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# **CLIMATE CHANGE AND HUMAN MOBILITY**

MAPPING ENTRY POINTS FOR  
HUMAN RIGHTS ADVOCACY IN  
INTERGOVERNMENTAL PROCESSES





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## EXECUTIVE SUMMARY

A growing number of people are now forced to flee their homes and communities due to storms, droughts and floods which have increased threefold over the last 30 years due to the worsening climate crisis.<sup>1</sup> To make matters worse, those who are least responsible for the crisis and less able to cope with and respond to hazards or shocks – including the poor, women, children, the elderly and other marginalized groups – are also the most likely to be displaced. As they relocate, their vulnerabilities are compounded by the circumstances they face in transit, at borders, and in their host destinations. This is especially true for people displaced by disasters because, once they cross country borders, their legal status is not recognized even under the 1951 Refugee Convention which restricts the meaning of refugees to those displaced by war, conflict and persecution.

In this context, there is an undeniable and urgent need for international cooperation and solidarity in responding to the complex and growing challenges posed by climate change and the forced movement of people. This background paper examines some key international normative frameworks that partially address these challenges and assess them in terms of their potential contribution to the protection and fulfillment of the rights of climate-displaced people.

From our review of international normative frameworks that tackle the nexus of

climate change and human mobility, it appears that the international community lacks the political will to strengthen human rights protections for the growing numbers of people displaced by climate change. While all the frameworks reviewed acknowledged the issues and challenges involved in protecting climate-displaced people, none of them went beyond declarations of principles, affirmations of existing norms and standards, or acknowledgements of good practices. Governments appear unwilling to agree to new obligations or duties which they can be held accountable for.

The current political and economic context is not conducive to reaching agreement on a new legally binding framework that would entail obligations to open-up borders and host climate-displaced persons and/or obligations to provide additional financing to support a comprehensive protection agenda beyond what is already committed under existing facilities.

Nevertheless, the paper identifies possible entry points for civil society advocacy among the various intergovernmental processes and platforms. The paper concludes that the first priority for human rights and climate justice activists should be to support the organizing of climate-displaced and at-risk communities, facilitate links between them and support their engagement with their respective governments as well as these international processes.

<sup>1</sup> International Organization for Migration (2009), Migration, Climate Change and the Environment, IOM Policy Brief (IOM, Geneva, May 2009)

### Some Key Features of International Normative Frameworks Relevant to Climate-displaced Persons

Normative Framework	Legally binding	Specific Targets (relevant to climate-displaced)	Roles and responsibilities	Means of implementation	Civil society participation in Follow-up and Review
United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement	Yes	No specific targets in support of adaptation and protection of climate-displaced persons	Principal role for States but acknowledges important role of international organizations, private sector, civil society and other stakeholders	Subscribes to principle of Common But Differentiated Responsibility. But no clear commitments from developed countries to operationalize CBDR	Has subsidiary bodies for continuing negotiations on specific issues including adaptation, loss and damage, and displacement with civil society participation
Nansen Initiative and Platform on Disaster Displacement	No	No specific targets but has extensive set of concrete recommendations	Principal role for States but acknowledges important role of international organizations, private sector, civil society and other stakeholders	Unspecified	Civil society representatives in Advisory Committee but based on expertise.
Sendai Framework	No	Seven global targets and four priorities for action by 2030	Principal role for States but acknowledges important role of international organizations, private sector, civil society and other stakeholders	Strong call for public and private sector investment in resilience and risk reduction	Multi-stakeholder Global Platform for Disaster Risk Reduction serves as a mechanism for follow-up
Global Compact on Refugees	No	Voluntary pledges expected starting end of 2019	Principal role for States but acknowledges important contributions of international organizations, private sector, civil society and other stakeholders	Identifies development cooperation and private sector contributions as important burden sharing goals	Global Refugee Forum will also involve wide range of multi-stakeholders, who will also be invited to make pledges and contributions

### Some Key Features of International Normative Frameworks Relevant to Climate-displaced Persons

<b>Normative Framework</b>	<b>Legally binding</b>	<b>Specific Targets (relevant to climate-displaced)</b>	<b>Roles and responsibilities</b>	<b>Means of implementation</b>	<b>Civil society participation in Follow-up and Review</b>
Global Compact on Migration	No	23 objectives/ commitments with a set of action points under each commitment	Whole of society approach. Promotes broad multi-stakeholder partnerships in migration governance	Established a capacity-building mechanism in the UN and a start-up fund for projects	NGOs in consultative status with the ECOSOC are invited to participate in the International Migration Review Forums
Global Forum on Migration and Development	No	A set of voluntary guidelines and principles for Migrants in Countries in Crisis	Principal role for States but acknowledges important role of international organizations, private sector, civil society and other stakeholders	Promotes multi-stakeholder partnerships	GFMD Civil Society Mechanism

## OVERVIEW OF TRENDS IN CLIMATE-INDUCED HUMAN MOBILITY

Establishing clear causal connections between the adverse effects of climate change and the movement of people is difficult. Individuals or communities may relocate due to a multitude of reasons. People may be 'on the move' due to acute poverty, the loss of livelihoods, environmental degradation, serious human rights abuses, disasters, violence or conflict. Often these conditions overlap or reinforce one another.

Nevertheless, most scientists confirm that anthropogenic climate change is not only affecting average temperatures, but also extreme temperatures, increasing the likelihood of weather-related disasters. Climate change also accelerates environmental degradation, exacerbating competition over scarce resources and the risk of violent conflict. All these increase the risk of people's displacement.<sup>1</sup>

According to the Internal Displacement Monitoring Center (IDMC), the number of disaster events that displaced people has increased significantly since 2016, reaching almost 1,600 events in 2018. It has recorded a total of 7,000 such events from 2008 and 2018 that resulted in 265 million internally displaced people, more than three times the figure for conflict and violence. According to IDMC, weather-related hazards account for more than 87 per cent of this total while geophysical hazards (e.g. earthquakes, volcanic eruptions) account for the rest. As climate change accelerates and populations rise in

areas exposed to storms and floods, the IDMC warns that ever more people are at risk of being displaced.<sup>2</sup>

These figures do not include the number of people who relocate due to the slow-onset adverse effects of climate change, such as sea level rise, salinization of groundwater, changing precipitation patterns and desertification. Moreover, the IDMC reports exclude cross-border disaster displacement due to the lack of reliable information as well as the absence of standard definitions and units of measurement for such phenomena. Therefore, the actual number of people uprooted, whether wholly or in part, due to climate change is certainly much higher. Moreover, the crisis of forced displacement is centered in developing countries, which host 89 percent of refugees and 99 percent of internally displaced persons, according to a 2016 World Bank report.<sup>3</sup>

## HUMAN RIGHTS CHALLENGES

The human rights challenges surrounding the nexus of climate change and human mobility is extensive.

It is widely acknowledged that climate change adversely affects people's enjoyment of their human rights, especially for those segments of the population that

1 NASA Earth Observatory, "The Impact of Climate Change on Natural Disasters". Retrieved from [https://earthobservatory.nasa.gov/features/RisingCost/rising\\_cost5.php](https://earthobservatory.nasa.gov/features/RisingCost/rising_cost5.php)

2 Ponserre, S., & Ginnetti, J. (2019). Disaster Displacement: A Global Review, 2008-2018 [Thematic Report]. Retrieved from Internal Displacement Monitoring Center (IDMC) website: <http://www.internal-displacement.org/sites/default/files/publications/documents/201905-disaster-displacement-global-review-2008-2018.pdf>

3 Cited in World Bank. (n.d.). Forced Displacement. Retrieved from World Bank website: <https://www.worldbank.org/en/topic/fragilityconflictviolence/brief/forced-displacement>

## SOME DEFINITIONS

To help unpack the implications of these trends on human rights, this report follows the Cancun Climate Change Adaptation Framework Paragraph 14(f) and the Nansen Initiative which refer to three forms of human mobility in the context of climate change:<sup>1</sup>

**(1) displacement** – which refers to movements that are predominately forced;

**(2) migration** – which refers to movement that is not predominantly forced but nonetheless may not be **entirely voluntary**;

**(3) planned relocation** – which refers to the planned process of settling persons or groups of persons to a new location where their livelihoods have been re-established.

