early 2000s, talking about FGM/C was still very difficult in the Finnish Somali community but there has been a tremendous change in attitudes since then. Today men and women are willing to discuss FGM/C openly and most of them are strongly against it. They do not want their daughters to go through the practice, and young men are willing to marry uncut women. A male participant in one of our seminars said that FGM/C violates not only women's rights but men's rights as well.

Those girls and women who have themselves undergone FGM/C find themselves in a completely new situation when they move to Finland or elsewhere in Europe, where it is not practised. What had been culturally normal in their country of origin suddenly becomes abnormal; encounters with professionals such as Finnish health-care workers may not only cause stress and fear but also humiliation. Many cut women try to avoid gynaecological examinations. One woman who had experienced the most severe form of FGM/C² told the following story when asked about gynaecological examinations:

"It was the worst experience I've ever had. The doctor asked, horrified, what the hell has happened to you? That was my first and last visit to a gynaecologist!"

Solomie

My name is Solomie Teshome. I came to Finland as a refugee in 1995. Unaware of the prevalence of FGM/C in my own country, Ethiopia, I was shocked and saddened when I saw a documentary about it on Finnish TV. I had known about its existence but I hadn't

known how many girls and women were dying because of it. During my next visit home, I decided to investigate and discovered not only that it had always been considered as a normal practice and was part of Ethiopian culture but also that the phenomenon was closer than I had realised – my neighbours, relatives and friends were also victims of it. The truth changed my life and since then I have been working against FGM/C.

Since working at the Whole Woman project I have come to realise that:

- people who have suffered the procedure or have themselves performed the procedure are victims of a harmful tradition and their awareness of the topic may be minimal
- FGM/C is a traumatic personal experience which needs handling with utmost care and confidentiality
- establishing personal trust with individuals and groups is the first step to getting rid of the practice
- each case needs to be approached individually, bearing in mind, for example, people's cultural and educational backgrounds
- the role of 'key persons' is essential – individuals who participate in our groups and then commit to talking about the negative impacts of FGM/C in their communities and family networks.

In groups one can see and measure changes in attitudes towards FGM/C. After a series of individual discussions to build trust, we organise separate groups for women and men. Then when we feel that the participants are ready, we bring women and men of the same origin together; we also organise groups with people from different ethnic, cultural and religious backgrounds. Our aim is to change attitudes through discussion, step by step.

Through one of our 'key persons', I met a recently arrived Ethiopian refugee whose

wife and daughters were still in Ethiopia. When he learned that the procedure was still routinely practised in urban settings in Ethiopia, he talked to his wife who told him that her mother was planning to perform FGM/C on their youngest daughter. The man shared his new-found knowledge of FGM/C with his wife, who then convinced her mother to give up the idea of cutting the girl. Nowadays the whole family lives in Finland and the daughter has not been cut.

Conclusion

As professionals with long experience in working against FGM/C and as women with first-hand experience in forced migration, we strongly believe that systematic training on the disadvantages of FGM/C as well as on related rights should be offered to all refugees waiting to be relocated. Some people who have come to Finland as refugees told us that they deliberately had their daughters cut in the refugee camps because they were aware that the practice would not be accepted in their new home country. This can and should be prevented. Furthermore, training should also take place in the receiving country, soon after arriving, in the newcomers' own languages.

In both situations, there should be discussion groups for refugees, and programmes to change attitudes at the grassroots, as well as one-to-one counselling. By receiving information and having the opportunity to reflect on their experiences in a peer group, people become empowered, even in difficult circumstances. And when empowered, they will continue to make a change in their own communities.

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1. The Whole Woman project was chosen as an example of good participatory practice by UNHCR. See UNHCR (2014) *Speaking for Ourselves. Hearing Refugee Voices - a Journey towards Empowerment* www.refworld.org/docid/537afd9e4.html

2. Type III, also known as infibulation or pharaonic FGM/C.

May 2015

The Cartagena process: 30 years of innovation and solidarity

Carlos Maldonado Castillo

The 30th anniversary of the 1984 Cartagena Declaration offers the opportunity to consider the achievements of the Cartagena process and the characteristics that make it so remarkable.

Ten years ago, while writing about the Cartagena +20 process, I reflected on the journey by Latin America and the Caribbean in the field of refugee protection since the 1984 Cartagena Declaration.¹ I was looking for the common elements to all Cartagena commemorative processes that had produced important Regional Declarations² as well as for the most unique elements of each. This reflection is even more timely today at the conclusion of its 30th anniversary, which has culminated in the adoption of the Brazil Declaration and its Action Plan³ by 28 countries and 3 territories of Latin America and the Caribbean.

