

Crisis Migration Convening Thematic Report
John D. And Catherine T. MacArthur Foundation
Chicago, February 14-15, 2013

This meeting built on the work of a MacArthur-funded project organized by Georgetown University's Institute for the Study of International Migration. The meeting brought together experts, policy specialists, and representatives from international agencies to explore the concept of "crisis migration," a term meant to capture the complex interactions between humanitarian crises (of various kinds) and human mobility (see participant list). The meeting also addressed the resulting operational and policy challenges faced by those obligated to protect migrants.

The meeting included discussions of the various types of displacement that fall outside the international refugee protection regime. We heard how international agencies, such as the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) worked together in crisis situations, such as in the conflict in Libya in 2011, to determine which migrants need assistance with evacuation to their home country, and which need other forms of protection. The meeting also explored intergovernmental processes, such as the Nansen Initiative and the UN High-Level Dialogue on International Migration and Development, which seek to address gaps in the existing international migrant protection systems (in the case of the former) and foster inter-state dialogue on migration (in the case of the latter).

The crisis migration convening is part of MacArthur's strategy development process for its Global Migration Initiative. The Foundation's goals for the meeting were to take stock of work it has funded so far; to learn more about international policy debate on crisis migration and environmental displacement; and to encourage learning and bolster collaboration across a set of related grantee projects and relevant non-grantee agencies and processes. This document provides a brief thematic summary of the meeting and its concluding recommendations.

Definitions and terminology

"Crisis migration" does not have a fixed definition in international law; as a relatively new term of art in the international policy community, it is the subject of some debate. The term has been introduced in order to draw attention to a greater range of movements than is captured by the "forced migration" label. Crisis migration can refer to movement either within or across national borders; movement that is temporary or permanent; and, in some cases, movement in anticipation of future emergencies. In its broadest usage, crisis migration has been applied both to persons who are forced to migrate due to acute crises and to those whose movements are triggered by slow-onset changes to the environment such as climate change. It also encompasses would-be migrants whose movement is restricted by various impediments, and who therefore find themselves trapped in a crisis situation.

A humanitarian crisis is a situation that presents a widespread threat to life, physical safety, or health for basic subsistence, triggered by events or processes (acute or slow-onset) that is beyond

the coping capacity of individuals, households, communities and states. A range of triggers can, directly or indirectly, lead to crisis migration. These include the following:

- Extreme natural hazards that cause extensive destruction of lives and infrastructure;
- Slow onset environmental degradation, such as drought and desertification, which undermines livelihoods and may trigger famine;
- Man-made environmental disasters, such as nuclear accidents;
- Communal violence, civil strife and political instability that do not rise to the level of armed conflict but nonetheless render communities unsafe; and
- Global pandemics that cause high levels of mortality and morbidity, or pose risks for the spread of disease.

Increasingly, the drivers of migration are interwoven and mutually reinforcing. Patterns of movement are also far from linear. Initial temporary displacement may become protracted. Internal movements spill across borders. Crises and displacement give rise to other forms of migration, such as the search for employment, prompting migration to cities in irregular and mixed movements. While quite broad, the concept of “crisis migration” captures the complexity of contemporary reality, in which a range of crisis-induced population movements – often the result of multiple and overlapping stress factors – present a growing challenge for states, societies, international organizations, and migrants themselves.

Groups of Migrants in Crisis Situations

The meeting brought together MacArthur grantees and representatives of international organizations that are grappling in a variety of ways with crisis migration and how to address it. Participants discussed how debates over terminology influence (or are influenced by) the approach of different actors (nation-states, international agencies, NGOs, and academics), and the relevant research, consultative, and operational tasks they are currently pursuing.

Some of these actors and projects seek to comprehensively analyze the situation of migrants in crisis, while others are focused specifically on responses, including operational concerns in humanitarian emergencies. Some are focused in particular on cross-border migration attributable to climate change and environmental disasters. Others are less concerned with disentangling issues of causality; they take as a starting point the deprivation of basic human rights suffered by crisis migrants, and ask how we can offer protection to the most vulnerable, regardless of how they fit existing categories.

Crisis-related movements do not fit neatly within current legal and institutional frameworks. The Refugee Convention and the Guiding Principles on Internal Displacement, along with a small number of regional declarations, together form the existing international protection framework for forced migration.

The 1951 Refugee Convention defines who is a refugee and sets out the rights of individuals who are granted refugee status. A “Convention Refugee” is a person who is outside the borders of his or her country of origin and unable or unwilling to return because of a well-founded fear of persecution based upon one of five grounds (race, religion, nationality, political opinion, or

membership in a particular social group). The Convention defines the responsibilities of the countries that are parties to the Convention, including the obligation to not return those refugees whose life or freedom would be threatened on account of one of the five grounds of persecution.

