The Follow-Up and Review Mechanisms of the Global Compacts: What Room Is There for Human Mobility in the Context of Disasters and Climate Change?

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Abstract: Human mobility in the context of disasters and climate change (HMDCC) is a complex problem, which is planetary in scope and intergenerational in its impact. From the mid-seventeenth century’s little ice age to the rising sea levels due to climate change, people have been driven to move by environmental factors for a long time. Yet, an international treaty regime that addresses the protection needs of persons mobile due to environmental factors has never been created. Against this backdrop, the Global Compacts were negotiated to reflect a “sophisticated” understanding of HMDCC, and their adoption enables cooperation on a wide range of policies and laws to this effect. Examining the implementation of the Global Compacts with respect to the commitments relating to HMDCC, this article finds that States and non-State actors have cooperated to address data gaps and to incorporate mobility considerations into national frameworks on climate change and disaster management. However, States must implement all dimensions of their commitments relating to HMDCC, especially with regards to the facilitation of migration as an adaptation strategy to disasters and climate change, in order to build a comprehensive approach.

Keywords: global compact for safe; orderly and regular migration; global compact on refugees; climate change; disasters; human mobility; migration; displacement; international cooperation

1. Introduction

On 13 December 2021, a loud outcry was raised when Russia and India voted against the draft United Nations (UN) Security Council resolution that casted climate change as a threat to international peace and security (International Crisis Group 2021). Tabled by Ireland and Niger, and supported by 113 States, the draft resolution is a testament to the urgent need to globally address the effects of climate change and disasters (UN 2021). Simply put, climate change contributes to more intense and frequent sudden-onset disasters, such as cyclones, and slow-onset disasters, such as desertification (IPCC 2021). This aggravates stressors people are already experiencing (hence the idea that climate change is a “threat multiplier”) and fuels instability (UN 2019). It also adversely impacts the enjoyment of fundamental human rights, including the right to life (Human Rights Committee 2020; United Nations Committee on the Rights of the Child 2021).

One of the most significant effects of climate change and disasters are on human mobility (Burson et al. 2018). Human mobility here can be understood to consist of three types of movement: migration (generally refers to voluntary movement), displacement (generally refers to involuntary movement) and planned relocation (refers to the resettlement of groups of individuals, generally with government assistance). Human mobility in the context of disasters and climate change (HMDCC) ranges from internal to cross-border, from temporary to permanent, and from planned to unplanned movement (Ferris and Weerasinghe 2020). In 2020 alone, a series of devastating disasters internally displaced 30.7 million people globally (IDMC 2021). Furthermore, as many as 216 million people could...
move within their own countries across 6 regions of the world due to slow-onset climate change impacts by 2050 (World Bank 2021).

It is no wonder then that when the negotiations for the Global Compacts began in 2016, the adverse impacts of climate change, disasters and environmental degradation became an integral part of the discussions right off the bat. The zero drafts of both compacts incorporated measures to address the protection needs of persons moving in the context of disasters and climate change, which survived with modifications until adoption (GCM 2018a; GCR 2018a). The adopted versions call for coherent approaches to address HMDCC (McAdam and Wood 2021). The Global Compact for Migration dedicates the only thematic cluster in the whole document to “natural disasters, the adverse effects of climate change and environmental degradation” (GCM 2018b). It calls for strengthening resilience and preventing displacement to help people stay, on the one hand, and preparing for planned and regular migration to allow people to move out of harm’s way, on the other (GCM 2018b). The Global Compact on Refugees designates environmental factors as “drivers which interact with root causes of refugee movement” (GCR 2018b). It also draws attention to avoiding protection gaps and enabling all those in need of international protection to find it (GCR 2018b).

This article examines how States translated their commitments under the Global Compacts with respect to HMDCC. To do so, it first places HMDCC in international law and policy by drawing attention to the significant efforts made before the adoption of the Global Compacts. It then examines the content of the commitments with respect to HMDCC in the Global Compacts. Next, it briefly describes the follow-up and review mechanisms devised to monitor the implementation of the Global Compacts, followed by an analysis of the measures taken with respect to HMDCC during implementation.