One unifying element is that since 1984 participating states have reaffirmed the need to strengthen the international protection regime for refugees, displaced and stateless persons by highlighting, firstly, the centrality of the principle *pro homine*⁴; secondly, the reliability of the international instruments on refugees and stateless persons; and, thirdly, the convergence and complementarity of International Human

Rights Law, International Refugee Law and International Humanitarian Law. Most remarkably, this defence of international protection has taken place within an ever more restrictive global environment.

Furthermore, all the Regional Declarations put an emphasis on sustainable or durable solutions; they endorse pragmatic and flexible approaches while stressing that sustainable solutions are best achieved in a framework of peace and respect for human rights. As a corollary, the Declarations explicitly or implicitly underline that refugees and displaced persons are essential parties to the construction of peace.

Also, all the Declarations recognise the importance of the collaboration of the international community, and highlight the principles of regional solidarity, cooperation and responsibility. It is within this framework, which emphasises the region's primary responsibility, that international cooperation is sought and welcomed.

The 1984 Cartagena Declaration on Refugees⁴ is a landmark regional refugee instrument, which for Latin America broadened the refugee definition and proposed new approaches to the humanitarian needs of refugees and displaced in a spirit of solidarity and cooperation.

Article III (3): *...the definition or concept of a refugee to be recommended for use in the region is one which, in addition to containing the elements of the 1951 Convention and the 1967 Protocol, includes among refugees 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.*

On the occasion of the Cartagena Declaration's 30th anniversary, governments of Latin America and the Caribbean met in Brasilia on 2-3 December 2014. At the end of the meeting, 28 countries and three territories of Latin America and the Caribbean adopted the **Brazil Declaration** ('A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean') and a **Plan of Action** ('A Common Roadmap to Strengthen Protection and Promote Sustainable Solutions for Refugees, Displaced and Stateless Persons in Latin America and the Caribbean within a Framework of Cooperation and Solidarity').

1984 Cartagena Declaration on Refugees, 22 November 1984: www.unhcr.org/45dc19084.html

It is interesting to note two more common elements. The first is the open, inclusive and comprehensive nature of the dialogues held among governments, civil society (including academia) and relevant international and regional organisations. The second is the ability of the region to generate both innovative ideas and effective proposals that have not only served well for situations of refugees and displaced persons in Latin America and the Caribbean but have also been the subject of study and use in other regions of the world.

For example, the Conferencia Internacional sobre Refugiados Centroamericanos (International Conference on Central American Refugees)⁵ was started in 1989 as a result of the Cartagena process, opening the way to ground-breaking initiatives, including the FOREFEM dialogues that made it possible for the voices of women to be included in the search for durable solutions.⁶ These also laid the ground for women to be recognised as having their own rights in personal documentation, to land ownership, and to be empowered to organise their own voluntary repatriation movements.

Distinctive elements of the Cartagena process

The Cartagena Declaration of 1984 is particularly known for its expanded refugee definition [see box on previous page], which was a crucial instrument for the protection of refugees from Central America in the 1980s and has continued to be so for thousands of refugees from the region and from other continents.

The 1994 Declaration of San José (Cartagena +10) is perhaps the least known and cited of the Regional Declarations. However, it was visionary in bringing forward a series of principles on internal displacement, years before the Guiding Principles on Internal Displacement were formulated.

The 2004 Mexico Declaration (Cartagena +20) is unique for three reasons in particular. Firstly, the Declaration was accompanied by

an Action Plan; secondly, the Action Plan included three innovative programmes for sustainable solutions, embracing even more strongly the principles of solidarity and joint responsibility through its Cities of Solidarity, Solidarity resettlement and Borders of Solidarity; and, thirdly, the scope of consultations was broadened to include three sub-regional meetings, which provided even greater legitimacy to the process.

And now, the 2014 Declaration of Brazil follows the path marked out by the Declaration of Mexico, since it includes an ambitious Plan of Action for the period 2015-24. One of its 11 programmes of action incorporates the Caribbean countries as full members of the process for the first time. Other noteworthy elements of Cartagena +30 include the call to eradicate statelessness by 2024, a labour mobility programme (also called the 'fourth solution') and an agreement to better understand and respond to the humanitarian consequences, including displacement, of the violence perpetrated by international organised crime.

Cartagena +30 had the broadest ever consultative process since 1984, with four sub-regional meetings and a Ministerial closing event in Brasilia which enjoyed the participation of virtually all governments of Latin America and the Caribbean, other observer governments, refugees, internally displaced and stateless persons, international and regional bodies, and more than 150 NGO and academic representatives.

