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# What We Know About Climate Change and Migration

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February 2021

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## **I. What we know about the relationship between climate change and human movement (migration, displacement, and planned relocation)**

Human movement associated with climate change features in popular, policy and scholarly discourse. Wide-ranging estimates predict the scale and dynamics of future movement. To appreciate the complexity, understanding how climate change affects people's circumstances and choices is a crucial starting point.

### ***Climate change and its adverse effects***

Human activity has contributed to the warming of the earth's climate system and led to unprecedented changes ([IPCC 2014](#)). Climate change means "a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods" ([UNFCCC 1992](#), Article 1(2)). In 2014, in its [fifth assessment report](#), the [Intergovernmental Panel on Climate Change](#) (IPCC), the UN body of experts charged with providing scientific assessments on climate change, explained its adverse effects, which vary across regions and countries, yet leave no continent unaffected.

Climate change has warmed and acidified oceans; melted ice sheets, glaciers, and snow cover; and increased sea levels, the rate of sea-level rise, and extreme sea levels (storm surges). Climate change has influenced a decrease in extreme cold temperatures, an increase in extreme warm temperatures, and an increase in the frequency and intensity of weather and climate events such as storms, floods, droughts, heatwaves, and wildfires. Looking to the future, these effects are predicted to persist, intensify, and create new risks ([IPCC 2014](#); [IPCC 2018](#)).

Storms, floods, and wildfires are sudden-onset events that can lead to widespread destruction and damage to homes, infrastructure, and basic services. Slower-onset phenomena such as droughts, rising seas, desertification, and melting permafrost harm ecosystems and biodiversity and lead to environmental degradation and resource depletion, which gradually erodes livelihoods, living conditions, and habitability. For example, droughts kill livestock, undermine agricultural production, and affect food security. Rising seas and acidification destroy crops, contaminate water resources, and gradually render areas less habitable.

The adverse effects of climate change impact people in a variety of ways. Risks are unevenly distributed and exacerbate existing vulnerabilities and inequalities. Generally, people in precarious circumstances, including the poor, landless, under-resourced, and marginalized, bear a disproportionate burden.

Disasters occur when people in conditions of vulnerability are exposed to hazards and do not have the adaptive capacity to cope. A disaster is a "serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic and environmental losses and impacts" ([UNDRR 2017](#)). Disasters may be triggered by sudden-onset events such as storms

or floods or slower-onset phenomena such as climate change-induced rainfall variability which leads to drought. In some parts of the world, the adverse effects of climate change, hazards, and conflict may combine to compound vulnerability. Generally, poorer countries may be more prone to disasters. Wealthier countries are not immune, however, they may have more resources to invest in risk reduction, including resilience building, hazard-resistant infrastructure, planning, and zoning interventions that can mitigate exposure and vulnerability. In this context, it is inaccurate to suggest that disasters are natural.

### ***Climate change and its impacts on the drivers of human movement***

People's circumstances, available choices, and decisions on movement are affected by climate change. The IPCC identified the potential impacts of climate change on human movement in the 1990s ([IPCC 1990](#)). Empirical research on the connection between climate change and human movement expanded following the IPCC's 2007 assessment report, which reinforced the impacts of climate change on human movement ([IPCC 2014](#)).

However, it is too simplistic and inaccurate to suggest that climate change causes human movement. First, while scientific efforts are evolving, in general, attributing a specific climate-related event or phenomena solely to climate change is difficult. Natural climate variability, among other factors, also plays a role. Attribution may be less complex or clearer in some parts of the world or in localized "hot spots".

Second, the impacts of climate change are never the sole cause of human movements. Experts generally agree that decisions to move are affected by five broad categories of drivers: political, demographic, economic, social, and environmental ([Foresight 2011](#)). All of these drivers may interact to influence choices and decisions on movement. Environmental drivers include exposure to hazards and ecosystem services such as land productivity; food, energy, and water security; and overall habitability. Climate change heightens hazard exposure, degrades ecosystems, and undermines habitability. In addition, climate change affects the other drivers. For instance, climate change may affect economic drivers through impacts on livelihoods, wages, and markets. It may affect political drivers through impacts on scarce resources, governance, and tensions. Climate change interacts with and exacerbates the drivers of human movement, which is why it is sometimes referred to as a "threat multiplier" ([UN Security Council 2019](#)).

Third, personal and household characteristics as well as obstacles and facilitators influence decisions on movement. Individual characteristics such as age, gender and disability may present unique challenges to movement. Individual and household capital may undermine or facilitate available choices. Legal frameworks and pathways, social networks, and technology also present opportunities and impediments. In summary, movement in the context of climate change is multi-causal.

### ***Typology of human movement in the context of climate change***

In December 2010, a pivotal decision of the Conference of the Parties ([COP 16](#)) to the [United Nations Framework Convention on Climate Change](#) (UNFCCC) emphasized three types of human movement in the context of climate change: displacement, migration, and planned relocation ([UNFCCC 2011](#)). Displacement is generally understood to refer to predominantly forced movement, whereas migration is generally regarded as predominantly voluntary movement. Planned relocation describes a process in which individuals or groups are physically relocated from their homes and are settled permanently

in a new location. It may be forced or voluntary, depending on the circumstances ([McAdam and Ferris 2015](#)).

