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Disaster-Related Displacement from the Horn of Africa

Analysis of policy and law in the Horn of Africa, Kenya and the Middle East and North Africa region, focusing on Somalis and Ethiopians displaced to Kenya, Egypt and Yemen.

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Abbreviations and acronyms

AU	*African Union*
DRC	*Danish Refugee Council*
EPRDF	*Ethiopian People's Revolutionary Democratic Front*
IDP	*Internally Displaced Person*
IOM	*International Organization for Migration*
MENA	*Middle East and North Africa*
NRC	*Norwegian Refugee Council*
OLF	*Oromo Liberation Front*
ONLF	*Ogaden National Liberation Front*
RMMS	*Regional Mixed Migration Secretariat*
UNFCCC	*UN Framework Convention on Climate Change*
UNHCR	*United Nations High Commissioner for Refugees*

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Executive summary

Climate change, conflicts, poverty and other factors are influencing the global picture of disasters and displacement. For those displaced to another country in the context of climate change and disasters, humanitarian and international law experts have identified a normative protection gap. The Nansen Initiative aims at obtaining a better understanding of such cross-border movements at relevant regional and sub-regional levels, identifying best practices and developing consensus on how best to assist and protect the affected people. This work comes at a crucial time, given the 2013 commitment of the UN High Level Dialogue on International Migration to collecting and advancing existing principles and practices in an organized operational framework for providing protection and assistance to migrants in crises, including in conflict and disaster situations.

This report explores the policy and legal options in cross-border, disaster-related displacement, including both *formal* laws and policies and *effective* socio-legal issues, in the Horn of Africa, Kenya and the MENA-region (Middle East and North Africa) with a particular focus on displaced Somalis and Ethiopians. It explores protection from displacement, protection during displacement and durable solutions to displacement.

The report includes three case studies from Kenya, Egypt and Yemen. In 2011, a major drought developed into famine in the Horn of Africa and large numbers – in particular Somalis and Ethiopians – fled in search of assistance. The majority went to Kenya or Yemen. Some travelled further to countries such as Egypt. The following main findings and recommendations emerge from the case studies:

Perceived linkages between drought and displacement: interviewed Somalis and Ethiopians displaced to Kenya, Egypt and Yemen noted that their cross-border movement was influenced by natural hazards such as drought. The climatic and environmental factors also interacted with other social and political factors.

Preventing displacement: In order to prevent displacement, livelihood interventions are necessary as well as addressing the complex conflicts and political situations.

Legal frameworks and tools: emphasis on refugee law when displaced people come from fragile states. In part because areas of origin in the Horn of Africa are often fragile states with conflict situations, international refugee and other humanitarian frameworks are invoked to assist people displaced in relation to droughts. The formal refugee or other legal status question may be a concern and local circumstances vary; however, the refugee status was applied to Somalis in Kenya and Yemen and is arguably legitimate when disasters and displacement are understood and conceptualized as multi-causal and a threat to (human) security. In some cases people, such as the Somalis in Egypt and Ethiopians in Yemen, still risk falling outside of existing protection instruments.

Needs, gaps, and opportunities: the field research revealed social and economic obstacles in accessing and succeeding with the asylum process, including a lack of knowledge, resources and adequate vocabulary to present their case. Active legal aid and outreach is necessary. Islamic norms may provide protection in some disaster situations that are not covered by the international refugee treaties. While displaced, people were mainly concerned about the limited rights to work and the lack of livelihood options.

Other regular concerns during displacement included shelter, food security, education, access to health care, security – including security against gender-based violence – and durable solutions such as resettlement.

Bilateral solutions guided by principles of good neighbourhood and humanitarianism might be a way forward in cases that fall outside current refugee law.

Exploring labour migration channels and potentially expanding these in the wider region might also be a way forward. A major gap is when people do not originate from areas with conflict. If refugee status cannot be applied (for example if the area of origin is not conflict-affected, or persecution is not recognized), displaced people may have less recourse to aid. Further, many of the people interviewed stressed the need for livelihood support – above and beyond basic survival assistance. Livelihood approaches are not fully integrated into current frameworks to assist and protect people displaced in the context of natural hazards including drought.

Contextual factors also need to be addressed, including material conditions, aligning public opinion and political mobilization. New formal legislation and policies alone will face implementation challenges if an enabling environment and public support are not also in place to affect change.

To fill the current gaps, the study calls for addressing the challenges identified on the ground by the Nansen Initiative. The Nansen Initiative, with regional consultations, can provide inclusive spaces for discussions on both local and regional, taking into consideration legal, policy and contextual factors.

This study argues that many actors would have much to gain from a different conceptualization of disasters beyond "natural", paying more attention to socio-legal studies and local situations that call for local as well as regional and global solutions.

Disaster-Related Displacement from the Horn of Africa

Section 1: Introduction

Climate change, population growth and density, urbanization, conflicts, poverty and other factors are influencing the global picture of disasters and human mobility (Foresight, 2011; IPCC, 2012).

Over the five years from 2008 to 2012, around 144 million people were forced from their homes by sudden-onset disasters (IDMC, 2013). In 2012 alone, an estimated 32.4 million people were displaced (ibid.). The vast majority of these displacements (98 per cent in 2012; 83 per cent over five years) were triggered by weather-related hazards such as floods, storms and wildfires (ibid.). In addition, hundreds of thousands of people were forced to move in the context of slow-onset disasters, such as droughts. Recently, a major drought developed into famine again in the Horn of Africa. Throughout 2011 and 2012, large numbers fled, in particular Somalis and Ethiopians, in search of assistance and protection. The majority went to Kenya or Yemen; some travelled to more-distant countries, such as Egypt.

For those displaced to another country in the context of climate change and disasters, humanitarian and international law experts have identified a normative protection gap (IASC, 2008). In particular, some experts note that many people who are displaced across borders are not considered refugees according to law and are thus left without much protection. Prominent among the initiatives to address this normative gap is the Nansen Initiative, a state-driven, multi-stakeholder process. The Nansen Initiative aims at obtaining a better understanding of such cross-border movements at relevant regional and sub-regional levels, identifying best practices and developing consensus on how to best assist and protect the affected people. The outcomes of the Nansen (sub-)regional consultations will be made available in a global consultative meeting planned for 2015, where state representatives and experts will discuss the envisaged protection agenda for cross-border displacement (Nansen Initiative, 2013).

The Horn of Africa is one of the focus regions, and consultations are scheduled for the first half of 2014. This study aims to offer an understanding of displacement patterns and trends from the Horn of Africa and what kind of existing policy and legal options are available. Furthermore, this socio-legal study does not limit itself to formal laws and legislation but explores implementation and effects on the ground.

There have been some studies exploring environmental change and human mobility in East Africa and the Horn of Africa. Morrissey (2008) explored how environmental change can be one of several factors contributing to rural-urban migration within Ethiopia. Kolmannskog (2010) explored experiences of internal as well as cross-border disaster-related displacement, and the responses from governments, the UN and other actors in Somalia, Kenya and Burundi. Zetter (2011) explored the capacity of legal and normative frameworks in selected countries, including Kenya, with regards to environmental change and human mobility. Afifi and others (2012) interviewed displaced people in Uganda and Ethiopia and explored how environmental factors influenced their decision to move.

There have also been several studies focused on Yemen. Human Rights Watch (2009) identified human rights violations and risks for Somalis and Ethiopians travelling to, and living in, Yemen. Soucy (2011) analysed the protection challenges and gaps for Somalis and Ethiopians according to areas of origin, during transit and upon arrival in Yemen. DRC and RMMS (2012) described the profiles of the different groups of Ethiopians moving to Yemen, their motivation, employment opportunities and plans as well as the risk and protection challenges they face in Yemen and potential sources of assistance and support. This report draws upon and adds to this growing research base.

The following report explores the policy and legal options in cross-border disaster-related displacement, including both formal laws and policies and effective socio-legal issues, in the Horn of Africa, Kenya and the MENA-region with a particular focus on displaced Somalis and Ethiopians. It also explores protection from displacement, protection during displacement, and durable solutions to displacement. The primary motivation is the need to explore the experiences of those directly affected, as well as responses by governments, international organizations and other actors and practitioners on the ground, in order to enhance the effective rights of those displaced. Two of the case studies in this report focus on Somalis displaced to Kenya and Egypt[1]. The Yemen case study explores the situation of Somalis and Ethiopians in Yemen. The case studies allow for comparison and contrast among the different contexts.

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1 A previous draft has been published as a working paper (Kolmannskog, 2012).

Disaster-Related Displacement from the Horn of Africa
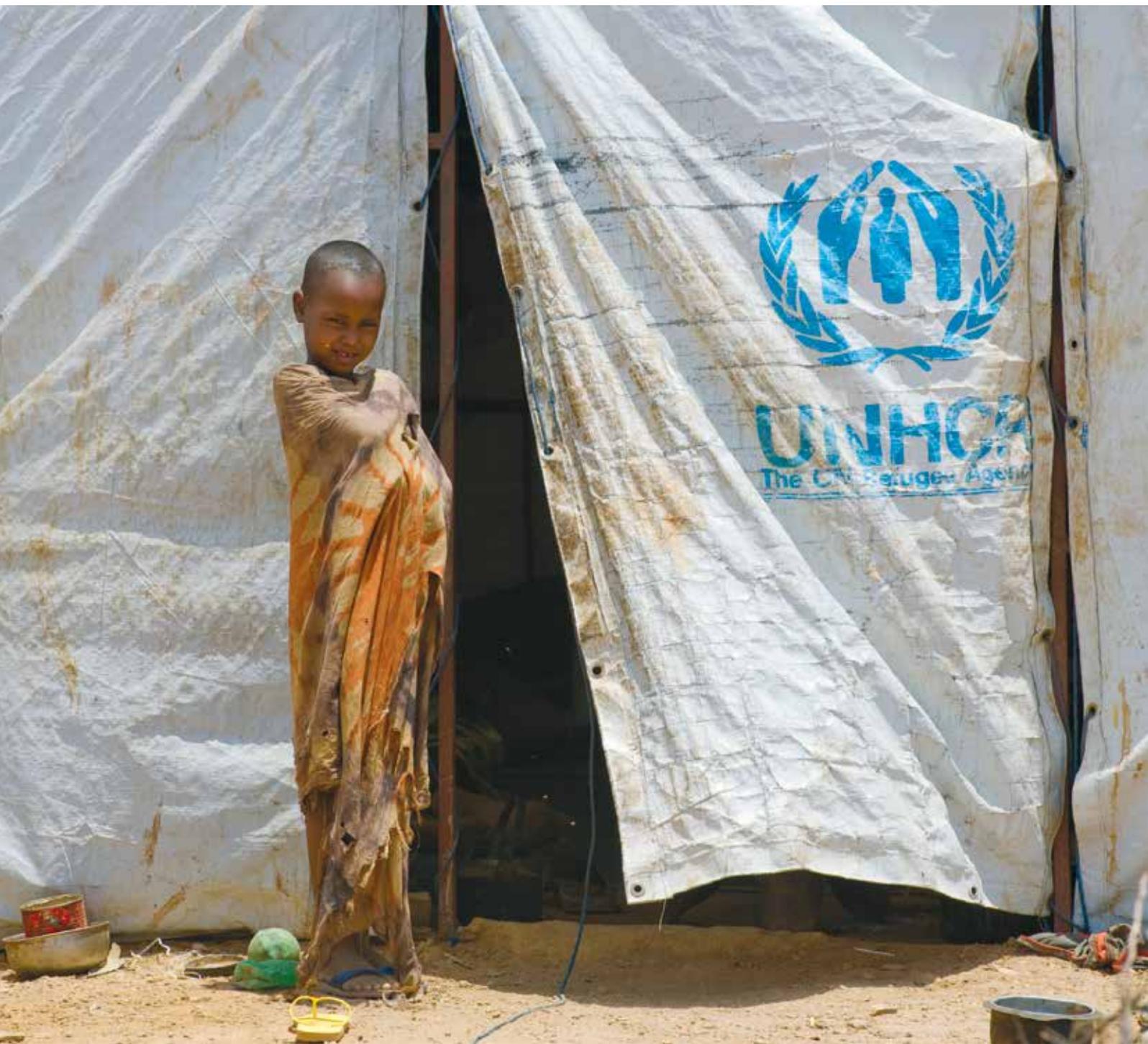
Section 2:
Research questions and methodology

The main research question is, to what extent – and how – do existing policy and legal instruments in Kenya and the MENA-region, in particular Egypt and Yemen, provide protection to people displaced from the Horn of Africa in the context of natural hazard-related disasters?

