Background Paper Roundtable 3.1[1]

Migrants in situations of crises[2]: Conflict, climate change and natural disasters

Background

Conflicts, disasters triggered by natural hazards and environmental changes, including as a consequence of climate change, are prompting more and more humanitarian crises. No country is immune to such situations.

Conflicts erupt in countries at different stages along the development spectrum, as is apparent from recent crises including in Libya and Yemen. Similarly, natural hazards such as floods, hurricanes and earthquakes result in disasters and indiscriminately wreak havoc in diverse places across the Asia-Pacific, Africa, Europe, North America, Latin America and Australia. Reports from the Intergovernmental Panel on Climate Change indicate that climate change poses significant threats to all regions of the world, increasing the frequency and intensity of natural hazards and other adverse environmental changes.

Conflicts, natural disasters and climate change[3] compel the movement of people across international borders. Very often those factors combine and are aggravated by others such as food insecurity, poverty, water stress and resource scarcity. Policy initiatives can address the needs for assistance and protection for these people - when they are on the move - while developing responses aimed at addressing the causes of such movements and finding long-term solutions.

The number of international migrants worldwide continues to grow rapidly. In 2015, there were more than 244 million international migrants[4]. Many migrants are present in countries temporarily while others stay for longer durations. Most are in a regular immigration status, while others may be in an irregular immigration situation. When crises affect the countries in which migrants are present, responders may not readily identify or understand the unique vulnerabilities

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[1] This paper has been elaborated by IOM, in consultation with UNHCR, and based on inputs by the RT 3.1 co-chairs Ethiopia and Philippines, and RT Government Team members and Non-state partners during the GFMD Preparatory meeting held in Geneva, 19 May 2016. The paper is intended to inform and stimulate discussion during Roundtable session 3.1 of the GFMD Summit meeting in December 2016. It is not exhaustive in its treatment of the session 3.1 theme and does not necessarily reflect the views of the GFMD organizers or the governments or international organizations involved in the GFMD process.

[2] There are no universally accepted definitions of the term 'crises' with respect to migration or 'migration crises'. According to IOM's Migration Crisis Operational Framework (MCOF), a migration crisis may be sudden or slow in onset, can have natural or man-made causes, and can take place internally or across borders.

[3] According to existing research, disaster- or climate-induced displacement and migration are multi-causal, with climate change being an important, but not the only factor. Population growth, underdevelopment, weak governance, armed conflict, violence, as well as poor urban planning in rapidly expanding cities, are important factors in migration and displacement as they further weaken resilience and exacerbate the impacts of natural hazards, environmental degradation and climate change. See for example Laczko and Aghazarm (2009).

[4] For more details, see:
http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2015_Highlights.pdf

and needs of migrants or they can be overlooked in prevention, preparedness and recovery programmes.

In the context of crises, migrants' particular needs and vulnerabilities stem from a range of factors, including language and cultural barriers, immigration status, work in isolated and exploitative conditions, lost, destroyed or confiscated identity and travel documents, or restrictions on mobility. Host state actors may be unaware of the presence or needs of migrants, or host state emergency and humanitarian response frameworks may be insufficiently attuned to assist and protect migrants. Similarly, States of origin may have inadequate knowledge of the diversity, locations or needs of their citizens abroad or insufficient consular capacity in host States to address the breadth of needs stemming from a crisis. In this context, migrants affected by conflicts, natural disasters, and climate change may 'fall between the cracks' and would require specific attention. In addition, in the absence of secure pathways to access safety, migrants may be exposed to different forms of suffering and exploitation, including sexual exploitation and physical abuse, smuggling or trafficking, threats to life due to unsafe or illegal modes of transport, or forced labour as repayment to smugglers.