All three forms can refer to internal movement of people within a country or across borders.

The term '**refugee**' refers to a person who has been forced to flee his or her country because of persecution, war or violence.<sup>2</sup>

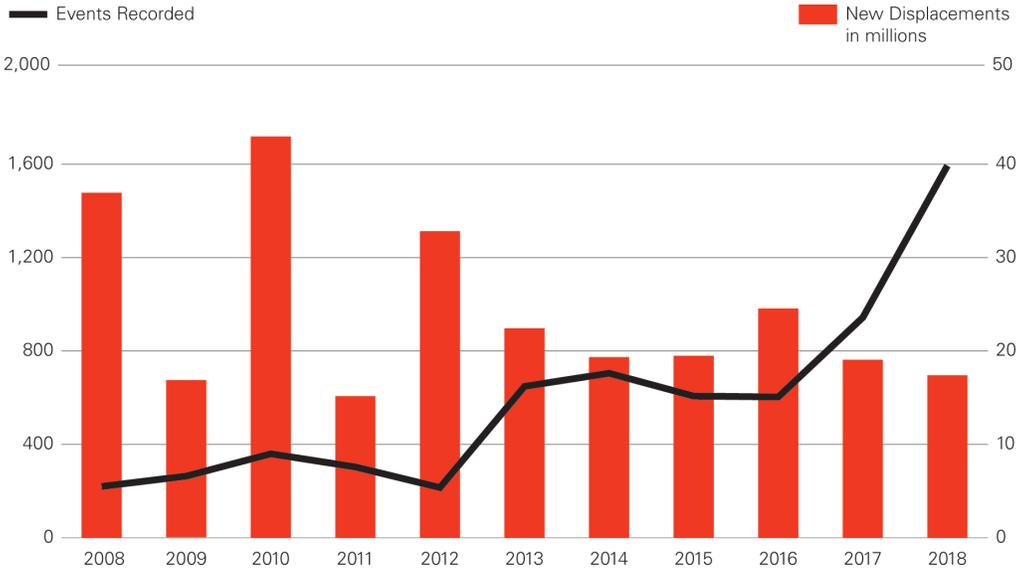
**Mixed migration** refers to movements of people including refugees fleeing persecution and conflict, victims of trafficking and people seeking better lives and opportunities. Impelled by a multiplicity of factors, people in mixed flows have different legal statuses as well as a variety of vulnerabilities.

This paper also adopts the Nansen Initiative's definition of "**disaster displacement**" as: "situations where people are forced or obliged to leave their homes or places of habitual residence as a result of a disaster or in order to avoid the impact of an immediate and foreseeable natural hazard. Such displacement results from the fact that affected persons are exposed to a natural hazard in a situation where they are too vulnerable and lack the resilience to withstand the impacts of that hazard. Such displacement may take the form of spontaneous flight or an evacuation ordered or enforced by authorities. Such displacement can occur within a country, or across international borders."

1 The Nansen Initiative. (2015). Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change: Volume 1 (p. 156). Retrieved from <https://academic.oup.com/ijrl/article-lookup/doi/10.1093/ijrl/eew004>

2 UN Human Rights Council. (2018). Addressing human rights protection gaps in the context of migration and displacement of persons across international borders resulting from the adverse effects of climate change and supporting the adaptation and mitigation plans of developing countries to bridge the protection gaps (Report of the United Nations High Commissioner for Human Rights No. A/HRC/38/21). Retrieved from <https://doi.org/10.18356/d9bf1c42-en>

**Figure 1.** Disaster displacement events and global figures IDMC has reported since 2008



Source: Ponserre & Ginnetti, 2019: 6

are already in vulnerable situations due to factors such as geography, poverty, gender, age, indigenous or minority status, national or social origin, birth or other status and disability.<sup>4</sup>

For example, many crops, including grains and soybeans, respond negatively in terms of growth and seed production, to even small increases in temperature. Most of the world's hungry people rely on degraded lands and/or live without access to adequate water supply which is made worse by climate change. The lack or diminishing access to food, water and other necessities are major factors that can push people to move internally or across borders. On the other hand, the situation of the most vulnerable persons

who are unable to move may become even more dire.

In some areas, climate change poses an existential threat to the population such as in small island-states and low-lying coastal countries, as well as drought-stricken areas in Africa and other regions.

According to the UN High Commissioner for Human Rights (UNHCHR), the failure of a government to undertake effective climate change mitigation and adaptation in these situations may constitute a violation of its duty to respect, protect and fulfill the human rights of its citizens. On the other hand, there are instances when mitigation and adaptation measures themselves can adversely affect the enjoyment of human rights such as hydroelectric and biofuel

4 UN Human Rights Council, 2018

projects that result in forced evictions. Even the planned relocation of those exposed to the adverse effects of climate change involves high risks for human rights.<sup>5</sup>

The risks faced by persons forced to move due to climate change are similar to those faced by all migrants and displaced persons in vulnerable situations. In general, cross-border migrants or displaced persons who are unable to have access to safe, affordable and regular migration options are likely to experience difficulty in exercising their rights throughout the entire migration process. They may be denied entry through punitive border control regimes; they may be subject to exploitation, difficult working conditions, marginalization and human rights violations, especially if they have irregular status.

They may face criminalization, expulsion, xenophobia, discrimination, social exclusion and/or persecution, including heightened threats of arbitrary detention, sexual exploitation, human trafficking, violent attack, rape and torture. They are likely to experience difficulty in gaining access to basic necessities, such as food, water, adequate health care and housing. Increased exposure to disease, loss of social safety networks, stigmatization and discrimination all have a negative impact on the physical and mental health of persons moving in response to climate change.<sup>6</sup>

Even when the decision to migrate is part of an adaptation strategy or in the context of planned relocation, the movement

of people can pose a grave threat to the enjoyment of their rights and their existence as peoples. For example, the displacement of indigenous peoples and the potential loss of their traditional lands, territories and resources threaten their cultural survival, traditional livelihoods and right to self-determination. Likewise, children who migrate or whose parents migrate due to climate change may be separated from their cultural heritage and face difficulties accessing schools, adequate health care and other necessities. Refugee and other migrant children that miss educational opportunities and/or are left behind by caregivers may suffer long-term socioeconomic impacts, neglect, abuse and exploitation.<sup>7</sup>

## **HUMAN RIGHTS LAW AS PROTECTION FRAMEWORK<sup>8</sup>**

For the UNHCHR, international human rights law, norms and standards still offer “the most comprehensive, people-centred and flexible framework for the protection of all migrants in vulnerable situations, including those affected by climate change.” All persons are rights-holders and all States have ratified at least one international human rights treaty. Human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), impose obligations on all States to respect, protect and fulfil human rights for all without discrimination.

<sup>5</sup> *ibid.*

<sup>6</sup> *ibid.*

<sup>7</sup> *ibid.*

<sup>8</sup> This sub-section is largely drawn from UN Human Rights Council 2018.

For instance, according to the UNHCHR, States are obligated to protect against displacement because it threatens the effective enjoyment of a broad array of rights under the ICESCR and ICCPR. States should therefore address the underlying causes that force people to move by pursuing ambitious climate change mitigation. To further reduce the risk of climate change-related displacement, States should employ effective adaptation measures, including with respect to disasters, extreme weather events and slow-onset processes. Efforts to address the root causes of displacement in the context of climate change should seek to protect rights, strengthen social protection systems, reduce disaster risk and exposure, and increase adaptive capacity, while taking into account the different needs, capacities and vulnerabilities of those individuals most affected by climate change.