This exercise contributes to understanding the content and the implementation of States’ commitments under the Global Compacts with respect to disasters and climate change. It also produces valuable insights for the 2023 Global Refugee Forum, as well as related international processes, such as the UN General Assembly’s elaboration of a binding convention on the protection of persons in the event of disasters, the UN International Law Commission’s (ILC) preparation of an issues report on the protection of persons in the event of sea-level rise, and the work of the newly appointed Special Rapporteur on the promotion and protection of human rights in the context of climate change.

2. Zooming out: HMDCC in International Law and Policy Prior to the Adoption of the Global Compacts

Especially since the “rebirth” of the studies on the migration-environment nexus in the 1980s, international actors have been attempting to address HMDCC (Mayer and Crépeau 2017; Piguet et al. 2011). However, these attempts have been fragmented and focused on particular aspects of HMDCC instead of offering a comprehensive approach.

For instance, looking at the security nexus, the UN Security Council has held open debates and Arria Formula meetings on the issue of climate change, international peace and security since 2007 (for example, UNSC 2007, 2015). Although the open debates have not led to the adoption of resolutions on the topic, the Security Council has expressed its “concern that possible security implications of loss of territory of some States caused by sea-level-rise may arise, in particular in small low-lying island States” in a Presidential Statement in 2011 (UNSC 2011).

Another example is the focus on cross-border displacement. In 2012, Switzerland and Norway initiated a State-led consultative process named the Nansen Initiative, which eventually led to the adoption of a legally non-binding agenda, the Nansen Agenda for the Protection of Cross-Border Displaced Persons in the Context of Climate Change (Nansen Initiative 2015; Gemenne and Brücker 2015). Currently, the Platform on Disaster Displacement (PDD) implements the Agenda—which is endorsed by 109 governmental delegations—by promoting measures and bringing together partners (Kälin 2015).
The piecemeal approach to addressing HMDCC has been particularly evident in international treaty regimes. Here, international actors concerned themselves with interpreting the responsibilities of States to address particular aspects of HMDCC under the respective treaties. For instance, the UNHCR Executive Committee mandated the organisation to look at the issue of international protection of “environmentally displaced persons” since 1989 and played a significant role in the interpretation and application of the Refugee Convention and its Protocol to HMDCC (Goodwin-Gill and McAdam 2017). Under the auspices of the UNFCCC, a Task Force on Displacement was established in 2015 to work on “averting, minimizing and addressing displacement related to the adverse impacts of climate change” (UNFCCC 2016, 2018). Within the auspices of the UNCCD, Member States adopted a decision to study the role desertification/land degradation and drought play as one of the drivers that causes migration (UNCCD 2017). Similarly, interpreting the responsibilities of States under International Labour Standards, the ILO has been focusing on labour migration in the context of environmental changes, and advocating that migration has the capacity to be an effective adaptive strategy to environmental changes (Kagan et al. 2017).

The relevant responsibilities of States under general international law principles have also been studied by experts. For instance, the UN ILC adopted the Articles on the Protection of Persons in the Event of Disasters in 2016 (ILC 2016; UNGA 2016a; Bartolini 2019) and the International Law Association has adopted the Sydney Declaration of Principles on the Protection of Persons Displaced in the Context of Sea Level Rise in 2018 (ILA 2018). Notably, the former instrument aims to “facilitate the adequate and effective response to disasters, and reduction of the risk of disasters, so as to meet the essential needs of the persons concerned, with full respect for their rights”, whereas the latter instrument reaches beyond that to address the admission, stay and return of non-citizens in the event of sea-level rise (ILC 2016; Vidas et al. 2019).

The main commonality in these initiatives is the emphasis on a human rights-based approach. The UN Human Rights Council has adopted several resolutions addressing human rights and climate change since 2008 (for example, HRC 2008, 2014, 2020a), which play a pivotal role in the interpretation and application of international human rights treaties to HMDCC (OHCHR 2020). For instance, the first mention of human rights in the context of the UNFCCC was made in 2010 with a reference to the Human Rights Council’s Resolution 10/4, which was adopted a year earlier (UNFCCC 2010; HRC 2009). Furthermore, the Human Rights Council has pioneered the creation of key Special Rapporteurs who have conducted studies which have been contributing to the understanding of HMDCC. For instance, the work of John Knox, the Special Rapporteur on Human Rights and the Environment, has led to the identification of framework principles on the enjoyment of a safe, clean, healthy and sustainable environment (HRC 2018).