Cartagena encapsulates the capacity and will of a whole sub-continent to periodically analyse the humanitarian challenges ahead, the contemporary plight of refugees, internally displaced and stateless persons in the region, in order to equip itself with a common instrument of policy and guiding principles (through the Declaration) and with coordination, cooperation and response mechanisms (through the Action Plan) to meet the protection and humanitarian needs collaboratively identified. Such a forum does not exist in any other continent.

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1. www.refworld.org/docid/3ae6b36ec.html
2. San José Declaration on Refugees and Displaced Persons, 7

December 1994: www.refworld.org/docid/4a54bc3fd.html; Mexico Declaration and Plan of Action to Strengthen International Protection of Refugees in Latin America, 16 November 2004: www.refworld.org/docid/424bf6914.html; Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas, 11 November 2010: www.refworld.org/docid/4cdd44582.html

3. Brazil Declaration and Plan of Action, 3 December 2014: www.refworld.org/docid/5487065b4.html
4. The principle that laws shall be interpreted and applied in a way that will most favour the respect of human rights of the individual.
5. www.refworld.org/publisher/CIREFCA.html
6. <http://tinyurl.com/FOREFEM>

Trafficking for human organs

Vladimir Makei

Trafficking of people for their organs is an emerging transnational crime that has failed to receive sufficient international attention.

The 23rd session of the United Nations Commission on Crime Prevention and Criminal Justice held in May 2014 adopted a Belarus-sponsored resolution titled 'Preventing and Combating Trafficking in Human Organs and Trafficking in Persons for the Purpose of Organ Removal'. The resolution mandated the United Nations Office on Drugs and Crime (UNODC) to conduct an extensive study on the issue and report back to the Commission in 2016, in the expectation of better understanding this crime and consequently helping to devise effective policies against it.

There is neither a universally agreed definition of the crime of organ trafficking, nor a relevant universal legally binding tool. The lack of both, however, does not indicate that the crime is insignificant. Rather, it is a reflection of the emerging nature of the crime, the scope of which the internationally community is only now beginning to grasp.

This crime occurs in three specific forms. First, while trafficking in persons for the purpose of organ removal is a form of human trafficking as set out in the 2000 Palermo Human Trafficking Protocol, there is a growing realisation that it is also a form of organ trafficking. Second is what is known as 'transplant tourism'.¹ This involves travel by potential recipients mainly (but

not exclusively) from developed countries to developing ones, where they undergo transplantation of organs purchased from local donors. Viewed in this light, organ trafficking is not about the movement of organs; rather it is about the movement of people – from developing and emerging economies to affluent countries in the form of human trafficking for the purpose of organ removal, and back from affluent to developing countries in the form of transplant tourism. The third form is organ trafficking in a narrow sense, namely, the illicit movement of human organs themselves between countries.

What has been giving rise to this transnational challenge is the growth of the organ transplantation industry worldwide. However, the crime of trafficking in organs has emerged not because of the industry *per se* but because of an ever-growing gap between the demand for human organs and the legitimate supply. As with all clandestine activities, the scope of organ trafficking is not exactly known. There was an attempt to learn more about it in 2004 when the UN General Assembly passed a resolution on 'Preventing, combating and punishing trafficking in human organs'. However, a subsequent report by the UN Secretary General acknowledged that Member States provide insufficient information and that hence the challenge of trafficking in organs remains largely unexplored. Yet,

while there is insufficient official data, there is plenty of information on trafficking in organs from unofficial sources. It is claimed that trafficking in organs for the purpose of transplantation accounts for 10% of all transplantation cases in the world, producing up to US\$1.2 billion in illicit revenue each year.²

International approaches

Generally, the international community sticks to a prohibitionist approach in organ transplantation. In other words, states prohibit the purchase and sale of human organs. Instead, the industry operates on the basis of altruistic voluntary organ donation where, predicated on moral and ethical considerations, organ transplantation can be justified only when it is a voluntary act of organ donation, because in most cases such an act brings together people who are already close to each other.

The prohibitionist approach stems from the Guiding Principles on Human Cell, Tissue, and Organ Transplantation developed by the World Health Organization in 1991. These are not binding, and not every country upholds the principles. Another non-binding tool is the Declaration of Istanbul on Organ Trafficking and Transplant Tourism, which came out of an international conference in 2008. The 1997 Council of Europe's Convention on Human Rights and Biomedicine and its 2002 Additional Protocol do, however, prohibit the purchase and sale of human organs. The Council of Europe is also working towards the adoption of the Convention against Trafficking in Human Organs, which affirms the need for an international legally binding document dealing exclusively with the crime of organ trafficking.