Freedom of movement, including movement away from climate change-affected areas, is a fundamental right of persons. According to the Office of the High Commissioner for Human Rights (OHCHR), States should therefore facilitate migration with dignity for all migrants, including those affected by climate change, and address their specific human rights protection needs including water and sanitation, adequate food and housing, and access to health care, social security, education and decent work.<sup>9</sup>

If persons crossing borders because of the adverse effects of climate change fall outside the specific legal category

of “refugee” and have no access to regular migration, it becomes especially critical to ensure that their human rights are respected, protected and fulfilled. This entails “upholding the fundamental principle of non-refoulement [no forced return] and the prohibition of collective expulsion, as well as the rights to liberty, personal integrity and family unity; and ensuring the best interests of the child. States should put in place appropriate mechanisms to guarantee that all migrants who require human rights protection and are unable to return to their countries because of climate change are provided with an effective legal status.”<sup>10</sup>

Planned relocation can be the response to the predictable impacts of climate change. But moving individuals and communities away from unsafe areas should be a measure of last resort. States must refrain from, and protect against, forced evictions by ensuring that any planned relocation should involve the meaningful and informed participation of all affected persons, including migrants and receiving communities.

Lastly, the ICCPR and other human rights instruments require all persons to have access to justice, including effective remedies. This is critical for migrants who are often unable to access justice due to the conditions they face before, during and after migration. States must be accountable for their contribution to human rights harms regardless of where they occur. “Accountability should also include businesses and actors that have contributed to the causes of climate

<sup>9</sup> Office of the High Commissioner for Human Rights. (n.d.). Key Messages on Human Rights, Climate Change and Migration. Retrieved from [https://www.ohchr.org/Documents/Issues/ClimateChange/Key\\_Messages\\_HR\\_CC\\_Migration.pdf](https://www.ohchr.org/Documents/Issues/ClimateChange/Key_Messages_HR_CC_Migration.pdf)

<sup>10</sup> UN Human Rights Council 2018, para. 41

change or violated human rights in their mitigation and adaptation actions.”<sup>11</sup>

## **GAPS IN THE PROTECTION FRAMEWORK**

Despite the comprehensive protection framework offered by human rights law, norms and standards, serious gaps exist in the response of the international community to the human rights challenges arising from human mobility and climate change.

The Nansen Initiative made a comprehensive review of the protection gaps for persons displaced by disasters including those displaced by the adverse effects of climate change. They have summarized these gaps under four headings.<sup>12</sup>

### **Knowledge and data gaps**

While understanding of the causes, dynamics and magnitude of disaster displacement has been growing in recent years, these phenomena are still not fully understood and conceptualized. Therefore, better data, concepts and evidence are needed to develop adequate policies. The development of tools and systems that allow for the systematic gathering and analysis of reliable data on displacement, and human mobility more generally, in the context of climate change is needed.

### **Legal and normative gaps**

Despite widespread recognition of the principles outlined in the UN Guiding Principles on Internal Displacement,<sup>13</sup> most States neither have laws and policies specifically addressing internal displacement in disaster contexts, nor do they address such displacement in their legal frameworks on disaster management and response.

While persons who move across international borders are protected by human rights law, and where applicable, refugee law, existing international law does not address critical issues such as admission, access to basic services during temporary or permanent stay, and conditions for return. Existing mechanisms at the national level are largely unpredictable because they generally rely upon the discretionary power of relevant authorities as opposed to a legal obligation to admit or permit the stay of disaster displaced persons with associated rights and responsibilities.

### **Institutional and operational gaps**

While many international agencies and organizations work on the issue of disaster displacement, none is explicitly mandated to assist and protect cross-border disaster-displaced persons, which undermines the predictability and preparedness of their responses. Nor do international agencies and organizations have established mechanisms for cross-border cooperation during a disaster response, recovery and reconstruction and the search for lasting solutions for the displaced. At both national and international levels, there is also inadequate integration of disaster

11 *ibid.*, para. 48

12 The Nansen Initiative 2015

13 United Nations (2004). Guiding Principles on Internal Displacement. Retrieved from <https://www.brookings.edu/wp-content/uploads/2016/07/GPEnglish.pdf>

risk management and climate change adaptation plans into development policies.

Risk management, rehabilitation and relocation processes also often lack transparent, inclusive and participatory approaches that include consultation and engagement with affected communities throughout the planning and implementation process.

### **Funding gaps**

While existing funding mechanisms respond to immediate humanitarian crises in disaster situations, there is a lack of clarity regarding funding for measures to address cross-border disaster-displacement, and find lasting solutions for displacement. While large and visible disasters usually attract substantial humanitarian funding, small-scale disasters often receive inadequate levels of funding at both domestic and international levels. Finally, there is limited experience in requesting funding for human mobility challenges from adaptation finance sources, and thus, it remains to be seen to what extent climate change adaptation funding and other relevant funding will be available to address human mobility challenges.

There are two basic approaches in bridging the legal and normative gaps discussed above: either through the development and adoption of hard law or through soft law instruments.

Hard law generally refers to legal obligations that are binding on the parties involved and which can be legally enforced before a court. International treaties, conventions and protocols that have entered in force

are considered examples of hard law. Soft law refers to non-legally binding agreements that can be used to inform or guide the conduct of states, international organizations and other actors. They can take different forms such as guidelines, declarations, recommendations, and non-binding decisions of an international organization such as UN General Assembly resolutions.<sup>14</sup>

The obvious disadvantage of relying on soft law is that States usually cannot be held accountable for not observing agreed principles or fulfilling voluntary pledges. On the other hand, the process of developing, negotiating and agreeing on hard laws is usually much more arduous while the soft law approach allows for greater flexibility and quicker results. Moreover, to the extent that soft laws actually influence the conduct of States, they have the potential of becoming part of customary law.

Whether hard law or soft law, there are important elements that must be present for normative frameworks to be more effective and accountable:

1. specific and timebound targets with indicators and means of verification;
2. clearly defined roles and responsibilities for States and other stakeholders for achieving those targets;
3. adequate means of implementation including but not restricted to financing;

14 Ineli-Ciger, M. (2019). The Global Compact on Refugees and Burden Sharing: Will the Compact Address the Normative Gap Concerning Burden Sharing? *Refugee Survey Quarterly*, 38(2), 115–138. Retrieved from <https://doi.org/10.1093/rsq/hdz003>

4. follow-up and review process that provides avenues for addressing problems in implementation, not just reporting on progress
5. institutionalized and meaningful participation of civil society, especially marginalized and affected groups, in monitoring and implementation.

## **INTERNATIONAL NORMATIVE FRAMEWORKS FOR CLIMATE CHANGE AND HUMAN MOBILITY**

### **The United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement**

The 1992 United Nations Framework Convention on Climate Change (UNFCCC) serves as the foundation for multilateral action to combat climate change and its impacts on humanity and ecosystems. It is an intergovernmental treaty, hence part of international law, that entered into force on 21 March 1994 and has been ratified by 197 countries as of December 2015.<sup>15</sup>

The UNFCCC sets out a framework for action aimed at stabilizing atmospheric concentrations of greenhouse gases to avoid “dangerous anthropogenic interference” with the climate system, and for coping with the impacts of climate change. The Convention itself does not explicitly address migration or the

displacement of people as an issue linked to climate change and has been slow to adopt this matter as part of the agenda of the annual Conference of Parties (COP) to the UNFCCC.

