The climate-migration nexus: an international law perspective

Benoit Mayer
Chinese University of Hong Kong
http://www.benoitmayer.com
bmayer@cuhk.edu.hk
General observations

• Our climate is changing.
• This has far-reaching impacts on human societies.
• These impacts are often indirect.
• These impacts are not necessarily of a new kind.
• Climate change may help open our eyes on long-unaddressed issues.
The climate-migration nexus

• Climate change has diverse, often indirect impacts on human migration.

• It often increases forced migration, in particular within States or across borders.

• Yet, it is generally impossible to attribute individual migrants to climate change (“climate migrants”): migration results from a cluster of causes.
Social, economic, political, demographic factors

Climate change

Weather event

Migration

Vulnerability

Physical impacts
Mongolia: herders migration to Ulanbaator

- Climate change > drought / snowfalls ("dzud") > loss of livestock > migration

But also:
- Economic migration
- Development policies
- Social factors
- Cultural representation
The climate-migration nexus

• Debates on “climate migration” have revealed gaps in international governance – our failure to protect (forced) migrants / disaster-stricken populations.

• For the most, these gaps pre-existed climate change.
The climate-migration nexus and the law

1. Environment and climate law
2. Refugee, migration and human rights law
3. Specific provisions on the climate-migration nexus
1. Environment and climate law

• Obligation of States not to cause serious transboundary environmental harm

• Treaty regime established by the 1992 United Nations Framework Convention on Climate Change
  • Kyoto Protocol
  • Cancún pledges
  • Paris Agreement

• Arguments on responsibility and compensation
  • Adaptation to climate change
  • Loss and damage associated with the adverse impacts of climate change
2. Refugee, migration and human rights law

- International protection of human rights
  - 1948 Universal Declaration of Human Rights
  - 1966 Covenants on Economic, Social and Political Rights, and on Civil and Political Rights
  - 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

- 1951 Convention on the Status of Refugees
  - Condition: “persecute[ion] for reasons of race, religion, nationality, membership of a particular social group or political opinion”

- Debates on the extension of protection
  - 1998 Guiding Principles on Internal Displacement
  - Convention on “climate refugees”? “Survival migrants”?
3. Specific provisions on the climate-migration nexus

• Mentions in decisions of the Conference of the Parties to the UN Framework Convention on Climate Change

• Allusions in the Sendai Framework for Disaster Risk Reduction

• Consultations:
  • Nansen initiative on disaster-induced cross-border displacement (2012-15)
  • Platform on Disaster Displacement (since 2015)
State of the normative debate on the climate-migration nexus

• Arguments for the protection of the environment / climate change mitigation

• Arguments for the protection of the human rights of (forced) migrants

• Arguments based on perceived security-threats and the defense of national interests
Any solutions in sight?

• The climate-migration nexus is not a distinct problem. Rather, it reveals several broader issues which exist for long but are yet to be addressed.

• Climate change mitigation: progress is being made (e.g. Paris Agreement), but insufficient.

• Protection of migrants: much more needs to be done.

• The climate-migration nexus illustrates the difficulties of nation-States to address global issues.
Thank you for your attention!