

migration caused by for example droughts, environmental degradation and loss of livelihoods. International as well as national authorities and organisations have a role to play in building early warning. However, particular attention should be paid to community based approaches to preparedness – through information, consultation and participation of at-risk communities, as well as looking at local traditional early warning systems.

Strengthened data collection is also needed during the response to sudden onset disasters. Reliable information about the numbers and needs of displaced people is vital to preparation and planning. Without it, we risk not meeting the most urgent protection needs.

In views to protection sensitive response, she mentioned a few examples illustrate some protection concerns in natural disaster situations, as well as the links between disaster risk reduction, response and transition towards recovery and durable solutions.

In Myanmar, where Cyclone Nargis displaced up to 800 000 people in 2008, NRC has constructed secure, safe and durable family shelters with cyclone-resistant features. Existing village shelters have been strengthened with diagonal wall bracing and metal cyclone strapping. Further disaster risk reduction measures include identifying populations at risk of displacement and evacuation plans.

Further, all actors need to start at an early stage to prepare for the transition towards recovery and durable solutions, even while emergency efforts are still on-going. In Papua New Guinea, volcanic eruptions on Manam Island in 2004 displaced 9000 people to the mainland, where they largely settled in transitional sites. Return to the island was not a viable or safe option due to risk of further disasters and the damage to houses, infrastructure, crops and forests.

A case study by the Office of the High Commissioner for Human Rights highlights how relief assistance was reduced before transition to recovery was ensured. IDPs did not have adequate access to basic services such as health and education; necessary measures to allocate land where not implemented and IDPs consequently did not have security of tenure to support their housing and livelihood needs. In short, not enough attention was paid to the longer term task of finding durable solutions. This example illustrates the weak implementation of international standards to protect the rights of IDPs due to lack of knowledge and capacity.

Moving on to funding policies, Ms Elverland stressed that the humanitarian financing system is arguably not yet adequately adapted to the use of early warning systems and the possibilities of early actions. Emphasis must be put on this very much needed innovation in financing mechanisms. Systematic budgeting and long-term planning of resources is needed, to allow for prevention and preparedness measures, including disaster risk reduction, as well as flexibility and timeliness in the humanitarian response.

#### *The specific case of States at risk of disappearing due to sea level rise*

██████████, Embassy of Maldives in Brussels

██████████ shared her government's views on how to respond to climate change (firstly, through the UN and secondly with the ambitious pledge to become carbon neutral by 2020).

██████████ gave a small introduction on why climate change has become the core of the Maldivian foreign policy. ██████████ insisted on the fact that climate change is happening right now. The Maldives can already see the results of climate change through beach erosion, coral bleaching, and changing weather patterns.

The Maldives have decided to play an active role in international negotiations. Since 2009, President Nasheed has become an active voice for the vulnerable states in climate change negotiations (cf underwater cabinet meeting before Copenhagen). For the Maldives the UN negotiations are crucial in terms of stopping the progression of climate change. Therefore they have taken a strong stand at every International forum prior and during COP15 and COP16



and will continue to do so in Durban. The Maldives' ultimate vision is that the international negotiations should result in a legally binding agreement that will effectively reduce the risk of serious climate change impacts in the Maldives.

██████████ stressed that the Maldives believe that climate change is a human rights issue.

In the Pacific, some island states have already faced displacement of their population and are negotiating solutions with neighbouring countries. The Maldives have decided that they do not want to become climate change refugees, but instead, they wish to showcase to the world that green technology is cost-effective and commercially viable. The government of Maldives wants to show leadership in mitigation actions in the Maldives to reduce national greenhouse gas emissions and demonstrate commitment to stopping climate change. Prioritizing and implementing adaptation actions in the Maldives are also crucial. They have decided to become carbon neutral by 2020. Solar panels simply make more sense for the Maldives. They are calling for investors, researchers, scientists, companies to use us as guinea pigs and test renewable energy as well as adaptation measures such as coral growth. They are also looking at developing a transport network across the country; they are securing their harbours and improving communications among their islands.

Lastly, ██████████ emphasized that leaving the Maldives, is simply not an option right now. Maldivians will try every adaptation measure, before we resort to migration.

#### **SESSION 4 – LEGAL FRAMEWORK FOR PROTECTING CLIMATE/ENVIRONMENTAL MIGRANTS (IN THE EU AND AT INTERNATIONAL LEVEL)**

*International protection of climate migrants: testing of existing institutional and legal frameworks, at international, regional and national levels*

██████████ Refugee Studies Centre Oxford University

At first ██████████ stressed that responses to climate-related displacement need to be guided by the fundamental principles of human rights and human dignity and consent, empowerment, participation and partnership with those affected. ██████████ highlighted the protection gap that exists, in other words the absence of appropriate legal and normative instruments (whether it is the 51 Geneva Convention or the UNFCCC or the Kyoto Protocol) dealing with new forms of 'involuntary' displacement (e.g. climate change). However, the Cancun provisions have opened a door. According to him, there is no scope for a new international convention on environmental/climate change displacement.

