

Disaster relief and displacement: the quest for policy coherence

David James Cantor

How can we make better use of existing disaster response frameworks to respond to the mobility-related impact of disasters? Taking the Americas as a case-study offers a window onto this and related questions.

We know that national and regional immigration frameworks are important for facilitating the admission and stay for disaster-affected persons in regions such as the Americas.¹ But that is to look at the issue from one policy perspective only: immigration law. What about the frameworks that specifically govern disaster response and relief? How do they address displacement and other mobility-related impacts of disasters? And how can we promote coherence between the distinct policy arenas of regulating immigration and responding to disasters?

DRM frameworks and movement within a country

'Disaster risk management' (DRM) is an umbrella term that covers civil defence, disaster measures, disaster risk reduction, disaster preparedness and response, and emergency response. At the global level, key DRM concepts are articulated not by a legal treaty but by non-binding policy frameworks, such as the 2005 UN Hyogo Framework and UN 2015 Sendai Framework, as well as the Red Cross and Red Crescent Movement's 2007 Guidelines for Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance. DRM frameworks are, however, well established in law (as well as policy) at the regional and national levels. In these features, the DRM field is similar to the immigration field.

As a point of contrast, in DRM frameworks most of the provisions that pertain to mobility are oriented towards internal displacement, rather than the cross-border movements with which immigration law is fundamentally concerned. Indeed, the majority of mobility-related provisions in national DRM frameworks appear to address the issue of

'evacuations' as a particular form of internal displacement.² Yet the concept of evacuations is not understood in uniform terms globally. For instance, whereas most countries consider evacuations as a preventative or relief measure undertaken at the hands of the State,³ a few countries see it as also covering the spontaneous displacement of people threatened by a disaster.⁴

It is crucial that DRM frameworks should not limit themselves only to narrowly defined concepts of evacuation but should also address the wider displacement impacts of disasters within a country. To this end, the 2015 Sendai Framework, with a view to "ensuring rapid and effective response to disasters and related displacement", not only calls for conducting evacuation exercises but also usefully points to the need to establish area-based support systems for people displaced by a disaster, including access to safe shelter and relief supplies. Likewise, the Red Cross and Red Crescent 2007 Guidelines point out that 'displaced persons' may be a particularly vulnerable group with special needs in the context of disasters. However, at least in the Americas, it appears that relatively few national DRM frameworks directly engage with this wider set of displacement-related concerns.

In general, DRM frameworks offer a good starting point for responding to internal displacement in disaster contexts. Displacement in these situations is so closely tied to other impacts of a disaster that creating a new framework for dealing with disaster-driven internal displacement or IDPs separate from the established DRM framework runs the risk of policy duplication or fragmentation. Nor does the terminology of internal displacement or IDPs need to

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be directly adopted by the DRM field. But the content of IDP protection standards is important, and DRM laws and policies should be updated to properly recognise and address displacement-related impacts of disasters. The 1998 UN Guiding Principles on Internal Displacement offer a crucial point of reference on the range of potential needs and rights standards involved.

DRM frameworks and cross-border mobility

DRM frameworks can also play a crucial role in cross-border mobility contexts. As they do not normally discriminate between nationals and non-nationals, migrants who find themselves caught up in a disaster can often access disaster assistance in that country purely on the basis of need (and the 2016 MICIC guidelines⁵ advocate that this approach should usually be followed). Even so, DRM law and policy at the national level are sometimes unclear as to whether irregular or undocumented

migrants are eligible for such assistance but, given the emergency context and the rights at stake, the DRM principle of privileging need should prevail over immigration law concerns about status. Many countries also need to ensure that the specific needs of migrants are better included in national disaster response planning.

What is less well understood within this field is whether DRM frameworks may provide a basis for legal entry or stay to people fleeing from disaster conditions in another country. Certainly, concerns about the cross-border movement of people are integral to international DRM frameworks. However, in most DRM frameworks the provisions relating to cross-border movement aim principally to facilitate the movement of relief personnel into the disaster-affected

State, rather than facilitating the flight or evacuation of people from that territory.⁶

These international instruments recognise that the granting of special measures relating to visa and entry requirements for relief personnel can be subject to such State interests as national security and public order. However, they equally emphasise that any measures to protect these State interests should, in the words of the 2007 Red Cross and Red Crescent Movement Guidelines, “be tailored to the exigencies of the specific disaster and consistent with the humanitarian imperative of addressing the needs of

affected communities”.

In other words, in the disaster context, a pertinent principle is that States should seek to ensure compatibility of their immigration controls with disaster relief requirements.