In recent years, migrant smuggling has endangered many lives. According to estimates of the International Organization for Migration (IOM), at least 5,395 migrants perished along migratory routes across the globe in 2015 alone[5]. Migrant smuggling has become a lucrative endeavor. Europol estimates that smugglers accrued roughly Euro 3–6 billion for irregularly bringing migrants to and within Europe in 2015 alone.[6] This fast growing global crime exposes thousands of migrants to unacceptable risks and challenges the integrity of international borders. Smuggling has serious security implications by feeding corruption and organized crime, and by reducing the ability of governments to control and keep track of who enters their territory. It is clear, therefore, that there are humanitarian, law-enforcement and security reasons to improve access to safety.

Finally, development concerns need to be also highlighted as countries with low levels of human development are more vulnerable to conflict, natural disasters and climate change, which in turn generate migration as a coping strategy and forced displacement. Migration is also an important and common strategy for many households to diversify their incomes, manage risks (including disaster risks) and access improved living conditions. As such, migration has an immense potential to further contribute to development, to disaster risk reduction and risk management, as well as to mitigation and adaptation to climate change.

Scope and Purpose

The scope of this roundtable is limited to international migrants who are not refugees, stateless persons or internally displaced within the borders[7] of their own countries, but who nonetheless require assistance and protection. While other migrants face situations of vulnerabilities, **this background paper for the roundtable focuses on two situations of**

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[5] http://missingmigrants.iom.int/latest-global-figures

[6] See https://www.europol.europa.eu/sites/default/files/publications/migrant_smuggling__europol_report_2016.pdf.

[7] Refugees benefit from international protection under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as regional refugee protection instruments. For internally displaced persons (IDPs), there exists guidance on addressing their rights and needs which are well articulated in international human rights law, the UN Guiding Principles on Internal Displacement and regional instruments. The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness are the key international conventions addressing statelessness. They are complemented by international human rights treaties and provisions relevant to the right to a nationality.

migrants in crisis: (1) Migrants in countries experiencing crises[8] **and (2) cross-border displaced persons in the context of natural disaster and the effects of climate change (hereafter "cross-border disaster displaced persons"**[9]**). Such migrants may not have sufficient well-defined avenues to seek and obtain assistance and protection from the relevant actors, including States that experience crises, States to which such persons flee, and the broader international community.** Many of the issues, challenges and approaches discussed below could be extrapolated and applied to migrants in situations of vulnerability more generally.

In this context, the objective of this roundtable is four-fold:

(1) to refer to the current state of the art and promote ways to provide access and admission to territory, safety and to provide protection and assistance, including temporary or long-term legal status, to migrants in countries experiencing crises and cross-border disaster displaced persons.

(2) to explore ways to prevent human smuggling and trafficking, by providing secure pathways and safe and dignified modes of movement for migrants to move out of harm's way.

(3) to refer to the current state of the art and practice related to ways to prevent displacement due to natural disasters or the effects of climate change and to better prepare populations in such cases.

(4) to explore ways through which such migrants can benefit from crisis prevention, preparedness and recovery programmes, including safe and orderly evacuation and reintegration for those who want to return to their countries of origin.

This roundtable will build on the recommendations made at the GFMD Istanbul in 2015, and in particular during roundtable 3.1, which sought to build cooperation and responsibility sharing to enhance human development and human security for people forcibly displaced across international borders. Therefore, expanding options for orderly migration, including through labour, education, family reunification, and humanitarian channels can enhance the resilience, empowerment, and well-being of migrants and benefit their families, communities, and home and host societies.

While States have the right to determine which non-citizens may enter and stay in their territories, no State can stand alone in today's interconnected world. The sovereign discretion of States to determine which non-citizens may enter and remain in their territories and under what conditions needs to be exercised in accordance with their obligations under international law. Additionally, investing in efforts to reduce disaster risks, mitigate the impacts of climate change, and prevent conflicts can be crucial to limit the incidence and extent of forced international movements.