A person fleeing to an evacuation center or proactively evacuated by authorities to avoid serious harm from an impending cyclone would fall into the displacement category. A person crossing international borders under a seasonal program designed to address climate variability in a country of origin, and labor shortages in a country of destination, may fall into the migration category. Outside relatively clearer extremes, disaggregating movement within the forced-voluntary continuum is steeped in complexity. As Kälin explains, the key consideration for identifying where a movement falls may relate to the element of choice.

‘Voluntary’—contrary to what the term suggests—does not mean to be able to decide in complete freedom. Rather, voluntariness exists where space to choose between realistic options still exists. ‘Forced’ on the other hand characterizes situations where realistic options to choose from are no longer available. Thus, we can speak of voluntary movements where the element of choice is preponderant, whereas displacement or forced relocation takes place where the space for choice is [more limited] ([Warner et al. 2013](#), 40).

Distinguishing types of movement has become important for considering applicable policy frameworks and facilitating operational responses. Displacement, migration, and planned relocation are not the only categories that must be understood, however. Increasingly, attention has focused on so-called ‘trapped’ populations ([Foresight 2011](#)), those who are unable to move out of harm’s way from locations of high exposure to climate change. Challenges may arise from age or disability, lack of economic or social capital, or legal formalities. In contrast, the ‘voluntarily’ immobile, people who aspire to remain in place despite adverse effects of climate change are also receiving attention. Return movements must also be appreciated in the context of efforts to support sustainable solutions. As climate change continues to adversely affect hazard exposure, environmental degradation and habitability, more and more locations may become unviable for rebuilding lives.

### ***Dimensions of geography, time, and scale of human movements***

Most displacement, migration, and planned relocation in the context of climate change are within countries, not across international borders ([Kälin and Schrepfer 2012](#)). When cross-border movement occurs, people will generally move into bordering countries or stay within regions. Low-lying islands present a special case in which significant international movement may become inevitable over time.

Sudden-onset events and slow-onset phenomena create different forms of human movement. Imminent storms and floods lead to displacement, including on a large scale. People generally flee to nearby evacuation centers or shelter with family and friends. If the safest route is across an international border, cross border movements may occur. Depending on recovery efforts, displacement can be short term and people may return relatively quickly to their homes and begin to rebuild. Displacement can also become protracted if conditions for solutions are unavailable. Slower-onset phenomena such as sea-level rise, desertification, or a sustained decrease in rainfall unfold over longer lead times. Temporary, seasonal, or permanent migratory movements out of at-risk areas are spurred by the progressive depletion of living conditions, essential resources, and livelihood opportunities. Some people migrate across international borders. These types of migratory movements occur at smaller scale, at individual and household levels, and are generally less visible than displacement.

Slower-onset phenomena can also create sudden-onset events and lead to displacement. For example, when climate change-induced rainfall variability leads to drought and severe food insecurity or when sea-level rise combines with storms to create storm surges. Recurrent or seasonal sudden-onset events such as floods and storms may also provide opportunities for more gradual and planned migration. Movements from rural locations to towns and cities are contributing to urbanization. Migration and displacement into urban slums and hazard-prone areas create new pockets of exposure and vulnerability.

Planned relocation has become increasingly salient for states and communities as the adverse effects of climate change intensify risks of floods, sea-level rise and erosion, or degrade resources and livelihoods essential for a dignified existence. Across the world from the Pacific to the Americas and Asia to Africa, planned relocation of households and communities to different locations within countries is used as a preventative and remedial measure to mitigate and adapt to risks of harm (Bower and Weerasinghe 2021 (forthcoming)). This is because planned relocation has the potential to save lives and assets and consequently, to safeguard or augment the human security of people (Ferris and Weerasinghe 2020). For instance, communities have moved away from coastal areas prone to floods and erosion. Planned relocation has also been used as an option for displaced people who are unable to return to their areas of origin. Experience suggests that the planned relocation process—from making the decision to relocate, to undertaking the physical relocation, and ensuring people are ‘settled’ in a new site—can become protracted.

### ***Data on human movement in the context of climate change***

The full magnitude of movement associated with climate change is not well known. Since 2008, the [Internal Displacement Monitoring Centre](#) (IDMC) has compiled data on internal displacement linked to sudden-onset disasters such as storms, floods, wildfires, and landslides. In 2019, of the 24.9 million new internal displacements associated with disasters, 23.9 million related to storms and floods ([IDMC 2020](#)). Over the 11 years between 2008 and 2018, disasters triggered 265 million new internal displacements, which was an average of 24 million new displacements per year ([IDMC 2019](#)). More recently, IDMC has also compiled some estimates on displacement associated with drought.

In some respects, IDMC’s global figures are an underestimate since they fail to capture displacement linked to all droughts or to slower-onset phenomena such as sea-level rise or desertification. On the other hand, it is difficult to definitively assert the influence of climate change on all weather- or climate-related disasters and associated displacement. Additionally, global level estimates on migration or planned relocation associated with climate change are not compiled. Efforts to map the breadth of planned relocation related to natural hazards, disasters, and climate change have only just begun (Bower and Weerasinghe 2021 (forthcoming)). Nonetheless, the evidence base is stronger than a decade ago, and efforts to improve data and knowledge on climate change-related movements continue to grow.