The main research questions are:

1. To what extent are Somalis and Ethiopians displaced to Kenya and the MENA-region, in particular Egypt and Yemen, influenced in their cross-border movement by natural hazard-related disasters?

2. What are the formal policy and legal instruments (international and regional treaties and agreements, domestic laws and policies, etc.) that may provide entry, status, rights and protection to persons displaced across state borders in the context of natural hazard-related disasters in general, and to Somalis and Ethiopians in particular?

3. What are the effective (in practice) statuses, rights, challenges and opportunities of Somalis and Ethiopians displaced in the context of drought and/or other natural hazard-related disasters to Kenya, Egypt and Yemen?

4. What are the current protection gaps and how can these be addressed in the three host countries?

The report is based on a mixed-methods approach. The main methods used are:

1. Desk review of existing literature, laws and policies available in English or Arabic.

2. Interviews with government officials, national and international organizations' representatives and others working on issues closely related to the research topic in the host countries.

3. Focus Group Discussions (FGDs) and individual semi-structured interviews with displaced people in the host countries.

The desk review was mainly carried out between March and April 2013. For information on time and location visited as well as number of interviewees, please consult the separate case studies. In general, NRC played a major role in helping identify and facilitate interviews. Snow-ball sampling was also used. The main criteria for selecting interviewees and FGD participants among the displaced was if drought or another natural hazard played a role in their displacement (self-identified). The researchers aimed for diversity in terms of sex, age, profession, regular and irregular migrants as well as refugees in refugee camps, rural and urban areas. Interviews and discussions were semi-structured and focused on all the phases of displacement. The interviews and FGDs are meant to give a broader understanding of both the conceptual sources of protection as well as perceived protection.

Section 3:
Research limitations

The research must be read and considered in the context of several limitations. These relate in particular to time, funding, security, access and reactivity.

The field research periods were relatively short, since some field trips were limited in geographic reach due to security reasons. The security situation in Yemen, Kenya and Egypt further meant that there were limitations on places that could be visited, access to people, as well as how much participatory observation was possible. Importantly, no interviews were carried out in the sending countries (Somalia and Ethiopia), which would have been an additional asset for the research.

While the researchers managed to meet with some irregular migrants in Yemen, access to this group was very difficult compared to recognized refugees who were based in specific settlements and possibly less suspicious of strangers and less resistant to telling their stories.

Reactivity refers to the active presence of the researcher, which may influence the behaviour and responses of the informants and thereby compromise the research findings (Jacobsen and Landau, 2003). It occurs in all field research, but when informants are marginalized or in a dependent position, methodological problems may become ethical ones. NGO participation in the selection of interviewees and interpretation of responses may have benefits and downsides (see Jacobsen and Landau, 2003). While it was clarified that NRC (or another NGO) were to merely facilitate the research and that the main purpose of the meetings was the research itself, being associated with the NGO was unavoidable. Some interviewees may have stressed certain aspects of their stories, such as the political dimensions, thinking that it might strengthen their possibility of getting formal refugee status, specific assistance or even resettlement.

Section 4:
Definitions and conceptual background

A disaster can be defined as "[a] serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources" (UNISDR, 2009). There is a widespread recognition that so-called "natural disasters" are not entirely "natural." First, there is growing agreement that there is a human factor in creating climate change, which in turn influences certain natural hazards (IPCC, 2012). Second, there are human factors involved in all disasters – including those not related to climate change – as the degree of disaster depends on vulnerability and the (lack of) action from governments and others before, during and after a natural hazard (UNISDR, 2009). Contextual vulnerability is considered to be influenced "not only by changing biophysical conditions, but by dynamic social, economic, political, institutional and technological structures and processes; i.e. contextual conditions" (O'Brien and others, 2007, p. 76). Morrissey (2008) states that factors related to social structures regulating the accessibility to natural resources are important in mediating human mobility (see also Oliver-Smith, 2009; Piguet, 2010; Warner, 2010) . This points to the complexity of the matter and why it is unsound to speak of "natural" disasters (Kolmannskog, 2013).

Most human mobility experts – including those focusing on climate change and natural hazard-related disasters – emphasize that drivers interact and that human mobility is multi-causal (Jäger and others, 2009; Foresight, 2011; Warner and Afifi, 2013; Afifi and Jäger, 2010; Martin and Warner, 2012; UNEP, 2011). In the context of these disasters, who leaves, who returns, and when they return depends not only on the environmental factors but also on the social, economic, political and demographic circumstances. The concepts of multi-causality in movement and contextual vulnerability in disasters are closely related (Kolmannskog, 2013).

Some natural hazard-related disasters are more clearly linked to the climate and climate change than others. Yet, all natural hazards may result in disasters and the effects on people are similar. Since displacement in the context of natural hazard-related disasters is assumed to have similar characteristics and those affected to have similar needs, it is conceptually more accurate to speak of all natural hazard-related disasters rather than separating out those related to climate or climate change, when it comes to protection and assistance (Kälin, 2010; Kolmannskog, 2013). In the following, when referring to "disasters" all natural hazard-related disasters are meant to be included.

Disasters have different effects on human mobility, with some people voluntarily migrating or being forcibly displaced, others trapped and forced to remain and yet others choosing to remain (Foresight, 2011; Warner and Afifi, 2013). This report focuses on displacement rather than voluntary migration and planned relocation. For a better understanding of the three concepts see Warner and others (2013). It could be argued that there is always a choice when it comes to responding to circumstances, and conceptualizing force as a continuum may be most appropriate. This is common in studies of human mobility in general and human mobility influenced by environmental change in particular (Hugo, 1996; Suhrke, 1994 and Bates, 2002 cited in Foresight, 2011; Warner and others, 2009a).

While movement during sudden-onset disasters such as storms and floods is more easily conceptualized as displacement, slow-onset disasters such as drought pose particular challenges. At what stage in the gradual process of a drought does a small-scale farmer's move become forced rather than voluntary? At what stage is a pastoralist no longer moving out of free will but displaced?

In contrast to the social science preference for continuum, legal and policy considerations require a clearer division and definitions of categories. Legal regulation will always be an extreme and contingent reduction of the complexity of the relevant social field. Law is binary, and it seems necessary to define criteria relevant for distinguishing between displaced/not displaced. A human-rights-based approach has been suggested for both sudden- and slow-onset disasters (Kolmannskog, 2008; Kälin and Schrepfer, 2012; Kolmannskog, 2013). The focus would not be so much on why someone left initially but rather whether the disaster reached a critical point where forced return of the person would be unreasonable and might even be in violation of the ban on inhumane treatment. This report explores the perception regarding displacement, both from the perspective of affected people themselves as well as the perspective of others, including staff members of NGOs, international agencies and governments.

The majority of displaced people remain within their own country. They should be protected in accordance with the 1998 Guiding Principles on Internal Displacement and related domestic and regional instruments such as the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, also known as the Kampala Convention.

Some people are also displaced across international state borders. It is here that the main normative gap is found, according to many lawyers and humanitarian experts (IASC, 2008). While refugees in popular usage may refer to all displaced people, the legal definition is rather narrow. According to article 1 A of the 1951 Convention relating to the Status of Refugees (as modified by the 1967 Protocol), a refugee is a person who:

"Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country […]"

After assessing the different grounds and other criteria of the 1951 Convention, many conclude that those displaced in the context of natural hazard-related disasters cannot be refugees (Falstrom, 2002) – or at least that the great majority cannot qualify as refugees (IASC, 2008). Later, regional instruments have developed different refugee definitions – for example, the 1969 African Union Convention governing the Specific Aspects of Refugee Problems in Africa includes those fleeing events seriously disturbing public order – but none explicitly recognize natural hazard-related disasters. Closer analysis of these as well as other international, regional and domestic instruments is needed to address displacement in the context of climate change and disasters.

The conceptualization of disasters as involving contextual vulnerability and of displacement as multi-causal may inform a different interpretation and application of refugee law (Kolmannskog, 2013). A socio-legal approach, which is not limited to exploring the law in books but also looks at law in action, may also show that the refugee concept is not entirely irrelevant in the context of climate change and disasters (ibid.). The report revisits this issue in the section on international refugee law and in the case studies.

Disaster-Related Displacement from the Horn of Africa

Section 5:
The Horn of Africa

The Horn of Africa is a region including Eritrea, Djibouti, Ethiopia and Somalia. These countries are inhabited by roughly 103 million people with approximately 87 million in Ethiopia and approximately 9.6 million in Somalia (UNDESA, 2012). All the countries have widespread poverty – it is the poorest region in Africa – and struggle with sudden- and slow-onset disasters as well as political tensions and violent conflict. According to Corendea and others (2012), "[c]limate factors exacerbate the trajectory of social vulnerability in fragile states".

Historically, the Horn of Africa region has suffered from droughts. Although the Intergovernmental Panel on Climate Change (IPCC, 2007) estimates that average rainfall will increase in the East and Horn of Africa, this does not necessarily mean fewer droughts. For example, there may still be long, dry periods with erratic and intense rainfalls. In fact, droughts have become more frequent and intense in recent years.