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[8] *There is no universally agreed definition of the term 'migrant'. IOM defines a migrant as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is.*

[9] *The term "disaster displaced persons" refers to people that are forced or obliged to leave their homes or places of habitual residence as a result of a disaster or in order to avoid the impact of an immediate and foreseeable natural hazard. Such displacement results from the fact that affected persons are (i) exposed to (ii) a natural hazard in a situation where (iii) they are too vulnerable and lack the resilience to withstand the impacts of that hazard. The term "cross-border disaster-displacement" refers to situations where people flee or are displaced across borders in the context of sudden- or slow-onset disasters, or in the context of the adverse effects of climate change (Nansen Initiative Protection Agenda).*

Regardless of the cause of vulnerability, migrants in countries experiencing crises and cross-border disasters displaced persons share some common needs, inter alia:

a. Ability to move safely and legally out of harm's way.

b. Access to appropriate assistance in transit and on arrival, including by identifying, assessing and meeting their needs.

c. Safe and dignified return and reintegration to their country of origin or habitual residence when possible.

d. Social and economic inclusion to enable them to resume their lives, become self-reliant, and participate in their host societies in case return to the country of origin or habitual residence is not possible.

In order for these needs to be fulfilled, governments and other stakeholders need to cooperate on a number of issues, for example: minimizing harm in countries of origin (e.g. through disaster-risk reduction, humanitarian, development and climate change adaptation assistance); providing secure pathways for seeking safety abroad or through return to the country of origin or habitual residence if possible; search and rescue operations at sea and providing information and support along migratory routes and in countries of destination (e.g. through migrant resource centers and consular services); establishing systems for evaluating protection cases in a predictable manner in accordance with domestic and international law; providing access to education for all migrant children regardless of their immigration status, and access to the labour market and skill improvement programmes for adults; agreement on when and under what conditions those not deemed in need of refugee protection may be provided other forms of protection, or returned to their countries of citizenship (if possible) with a commitment by such countries to duly receive and reintegrate them.

Lastly, these issues should be addressed within existing international commitments, which include recent commitments made by States within the Sustainable Development Goals, the Sendai Framework, the Paris Agreement, the World Humanitarian Summit and the New York Declaration.

Best practices and initiatives

New frameworks are emerging through State-led and other consultative processes such as the **Migrants in Countries in Crisis (MICIC) Initiative** and the **Nansen Initiative (now Platform on Disaster Displacement),** which address the needs of migrants in countries experiencing crises and cross-border disaster displaced persons, and provide clear guidance to States and other stakeholders in responding to such needs.

The **MICIC Initiative**, which is a government-led multi-stakeholder initiative co-chaired by the Philippines and the Unites States, has developed non-binding and voluntary *Guidelines to Protect Migrants in Countries Experiencing Conflicts or Natural Disasters* to improve the capacity and responses of States, international organizations, the private sector, and civil society, to better protect migrants caught in countries experiencing specific types of crises, namely conflicts or natural disasters. The Guidelines were launched in June 2016 and are available as a reference tool for Member States and other relevant stakeholders. The document articulates 10 cross-cutting and fundamental principles, 15 guidelines on specific approaches, and an extensive collection of practices to support State and other stakeholders' efforts at the **crisis preparedness**, **emergency response** and **post-crisis phases,** to better protect migrants affected by conflicts and

natural disasters. Concrete examples of practices are also available in an online, searchable repository/database, to assist States and other actors to obtain guidance. [10]

The inclusion of migrants in preparedness, emergency response and recovery frameworks contributes substantially to reducing the vulnerability of migrants in the face of crises. For example, New Zealand and Australia have included migrants in disaster risk reduction activities and their respective Civil Defence and Emergency Management systems issued guidelines for the integration of Culturally and Linguistically Diverse (CALD) communities in their work. Authorities at the national and local levels in Australia, Japan, and the United States have developed a variety of multi-lingual and pictorial materials to inform migrants about disaster risks, safety procedures and available relief services.[11] During an emergency, evacuation to home countries may be necessary if migrants cannot remain safely and be assisted in the crisis-hit country. During the Libya crisis in 2011, the World Bank provided a credit to Bangladesh to finance the costs associated with the repatriation and commencement of restoration of livelihoods of over 36,000 Bangladeshi migrant workers who fled Libya due to the severe deterioration of the security situation in the country. To be able to protect their nationals caught in a crisis, Bangladesh, Pakistan, the Philippines, Sri Lanka, and Thailand have created migrant welfare funds which provide a variety of services to migrants, including emergency repatriation, loans, and life and medical insurance.[12]