## **II. Key UN, governmental, and NGO processes relevant to addressing movement in the context of climate change**

### ***The UNFCCC from Cancún to Paris and the Task Force on Displacement***

Whereas the IPCC recognized the connections between human movement and climate change almost three decades ago, the [Cancún Adaptation Framework](#) was an important catalyst for action. In a key paragraph, states party to the UNFCCC were invited to undertake “[m]easures to enhance understanding,

coordination and cooperation with regard to climate change-induced displacement, migration and planned relocation, where appropriate, at the national, regional and international levels” (paragraph 14(f)). The decision explicitly acknowledged the impacts of climate change on migration, displacement, and planned relocation, identified them as elements to be addressed within the framework of climate change adaptation, and “presented a state-determined point of reference for institutional actors to leverage action on climate change and mobility” ([McAdam 2014](#), 13).

In 2012, in discussions on approaches to address “loss and damage” associated with climate change, the 18th Conference of the Parties ([COP 18](#)) acknowledged the need to advance understanding and expertise on “[h]ow impacts of climate change are affecting patterns of migration, displacement and human mobility” ([UNFCCC 2013](#), 3/CP.18, paragraph 7(vi)). The [Paris Agreement](#), adopted at the 21st Conference of the Parties ([COP 21](#)) explicitly references migrants: “Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, ... the rights of ... migrants, and people in vulnerable situations” (Annex, preamble). COP 21 also mandated the [Executive Committee of the Warsaw International Mechanism for Loss and Damage](#) (WIM) to establish a task force “to develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change” ([UNFCCC 2016](#), 1/CP.21, paragraph 49).

This [Task Force on Displacement](#) (TFD) established in 2017, has 13 members, which include IDMC, the International Federation of Red Cross and Red Crescent Societies (IFRC), the International Organization for Migration (IOM), the Platform on Disaster Displacement, and the United Nations High Commissioner for Refugees (UNHCR). In 2018, following [a series of activities and outputs](#), the TFD presented its [recommendations](#) to the 24th Conference of the Parties ([COP 24](#)), which welcomed the report of the TFD, its comprehensive assessment of issues of displacement related to climate change and the decision of the WIM to extend the mandate of the TFD ([UNFCCC 2019](#), 10/CP.24, paragraphs 1(a) and (4), respectively). In April 2019, the TFD began a second phase of work with new terms of reference. The TFD’s [plan of action for 2019-2021](#) builds on its earlier recommendations and the activities under strategic workstream (d) of the [WIM’s five-year rolling work plan](#) which concerns “[e]nhanced cooperation and facilitation in relation to human mobility, including migration, displacement and planned relocation.”

### ***The Nansen Conference and The Nansen Principles***

The Chairperson’s Summary of [The Nansen Conference on Climate Change and Displacement in the 21st Century](#) recognized paragraph 14(f) of the Cancún Adaptation Framework as “an important global affirmation of the need for measures related to migration, displacement and planned relocation” and called for its implementation through appropriate fora (paragraph 10). Held in Oslo in June 2011, the Conference was convened by Norway, with the Center for International Climate and Environmental Research (CICERO) and the Norwegian Refugee Council (NRC), and supported by UNHCR and other advisory members. Building on an [UNHCR-organized expert meeting](#) held in early 2011 for which commissioned scholars wrote papers on the reach and limitations of international law for addressing displacement associated with climate change, the Nansen Conference was seen as an “important step in developing a common understanding and practical approach” (4). Attended by high-level government and intergovernmental representatives and experts, the Conference recommended a set of 10 [Nansen Principles](#) to guide responses to the “urgent and complex challenges raised by displacement in the context of climate change and other environmental hazards” (5).

## ***The Nansen Initiative***

The [Nansen Initiative on Disaster-Induced Cross-Border Displacement](#) (Nansen Initiative), a state-led intergovernmental process spearheaded by Norway and Switzerland, was established in 2012. The Initiative built on the outcome and momentum created by the Nansen Conference to address the need for a coherent approach to the protection of people displaced across borders in the context of disasters and the adverse effects of climate change. Through intergovernmental consultations and civil society meetings at regional and sub-regional levels, the Nansen Initiative consolidated a global evidence base. The Initiative's political, strategic, and technical efforts did not develop new standards. Instead, it built consensus among states on the elements of a protection agenda. In October 2015, at an intergovernmental consultation held in Geneva, the Nansen Initiative's [Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change](#) (Protection Agenda) was endorsed by 109 government delegations.

## ***The Platform on Disaster Displacement***

The follow-up to the Nansen Initiative, the [Platform on Disaster Displacement](#) (PDD), is a state-led intergovernmental platform with a steering group of 15-20 states and the European Union. UNHCR and IOM are standing invitees. Chairmanship and vice chairmanship of the steering group has rotated between states. Since its launch in 2016, the PDD has focused on dissemination and capacity building on the elements of the Protection Agenda. It has facilitated coordinated efforts to frame and secure acknowledgment and understanding of the diverse dimensions of climate-change-related movement into pivotal global and regional processes and instruments. The PDD has promoted and supported concerted efforts to develop requisite tools to implement the Protection Agenda and also plays an important role in addressing knowledge gaps. An envoy provides strategic advice to the steering group and represents the chairmanship in high-level public events. An advisory committee of intergovernmental, non-governmental, and academic representatives with multidisciplinary expertise provides advice and supports the implementation of activities. The PDD's [2019-2022 strategy](#) covers a broad range of activities.

