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# ***Protection des personnes déplacées: norme cohérente ou pratique fragmentaire ?***

**Commission fédérale pour les questions de migration**

Berne, Switzerland 6 novembre 2014

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## Context – The Protection Crisis

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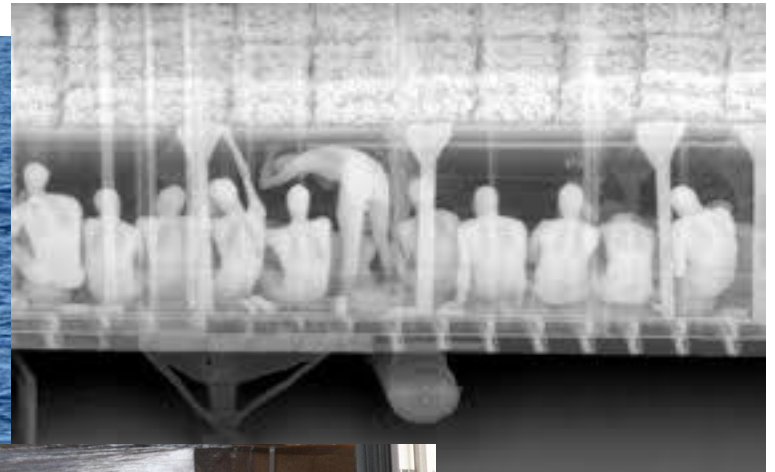
### ***Swiss Federal Commission on Migration (FCM)***

### ***Protecting Forced Migrants : A State of the Art Report of Concepts, Challenges and Ways Forward***

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- The UN SG's «Internal Review Panel on United Nations Action in Sri Lanka» 2012
- IASC 'Whole System Review of the Centrality of Protection in Humanitarian Action' 2014
- IOM Migrants in Crisis Framework (MCOF) 2013->
- UNHCR Dialogues on Protection Challenges
- R2P; Rights Up Front; Local2Global
- World Humanitarian Summit 2016

# A beginning and an end



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# Overview

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**Defining the terms: Forced Migration and Protection  
- the corpus of the study**

**The new geographies of forced migration and  
protection**

**Responses to protection needs and challenges**

**Ways Forward**

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# 1. Defining terms - Forced Migration and Protection

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# 1. Defining terms - Forced Migration and Protection

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## *Forced Migration*

Beyond persecution ...

- **conflict and violence, warlord economies, separatist movements, repression, ethnic cleansing**
- **intra-state conflict, ANSAs**
- **poor governance, political instability human rights abuse**
- **water scarcity, food insecurity, drought, environmental degradation, famine and natural disasters**
  
- **climate change**

# 1. Defining terms - Forced Migration and Protection

**>53 million  
forced migrants**

**≈95%**  
in global south

**>65% IDPs**

**>50%urban**

**14.5 million**

Refugees and  
Asylum Seekers  
forcibly displaced  
due to **conflict** and **violence**

**33.5 million**

**IDPs**  
forcibly displaced  
due to **conflict** and **violence**

**5.1 million**

Palestinian refugees

**? undocumented**

11m in US

1.9-3.8m in EU

400,000 pa transit Mexico to USA

500,000 transit north African to EU

1.0-1.5m Zimbabweans in South Africa



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# 1. Defining terms - Forced Migration and Protection

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## *Forced Migration – conclusions and problematique*

- forced displacement is the «option» of last resort
- multi-causal factors
- mixed migration flows
- scale of undocumented migration
- majority of forcibly displaced people still remain in country or region of origin but increasing mobility
- majority of refugees and IDPs in protracted displacement



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# 1. Defining terms - Forced Migration and Protection

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**The label «forced migration» seeks to capture the complex, wide ranging dynamics which drive population displacement**

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# 1. Defining terms - Forced Migration and Protection

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## *Protection*

- **1951 'Refugee Convention and 1967 Geneva Protocol**
- **Regional Conventions**
- **1998 Guiding Principles on Internal Displacement**