In mid-2011 the world became witness to a drought and widespread food crisis in the Horn of Africa, which escalated into acute shortages of food, primarily in southern Somalia, northern Kenya, south-eastern Ethiopia and Djibouti. The 2011 drought started when the normal rainfall was late (FSNAU, 2011). Other – often interlinked – factors contributed to causing or aggravating the drought, including population growth, deforestation and land degradation due to inter alia charcoal production and overgrazing, conflict and political instability, soil fertility depletion and low agricultural productivity, and soaring food prices (Terefe, 2012). Hundreds of thousands of people were displaced, many across state borders. This is in line with a more general observation from the United Nations High Commissioner for Refugees (UNHCR),

(Afifi and others, 2012) and the International Organization for Migration, IOM, (IOM 2000 and 2005 in Leighton, 2006) that environmental considerations are increasingly affecting the movement of people in this sub-region. The focus of this report is on displaced Somalis and Ethiopians. In the following sections, the two countries are briefly introduced.

Somalia

Since the collapse of the Mohamed Siad Barre regime in 1991, Somalia has been suffering from violent conflict and political instability. This is particularly the case for South Central Somalia where several actors have been in control or attempting to take control, including transitional governments, governments and troops of neighbouring countries, the African Union (AU), the UN and Islamic groups. Conflict and drought have combined to create severe humanitarian conditions for several decades. Out of a population of less than 10 million more than one million are internally displaced, and another million live as refugees in other countries in the region (NRC, 2013).

In contrast to South Central Somalia, the northern Somaliland – which declared independence in 1991 but remains unrecognized internationally – has maintained a relatively stable and peaceful existence. Puntland in the north-east – which has been self-governing since 1998 without aiming at independence – has also made strides towards peace and democracy.

Recently, there have been important changes for all of Somalia, including South Central Somalia. In September 2012 clan elders appointed members to a new parliament replacing the Transitional Federal Parliament, as part of an agreed transition plan. Since then there have been scattered signs of hope and development in Mogadishu and parts of Somalia, and some people are returning home. Still, large areas remain unsafe and inaccessible for the Government as well as humanitarian and development organizations.

Somalia's climate is mainly semi-arid to arid, with irregular rainfall and moderate temperatures in the north, and high temperatures in the south. Rain has historically come with the north-east monsoon (December to February) and south-west monsoon (May to October). Natural hazards include recurring droughts, frequent dust storms over the eastern plains in summer, and floods during the rainy season. Environmental challenges include the use of contaminated water contributing to human health problems, deforestation, overgrazing, soil erosion and desertification.

Due to the climatic and environmental issues as well as conflict, poverty and other factors, Somalia is considered to be among the countries most vulnerable to climate change and natural hazards (Global Humanitarian Forum, 2009). While most countries in the East and Horn of Africa were badly affected by drought in 2011, the situation was almost beyond imagination in Somalia with famine being declared in several regions (FSNAU and FEWSNET, 2011a). It was the most severe humanitarian crisis in the world in 2011 and Africa's worst food security crisis since Somalia's 1991–92 famine. Throughout 2011 and into 2012 large numbers of destitute agro-pastoralists and others fled the country in search of assistance.

Ethiopia

In 1991, following violent conflicts, widespread drought and displacement, a coalition of rebel forces called the Ethiopian People's Revolutionary Democratic Front (EPRDF), took over power in Ethiopia from the military junta that had been in power since they deposed Emperor Haile Selassie. The EPRDF established a federal system based on ethnicity.

Over the last two decades, the country has reported economic growth and social welfare improvement. Yet, development indicators show that it remains one of the poorest and least

Figure 1: The Horn of Africa.
Source: United Nations.

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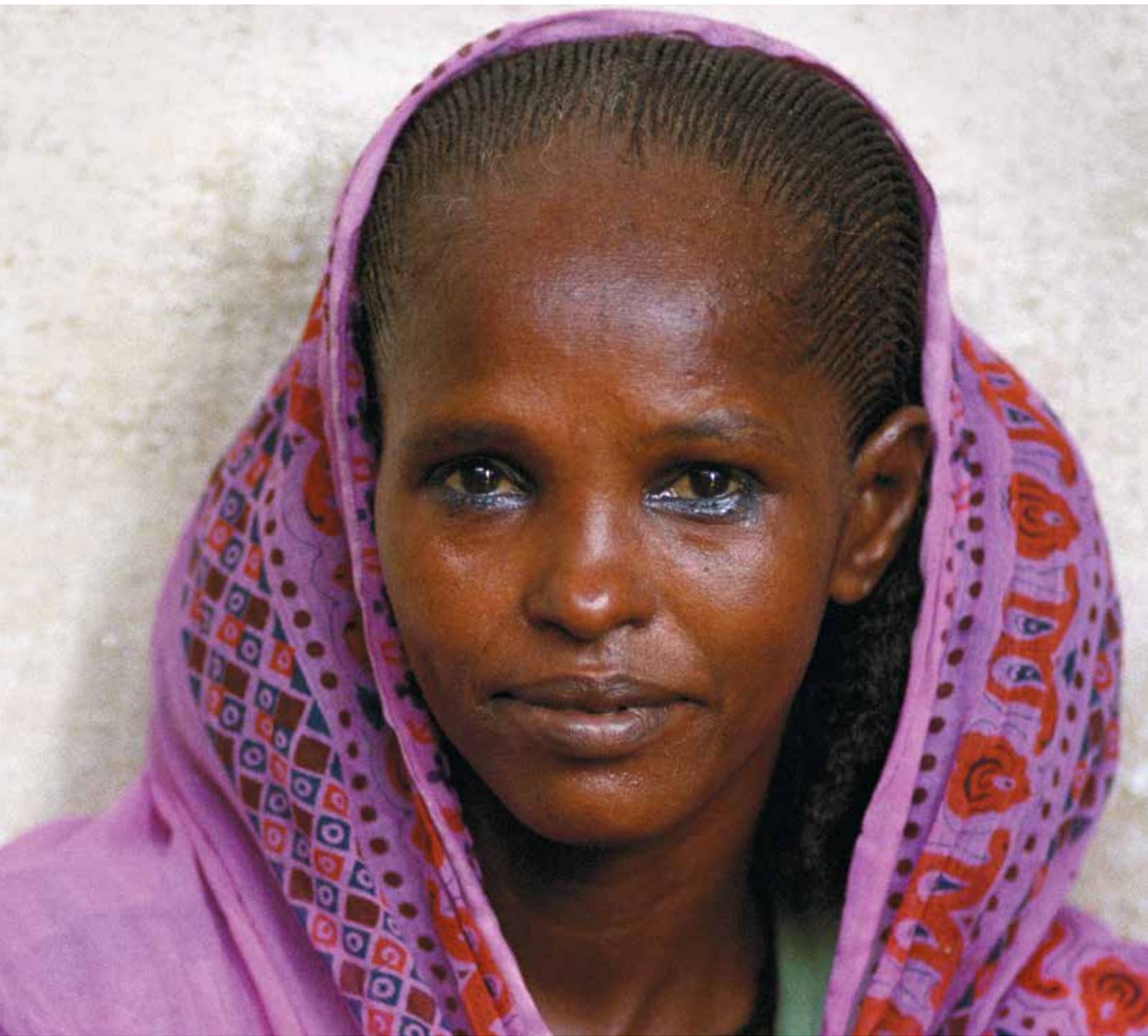
developed countries in the world, with significant challenges including drought, soil degradation, high inflation and population density (RMMS, 2013). As in Somalia, pressing environmental issues include deforestation, overgrazing and desertification. There have been several attempts at allegedly dealing with droughts and increasing people's access to basic services through massive resettlement, with entire villages being moved from one place to another, but the programmes have been largely unsuccessful. Amnesty International (2013) and Human Rights Watch (2013) have reported forced evictions and lack of consultation and compensation. Elsewhere it is clear that the state is moving people to make space for state-run or foreign owned plantations and projects (ibid.). Hammond (2011) argues that the Ethiopian state, since the 1984–85 Great Sahelian Famine until today, has used the management of mobility to reinforce class, ethnic and religious hierarchies.

During the elections in 2005 the ruling party, EPRDF, faced significant challenge from the opposition, and since this time they have become increasingly repressive. Opposition groups such as the Oromo Liberation Front (OLF) and Ogaden National Liberation Front (ONLF) have been labeled as terrorist organizations, and Human Rights Watch (2013) and Amnesty International (2013) have reported arbitrary detentions and torture, restrictions of freedom of expression, association and assembly, forced evictions and relocations and systematic marginalization of certain groups such as the Oromo and Ogadenis.

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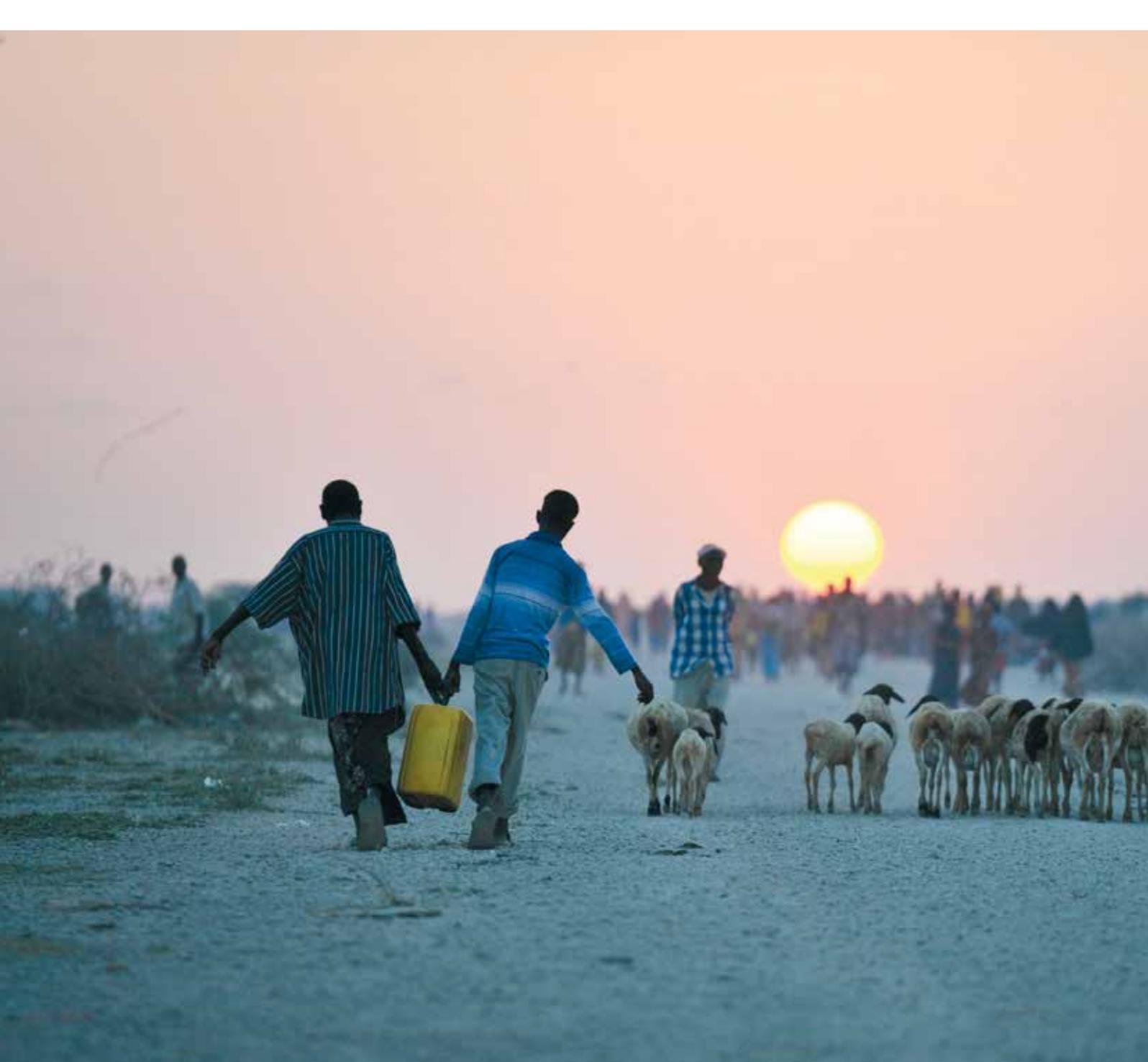
Section 6: Overview of movement patterns

Droughts combined with population growth, lack of sustainable land and water management, international, regional and domestic political conflicts and tensions and other factors have resulted in massive movements across Africa (Keller, 1992; Leighton, 2006).