## ***Intergovernmental and expert collaboration on planned relocation***

The growing relevance of planned relocation was also recognized in the Nansen Principles (principle X). The Chairperson's Summary articulated the need for a rights-based approach to planned relocation and the need to better understand its potential ([Nansen Conference](#), paragraphs 7, 10, 12). In 2014, with the Brookings Institution and [Georgetown University](#), UNHCR organized a meeting on [Planned Relocation, Disasters and Climate Change: Consolidating Good Practices and Preparing for the Future](#), which brought together multi-disciplinary experts, including from governments. The [expert meeting report](#) identified the need for guidance and tools to support implementation. [Guidance on Protecting People from Disasters and Environmental Change through Planned Relocation](#) (Planned Relocation Guidance) was finalized in 2015. An accompanying 2017 [Toolbox: Planning Relocations to Protect People from Disasters and Environmental Change](#) (Planned Relocation Toolbox) was developed with support from additional partners including IOM, the UN University and the World Bank. It provides concrete practical suggestions for states and other actors, focusing on key crosscutting elements identified from past practices.

### ***The Migrants in Countries in Crisis Initiative***

Launched and led by the United States and the Philippines, the [Migrants in Countries in Crisis Initiative](#) (MICIC Initiative) was an intergovernmental process borne out of calls to address the plight of migrants present in countries experiencing conflict and disaster. In this sense, the MICIC Initiative was focused on a population that was not of primary concern under the Nansen Initiative. Between 2015 and 2016, a working group of states, intergovernmental and non-governmental actors undertook a regional evidence gathering and consultative process to develop the MICIC Initiative's non-binding [Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster](#) (MICIC Initiative Guidelines). They comprise principles, guidelines, and practices for protecting and assisting migrants affected by disasters and conflict in the country in which they are present. The framework is targeted towards states, private sector actors, international organizations, and civil society and covers the period prior to departure, emergency response and return and reintegration. IOM housed the secretariat of the MICIC Initiative and continues to disseminate and build capacity and tools to support implementation of the MICIC Initiative Guidelines.

### ***The Global Forum on Migration and Development***

The [Global Forum on Migration and Development](#) (GFMD), the gathering that launched the MICIC Initiative in 2014, has continued to engage on the topic of human movement in the context of disasters and climate change. Various GFMDs have referenced the themes in concept notes, workshops, side events, or in roundtable sessions. This includes the GFMD, which was held in Ecuador in January 2020. For instance, the background paper to a roundtable session on providing regular pathways from crisis to safety, engages on the themes, identifies relevant practices, and references the Protection Agenda.

### ***The New York Declaration and the Global Compacts***

The 2016 [New York Declaration for Refugees and Migrants](#) (New York Declaration), the negotiated outcome document of the 2016 UN high-level summit to address large movements of refugees and migrants, takes note of the Protection Agenda and the MICIC Initiative Guidelines (paragraph 50). This politically significant Declaration acknowledges disasters and adverse effects of climate change as drivers of movements. The [Global Compact for Refugees](#) (GCR) and the [Global Compact on Safe, Orderly and Regular Migration](#) (GCM), the two follow-up pillars to the New York Declaration, both address human movement in the context of disasters and climate change ([Martin et al. 2018](#)). The [UN Network on Migration](#) established pursuant to the GCM to support its implementation, follow up, and review has included core and thematic priorities in its [work plan](#). Addressing "migration and displacement linkages to disasters, adverse effects of climate change and environmental degradation" has been noted as a thematic work stream for future consideration. Meanwhile, existing thematic work streams, such as [work stream 3](#) on strengthening state capacities to expand regular migration pathways, including admission and stay and to address and reduce vulnerabilities, discusses and engage with the theme.

### ***Platforms on Disaster Risk Reduction and the Sendai Framework***

Every two years, the [Global Platform on Disaster Risk Reduction](#) convenes to address disaster risk and resilience building. Increasingly, the risks of displacement have been integrated into disaster risk reduction (DRR) dialogues and frameworks. For instance, the themes explicitly noted in the highly

authoritative, voluntary, and non-binding [Sendai Framework for Disaster Risk Reduction 2015-2030](#) (Sendai Framework), which was adopted by 187 country delegations to the Third UN World Conference on Disaster Risk Reduction in 2015 and subsequently endorsed by the UN General Assembly. The Sendai Framework seeks to substantially reduce disaster risk and losses through the prevention of new, and the reduction of existing, disaster risk. In this context, the preamble acknowledges that displacement is one of the devastating effects of disasters and acknowledges migrants as a relevant stakeholder. The multiple references to different forms of human movement throughout the Sendai Framework reflect the fact that both displaced persons and migrants are encompassed in its global targets. As part of efforts to support implementation, in May 2019 the [UN Office for Disaster Risk Reduction](#) (UNDRR) published [Words into Action Guidelines on Disaster Displacement](#), which offers practical guidance on integrating human movement into DRR strategies.

### ***The International Law Commission (ILC) and the International Law Association (ILA)***

In 2016, the [International Law Commission](#) (ILC), the UN body of experts elected by states to promote the progressive development of international law and its codification, adopted [Draft Articles on the Protection of Persons in the Event of Disasters with Commentaries](#) (Draft Articles and Commentaries), and [recommended that the UN General Assembly](#) elaborate a convention based on the document. The Draft Articles and Commentaries detail the scope and content of states duties in the context of sudden and slow-onset disasters with respect to preventive and remedial actions.