Acknowledging that HMDCC is too complex and the danger of oversimplifying is too great, these initiatives served as important vehicles to explore and promote comprehensiveness (Naser 2021).

3. Zooming in: The Global Compacts and HMDCC

Against the backdrop of over three decades of fragmented efforts to develop approaches to address HMDCC, the New York Declaration for Refugees and Migrants, which launched the negotiation and consultation processes for the Global Compacts, started with the acknowledgement that people move “in response to the adverse effects of climate change, natural disasters (some of which may be linked to climate change), or other environmental factors”, as well as for a combination of reasons including environmental, economic, social, political and developmental reasons (UNGA 2016b).

The added values of the Global Compacts to addressing HMDCC are threefold. First, the Global Compact for Migration attempted to provide a (more) comprehensive approach to HMDCC through a “packaging exercise” of the existing obligations and common understanding of States particularly under Objectives 2, 5, 7, 18 and 21 (Kowlowski 2019; Panizzon 2017). Objective 2 of the compact concerns the minimization of the adverse
drivers and structural factors that compel people to leave their country of origin. Paragraphs (h) to (l) of this objective are dedicated to natural disasters, the adverse effects of climate change and environmental degradation, in which States have committed to:

(h) strengthen the joint analysis and sharing of information to better map migration movements;

(i) develop adaptation and resilience strategies to manage sudden-onset and slow-onset natural disasters, the adverse effects of climate change and environmental degradation, taking into account the potential implications for migration;

(j) integrate displacement considerations into disaster preparedness strategies and promoting cooperation;

(k) harmonise and develop approaches and mechanisms at the subregional and regional levels;

(l) develop coherent approaches by taking into account State-led consultative processes, such as the Nansen Protection Agenda and the PDD.

Objective 5 complements the above commitments by aiming to enhance the availability and flexibility of pathways for regular migration. States have particularly committed to facilitate labour mobility in accordance with the ILO standards, guidelines and principles in compliance with international human rights law, such as through free movement agreements, visa liberalization or multiple-country visas, and labour mobility frameworks. Paragraph (g) commits States to developing or building on existing national and regional practices for admission and stay based on compassionate, humanitarian or other considerations for migrants compelled to leave their countries of origin owing to sudden-onset natural disasters and other precarious situations. Furthermore, under paragraph (h), States have specifically committed to cooperate to identify, develop, and strengthen solutions for migrants compelled to leave their countries of origin owing to slow-onset natural disasters, the adverse effects of climate change, and environmental degradation, including by devising planned relocation and visa options in cases where adaptation in or return to their country of origin is not possible.

States have further committed to addressing and reducing vulnerabilities in migration under Objective 7, to invest in skills development and to facilitate the mutual recognition of skills, qualifications and competences under Objective 18, and to commit to upholding the prohibition on the collective expulsion and return of migrants when there is a real and foreseeable risk of death, torture or other cruel, inhumane and degrading treatment or punishment, or other irreparable harm, in accordance with international human rights law under Objective 21.

Second, the Global Compact on Refugees communicates States’ most recent understanding of the refugee—climate change nexus. In paragraph 8, States recognised that:

[while not in themselves causes of refugee movements, climate, environmental degradation and natural disasters increasingly interact with the drivers of refugee movements. In the first instance, addressing root causes is the responsibility of countries at the origin of refugee movements. However, averting and resolving large refugee situations are also matters of serious concern to the international community as a whole, requiring early efforts to address their drivers and triggers, as well as improved cooperation among political, humanitarian, development and peace actors.

With this statement, States have endorsed the UNHCR’s interpretation that under the Refugee Convention and its Protocol, the refugee definition does not expressly cover those fleeing natural disasters, environmental degradation, or climate-related factors. However, situations of “nexus dynamics”, where the refugee criteria interact with disasters or the adverse effects of climate change, arise, which may entitle people to international refugee protection (for a discussion on how the Global Compact on Refugees makes “inroads” into the overall paradigm of refugee protection, see, Alexander and Singh 2022).
Furthermore, in paragraph 63, the Global Compact on Refugees also refers to providing guidance and support for measures to address other protection and humanitarian challenges, which includes “measures to assist those forcibly displaced by natural disasters”. This acknowledgement, in turn, feeds into the implementation of the commitments in paragraph 61, which must be conducted “in a way which avoids protection gaps and enables all those in need of international protection to find and enjoy it”.