The first official side event dedicated to the human mobility and climate change nexus was held during the 14th COP in Poznan, Poland. Two years later, the Cancun Climate Change Adaptation Framework Decision – adopted during COP16 – recognized the impacts of climate change on displacement, migration and planned relocation for the first time. The Paris Agreement – adopted on December 12, 2015 during COP21 – signalled the formal integration of human mobility concerns in an international climate treaty. In its preamble, the Paris Agreement called upon all States to respect, promote and consider the rights of migrants when taking climate action.<sup>16</sup> The Paris Agreement is a legally binding instrument which entered into force on 4 November 2016 and has been ratified by 185 of the 197 Parties to the UNFCCC.

COP 21 also created a Task Force on Displacement under the oversight of the Executive Committee of the Warsaw International Mechanism for Loss and Damage Associated with Climate Change Impacts (WIM Excom), one of the subsidiary bodies under the UNFCCC. The Task Force was mandated “to develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change.”<sup>17</sup>

<sup>16</sup> United Nations (2015). Paris Agreement. Retrieved from [https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)

<sup>17</sup> UNFCCC. (n.d.). Migration, displacement and human mobility. Retrieved June 26, 2019, from: <https://unfccc.int/process/bodies/constituted-bodies/executive-committee-of-the-warsaw-international-mechanism-for-loss-and-damage-wim-excom/areas-of-work/migration->

<sup>15</sup> UNFCCC (n.d.). What is the United Nations Framework Convention on Climate Change?. Retrieved from <https://unfccc.int/process-and-meetings/the-convention/what-is-the-united-nations-framework-convention-on-climate-change>

The Recommendations of the Task Force were presented by the WIM Excom to the COP24 last December 2018. The recommendations ask countries to consider creating new laws and policies “that recognize the importance of integrated approaches to avert, minimize, and address displacement related to adverse impacts of climate change and issues around human mobility.”<sup>18</sup> The Task Force did not recommend specific policy instruments but pointed to the need to strengthen contingency planning, data collection, risk analysis, and cooperation among countries.

Notably, the Task Force states that in considering policies and strategies to address climate displacement, Member States should take into consideration “human rights obligations and other relevant international standards and legal considerations, ... with the participation of relevant stakeholders.”<sup>19</sup>

It also encouraged states to facilitate orderly, safe, regular and responsible migration and mobility of people “by considering the needs of migrants and displaced persons, communities of origin, transit and destination, and by enhancing opportunities for regular migration pathways, including through labour mobility, consistent with international labour standards, in the context of climate change.”<sup>20</sup>

There is no reference to means of implementation except for calling on “the United Nations agencies, relevant

organizations and other stakeholders ... to support efforts, including finance, technology and capacity building of parties and other actors, including with and for communities and local actors...”<sup>21</sup>

While the mandate of the Task Force was technically supposed to end after giving its recommendations, the WIM Excom decided to extend its mandate for another five years.

While the recommendations of the TFD are very general and spare, and its work is currently in its early stages, the International Organization for Migration (IOM) sees enormous potential in its work:

*“The work conducted under the UNFCCC by the WIM Excom currently represents the most advanced example of a broad global policy framework integrating human mobility and climate change dimensions, comparable only to the Global Compact on Safe, Orderly and Regular Migration (GCM). The topic is well anchored in the Paris Agreement and operationalized through the work of the WIM Excom. Human mobility and climate issues are regularly discussed in the climate negotiations and, thanks to the inclusion of the topic in the five-year rolling workplan of the WIM Excom, human mobility matters will be under consideration over the next five years at least - a huge advance considering that a few years ago, human mobility was not present in the global climate discourse. The institutionalization of the human mobility and climate change nexus opens up possibilities to act at both the policy and operational levels in support of*

-displacement-and-human-mobility

18 Report of the Task Force on Displacement. (n.d.). para. 33 (a). Retrieved from [https://unfccc.int/sites/default/files/resource/2018\\_TFD\\_report\\_17\\_Sep.pdf](https://unfccc.int/sites/default/files/resource/2018_TFD_report_17_Sep.pdf).

19 Report of the Task Force on Displacement, para. 33 (a)

20 Report of the Task Force on Displacement, para. 33 (f)

21 Report of the Task Force on Displacement, para 34 (a)

*the states facing climate migration and displacement challenges as well as the migrants themselves.”<sup>22</sup>*

Migrants and displaced people’s organizations, however, are not represented in the Task Force. It currently has 13 members including one representative of “Youth NGOs” and another “civil society” representative from the “Advisory Group on Climate Change and Human Mobility.”<sup>23</sup> The Terms of Reference allows civil society representatives to be members of the Task Force as technical experts alongside representatives of Member States but this is limited to UNFCCC NGO constituency groups which do not include migrants, refugees or displaced people’s organizations.<sup>24</sup>

### **Nansen Initiative Agenda for the Protection of Persons Displaced Across Borders in the Context of Disasters and Climate Change and the Platform on Disaster Displacement (PDD)**

The Nansen Initiative was a state-led consultative process initiated by Norway

and Switzerland in 2012 and aimed at building consensus on the measures needed to protect those displaced across borders in the context of disasters and climate change. This was intended to address a gap in international law that left persons displaced by disasters, climate change or environmental degradation in legal limbo because the 1951 Refugee Convention does not recognize disasters as a ground for refugee status.<sup>25</sup>

Rather than calling for a new binding international convention on cross-border disaster-displacement, however, the Nansen Initiative sought to identify and draw together effective practices from around the world, and set out a series of priority actions that governments can implement now within their own domains even without a new international legal framework. Multiple consultations were held in seven sub-regions – the Pacific, Central America, South America, Greater Horn of Africa, Southern Africa, Southeast Asia and South Asia – to dialogue with stakeholders and gather evidence on best practices in providing support and protection to disaster-displaced persons.<sup>26</sup>

The outcome of the process was the Nansen Initiative Agenda for the Protection of Persons Displaced Across Borders in the Context of Disasters and Climate Change. This Agenda provides a “protection toolbox” – a compendium of practices that States and other stakeholders can adapt to address the protection needs of persons displaced across international borders by disasters, including the adverse effects

22 International Organization for Migration. (2018). Mapping Human Mobility (Migration, Displacement and Planned Relocation) and Climate Change in International Processes, Policies and Legal Frameworks (Analysis Report No. WIM TDF Activity II.2 Output). Retrieved from <https://unfccc.int/sites/default/files/resource/WIM%20TFD%20II.2%20Output.pdf>

23 The Advisory Group is composed of The United Nations’ High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the United Nations University Institute for Environment and Human Security (UNU-EHS), the United Nations Development Programme (UNDP), the Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), Refugees International, the Center for International Relations Studies de Sciences Po (Sciences Po CERI), and the Arab Network for Environment and Development (RAED).

24 UNFCCC Constituency groups are as follows: Environmental non-governmental organizations (ENGO); Research and independent non-governmental organizations (RINGO); Business and industry non-governmental organizations (BINGO); Farmers; Indigenous peoples organizations (IPO); Local government and municipal authorities (LGMA); Trade Unions non-governmental organizations (TUNGO); Women and Gender; and Youth non-governmental organizations (YOUNGO).

25 McAdam, J. (2016). From the Nansen Initiative to the Platform on Disaster Displacement: Shaping International Approaches to Climate Change, Disasters and Displacement. *UNSW Law Journal*, 39(4), 1518–1546. Retrieved from <https://doi.org/10.2139/ssrn.2901910>

26 *ibid.*

of climate change. The Nansen Initiative Protection Agenda was endorsed by 109 governmental delegations in October 2015 in Geneva, Switzerland.<sup>27</sup>

Notably, the Agenda uses “protection” to refer to “any positive action, whether or not based on legal obligations, undertaken by States on behalf of disaster displaced persons or persons at risk of being displaced that aim at obtaining full respect for the rights of the individual in accordance with the letter and spirit of applicable bodies of law, namely human rights law, international humanitarian law and refugee law.”<sup>28</sup>

The Protection Agenda, however, does not expand States’ legal obligations under international refugee and human rights law. “The purpose of this agenda is to enhance understanding, provide a conceptual framework, and identify effective practices for strengthening the protection of cross-border disaster-displaced persons. In particular, it explores potential measures that States may voluntarily adopt and harmonize ...”<sup>29</sup>

Nevertheless, the protection toolbox presented is fairly comprehensive. It includes measures pertaining to admission and stay of cross-border disaster-displaced persons; non-return of foreigners abroad during disasters; and finding lasting solutions for cross-border disaster-displaced persons. The Agenda even includes practices for managing disaster displacement risks in the country of origin. It presents measures pertaining

to building resilience and reducing vulnerability to displacement risk; planned relocation with respect to people’s rights; and addressing the needs of internally displaced persons.