In 2019, the ILC included the topic of [Sea-level Rise in International Law](#) in its program of work and established an open-ended study group on the topic. In this context, the ILC will also examine human movement ([Graduate Institute 2020](#)). The ILC's work on sea-level rise builds on the activities of the International Law Association's [Committee on International Law and Sea Level Rise](#), which adopted the Sydney Declaration of Principles on the Protection of Persons Displaced in the Context of Sea Level Rise. The Sydney Declaration of Principles was underpinned by research on [International Law and Sea-Level Rise: Forced Migration and Human Rights](#).

### ***The UN Human Rights Council***

The [UN Human Rights Council](#) (HRC) has adopted a series of [resolutions](#) recognizing the implications of and the interactions between climate change and human rights. This includes its [2017 resolution](#), which recognizes that climate change-related human movement and human rights are crosscutting in nature.

### ***UN Secretary General's High-Level Panel on Internal Displacement***

In late 2019, the UN Secretary-General established a [High-Level Panel on Internal Displacement](#), which has been tasked to elaborate bold and practical recommendations to better respond to internal displacement, particularly where it's protracted, and to achieve government-led durable solutions. Towards this goal, the Panel has developed six dedicated thematic work streams, which include preventing internal displacement in the context of conflict and disasters and climate change; improving the international system's ability to facilitate solutions, including through the humanitarian-development-peace nexus, as well as enhanced coherence with climate and disaster displacement actors; and data and evidence. While climate change and disasters are explicitly referenced in some of the work streams, all six-work streams are expected to consider conflict and violence and disaster and climate change-related internal displacement ([UNSG HLP 2020](#)).

## **Other relevant processes and forums**

Other relevant processes include the [Sustainable Development Agenda](#), the [Climate Vulnerable Forum](#), and the [World Humanitarian Summit](#).

## **Relevant intergovernmental actors**

For many years, UNHCR has played an important role in ensuring climate change and displacement were included in the international agenda and in policy, advocacy, research, and operational responses ([Goodwin-Gill and McAdam 2017](#); [McAdam 2014](#)). It has a dedicated webpage on [Climate Change and Disaster Displacement](#) and a page on [Environment, Disasters and Climate Change](#). IOM has also played an important role in operational, policy, research, and advocacy efforts related to migration in the context of climate change. In 2015, IOM created a dedicated division on [Migration, Environment and Climate Change](#) (MECC) and hosts an [Environmental Migration Portal](#), a repository on relevant research, policy briefs, and capacity building activities. The [UN Office of the High Commissioner for Human Rights \(OHCHR\)](#), including its [Human Rights Mechanisms](#) has built knowledge on the human rights implications of climate change and demystified the responsibilities of duty bearers towards rights holders. OHCHR has examined [human movement challenges](#), held focused expert meetings, and published relevant reports, including on the [slow-onset effects of climate change and human rights protection for cross-border migrants](#). More generally, a 2018 [analytical study](#) by the PDD for the TFD assesses institutional frameworks and mandates within the UN system that are relevant to averting, minimizing, and addressing displacement ([TFD 2018](#)).

## **III. Normative frameworks applicable for protecting and assisting those who cross borders, move internally, or are immobile in the context of climate change**

### ***Nansen Initiative Protection Agenda***

Scholarly and policy debates on cross-border movements associated with disasters and climate change have been prominent, due in part to concerns regarding normative gaps for addressing admission, status, and rights ([UNHCR 2012](#); [McAdam 2012](#)). Calls to expand the 1951 Refugee Convention relating to the Status of Refugees ([1951 Refugee Convention](#)), to adopt a new protocol to it, or to create a new treaty have been advanced as options. However, states have been reticent to create new international norms and many legal experts have indicated such efforts are premature.

The Nansen Initiative's Protection Agenda instilled greater clarity into the discourse. Prior efforts, including UNHCR's 2011 expert meeting and the Nansen Conference and Nansen Principles had provided critical insights on the evidentiary and normative contexts. The Protection Agenda built on earlier efforts and provided a clear and coherent framework to consider and address displacement, migration, and planned relocation in the context of disasters and adverse effects of climate change. It articulated a "toolkit" of responses that recognized the need for multi-disciplinary and multi-sectoral actions at local, regional, and international levels. The Protection Agenda identified three priority areas of intervention: (1) collect data and enhance knowledge, particularly on cross-border displacement; (2) enhance the use of humanitarian protection measures for cross-border displacement; and (3) strengthen the management of displacement risk in countries of origin. The Protection Agenda's approach is focused on helping people stay in place by reducing vulnerabilities and building resilience; helping people to move out of harm's way; and helping people who are displaced across international borders.

While the Nansen Initiative’s primary focus was cross-border movements, the Protection Agenda recognized the centrality of proactive efforts in countries of origin and not simply remedial measures in countries of destination. As such, the Protection Agenda presents measures to address admission, status, and rights where people cross borders in the context of disasters and adverse effects of climate change, and also measures to manage risks and movements within countries of origin.

### **Movements within countries**

Priority area three of the Protection Agenda, which concerns measures to manage risks and movements within countries of origin, sets out four specific areas for action. This approach envisages that dignity and rights implications could potentially be mitigated if involuntary and unsafe movements are averted.

