

In Search of Higher Ground: Identifying a Way Forward for Climate Refugees

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INTRODUCTION

The world is on the precipice of a new era in political history. For the first time in 400 years there will soon be fewer states in the world, as even the most modest estimates of sea level rise place the first of the Small Island Developing States (SIDS), along with its population of over 13,000, underwater within the next 20 years. These are not the only states and individuals at extreme risk of soon finding themselves forcibly displaced by climate change. In fact, as was illustrated by the cases of Hurricane Katrina and the Japanese earthquake, even the most developed countries in the world can have incredibly vulnerable populations. With approximately 100 million people living below sea level today, the threat is real in every corner of the globe (Brown, 2008: 11). The most widely accepted estimate of future climate displacement warns of 200 million forcibly displaced by 2050 – this would mean that 1 in every 45 people in the world would be forced from their homes by climate change. United Nations Secretary General Ban Ki Moon calls this phenomenon “the greatest humanitarian challenge we face” (Norwegian Refugee Council, 2009: 11).

Displacement caused by climate change draws attention to at least four, key gaps in global governance: problems associated with refugees, internally displaced persons, statelessness and adaptation. The lack of substantial policy initiatives to address this problem is concerning, and could exacerbate climate change impacts and threaten international stability. This paper will identify the gaps in protection for at risk populations, and provide a recommendation for the best approach to defining this issue on the global public policy agenda as a conclusion.

THE PROBLEM

Migration is a mechanism that populations have historically employed to adapt to environmental changes and stresses. In fact, migration has been a tradition of nomadic pastoralist farmers for centuries. Considering this long history, why is the concern over environmentally induced migration so great now? While neither environmental variation nor migration is unprecedented, the speed, scale and scope of these variables is alarming.

There is no internationally agreed upon terminology surrounding this problem; however, for the purposes of this paper the victims of environmentally induced forced migration will be referred to as "environmentally displaced persons" or EDPs. This term is broad in scope and can include both internal and international migrants. EDPs are those forced to leave their homes due to severe climactic events, including both sudden and slow onset disasters, such as floods, severe storms, desertification, drought and melting Arctic permafrost. In many cases this relocation will be permanent, as the place of origin will be rendered uninhabitable (Norwegian Refugee Council, 2009: 11). Those affected by slow onset disasters are often far less visible to the international eye, yet they are no less victims of anthropogenic climate change.

WHAT WE KNOW

The extent of climate change impacts remains uncertain, particularly where human migration is concerned. One of the most significant factors will be sea level rise, which varies immensely from one year to another. However, even the most conservative "best case scenario" estimates indicate a minimum one-meter rise this century (Brown, 2008: 29). This will necessitate slow migration away from advancing coastlines, especially by the 100 million people who live in areas below sea level. As migration is a social phenomenon, it is influenced by a myriad of complex and interrelated factors, of which climate change will become increasingly central. However, it is impossible to know with certainty the exact degree of force climate change variables will exact on migration and displacement.

What is possible to know are some general trends. Climate change will likely lead to an increase in both the frequency and severity of sudden disasters such as floods and storms (Kolmannskog, 2008: 1) It is also likely to lead to greater drought, desertification and physical water scarcity (Norwegian Refugee Council, 2009: 16). This will increase, at the very least, short term internal and regional displacement.

Large populations of refugees or internally displaced persons can have a destabilizing effect on a host state and its neighbours. In coming years, these flows of people away from floodplains and dry wastelands alike will only magnify existing pressures. In many cases, the particularly vulnerable “hot spots” that will be most affected by climate change are already among the least stable states in the world. Identified hot spots include SIDS, Africa, mega-deltas, the polar regions, and the least developed countries (Norwegian Refugee Council, 2009: 23). The severity of effects in any of these hot spots is dependent both on vulnerability and adaptive capacity.

NUMBERS

Refugee Magazine estimates 5.8 million stateless people in the world today. The United Nations High Commissioner for Refugees (UNHCR) believes the figure to be much closer to 15 million (Norwegian Refugee Council, 2009: 28). The combined population of the SIDS network, at the greatest risk of disappearing altogether, is 53 million (Small Island Developing States Network, 2003). Shortly, there could be an explosion in the number of stateless people in the world.

