

**UNITAR SEMINAR ON ENVIRONMENTALLY INDUCED MIGRATION AND  
CLIMATE CHANGE  
20 April 2010**

**PRESENTATION IN SESSION II “WHAT ARE IMPLICATIONS FOR  
DEVELOPMENT?”**

As UNHCR is not an agency which engages directly with migration or development, I will not be speaking directly on these aspects, but will present some perspectives on two specific issues which are more relevant to UNHCR: **first, protection of persons forcibly displaced by the effects of climate change, and second, migration, including climate change migration, and its impact on asylum systems.**

**I Protection of persons displaced by climate change factors**

There is no doubt that the process of climate change will lead to an increase in the scale and complexity of population movements. The Representative of the SG for the Human Rights of Internally Displaced Persons, Walter Kalin, has identified at least five movement typologies which could result from climate change. These are:

- (i) hydro-meteorological disasters such as floods, hurricanes, in short sudden onset (massive displacement over a short time)
- (ii) zones designated by governments as being too high risk and dangerous for human habitation (government orders evacuation)
- (iii) environmental degradation and slow/creeping onset of disaster (eg. desertification, salinization coastal areas) where populations may leave slowly over time as livelihoods are threatened
- (iv) “sinking” small island states (result in transfer of populations)
- (v) armed conflict triggered by a decrease in essential resources owing to climate change factors (displacement due to armed conflict which could fall within the refugee criteria).

In four of the above scenarios, ( hydro-meteorological disasters, zoning evacuations, sinking islands, and armed conflict), forced displacement is apparent, and the immediate cause would be the “disaster” involved; it is in relation to slow onset typology that there is greater nuance in the motivation for movement. But even in that scenario, the environmental factors involved could also appear, and threatened livelihoods could be a motivation for movement, rendering it “forced” in nature, rather than out of a real choice.

The question which confronts the international community is how are individuals displaced by climate change factors to be protected in situations where return could threaten livelihoods and survival, and the individuals concerned are therefore forced to remain for a protracted period away from their affected home areas often in situations of desperate need?

The issue of displacement in the context of climate change has yet to find a central place in the UNFCCC negotiations. To help advocacy on this issue, UNHCR presented a submission to the AD Hoc Working Group on Long Term Coordinative Action of the UNFCCC in 2009 at Bonn, entitled “Forced Displacement in the Context of Climate Change”, and drawing attention to displacement as an important dimension in adaptation, mitigation and response of the international community to climate change.

The legal basis for protection of displaced individuals would depend on whether the person is displaced inside his/her own country or outside.

### **Internal Displacement**

It is generally acknowledged that displacement linked to climate change factors would most likely be in the form of internal displacement, with individuals moving within borders, seeking to reside in safe areas but as close as possible to their homes which they have been forced to leave, with the intention of returning as soon as possible.

Individuals who are displaced within their own countries – IDPs - are nationals or residents within their own country, and it is the national authorities concerned which remain primarily responsible for their protection and assistance. While IDPs should be able to continue to avail of their rights and entitlements as persons within their own country, their vulnerable situation and specific needs as displaced persons should warrant specific attention.

The UN Guiding Principles on Internal Displacement includes persons displaced by natural as well as man-made disasters in its characterization of IDPs, thus for individuals displaced within their own countries, there is an existing normative framework for their protection. More recently, Africa has taken forward the legal framework through the adoption of the African Union Convention for the Protection and Assistance of IDPs in Africa, which also includes persons displaced by natural or man-made disasters, as IDPs falling within the framework of the Convention.

