

**Entretien avec Walter Kaelin (Envoy of the Chair, Platform on Disaster Displacement),
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The first things that really comes up in this topic is the question of terminology. You were using the term climate induced displacement. So, why did you choose that term and how does it allow to overcome some other definitions like the IOM's "environmental migrant" for example?

I've been using different terminologies because things have evolved. The Nansen Initiative, they have been using "disaster displacement persons" and of course there's "climate refugees". So, let me start with climate refugees and why not climate refugees. Climate refugees is problematic because if you're looking at different notions of refugees, it's all this direct causality, you're a political refugee because you are persecuted for your political opinions or political activities, you're a war refugee because you have to run away from the dangers of an armed conflict. When it comes to the impact of climate change its very difficult to clearly attribute weather events to the global warming. That's why from the beginning, I've never used the notion of climate refugee. It also will be a notion that would not be helpful for, if you want to call them, "climate change asylum seekers" because authorities would ask to the person to make credible that you have to leave because of global warming. Scientists are not even able to link a very specific event to global warming. They can make general conclusions on global warming and that its more intense, more frequent. But even if scientists have that difficulty, how would it be possible for the "climate change asylum seeker" to show that he or she had to leave exactly because of global warming. When it comes to IOM's notion of migrants, this is a long and complicated story in terms of terminology. If you're looking at social sciences then migration covers for forced and voluntary migration. Forced migration being displacement. This is the notion that has been enshrined in the founding treaty of the IOM so they have been using migration in that sense. This is not really compatible with the rest of international law because in international law you clearly distinguishing between refuges, internally displaced persons and then economic migrants. That's the definition of the international convention on the rights of migrant workers and their families and there migrants are clearly people who are moving more or less voluntarily. Of course, looking at the continuum between the two poles of totally voluntary, like you're going on a vacation and totally forced like ethnic cleansing, but it can be more on the side of predominantly voluntary or forced. But anyway, the social science terminology of forced or voluntary migration does not really correspond to existing international law. And I'm an international lawyer, so I always felt that to call these people migrants, it is really blurring all the lines. That's another aspect of it. If you're just talking about migrants, maybe they are forced maybe voluntary, but they are still migrants and you know who migrants are. So, the message is not efficiently highlighting what it means for you to be displaced. That's why the at the Nansen initiative we're opting for the notion of displacement rather than migration. Climate induced, induced already indicated that this is a factor but it's not the sole cause and the context and we've developed that further in the Nansen Initiative and if you're looking at my more recent writings I'm either using displacement or voluntary migration as an adaptation measure in the context of climate change to even make it clearer that we're talking about multicausality. People are not just moving because of sea level rise or drought. They are exposed to these hazards, yes, so it's already question of location if your living in

an area that is exposed to these hazards that's already an element. We can see that in many of the low line coastal areas, generations ago people already knew this is not really a place to live because there is a recurrent flooding. We see that on steep slopes in many of the cities for instance in Latin America, there are irregular settlements where traditional people knew this too dangerous. If there is a lot of rain. But then because of economics or socio-economic pressures, people are moving to these areas. So, location already is a human element, it's not nature. And then the third element why people have to go, is they are too vulnerable to withstand the impact of the hazard at the location in which they are living. And again, that's a human element. So, it's multicausality and even when we're discussing well how can we grasp that multicausality, yes "in the context of", as it's used by the United Nations. "In the context of disaster, of management of disasters, risk reduction". The notion of "disaster". "Disaster" is a situation, I'm simplifying now, where a community, a society or even a country is unable to cope with the damages, the impacts incurred by an event such as natural hazards. And this is when people really have to flee and they have to go and they have to move and they are no longer able to withstand that impact. And be jokingly, I'm very often using Las Vegas in presentations. And you can party all night in Las Vegas in the middle of the desert and you can live happily below sea levels in the Netherlands. Except, it's very very costly. And that's the vulnerability aspect of it. And of course, if you're going to low lying islands in the Pacific, Tuvalu or Kiribati, then they don't have the measures, they don't have the resources to go and really protect their islands. There is no protection against this torrent tides that are increasingly more powerful because of sea level rise. And that's disaster because in the end, these islands cannot cope with these impacts. That's the background of terminology.

When you're talking about disasters and the Nansen Initiative, you're including natural disasters that are not necessarily induced by human climate change...