Third, both compacts offer a systematic approach to addressing HMDCC, which can be grouped under four non-exclusive headings: prevention, facilitation, protection, and cooperation. Prevention can be understood as tackling the conditions that might lead to displacement in the context of disasters and climate change in the first place (see Objectives 2(i) and (j) of the Global Compact for Migration, and paragraph 8 of the Global Compact for Refugees). Facilitation refers to opening-up regional and international migration pathways to enable people to use migration as an adaptation strategy to disasters and climate change (see Objectives 2(k), 5 and 18 of the Global Compact for Migration). Protection takes many forms, from integrating HMDCC considerations into existing laws and policies to providing temporary protection and humanitarian stay arrangements (see Objectives 2(j), 5(h) and (g), 7, 21 of the Global Compact for Migration, and paragraphs 8, 61 and 63 of the Global Compact on Refugees). Finally, cooperation, although embedded throughout the compacts (Panizzon 2022), can specifically be understood to measures such as collecting and sharing information to better map HMDCC, developing coherent approaches by taking into account cooperative platforms such as the PDD, as well as seeking support from the international community to address “external forced displacement that may result from sudden-onset natural disasters and environmental degradation” (see Objectives 2(h) and (l) of the Global Compact for Migration, and paragraphs 12 and 63 of the Global Compact on Refugees).

As this brief analysis of States’ commitments under the Global Compacts demonstrates, significant dimensions of HMDCC were addressed for the first time in an integrated fashion. The outcome is not an exhaustive descriptive list of possible legal and policy options, nor is it a prescriptive list in favour of creating a new protection mechanism to address HMDCC. For instance, services mobility under World Trade Organization’s General Agreement on Trade in Services, the so-called WTO GATS Mode 4, is not included. This is a missed opportunity, because GATS Mode 4 contains legally binding commitments that multilaterally open the national services markets for natural persons (Panizzon 2010). Developing new commitments or improving on the existing commitments under GATS Mode 4 could facilitate migration as an adaptation strategy. States’ commitments with respect to HMDCC therefore captures the understanding that, whilst preparing for planned and regular migration to allow people to move out of harm’s way is important, strengthening resilience and preventing displacement to help people stay is also crucial (McAdam 2021). This calls for, on the one hand, facilitating migration as an adaptation strategy to the impacts of disasters and climate change via, for instance, devising free movement agreements, visa liberalization, and recognizing qualifications to allow access to labour mobility. On the other hand, it also calls for allowing people to stay by integrating displacement considerations into disaster preparedness as well as by developing adaptation and resilience strategies.

4. The Follow-Up and Review Mechanisms of the Global Compacts as Opportunities to Cooperate to Address HMDCC

4.1. A Brief Introduction to the Follow-Up and Review Mechanisms

The follow-up and review mechanisms of the Global Compacts enable concrete frameworks for action and provide the opportunity to internationally cooperate to implement States’ commitments (Guild and Wieland 2020). Since both compacts refer to the impacts of climate change, natural disasters and environmental degradation, it would be expected that the implementation stage would lead to the development of dedicated policy and legal responses on HMDCC.
Looking at the Global Compact for Migration, there are three pillars of implementation: the UN Network on Migration, the International Migration Review Forum (IMRF), and a capacity-building mechanism. These mechanisms can be viewed as hybrid fora, where experts and laypersons contribute to the debate, to support the implementation efforts of States (Watson and Robinson 2021). The UN Network on Migration is an inter-agency group bringing together some thirty-eight UN agencies. The IMRF is the primary intergovernmental global platform for Member States to discuss and share progress on their implementation, which took place for the first time in May 2022. Finally, the capacity-building mechanism consists of a connection hub, a start-up fund, and a global knowledge platform as an online open data source. The start-up fund, called the Migration Multi-Partner Trust Fund, was launched in May 2019 and has raised over USD 28 million, a number which was far from the capitalization target of USD 70 million by the time of the first IMRF (MPTF 2022). The Migration Network Hub was launched in 2021, which provides an interactive knowledge platform to fulfil the commitments in the compact.