1. Integrating human mobility within DRR, climate change adaptation (CCA), and relevant development processes. (Applicable processes and frameworks include the UNFCCC and associated instruments and decisions, the Platforms on DRR and the Sendai Framework, the ILC’s activities including its Draft Articles and Commentaries, as well as the UN’s Sustainable Development Agenda. These mechanisms are not elaborated here).
2. Facilitating migration with dignity.
3. Improving the use of planned relocation.
4. Ensuring the needs of internally displaced persons (IDPs) are effectively addressed in domestic laws and policies.

#### **(a) Displacement**

The soft law normative framework articulated in the [1998 Guiding Principles on Internal Displacement](#) (GPID) is the most authoritative global-level instrument on protection and assistance to people displaced within countries in the context of disasters and the adverse effects of climate change. The GPID sets forth the primary responsibility of national authorities to provide protection and assistance to IDPs within their jurisdiction. It addresses IDPs’ needs and rights across the displacement cycle: pre-movement and protection from displacement; protection during displacement; and post-movement including return, reintegration, and resettlement. IDPs are described as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of ... natural or human made disasters, and who have not crossed an internationally recognized State border” (paragraph 2). This description covers people who are evacuated or flee from their homes to escape the anticipated impacts of a disaster, and people who are forced to flee as the effects of the disaster reverberate. As such, people who flee in the context of disasters associated with floods, storms or drought, including where such events have been influenced by climate change are covered under the framework articulated in the GPID.

At the regional level, the binding [2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa](#) (Kampala Convention) incorporates the GPID definition of an IDP (Article I(k)). The Kampala Convention also explicitly references climate change. For instance, a specific provision obliges states to “take measures to protect and assist persons who have been internally displaced due to natural or human made disasters, including climate change” (Article V(4)).

More than 40 countries have developed laws and policies on internal displacement ([Global Protection Cluster n.d.](#); [HLP 2020](#)) and some capture flight in the context of disasters. While implementation has progressed, there are also challenges.

### **(b) Planned relocation**

The Cancùn Adaptation Framework identified planned relocation as a form of movement with the potential to help people adapt to the adverse effects of climate change, and in 2015, relocation of human settlements was also referenced in the Sendai Framework as a means to reduce disaster risks. The Protection Agenda considers planned relocation as a “tool” to implement DRR and CCA. While planned relocation offers an opportunity to move people out of harm’s way and thereby to minimize exposure and vulnerability, planned relocation also has the potential to undermine socio-economic prosperity and cultural practices.

In this context, the 2015 Planned Relocation Guidance recognizes that planned relocations are complex, multidimensional processes that should generally be used as a measure of last resort when other risk reduction and adaptation options are exhausted or not viable. The Guidance provides an expert crafted definition. Planned relocation is “a planned process in which persons or groups of persons move or are assisted to move away from their homes or places of temporary residence, are settled in a new location, and provided with the conditions for rebuilding their lives. Planned Relocation is carried out under the authority of the state, takes place within national borders, and is undertaken to protect people from risks and impacts related to disasters and environmental change, including the effects of climate change. Such Planned Relocation may be carried out at the individual, household, and/or community levels” (5). The definition emphasizes protection and the critical objective of ensuring that people are provided with the conditions to rebuild lives. By placing the overarching process under the authority of the state, the definition highlights the state’s primary responsibility in providing for these outcomes. The Planned Relocation Guidance comprises seven substantive sections, including a set of overarching principles.

### **(c) Migration within countries**

Migration within countries can be a form of adaptation to progressive adverse changes in livelihoods, essential resources, and living conditions. People who move within countries, from rural areas to towns and bigger cities in search of livelihoods, for instance, may also be driven by the impacts of climate change. Internal migration may be temporary, seasonal, or more permanent and can occur at the individual or household level. While migration is recognized as a potential form of adaptation, outcomes may not always be positive. Domestic laws and policies, including CCA frameworks, may facilitate migration within countries. Human rights norms will also be applicable.

### **(d) Trapped populations**

Similarly, domestic laws and policies and human rights norms will be relevant to addressing the predicament facing so-called “trapped” populations, who are unable to migrate or displace in the context of disasters and adverse effects of climate change. Domestic development, DRR, and CCA frameworks will be particularly important as interventions have the capacity to mitigate exposure and vulnerability. Targeted approaches that augment the resilience of trapped populations may enlarge

choices, including in relation to movement. Such measures will also be important to support people, who wish to remain in situ despite growing disaster and climate change risks.

### **Movements across international borders**

As foreshadowed earlier, an overarching global-level instrument addressing admission, stay, and rights for people who cross international borders in the context of disasters and adverse effects of climate change does not exist. However, international, regional and domestic laws and other instruments, and discretionary mechanisms, have the potential to provide to varying degrees and in differing configurations, admission, stay, and rights. These frameworks may be applicable to displacement or migration across international borders.

As a starting point, the Nansen Initiative identified at least 50 countries that in recent decades had received or refrained from returning people in the context of disasters (Volume I and II). The Nansen Initiative's Protection Agenda also provides guidance on identifying people who could be regarded as displaced across borders in the context of disasters (Volume I, 22-24).

