

Climate Migration and its Challenges to Legal Frameworks: An exchange between NoLEM, Georgetown University, and Stakeholders

Summary of Discussion

1 Context

West and Central Africa (WCA) carries a long history of human mobility, which, could be considered as a strategy to improve livelihoods, especially in the context of climate change.¹ West Africa hosts 9.8 million international migrants according to UNDESA's latest estimation in 2020. According to IOM's Displacement Tracking Matrix (DTM), 93% of migration in West and Central Africa occurs within West and Central African borders.¹ Besides being a region particularly vulnerable to sudden onset events such as **floods**, West and Central Africa is also exposed to **land degradation, water scarcity, sea level rise and coastal erosion**.

As of December 2023, according to the Internal Displacement Monitoring Centre (IDMC), approximately 8.4 million individuals were reported internally displaced in West and Central Africa, including 285,120 displaced by disasters. Droughts, desertification, deforestation, water scarcity, rising sea levels, coastal erosion have increased in occurrence and severity over the last few decades due to the adverse effects of climate change, compelling people directly and indirectly to leave their homes in a region – West and Central Africa - where 80% of the population depends on natural resources for their livelihoods (OCHA).

The knowledge exchange, organized by the IOM Regional Office for West and Central Africa, brought together more than 30 participants from a variety of backgrounds, including legal professionals, IOM staffers, academics, and representatives from bilateral partners such as the Swiss Confederation. The event, convened under the auspices the Network of Legal Experts for West and Central Africa (NoLEM), was intended to facilitate a continuing series of knowledge exchanges between the NoLEM and members of the academic community to better inform policy around the legal frameworks that govern international migration.

2 Opening Remarks

The opening remarks featured interventions by five key speakers: **Mr. Christopher Gascon**, Regional Director for IOM Regional Office for West and Central Africa, **Prof. Elizabeth Ferris**, Director, Institute for the Study of International Migration (ISIM) at Georgetown University, **Mr.**

¹ <https://rodakar.iom.int/resources/migration-environment-and-climate-change-west-africa>.

Khadim Mboup, Representative of the Embassy of the Swiss Confederation, **Mr. Walters Tubua**, UNFCCC Regional Lead, RCC for West and Central Africa, and **Prof. Abdou Khadre Diop**, President, NoLEM. The participants each expressed the urgency of tackling the challenges of climate-related migration and displacement, as well as the importance of collaborating across a wide swath of legal frameworks and actors to achieve the goals set out in the Global Compact on Migration.

Mr. Gascon, for his part, stressed the benefits of cooperating with academia in the realms of policy-relevant research, the strengthening of legal frameworks, and supporting national counterparts both in government and in civil society. Prof. Ferris and Prof. Abdou outlined the complimentary role that their institutions, ISIM and NoLEM, respectively, play in the policy debate. Mr. Tubua emphasized on the urgency of adequately addressing the nexus between migration and climate change and investing in early warning and a coordinated approach in particular ahead of the COP 29. Mr. Mboup pointed to the importance that Switzerland has given to this theme by facilitating the development of policies and frameworks that address the impacts of climate change on migration, while ensuring that these efforts are aligned with international standards and regional priorities. Mr. Mboup also highlighted the role of academia and its contribution to putting in place informed policies.

3 Presentation by Professor Elizabeth Ferris, Georgetown University

Prof. Ferris began her presentation by thanking the participants for their attendance and inviting academic colleagues at NoLEM to reach out to her for further collaboration.

- The UN and other bodies have long recognized the potential impacts of climate change on migration, as outlined as early as the first IPCC report in 1990.
- We currently know a decent amount about climate migration and its dynamics:
 - o Displacement caused by sudden disasters numbers ~20-25 million people a year
 - o Most people displaced by climate will become internally displaced, not refugees
- There are many gaps in current legal frameworks governing climate-driven migration:
 - o People moving people moving internationally or crossing borders because of disasters or climate change are not usually considered to be refugees under the 1951 Refugee convention, but they are neither usually ‘voluntary’ migrants seeking better economic opportunities or to join family members. There is no real appetite for a new international agreement on climate migrants, thus making it difficult to define what criteria define a “climate migrant”
- There are some existing frameworks on cross-border movement that can offer hope
 - o ECOWAS Free Movement Protocol (1979) and AU Free Movement Protocol (2018)
- There’s much we don’t know (i.e. when, how, why, where, or how many people will move)

4 Presentation by Pablo Escribano, Regional Thematic Specialist at IOM

Pablo Escribano, Regional Thematic Specialist for IOM Americas and Caribbean on Migration, Environment and Climate Change (MECC), presented IOM's strategic approach on migration, environment and climate change.

