What is crisis migration?

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Movements precipitated by humanitarian crises have implications that touch upon immigration control and national interests, human rights, humanitarian and development principles, and the frameworks for international protection, cooperation and burden sharing.

Existing legal and institutional frameworks manifest limited capacity to accommodate all those with protection needs. Even when frameworks exist, in practice there are considerable gaps in implementation. Humanitarian crises triggered by different events and processes — whether acute or slow-onset, natural or human-made — create common and different movements and protection needs. Some movements occur due to the imminence of real or perceived threats to life, physical safety, health or basic subsistence, while others take place in anticipation of such harm. Still other movements fail to take place, leaving individuals and communities potentially at considerable risk.

The Institute for the Study of International Migration's Crisis Migration Project[1] attempts to describe the phenomenon of 'crisis migration', positing three principal ways in which humanitarian crises affect movement. (These categories are not mutually exclusive as people may move from one to another or fall into more than one.)

■ **Displacemen**t, encompassing those who are directly affected or directly threatened by a humanitarian crisis – that is, those who are compelled to move by events beyond their direct control. The displacement may be temporary or it may become protracted.

■ **Anticipatory movement**, encompassing those who move because they anticipate future threats to their lives, physical safety, health and/or subsistence. In some cases, the movements involve entire communities while at other times individuals and households migrate.

■ **Relocation** for persons who might otherwise be trapped in place, encompassing those who are directly affected or threatened by a humanitarian crisis but who do not or cannot move due to physical, financial, security, logistical, health and/or other reasons.

In a bid to identify gaps in protection and commonalities and differences in all movements across various crises and the associated protection needs of those who move (and those who remain trapped and in need of relocation) during humanitarian crises, the analytical lens of crisis migration is deliberately broad. 'Crisis migrant' is thus a descriptive term for all those who move, including those who require relocation in the context of humanitarian crises. The concept reflects the endless historical reality and significance of movement as a crucial response to crises.

Categorising movements related to humanitarian crises presents many dilemmas for scholars and policymakers alike. It is increasingly recognised that few migrants are wholly voluntary or wholly forced; almost all migration involves a degree of compulsion,

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A cyclone-devastated home in southern Bangladesh, 2007.

just as almost all migration involves choices. Those who move in anticipation of threats make choices but they do so within constraints and may have few alternatives. Equally, those who are compelled to move when confronted with acute violence, conflict or disaster make choices, albeit within a limited range of possibilities, particularly as to where they will move. Any secondary movement, including the choice of destination, may also be shaped by considerations concerning livelihood, betterment or other life-chances. Even in the direst humanitarian crises, for many there is still an element of choice, since some may choose to stay, risking their lives rather than leave their homes.[2]

'Mixed migration' or the 'migration-displacement nexus' are terms that have arisen from the difficulties inherent in cleanly demarcating between forced and voluntary movement and in theorising and classifying causes of movement. Various manifestations of mixed migration are found in crisis situations. One example is the intersection of categories, when migrants simultaneously fit two or more pre-existing categories, such as non-citizens displaced internally within Libya in 2011. Another is mixed flows of migrants with different motivations utilising the same routes and modes, such as those people who are displaced or those who anticipate future harm boarding the same boats in precarious conditions and risking their lives at sea along with people migrating for other purposes. Mixed strategies, in which different types of migrants adopt similar coping mechanisms, include for example rural-urban migrants, refugees, returnees, IDPs, former combatants and gang members who face similar obstacles in making a life for themselves among slum dwellers in urban centres.

Who are the crisis migrants?

In the evolution of normative and operational responses to movement in the context of humanitarian crises, causality has been of paramount concern in framing responses and has shaped classification systems that place those who migrate into specific categories – for example, the classification of people who flee across borders "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion" as refugees. Yet the convergence of factors such as drought and conflict or the interplay of drivers and motivations hinders a straightforward assessment of causation in many cases.

Many argue that the experiences and strategies of those who fall outside existing categories of forced migrant tend to disappear from view, leading to their neglect or worse. Dominating efforts to address this is the recognition – by governments, academics and institutional and civil society actors – of protection gaps for those who move across national borders because of environmental and climate change. Commendable as these efforts are, questions remain as to the benefits of isolating and privileging these factors as a cause of movement, particularly in light of the abundance of evidence about the diversity of factors influencing movement-related decisions.

Most research suggests that climate and environmental change-related impacts have a multiplier effect on other drivers that influence movement-related decisions. In some cases environmental change-related impacts may be the trigger for movement but not necessarily the cause. Should those who are forced to move because of environmental and climate-change impacts be treated any differently or more generously than those who move because they fear for their lives, safety or health because of a nuclear accident or persistent gang violence? Should responses privilege particular 'causes'? These are not easy questions to answer and they also prompt us to challenge traditional notions of a crisis as a finite event, especially in the context of slow-onset crises.

Re-thinking categories based on forms of movement, rather than causes, does not mean that causation is unimportant. Rather, ascertaining the reasons why people move may be critical at the assessment stage,

The drought in Jawzjan province of northern Afghanistan has made the land unfarmable, 2006.

particularly in trying to understand their needs and their future options. Causal considerations may also prove especially salient in determining what types of solutions may be appropriate and feasible.

Specific types of crisis migrants may experience varying levels of vulnerabilities, even where their movements or non-movements are similar. Some people may become vulnerable because they lose their social or economic support systems in periods of crises and during and following movement (for example, the elderly, women heads of household, the extremely poor, unaccompanied minors and persons who are trafficked). Yet, others may be vulnerable because of their status – such as non-citizens and those without legal status.