Human mobility in the East and Horn of Africa has historically been dominated by circular movement, especially among pastoralists (Afifi and others, 2013). There has also been a high level of rural-urban movement in recent years, and the region has both generated and hosted a large number of Internally Displaced Persons (IDPs) and refugees (Bakewell and de Haas, 2007). While most research and policy has been focused on forced displacement rather than voluntary migration (ibid.), much of the movement out of the Horn of Africa can be characterized as mixed migration (RMMS, 2013). This involves different groups of people with different motivations, such as refugees, economic migrants and others travelling with or alongside each other, using the same routes and means of transport (ibid.).

The majority of Somalis and a significant minority in the other Horn countries are still nomadic or semi-nomadic pastoralists. This livelihood and lifestyle is under threat, due to *inter alia* population growth, droughts, conflicts, development intervention failures and marginalization in government and development policies (Ahmed and others, 2002; Bakewell and de Haas, 2007). Colonialism with new borders and stricter border control has also had an important impact.

Cross-border movement is particularly restricted when tensions arise between countries such as Ethiopia and Eritrea or Somalia and Kenya. In fact, restriction of their movement is one of the main reasons for the increased vulnerability of pastoralists (ibid.; Nori and others, 2008). Increasingly, people are being displaced, in particular to urban areas or refugee camps where there is assistance, or they settle down elsewhere.

Schrepfer and Caterina (2014) operate with three typologies of pastoralist movement: traditional nomadism, adaptive migration and displacement. They claim that displacement, particularly across borders, will in some cases be a secondary movement, and that a typical feature related to the forced nature of pastoralists' displacement is the disruption of rangeland management systems, with communities' mutual support and assistance structures collapsing. Nori and others (2008) also believe a distinction can be made between regular movement and emergency movement due to, for example, conflict or drought.

Some experts believe pastoralists are particularly well equipped to deal with a harsh environment and a changing climate due to their seasonal movement in accordance with variation in grazing resources, while others believe they will be the first to suffer from climate change. It is widely agreed that to date historical marginalization more than climate change has been the main cause cause of their increased vulnerability (ibid.).

In terms of numbers, the main place of origin for cross-border movement is Somalia (South Central). The main reasons for leaving Somalia, and in particular South Central Somalia, include extreme poverty, generalized violence and serious human rights violations, personal persecutory threats as a result of political affiliation, clan membership, sex, and armed conflicts preventing people from accessing basic needs such as food, medical services, healthcare and livelihoods (RMMS, 2013). Several analyses, including by UNHCR, show that drought, lack of livelihood opportunities and lack of humanitarian assistance were major reasons

for migration in 2011 (Kolmannskog, 2012; RMMS, 2013). With the recent changes in Somalia, and possibly also due to harsher conditions in some hosting countries such as Kenya, thousands of Somalis have now returned home (ibid.).

People leaving Ethiopia irregularly are typically pastoralists and farmers with little or no formal education (RMMS, 2013). The majority arriving in Yemen report lack of livelihood opportunities as reasons for leaving. There are also a high proportion of ethnic Oromos and Ogadenis claiming actual or feared political oppression or persecution. Furthermore, the International Labour Organization (ILO) (2011) suggests that there is a strong culture of migration in Ethiopia where children are expected to go abroad and provide remittances to assist the family back home.

Ethiopia also hosts a large number of refugees, mainly Somalis. The numbers increased drastically in 2011 and, in the first half of 2012, 1200 people were arriving every week, the majority being women and children (UNCHR Ethiopia, 2013). Three new refugee camps were opened in the Dollo Ado area in 2011. There are also many Eritreans arriving, many of whom are unaccompanied minors (ibid.). The majority of refugee camps are located in environmentally fragile areas, they often have a negative impact on the environment, and competition and conflict for scarce resources is common between refugees and locals (ibid.).

Movement trends and routes are dynamic and fast changing, continuously affected by a range of factors such as competing smuggling networks, government policy and border controls. Currently, there appear to be four main routes and areas of destination (RMMS, 2013). First, the majority of Somalis travel south to Kenya, and some move onwards to South Africa. A second route goes north-west to Libya and eventually Europe. The civil war in Libya severely disrupted movement through its territory for some months in 2011 and 2012, but people smuggling has now resumed. A third group goes north to Egypt and/or Israel, many in an attempt to move onwards to Europe.
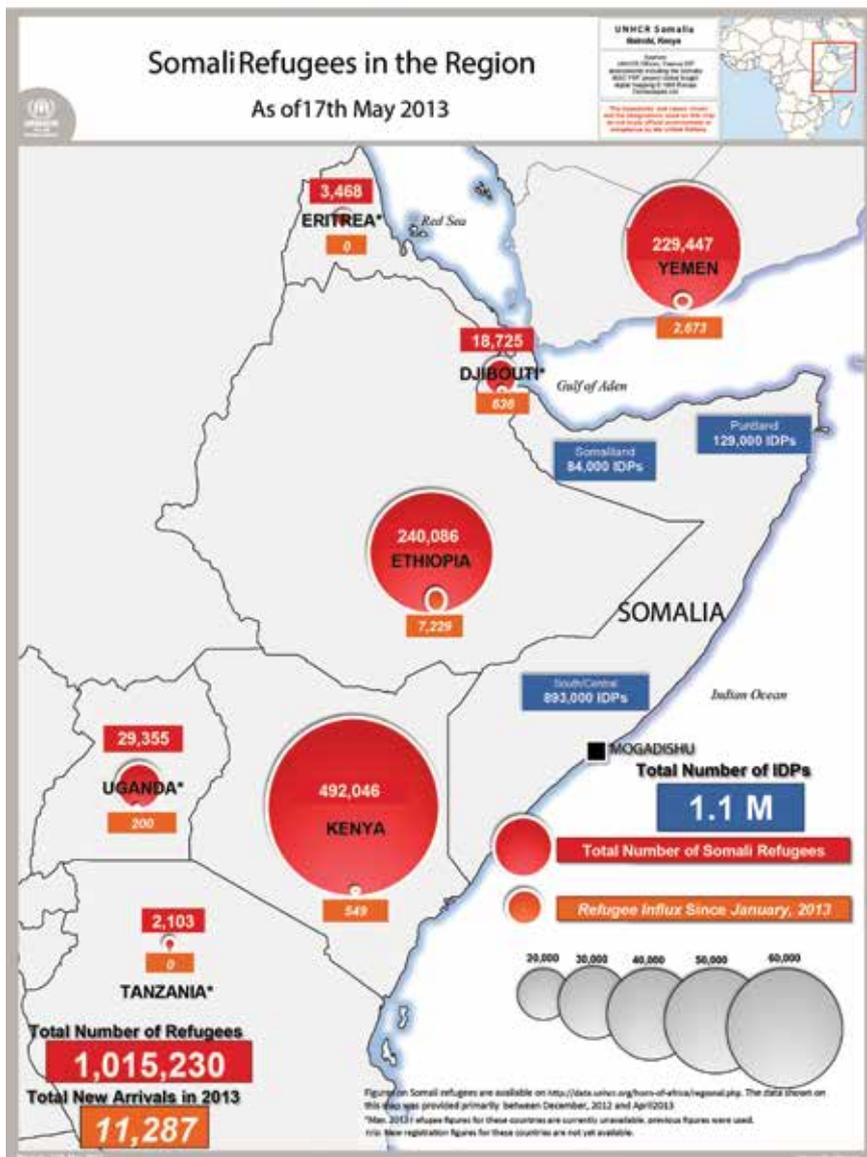
Figure 2: Somali Refugees in the Region as of 17th May 2013.
Source: UNHCR.

Recently, however, there has been a sudden drop in numbers using this route, due to stricter policy and legislative measures in Israel.

The majority of Ethiopians, as well as many others, take a fourth route, going east and crossing the Gulf of Aden to Yemen where some remain and others move onwards to the Gulf states. Ever since the discovery of oil the Gulf states have been an important destination, and the rapid economic development in these states has been sustained by a heavy reliance on migrant labour. Researchers have highlighted the oil economies' labour demand as well as conflict and economy at place of origin as main reasons for the movement (Thiollet, 2011). According to some studies, almost 90 per cent of the population in Qatar is foreign born, while this figure is around 70 per cent for the United Arab Emirates (UAE) and Kuwait (Foresight, 2011). Recently, however, there has been a drop in migrant numbers due to stricter policy and legislative measures, in particular in Saudi Arabia.

Djibouti is a major transit country for people, primarily Ethiopians and secondarily Somalis, en route to Yemen's Red Sea Coast (RMMS, 2013). The country also hosts around 30,000 people, mostly Somali refugees at the Ali Addeh camp and in urban areas. Many Somalis register as asylum seekers or refugees and then remain in the camp long enough to receive some international assistance before moving on to Yemen or other areas, trading supplies they have obtained as part payment to smugglers (ibid.). Many Somalis and Ethiopians also transit through Somaliland on the way to Djibouti or Puntland, and onwards to Yemen. Somaliland is also a transit country for journeys along the northern and north-western routes. Additionally, tens of thousands of Ethiopians live and work in Somaliland, mainly Hargeisa, where they are regularly exposed to abuse and violence, including from the Government (ibid.).

Most movement is facilitated by smugglers (ibid.). While smuggling must be distinguished from coercive and exploitative trafficking, the distinction is often blurred in practice (ibid.). Many people on the move in the region experience dehydration from heat and lack of water, starvation, physical abuse, rape and sexual violence for women and girls in particular, road accidents in overfilled open trucks, drowning in overfilled boats, murder, robbery, kidnapping and extortions, with the smugglers themselves being the most common perpetrators of the abuse (ibid.).

Disaster-Related Displacement from the Horn of Africa

Section 7:
Overview of policy, legal instruments and processes

International environmental law

All the countries in the Horn of Africa as well as Kenya and most MENA-countries, including Yemen and Egypt, are parties to the 1992 UN Framework Convention on Climate Change (UNFCCC, 2013). By aiming to avoid dangerous climate change, this framework convention as well as agreements developed under it, can be crucial for the prevention of disasters and displacement.