**1951 Convention definition decreasingly fits the complex, multi-causal drivers of displacement**

**1998 GPs non-binding, soft law**

- **«protection gaps» and diminishing «protection space»**
- **protection transcends legal and normative frameworks and concepts**

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## 2. The new «geographies» of Forced Migration and Protection

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## 2. The new «geographies» of Forced Migration and Protection

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### distinctive «geographies»/«spatialities» of mobility and protection needs

- internal displacement in conflict affected countries
- displacement and circular mobility in region
- from camps to cities
- «stranded migrants in crisis»
- the «forced migration continuum»
- slow onset displacement - climate change and environmental stress

### 3. Responses to protections needs and challenges



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## 3. Responses to protections needs and challenges

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### Remaking Protection - Normative and legal developments

- «subsidiary protection»
- «Temporary Protection Status» (TPS)
- EU - resettlement, protected entry, and humanitarian admissions
- OHCHR protection of «rights at borders»
- 2009 «Kampala Convention»
- Responsibility to Protect (R2P)

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## 3. Responses to protections needs and challenges

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### Remaking Protection – Policy/praxis developments

- emergency humanitarian evacuation
- self-protection
- Global Protection Cluster
- urban area policies UNHCR 2009, IASC 2010
- «stranded migrants» in crisis situations IOM/UNHCR
- EC Regional Development and Protection Programmes

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## 3. Responses to protections needs and challenges

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### Europe

*Global Approach to Migration and Mobility (GAMM)*

*Mobility [Migration (Switzerland)] Partnerships*

*Common European Asylum System (CEAS)*

- **ambiguous protection agenda before/at/within EU's borders**
- **tension between the internal and external political interests**
- **non-entrée regime**
- **divergent standards and procedures**
- **shrinking protection space**



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## 3. Responses to protections needs and challenges

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### Remaking Protection – Policy/praxis developments Europe

- fighting human trafficking and combating xenophobia
- Switzerland Whole-of-Government approach
- UK - Independent Chief Inspector of Borders and Immigration
- Norway - non-judicial appeals system
- Programmes of voluntary assisted returns
- Temporary Protection (TP)
- Limited resettlement, protected entry, and humanitarian admissions

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## 3. Responses to protection needs and challenges

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### The Fragmented Landscape of Protection

- From protection norms to protection management the «managerial turn»
- Conceptual diversity and uncertainty
- Structural ambiguity of protection
- The fragmented praxis and institutional delivery of protection
- The politicisation of protection

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# 4. Conclusions and Ways Forward

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## 4. Conclusions and Ways Forward

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**1. Definitions and Principles**

**2. Structural considerations**

**3. Enhancing the policies and praxis of protection**

**4. Climate change and environmental stress**

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## 4. Conclusions and Ways Forward

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### *Headline findings and recommendations*

- enhance quality and scope of protection for forced migrants in region and in transit countries
- promote development-led responses to forced migration
- expand support for self protection
- substantially expand refugee resettlement
- expand humanitarian protection in «global north»
- substantially expand capacity for orderly migration and mobility
- norms of protection must transcend national/political interests
- enhance recognition of phenomenon of «forced migration»  
eg Guiding Principles on FM

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## 4. Conclusions and Ways Forward

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### *Headline findings and recommendations - Europe*

- **reconceive Europe's protection system that is not subsumed in a non-entrée regime, extra-territorial processing and border management strategy**
- **tackle divergence in procedures and standards of protection in CEAS**
- **expand Temporary and Humanitarian Protection**
- **reduction in use of detention and deportation**

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## 4. Conclusions and Ways Forward


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### *Headline findings and recommendations*

- **Climate change/environmental stress**
  - **advocacy for 1998 Guiding Principles, 2009 «Kampala Convention», Nansen Initiative**
  - **prioritise and mainstream protection policies and norms in impacted countries**
  - **develop expertise in human rights protection and environmental law in impacted countries**



*Thank you*

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