Indeed, over the past decade, this DRM principle has begun to influence policy relating to the movement of people in the other direction, that is, people fleeing from the disaster-affected State to seek admission or

stay in another country. Specifically, in recent years, several regional DRM forums have recognised the need for DRM frameworks to take practical steps to respond to this kind of cross-border displacement. For instance, the 2014–19 Plan of the Central American regional disaster coordination entity, CEPREDENAC, directs it to promote “mechanisms that guarantee the international protection of migrants in cases of disasters”. Likewise, CDEMA, the regional disaster coordination entity for the Caribbean Community (CARICOM), proposes the adoption of “arrangements for the receipt of displaced persons from [disaster-] affected States” at the regional level and in national policies.

Of course, DRM frameworks do not generally supersede immigration law in regulating the sphere of immigration control.



Weeks of torrential rains in Venezuela in December 2021 triggered serious flooding and landslides in the Federal District of Caracas, affecting over 600,000 people.

However, as a matter of legal and policy coherence, immigration frameworks – when applied to disaster contexts – should pursue compatibility with the prevailing emergency imperative of disaster relief by facilitating not only relief assistance but also, where necessary, the admission of disaster-affected persons. Moreover, given the emphasis in international DRM frameworks on cooperation between the disaster-affected State and other States, these frameworks offer a basis for further developing joint practical responses to cross-border mobility in disaster contexts. For instance, several countries in the Americas have bilateral accords with their neighbours that establish mechanisms and policies to help their respective disaster response systems jointly manage cross-border displacement in the context of disasters (for example, Colombia–Ecuador, Ecuador–Peru, Costa Rica–Panama).

Conclusions

DRM law and policy have an important role to play in shaping the response to mobility in the context of disasters. For a disaster-affected State, DRM offers an existing architecture of rules and mechanisms to facilitate evacuation measures and build a response to other mobility-related impacts of the disaster (including on migrants caught up in a disaster). A standalone IDP law or policy may not be required, so long as the national DRM framework adequately addresses these impacts. Meanwhile, countries like Colombia which already have a standalone law or policy for conflict-affected IDPs will need to ensure that the DRM and IDP frameworks are coordinated.⁷

For cross-border mobility in disaster situations, DRM frameworks play a slightly different role. Immigration frameworks retain primacy in determining questions of admission and stay for non-nationals. But the pursuit of legal and policy coherence also implies that, when disaster strikes in another State in the region, national immigration frameworks in other States should be developed and applied taking account of the emergency imperative of disaster relief that underpins DRM law and policy. Of course,

for cross-border migrants who are affected by a disaster in the country in which they find themselves, DRM principles should retain primacy in the national disaster response.

Finally, the importance of cooperation between States on disaster response underpins international DRM frameworks and should be promoted in all of these scenarios. Other States have a right to offer assistance to a disaster-affected State, including assistance in dealing with the internal displacement aspects of that situation. Inter-State cooperative arrangements to temporarily admit or grant stay to persons who need to be evacuated from the disaster-affected State or who have fled the effects of the disaster there should also be considered. At least in the Americas, as the examples outlined here indicate, States appear to be interested in making better use of existing DRM law and policy frameworks to respond to mobility-related impacts of disasters. For the benefit of all, this is a trend to be encouraged in DRM forums in the Americas and in other regions.

David James Cantor david.cantor@sas.ac.uk
Director, Refugee Law Initiative, School of Advanced Study, University of London

1. Cantor D J (2015) 'Disasters, Displacement and a New Framework in the Americas', *Forced Migration Review* issue 49 www.fmreview.org/climatechange-disasters/cantor
2. This appears to be part of a wider trend in DRM strategies too. See Yonetani M (2018) 'Mapping the Baseline: To What Extent Are Displacement and Other Forms of Human Mobility Integrated into National and Regional Disaster Risk Reduction Strategies?', Platform on Disaster Displacement <https://disasterdisplacement.org/portfolio-item/drrmapping>
3. For example, Costa Rica Ley No. 8488 of 2005, Article 30.a
4. For example, Mexico Ley General de Protección Civil de 2012, reformed in 2017, Article 2.XIX
5. Migrants in Countries in Crisis (MICIC) Guidelines bit.ly/MICIC-guidelines
6. For example, the 2016 International Law Commission Articles on the Protection of Persons in the Event of Disasters and the 2007 Red Cross and Red Crescent Movement Guidelines, and in regional treaties such as the 1991 Inter-American Convention to Facilitate Disaster Assistance and the 1991 Agreement establishing the Caribbean Disaster Emergency Response Agency.
7. For analysis of DRM frameworks in countries where internal displacement is driven by both conflict and disasters, see Weerasinghe S (2021) 'Bridging the Divide in Approaches to Conflict and Disaster Displacement: Norms, Institutions and Coordination in Afghanistan, Colombia, the Niger, the Philippines and Somalia', IOM/UNHCR bit.ly/IOM-UNHCR-bridging-the-divide-2021