“Concerted efforts” have been devised to support these formal mechanisms, which include regional and sub-regional dialogues, Member State and stakeholder consultations as well as the UN Secretary-General’s biennial report on implementation (GCM para 40–44).

Turning to the Global Compact on Refugees, the primary mechanisms for follow-up and review are the Global Refugee Forum, the high-level officials’ meetings, and the annual reporting of the UNHCR to the UN General Assembly. Furthermore, an indicator framework was developed to support implementation, which was published in July 2019 (UNHCR 2019a). The first Global Refugee Forum took place shortly after in December 2019 and generated some 1,400 pledges (UNHCR 2019b). To increase transparency, a digital platform where pledges and contributions from various stakeholders, including the private sector, sports, faith-based and civil society organisations, as well as cities, municipalities and local authorities, was developed (UNHCR 2019c). To increase inclusivity, the Global Academic Interdisciplinary Network on refugee, other forced displacement and statelessness issues was also launched in 2019 (UNHCR 2020).

4.2. Analysing the Implementation of the Global Compact for Migration with Respect to HMDCC

During regional reviews encompassing five different regions, and the IMRF, States discussed their progress and challenges in implementing the Global Compact for Migration (UN Secretary-General 2022; IMRF 2022a). Whilst some countries opted to adopt national implementation plans, others incorporated the compact into their existing frameworks or observed that their existing frameworks sufficiently reflected the objectives of the compact (UN Secretary-General 2022). Recalling the four non-exclusive groupings mentioned before (namely, prevention, facilitation, protection and cooperation), the measures taken by States to implement their commitments on HMDCC will be analysed.

With respect to prevention, the UN Economic Commission for Europe (UNECE) reflected an “ambition to enhance knowledge of and approaches to addressing migration drivers” (United Nations Network on Migration 2020). For this purpose, Germany convened an independent Commission to develop recommendations on root causes of displacement, which were delivered in 2021 (German Federal Foreign Office 2021). Denmark supported the Office of the UN High Commissioner for Human Rights projects on “strengthening human rights fulfilment in migration governance and border management in the Middle East and North Africa region” (United Nations Network on Migration 2020).

With respect to protection, several countries, including Bolivia, Botswana, France and Uganda, have incorporated climate change considerations into their national migration policies before the compact. Nepal and Vanuatu drafted policies focused on human mobility stemming from environmental factors. Peru reported that it is developing a specific national plan of action to address climate-related drivers of migration, and Belize reported that it is integrating human mobility and planned relocation into its climate strategy. Furthermore, Guatemala stated that its 2019 revision of its National Plan of Action on Climate Change is integrating human mobility considerations (UN Secretary-General 2022). Fiji established
the Climate Relocation of Communities Trust Fund in 2019, which supports the planned relocation of communities affected by climate change (Fijian Government 2019). The US Task Force to President on the Climate Crisis and Global Migration recommended to the government, inter alia, options for the “protection and resettlement of individuals displaced directly or indirectly from climate change” in 2021 (Task Force 2021).

With respect to facilitation, the Intergovernmental Authority on Development (IGAD) Ministers of Foreign Affairs adopted the Protocol on the Free Movement of Persons in 2020, which includes provisions allowing people affected by disasters to enter and stay in IGAD member states (IGAD 2020). The Community of Portuguese Speaking Countries (CPLP) signed a mobility agreement that will permit the granting of visas and residence permits as well as the movement of citizens (IMRF 2022a).

With respect to cooperation, the International Data Alliance for Children on the Move was launched in 2020 to address data gaps and strengthen statistics, which acknowledges disasters as one of the drivers of displacement (IDAC 2020). The Migration Multi-Partner Trust Fund funded 12 joint programmes as at the end of November 2021 (UN Secretary-General 2022). The joint programme with IGAD was launched in 2021 and aims to address migration in the context of disasters and climate change by bringing together various governments, UN and other entities (ILO 2021). The UN Network on Migration established the thematic priority of migration in the context of disasters, climate change and environmental degradation in 2021, supported by the UNFCCC Task Force on Displacement and ILO, to contribute to policy coherence and the implementation of Objectives 2, 5 and 7 of the compact (United Nations Network on Migration 2021a). The Global Mayors Task Force on Climate and Migration was launched in 2021 to address the impacts of the climate crisis on migration in cities and to accelerate global responses (Mayors Migration Council 2021).

