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Climate Change and Forced Displacement

Jessica A. Wentz

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Climate Change and Forced Displacement:

Calling for an International Dialogue on the Legal Rights of Persons Displaced by Climate Change and Corresponding Obligations of National Governments

The international community must anticipate and prepare itself to address a number of largely unprecedented challenges posed by climate change for which the existing mechanisms may prove inadequate: one is the possibility of large numbers of persons displaced across borders by climate change, which existing international law cannot adequately address.

- UN Secretary-General Ban Ki-moon (2009)

In the coming decades, climate change will displace millions of people from their homes. Current estimates of the number of “climate refugees” and “environmental migrants” by 2050 range from 25 million to 1 billion people, and the number could soar still higher later in the century if greenhouse gas emissions are not seriously reduced. It now appears very likely that the global average surface temperature increase will exceed the UN target of 2°C, and it may well rise 3-4°C by 2100. An increase of this magnitude would lead to severe, pervasive and irreversible impacts on human and natural systems, rendering many areas uninhabitable and triggering massive displacement from vulnerable locations such as low-lying islands, coastlines, and deserts.

Many of the people displaced by climate change will be unable to resettle within their own countries, either because there is no remaining habitable land, or because of the combined pressures of environmental degradation, poverty, socioeconomic upheaval, political conflict, and other destabilizing forces. This raises many questions about how to avoid an international climate diaspora of unmanageable proportions and how to plan for resettlement in a manner that minimizes adverse impacts on both displaced persons and receiving communities. But we have not even begun to negotiate let alone answer the most fundamental of these questions: where will these people go?

As of 2014, there is no international agreement on the obligations of countries with respect to persons displaced by climate change. Some have argued that such persons should be afforded the same legal protections as political refugees under the 1951 Convention Relating to the Status of Refugees, but its definition of “refugee” covers only those fleeing persecution. Other instruments of international humanitarian law also fail to address the fundamental rights of climate migrants and corresponding obligations of countries. The issue has been raised several times during the United Nations Framework Convention on Climate Change (UNFCCC) negotiations, and some of the most recent outcome documents have acknowledged that “migration, displacement and human mobility” should be addressed in the loss and damage framework that is being discussed for the 2015 climate agreement. To this end, the draft negotiating text for the 2015 climate agreement calls for the establishment of a climate change displacement coordination facility that would provide support for emergency relief, assist in providing organized migration and planned relocation, and undertake compensatory measures. Such a facility could certainly help with planning and managing international relocation efforts, and perhaps clarifying the obligations of countries with respect to persons displaced by climate change. However, given the tenor of UNFCCC negotiations, at the moment it seems unlikely that the 2015 agreement will include any kind of legal framework for addressing the rights of displaced persons or corresponding obligations of national governments.

This issue has also received very little attention from domestic policymakers. A few of the most vulnerable countries have begun to develop relocation plans for their citizens and are attempting to acquire land

in other territories for this purpose. A small handful of potential host countries have liberalized their immigration policies for people who are displaced by environmental disasters, and are otherwise attempting to develop a policy framework to address this issue. But most countries at most provide temporary protection status for people displaced by major natural disasters, and opportunities for permanent resettlement are scarce. To date, no country has made a firm commitment to accept a large number of climate migrants into its territory or provide land and other services to them. Rather, many of the world's major developed economies with large land areas, like the United States and Australia, have extremely restrictive immigration policies as well as a political climate that is hostile towards immigration.

Without international agreements in place, the time may well come when millions of people are displaced from their countries of origin and frantically in search of new homes, whether on foot or on boats. This would constitute a major humanitarian crisis and could also lead to international conflict of an unprecedented scale, much of which would be concentrated in some of the most volatile regions of the world. This is one of the primary reasons that security experts frequently refer to climate change as a “threat multiplier” that exacerbates other security risks, such as persistent poverty, resource competition, poor governance, religious and ethnic conflict, and political instability.

It is therefore crucial that policy-makers across the world commence a serious dialogue to develop international consensus on the rights of people who are displaced by climate change and the corresponding obligations of national governments. Some of the key questions that should be considered include:

Rights of Displaced Persons – Who qualifies as a person that is “displaced by climate change” and what are the rights of such persons before, during, and after displacement? Should there be legal protections for persons who are at risk of displacement but not yet displaced?

National Obligations – Which countries should take in how many climate-displaced persons, and from where? What happens to these people upon arrival? For example, should countries offer permanent residency, citizenship, land, education, health care, employment opportunities, or other forms of support for displaced persons? Should the obligations of host nations differ based on each country's historical greenhouse gas (GHG) contribution, their capacity to receive climate migrants, or other factors? Should the obligations be set by each host country, decreed by an international body, or perhaps established by domestic officials and expressed as national commitments similar to the GHG reduction pledges submitted under the UNFCCC?

Legal Implementation – What legal instrument(s) could be used to effectuate these rights and obligations? Is a legally binding agreement among countries necessary, or would national leaders also respond to non-binding guidance or principles? Could adequate agreements be implemented on a regional basis?

Finally, because this dialogue would draw more attention to the potential risks of climate-induced displacement, it could drive increased mitigation ambition among both public and private actors who are concerned about the prospect of widespread human suffering and international conflict.