In situations of natural disasters, governments, even if willing to protect their people, may find themselves unable to do so due to lack of capacity as a result of the disaster, hence there may be a need for the international community to provide support. The Guiding Principles provide that international humanitarian organizations and other relevant actors have the right to offer their service in support of IDPs and the authorities should not arbitrarily withhold consent. Within the UN system, to enhance international humanitarian response in complex emergencies, the “cluster approach” has been adopted. This is an inter-agency mechanism whereby UN and non-UN actors come together in an agreed division of labor to better coordinate assistance for IDPs and affected populations in different sectors. UNHCR’s engagement in the cluster approach is geared primarily toward those displaced by armed conflict, and the Organisation takes the lead role for protection, emergency shelter and camp coordination and management. UNHCR actively participates in other clusters, and in relation to displacement from natural disasters, it works together with UNICEF and OHCHR to identify suitable lead for the country concerned, and lend its expertise in protection and delivery of other humanitarian

assistance. Eg. Haiti where OHCHR is the lead country protection cluster and supported by UNHCR. UNHCR continues to work toward greater predictability in identification of country protection cluster lead in natural disasters situations.

### **Cross border movements**

It is in relation to displacement across borders that the situation is relatively more complex. In situations of natural disasters, where individuals move across borders solely due to the devastation, or else are unwilling to return solely due to effects of the natural disasters, such individuals would not fall within the refugee criteria of the 1951 Convention relating to the Status of Refugees which defines a “refugee” as one who is outside his/her country owing to a well founded fear of persecution for reasons of race, religion, nationality, membership of a social group or political opinion. At the same time, it must be acknowledged that movements are seldom mono-causal, and even those who flee the consequences of a natural disaster may well have refugee related reasons to fear return, so as to warrant the grant of refugee status, example, they may be members of minority groups who face severe discrimination in their government’s response to the natural disaster so that they have no means of livelihood upon return due to such discriminatory treatment on basis of their race; or they could have fled armed conflict which threaten their lives.

While individuals who flee across borders, purely due to natural disasters, are not eligible as “refugees”, they may still have international protection needs, if their return would result in the serious threats to their lives. Human rights law requires that individuals should not be returned to “irreparable harm” or where their right to life would be threatened. In such circumstances, a “complementary” form of protection may be needed to ensure *non-refoulement* and the right to enter and stay at least temporarily. Some countries, by way of their immigration laws, do provide a form of temporary protection to individuals from countries affected by natural disasters. Although falling short of admitting individuals from affected countries into the territory, these laws permit those who are already in the territory, to remain for a longer period and be protected from forced return eg. US and some Nordic states.

While UNHCR does not support the re-negotiation of the 1951 Convention to include climate change displaced persons as “refugees”, there is argument in favor of the international community coming together to agree on a separate international protection regime for persons fleeing natural or man-made disasters across borders and whose return would put their lives at risk. It is worth noting that in the African context, the 1969 OAU Convention Governing Specific Aspects of refugee problems in Africa provides a refugee definition which includes those who are compelled to leave because of events seriously disturbing public order in whole or part of the country of origin; this wider definition could enable some situations of cross border movements from natural disasters, to be included within the refugee protection regime in Africa

### **Sinking island states**

UNHCR has a mandate for stateless persons and to work toward the reduction of statelessness. The 1954 Convention relating to the Status of Stateless Persons defines a

stateless person as one who is “not considered as a national by any state under the operation of its law.” While some experts argue that sinking island states does not create a situation of legal statelessness, as a matter of fact, the territory of the state would have ceased to exist should the entire country be submerged. International cooperation and solidarity would call for an evacuation of entire populations should this indeed happen, and to ensure that populations are not rendered stateless. Early preventive measures would be important and international support for resources and technical advice to enable adaptation and prevention measures to be put in place would be called for.

## **II Migration, including climate change migration and impact on asylum systems**

While natural disasters could hit anywhere, in both developed and developing countries, it is developing countries which will be most impacted due to their limited resources to cope. In regard to slow onset disaster typology, it is envisaged that the poor in rural areas will be most affected as they depend primarily on environmental resources for survival such as agriculture (dependant on rainfall and quality land) or fisheries (dependant on quality of coastal waters). An effect of threats to livelihoods is movement, particularly to urban areas, which will result in over urbanization and an abandonment of the food sectors, in turn leading to hike in food prices, threatening the urban poor, who will include those who move from rural to urban areas.