In addition to these measures, the UN Network on Migration has also contributed to COP26 of the UNFCCC, in which it called for States to interlink the Global Compact for Migration, the Sendai Framework for Disaster Risk reduction and the Agenda for Sustainable Development (United Nations Network on Migration 2021b).

4.3. Analysing the Implementation the Global Compact on Refugees with Respect to HMDCC

As of 26 May 2022, over 1600 pledges and contributions have been made by several stakeholders to implement the Global Compact on Refugees (Global Compact on Refugees Digital Platform 2022). Several of these relate to HMDCC, which will be examined in three groupings, namely: prevention, protection and cooperation. Facilitation heading is left out as it relates only to the Global Compact for Migration.

With respect to prevention, Denmark pledged to strengthen resilience of communities and institutions in respect of climate change and conflict, thereby reducing displacement and irregular migration, with a new multi-year programme targeting the Sahel region and the Horn of Africa. The programme seeks to support local solutions to problems reinforced by climate change in urban and rural areas with particularly affected local populations (Legacy ID 4289). Sweden pledged to reduce the negative impacts on the climate and environment in the response to refugee situations, by, amongst others, funding and support to UNHCR for Phasing out of Fossil Fuel (Legacy ID 4336).

With respect to protection, Lesotho pledged to develop a plan for suitable solutions to help refugees in the country in its national disaster management plan (Legacy ID 1047). Nigeria established the Ministry of Humanitarian Affairs, Disaster Management and Social Development in 2019 and pledged to replace its Act establishing the National Commission for Refugees by 2023 to incorporate the protection of migrants and internally displaced persons under its mandate, with a view to streamlining competencies of relevant agencies at Federal and State level and to facilitating their cooperation with other national and international partners (Legacy ID 1205). Mauritius pledged to integrate approaches to avert, minimise, and address displacement related to the adverse impacts of climate change into relevant national processes, including the process to formulate and implement national adaptation plans (Legacy ID 1241). Somalia committed to the relocation and reintegration of
50,000 internally displaced persons, which was premised on the 178,000 new displacements recorded in the first half of 2019, of which 106,000 was caused by disasters (Legacy ID 1282). The Philippines revised its internal Livelihood Seeding Program—Negosyo Serbisyo sa Barangay (LSP-NSB) Guidelines to include refugees and stateless persons in the programme, which aims to extend assistance to micro, small, and medium enterprises by providing livelihood kits to identified beneficiaries to restore and improve their businesses affected by natural and human-induced calamities (Legacy ID 3043). Korea pledged to allocate more than USD 50 million of its budget to fund its Multilateral Development Cooperation Project. According to its guidelines from 2021, the project focuses on the resettlement and social integration of refugees, and disaster risk reduction resulting from climate change (Legacy ID 3050).

With respect to cooperation, Zimbabwe committed to work with UNHCR, relevant United Nations Agencies, and other partners, in organising a regional symposium on the impact of climate change on protection and humanitarian issues (Legacy ID 1279). Rwanda pledged to undertake environmental protection and rehabilitation in refugee hosting areas, and joint assessment of environmental risks by UNHCR and the World Bank research fellows are studying refugees and host communities’ vulnerability to climate and disaster risk hazards (Legacy IDs 1104 and 1352). The Marshall Islands committed to support regional and sub-regional cooperation, processes and frameworks related to addressing root causes, strengthen preparedness and enhance capacity to avert, minimize and address internal and external displacement as a result of disaster, environmental degradation and the adverse effects of climate change, and to join the Group of Friends of the PDD and support its work in the Pacific and elsewhere (Legacy ID 3111). The EU adopted a new Strategy on Adaptation to Climate Change in February 2021, and a Disaster Risk Reduction programme under the 11th European Development Fund (2020–2026) for Africa, the Caribbean and Pacific states. Furthermore, it expressed commitments to “more reliable, comparable and timely data for evidence-based action to improve the lives of refugees and their hosts”, including through direct support for the newly established UNHCR-World Bank Data Centre, and to disaster preparedness and responses, including through greater attention to the impact of climate change (Legacy IDs 4099, 4105 and 4106).