The Convention definition of a refugee does not include several types of crisis migrants – for example, those who flee natural disasters, environmental change, or generalized conflict, or those who have not crossed an international border. Meeting participants noted these gaps and discussed the need for evolution of the protection framework, such that it responds to displaced persons who currently fall outside international systems.

While some participants' work is focused on Convention Refugees – a group which has, by definition, crossed an international border – others are concerned with Internally Displaced Persons (IDPs). An IDP is an individual who is forced to flee his or her home but remains within the borders of the country of origin. The Guiding Principles on Internal Displacement do not constitute a binding international convention, but provide a framework for assistance and protection that has been taken up by a number of national governments, international agencies, and NGOs. The Guiding Principles cover a wider array of migration triggers than the Refugee Convention. Rather than being restricted to persecution on account of enumerated grounds, the Guiding Principles cover those who were displaced by civil conflict, natural disaster, or large-scale development projects. They do not, however, extend to economic migrants or migration caused by slow-onset changes in the environment.

In the United States, Temporary Protected Status can be offered to migrants in the United States if conditions in their country of origin temporarily prevent their return, as in the case of a natural disaster. This protection was offered to victims of Hurricane Mitch in 1988; though the status is temporary, it has extended for over 20 years in this case. Participants did not view it as a substitute for a system that would more directly address the protection needs of individuals who cross borders due to a natural disaster.

Participants at the MacArthur meeting discussed the gaps between the Guiding Principles and various types of migration that occur around the world. Internal displacement may well be caused by slow onset climate change, such as droughts and flooding followed by chronic food insecurity. Some of the impacts of climate change may not be sudden, however, as is common with a natural disaster. Therefore, observers often view the migration associated with climate change as having been triggered solely or predominantly by economic considerations. As a result, those who are internally displaced by slow-onset climate change may not benefit from the Guiding Principles. In addition, environmental displacement does not necessarily take place within national borders, but the Guiding Principles cover only those who are internally displaced, leaving out those who migrate across a national border.

The Nansen Initiative, a consultative process initiated by the governments of Sweden and Norway, aims to build consensus over how to address *cross-border* displacement as a result of sudden-onset and slow-onset disasters. No established protection or legal framework addresses this particular category of individuals and, as such, migrants experience a protection gap. The Initiative defines its scope to include both climate-related and geophysical disasters (the latter include earthquakes, tsunamis, and volcanoes). Additionally, in contrast to refugees, who may be

fleeing persecution committed by their home- country government, situations covered by the Nansen Initiative may involve country-of-origin governments in protection responses.

Another increasingly prevalent type of contemporary crisis migration involves the presence of significant populations of non-nationals caught inside a country in crisis. These individuals are often migrant workers from other nations, lawfully or unlawfully present in the country that experiences a crisis. Some are migrants in transit, en route to another destination. As in the case of natural disaster and climate induced cross-border migration, international instruments fail to explicitly cover this category of non-citizens when they are displaced in the context of crisis. The institutional and national mechanisms that currently respond to the needs of stranded migrants are often inadequate, as well. A case in point is the conflict in Libya in 2011, where nearly 800,000 migrants were forced to flee. International agencies found themselves scrambling to cope with the migrants' evacuation, repatriation, and resettlement.

Finally, mixed migration is a factor in many contemporary crisis settings. Mixed migration flows involve large numbers of individuals in transit, each with different or multiple motivations – fear of persecution, the search for better economic opportunities, or some combination of other drivers. Mixed flows may include refugees, IDPs, environmental migrants, third-country nationals stranded in conflict zones, and trafficked persons. While mixed migrant flows are not new, it is increasingly clear that different types of migrants are taking the same – often dangerous and irregular – routes. Most, if not all, migrants traveling under such circumstances are highly vulnerable and have protection needs, whether or not they qualify for refugee status. Such circumstances present extremely complicated humanitarian and operational challenges to governments and non-governmental actors. Participants at the MacArthur meeting agreed that – as in acute crisis like the current situations in Syria or Mali, or the 2011 conflict in Libya – we will see a significant increase in mixed flows of migrants in crisis situations in the coming years.

Paths to Progress

All participants acknowledged the existence of normative and implementation gaps for protecting those who migrate or become trapped in crisis. The existing legal categories do not capture the diversity of conditions, needs, and vulnerabilities among populations who are forced to migrate in situations of crisis. From an operational perspective, the fact that these issues cut across a wide variety of institutional responsibilities has posed a major challenge to the agencies that attempt to respond to crises. In principle, all migrants are protected by international human rights law and, in situations of conflict, by international humanitarian law. However, while some benefit from specific protection regimes – such as those afforded to refugees –the majority of migrants do not enjoy the protection of specific international legal, normative, or institutional frameworks.