In 2009, the UNHCR identified approximately 10.5 million “refugees of concern” – currently living in refugee camps. Internally Displaced Persons (IDPs) number 26 million and do not have a specific organizational champion, but instead become the wards of a coalition of UN agencies and international NGOs (Norwegian Refugee Council, 2009: 28). Neither of these numbers are a drop in the bucket of what is to come. Norman Myers, a leader in this field, estimates 200 million EDPs by 2050 (Brown, 2008: 11). This would represent an 1800 percent increase in the number of refugees the UNHCR is currently preoccupied with. The status quo simply will not withstand the immense pressure of the problem in the coming years. Without a new framework to deal with future EDPs the onslaught could become incredibly destabilizing for the entire international community.

PROTECTION GAPS

There are several gaps in protection that victims and potential victims of climate change face. These protection gaps can be broken down into categories based on the type of migrant in question: refugees, internally displaced persons and stateless persons.

Refugees

Use of the term “climate refugee” today is linked to the political agenda of framing the issue as one in which the victims are legally entitled to assistance and protection. There is, however, great controversy over the use of this term, as the definition of a refugee under the 1951 Convention Relating to the Status of Refugees, specifies a fear of persecution as a necessary condition of refugee status (United Nations, 1951: Article 1 (a-2)).

It is argued that the 1951 Convention definition is outdated, and inappropriate for contemporary problems. Indeed, most people in need of assistance or protection today do not qualify as refugees. Some advocate an expansion of the refugee definition to include any element of force. However, there exists great political opposition to this in many countries (Norwegian Refugee Council, 2009: 9).

Internally Displaced Persons (IDPs)

While IDPs share many similar characteristics with refugees, they do not enjoy the same standard of international legal protection, and face similar protection gaps to those of “climate refugees”. Even if IDPs flee their homes in fear of persecution, they are not protected as refugees unless they cross an international border (United Nations, 1967).

The protection of IDPs is set out in the 1998 Guiding Principles on Internal Displacement (Economic and Social Council, 1998). These principles are based on various bodies of international human rights, humanitarian and refugee law, which pertain to the protection of IDPs. The principles were endorsed by the UN General Assembly; however, they have never constituted a binding legal framework, and the protection gaps they were commissioned to fill remain large. Most IDPs, at least today, stay within their own national borders, and thus become IDPs, facing a doubly wide gap in terms of protections afforded them.

Statelessness

A stateless person is one who has no legal belonging to any recognised state. Existing international law on statelessness includes the 1961 Convention on the Reduction of Statelessness, which, today has been ratified by only 35 countries (United Nations, 1961). The regime is focused on those who are born stateless, and allows three years after achieving adulthood to claim rights under the convention. It is not designed to address the problems of those who become stateless once already adults – which, in

the case of sinking island states will become an increasingly prevalent phenomenon. It is clear that the present legal order on statelessness is inappropriate for the new statelessness – that which occurs as a product of climate change.

POLICY IMPLICATIONS

Currently, this issue has not been adopted by policy communities as a critical agenda. The following will outline a variety of approaches to locating the problem in a policy cycle. Four approaches to framing the issue will be analyzed: as a refugee problem, as an IDP problem, as a problem of statelessness and finally as a problem of adaptation. The manner in which the problem is framed will have a great impact on the outcome of the policy initiative. The following approaches are very different and thus will necessitate different tools for addressing them. The final recommendation will outline how to practically pursue the desired issue frame on the global public policy stage. What must be considered throughout this analysis is that the primary objective is to provide the greatest assistance to the greatest possible number of people permanently displaced by climate change.

Refugees

If the problem is framed as one of a refugee crisis, the argument would have to be accepted that those forcibly displaced by climate change do, in fact, qualify as refugees. This would necessitate an agenda of building an international consensus on altering the definition of a refugee under the 1951 Convention from someone who flees their home country out of a fear of persecution, to someone who is forced to flee out of necessity, or unavoidable or irreparable harm. The expansion of this legal framework, if achieved, would inherently be applicable to the protection of stateless persons; however, it would not protect those who will remain internally displaced.

Benefits of this approach include the strength of the current international legal regime on refugees. If a consensus were achieved on an expansion of the refugee definition the legitimacy would be built in. Conversely, the primary disadvantage of attempting to graft on to the existing framework is the history of political opposition which has faced any expansion of the 1951 Convention. Given this political environment, reopening the debate could, perversely, result in reductions in the scope of protection offered to refugees.