To follow up the Nansen Initiative, the Platform on Disaster Displacement (PDD) was launched by Germany and Bangladesh in May 2016 at the World Humanitarian Summit (WHS) to support States in implementing the Protection Agenda. The PDD’s 2016 –2019 Strategic Framework and Workplan identifies four Strategic Priorities:<sup>30</sup>

1. Address knowledge and data gaps;
2. Enhance the use of identified effective practices and strengthen cooperation among relevant actors to prevent, when possible, to reduce and to address cross-border displacement at the national, regional and international levels;
3. Promote policy coherence and mainstreaming of human mobility challenges in, and across, relevant policy and action areas; and
4. Promote policy and normative development in gap areas.

Like the Nansen Initiative, the PDD is a state-led initiative with 17 Member States and the European Union in its Steering Group. This Steering Group Members act as regional and thematic champions to ensure that disaster displacement is considered in relevant policy processes and events. In 2017/18, these include

27 The Nansen Initiative. (2015). *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change: Volume 1* (p. 156). Retrieved from <https://academic.oup.com/ijrl/article-lookup/doi/10.1093/ijrl/eeew004>

28 The Nansen Initiative, para. 14

29 The Nansen Initiative, para. 10

30 Platform on Disaster Displacement. (n.d.). *Update on Progress since the World Humanitarian Summit*. Retrieved from [https://www.agendaforhumanity.org/sites/default/files/AP\\_PDD\\_0.pdf](https://www.agendaforhumanity.org/sites/default/files/AP_PDD_0.pdf)

the Global Compact on Safe, Orderly and Regular Migration, the Global Compact on Refugees, the Global Forum on Migration and Development, the Global Platform for DRR, the UNFCCC Warsaw International Mechanism for Loss and Damage Task Force on Displacement and other processes.

The PDD considers the IOM and UNHCR as key implementing partners, together with more than 100 members of the PDD Advisory Committee. This Committee includes experts of international and regional organizations, research institutions, academia, private sector, NGOs and other stakeholders from the fields of humanitarian assistance and protection, human rights, migration management, refugee protection, disaster risk reduction, climate change action and development.

In the IOM's view, "The PDD presents a significant opportunity to ensure synergies and coordination among relevant stakeholders working on the displacement, migration, disaster and climate change nexus, bringing together knowledge and expertise from governments, international organizations, civil society and academic actors at regional and international levels. It is also a valuable mechanism for State-driven advocacy and awareness raising of cross-border disaster-displacement."<sup>31</sup>

### **The Sendai Framework for Disaster Risk Reduction 2015-30**

The Sendai Framework for Disaster Risk Reduction is a voluntary, non-binding

agreement adopted by 187 countries at the third UN World Conference on Disaster Risk Reduction in Sendai, Japan, on March 18, 2015. It builds on the work carried out by countries and other stakeholders under the aegis of the Hyogo Framework for Action and previous instruments such as the International Strategy for Disaster Reduction of 1999, the Yokohama Strategy for a Safer World of 1994, and the International Framework of Action for the International Decade for Natural Disaster Reduction of 1989.<sup>32</sup>

The Sendai Framework is distinct from its predecessors in several respects. First, it signals a shift in focus from disaster management to integrated and anticipatory disaster risk management; from managing disaster events to managing the processes which create risk. Second, it considers disaster risk management as a practice that must be integrated into development strategies rather treated as a distinct sectoral function or humanitarian concern. Third, it widens the scope of disasters to include "small-scale and large-scale, frequent and infrequent, sudden and slow-onset disasters, caused by natural or man-made hazards as well as related environmental, technological and biological hazards and risks."<sup>33</sup> Finally, it shares responsibility for implementation among a wider range of stakeholders beyond governments including the private sector (e.g. the insurance industry, developers and property owners) and civil society, particularly the disproportionately affected at-risk groups.

<sup>32</sup> UNISDR. (2015). Reading the Sendai Framework for Disaster Risk Reduction 2015 - 2030 (p. 34). UN Office for Disaster Risk Reduction.  
<sup>33</sup> Sendai Framework for Disaster Risk Reduction 2015-2030, para. 15. Retrieved from [https://www.preventionweb.net/files/43291\\_sendaiframeworkfordren.pdf](https://www.preventionweb.net/files/43291_sendaiframeworkfordren.pdf)

The Sendai Framework sets seven global targets and four priorities for action that, if achieved by 2030, will result in “the substantial reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries.”<sup>34</sup>

The Sendai Framework acknowledges that climate change has been a factor exacerbating disasters and contributing to the increased intensity of their effects. In response, para 33 (a) calls on States, “To prepare or review and periodically update disaster preparedness and contingency policies, plans and programmes with the involvement of the relevant institutions, considering climate change scenarios and their impact on disaster risk, and facilitating, as appropriate, the participation of all sectors and relevant stakeholders.”

It also call for international cooperation “to incorporate disaster risk reduction measures into multilateral and bilateral development assistance programmes within and across all sectors, as appropriate, related to poverty reduction, sustainable development, natural resource management, the environment, urban development and adaptation to climate change.”<sup>35</sup>

In order to strengthen disaster risk governance, the Sendai Framework calls on governments to “empower local authorities, as appropriate, through

regulatory and financial means to work and coordinate with civil society, communities and indigenous peoples and migrants in disaster risk management at the local level.”<sup>36</sup> It explicitly acknowledges that “Migrants contribute to the resilience of communities and societies, and their knowledge, skills and capacities can be useful in the design and implementation of disaster risk reduction.”<sup>37</sup> It also recognizes displaced persons as important stakeholders for enhancing disaster preparedness as well as to ‘build back better’ (i.e. effective recovery, rehabilitation and reconstruction).

The UN General Assembly established an open-ended intergovernmental working group, comprised of experts nominated by Member States, to develop a set of indicators to measure global progress in the implementation of the Sendai Framework. The UN Office of Disaster Risk Reduction (UNDRR, formerly known as UNISDR) has been tasked to support the implementation, follow-up and review of the Sendai Framework.

The Global Platform for Disaster Risk Reduction is a critical component of the monitoring and implementation process of the Sendai Framework. This Platform was established in 2006 by the UN General Assembly and is recognized as a global multi-stakeholder forum for sharing practice and knowledge on disaster risk informed policies, programmes and investments, including on development and climate issues.<sup>38</sup>

<sup>36</sup> Sendai Framework for Disaster Risk Reduction 2015-2030, para. 27(h)

<sup>37</sup> Sendai Framework for Disaster Risk Reduction 2015-2030, para. 36(a)

<sup>38</sup> Resolution adopted by the UN General Assembly on 20 December 2006. A/RES/61/198. Retrieved from <https://undocs.org/en/A/RES/61/198&Lang=E>

<sup>34</sup> Sendai Framework for Disaster Risk Reduction 2015-2030, para. 16

<sup>35</sup> Sendai Framework for Disaster Risk Reduction 2015-2030, para. 47(d)

The most recent session of the Global Platform took place from 13 to 17 May 2019 in Geneva, Switzerland. The session acknowledged that “the current pace and scale of action will not achieve the targets of the Sendai Framework, which in turn will jeopardize the achievement of the SDGs by 2030.” Participants also noted that “commitments towards an inclusive approach to disaster risk reduction, recognizing the indispensable role of disproportionately affected at-risk groups, including women, displaced people,... have not yet sufficiently translated into action.”<sup>39</sup>

### **The Global Compact on Refugees (GCR)**

The Global Compact on Refugees (GCR) was adopted on 17 December 2018 by the United Nations General Assembly with 181 votes in favour, two against (Hungary and the United States), and three abstentions (Eritrea, Liberia, and Libya).<sup>40</sup>

The GCR builds on the 1951 Convention Relating to the Status of Refugees and the 2016 New York Declaration for Refugees and Migrants, guided by relevant international human rights instruments, international humanitarian law, as well as other international instruments.