Additionally, today there is explicit reference to displacement in one of these agreements, which may facilitate protection not only from but also during displacement: paragraph 14(f) of the 2010 Cancun Agreements invites parties to enhance adaptation by undertaking "[m]easures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at the national, regional and international levels" (UNFCCC, 2011; Warner, 2012). The article was an important first step towards including this category of people and served as a basis for the Nansen Initiative. The 2010 Cancun Agreements also established the National Adaptation Plan (NAP) process, which enables parties to formulate and implement NAPs as a means of identifying medium- and long-term adaptation needs and developing and implementing strategies and programmes to address those needs.

In these NAPs, displacement could feature as it has in National Adaptation Programmes of Action (NAPAs).

Human mobility has also been noted in loss and damage discussions (such as the Doha Climate Gateway Decision paragraph 7a (iv)). Mobility associated with loss and damage involves concerns about equity, economic and non-economic impacts such as erosion of culture, identity and livelihoods, and questions about human welfare now and in the future. The larger questions often circle around whether current population distribution – such as in large coastal megacities, with people relying on agricultural livelihoods in rural areas – will shift notably as climate change impacts unfold. These issues will be taken up by the Warsaw International Mechanism on loss and damage.

Limitations to climate agreements include their predominant focus on climate change and climate-related events and processes, thus excluding many natural hazard-related disasters and related displacement, the lack of recognition of individual or community rights and the poor implementation record of climate agreements in general (Kolmannskog and Trebbi, 2010).

A process which focuses on disasters more broadly is the Hyogo Framework for Action (HFA). This framework was developed by a wide range of actors, including governments, organizations and experts, and outlines priorities for action, offering guiding principles and practical means for achieving disaster resilience.

Another instrument in international environmental law is the 1994 Convention to Combat Desertification. It contains relevant provisions regarding displacement such as, for example, article 10.3 (a) including "mechanisms for assisting environmentally displaced persons" as part of national action programmes to prepare for and mitigate the effects of drought. Most countries in Africa and the Middle East are parties to the convention (UNCCD, 2013).

Finally, it is also worth mentioning that article 24 of the 1981 African Charter on Human and Peoples' Rights includes a "right to a general satisfactory environment".

International refugee law

The instruments that are most directly relevant to protection of cross-border displaced people's rights are found in international human rights and refugee law. According to article 14 of the 1948 Universal Declaration of Human Rights, everyone has a right to seek asylum. Arguably, this has become customary international law. The right to seek asylum on the basis of persecution is also provided for in article 12 of the 1981 African Charter on Human and Peoples' Rights, article 12 of the 1990 Cairo Declaration on Human Rights in Islam as well as article 28 of the 2004 Arab Charter on Human Rights.

Moreover, human rights law contains provisions such as the ban against torture, and inhuman and degrading treatment, which involves protection against being sent back to an area where there is a risk of such treatment. Finally, human rights apply to all people regardless of their status in the country; a minimum of rights protection is thereby ensured by this body of law.

The main refugee law instruments are the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as the 1969 AU Convention Governing Specific Aspects of Refugee Problems in Africa. As already mentioned, the 1951 Convention requires an element of persecution while the 1969 AU Convention has a broader refugee definition including *inter alia* those fleeing events seriously disturbing public order. Refugee status determination is carried out by an authority designated by the hosting government, UNHCR or a combination.

A dynamic and contextual interpretation of persecution, including an appreciation of contextual vulnerability in disasters and multi-causality of movement, can lead to protection for some people fleeing in the context of disasters (see for example Kolmannskog, 2013). The term "events seriously disturbing public order" in the AU Convention is also interesting. In general, states have interpreted it to cover situations of generalized violence and not natural hazard-related disasters (Rankin, 2005), but it is not obvious that disasters could not also be covered. While Rankin concludes that they should be excluded partly because they are not man-made and controlled, our conceptualization (involving contextual vulnerability and multi-causality) could imply a different interpretation and conclusion.

Sometimes a certain group of people are considered prima facie refugees. This is generally at the discretion of the state. This may occur during mass movements of people due to, for example conflicts or generalized violence. In such circumstances there is often not a capacity to conduct individual asylum interviews for everyone who has crossed the border. Sometimes prima facie is also applied to a certain group even when the numbers are small because the reasons why the great majority of them flee are evidently in accordance with refugee law.

In countries where there are no refugee conventions in force, people may still receive refugee protection. A "mandate refugee" is a person who meets the criteria of the 1950 UNHCR Statute and qualifies for the protection of the United Nations provided by the High Commissioner for Refugees. The UNHCR Statute was adopted on 14 December 1950 by the UN General Assembly as an annex to resolution 428 (V) which called upon governments to cooperate with the High Commissioner in the performance of his or her functions concerning refugees falling under the competence of the Office. The Statute defines refugees more or less in similar terms as the 1951 Convention and 1967 Protocol.

The refugee conventions provide for a series of rights. In addition, the principle of *non-refoulement* is considered a rule of international customary law, binding even those states that are not party to the conventions. It involves a ban on forcibly returning a refugee to a place where they face a threat to life or freedom due to any of the refugee grounds. This is slightly different from the human rights-based ban – mentioned above – on return to situations where certain human rights are in danger.

Refugee law and practice as applied in the Horn of Africa

All countries in the Horn of Africa apart from Eritrea, and most of the major African destination and transit countries for people from the Horn of Africa are parties to the 1951 Convention and its 1967 Protocol (UN, 2013). In addition, almost all African states have signed and ratified the 1969 AU Convention (ACHPR, 2013). Eritrea is among the five that has neither signed nor ratified. Djibouti, Somalia, Madagascar and Mauritius have signed but not yet ratified. Article 18 of the 1969 Vienna Convention on the Law of Treaties provides that a state, upon signing a treaty, "is obliged to refrain from acts which would defeat the object and purpose" of the treaty. Finally, in countries such as Eritrea, where there are no refugee conventions in force, people may still receive protection as "mandate refugees".

All countries in the Horn of Africa, including Eritrea, as well as important destination and transit countries nearby such as Kenya, grant Somalis from South Central Somalia prima facie refugee status (UNHCR East and Horn of Africa, 2013; RMMS Ethiopia, 2013; RMMS, 2013). In most of the countries, UNHCR coordinates protection and delivery of services to refugees in close collaboration with the respective governments. Kenya, Ethiopia and Eritrea have encampment policies for the Somali refugees, and do not allow for local integration (UNHCR East and Horn of Africa, 2013; UNHCR Ethiopia, 2013). For people displaced from places other than South Central Somalia, most countries in the Horn of Africa employ individual refugee status determination.

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Another feature that is particular to the region relates to Somaliland. Since Somaliland is not recognized as an independent country, UN agencies such as UNHCR operating in Somaliland, cannot treat Somalis from South Central Somalia as refugees, and some suffer from a lack of clarity around definitions and categories (Kolmannskog, 2010; RMMS, 2013). Mostly, the Somaliland authorities allow them to stay on similar terms as IDPs from within Somaliland.

Important and particularly relevant sub-regional actors include the Intergovernmental Authority on Development (IGAD) in Eastern Africa and the East African Community (EAC). IGAD is the result of Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda taking action through the United Nations to establish an intergovernmental body for development and drought control in their region. Later, Eritrea also joined. The Regional Consultative Process of IGAD aims at facilitating regional dialogue and co-operation in migration management amongst IGAD Member States. The current members of the EAC are Burundi, Kenya, Rwanda, Tanzania and Uganda. Somalia wants to become a member. The 2009 Protocol establishing the Common Market of the EAC comprises the free movement of persons.

Until the mid-1990s the East and Horn of Africa countries were very accommodating toward refugees. Since then the situation has worsened with less will to grant asylum and more eagerness to return the asylum seekers (Bakewell and de Haas, 2007). Nevertheless, UNHCR (UNHCR Africa, 2013) writes,

"The refugee emergencies in 2011 and 2012 have shown an effective and vibrant protection environment in Africa, with most of those in need of refugee status being given on a prima facie basis. However, UNHCR is concerned about the trend of limiting access to asylum procedures and territory, in particular in the context of mixed-migration movements."

Refugee law and practice in the MENA-region

The legal situation in the MENA-region is quite different. All the North African countries have signed and ratified the 1969 AU Convention (ACHPR, 2013). However, few countries in the MENA-region are parties to the 1951 Refugee Convention and its 1967 Protocol (UNHCR MENA, 2013). Among them there is Egypt and Yemen. Yemen has granted prima facie status to Somalis since 1992.

While not legally binding, the 2012 Ashgabat Declaration of the International Ministerial Conference of the Organization of Islamic Cooperation on Refugees in the Muslim World also signals a commitment to refugee protection. Of particular interest to this report is also the Arab Convention on Regulating Status of Refugees in the Arab Countries. Article 1 explicitly recognizes refugees as those who flee "because of natural disasters or grave events resulting in major disruption of public order in the whole country or any part thereof". It is unclear whether it would apply in slow-onset disasters such as droughts. The convention must be ratified by the Arab Parliament before it is presented to each Arab state for ratification.

Zaiotti (2006) examines the evolution of refugee policies between the 1990-1991 and 2002-2003 Gulf Crises. While no substantial breakthrough in formal policies has occurred and refugee policies remain far from the standards of the international refugee regime, Zaiotti shows that the "politics" of refugee policy has been more dynamic than the sole focus on formal aspects would indicate. This is apparent from the perspective of the relations between local authorities and UNHCR; negotiations have been on-going throughout the 1990s, and they have led to some limited improvement in the treatment of refugees. According to UNHCR (UNHCR MENA, 2013), "[w]hile there is a deep-rooted tradition of hospitality and protection of those seeking asylum in the Middle East and North Africa region, an absence of legislative and administrative frameworks makes it difficult to respond adequately to asylum needs and mixed-migration movements".

It should also be mentioned that a series of recent, repressive measures in the destination and transit countries affect the routes and movement of people from the Horn of Africa. With regards to the north-western route, Italy has agreements with Libya to intercept and return people trying to reach Europe. With regards to the northern route through Egypt and Israel, Israel has also adopted measures that are making immigration increasingly difficult, including defining all irregular border crossers as "infiltrators", building a fence along the Sinai-Israeli border and a detention centre (RMMS, 2013). With regards to the eastern route via Yemen, Saudi authorities have taken a hard stance since 2011, closing the border at Haradh, forcefully expelling persons attempting to cross borders illegally, and in late 2012 starting the construction of a fence. In all of these cases, there are serious risks of refoulement.

Labour migration laws and policies in the MENA-region

Prominent among international migration instruments is the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which few countries have ratified. However, Egypt, a country included in this study, has ratified it.