The Platform on Disaster Displacement is a state-led and multi-stakeholder initiative established in July 2016 to follow up on the work of the Nansen Initiative and implement the recommendations of the Nansen Initiative Protection Agenda. The **Nansen Initiative** was a consultative, state-led process that produced a protection agenda to support people displaced across borders in the context of disasters emanating from natural hazards and the adverse effects of climate change[13]. The Nansen Initiative Protection Agenda[14], endorsed by more than 109 States in 2015, presents a comprehensive approach on how to both prevent and address disaster displacement (internal and cross-border). It also highlights the need for policy integration and enhanced coordination across humanitarian assistance and protection, human rights, disaster risk reduction, climate change adaptation and development action areas. The Protection Agenda consolidates a broad set of effective practices and policy options that can be used by States and others to reduce and manage disaster displacement, and to better protect and assist disaster displaced persons.

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[10] *For more on the MICIC Initiative and to download the MICIC Initiative Guidelines, please visit: http://micicinitiative.iom.int/. For examples of existing practices addressing the protection of migrants in situations of crisis, please visit the MICIC Repository at. http://micicinitiative.iom.int/micic-initiative-search. The implementation of the Guidelines is supported by complementary capacity building programs. The United States supported the development of capacity building tools and training to strengthen the capacity of countries of origin, host countries and other stakeholders in decreasing the vulnerability of migrants in emergencies. In the framework of the European Union funded project "Migrants in Countries in Crisis (MICIC): Supporting an Evidence-based Approach for Effective and Cooperative State Action" that complements the MICIC Initiative, capacity building support is provided to States and civil society organisations to implement the MICIC Guidelines (for more information, please visit https://www.icmpd.org/our-work/migrants-in-countries-in-crisis/).*
[11] *For more information on these and other examples of good practices on integrating migrants in Disaster Risk Reduction measures, see the MICIC Issue Brief Reducing Migrants' Vulnerability to Natural Disasters through Disaster Risk Reduction Measures (IOM 2015), http://micicinitiative.iom.int/sites/default/files/brief/MICIC%20Issue%20Briefs%201%20%20DRR.pdf*
[12] *For more information on these and other examples of practices relating to evacuation of migrants, please see the MICIC initiative issue brief Evacuation and Repatriation of Migrants in Countries Experiencing Conflict or Natural Disaster*
[13] *For more on the Nansen Initiative, please visit: https://www.nanseninitiative.org/*
[14] *The Nansen Initiative Protection Agenda, Volume I,I identified a set of Humanitarian Protection Measures for admission and stay of cross-border disaster-displaced persons. These humanitarian protection measures may be based on regular immigration law, exceptional immigration categories, or provisions related to the protection of refugees or similar norms of international human rights law: http://disasterdisplacement.org/wp-content/uploads/2014/08/EN_Protection_Agenda_Volume_II_-low_res.pdf*

Other examples include the **Regional Consultative Processes** (RCPs), which are informal and non-binding, and offer useful platforms for dialogue and cooperation devoted to migration. In Africa, Asia, and the Americas, the processes specifically dedicated to human mobility served as pioneers to the inclusion of internal displacement, labour migration, and the movements of nomadic populations within the broader environmental and climate change debate[15]. For the first time in 2015, the biennial Global RCP Meeting devoted an entire session to environmental and climate migration showing the relevance of this topic in all regions of the world.