We're not using the notion of natural disasters. We're using the notion of disasters and disasters can be caused by multiple factors. I mean if you have a hazard, it can be man-made, it can be entirely natural, like a geophysical event or an earthquake. So, for us again, looking at the protection of human beings, this is of secondary relevance for our purposes. Of course, there's the climate justice issue but we've felt that, and personally I've written that even before starting the Nansen Initiative, and I'm coming from the human rights side, I've always felt it would even amount to discrimination to make a distinction in terms of protection of people who have to flee the impacts of climate change as compared to people who had to flee the impact of an entirely natural hazard. If you're looking at the 2010 earthquake in Haiti, there's several hundred thousand people that crossed borders. Why should they be in a worse position than people fleeing Somalia because of drought? From a protection perspective, if you're putting human beings at the center, then the human made factor in climate change cannot be a reason to privilege one group over another.

But in terms of international or regional frameworks to fight against these two different types of displacement, what could be the solution for that? Are there more specific protections for natural not man-made disasters or...

Ok, now we have to go into the notion of man-made and man-made disasters is covering everything from war to climate change and everything in between, industrial accidents etc.... I don't know if you ever came across the ILC, the work of the International Law Commission, an expert commission of the United Nations, and there are draft articles of persons in the context of disasters. They decided to exclude armed conflict from their articles, simply because we have international humanitarian law that is a law about conflict and the protection of human beings in armed conflict. But all the rest is covered by that. In the Nansen Initiative, we are simply for pragmatic policy reasons, focusing on climate change and hazards that also geophysical hazards, so were not looking at industrial accidents for instance. And then again, of course you can say, climate change is human made but if you're looking at a specific tropical storm then you have a problem of attribution. If you're factoring human causes of climate change, again, we're trying to avoid that, we are looking at what's happening. There's a tropical storm. That's a hazard. They are not asking to what extent its 30% natural, this is the Caribbean and there's always been storms, and 70% linked to global warming. If you're really entering into those discussion, you won't have any protections for human beings, because till you have identified that... So, for us, it's trying to get away from that in order to strengthen the protection of people. Because these are people in need of protection because they have been exposed to a hazard and they have been unable to cope with that hazard and the consequences are of a humanitarian nature: some people have been killed, some people have been able to run away, to save their lives, still other people have decided it's better to migrate now cause otherwise they might end up dying from famine etc.... So, there's an element of choice, when to go, where to go etc. These are the important issues and not so much, as I said, the climate justice aspects, because again you're excluding many people.

So what are the approaches? What are the best ways to deal with that? I think that in the Nansen protection agenda we have shown what possibilities there are, and our approach is what we call the "tool box approach". Saying it's not about one legal tool, it's not about mending the Refugee Convention, nor having a freestanding convention for these people as some academics have suggested. It's better to look at what already exists and then to build on that. And then we see many different patterns and possibilities. For instance, we've seen that in the Horn of Africa, Somalia, Djibouti, Ethiopia, Kenya, Uganda, are using the African Convention on Refugees. So, refugee law because there usually people have to go away from conflict for very complex ways that interact, overlap, because the notion of refugees in the African convention is broad and they can apply that. So that's a very good regional approach. And because it's effective, hundreds of thousands of people have found a protection even if they personally claimed they are not being directly affected by the armed conflict in Somalia and we have to go away because of drought and famine. If you're looking at Western Africa, there is an agreement on the free movement of persons, a little bit like what we have in Europe, it goes beyond that because they also have free movement of animals, meaning that they are also a lot of pastoralists, they get some kind of documents so that they can cross borders. So, for many people, that's the way, when there is flooding or drought, in Western Africa, people just move across borders and they bring cattle into another country as part of free movement of persons. It's not perfect but it's kind of a very basic approach. It's not perfect, but it's very different from what's happening in Eastern Africa. If you're moving to Central America, where it's mainly sudden onset disasters, then it's not international or regional law but rather domestic law. Most of these countries have