Most movement that has happened to the Gulf states has been within labour migration channels. Almost all categories of workers are targeted by public and private recruiters, from domestic labourers and construction workers to blue- and white-collar workers, in the private and public sector. A series of policies and laws in individual states, between states and on a regional level as well as private recruitment contracts, stress that employment should be offered first to the national citizens, second to the citizens of other Gulf states, third to non-Gulf Arabs and only then to other foreigners (Kapiszewski, 2006; Thiollet, 2011). According to Kapiszewski, however, many of these agreements have been largely ineffective, and factors other than law and policy have been more crucial. Free market mechanisms, including cost efficiency considerations, mean that the private sector have preferred non-Gulf Arabs to more expensive nationals, and increasingly Asians and Africans to Arabs.

Strict nationality and citizenship laws are now enforced, preventing non-nationals from gaining access to socio-economic and political rights (Kapiszewski, 2006). Moreover, most countries in the Gulf have a sponsorship system known as the kafala system. This means that a worker's right to work and remain in the host country is tied to the sponsorship of his or her employer. They are not free to switch jobs and can end up being deported if they attempt leave their employer. The system makes it extremely difficult for workers to leave in situations where they are underpaid or abused. In some cases, migrant workers, in particular domestic workers and construction workers, endure very bad conditions including physical abuse, sexual abuse and food deprivation, sometimes continuing for months or even years (Human Rights Watch, 2010). In recent years, increased mobilization by migrants', women's and human rights organizations, support from trade unions, attention from international bodies such as the ILO and high-profile media exposure have intensified pressure for government action, including labour and immigration reforms. But change has been slow due to resistance from employers fearing higher costs, labour brokers profiting off a poorly regulated system and government officials who view migrants as a security threat.

Smuggling and trafficking laws and policies

The hazards of irregular migration and smuggling are not adequately addressed in any international or regional instrument. The most relevant instruments – the 2000 UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol Against the Smuggling of Migrants by Land, Sea and Air – are not really human rights tools. The issue is regularly framed as one of crime and border control, and smuggled people even risk being criminalized.

In the Horn of Africa and among the surrounding countries, only Eritrea, Somalia and Yemen have not signed the smuggling protocol (RMMS, 2013). However, most countries do not have dedicated action plans or strategies to respond to the issue. There are some positive signs, however, such as collaboration between UNHCR and the Government of Sudan to improve overall security, and the European Parliament in a March 2012 resolution encouraged Egypt, Israel and the international community to step up the fight against human trafficking and smuggling and provide effective protection to the affected refugees in the Sinai (ibid.). Ethiopia regards itself as tough on migrant smuggling and trafficking and tries to regulate the recruitment market for labour migrants. According to ILO (2011), however, trafficking of Ethiopian domestic workers for labour exploitation remains highly prevalent.

Also of relevance to irregular migration is the increasing focus on the treatment of persons rescued at sea. The rescue of persons in distress at sea, regardless of who people are and what their reasons are for moving, is an obligation of shipmasters, established under maritime law. It is referred to in, for example, the 1982 UN Convention on the Law of the Sea and is arguably also international customary law binding upon everyone regardless of whether they are parties to the treaties or not.

The Nansen Initiative and consultations in the Horn of Africa

The Nansen Initiative aims at addressing the protection gap for people displaced across international state borders in the context of climate change and natural hazard-related disasters (Nansen Initiative, 2013). It was launched by Norway and Switzerland in October 2012 in a high level meeting at the UNHCR. It is a state-driven, multi-stakeholder process. Notably, Kenya is one of the members of the Steering Group.

Five regional consultations have been planned over the course of 2013/14. A meeting for the Greater Horn of Africa is planned to take place in Kenya in the first half of 2014. The consultation will bring together representatives from states, international organizations, NGOs, civil society and other key actors working on issues related to displacement and disasters, including climate change. Moreover, the Nansen Initiative is hosting a separate two-day meeting to consult with civil society.

The outcomes will feed into a global consultative meeting planned for 2015 when the aim is that states and other stakeholders will agree on a "protection agenda". This agenda may include a common understanding of the issue, good practices and tools for the protection of the displaced, key principles on inter-state/international cooperation, standards of protection of displaced people and operational responses, recommendations on the respective roles and responsibilities of relevant actors and an action plan for follow-up (ibid.).

Disaster-Related Displacement from the Horn of Africa

Section 8:
Case study – Kenya

Kenya is the African country with the largest displaced Somalian community. According to UNHCR Kenya (2014), there were 482,390 Somali refugees in the country in December 2013. Field visits were undertaken in May and June 2012 to the Dadaab refugee camps and Nairobi. NRC Kenya assisted with identifying interviewees and interpretation. There were eight individual interviews with Somali refugees in Dadaab, one discussion group (10 people) consisting of people belonging to the host community in Dadaab, and several interviews with UNHCR, NRC and other humanitarian agency staff members, and Government officials in both Dadaab and Nairobi. At the time of the visits, Kenya had troops in Somalia, was experiencing security incidents labelled as terrorist attacks and was planning to have elections a year later.

Perceived links between drought and displacement
Livelihoods and coping strategies during drought

The concept of sustainable livelihoods can be defined as the means, activities, entitlements and assets by which people make a living including natural, social, human, physical and financial capital (Scoones, 1998; Ellis, 1999). Without exception, the interviewees mentioned (lack of) livelihood options as one of the main reasons for leaving Somalia. Most interviewees in Dadaab were pastoralists, farmers or agro-pastoralists.

Climate-sensitive livelihoods, poverty and conflict make people very vulnerable to natural hazard-related disasters. At the same time, the agro-pastoralist lifestyle has traditionally been an adaptation to the environment. "During previous droughts,

we could live off livestock or even sell livestock to survive. Now all the livestock is dying – even donkeys. It is the worst drought I have experienced," said Yussuf (72).

As in previous studies (Kolmannskog, 2010; Afifi and others, 2012) interviewees had perceived shifts in the weather over the last decades – including increased frequency and intensity of droughts and floods – and explained how this had direct impacts on those involved in agricultural and pastoral livelihoods and how it affected others indirectly through shortage of products and higher prices. The Food Security and Nutrition Analysis Unit (FSNAU) and the Famine Early Warning Systems Network (FEWSNET) reported that one of the main causes for the famine was the total failure of the October-December 2010 *Deyr* rains and the poor performance of the April–June 2011 *Gu* rains (FSNAU and FEWSNET 2011b). The lack of rain resulted in the worst annual crop production in 17 years, high animal mortality and soaring food prices.

Many Somalis take pride in the pastoralist lifestyle. Changing to another livelihood is therefore also a challenge to cultural and socio-psychological notions of identity. However, younger interviewees, more often shared their thoughts on the limitations of Somalia's current economy and livelihood options.

Before leaving the country the interviewees had tried their best to cope in their place of origin and move internally. This is consistent with the findings in other studies (Kolmannskog, 2010; Afifi and others, 2012). Many reported that they sold the little livestock they had left as well as part of their land, worked for farmers who had access to borehole water, fetched and sold firewood, moved internally – especially into towns – to get assistance in IDP camps or work in the markets. Some received assistance from local NGOs and Arab organizations that were allowed access, but one interviewee stated, "we were too many to support".

Usual support strategies such as clan and community networks also broke down. "You can only get assistance from someone who is in a better position than you. During the last drought, everyone I knew was in the same bad situation," said Fartun (34). Some interviewees reported that they had to stay and suffer for a long time because they did not have the necessary resources to make the journey out of the country. Often families sent some members to seek assistance. Some people stayed behind to care for an aging mother or father. Others, especially the old and weak, were left behind.

Getting new skills in Dadaab was mentioned as a main reason for going there rather than elsewhere. One could therefore say that livelihood options (or their lack) was both a "push" and a "pull" factor. However, there is much complexity involved in the decision to migrate that goes beyond such terminology.

Armed conflict exacerbated the drought and famine

In Somalia, it is difficult to separate drought and conflict. A statement by Abdinoor (49), community leader in one of the refugee settlements in Dadaab, was representative of many people's views, "When there is only a drought, the government or international agencies will come in and give assistance so you can cope. When there is a conflict, agencies cannot come and help. People fled because there was no assistance, and the reason was the conflict."

While many believed that natural hazard-related disasters are the will of God, all interviewees were also clear about the human factor. Previous studies also describe how state failure and violent conflict exacerbate natural hazard-related disasters and reduce people's adaptive capacity (Kolmannskog, 2010; Afifi and others, 2012). FSNAU and FEWSNET (2011 b) also claimed that the lack of humanitarian assistance and access was one of the main causes of the famine. Humanitarian assistance was extremely limited

until September due to inadequate funding and intervention by the international community, and armed groups severely restricting humanitarian access. Armed groups were not only hindering humanitarian access and thereby forcing people to move, but were also seeking to hinder people from moving (see also Lindley 2011). Several interviewees had not been allowed to leave and were finally able to escape through deception, for example by saying they had a funeral to go to or sneaking away at night. In this way, the armed conflict played a role in both triggering and hindering the movement of people.

Crossing the border and fitting into the refugee category
Crossing the closed border to Kenya

The answers from the interviewees varied but all said they had been forcibly displaced. "Yes, I was forced because I needed assistance. No, nobody forced me to leave," said Aden (27) illustrating the complexity of force. The fact that movement out of the country only happened as a last measure also supports the view that the movement was forced.

The Kenyan-Somali border has been officially closed since 2007. The Kenyan Government argues that this is needed because of the armed conflict in the neighbouring country and the risk of combatants moving into Kenya. According to the Refugee Consortium of Kenya (2012), the continued refusal by the Government of Kenya to open the border, and the lack of access to nutrition, health, water, transport and other essentials at the border, was an extraordinary protection failure, contributing for several months to excess mortality in the first days of arrival in the camps. 27 per cent of interviewees in their survey who met police reported arrest, threats or extortion.

While there were instances of refoulement – returning refugees to an area where their life and freedom would be threatened – the Kenyans could not patrol the whole length of the border

and it was highly permeable. None of the interviewees in the present case study had encountered police or military personnel when crossing the border. People seemed to take more dangerous routes – perhaps to be able to cross unnoticed – and some reported being attacked by bandits. By September 2011, Dadaab in Kenya had received more than 140,000 new Somalis since the beginning of the year.

Prima facie refugees in Kenya – but not registered

Kenya is a signatory to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as the 1969 Organization of African Unity Convention governing the Specific Aspects of Refugee Problems in Africa. There is also domestic legislation such as the 2006 Refugees Act and the 2011 Refugees Bill. Kenyan authorities have delegated most matters to UNHCR, including refugee status determination, but are increasingly assuming responsibilities. Due to the generalized violence in South Central Somalia, the Government and UNHCR Kenya consider that all people coming from this area are (prima facie) refugees according to the African Convention definition.

Interviewees for this case study along with 43 per cent of surveyed new arrivals said that they had come to the camps as a result of the drought and famine, in search of livelihoods, resettlement, family members or some combination of these reasons (Refugee Consortium of Kenya, 2012). This did not go unnoticed in Government circles. Last year, the Government of Kenya (2011) stated that, "[t]he current influx of refugees into Kenya is of Somalis seeking food and not people running away from violence. The refugees are coming into Kenya to get food due to the severe drought situation in Somalia." The Refugee Consortium of Kenya believes that the large numbers of people coming for reasons that are not recognized in any of the refugee conventions can undermine the prima facie status in the long run.