Stakeholders representing the private sector, civil society and academia have also made relevant commitments on the impacts of climate change and disasters with respect to contributing to data collection and evaluation, as well as planning and action (see, for example, Legacy IDs 3055, 4033, 4034, 5064, 5081, 5111, 5118, 5169, 5184, 5230). For instance, Intersos committed to providing legal protection to different groups and individuals impacted by situations of conflict or natural disasters, and to conduct a lessons learnt research (Legacy ID 5194).

5. Future Implications: Putting the Global Compacts at the Centre of International Cooperation for HMDCC

A couple of observations can be made based on the above analyses. First, the measures taken to implement the commitments with respect to HMDCC in both compacts demonstrate efforts by a variety of stakeholders, which span across local to federal State actors, as well as non-State actors. Second, the primary aims of the measures are to improve data gaps and statistics and to incorporate human mobility considerations into domestic climate change and disaster preparedness frameworks. Third, and despite the second, more work needs to be conducted to implement all dimensions of the commitments with respect to HMDCC (on States ignoring the compacts, see, Cornelisse and Reneman 2022). Particularly, as the Global Compact for Migration stresses, facilitating mobility in accordance with international labour standards and human rights of migrants is a key adaptation strategy to the adverse impacts of disasters and climate change. However, noting the developments in the IGAD region and CPLP with respect to the free movement of persons, and the US Task Force’s recommendation to create humanitarian protection for people facing serious threats to their lives because of climate change, little has been done to open up legal pathways for
cross-border mobility. This is especially the case for movement between developed and developing countries (as opposed to only between developing countries).

As an intergenerational and global complex problem (Brunnée 2019), HMDCC continues to receive attention from several international processes (on fragmented responses to migration in general, see, Cottier and Losada 2021). The IMRF and the Global Refugee Forum are invaluable additions to these processes, which present an opportunity to more comprehensively reflect on how to address HMDCC, therefore allowing for the breaking of silos. For instance, in May 2022, in the Progress Declaration of the first IMRF, States stated that they “will” strengthen their efforts to enhance and diversify the availability of pathways for safe, orderly and regular migration, including in response to disasters, climate change and environmental degradation (IMRF 2022b, para. 59). States also highlighted that climate finance efforts have been insufficient (ibid., para. 27). This is line with the call of the PDD prior to COP26 to the UNFCCC to increase climate finance because it is needed for supporting developing countries to address climate change-related displacement (PDD 2021).

Despite the promise of comprehensiveness to address HMDCC under both compacts, significant relevant developments have not been mentioned in the Progress Declaration, even though some of these have specifically referenced the relevant objectives of the Global Compact for Migration—for instance, the UNCCD secretariat’s report on the impacts of desertification, land degradation and drought as one of the drivers that causes migration (UNCCD 2019), the report of Cecilia Jimenez-Damary, the Special Rapporteur on the Human Rights of Internally Displaced Persons, on internal displacement in the context of the slow-onset adverse effects of climate change (HRC 2020b) and the report of the UN Secretary-General’s High Level-Panel on Internal Displacement (UN Secretary-General 2022). Furthermore, States have not clarified crucial questions related to HMDCC, such as the applicability of the obligation to not return (non-refoulement) individuals to places facing severe impacts of disasters and climate change, as was discussed by the UN Human Rights Committee in its landmark Teitiota decision (Human Rights Committee 2020).

If the Global Compacts are to be the foundation of concerted efforts for policy coherence, then it is crucial to utilize their implementation process to engage more rigorously with current and future international developments. These would include, for instance, the upcoming report of the UN ILC Study Group on the protection of persons in the context of sea level rise (ILC 2018, 2020). Furthermore, since 2020, the UN General Assembly has been elaborating on a legally binding convention on the basis of the ILC’s articles on the protection of persons in the event of disasters (UNGA 2020). More recently, in 2021, the Human Rights Council recognised for the first time that having a clean, healthy and sustainable environmental is a fundamental human right, and created a new Special Rapporteur on the Protection of Human Rights in the Context of Climate Change (HRC 2020a, 2021). The UN Child Rights Committee recognised in its Saachi et al. decision that States parties have effective control over the source of carbon emissions that contribute to the causing of reasonably foreseeable harm to children outside their territory (United Nations Committee on the Rights of the Child 2021). States must embrace the follow-up and review processes of the compacts as opportunities to reflect on the implementation of their commitments with respect to HMDCC in lieu of international legal and policy developments.

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