It attempts to address another one of the gaps in international refugee law, namely the absence of a framework for sharing responsibilities and mechanisms to ensure adequate compensation to States

hosting or supporting a disproportionate share of the global refugee population.

The GCR serves as a framework for more predictable and equitable responsibility-sharing among governments, international organizations, and other stakeholders “to ensure that host communities get the support they need and that refugees can lead productive lives.”<sup>41</sup>

Unlike the 1951 Refugee Convention, however, the Global Compact on Refugees is not legally binding. “It represents the political will and ambition of the international community as a whole for strengthened cooperation and solidarity with refugees and affected host countries. It will be operationalized through voluntary contributions to achieve collective outcomes and progress towards its objectives. These contributions will be determined by each State and relevant stakeholder.”<sup>42</sup>

The Compact consists of two parts: i) the Comprehensive Refugee Response Framework (CRRF), as set out in Annex I of the New York Declaration; and ii) a Programme of Action that complements the CRRF and facilitate its application through concrete measures in support of countries particularly affected by forced displacement.

The GCR recognizes that large population movements are not necessarily homogenous. They may involve refugees, as well as others displaced by factors apart from violence, conflict or persecution. It acknowledges that “in certain situations,

39 Co-chair’s Summary of the Sixth Session of the Global Platform for Disaster Risk Reduction, 2019. Retrieved from [https://www.preventionweb.net/files/58809\\_chairsummary.pdf](https://www.preventionweb.net/files/58809_chairsummary.pdf)

40 The Global Compacts on Migration and Refugees: Endorsement and Dissent. (2019). *Population and Development Review*, 45(1), 257–262. Retrieved from <https://doi.org/10.1111/padr.12241>

41 United Nations (2018a). *Global Compact on Refugees*. Report of the UN High Commissioner for Refugees. A/37/12/ (Part II). Retrieved from [https://www.unhcr.org/gcr/GCR\\_English.pdf](https://www.unhcr.org/gcr/GCR_English.pdf)

42 Global Compact on Refugees, para 4

external forced displacement may result from sudden-onset natural disasters and environmental degradation.”<sup>43</sup>

Therefore, while the CRRF relates specifically to large refugee situations, the GCR calls on stakeholders “with relevant mandates and expertise” to provide support for measures “to address other protection and humanitarian challenges... [including] measures to assist those forcibly displaced by natural disasters.”<sup>44</sup> The GCR also recognizes that appropriate responses should build on operational partnerships between the UNHCR, the IOM and other actors dealing with displacement and migration.

Furthermore, the GCR recognizes that, “while not in themselves causes of refugee movements, climate, environmental degradation and natural disasters increasingly interact with the drivers of refugee movements.”<sup>45</sup> This implies that the GCR program of action may also potentially benefit climate-displaced people to the extent that they are also escaping violence, conflict and persecution.

The GCR pursues four main objectives:

1. ease pressures on host countries;
2. enhance refugee self-reliance;
3. expand access to third country solutions; and
4. support conditions in countries of origin for return in safety and dignity.

To achieve these objectives, the GCR introduces detailed provisions on reception and admission; meeting needs and supporting communities; access of refugees to durable solutions and international cooperation.

Moreover, the GCR seeks to establish arrangements that facilitate a more equitable and predictable distribution of responsibility among States and other relevant stakeholders. The GCR envisions responsibility-sharing at the global level, regional-level and country-level.

States are expected to contribute to the responsibility-sharing not only by making financial and material contributions, providing technical assistance and offering resettlement, but also through changes to their national policies, laws and practices taking into consideration an assessment of protection systems and response capacities and establishing other pathways for admission for refugees including scholarships, labour mobility or private sponsorship schemes.”<sup>46</sup>

In the GCR’s framework, protection and support for refugees is not the sole responsibility of states. It identifies development cooperation and private sector contributions as important burden sharing goals. For instance, the GCR foresees States and other development actors to provide development assistance in the form of grants or concessions that would offer direct benefits to host States and communities as well as to refugees.<sup>47</sup>

The GCR also recognizes the important contributions of civil society. Para 40

<sup>43</sup> Global Compact on Refugees, para 12

<sup>44</sup> Global Compact on Refugees, para 63

<sup>45</sup> Global Compact on Refugees, para 8

<sup>46</sup> Ineli-Ciger 2019

<sup>47</sup> *ibid.*

states, “In recognition of their important work for refugees, as well as host States and communities, and in a spirit of partnership, civil society organizations, including those that are led by refugees, women, youth or persons with disabilities, and those operating at the local and national levels, will contribute to assessing community strengths and needs, inclusive and accessible planning and programme implementation, and capacity development, as applicable.”<sup>48</sup>

Follow-up and review for the GCR will be primarily conducted through Global Refugee Forums to be held every four years; high-level officials’ meetings to be held every two years between Forums; and annual reporting to the United Nations General Assembly by the UNHCR. The UNHCR will also create a digital platform accessible to all stakeholders for sharing of good practices.<sup>49</sup>

The Global Refugee Forums will provide an important vehicle for States and other relevant stakeholders to take stock of progress, highlight good practices and make concrete pledges towards the achievement of the objectives of the GCR. “States and relevant stakeholders will facilitate meaningful participation of refugees, including women, persons with disabilities, and youth, in Global Refugee Forums, ensuring the inclusion of their perspectives on progress.”<sup>50</sup> All stakeholders are invited to make pledges and contributions during these Global Refugee Forums.

The first Global Refugee Forum will take place on 17 and 18 December 2019 in

Geneva, Switzerland with a focus on the following concerns: arrangements for burden and responsibility-sharing, education, jobs and livelihoods, energy and infrastructure, solutions, and protection capacity.<sup>51</sup>

### **The Global Compact for Safe, Orderly and Regular Migration (GCM)**

The Global Compact for Safe, Orderly and Regular Migration (GCM) was formally adopted by the United Nations General Assembly on 19 December 2018 with 152 Member States voting in favor and five countries against (Czech Republic, Hungary, Israel, Poland, and the United States) while 12 countries abstained (Algeria, Australia, Austria, Bulgaria, Chile, Italy, Latvia, Libya, Liechtenstein, Romania, Singapore, and Switzerland).<sup>52</sup>

The GCM is considered the first comprehensive intergovernmentally negotiated agreement on international migration. It is not, however, a treaty and does carry legal obligations for states. Instead, it is a “non-legally binding, cooperative framework that . . . fosters international cooperation among all relevant actors on migration.”<sup>53</sup>

The GCM sets out a framework for action comprising twenty-three objectives addressing migration in all its dimensions (but excluding internal migration and internal displacement). Each objective has

48 Global Compact on Refugees, para 40.

49 Global Compact on Refugees, para 103

50 Global Compact on Refugees, para 106

51 UNHCR (n.d.). Global Refugee Forum. Retrieved from <https://www.unhcr.org/global-refugee-forum.html>

52 McAdam, J. (2019). Global Compact for Safe, Orderly and Regular Migration. *International Legal Materials*, 58(1), 160–194. Retrieved from <https://doi.org/10.1017/ilm.2019.6>

53 United Nations (2018b). Global Compact for Safe, Orderly and Regular Migration. Resolution adopted by the General Assembly on 19 December 2018. A/RES/2270/73/195, para 7.

associated commitments and a range of actions.