In anticipation of a study on organ trafficking that is to be released by UNODC in 2016, Belarus initiated discussion on the issue of a possible universal legally binding tool against trafficking in human organs in late 2014, at the 7th session of the Conference of the States Parties to the UN Convention against Transnational Organized Crime in Vienna, and in New York on the margins of the 69th session of the UN General Assembly.

The rationale for a possible new tool is, firstly, the need to address the main cause of organ trafficking, which is the acute shortage of human organs; this could be done by building on successful national organ procurement models such as 'presumed consent' which essentially means that every citizen of a country is an organ donor unless they expressly withdraw consent. Second is the lack of an internationally agreed definition of the term 'organ trafficking'. Thirdly, a new universal document should tackle not just the causes of organ trafficking but also its consequences. In other words, it should set out provisions for criminalising not only trafficking in persons for that purpose but also trafficking in human organs; while many states have already criminalised purchase of organs in their domestic jurisdictions, very few have criminalised purchase by their citizens of organs abroad.

A new instrument must serve to significantly enhance international cooperation on the issue, above all in such areas as extradition, confiscation of assets and proceeds, and mutual legal assistance. Lastly, a new document should contribute to the objective of enhancing public education about the importance of organ donation, as well as about the threat posed by the crime of organ trafficking.

While human trafficking for the purpose of organ removal is covered by the legally binding Palermo Human Trafficking Protocol, transplant tourism and trafficking of organs are not. The intersection of this crime with the trafficking of persons emphasises the need to fully cover the scope of organ trafficking, while reflecting also its intricacies.

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1. Transplant tourism should not be confused with travel for transplantation, as the latter is a legitimate activity.

2. Emily Kelly (2013) 'International Organ Trafficking Crisis: Solutions Addressing the Heart of the Matter', *Boston College Law Review*. <http://tinyurl.com/Kelly2013-organ-trafficking>

May 2015

Sweet tea and cigarettes: a taste of refugee life in Jordan

Rana B Khoury

Among refugees in Jordan, utter boredom – the result of restrictions on mobility, prohibitions on employment, and feelings of marginalisation – is an unmistakable source of anguish.

Much of the media reporting on Syrian refugees highlights their humanitarian struggles, or else their admirable resilience. Both approaches are understandable and realistic but what is missing from these two perspectives is the mundane. Boredom is the passage of days with little to do but dream of the past and fear for the future. Televisions, neighbours and babies punctuate the silence, but barely. What amount of noise can replace a secure career, crops to attend to, or childrens' futures to plan for?

People used to make plans, especially for the return home. "When we came we thought we would stay ten days," one man told me. Another offers what she thought was a more realistic "two months". Two months turned into two years; planning turned into waiting. With cigarettes they burn the minutes away. With sweet tea they swallow their pride, ambition and faith in the future.

To highlight boredom in displacement is not to suggest that Syrian refugees are so comfortable that they enjoy some privileged tedium. The opposite is true. Their boredom results instead from the restrictions on their mobility, prohibitions on employment, and feelings of marginalisation.

One out of every ten people in Jordan is a refugee from Syria. Of the more than 600,000 Syrian registered refugees in Jordan, fewer than one in five reside in the camps. That leaves over half a million mostly living in urban areas throughout central and northern Jordan. Syrians have received food assistance, access to health care and education in government schools, although recent cuts are reducing the generosity of the first few years. In order to make ends meet, many

Syrians living in the cities receive private assistance. In Irbid I visited one apartment building housing the families of 'martyrs', rebels killed in battle; a Syrian donor residing in Saudi Arabia pays for the families' first six months' rent. Others tap into whatever savings they may have, or the profits from belongings sold before leaving Syria, or from selling the pieces of gold jewellery that once adorned their necks and wrists. Some receive money from family members living farther afield, often in the Gulf. After four years, all of these resources are tapering off.

Restriction

Even if they could, few people care to depend solely on assistance. Many venture to work but because the government prohibits them from doing so, the employment is irregular. After having begged her husband to leave the camp, a mother I met had been sending her children to work on construction sites to pay the rent in their new residence. But stories soon reached her about police crackdowns and the deportations of individuals back to Syria. She has since kept the children at home. Another man residing in the outskirts of Amman takes whatever odd jobs he can get, although that has sometimes meant he did not receive his due payment. One mother broke down when recounting how her son eventually went back to Syria to work because "there was nothing for him here". Soon after, "he was martyred".

Mobility is restricted in less formal ways too. Not everyone takes advantage of the Jordanian government's generous policy of enrolling Syrian children in public schools, sometimes because there is no easy mode of transportation for their children to get there. Indeed, high transportation costs are a commonly expressed grievance,

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UNHCR/Jared Kohler

A Syrian family in their apartment in Ramtha, Jordan, February 2014.

keeping at home adults and children alike. Another woman expresses fears for her daughters' safety and honour, so they stay home while the boys go to school.