Secure pathways for orderly migration for migrants in situations of crisis and admission and stay for cross-border disaster-displaced persons

The absence of ways to provide access to territory and safety to migrants in countries experiencing crises and cross-border disaster displaced persons can lead to their exploitation, threat to their lives due to precarious living conditions or modes of transport, trauma, violence, and exploitation, which also result in broader societal ramifications for migrant's families and local communities. Therefore, it is imperative that States cooperate to develop assistance measures through visa and consular support. One such measure offered by a few governments is **humanitarian visas**[16]. For example, Brazil has had a long-standing **humanitarian visa programme** for Haitians. Similarly, the United States may, on the basis of urgent humanitarian needs or significant public benefit, grant **humanitarian parole** to individuals who would otherwise be inadmissible to enter the United States. Noting that displacement impacts the education cycle, many persons might have been displaced while they were enrolled in studies in locations hit by a crisis or may have had the potential to engage in studies, offering **scholarships** and **student visas** would be another effective means to secure pathways for certain migrants. Canada adopted exceptional sponsorship measures for persons from Haiti to enable family members that were significantly and personally affected by the earthquake to immigrate to Quebec and join their families. Additionally, various countries have systems for **Temporary Protection/Protected Status** – temporary relief from deportation for migrants in the host state -- for nationals of countries experiencing natural disaster, or other extraordinary and temporary conditions that prevent the return of nationals in safety. Immigration relief to victims of human trafficking and other crimes is another good practice in this area. The United States currently provides Temporary Protected Status (TPS) to over 300,000 foreign nationals from a total of 13 countries.[17] In January 2014, when the Ebola virus disease was detected in West Africa, beginning in Guinea and spreading to Liberia, and Sierra Leone, the U.S. granted TPS to nationals from Guinea and Sierra Leone. Last year, the U.S. Administration designated TPS for foreign nationals from Yemen in 2015 due to the ongoing armed conflict in the country. The Administration also granted TPS status to Nepali nationals in response to the earthquake on April 25, 2015, which killed over 8,000 people and demolished much of Nepal's housing and infrastructure.[18]

Labour migration can also be facilitated for cross-border disaster displaced persons and for migrants in situations of crisis. This can be done through removal of administrative barriers to migrate for work, recognizing the skills and educational qualifications of migrants, coordinating the portability of social security rights through bi-lateral and multilateral agreements, as well as

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[15] *An example is the Declaration of Rome adopted during the IV Euro-African Ministerial Conference on Migration and Development within Rabat Process' framework. For more details, refer to:*
http://italia2014.eu/media/3775/fr_declaration_prog_rome_final_27_11_2014.pdf

[16] *For more examples of good practices in cross-border disaster displacement management, please refer to the Nansen Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change, available at:*
http://disasterdisplacement.org/what-we-are-learning/.

[17] *The countries include El Salvador, Guinea, Haiti, Honduras, Liberia, Nepal, Nicaragua, Sierra Leone, Somalia, Sudan, South Sudan, Syria, and Yemen. For more details, refer: https://www.fas.org/sgp/crs/homesec/RS20844.pdf*

