

## The Nansen Conference

### Climate Change and Displacement in the 21<sup>st</sup> Century

Oslo, 7 June 2011

*Can protection of environmentally displaced persons be found in existing protection regimes? What are the next steps from a protection perspective?*

Remarks by Volker Türk, Director  
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It is a great pleasure for me to be part of this panel. In the 20th century it became clear that there is a need to develop a sense of responsibility for our actions both in terms of their global implications but also in relation to future generations. The build-up of nuclear armament during the Cold War, for example, was (and continues to be) a very real threat. Unlike in the past, human beings possessed, for the first time in their history, the ability and power to destroy this planet and to wipe out future generations. Climate change is the 21<sup>st</sup> century's nuclear arms race, and augurs for the need to translate this heightened sense of responsibility into concrete and collective action.

Notably, paragraph 14 (f) of the Cancun Agreements of December 2010 is an invitation for all of us working on displacement and migration issues to contribute in whatever way we can, within our respective organizations and disciplines, to finding solutions. Several of you referred to political leadership as being key. But we cannot wait for that and need to be prepared to move forward on the normative side, perhaps in more innovative ways than ever before. As noted by Plato, necessity is the mother of invention, so on that basis let me offer a couple of suggestions and concrete recommendations for the way forward.

Apart from our mandate responsibilities for refugees, UNHCR, as you know, also plays a lead role in helping Governments to protect and assist internally displaced persons, and prevent and respond to situations of statelessness. We also have a statutory function for the progressive development of international law in areas of our concern.

In relation to climate change, UNHCR is an active member of the UN Inter-Agency Standing Committee, where we contribute to collective work, alongside NRC, IOM, IFRC, ICRC, UNU and many other partners, to develop a better understanding of the likely impacts of climate change on human mobility, the typologies of movements and applicable legal frameworks. In fact, paragraph 14 (f) on migration, displacement and planned relocation of the Cancun Agreements is a byproduct of this collective endeavour. Nonetheless, given the many gaps in relation to both normative and operational realities, we still have much work to do. Many things have started to happen, though.

This year, for example, IOM and UNHCR sponsored a number of expert discussions that respectively examined “climate change, environmental degradation and migration” and “climate change and displacement”. In addition, as part of the commemorations events marking the 60<sup>th</sup> anniversary of the 1951 Convention relating to the Status of Refugees and the 50<sup>th</sup> anniversary of the 1961 Convention on the Reduction of Statelessness, UNHCR hosted an expert meeting in Bellagio in February this year where we examined the complex inter-linkages between displacement and climate change.<sup>1</sup>

We are just six months ahead of COP 17 in Durban, as well as UNHCR’s own ministerial level event of 7-8 December to commemorate the two anniversaries. And we are just one year away from the Rio + 20 Conference on Sustainable Development in June 2012.

It is therefore our hope, as the High Commissioner said yesterday, that the Nansen Conference will make a substantive contribution to these important gatherings by consolidating and further developing some of the shared insights which are already emerging. These insights will likely have a direct bearing on policy, legal and operational approaches to migration, displacement and planned relocation, as well as on the vexed question of terminology.

I note with interest, for example, that the background document for this Conference has preferred the term “external displacement” to refer to the phenomenon of cross-border movements driven by the wide range of extreme weather events affecting the planet. UNHCR feels comfortable with this terminology, not least as a way of doing away with the inaccurate and often confusing terms ‘climate refugees’ or ‘environmental refugees’.

Much work has been done to date in relation to looking at response and protection strategies, and more specifically exploring how to fill so-called ‘gaps’ in the legal framework to protect people displaced by climate-related events.

Chaloka Beyani, the UN’s Special Rapporteur on Internally Displaced Persons, and his predecessor Professor Walter Kälin, have on several previous occasions elaborated on the human rights dimensions of climate displacement, particularly as they relate

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<sup>1</sup> Documents related to the expert meeting can be found at: [www.unhcr.org/commemorations](http://www.unhcr.org/commemorations).

to internally displaced persons. UNHCR agrees that the Guiding Principles on Internal Displacement provide a sound basic framework for protecting those displaced within the borders of their own countries as a result of climate-related events. It is important, nonetheless, that States operationalize the Guiding Principles domestically through appropriate laws, policies and institutions.

Regional agreements may also be necessary, and mention here is due to the African Union which has gone a step further than the Guiding Principles and instead devised a binding international treaty for the protection and assistance of internally displaced people. The 2009 Kampala Convention is based on the Guiding Principles and specifically includes within its protection scope individuals displaced by natural disasters.

For these reasons, I will not speak to the legal framework relating to internal displacement, except to say that we must all continue to support unequivocally the implementation of the Guiding Principles and persuade those who question their legal legitimacy and normative value. Nor will I dwell on projected climate change impacts, or the central place of disaster risk management and resilience-building in saving lives and bolstering adaptation, which have been covered by other panels.

I would, however, like to highlight two major challenges in the broader displacement context.

First, as we are well aware, relocation, including planned relocation, is already a common strategy either in response to, or in advance of, disasters. Many case studies have been analyzed in this area, and it is now time to build on this knowledge and to act. Nonetheless, relocation raises a number of legal questions and dilemmas. Human rights law and, by adaptation, refugee law, provide some answers. What remains to be done is to consolidate the lessons learned from the myriad case studies and juxtapose them with the analysis of the law and the projected nature and scale of related problems of the future. Drawing from all this, it would be useful, in my view, to develop more concrete operational guidance on relocation as a response both to sudden and slow onset disasters, and to build on the *Operational Guidelines on the Protection of Persons in Situations of Natural Disasters*.<sup>2</sup> Such guidance would speak to the circumstances under which various types of relocation would be appropriate, it would translate the principles into practice, put forward an age, gender and diversity appropriate approach, clarify standards to be respected and ensure participatory approaches from a community perspective.