Another cause of marginalisation is the sense of estrangement born of being an outsider. Individuals have varying interactions with Jordanians, so their impressions are mixed. Some are grateful to particular Jordanian neighbours or sponsors who have assisted them, and others to the government. Even among those who feel more tension with their hosts, they are forgiving of the unenviable position that a small and resource-poor country has found itself in. Others feel distinctly unwanted, and in turn accuse Jordanians of being racist, lazy or greedy.

Peel back these layers of restrictions and marginalisation, and you will find a daily life that is insufferably boring. People are tied to the inside of their residences, small apartments crowded with big families. The world outside is risky, expensive and unwelcoming. Men who attend the mosque for prayer have a reason to go out five times a day. Women, not even that. They pass the time preparing the next meal. The children are wound up; a few hours at school every day would be a mercy.

There are other mercies. Social life and networks persist, although in rarefied form. Feelings of comfort and security are derived from knowing many neighbours and relatives, and from living in the midst of the same customs and traditions. Refugees from the same village in Syria marry one another, and bring children into the world. One woman shows me pictures from her daughter's wedding celebration held in Irbid; most of the 300 invited guests were other refugees from her home town in Dara'a.

Those wedding shots were presented to me on a smartphone. Such devices are lifelines to the outside world, and more importantly to inside Syria. News and updates stream in on rocket attacks and daily casualties. With little else to occupy people's time and much anxiety to fill their minds, these devices are consulted often and eagerly. A man in Za'atari camp related to me how he learned his house was destroyed in a rocket attack: a neighbour sent him a picture of the rubble on his mobile phone. He remained unaffected as he spoke – he had a cigarette in one hand and was pouring me a glass of sweet tea with the other. Tragedy, turned quotidian.

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Refugee-state distrust on the Thai-Burma border

Karen Hargrave

Distrust between refugees and their state of origin must be given due consideration in institutional approaches to repatriation of refugees, on the Thai-Burma border and in other refugee contexts worldwide.

In 2011, following the installation of a nominally civilian government in Burma, Thai local media began to report rumours that Thai government officials were discussing plans to repatriate the approximately 100,000 refugees from Burma housed in camps on their territory. In 2015, four years on, despite continuing rumours concerning repatriation and declining aid to the Thai-Burma border camps, organised return operations have yet to begin.

In many ways, this fact is to be celebrated. Burma's reform process remains incomplete, and in many cases the circumstances which caused refugees to flee remain. A return operation in current conditions would be likely to put returnees at risk of serious human rights violations. However, even if significant political change is secured in Burma, another serious barrier to the success of future repatriation operations exists, namely, pervasive distrust of the Burmese government among refugees in exile.

The United Nations High Commissioner for Refugees (UNHCR) published in 2012 a *Framework for Voluntary Repatriation: Refugees from Myanmar in Thailand*. Perceived institutional encouragement to start repatriation was met by widespread criticism, both from Burma's well-organised civil society and from international NGOs, which emphasised that conditions in Burma were not yet suitable for large-scale repatriation. UNHCR has since consistently affirmed that operations are currently only at a pre-planning stage and that the institutional standard of voluntariness will be safeguarded in any repatriation process.

It is this criterion of 'voluntariness', however, that becomes problematic. In 2013 a Karen

Refugee Committee survey reported that only 27% of refugees in Tham Hin camp would return to Burma if peace and political stability were achieved.¹ These findings suggest that if institutions want to safeguard voluntariness yet nonetheless wish to see refugees repatriate, more must be done than simply to ensure rights-respecting conditions within Burma. Additionally, it must be ensured that refugees **want** to return.

There are many reasons why refugees in this context might resist return, even given significant political change in Burma – better economic prospects in Thailand and the sheer length of time spent in encampment, to name two. However, and crucially, it is likely that Burma's displaced persons still fundamentally distrust the Burmese government, and the very nature of this refugee-state distrust suggests that political change may not in itself be sufficient to make Burma's refugees voluntarily choose to return.

Why take distrust seriously?