Nearly all participants expressed reluctance to develop new international legal instruments to protect migrants, given the resistance of states to commit themselves to binding mechanisms such as conventions and treaties. So-called “soft law” approaches, such as guiding principles, have potential to influence international and domestic law, but can require years of dedicated support to be finalized (as shown in the case of the IDP Guiding Principles). While not ruling out soft-law options, meeting participants are engaged in strategic planning for pragmatic solutions

that will improve international cooperation, coordination, and burden sharing among state actors and international entities. Participants also seek to generate a shared understanding of the duties and obligations of states – whether states of origin, destination or transit – and the international community. When migrant workers are in crisis situations, employers, recruitment agencies, and even insurance companies may also have roles and responsibilities.

Progress will not necessarily occur within the confines of the UN system. It will likely require the engagement of states in a “bottom up” process, championed from the outset by influential national governments, as well as by agencies like the IOM that operate outside of the UN system. The various initiatives represented at the MacArthur meeting are working to identify or establish best practices, and to derive operational guidelines and frameworks from these, with the goal of leading states to embrace joint responsibility for dealing with specific, carefully defined subsets of crisis migrants.

For example, the Nansen Initiative was intentionally established as a state-led consultative process to build consensus on a global protection agenda, addressing the needs of people who are displaced across borders by natural disasters. UN Special Representative for Migration Peter Sutherland is spearheading a separate process that seeks to establish a framework for joint responsibility of countries of origin and destination, employers, and international entities (such as IOM and UNHCR), to respond to the situation of foreign nationals caught in a crisis situation.

The international agencies that respond to the needs of crisis migrants are attempting to improve the effective coordination of their responses on the ground. UNHCR and IOM coordinated closely during the 2011 Libya conflict to ensure that migrant workers who had been employed in Libya could be evacuated; that Libyan nationals could find temporary or permanent new homes in neighboring states; and that refugees could seek asylum in resettlement countries. Based on this experience, these organizations have rigorously studied what worked well in their coordinated response and what lessons should be drawn for future crisis collaboration. While the emergency response to the migration crisis in Libya was widely hailed as a success – notably due to extensive and systematic cooperation among states, IOM, and the UNHCR – meeting participants noted that in future crisis response situations, they must better integrate migration management and humanitarian response frameworks. Instead of *ad hoc* reactions, national institutions and the international community require more systematic approaches to manage the human mobility aspects of crisis situations.

Some participants in the MacArthur meeting are engaged primarily in research on the nexus between climate change and migration. The climate-migration linkage is extremely complex. In terms of causality, a long-term trend toward more cases of environmental displacement is already evident, even if it can be difficult to attribute specific instances of displacement to climate change. In some cases, movement is clearly forced by environmental circumstances. In other cases, however, migration is a positive, pro-active form of adaptation to climate change.

MacArthur grantees presented relevant case-study based research at the convening. The CARE/UN University “Where the Rain Falls” projects correlate rainfall variability (as a proxy for climate change) with the propensity of rural households to move. The Oxford Refugee Studies Centre’s project, “*Environmentally displaced people: rights, policies and labels,*” studies

the socio-economic and political factors that affect the relationship between environmental stress and decisions to move, based on six case studies around the world. The first project shows that climate change can make households vulnerable, but that more hardy households can often thrive without having to move. The second study demonstrates how local political and economic power dynamics make a difference in determining whether poor peoples' migration in the face of climate change will be forced and reactive, or voluntary and proactive.

Recommendations for Future Work

Participants at the MacArthur convening provided a range of suggestions for future research and analysis, and their translation into actionable policy guidance. These include:

- Research and policy analysis on the best way to provide protection for migrants in crisis situations under U.S. refugee and asylum law.
- Analysis to disentangle the impacts of slow-onset climate change, conflict, and other factors. Clarity among these factors will help to identify the “tipping points” at which slow-onset factors transform into a crisis situation. Longitudinal analysis may be one means of clarifying the issues.
- Research into the factors that help vulnerable communities resist climate-change and other stress factors, and become resilient, such that crisis-induced migration is minimized.
- Better understanding of the multiple dimensions of protection, and how the international protection regime can protect the needs of migrants and other displaced persons.
- Improved research and analysis on the early warning of displacement. (This area of study is quite deficient compared with early warning systems for earthquakes, tsunamis, and other crisis events.)
- Analysis and international discussion of the organizational mandates of the major international agencies dealing with crisis migration. Such mandates may need to be adjusted to fit new realities.
- Comparative policy analyses, and development of policies to protect migrants caught in crises when their host and home governments are not able or willing to assist them.