

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.

Alexander Betts alexander.betts@qeh.ox.ac.uk is Director of the Refugee Studies Centre, University of Oxford. www.rsc.ox.ac.uk

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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/