Distrust has been characterised as an attitude adopted by individuals as a rational response to risk, in particular providing a means to protect against the disastrous consequences of misplaced trust.² In the case of the refugee in exile, we see distrust towards a refugee's state of origin as a rational response to the risk involved in resuming dealings again with that state. However, an interesting feature of distrust is that, even if generated on a rational basis, it can take on non-rational features in that, once adopted, distrustful attitudes become a lens through which all subsequent developments are interpreted; distrust thereby often takes on a largely non-rational self-reinforcing tendency, rendering it a particularly difficult attitude to dislodge. This alone indicates that, in the case of the refugees

on the Thai-Burma border, fundamental political change within Burma may not in itself be sufficient to dislodge distrust and stimulate voluntary wishes to repatriate among refugees. Facilitating repatriation requires us to directly engage with and address refugees' distrustful attitudes, acknowledging that they have rational origins and that (where appropriate) they may require substantial time and effort to renegotiate.

Yet institutional repatriation frameworks offer little direct guidance on managing the thorny issue of refugee-state distrust. The 1996 UNHCR *Handbook on Voluntary Repatriation* makes just three mentions of 'trust' and, in this document, the focus on trust is aligned with refugees' relationship with UNHCR and other information sources; there is no specific consideration of refugee-state trust. The more recent 2004 UNHCR *Handbook on Repatriation and Reintegration Activities* also contains only three mentions of 'trust' but does at least situate trust in terms of government (rebuilding trust in local authorities and public institutions); however, these mentions relate to reintegration rather than repatriation. UNHCR's approach appears to be that trust in the state becomes relevant once the refugee has returned to her country of origin. There is no direct suggestion that refugee-state distrust might be a barrier to repatriation in itself and something worthy of consideration prior to return.

Both UNHCR documents do contain some hint that some such obstacle might exist but this is couched in terms of 'confidence', not 'trust'. The 1996 *Repatriation Handbook* makes twenty-two references to confidence building, over half of which refer to how refugees in exile might – prior to return – develop confidence in the situation in their country of origin and their future treatment. In the 2004 *Repatriation and Reintegration Handbook* a third of the references to 'confidence building' consider pre-return confidence building in this sense.

However, this focus on confidence building fails to encapsulate the complex nature of

distrustful refugee-state attitudes prior to repatriation. The idea of building confidence implies that the solution is simply to make refugees sufficiently aware of the objective facts of the case, through recommended activities such as information campaigns, go-and-see visits and legal guarantees. However, this focus ignores the way in which distrust, as an attitude distinct from lacking confidence, pervasively affects the way in which the 'facts' are likely to be interpreted.

Renegotiating distrust

To some extent, this policy deficit might be excused by the fact that addressing the complex obstacle of distrust requires the renegotiation of intensely personal attitudes – a clearly momentous task. However, there are some direct strategies that can be implemented to encourage refugees to reconsider their distrust of their state of origin. While these efforts do not represent fundamentally new approaches, they can gain new strategic importance as part of a concerted focus on refugee-state distrust.

Strategies include:

- symbolic renouncement by the state of origin of past rights violations, incorporating redress mechanisms
- introducing low-risk channels of refugee-state cooperation prior to repatriation (such as out-of-country voting)
- establishing a role for bodies already trusted by refugees (for example, refugee committees) in return negotiations
- providing channels for refugees from minority and previously persecuted ethnic groups to have genuine representation in their state of origin's government.³

If, as UNHCR suggest, we are still in a 'preparedness' phase for a possible future repatriation from the Thai-Burma border, preparedness should incorporate steps to lay the groundwork for renegotiating refugee-state distrust; voluntary repatriation may

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then become possible, should further political reform render it a rights-respecting option.

This is not a problem unique to the Thai-Burma border context. Scrutiny of this case suggests that, while international institutions espouse a wish to curtail protracted refugee situations all the while committing to standards of voluntariness in repatriation, they lack a framework for coherently addressing refugee-state distrust as a challenge to operations. Institutional actors must recognise that by endorsing voluntariness in repatriation, they endorse the importance of refugees' own thoughts, feelings and attitudes regarding their future movements. Refugee-state distrust, as one of these attitudes, and

one that poses a significant obstacle to repatriation, thus deserves policymakers' acknowledgement and attention.

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1. See Saw Eh Na (2013) 'Refugee survey – most do not want to go back to Burma', <http://karennews.org/2013/07/refugee-survey-most-do-not-want-to-go-back-to-burma.html/>
2. See Hardin R (ed) (2004) *Distrust*, New York, Russell Sage Foundation (in particular, papers by Russell Hardin, Roderick Kramer and Deborah Larson).
3. See Hargrave K (2014) 'Repatriation through a trust-based lens: Refugee-state trust relations on the Thai-Burma border and beyond', RSC Working Series No. 104 <http://tinyurl.com/Hargrave-trust>

Animals and forced migration

Piers Beirne and Caitlin Kelty-Huber

Harm to animals resulting from forced migration of people is intricately interwoven with and contingent upon the simultaneous suffering of humans.