Internally Displaced Persons

If the issue of EDPs is framed as a problem of increasing IDP pressures the process will inevitably tackle two international legal issues at once: protection gaps for IDPs and EDPs. This is an ambitious undertaking. However, it is possible that this approach will face less resistance than the refugee approach, owing to the fact that there are no existing norms for states defend.

The primary benefit of approaching the issue through this frame is that an international legal order on the protection of IDPs has been long overdue, and, if achieved, would constitute a positive externality of the primary agenda. Furthermore, the balance of evidence currently suggests that the majority of people who are forcibly displaced by climate change will not cross international borders, but instead will become internally displaced. Therefore this strategy would have the greatest impact on the primary objective: protecting the greatest possible number of people permanently displaced by climate change.

Statelessness

Approaching the problem of EDPs as a coming crisis of statelessness would likely mean assembling a coalition dedicated to replacing the Convention on the Reduction of Statelessness with a new legal framework, fully applicable to all types of stateless people – including those who are born and who become stateless. The current convention has limited international support, and thus any expansion of it would have minimal impact. The objective of this coalition would be to effectively close the legal protection gaps for persons likely to become stateless within 20 to 50 years.

The disadvantage of this approach is that the framework will only protect a small percentage of those severely impacted by climate change. The proportion of the estimated 200 million future EDPs who will qualify as being stateless is quite low. The main benefit of framing the problem in this way is that its considerably smaller scope may make it an easier objective than some of the other options, allowing momentum to build around the broader issue.

Adaptation

The final approach to EDPs in terms of problem identification, is to frame the problem as one that requires a coordinated international strategy to respond to both slow and sudden onset disasters. If this frame is pursued, the agenda would be set, as a need to bring developed states together to partner with underdeveloped states in

“hot spots” in order to engage in a two pronged approach to adaptation. The first measure would be to help these states to build capacity and resilience measures into their society, and adapt to climate change.

The second measure would be to develop a disaster response strategy to assist vulnerable populations if a sudden disaster does strike, in order to minimise fatalities. An example is Canada’s reaction to the 2010 earthquake in Haiti, where a response strategy was developed within 24 hours and a team deployed within 48 (Waschuk, 2010). This is the type of quick response needed in every major disaster. In order to achieve this practically, vulnerable states could be divided amongst developed states by virtue of geography and preexisting relationships.

Advantages of adopting this approach include much needed capacity building in developing states, stimulus of local economies and a reduction in the death toll of natural disasters, which annually totals approximately 9000 (Laczko, 2010: 1-6). This approach is flawed, however, if adaptation measures fail to prevent mass migration in the face of climate change, as the world will remain without an appropriate international legal framework to respond to such a crisis.

RECOMMENDATIONS

As previously stated, this paper has been guided by the goal of achieving the greatest assistance for the greatest possible number of people permanently displaced by climate change. Considering the strong evidence that the majority of those forcibly displaced by climate change will remain within their own national borders, it is recommended that option three is selected: frame the issue as one of increasing IDP pressures, and pursue a binding international framework on their protection.

To pursue this, a coalition will need to be formed around developing international momentum to create such a framework. To this end it will be important to stress three key points. First, the reality of the current situation is that humanitarian organizations are already over-burdened. Second, the problem of IDPs will only become more severe in the coming years, with the projections of how many people will be displaced, either in the short or long term, by the effects of climate change. Third, large IDP populations can have an adverse impact on national and regional stability. For these reasons negotiating and ratifying an internationally binding legal framework to address the problems of IDPs is in the national interest of all states. Important actors to bring onboard first, in the coalition building stage, will be states

with significant IDP populations, as well as those states which have been identified as existing in a “hot spot”. In terms of organizations, partnering with the ICRC and UNHCR on this issue will provide the greatest expertise moving forward with this agenda.

While it will remain essential to address the growing number of stateless persons, it is clear that the greatest number of those adversely affected by climate change, and forced to leave their homes as an outcome, will be internally displaced. Therefore, it will be much easier to respond to the needs of stateless people in an ad hoc manner than it will be to respond to multiplying IDP pressures and the national and regional destabilization accompanying them. In fact, it will be impossible to proceed without a binding international framework on this issue. This is a necessity!

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