On the other hand, it is worth noticing that the official statement from the Government of Kenya (2011) last year employed the refugee label for this group as well, and claimed that, "Kenya has welcomed all refugees and assisted them". One could argue that many of the Somalis were in fact traditional refugees because armed conflict and persecution played a role in their displacement. "In 2011 most people came due to drought and the fighting. Since there are two reasons, we accept them. The fighting is the reason considered," said one Department of Refugee Affairs interviewee. Moreover, law is only one of many tools in negotiations on the ground. Diplomacy from UNHCR, the tight relationship between the agency and the Government, a sense of African solidarity in the face of extreme suffering and the world watching them weighed heavily in Kenya's decision, according to interviews and observations. Kolmannskog (2010) and Zetter (2011) also found that the 1951 Convention worked as a protection instrument for disaster-related displacement in Kenya, and emphasized the importance of contextual factors apart from formal law.

The Kenyan response was complex, however. Already having closed its borders, Kenya stopped registering new arrivals in October 2011, referring to security concerns. One UNHCR interviewee believed this might also be because most people seemed to fall outside the traditional refugee concept and said that UNHCR were negotiating with the Government to start registration again. Several interviewees were still not registered at the time of the case study. Officially they only qualified for basic food assistance. While some agencies focused more on their needs than their official status, the lack of registration had an undisputed effect. The needs and challenges during displacement are discussed further below.

Basic needs and experiences during displacement
Shelter, security and gender-based violence

Kenya gives refugees temporary protection and contains them in camps run by UNHCR and NGOs in remote areas of the country. Kenyan official law restricts refugees' freedom of movement. Dadaab, in Kenya's North Eastern Province, consists of several camps and is home to the world's largest refugee settlement, hosting the majority of the Somali refugees in Kenya.

While the need for shelter and security is universal, women face particular challenges. When the drought of 2009 struck, Fatima's (21) husband left her and their new-born child – allegedly to find better opportunities for them. Fatima got herself and the baby through the droughts of 2009, 2010 and 2011 by fetching and selling firewood and receiving assistance from an Arab NGO. In early 2012 someone told her that she might find her husband in Dadaab. She went there but did not find him. At the time of the interview she was not registered and hardly received any assistance. "I don't know anyone here. I am depending on the good will of strangers for food and shelter. I am sleeping outside with my child. We are afraid," said Fatima.

Several female interviewees mentioned their fear of gender-based violence due to lack of proper shelter. They also risked such violence when they went outside the camps to collect firewood. Fatima Y. (30) said that she bought firewood from a neighbour with food rations because she feared rape. Women also had to leave the relative safety of the camps to relieve themselves since latrines in the camps were not gender-sensitive. In a survey 14 per cent of respondents said that they had themselves been exposed to gender-based violence, whilst 31 per cent said they knew of somebody else who had had such an experience (Refugee Consortium of Kenya, 2012). Proper shelter, safe access to firewood, water and sanitation are crucial for protection against gender-based violence.

While women face particular challenges, safety is a general concern. 56 per cent of respondents in the survey felt unsafe in the camps (Refugee Consortium of Kenya, 2012). Among the reported reasons were the increase in bombs and improvised explosive devices and the presence of Somali armed groups. Ten per cent felt there was insufficient police presence in the camps. However, 11 per cent felt the Kenyan police actually posed a threat to the security of the camp population. According to interviews undertaken for this case study, the police sometimes target the refugee population in an indiscriminate manner after security incidents or attacks from Somali armed groups.

Food, skills development and livelihoods

When people were arriving from famine severely malnourished, food distribution and health care was imperative. At the time of the interview, most interviewees in Dadaab said that they were happy that they were receiving food rations, but they would have preferred to work.

Yussuf (72), who had been a pastoralist his whole life, said, "I would prefer to have some livestock and a small farm here or trade animals since I am used to livestock and farming." Formally, their right to work is restricted in Kenya. "There are not many opportunities for livelihood interventions," said a UNHCR interviewee. "Sadly, Kenya equates self-reliance with local integration, and they don't want that. But self-reliance will be helpful also for a potential return." Still, some refugees have animals and small plots of land – and this is tolerated in Dadaab – while others have businesses, and still others work for the agencies in the camp as "incentive workers".

While some wanted to continue with agro-pastoralist livelihoods, others were hoping to get new skills and livelihoods. Despite the grim prospects of getting a job, education and new skills can provide some purpose and hope for the future. "My children are now in school and get an education so that they can work. This is my hope for the future," said Fatima Y. (30). NGO staff members said that there were challenges, however. "Not everyone gets a place in the schools or educational programmes, and even if they do, not everyone can afford school books and uniforms." According to the Refugee Consortium of Kenya (2012), the right to education is compromised in the context of chronic overcrowding, and the lack of opportunity for refugees to work causes frustration and generates further protection risks.

Thinking about the future
Returning to peace and better livelihoods

"If the situation improves in Somalia, the only solution is voluntary repatriation," said a Kenyan Department of Refugee Affairs interviewee. In 2011 the Government of Kenya (2011) had also advocated for solutions inside Somalia with food drops and feeding centres where the security was assured by the Somali Transitional Government and the African Peace Keeping Force AMISON. According to the Government of Kenya (2011), this solution "would also enable the refugees to return to their homes as soon as the drought situation improves so that they not remain as refugees".

But at the time of the visits the situation remained too unstable for mass repatriation, and most refugees were not willing to return under the current conditions (see also Lindley, 2011; Refugee Consortium of Kenya, 2012). "I would rather be a refugee than return to Somalia," said Fatima Y. (30). Many Kenyans sympathize with them: Hassan (27), a youth leader in the host community in Dadaab, said, "I could not ask the refugees to go back. I see on internet how bad the situation is in Somalia."

A stable government and peace was a prerequisite for all interviewees. All of the interviewees in Dadaab still had some land in Somalia that relatives or neighbours looked after. Many had sold their farm tools and animals and would need assistance in obtaining such resources. Improved access to water through for example boreholes and irrigation was also mentioned.

As Haug (2002, p. 71) writes, "The return process is not about going home or back in time to regain something that once existed, it creates an entirely new situation." For many, it was important that they or their children had some new skills before returning. "I could go back when my children have some education and skills and can make a better life for themselves than I could," said Abdinoor (49).

In September 2012 clan elders appointed members to a new parliament replacing the Transitional Federal Parliament, as part of an agreed transition plan. In addition, armed groups have been driven out of important cities and areas and some level of peace and law and order has been restored. This – in addition to harsher conditions in refugee camps and urban areas in Kenya – has resulted in thousands of Somalis returning home. Between November and December 2012, over 18,000 Somalis reportedly returned to Somalia from refugee camps in Kenya (RMMS, 2013).

De facto, gradual integration in Dadaab

Kibreab (1989, p. 469) defines integration as the "economic, social, and cultural process by which the refugees become members of the host society on a permanent basis". Al-Sharmani (2003, p. 4) refers to Frechette (1994) and stresses the importance of viewing integration as "a continuum, as a process of varying degrees and forms of 'acceptance, participation, and change' in which both the refugees and host society are involved".

Some refugees have been living in Dadaab for 20 years. The camps have become a bustling business centre. With formal economic opportunities so limited, many engage in informal trade. The localization of the refugee camps in Dadaab is not without importance. The North Eastern Province is ethnically Somali, it is arid to semi-arid and has historically been marginalized. Interviewees from the host community emphasized that the relationship with the refugees was good, including inter-marriage.

While complaining of loss of grazing land, increasing environmental degradation and the fact that refugees were getting more attention and assistance than them, the host community interviewees also admitted that the camps had benefits. A socio-economic survey in 2010 confirms that, while there are some negative environmental impacts in the immediate vicinity of the camps, the total economic benefits are around 14 million USD annually, around 25 per cent of the average per capita income in the province (Enghoff and others, 2010).

Formally, the chances of upgrading one's status from prima facie refugee to citizen are slim, but some had obtained Kenyan national ID cards from corrupt officials, and others received IDs offered by MPs who wanted their vote (see also Lindley, 2011). Despite the restrictions in freedom of movement, some moved to Nairobi and elsewhere. Also, there have been instances where members of the host community register as refugees to get access to certain camp services (see also Enghoff and others, 2010). Refugee and citizen seem to be less rigid categories than would first appear. The majority, however, do not have resources to make these changes. As mentioned, many of those arriving after October 2011 were not even registered and had problems accessing the most basic services. In addition to bomb explosions and other security incidents occurring more frequently, there was also rising xenophobia in Kenya (Wambua-Soi, 2012).

A Department of Refugee Affairs interviewee admitted, "Some local integration may be taking place. But setting aside land and opening up for naturalization is very difficult. In Kenya land is very emotive." According to an NGO staff member in Dadaab, who was also a native of the area, there was no question about it, "Of course local integration is happening. It's just that UNHCR and the Government don't want to talk about it."

Lindley (2011, p. 37) recommends, "Options for piecemeal approaches (i.e. identifying eligible subgroups such as very long-term refugees/qualified professionals) or gradual approaches to

integration (i.e. identifying progressive pathways to fuller legal status, contingent on the fulfilment of particular conditions) merit exploration. A rather modest example would be the easing of work permit requirements."

Considering the bigger picture of how the camps and refugees have benefited the host community, Lindley (2011, p. 41) suggests, "Rather than trying to 'compensate' host communities to prevent conflict, a better approach would be to adopt wider development approaches targeting refugee-hosting areas." The new Kenyan constitution provides greater devolution of power to the districts, something which may provide a better context for economic development and integration. Some Somali Kenyans have become prominent in Kenyan politics, prompting hopes for better representation. Overall, the Somali influx may have contributed to the development of the North Eastern Province.

Resettlement and onward movement to third countries

UNHCR refers resettlement cases to national immigration boards. 86 per cent in the study of the Refugee Consortium of Kenya (2012) said they wanted resettlement if the current situation continues inside Somalia, and 59 per cent listed it as a preferred option even if the situation improves. Some of the interviewees for this case study also mentioned resettlement as a reason for coming to Dadaab. The hope for resettlement may defuse some frustration in the refugee settlements, but it can also cause refugees to slip into the psychosomatic condition known as *buufis*, an excessive preoccupation with resettlement (Lindley, 2011).

Kenya's position is to promote resettlement as long as return is not possible. With security concerns increasing, several Kenyans are questioning the wisdom of Kenya hosting so many Somalis. As Hassan (27) said, "There are people who hide in the settlements. I think Western countries should take more refugees. Kenya has a border with Somalia, and I am afraid Kenya can change if it continues the way it is now."

Final remarks

Without exception the interviewees mentioned (lack of) livelihood options as one of the main reasons for leaving Somalia and going to Kenya. The armed conflict and lack of humanitarian access played an important role in exacerbating the negative impacts of drought and famine.