Forced migration's harmful impact on the lives of non-human animals (henceforth, 'animals') tends to be grossly under-reported. While an examination of the lives of animals other than humans is worthwhile in itself, there are many anthropocentric reasons to consider the effects of forced migration on animals.

The generally accepted categorisation of animals by their utility to humans – as 'companion animal', livestock, wild animal, and so on – shapes the way in which particular species are treated in a given culture and, therefore, an understanding of cultural attitudes towards animals is needed for an examination of the effects of forced migration on animals. The emotional toll on some displaced people, for instance, is exacerbated by the sometimes unavoidable abandonment of companion animals and of domesticated animals en masse. Affected people often have little time and few options when making preparations for the animals

under their care. The initial time frame of displacement can be vague and uncertain, leading affected peoples to believe they are leaving dependent animals for a manageable period of time – only later to learn that return is forbidden, dangerous or impossible. Conversely, many affected people are simply not allowed to leave with their animals when unexpected disasters occur, when government-sanctioned evacuations remove populations or when they flee across borders.

Abandoned animals may be tied up or else left inside yards, homes, barns and fenced-in pastures, or they may be abandoned to roam on depopulated streets and in derelict buildings. Whether in urban or rural landscapes, abandoned animals may be absorbed into or constitute new feral animal populations. For all of these animals, death is common by dehydration, starvation, disease and injury. Domesticated animals may also be killed and eaten by starving displaced people, especially in situations

where there is a limited humanitarian aid effort. For example, in October 2013, Syrian clerics issued a *fatwa* allowing Syrian displaced people to eat cats and dogs.

Animals displaced with people

Most of the animals that migrate with displaced peoples are considered as subsistence and/or work animals. Often carrying people or laden with the personal belongings of displaced people, these animals can develop injuries from the weight of and prolonged friction from their cargo. Furthermore, they often have inadequate access to food and, especially in arid climates, to water. Consequently, many animals die from exertion or deprivation during migration.¹

Many impoverished people who become forced migrants do not have access to basic vaccinations for their animals. In addition to the stress of travel and unhealthy subsistence, animals often become vectors for disease, bringing animal illnesses to refugee camps and spreading disease amongst animals that border refugee-occupied areas.

This is currently a big issue for Lebanese farmers and their subsistence animals because the Syrian refugees fleeing to Lebanon have been accompanied by thousands of unhealthy goats, sheep and cows – unvaccinated as a result of the conflict – potentially threatening the economic stability and survival of Lebanese farmers. In August 2013, the Lebanese Ministry of Agriculture initiated an emergency programme to dispense vaccinations in order to curb a potential epidemic. While diseases affecting animals often go unrecorded and unremarked, they are extremely painful for the afflicted animals and may also be spread to feral animals, thus endangering native animal populations.

In addition, where displaced people's camps occupy areas which were previously unused by humans, they may deprive wild animals of critical habitat for hunting, foraging, migration and procreation. The surrounding land may be degraded as

habitat through deforestation and erosion and wildlife may be hunted or poached by refugees for consumption or for trade.

These elements are compounded when refugees settle within conservation areas, as occurred notoriously in 1994 when Rwandan refugees were relocated to the Virunga National Park, and this highlights a tension between the efforts of conservationists and of human rights workers. There are 34 identified biodiversity 'hotspots' worldwide, characterised by their high levels of biodiversity and the compromised status of their integral ecosystems, especially for endangered species. Over 90% of major armed conflicts between 1950 and 2000 occurred within countries containing biodiversity hotspots, and more than 80% took place directly within hotspot areas.² Today, the Horn of Africa and the Mediterranean Basin hotspots are highly affected by the displacement of people and other anthropogenic causes.

According to Jason Mier, executive director of the non-governmental organisation Animals Lebanon, the influx of Syrian refugees in Lebanon has challenged his organisation's ability to enact desperately needed animal welfare laws. With virtually no animal welfare laws in Lebanon, animal abuse is rampant, and the captive endangered species trade has flourished within Lebanese borders. This is simply another illustration of how costly, intersectional and complex the violence against animals as a result of forced migration can be.

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1. Julie Andrzejewski (2013) 'War: Animals in the Aftermath', in Nocella, Anthony J, Colin Salter and Judy K C Bentley (eds), *Animals and War*. Lanham, Md:Lexington Books.