There are of course other legal issues that arise in these contexts, in particular property and land rights as well as issues of compensation and reparation. Human rights law is a source of some legal responses to these issues. Yet, we may need to

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<sup>2</sup> Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Annex, [\*Operational Guidelines on the Protection of Persons in Situations of Natural Disasters\*](#), UN Doc. A/HRC/16/43, Add. 5, 31 January 2011.

look beyond it, and to explore further issues of common heritage of humanity and trusteeship ideas.

The second major challenge I would like to highlight today, which was also mentioned by the High Commissioner yesterday, is that UNHCR is convinced of the need to develop a more coherent and consistent approach to anticipate and address the need for protection and solutions of people displaced externally, across borders, even if the numbers may not be large for the time being.

Given UNHCR's core mandate to assist in the progressive development of international law related to forced displacement, our entry point is not migration, but instead the displacement or forced migration angle.

In marking the anniversary of the 1951 Refugee Convention this year, we are undertaking a thorough examination of existing gaps in the international protection regime with a view to spurring reflection on ways to proactively and effectively fill them.

One such gap relates to the protection of people displaced across international frontiers, and for those abroad who are unable to return home, owing to the impacts of climate change on their places of origin.

I do not believe the question is one of giving "special protection" to those who have been displaced by environmental factors. It is rather a question of recognizing that such people are not presently adequately protected by *any* international instrument, despite the fact that their movements are involuntary.

Let me be more specific. In certain circumstances, it is true that existing instruments, such as the 1951 Refugee Convention at the universal level, or at the regional level, the 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa or the 1984 Cartagena Declaration on Refugees, will be applicable. This would, for instance, be the case where the impact of climate change may also be an exacerbating factor of conflict, violence or public disorder. We predict that armed conflict will increase as natural resources such as water and arable land become scarce or disappear. There is also a case for refugee protection in situations where harmful action or inaction by a Government in dealing with climate-related events is related to one or more of the Convention grounds and could, as a result, be considered persecution. Nonetheless, it is clear that the current scope of the international and regional refugee instruments is limited and would not cover many persons displaced by climate-related events.

What do we mean when we talk of displacement? Like IOM, UNHCR is working with the assumption that the 'migration' induced by climate change will significantly outstrip the 'displacement' caused by it, both within States and across borders.

For UNHCR, the *displacement* dimension is most evident in the context of sudden onset events, such as typhoons and floods. The trigger for movement is

unambiguous. And so is the compulsion in the resulting movement: people leave because they have no other choice. One could, for instance, think of circumstances where a sudden onset disaster has rendered an area unsafe or uninhabitable due to an absence of clean water, lack of adequate shelter, destroyed basic infrastructure and even a breakdown in law and order.

But there are important distinctions with classical refugee movements, particularly when it comes to a link to one or more of the Convention grounds or the nature and duration of the need for protection which must be further examined.

In relation to slow onset climatic events, the equation is concededly more complex. Movements exist along a continuum where the most forward-looking, enterprising and mobile individuals are more likely to *migrate* in search of better opportunities in advance of a more immediate compulsion to move. Others, including the more vulnerable among the population, will move as the impacts worsen – when remaining where they are ceases to be viable. Still others, the most vulnerable, may not be able to move and thus are likely to remain where they are.

National laws, policies and institutions are clearly the first level of protection. However, these need to be buttressed by regional cooperation frameworks, particularly to augment national capacity; and by underlying universal principles. Existing regional and sub-regional arrangements need to be examined vis-à-vis their ability to accommodate the various forms of climate-related migration and displacement.

The free movement protocols of the Economic Community of West African States (ECOWAS) Treaty are a case in point. Intended to strengthen sub-regional economic integration through the progressively freer movement of goods, capital and people, the protocols have recently been held to apply to refugees from the region. At first glance, there is no reason to suppose their benefits should be denied to ECOWAS citizens crossing borders owing to environmental reasons.

Treaties and arrangements in other regions need likewise to be considered. And this should be combined with a more coherent and consistent approach at the international level to meeting the protection needs of people displaced across borders, particularly as a result of sudden onset disasters.

In particular, we need to develop a global guiding framework for situations of external displacement which are not covered by existing instruments.

The Guiding Principles on Internal Displacement offer a sensible point of departure. A number of them are equally applicable in situations of external displacement. Additionally, standards such as those developed to respond to the mass influx of refugees could be drawn upon.

UNHCR stands ready to support States in developing a guiding framework or instrument in this area. It might take the form of a temporary or interim protection regime. There are indeed many examples of State practice of granting permission to

remain or at the very least a stay of deportation to persons whose country of origin is hit by a natural disaster or other extreme event. These precedents support the view that such persons are in need of international protection, even if only temporarily.

Scenarios could be developed to identify the circumstances in which temporary protection would be activated. Apart from the scope of coverage, it will also be important to clarify the contents and duration of such protection. And procedures and standards of treatment could be developed to guide its implementation.

A first and important step would be to agree on some key principles on climate-related external displacement, which, as indicated by the High Commissioner, could then be put forward at the ministerial-level event in December. It would be useful if States interested in taking this forward could also flag this in their pledges at the ministerial meeting.

I hope that as participants here in Oslo, you will give your full consideration to this proposal and I look forward to hearing your views.