Coping capacities may also evolve, and indeed erode, according to the evolution of a humanitarian crisis and the stage at which people move. In the case of slow-onset crises associated with climate change

and environmental degradation, people's resilience may erode gradually over time. Those who move sooner rather than later – before the 'tipping point' of a crisis – may be less at risk than those whose coping capacities are diminished and who may become trapped. Vulnerability and resilience also affect the propensity to move in conflicts.

Relatedly, not all are able to benefit equally when solutions are promoted. For example, those rendered landless or with disabilities resulting from the crisis may continue to have pressing needs even after return is feasible and desirable for others. The so-called 'end of displacement' may not correlate with a cessation of needs and improved conditions in an abating crisis. Rather, the threat of multiple displacements continues. This may be due to a variety of factors: poor consideration of the specific needs of vulnerable populations; lack of risk reduction planning; restrictive government policies; and rigidity within governments and the international community in responding operationally to

the evolution of a humanitarian crisis such as neglect of early recovery programming and income-generating opportunities.

Protection for crisis migrants

When identifying the need for responses, all crisis migrants and their unique vulnerabilities, coping capacities and protection needs must be considered. Some form of prioritisation may need to be undertaken to determine who gets protection and what status and content that protection should entail. In formulating responses, a number of factors need to be taken into account including the roles and responsibilities of different actors such as countries of origin, transit and destination, and the protection afforded under existing mandates and frameworks.

Protection is a concept that enjoys a long history and manifests today in a myriad of forms – diplomatic protection, consular protection, surrogate protection, complementary protection, temporary protection and humanitarian protection, to name a few. At the practical level, the most widely accepted definition of protection used by humanitarian actors was developed during a lengthy series of workshops and consultations sponsored by the ICRC: "The concept of protection encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law" (i.e. human rights law, international humanitarian law and refugee law).[3] In the context of humanitarian crises, the value of this definition arguably lies in its ability to accommodate the plethora and diversity of needs exhibited by those who move or those who become trapped.

Crisis migrants' needs are manifold. Some crisis migrants may need immediate protection, be it evacuation from areas constituting imminent threats, protection of physical safety and security, or access to life-saving and basic subsistence services. For some, the need for protection is short-term, ending when they can return

safely to their homes, while others will require more sustainable interventions. Even in cases of return, however, there may be need for compensation, restitution or remedial mechanisms to protect fundamental human rights.

The absence of clear responsibility often leaves gaps in protection. Ultimately, perhaps the most pressing challenge in providing protection to crisis migrants is determining who is in need of international protection. One can divide those who move in the context of humanitarian crises into three categories, according to the posture of their governments, in order to determine if international protection is needed because of an absence of state protection.

In the first category are individuals whose governments are willing and able to provide protection, because even wealthy countries are not immune to crises. In such cases there is a limited role for the international community, although other governments and international organisations may offer assistance.

The second category includes individuals in situations where governments are willing but are unable to provide adequate protection. They would like to protect their citizens from harm but do not have the capacity or resources to do so. In these situations, most recently played out after Typhoon Haiyan reaped unimaginable devastation in the Philippines, the international community has an important role to play by ensuring that it buttresses the willing states' ability to provide protection.

The third category encompasses situations in which governments are unwilling to provide protection to their citizens or non-nationals on their territory. In some cases, the government has the capacity to provide protection but is unwilling to offer it to some or all of its residents. In these situations, international protection may well be essential, regardless of the cause. The humanitarian diplomacy that has enabled such intervention in conflict

situations is a model that should be applied more generally to non-conflict-induced crises.

In this respect, when analysing existing frameworks and evaluating existing responses and developing new ones to protect crisis migrants, a range of factors must necessarily inform such an inquiry. The Crisis Migration Project attempts to address the following questions in this context, as well as to draw out their policy and practice-related implications:

What type of protection is necessary in a given crisis situation, and what should be the content of that protection? Long-term, international protection? Protection against *refoulement*? Temporary protection or humanitarian protection including admission to territory? Evacuation or relocation? Life-saving humanitarian assistance in the form of basic services, shelter, protection against physical harm, for example? Assistance in redressing violations of human rights or creating sustainable livelihoods?

What policies and practices should be established in terms of durable solutions to address the situation of crisis migrants when return to countries and/or communities of origin may be inadvisable or life threatening? What ethical considerations should inform these policies and practices?

In what ways do states have obligations for the provision of such protection? To what extent can institutional and other mandates cover the provision of such protection? What, if any, are the corresponding rights of directly (and indirectly) affected crisis migrants?

What are the normative, implementation and/or practice gaps? Is there a need to clarify the ways in which existing frameworks apply to a given situation? Is there a need to create a new legal status for particular groups? If new statuses are created and new frameworks are put in place for crisis migrants, how should these intersect with established systems for the protection of refugees and those able to benefit from complementary protection?

Which actor or actors should be involved in delivering the necessary protection, and in what capacities? Community, local or national actors, state authorities, civil society, or family, community or other social networks? Regional players? The international community, including UN member states, organs and actors within the UN system, other international organisations and/or donors?

How should causal considerations intersect with attributing responsibilities for the provision of protection, particularly where states bear a significant responsibility for the creation of a humanitarian crisis and the associated movements?

In the search for answers, it is important to bear in mind that human rights law accords rights to individuals even when they are outside their country of origin or habitual residence and whether or not the state where they are residing is able or willing to offer them protection or assistance. To this end, understanding the reality of crisis migrants and the complexity of crisis migration should be a step in finding solutions to their needs.

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