#### **(a) Refugee frameworks**

In general, the 1951 Refugee Convention has been considered by scholars and courts as an inappropriate normative framework to address the admission and status of people displaced across international borders in the context of disasters and climate change. To be recognized as a "refugee" under the 1951 Refugee Convention, a person must demonstrate a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion." This definition is hard to satisfy for a range of reasons. For instance, scholars have noted difficulties in demonstrating discriminatory human agency or the requisite nexus to one of the Convention grounds ([Kälin and Schrepfer 2012](#); [McAdam 2012](#)). In limited circumstances, people fleeing in the context of disasters or adverse effects of climate change may satisfy this definition. For instance, if, in the aftermath of a disaster a government withheld humanitarian aid due to a person's political opinion or ethnicity, this could amount to Convention-based persecution (see e.g., [Refugee Appeal No. 76374 \(New Zealand\) 2009](#)). More recent jurisprudence from New Zealand has also offered insights on how the 1951 Refugee Convention definition might apply (see e.g., [AF \(Kiribati\) \[2013\] NZIPT 800413](#); [Ioane Teitiota v. The Chief Executive of the Ministry of Business, Innovation and Employment, \[2015\] NZSC 107](#)) and scholars have articulated cogent arguments for a deeper examination of the Convention's potential, seeking to dispel common perceptions of disasters as purely 'natural' phenomena ([Scott 2016](#); [Scott 2020](#)).

With respect to the regional level, the Protection Agenda raised the potential of regional refugee instruments in Africa and Latin America, particularly in situations where disasters combine with conflict or violence to create disturbances to public order. The [1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa](#) and the [1984 Cartagena Declaration on Refugees](#) each contain regional refugee criteria for the recognition of refugee status in situations where there are serious disruptions to public order. There is a tendency to view disasters or climate change as operating in isolation, yet in many countries, disasters or adverse effects of climate change overlap and interact with conflict or violence and create or heighten disruptions to public order. Such conditions may support the recognition of refugee status under regional refugee criteria ([Weerasinghe 2018](#), [Weerasinghe 2020](#)).

UNHCR's 2017 [Legal Considerations on Refugee Protection for People Fleeing Conflict and Famine Affected Countries](#) recognized these dynamics.

In addition, the highly authoritative, non-binding GCR, which was affirmed by the [UN General Assembly in 2018](#) "aims fundamentally to strengthen the way in which the international community responds to large-scale and protracted displacement worldwide" ([Türk and Garlick 2019](#), 389). It "seeks to provide a basis for more effective operational responses that are consistent with binding legal standards in key areas where gaps in practice persist" and "aims to address more recently emerging, as well as longstanding, displacement challenges, including increasing displacement in a changing climate" (390). The GCR does not contain specific commitments on climate-change-related movement, but UNHCR explains that it "effectively acknowledges and addresses the reality of increasing displacement in the context of disasters, environmental degradation, and climate change, and provides a basis for measures to tackle the many challenges arising in this area" ([UNHCR n.d.](#)). In this context, UNHCR highlights crucial paragraphs in the GCR related to burden- and responsibility-sharing, prevention and root causes, and protection and assistance. On the latter themes, paragraph 63 of the GCR calls for "stakeholders with relevant mandates and expertise [to] provide guidance and support for measures to address other protection and humanitarian challenges. This could include measures to assist those forcibly displaced by natural disasters, taking into account national laws and regional instruments as applicable, as well as practices such as temporary protection and humanitarian stay arrangements." This paragraph is to be read in conjunction and in complement to paragraph 61 on identifying international protection needs, which refers to status determination in accordance with applicable international and regional obligations in a way that avoids protection gaps.

UNHCR's commitment to providing legal and normative guidance on the application of international refugee law and complementary forms of protection in climate change contexts has progressed significantly. In October 2020, UNHCR released [Legal Considerations Regarding Claims for International Protection made in the Context of Adverse Effects of Climate Change and Disasters](#) (Legal Considerations). It sets out key legal considerations concerning the applicability of international and regional refugee and human rights law and aims to provide guidance for governments, legal practitioners, administrative, and judicial decision-makers and UNHCR staff. Notably, the Legal Considerations explain that the "assessment of claims for international protection made in the context of the adverse effects of climate change and disasters should not focus narrowly on the climate change event or disaster as solely or primarily natural hazards. Such a narrow focus might fail to recognize the social and political characteristics of the effects of climate change or the impacts of disasters or their interaction with other drivers of displacement. More broadly, climate change and disasters may have significant adverse effects on state and societal structures and individual well-being and the enjoyment of human rights. If a narrow view is taken of the effects of climate change and disasters, there is a risk that decision-makers may decide that refugee law is inapplicable and deny access to refugee status determination. Challenges in assessing claims for international protection in this context arise from a limited understanding of the effects of climate change and disasters and from complexities in applying refugee definitions" (paragraph 5).

Despite these important developments, in general, refugee frameworks provide limited options for people displaced across international borders in the context of disasters and adverse effects of climate change.