something called humanitarian visas or temporary protection in their migration laws, that's what they are applying and that's what they are now trying to harmonize so it's more predictable and more standardized. The background of this is in Central America, each of these countries can be hit by a disaster any time so the attitude today is "it's your citizens we have to accept but tomorrow you might have to accept our citizens because we would like to be generous with our citizens, we are ready to be generous with your citizens". It's very reciprocity-based. There's also discussion, for some of the countries but it's very early stages, about bilateral conventions, treaties on disaster management that would also cover these events. In the Pacific, it's very much about not about displacement so much, because we're talking about sea level rise, it's slow, coastal erosion, people from smaller outer islands go to the main islands of these Pacific Island States, we have people moving there from these vulnerable islands to places like New Zealand or Australia or even Fiji. And when we went there for our first regional consultation, it was very clear. People told us very very clearly and in strong language, we don't want to be refugees, we don't want to be called climate refugees, we don't want to wait until someone has to evacuate us from our destroyed island, because all that kind of refugee like protection means you're ending up in humanitarian case law. What we want, we know we have to move away sooner or later, are migration opportunities, so we can decide when to go and where to go. We can use migration as a family strategy, somebody from the family goes to a place, he or she can work, make money, send it back so that we are a little bit more resilient we can build, strengthen our houses, some protection for the coastal erosions. That's very much migration as a coping mechanism. IOM calls it migration as adaptation. There the interest is for instance if you go to Geneva at some of the discussions of the UN, there the ambassadors from Fiji are saying, what we need is a legal framework for the Pacific on migration, predominantly voluntary, not so much protection of displaced persons because in our view of course there are tropical storms, high tides, storm tides, and overall, we have to look at it in the more long-term perspective and it really is opening up migration channels. So that huge difference from one region to another, and that's why again we are very much promoting the idea of regional responses rather than something at the global level. Nevertheless, we do think that it would be good to have a very general overall framework at the global level. And that presently is the discussions about the Global Compact on migration, to some extent also the Global Compact on refugees. And that's what we think is important is that they will not be legally binding instruments, but they kind of lay out the policy approaches and that kind of commitments. We are in the middle of negotiations of course, it's too early to tell what will come out of it but from my personal perspective and the Nansen Initiative's, now the Platform on Disaster Displacement, perspective, it will be very important to address the issue in the two global compacts.

So, in terms of responsibility for the international community, in our research we got the impression that if there was a legal status, an internationally recognized legal status, there would be more of a possibility to have a shared responsibility for states that have perhaps contributed more to climate degradation. So, what is the responsibility sharing...

The international community has a huge responsibility but to translate that responsibility into a responsibility to relocate and accept people is difficult. There have been these kinds of

proposals that you calculate the amount of emission and then you calculate the number of persons who will have to be admitted. I'm not so sure how many people really want that. What they want is to stay as long as possible where they live. So, the first responsibility is to help them to stay, to help them to adapt inside their own countries and to relocate within their own countries. If you were to go to Kiribati and ask how many people want to go to Switzerland, I don't think that you would find that many.

So, the question would be a lot more..

So, the responsibility first and foremost is to support these countries with disaster risk reduction and climate change adaptation measures. And that's what we've seen the realm of UN framework Convention, it's in the realm of the Paris Agreement, the Green Climate Fund. And there are there, to me, very very clear responsibilities, and that's where we also have to really strengthen action and to me to focus on the legal status for climate refugees or migrants would somehow divert from that key responsibility. I'd rather, from a policy perspective, put the focus on really reducing emissions because we can do a lot in terms of adaptation and disaster risk reduction and then to invest strongly into helping countries to really help implement those actives and then we can really reduce the numbers. And this is really I think a very fundamental difference between armed conflict and the issue we're talking about. Armed conflict, of course we're trying to prevent armed conflict but then we know there are dynamics that lead to armed conflict. It's very difficult to really influence it and to prevent something like Syria etc. Of course mistakes were made but in terms of a policy approach we know it's difficult. And then people have to run for their lives, and they are refugees and they need to be admitted. But if you're going back to what I said in the beginning, in the context of our topic, that people have to move if there is a hazard, if they are exposed to the hazard, and if they are not resilient enough to withstand its impact, then we have a lot of policy options. Try to reduce the hazards, that's climate change mitigation and really a lot can be done there. We can help people to reduce exposure, that's planned relocation, that's usually within the countries, Fiji for instance is in the process of relocating about 40 villages away from eroding coastlines. It's very costly that's where the money issue comes in, the Green Climate Fund etc. We can also help people to reduce exposure by opening up channels for predominantly voluntary migration, migration as adaptation, migration as a coping mechanism, it's about free movement of persons, admission quotas... New Zealand has quotas to admit people from vulnerable Pacific countries. This can be discussed, in Sub Saharan Africa, one of the discussions is opening up regular channels for migration to Europe, it's a dangerous, life threatening journey across the Mediterranean, so all of that planned relocation, migration as adaptation is reducing exposure and then at the end, yes, we can reduce vulnerability to help people stay. And only if all that fails, we have to protect those who have been displaced across borders. Then as I said, instead of creating a global status which politically is not possible now days, we better build as I said on what already exists and use regional refugee laws, use free movement of persons agreements, domestic instruments such as humanitarian visas, which might lead to permanent admissions. That's behind the thinking.