Under Objective 2, the GCM recognizes the adverse impacts of climate change, environmental degradation and natural disasters as among the drivers and structural factors that compel people to leave their country of origin. To address this, States commit to joint analysis and sharing of information on migration movements in connection with these migration drivers; develop adaptation and resilience strategies in the context of sudden-onset and slow-onset natural disasters; and integrate displacement considerations into disaster preparedness strategies. States also commit to harmonize and develop approaches and mechanisms at the sub-regional and regional levels to address the vulnerabilities of persons affected by these migration drivers.

Under Objective 5, the GCM acknowledges that adaptation in situ or return of migrants might not always be possible. Hence, Member States commit to “Cooperate to identify, develop and strengthen solutions for migrants compelled to leave their countries of origin owing to slow-onset natural disasters, the adverse effects of climate change, and environmental degradation, such as desertification, land degradation, drought and sea level rise, including by devising planned relocation and visa options, in cases where adaptation in or return to their country of origin is not possible.”

Despite its non-binding status, McAdam (2019) notes that the GCM “reflects existing human rights norms and other

relevant legal principles to which states may already be bound pursuant to their treaty obligations (and, in some cases, customary international law).”<sup>54</sup>

Indeed, in enumerating the guiding principles of the Compact, Para 15(f) states, “The Global Compact is based on international human rights law... By implementing the Global Compact, we ensure effective respect for and protection and fulfilment of the human rights of all migrants, regardless of their migration status, across all stages of the migration cycle. We also reaffirm the commitment to eliminate all forms of discrimination, including racism, xenophobia and intolerance, against migrants and their families”

Member states also commit to “implement the Global Compact in cooperation and partnership with migrants, civil society, migrant and diaspora organizations, faith-based organizations, local authorities and communities, the private sector, trade unions, parliamentarians, national human rights institutions, the International Red Cross and Red Crescent Movement, academia, the media and other relevant stakeholders.”<sup>55</sup>

In support of implementation, the GCM established a capacity-building mechanism in the United Nations that consists of a start-up fund for project-oriented solutions and a global knowledge platform. Notably, the start-up fund will tap “voluntary financial contributions by Member States, the United Nations, international financial institutions and

54 McAdam, J. (2019). Global Compact for Safe, Orderly and Regular Migration. *International Legal Materials*, 58(1), 160–194. <https://doi.org/10.1017/ilm.2019.6>

55 Global Compact for Safe, Orderly and Regular Migration, para. 44

other stakeholders, including the private sector and philanthropic foundations.”<sup>56</sup>

For follow-up and review, the GCM establishes the International Migration Review Forum (IMRF) as “the primary intergovernmental global platform for Member States to discuss and share progress on the implementation of all aspects of the Global Compact, including as it relates to the 2030 Agenda for Sustainable Development, and with the participation of all relevant stakeholders.” The Forum will meet every four years from 2022 onward, with each edition resulting in an intergovernmentally agreed Progress Declaration.

The modalities and organizational aspects of the International Migration Review Forums are still being negotiated so it is unclear at this point what will be the role of civil society in the follow-up and review process, if any. The Zero Draft of the Modalities for the IMRF released last June 7, 2019 stipulates that “NGOs in consultative status with the ECOSOC, as well as all relevant stakeholders accredited to the preparatory process of intergovernmental negotiations for the Global Compact” are invited to participate in the IMRF. This means civil society organizations may participate in the policy debates and roundtables during the three-day Forum. However, there is no mention of civil society participation or access to the intergovernmental negotiations for the outcome document of each Forum.

## **The Global Forum on Migration and Development (GFMD)**

The Global Forum on Migration and Development (GFMD) is an annual, state-led, informal and non-binding process that aims to advance understanding and cooperation on the relationship between migration and development. The GFMD serves as a space for governments – along with civil society, the private sector, the UN system, and other relevant stakeholders – to analyze opportunities and challenges; share policies and practices; pose innovative solutions; and build consensus.

Policy-makers from a wide range of government agencies participate in the GFMD, including from Ministries and Departments of Immigration, Development, Labor, Foreign Affairs, Gender Equality, Home Affairs, Justice, Interior, Integration and Nationals Abroad. The GFMD has also allowed the inclusion of the voices and expertise of diverse stakeholders by establishing formal mechanisms such as the GFMD Civil Society, the GFMD Business Mechanism and the Mayors Mechanism.<sup>57</sup>

From its inception in 2007, the GFMD has acknowledged disasters and climate change as drivers of migration. At the first GFMD Summit in Belgium, the Report of Proceedings states:<sup>58</sup>

*“Root causes of migration are diverse and complex. They are not all sources of concern, but those that are, generally*

<sup>57</sup> Global Forum on Migration and Development (n.d.). Background. Retrieved from <https://gfmd.org/process/background>

<sup>58</sup> GFMD (2007). Report of the first meeting of the Global Forum on Migration and Development, Belgium, July 9-11, 2007. Retrieved from [https://gfmd.org/files/documents/gfmd\\_brussels07\\_final\\_report\\_en.pdf](https://gfmd.org/files/documents/gfmd_brussels07_final_report_en.pdf)

*relate to major economic, demographic and social disparities. They range from extreme poverty to unemployment, institutional weakness, political instability, insecurity and conflict, undemocratic regimes and non-respect of human rights, ineffective health systems, non-profitable agriculture, climate change and environmental degradation or disasters.”*

Since then, the GFMD has held regular discussions on the links between migration, climate change and disasters. Governments and other stakeholders have noted the need for integrating migration considerations in climate change policies and negotiations; the need for more and better data on the effects of climate change on migration; and to the need for protection measures, especially for the most vulnerable.<sup>59</sup>

In 2016, the GFMD launched the Migrants in Countries in Crisis (MICIC) Initiative, a government-led effort co-chaired by the United States and the Philippines, that sought to improve the protection of migrants when the countries in which they live, work, study, transit, or travel experience a conflict or natural disaster. Following the approach of the Nansen Initiative, the MICIC held broad and inclusive consultations in six regions, each one preceded by regional civil society consultations organized by global and regional civil society networks.<sup>60</sup>

The outcome of this two-year process is the Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural

Disaster released in June 2016. According to the MICIC, these Principles, Guidelines, and Practices provide practical, non-binding, voluntary guidance for States, private sector actors, international organizations, and civil society to protect migrants.”<sup>61</sup> The MICIC emphasizes, however, that “nothing in the Principles, Guidelines, and Practices should be read as creating new international law obligations, new norms, or as limiting or undermining any legal obligations that a State may have undertaken or be subject to under international law.”<sup>62</sup>

With the adoption of the Global Compact on Migration, Member States and stakeholders envision the GFMD to continue as an informal space with “an expanded role in facilitating the formation of (multi-stakeholder) partnerships to support GCM implementation; a new role, emerging from the GCM, as a platform for reviewing progress in GCM implementation; and a role as a central hub for the exchange of data and knowledge and for supporting learning and capacity development.”<sup>63</sup>

The GFMD is also being called upon to work closely with the UN Migration Network which was set up in 2018 to provide a UN system-wide coherent approach to migration in support of the implementation of the GCM.<sup>64</sup>

61 In the MICIC Guidelines, a migrant is defined as “a non-citizen who is present in a country during a conflict or natural disaster regardless of: (a) the means of or reasons for entry; (b) immigration status; or (c) length of or reasons for stay.”