[18] *Ibid.*

creating work visas and labour market skills matching schemes targeting such persons. In this context, the reinforcement of robust and effective labour market information systems will be critical in linking supply and demand within the labour market, ensuring labour migration pathways address genuine labour shortages, contributing to the development of sending and receiving countries. In addition, enhancing labour mobility through temporary labour migration schemes[19] and providing such cross-border disaster displaced persons and migrants in situations of crisis with market-based vocational training could help in meeting labour market needs in receiving countries as well as bring benefits to the families of migrants who are sometimes left behind, through remittances and through skill transfer. Examples of existing regional or bilateral migration schemes, policies and agreements that could be replicated and adapted to respond to challenges posed by climate change and disasters include, for instance, the 1950 Indo-Nepal Treaty of Peace and Friendship which allows free movement, including for migrant workers, between the two countries. This arrangement has played a key role in helping people affected by the 2015 earthquake in Nepal to diversify their incomes by accessing employment in India. At the regional level, the Australian Seasonal Worker Programme facilitates seasonal labour migration of workers from ten small island developing countries in the Pacific, giving them access to work opportunities in Australia. Similar regional instruments could be developed to target specifically those countries and communities most affected by climate change or disasters: labour migration can be facilitated for areas which suffer from the adverse impacts of climate change or from recurrent natural disasters. Increased opportunities for labour migration can support vulnerable individuals and communities by helping them to diversify their incomes and access alternative livelihood opportunities, thus helping them to better mitigate the risk of disasters or cope with the adverse effects of climate change. In addition, migrants can directly contribute to the management of risks associated with disasters and climate change through financial or technical contributions to adaptation, disaster risk reduction or post-disaster recovery efforts. The positive effects that remittances can play in post-disaster reconstruction and recovery have been demonstrated in many countries that were affected by the 2004 Indian Ocean tsunami[20], or in Samoa following the 2009 tsunami[21]. Capitalizing on labour mobility's potential can only begin if labour mobility is governed in a manner that is in line with international labour standards, human rights obligations and protects the rights of all workers employed outside their home countries.

Beyond expanding secure pathways and protection for those who are not granted refugee status, a number of efforts could be considered to promote their protection. These include mainstreaming the **SDG outcomes** into national policies, strengthening **operational capacities to assist vulnerable migrants**, **ensuring legal identity**, **ending detention of child-migrants**, and ensuring **access to school and health services**[22]. Other ways include empowering decision makers to address the challenges and opportunities related to migration, climate change and the environment. In that respect, IOM has developed a programme of Capacity Building on Migration, Environment and Climate Change for Policy Makers that has already benefitted over 300 policymakers in more than 40 countries. Similar programmes are conducted by other organisations, explored in this discussion and in the annex, to be used as guiding tools by States.

Guiding questions

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[19] *Some examples include the Temporary and Circular Labour Migration (TCLM) plan between Spain and Colombia (2006-2009); and the Recognised Seasonal Employer scheme in New Zealand.*
[20] *Naik et al. 2007*
[21] *For more examples of good practices linking migration management, development and climate change adaptation, please refer to Ionesco et al. 2016*
[22] *For more examples of specific initiatives and projects addressing the risks of disaster displacement, please refer to the Compendium of IOM Activities in Disaster Risk Reduction and Resilience (2013).*

1. What secure pathways for access to territory, protection and operational assistance measures does your country provide, including through partnership with other countries, to assist migrants in countries experiencing crises and cross-border disaster displaced persons?

2. What regular or temporary labour migration opportunities does your country provide to assist migrants in countries experiencing crises and cross-border displaced persons? Please describe the process through which these are developed in consultation with labour market actors and linkages with labour market information systems matching supply and demand, skills recognition and development, the status of these workers and the protection of their fundamental principles and rights at work.

3. Do your national policies and initiatives integrate displacement and migration-related concerns in preventing, preparing for and responding to conflict and disasters, including the adverse effects of climate change? If yes, how?

4. What good practices can be identified in terms of conditions for return of migrant men, women and children to the countries of citizenship (when possible), when they are stranded in countries experiencing crises or displaced due to natural disasters or environmental changes due to climate change?

5. How does your country implement existing guidelines, like the MICIC Initiative Guidelines and the Nansen Initiative Protection Agenda, to improve protection for migrants caught in crises or natural disasters or for disaster displaced persons?

6. Have your national policies ever considered the potential contribution that cross-border disaster migrants can play in the development or economic growth of your country? If yes, how and if not, why not?

7. For those countries caught in crisis, in which instances were you able to harness the contribution that migrants can play in the reconstruction and/or recovery or resumption of the path to development? How was that achieved and what were the good practices?

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