██████████ maintained that a "filling the gaps" process is more likely to happen, using a variety of emerging programs and strategies (=soft law).

██████████ agreed that the word "refugee" shall not be used.

Then ██████████ focused his presentation on internal capacities. ██████████ underlined that the 1998 Guiding Principles on Internal displacement can play a significant role as a baseline but that the linkage of environmental and climate change impacts - migration and displacement policies - with protection needs is weak in this framework. ██████████ highlighted normative, policy and institutional gaps.

Regarding normative gaps, the 1998 GPs are poorly articulated in legal and normative frameworks and their focus of protection is on rapid-onset disasters and during displacement (which means that there is a protection gap before and after displacement and in resettlement, and also when it comes to slow-onset environmental displacement). Furthermore, resettlement programmes and protection are limited in terms of participation and protection for resettled communities is limited when it comes to procedures for compensation and restitution.



[REDACTED] pointed at several policy gaps with the 98 GPs including the fact that they focus on rapid onset 'disasters' (slow onset climate change and environmental displacement will thus be a future problem), the need to strengthen mitigation plans, and the fact that both rights-based discourse on environmental issues and the role and empowerment of affected community are limited.

Lastly, [REDACTED] raised a few institutional challenges including the poor institutional collaboration and coordination between ministries, agencies, NGOs, the fact that government institutional capacity, technical expertise and resources are stretched, the emphasis on DRR/disaster response and the lack of concerns for slow onset change and the limited engagement of civil society actors.

Therefore, the way forward is to develop protection norms and policies, prioritising enhancement of protection norms, developing knowledge base and knowledge transfer, encouraging and facilitate national governments to adopt 1998 Guiding Principles, encouraging and supporting civil society actors, encouraging/facilitating regional agreements for temporary protection guidelines and policies for trans-border environmental migrants and encouraging integration of climate change responses and DRR policies into national development plans.

#### *The UNHCR perspective*

[REDACTED] UNHCR

[REDACTED] raised some points of controversy. [REDACTED] insisted on the refusal from UNHCR of both the terms "refugee" and "resettlement" in the debate on persons forced to move as a results of climate/environmental change. [REDACTED] reminded the legal meaning and the precise definition of those concepts in international refugee law.

[REDACTED] emphasized that UNHCR does not adhere at the definition proposed by IOM. It is viewed as too broad and not conceptually useful to design policies.

One of the most important issues for UNHCR is the recognition of the need of protection of people who move because of environmental factors. Therefore, the UN agency constantly draw attention to the legal gaps, paying a special attention to the most vulnerable persons (in this regard, the IDPs guidelines and the Kampala Convention provide a baseline). UNHCR highlighted that it is necessary to develop a framework for persons crossing an international border, especially for slow onset events.

[REDACTED] stressed that the distinction between slow and sudden events is very important. The displacement dimension and the compulsory element are more obvious for sudden events. Slow events need a special attention and it is important to keep in mind the distinction between voluntary and involuntary movement that has a high importance in those contexts.

The main challenge is the recognition by States of this phenomenon and the consequent development of new approaches to tackle it. However, States seem to be more waiting than proactive and the international context is not favourable to the adoption of a new convention. Finnish, Swedish and Italian national legislations can provide ideas.

There is an urgency to act. Natural disasters are on the increase and humanitarian capacities are over-stretched.

Lastly, [REDACTED] highlighted that the UNHCR has been appointed as the temporary leading UN agency on the issue of protection last December.



*Some comments on the EU legal framework on asylum*

[REDACTED] DG HOME

[REDACTED] first stated that the EC shares most of the comments made by the UNHCR. The development of the 51 Geneva Convention is not relevant and the use of the refugee vocabulary is also rejected by the EC. Indeed, the concept of "persecution" is at the heart of the regime, and also thus at the heart of the Qualification Directive, and there are obstacles to apply it to climate change/environmental migrants.

Individualization must be done when dealing with the cases but difficulties arose when trying to see what the legal framework can offer.

The use of the Temporary Protection Directive must be carefully evaluated. The text could raise some issues of protection but when we look at the two priority groups mentioned and the context of its adoption (the events in former Yugoslavia) we are quite far from environmental/climate migration. However, in any case, this framework is not suitable for those who need long-term protection.

EC will pursue its political and technological "watch" to get a better grasp of the phenomenon, giving a special attention to MS legislations.