### **(b) Human rights frameworks**

At present, international human rights law also offers limited opportunities for admission or stay. The principle of non-refoulement under international human rights law prevents states from sending people to places where they face a real risk of being arbitrarily deprived of their lives or being subjected to inhuman or degrading

treatment. The principle extends to people whose lives or living conditions would be impacted on account of the adverse effects of climate change or disasters. To date, however, arguments before domestic courts and tribunals based on the non-refoulement principle have failed. Past decisions notwithstanding, an early 2020 authoritative [decision](#) from the [UN Human Rights Committee](#), while not legally binding on states, may prove influential. The case concerned the same applicant as noted earlier in the New Zealand jurisprudence. On the facts, the Human Rights Committee found that the applicant's rights had not been violated, but the Committee also "accepted, in principle, that it is unlawful for states to send people to places where the impacts of climate change expose them to life-threatening risks or cruel, inhuman or degrading treatment" ([McAdam 2020](#)). As such, the temporal dimension, including the potential for mitigating factors to intervene to limit exposure and severity of harm, will continue to be relevant for people seeking admission or stay pursuant to international human rights law.

### **(c) Migration frameworks and mechanisms**

In this context, migration frameworks and mechanisms have become a critical tool for addressing admission and stay, including for people who are displaced in the context of disasters ([Protection Agenda 2015](#); [Cantor 2015](#), [Cantor 2018](#), [Wood 2013](#)) or seek to migrate as a means of adaptation.

Regular immigration channels are one mechanism through which states have provided admission and stay to people fleeing in the context of disasters. Through administrative and discretionary measures, states have employed existing immigration pathways, such as family, education, labor, or tourism for this purpose. For instance, authorities have expedited processes, waived, or relaxed substantive requirements or used discretion to grant visas to disaster-affected people who apply through general admission. An advantage of this approach to entry is that it has the potential to offer legal status and a path to permanent solutions.

States have also used pre-existing legal or policy mechanisms related to "humanitarian" criteria to permit entry and/or stay. For example, individuals present in a country of destination have been permitted to stay, often "temporarily" and protected from immediate deportation, on the occurrence of disaster in their country of origin. In some cases, discretionary authority has guided the activation of these types of mechanisms.

Some states have developed specific "exceptional" legal or administrative measures to permit entry and/or stay for people affected by disasters. For instance, states have permitted individuals to apply for visas prior to departure, creating a new legal pathway and/or to apply following arrival in country. Many mechanisms have been administered based on discretion and have provided temporary stay, with varying and often limited, bundles of rights.

Eligibility is generally at an individual level, although some measures also focus on "mass influxes." Many interventions have been implemented on an ad hoc basis, including on account of humanitarian considerations, requests from disaster-affected states, or nationals with family members in disaster-affected countries.

In light of the variety of options for admission and stay, some states have fostered regional efforts and the development of regional guidelines to create more systematic responses and practices ([RCM 2016](#); [CSM n.d.](#)). In addition, [UNHCR's Guidelines on Temporary Protection or Stay Arrangements](#) issued in 2014, were developed to "guide and assist Governments in the development of Temporary Protection

or Stay Arrangements (TPSAs) as responses to humanitarian crises and complex or mixed population movements, particularly in situations where existing responses are not suited or adequate” (paragraph 1). They “are pragmatic ‘tools’ of international protection reflected in States’ commitment and practice of offering sanctuary to those fleeing humanitarian crises. TPSAs are complementary to the international refugee protection regime, being used at times to fill gaps in that regime as well as in national response systems and capacity, especially in non-Convention States” (paragraph 3).

Bi-lateral, sub-regional, and regional free movement agreements have the potential to support cross-border displacement and adaptive migration in the context of disasters and climate change ([Wood 2018](#); [Francis 2019](#)). Some states have developed bi-lateral and multi-lateral agreements to also support pastoralist and transhumance movements.

Labor migration schemes have the potential to support livelihood diversification, including for people living in places affected by climate change and where environmental degradation has adversely affected living conditions. These types of mechanisms can promote “migration with dignity” providing greater freedoms and options for affected populations.

Finally and notably, in the state-drafted, non-binding GCM, considered “a milestone in the history of the global dialogue and international cooperation on migration” (paragraph 6), states committed to address the challenges of disaster and climate change-related human movement. The GCM “offers a 360-degree vision of international migration” (paragraph 11) and contains concrete frameworks for action. It underscores the priorities identified in the Nansen Initiative Protection Agenda and addresses displacement, migration, and planned relocation. Under objective 2 on minimizing the adverse drivers that compel people to leave their country of origin, a specific thematic subsection identifies actions related to “Natural disaster, the adverse effects of climate change, and environmental degradation.” The list of actions is relevant to human movement and concern prevention and preparedness, including adaptation and resilience strategies.

In objective 5, the GCMs recognizes the significance of regular migration pathways for offering safe options for affected people, including as a way to adapt to disasters and adverse effects of climate change. States “commit to adapt options and pathways for regular migration in a manner that facilitates ... and responds to the needs of migrants in a situation of vulnerability, with a view to expanding and diversifying availability of pathways for safe, orderly and regular migration” (paragraph 21). To realize this commitment, states can draw on a range of actions, including developing or building “on existing national and regional practices for admission and stay ... for migrants compelled to leave their countries of origin owing to sudden-onset natural disasters and other precarious situations” (paragraph 21(g)). Cross-border planned relocation or visa options for permanent stay are also explicitly discussed (paragraph 21(h)). In light of this extensive recognition and treatment, and as Kälin notes, the GCM may well offer a “ray of hope” since it has the potential to be “the centre of gravity for future discussions and actions on disaster- and climate change-related human mobility” ([Kälin 2018](#)).