What are some of the main obstacles to do that, you mentioned the financing, what would be other obstacles?

Basically, political obstacles, it's the lack of political will. Right now, I was last week in New York for the third round of negotiations on the Global Compact on Migration and there are many delegations from North and South, East and West, who said we have to address the issue in the global compact on migration. We cannot reach the goal of safe, orderly migration if we're leaving out this category of people. We're still far away from the final text so it remains to be seen what's coming off of it. So, it's an issue of political will.

And how did this question come into the political agenda, and the global compact? Who led the initiatives to make it more central to the Compact? Was it more of a collaborative effort? Was it led by states affected by this type of displacement?

Ok if we might have it in the draft of the Global Compact, the Nansen Initiative and the PDD really can take a lot of credit. Because there have been a lot of discussions among academics, NGOs, the IOM since the 1990s but the Nansen Initiative was the first intergovernmental process to discuss the issue. And we went to the regions that are particularly affected. So yes directly affected countries have an important voice, and then in the end the Protection Agenda was endorsed by 109 out of 114 states which were present at that event. So, we really have a large group of states, the majority even and there were others that didn't come at the event where the agenda was endorsed by which also share that opinion. So, in that sense, I really think the ground becomes more stable. And if you're looking at the dynamics of the negotiations on the Global Compact, then again, it's very often states that have been very active and participating in the Nansen Initiative and the PDD who are taking the floor and pushing for that.

You actually covered a lot of the questions I had. But coming back to what you said earlier about the distinction between voluntary and forced migration, the line between the two as you said is very thin. So is there any way to establish criteria, legally or pragmatically to make protection for effective and the same for the questions of resilience?

The line is very thin. But the law is always binary. It's either prohibited or permissible. You have a right to get something or you don't have the right. Somethings are not granted, except there is an exception clause. So that's very normal to draw the line even if in reality things are not that simple. I mean look at criminal law, guilty or not guilty, real life is much more complex as we know. So, there can be criteria, and if you look at the protection there are criteria deducted from state practice. The criteria are harder or softer. The really hard case is sending people back to a life-threatening situation. Still quite hard is a situation where you send people back you are exposing them to a situation where they cannot access adequate humanitarian assistance or protection or where they incur a serious risk for their health. For instance, because of what's happening or because there are no medical services available etc.... Softer criteria are when people have lost their livelihoods at the same time they have family members in the country of destination. And then an even softer criterion is direct activity with the affected country. So, the United States and some others have a helping protection measure, programs and for instance in the US law, it says we are not sending back people from that country, even if they are in irregular position in our country, if there is a request from the country affected by a disaster and our assessment is in fact, if

there is humanitarian crisis in that country. So that's why the US granted to a large number of Haitians protection also back in Hurricane Mitch in 1999. Trump of course now lifted all those protection measures but that's a law. It's simple solidarity with the country. We accept that you can after your crisis situation, handle the return large number of your citizens. These are kind of the key criteria: life threatening, humanitarian crises, family ties or solidarity. So, you can find criteria. We'll see how much of that can get into the Global Compact on Migration or the Compact on Refugees. Because governments are still not really negotiating the wording, it's still early stages, but I think that much of the details of the negotiations will be better to include criteria.

For you what would be the key things to include in the Global Compact?

First, to include the topic as such. They have been countries that said no; that this should be only about economic migration. I think right now, it's very clear there is a majority or even an emerging consensus that it should be included. That's a first step. The second important issue is to mention some of the available instruments. So, for instance, saying, that states, again it's not binding, it's rather soft, that states should use instruments such as again humanitarian visas, free movements of persons... And the third in my view, will be to have some mention of linkages to solutions. Because very often, countries are reluctant to admit people because the question then is what's next? Are there really durable solutions for these people? And the fourth element would be to highlight the importance of regional mechanisms and organizations. But then it's too early to tell wheatear it will be anything about the financial side of it. Probably not because this is really much more for the climate change negotiations of the Green Climate Fund, Loss and Damage. I don't think that should be taken in the Global Compact on migration.