UNHCR believes that there is a global trend toward greater urbanization. Persons, whose livelihoods are being destroyed by slow onset type disasters, are most likely to move into urban centers to find jobs and livelihoods. As urban centers in developing countries become increasingly overcrowded, developing countries will find it even more difficult to cope with maintaining an adequate standard of housing and essential services (such as schools and basic infrastructure), as well as ensuring jobs. The urban poor living in slums will increase. All this will threaten the development capacity of the state with the result that there will be more poverty.

One method of adaptation to poverty in developing countries, where resources permit, is migration further afield- to developed countries- to seek better livelihood opportunities, including in an irregular way. In this context, irregular migration would have implications for the refugee protection regime primarily in two ways:

First, migrants, whether motivated by economic or slow on-set climate change factors, may apply for asylum upon reaching the country of destination especially where immigration channels are restricted. Due to limited possibilities to remain in the country, economic migrants often make attempts to apply for asylum as a means to stay on, some disappearing while awaiting their applications to be processed. Such applications, perceived as “abusive claims”, have often evoked strong responses from governments as well as adverse reaction from the general public, with the result that refugees fall victim to more restrictive immigration policies of the government.

Still, the right to seek asylum must be preserved, and asylum systems need to be protection-sensitive as well as equipped to assess complex claims. As with climate-change displaced persons, so-called “economic migrants” per se, would not fall within the refugee criteria. Yet, as with climate-change displaced persons, there may be other reasons which may render an “economic migrant” eligible as a refugee, eg. where the individual belongs to a minority group which faces severe discriminatory treatment in their country, which has exacerbated his/her poverty to threaten survival; or, there may be a situation where the individual concerned was trafficked out of the country of origin and had suffered severe abuse and exploitation as a result of the trafficking experience, the individual may also be eligible under the refugee criteria on the basis.

All asylum claims should be assessed individually in fair and efficient asylum procedures to ensure that no one is forcibly returned to a place where his/her life is put at risk on the basis of race, religion, nationality, membership of a social group or political opinion. Where the country of destination has no effective asylum system in place, UNHCR may be required to apply its mandate to undertake refugee status determination in order to ensure the protection of refugees.

Second, often economic migrants use the same route as refugees, including with the help of smugglers, which tends to blur the distinction between those who are in need of international protection and those who are not. Such situations of “mixed flows” have posed serious challenges to governments, particularly those with developed asylum systems. When governments perceive large numbers of irregular arrivals as a threat, they often put in place tighter immigration control measures which have the effect of restricting asylum processes as well.

.In order to assist governments deal with so-called “mixed” migratory movements, UNHCR issued a Ten Point Plan of Action in 2006, which sets out ten key areas which could help guide a comprehensive approach to addressing the challenge of mixed movements in any situation. A key element of the Ten Point Plan is the recognition that comprehensive approaches to addressing mixed population flows must be based on cooperation among key partners and there is a need for a human rights approach to arrivals, whether migrants or asylum-seekers, with a mechanism to provide information and counseling, and to identify and channel individuals with specific protection needs and vulnerabilities.

### **Conclusion**

Comprehensive strategies, globally and nationally, are needed to respond to global problem of displacement linked to environmental degradation and climate change. Prevention is the best solution. The global community must come together to address the causes of climate change, giving full support to the UNFCCC in capping emissions, and ensuring sustainable forms of development including reducing the risk of environmental damage and degradation.

There is also a need to include displacement as a central agenda item in the UNFCCC. Financial and other kind of support to developing countries so as to help the most

vulnerable communities adapt in ways which will obviate the need to move would be important. Governments need to ensure that there is coherence in national policies, plans and strategies across the board, to ensure sustainable development and reduce causes of climate change and environmental degradation; they also need to include measures which would protect the environment and enable at-risk populations, adapt and cope.

To cater for those who are displaced across borders by the effects of natural disasters, and who do not fall within the refugee criteria, yet are in need of international protection, exploring international protection regimes which will provide some form of protection against *refoulement*, as well as ensure at least temporary stay and treatment based on human rights standards, would also be an important step forward.

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