2. Hanson et al (2009) 'Warfare in Biodiversity Hotspots', *Conservation Biology*, Volume 23, Issue 3, pp578-587. <http://onlinelibrary.wiley.com/doi/10.1111/j.1523-1739.2009.01166.x/abstract>

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New Associate Professor: Dr Tom Scott-Smith

Dr Tom Scott-Smith has been appointed Associate Professor of Refugee Studies and Forced Migration at the Refugee Studies Centre, to start from September 2015. Dr Scott-Smith has been most recently at the University of Bristol,

where he was Lecturer in Politics at the School of Sociology, Politics and International Studies. His research examines humanitarian relief and its impact on the lives of refugees, with particular attention to the nutrition and shelter sectors.

2015 Annual Elizabeth Colson Lecture

Wednesday, 10 June 2015, 5pm, Oxford

Professor Miriam Ticktin (Associate Professor of Anthropology at The New School for Social Research and co-director of the Zolberg Institute on Migration and Mobility) will give this year's Annual Elizabeth

Colson Lecture, on 'Innocence: understanding a political concept'. For more details and to register, please visit www.rsc.ox.ac.uk/Colson2015

**Humanitarian Innovation Conference 2015
17-18 July 2015, Keble College, Oxford**

The RSC's Humanitarian Innovation Project will be hosting its 2015 Humanitarian Innovation Conference in partnership with the World Humanitarian Summit. The theme of this year's conference is 'Facilitating Innovation'. As interest and dialogue around humanitarian innovation continues to expand, conference participants are invited to explore the challenges of creating an enabling environment for humanitarian innovation. In the lead up to the World Humanitarian Summit, a key focus of the conference will explore how we enable innovation by and for affected communities. For more information, visit www.oxhip.org/2014/11/hip2015-cfp/

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Building respectful solutions

Colleen Swan, Chief Albert P Naquin and Stanley Tom

Tribes in coastal Alaska and Louisiana in the United States are among the communities at immediate risk of displacement due to climate change impacts, such as sea-level rise and melting permafrost, as well as other human-induced environmental changes from socio-historical processes and unsustainable development. In the 1990s the people of Kivalina in Alaska began to notice a gradual change in the environmental conditions and weather patterns that resulted in changes to migration of wildlife, a decrease in sea ice and warmer temperatures. The people adapted and became more vigilant in their observations to avoid missing the hunting seasons. Thus began the community's discussions about global warming. However, while efforts to relocate the community are proactively being pursued by the community, no funding has been promised beyond the planning and design phase of the project.

Since the 1970s, the Traditional Council of Newtok, another village in Alaska, has continuously monitored the encroaching erosion of their land and has researched means of mitigation. The conclusion of these efforts was that the village must relocate, as there is no permanent and cost-effective alternative mitigation measure available for remaining at the current site. While relocation has begun, the Tribal Council has faced obstacles due to lack of policy mechanisms and funding barriers, and the full implementation of the relocation plan remains uncertain.

Similar experiences are occurring for tribes in southeast Louisiana. For example, the Isle de Jean Charles tribe inhabits an island which is shrinking and experiencing relative sea-level rise, increasing impacts from storms and hurricanes, and extreme environmental changes from unsustainable extractive practices. With no options left for in situ adaptation, and recognising the need to be proactive if they are to maintain their cultural sovereignty and bring their scattering community together, the Tribal Council began working on relocation. It has a plan in place for a sustainable, renewable

energy-driven community as a model for community-led relocation, and like Kivalina, has no funds or government support to do so.

While communities such as Kivalina, Newtok and Isle de Jean Charles have spent a generation or more working towards relocation, their efforts have been impeded at every step due in large part to a lack of institutional and governance structures to assist communities in their relocation. To move their efforts forward, with very limited resources, the tribal leaders have met with local, state and federal government representatives, have spoken at high-level forums and meetings, and have given interviews to media around the world.

As collaborations are formed¹ and processes are put in place to support communities with their relocation, it is imperative that the tribal and community leaders who have spent a generation and more working on such efforts are the ones guiding the process to help ensure that the communities' rights and cultural sovereignty are held intact. Incorporating diverse knowledge systems and ways of knowing including traditional decision-making processes have to be at the core of the entire relocation process. It needs to be done justly and respectfully, so as to not turn the co-production of planning and implementation into co-optation.

Colleen Swan swancolleen@gmail.com is the Project Coordinator for the Kivalina City Council. Chief Albert P Naquin whitebuffalo@netscape.net is Chief of the Isle de Jean Charles Tribe and leads the Isle de Jean Charles Tribal Council. Stanley Tom stanley_tom2003@yahoo.com is the Tribal Administrator for the Newtok Traditional Council.

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1. For example, the Rising Voices Workshop, which is a community of Indigenous leaders, Indigenous and non-Indigenous environmental experts, students, and scientific professionals across the United States. www.mmm.ucar.edu/rising-voices-home