- IOM's approach to climate migration is primarily rooted in its Institutional Strategy on Migration, Environment and Climate Change (MECC) for 2021-2030
 - o The Institutional Strategy is coherent with international processes such as the UNFCCC, the Paris Agreement, GCM, Sendai Framework for Disaster Risk Reduction, and human rights commitments.
- IOM's approach to climate migration embodies three core strategic objectives:
 - o Objective 1: Solutions for people to move – managing migration in the context of climate change, environmental degradation, and disasters due to natural hazards
 - o Objective 2: Solutions for people on the move – assisting and protecting migrants and displaced persons in the context of climate change, environmental degradation, and disasters due to natural hazards
 - o Objective 3: Solutions for people to stay – making migration a choice by building resilience and addressing the adverse climatic and environmental drivers that compel people to move
- Priority areas of engagement for the IOM include playing roles in migration policy, operations, providing knowledge, and convening relevant parties to wider action.

Climate justice concept: through climate justice, IOM aims to recognizing that the impacts of climate change disproportionately affect vulnerable populations, particularly those in migration contexts. By integrating climate justice into its programs, IOM aims to address the root causes of climate-induced displacement, promote sustainable development, and uphold the rights and dignity of affected populations.

Mr. Escribano referred to recent development in the American continent, where the Inter-American Court of Human Rights and the Interamerican Commission on Human Rights are developing innovative approaches to climate mobility.

5 Presentation by Professor Cheluchi Onyemelukwe, NoLEM

Professor Cheluchi Onyemelukwe, a lawyer and law professor at Babcock University in Nigeria, provided an overview of the legal frameworks related to climate migration in West and Central Africa (WCA), including the challenges and opportunities going forward.

- There are existing regional frameworks such as the Kampala Convention, African Charter on Human and People’s Rights, and Migration Policy Frameworks for Africa
 - o In West Africa, there are ECOWAS protocols on the Free Movement of Persons, Right of Residence, and Right of Establishment
 - o National-level legal frameworks include laws and jurisprudence on climate change, environment, migration, refugee, and disaster management, also policies and policy frameworks with significant variability on migrant protections
- In general, there are few laws and limited jurisprudence that focus on climate change, opening the door for more action to build and strengthen legal frameworks in WCA
- Recommendations:
 - o Continue mainstreaming migration in ongoing climate change discourse, advocacy messaging, and vice versa
 - o Further develop international and regional legal frameworks on climate change
 - o Conduct legal mapping and analysis in WCA; develop an evidence base to support legal interventions
 - o Capacity building measures to strengthen legal actors (i.e. legislators and judges)

6 Closing Remarks

Ms. Kristina Mejo, Senior Liaison and Policy Advisor for IOM for West and Central Africa, congratulated and thanked participants for actively contributing to the day’s discussions. She emphasized the urgent need for innovative legal solutions to better protect and support those migrating due to climate change. She encouraged academia to be a driving force on these innovations by formulating evidence-based policies, gathering data, and presenting informed recommendations to guide decision-makers. Ms. Mejo concluded by highlighting the key role that IOM plays in tackling migration challenges and stressed IOM’s readiness to collaborate with stakeholders to create a more equitable and sustainable future.

7 Key Takeaways

1. **There is a need to have clearer legal definitions on climate migration** to distinguish between the status of migrants and refugees in the context of climate change, given the complexities surrounding their respective legal status and protection mechanisms.
2. **There is a need for a more consistent legal framework on all levels** The legal frameworks that currently exist are incomplete, as there are various texts that apply directly and indirectly to climate change or to climate migrants.
3. **NoLEM has the potential to be a powerful instrument in examining how Africa can foster innovation and engage in "legal engineering" to be part in designing robust legal frameworks**, as West Africa has historically been a pioneer of regional frameworks.
4. **NoLEM should focus on producing impactful research that can influence and inform policy** on the national, regional and global level, according to Prof. Abdou.
5. **Regular exchanges on migration issues and case studies at global and regional levels are essential in developing comprehensive and coordinated solutions to human mobility.** In this context, two exchanges were proposed:
 - a. **Between NoLEM and Georgetown University** to further delve into the discussions on migration and/or forced displacement in the region.
 - b. **Between continents** to examine relevant case law of the Inter-American Court of Human Rights, considering the existing legal precedent vis-à-vis climate migration that West Africa may seek to model.
6. Academic representatives were encouraged to engage actively in policy development, as evidence-based research is essential for establishing effective and efficient policies.
7. Considering the internal and external migration to urban areas, **there is need for more focus at the national and municipal level** to examining the actions and omission of urban authorities to adequately address “the pressure” to urban areas.