62 MICIC (2016). Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster, p. 2

63 GFMD. (n.d.). The GFMD and the GCM. Retrieved June 21, 2019, from <https://gfmd.org/process/gfmd-and-gcm>

64 The UN established the UN Network on Migration in 2018 to “ensure effective, timely, coordinated UN system-wide support to Member States in their implementation, follow-up and review of the GCM, for the rights and well being of all migrants and their communities of destination, origin, and transit.” [https://www.un.org/en/conf/migration/assets/pdf/UN-Network-on-Migration\\_TOR.pdf](https://www.un.org/en/conf/migration/assets/pdf/UN-Network-on-Migration_TOR.pdf)

59 International Organization for Migration (2018)

60 Migrants in Countries in Crisis Initiative (MICIC). About MICIC. Retrieved from <https://micicinitiative.iom.int/about-micic/background>

## CHALLENGES AND OPPORTUNITIES FOR ADVOCACY

In a speech addressing the UN Security Council in 2011, António Guterres, United Nations High Commissioner for Refugees, referred to climate change as “the defining challenge of our times”. He added that, “So far, it has to be acknowledged, the international community has lacked the political will and cooperative spirit required to reduce the pace of climate change.” He called on “the international community to formulate and adopt a set of principles, specifically designed to reinforce the protection of and to find solutions for people who have been forced to leave their own country as a result of catastrophic environmental events, and who may not qualify for refugee status under international law.”<sup>65</sup>

From our review of international normative frameworks that tackle the nexus of climate change and human mobility, it appears that the international community still lacks the political will to address this challenge.

All the frameworks reviewed may be faulted for being essentially uncommitted to strengthening the human rights protections for the growing numbers of people displaced by climate change. All of them acknowledged the issues and challenges yet none of them went beyond declarations of principles, affirmations of existing norms and standards, or acknowledgements of good practices. Simply put, governments appear unwilling

to agree to new obligations or duties which they can be held accountable for.

On the matter of protecting climate-displaced people, States seem most resolute in avoiding two major obligations. First is the obligation to open-up borders and host climate-displaced persons. On this matter, it is extremely difficult to find champions among Member States when most are battling high unemployment rates and tepid economic growth. For instance, proposals to expand the immigration quotas of countries to admit people territorially displaced by climate change – whether based on historical contribution to the climate crisis or some other principle – is nowhere on the official agenda in these international processes.

Related proposals to grant travel documents to climate-displaced persons similar to the Nansen Passport granted to refugees and other persons fleeing Soviet Russia, Nazi Germany and other states from 1922 to 1942<sup>66</sup> are likewise absent from official negotiations today because the political context can hardly be more different. The Nansen Passport proved politically feasible when there were many states willing to admit refugees and stateless persons who were victims of extreme nationalism, racism and totalitarian persecution in their countries of origin. Today, xenophobia and anti-immigration sentiment is acute in many of those formerly willing host countries. Across the developed world many politicians are riding a resurgent wave of chauvinism or unwilling to swim against it. Indeed, the Trump Administration rejected the non-binding Global Compact

65 António Guterres, “Maintenance of International Peace and Security: New Challenges to International Peace and Security and Conflict Prevention” (statement by UN High Commissioner for Refugees, United Nations Security Council Briefing, New York, 23 November 2011), Retrieved from <http://www.unhcr.org/4ee21edc9.html>

66 Hieronymi, O. (2003). The Nansen Passport: A Tool of Freedom of Movement and of Protection. *Refugee Survey Quarterly*, 22(1), 36–47. <https://doi.org/10.1093/rsq/22.1.36>

on Migration saying it would “undermine the sovereign right of the United States to enforce our immigration laws and secure our borders.”<sup>67</sup>

The second is the obligation to provide additional financing to support a comprehensive protection agenda beyond what is already committed under existing facilities. This is particularly objectionable for developed countries even as most displaced populations are hosted by countries in the Global South with overstretched resources. It is clear that the current political and economic context is not conducive to reaching agreement on new legally binding instruments.

Nevertheless, the hard law approach can still be pursued through the UNFCCC and Paris Agreement since these are established international legally-binding instruments. Civil society can continue to engage the workstreams of the Adaptation Committee and the WIM Excom-TFD to get clear commitments from developed countries to assist developing countries in building climate resilience and hosting climate-displaced people based on the principle of common but differentiated responsibilities. Civil society may also push for recognition of legal rights for climate-displaced persons under the UNFCCC or at least clear obligations on the part of Member States to protect, respect and fulfill the rights of climate-displaced persons. This will be tough, considering Member States already rejected attempts to expand the application of the “refugee status” under the 1951 Refugee Convention. At any rate, civil society should also continue

to influence individual member states to better integrate the human mobility dimension and human rights of displaced persons in national adaptation planning and implementation.

One potential problem, however, is the non-recognition of migrants and refugees as UNFCCC constituency groups – although this is unlikely to pose a major obstacle judging from the presence of all manner of CSOs in COP events.

In terms of the soft law approach, there are numerous spaces for advocacy. The PDD is probably the most comprehensive platform in terms of its agenda. Indeed, while it deals primarily with cross-border displaced persons, the Nansen Initiative Protection Agenda also covers resilience in countries of origin, planned relocation and “lasting solutions”. Moreover, while the PDD is not a space where States make pledges and commitments, it can be a strategic space for advocacy because once practical measures are accepted as good practice in this Platform, the Steering Group serve as Champions of the agenda in other spaces.

The Sendai Framework is important because it deals with the risk factors that lead to displacement. Moreover, unlike the other frameworks covered in this review, the Sendai Framework has concrete targets against which States can be held accountable, if not legally at least morally and politically by the people. Civil society should also be alert to the potential for corporate capture of the implementation of the Sendai Framework inasmuch as it encourages the participation of big business (property developers) in

67 Rieffel, L. (2018, December 12). The Global Compact on Migration: Dead on arrival? Retrieved from <https://www.brookings.edu/blog/up-front/2018/12/12/the-global-compact-on-migration-dead-on-arrival/>

building resilient structures, pre- and post-disasters.

The GCR is an important space for demanding that States commit to a just and equitable responsibility-sharing formula which can potentially benefit climate-displaced persons or communities if they are also refugees. The GCM and the IMRF are probably more strategic, however, in that they may become the building blocks of an embryonic global migration governance system.<sup>68</sup> The modalities for the follow-up and review process centered on the periodic IMRF are still being crafted and therefore can still be influenced by pro-active civil society engagement.

As negotiated agreements, the GCM and the IMRF outcomes clearly have more political weight than the GFMD and the MICIC Guidelines even though these are all non-binding frameworks. Nevertheless, the GFMD – with its multi-stakeholder processes and mechanisms – seems to offer more space for civil society participation and the MICIC Guidelines envisions a more extensive role for civil

society. On the other hand, while this is potentially empowering for migrants and communities, the Guidelines should not serve to absolve States of their duties to protect, respect and fulfill the rights of all migrants and displaced people.

A common and glaring gap in all these spaces is the absence of organizations of climate-displaced persons and climate-induced migrants. For human rights and climate justice activists, therefore, the first priority should be to support the organizing of climate-displaced and at-risk communities, facilitate links between them and support their engagement with their respective governments as well as these international processes. Indeed, as even the UNHCHR acknowledges, “those who are disproportionately affected by climate change — including migrants — are not inherently vulnerable and do not necessarily lack resilience or agency. They should not be treated as victims. On the contrary, they must be recognized as actors and leaders in addressing climate change and its impacts including those related to human mobility.”<sup>69</sup>

68 Frouws, B., & Van Selm, J. (2018, December 4). Making the Non-Binding Bind: A Critical Analysis of the Global Compact for Migration. Retrieved May 24, 2019, from Mixed Migration Centre website: <http://www.mixedmigration.org/articles/making-the-non-binding-bind-a-critical-analysis-of-the-global-compact-for-migration/>

69 UN Human Rights Council 2018





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**PAUL QUINTOS**