

CLIMATE CHANGE AND GLOBAL MIGRATION: LOCATING INTERNATIONAL LAW IN THE DEFINING CRISIS OF OUR TIMES

This panel was convened at 12:00 p.m. on Friday, April 8, 2022, by its moderator, Sanjula Weerasinghe of the International Federation of the Red Cross and Red Crescent Societies, who introduced the speakers: Madeline Garlick of the Office of the UN High Commissioner on Refugees; Cecilia Jimenez-Damary, the UN Special Rapporteur on the Human Rights of Internally Displaced Persons; and Walter Kälin, Envoy of the Chair of the Platform on Disaster Displacement.

REMARKS BY SANJULA WEERASINGHE*

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With the Sixth Assessment Report of the Intergovernmental Panel on Climate Change observing that climate change is contributing to humanitarian crises and increasingly driving displacement, this panel discussed how international law applies to human mobility associated with climate change, and how gaps in the applicable legal framework could be addressed.

The session was framed by a brief discussion of different forms of human mobility:

1. Migration, which can be regarded as predominantly a voluntary form of human mobility that takes place both within countries and across borders.
2. Displacement, which can be regarded as predominantly a forced form of human mobility that takes place both within countries and across borders.
3. Planned relocation, which can be regarded as the planned and permanent movement of a group of people to a destination site, initiated by a community or the state.
4. Trapped or immobile populations, as people who are unable to move out of harm's way or are unwilling to do so.

The session noted that the connection between climate change and different forms of human mobility—migration, displacement, planned relocation, and immobility—is complex and non-linear, with the relationship mediated by other dynamics, including socioeconomic, political, and structural factors. For instance, climate change influences sudden-onset hazards, such as floods and storms. Climate change also affects slow-onset hazards, such as sea-level rise and desertification. Both sudden onset and slow-onset hazards affect people's lives and living conditions, sometimes leading to imminent harm and destruction, and in other contexts leading to gradual changes such as environmental degradation and the deterioration of livelihoods.

The session highlighted that migration, displacement, planned relocation, and immobility associated with climate change is already occurring, and is expected to increase, while also recognizing that most human mobility will occur within countries, and within regions.

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Given the diversity in human mobility—with respect to the level of compulsion, geography, temporality, and underlying structural and other factors—and associated assistance and protection needs, the session posed several questions on the role international law plays, and should play, with respect to:

1. Admission, rights, and solutions for cross-border migration and displacement associated with climate change.
2. The prevention of arbitrary displacement and dignified and rights respective solutions when displacement associated with climate change occurs.
3. Opportunities for people to stay in their homes, and in their countries, with dignity.

LOCATING INTERNATIONAL LAW ON HUMAN MOBILITY IN THE CONTEXT OF CLIMATE CHANGE

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*By Walter Kälin**

What has international law to say about forced displacement, predominantly voluntary migration, and other forms of human mobility occurring in the context of climate change and its adverse impacts? Let me make four points:

First, this issue has only recently made its way onto the international agenda. States parties to the UN Framework Convention on Climate Change (UNFCCC)¹ only recognized “climate change induced displacement, migration and planned relocation” as challenges to adapt to climate change when adopting the Cancun Adaptation Framework in 2010.² Not much happened after that at the global level. The breakthrough came in 2015. In March, states adopted the Sendai Framework for Disaster Risk Reduction 2015–2030,³ which includes several provisions on disaster-related displacement.⁴ In October, 109 states endorsed the Nansen Initiative Protection Agenda,⁵ which presents a series of tools to manage and reduce displacement risks and to protect those who are displaced. COP21 held in Paris in December 2015 provided for the establishment of the Task Force on Displacement under the Warsaw International Mechanism for Loss and Damage (WIM)⁶ to develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change. 2018 was another important year. In December, the recommendations of the WIM Task Force on Displacement were unanimously endorsed by COP24.⁷ During the same month, the UN adopted the Global Compact on

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¹ UN Framework Convention on Climate Change, *adopted* May 9, 1992, *entered into force* Mar. 21, 1993, 1771 UNTS 107 (UNFCCC).

² Decision 1/CP.16, The Cancun Agreements: Outcome of the Work of the Ad Hoc Working Group on Longterm Cooperative Action Under the Convention, UN Doc. FCCC/CP/2010/7/Add.1 (Mar. 15, 2011).

³ Sendai Framework for Disaster Risk Reduction 2015–2030; GA Res. 69/283, Annex II (June 3, 2015).

⁴ Sendai Framework, *supra* note 3, para. 28(d).

⁵ THE NANSEN INITIATIVE, AGENDA FOR THE PROTECTION OF CROSS-BORDER DISPLACED PERSONS IN THE CONTEXT OF DISASTERS AND CLIMATE CHANGE, VOL. I (2015).

⁶ Decision 1/CP.21, Adoption of the Paris Agreement, UN Doc. FCCC/CP/2015/L.9/Rev.1 (Dec. 12, 2015).

⁷ COP24, Decision 10/CP.24, Report of the Warsaw International Mechanism for Loss and Damage Associated with Climate Change, Annex, UN Doc. FCCC/CP/2018/10/Add.1 (Dec. 15, 2018).