Kenya's response to the Somali mass influx has been complex. The Government has formally recognized all people from South Central Somalia as prima facie refugees. This shows how a gap in formal international law may have different implications on the ground. The most pressing challenges seemed to be less related to the formal recognition of refugee status. Several Somalis experienced difficulties in crossing the border and becoming registered. In terms of effective protection and assistance interviewees experienced particular challenges related to shelter, security and sexual violence in the camps as well as a lack of skills development and livelihood opportunities. These challenges are probably similar to those of many other refugees in Dadaab and in large camps elsewhere

This case study illustrates the limitations as well as the potential of formal law and the importance of the overall local context. Important factors in Kenya's complex response included security concerns, UNHCR's relationship with the Government, the extreme human suffering, a sense of African solidarity, lack of border control resources and the importance of the refugee camps for the development and power of the province and province politicians.

While the Kenyan Government is opposed to formal integration, a de facto gradual integration is taking place for some Somalis. Options for piecemeal approaches or gradual approaches to integration merit exploration. Several of the Somalis were hoping for resettlement or to somehow reach European and other developed countries. Recently, there have also been some returns to Somalia.

Section 9: Case study – Egypt

Egypt is a refugee-receiving as well as a transit country. According to a UNHCR interviewee, there was a slight increase in Somali asylum seekers in 2011 that might be attributed to the drought and famine in Somalia. The numbers are minimal compared to the numbers in Kenya. In January 2012 there were 6600 refugees and 1400 registered asylum seekers from Somalia (UNHCR Egypt, 2012). Field research was conducted in June 2012 in Cairo. The Arab Network for Environment and Development (RAED) and the Psycho-Social Training Institute in Cairo (PSTIC) provided support during the field visit. There was one discussion group with Somali asylum seekers as well as several interviews with UNHCR staff members, other international and national organizations and academics.

The situation in post-revolutionary Cairo was characterized by tension and change with many people discontent with the run-up to presidential elections and recent (lack of) sentencing of Mubarak and other ex-officials. While refugees were very much part of the political discourse in Kenya, they were not so much the focus for Egyptians.

Perceived causes for the drought and displacement

The interviewees in Cairo were single and male. They had been working in the transport sector in Somalia, but their family backgrounds were agro-pastoralist. Furthur studies on Somalis in Cairo state that, "[t]he current groups are a more heterogeneous mix of Somalis of rural and urban background. They also have much less education." (al-Sharmani 2003, p. 7). Their reasons for leaving Somalia were similar to the reasons stated by interviewees in the Kenyan case study. "I believe drought and civil war are twins that have come together to plague my country," said Ahmed (32), a Somali refugee in Cairo.

Disaster-Related Displacement from the Horn of Africa

Among the interviewees for this case study, some had managed to get a student visa through family connections and a plane ticket, but others had walked all the way. Together with his family, Ahmed (32) first went to a camp for IDPs in Mogadishu in search of basic assistance. Because there was no assistance to be found, they became increasingly desperate and Ahmed left the country. "I started in Ethiopia where I met some Oromo people. I went with them through Ethiopia. We travelled through Sudan for three months. I crossed the desert," said Ahmed.

Crossing the border and fitting into the refugee category
Qualifying for refugee status in Egypt

Egypt is also party to the 1951 Refugee Convention and its 1967 Protocol as well as the 1969 African Union Convention; registration, documentation and refugee status determination are carried out by UNHCR (UNHCR Egypt, 2012). A major difference from Kenya is that there is individual refugee status determination rather than prima facie group determination. Each individual must meet all criteria in the refugee definitions, including proving that the reason for the displacement is persecution, generalized violence or another reason recognized in law.

This means that some people adjust or highlight certain parts of their narratives. "People would not come to the office and say that they came due to drought," said the UNHCR interviewee. "In Egypt the Oromo took me to the UNHCR office in Cairo," said Ahmed (32), adding "I told them how I lost family members in the drought and fighting. Now I am waiting to have my case decided." At the time of the field visit the status of several of the interviewees was undecided.

The case of the Somalilanders

Many Somalilanders would in theory fall outside the currently binding refugee definitions since their home is considered to be relatively peaceful. "My father is originally from the North, Somaliland. He went there," explained Ahmed (32), "But I don't know Somaliland. I didn't want to go." All interviewees for this study said they were from South Central Somalia. Information about the Somalilanders is based mainly on interviews with a UNHCR Egypt official.

"I am sure we have recognized many of the Somalilanders as refugees," said a UNHCR Egypt official, "There have even been conflicts within the Somali community because they are seen as taking the resettlement places from other Somalis. But the Somalis keep it to themselves rather than taking it to UNHCR and spoiling the whole group's opportunities."

UNHCR Egypt asked their headquarters in Geneva whether they should make any changes with regards to returns to Somaliland during the 2011 drought, but did not get any clear advice. "Since Egypt does not deport people anyway, it was not so important to request a stop of deportations" said the UNHCR interviewee.

After the recent political changes in Libya many refugees and migrants fled the country, some to Egypt. Among them there was also a group of Somalilanders who are not recognized as refugees. "They talk about the drought a lot and say that they should not be returned on humanitarian grounds. Originally they said they were from South Central Somalia. When we found out that this was not correct, they admitted that they were from Somaliland and could not go home due to the drought and lack of economic opportunities," said the UNHCR interviewee, "We have said to them that if Egypt allows them in, ok. Otherwise they have to go home. We can understand that they don't want to go home, but no resettlement country would take them either. They would rather go back to Libya or try to get smuggled elsewhere than go back I think."

Basic needs and experiences during displacement
Shelter, education, livelihoods and health

Generally, Somalis are welcomed and positively regarded by Egyptians. They share the same religion, Islam, but there are significant ethnic, cultural and linguistic differences. Egypt has reservations about several of the social and economic rights outlined in the refugee conventions. Refugees have limited access to work, health services and education, and no right to permanent residency.

Rent is often one of the main expenses for asylum seekers and refugees in Cairo. The interviewees said that often the newcomers lived together in a shared apartment. Some lived with friends or distant relatives or did housework in exchange for free shelter. The Al-Azhar school was also mentioned as an institution that offers residence through school enrollment. UNHCR also offers some education grants.

"Most refugees do some sort of work, mostly informal and among themselves," a UNHCR interviewee said. Other studies have also found that much of the income-generating activity is carried out within the Somali refugee community, and includes selling clothes and food, housekeeping and teaching (al-Sharmani, 2003). Ahmed (32) said, "We are young so UNHCR says we should go and work. I don't get any assistance. I clean. I do anything to survive here. It is tough since foreigners are not really allowed to work. We work with Egyptians. Most of them are good people." Abdi (25) had a different experience, "I clean in a bakery. Sometimes my boss changes the terms of our agreement. I cannot complain because I am afraid of losing the job and insecurity." The interviewees also mentioned that remittances were important to their survival, which is well known from other literature (al-Sharmani, 2003).

About a quarter of the refugee population receives some financial assistance from UNHCR. "We are working on creating livelihood interventions," said the UNHCR interviewee, "It is part of the urban refugee policy to encourage self-reliance even where there is no formal right to work."

Mental health and the importance of mental health services, was raised by several of the displaced Somalis as well as other interviewees. "One of the main challenges is that all of us are very depressed," said Ahmed (32). He identified both the drought and their current situation as causes, "Every time I hear the word drought I feel miserable. I felt depressed and was unable to speak. I was on the verge of a mental breakdown. Here we are in between. If we try to go to Europe, we die in the Mediterranean. In Somalia we die of conflict and drought." As in the Kenya case study, interviewees also reported suffering from *buufis,* which is also well known in the literature (al-Sharmani, 2003; Lindley, 2011). UNHCR gives refugees some support to access health care.

Thinking about the future

The interviewees in Cairo reported that they had little interaction with Egyptians – although some worked for them. All interviewees lived in Somali areas of Nasr city. They did not speak Egyptian Arabic. Some reported that Egyptians made fun of their accent or that there had been instances of racism. They did not see any future in Egypt.

For some their aim was to eventually return. "They say that everyone wants resettlement. Not me," said Ahmed (32). "As long as I am not home, I am losing time. If there is security and I had a ticket in my hand, I would return home today." Abdi (25) dreamt of a future Somalia, "In the future I would like to open a tourist hotel and restaurant on Kismayo beach. Tourists could come and swim, sunbathe, eat and stay at my hotel."

For most Somalis the current dream is resettlement. The higher proportion of Somalis being resettled, may be a reason why many come to Egypt, according to a UNHCR interviewee. However, with the current anti-immigration sentiments in developing countries, there is less will to resettle, though this does not stop people from trying to make it on their own.

According to UNHCR (2012), more than 1500 irregular migrants or asylum seekers drowned or went missing in 2011 while attempting to cross the Mediterranean Sea. This happens in one of the world's most trafficked waters. A series of factors influence developed countries' willingness to accept refugees, and at the moment there is little willingness. Several European countries have elaborate legislation protecting refugees. In practice, however, many of them try – through visa regulations, interceptions and other measures – to make sure that as few asylum seekers as possible ever arrive in their countries to be able to enjoy this protection. Some people in search of better lives elsewhere persevere in their journey and struggle regardless.

Final remarks

As in the Kenya case study, interviewees mentioned (lack of) livelihood options as one of the main reasons for leaving Somalia and going to Egypt. Similarly, the interaction of armed conflict and drought was highlighted. In contrast to Kenya where there was prima facie refugee status, the Somalis in Egypt were subject to individual refugee status determination and had to show a clearer link to persecution or conflict. In these cases, narratives were often adjusted, and many risked not being recognized as refugees and getting formal legal protection. The interviewees in Cairo were all waiting to have their cases decided and reported challenges related to shelter, work and mental health. No one saw staying in Egypt as a long-term solution. Several were hoping for resettlement or to somehow reach European or other developed countries. Some were also hoping for eventual return to Somalia.

Section 10:
Case study – Yemen

Up until the 1990s, Yemen was a country of net emigration with many people going to the Gulf countries to work. Since the early 1990s, the country has received hundreds and thousands of Somalis and Ethiopians. Today, it is the country in the MENA-region with the largest Somali displaced community. It is also the main transit country for Ethiopians. Between 2006 and 2012, a conservative estimate indicates that 447,000 people have set off to Yemen in boats from Djibouti or the Somali port city of Bossaso, almost all of them Somalis and Ethiopians (RMMS, 2013).

Field research was conducted in Sana'a, Aden and Al-Kharaz refugee camp in November 2013. NRC Yemen facilitated the visit. Fifteen representatives from the Government, UNHCR, IOM and other international and national organizations were interviewed. Seven focus group discussions with 5–10 participants were organized at all locations. The group discussions included Somali and Ethiopian refugees, asylum seekers, and regular and irregular migrants.

At the time of the visit, the situation was influenced by the consequences of the 2011 political upheavals in the context of the Arab Spring, continuing conflicts and the transition.

Reasons for coming to Yemen

There is a long history of seeking and granting exile, trade, proselytising, inter-marriages and other connections between the Horn of Africa and Yemen (Martin, 1974; de Regt, 2007). In recent times, following the outbreak of the Somali armed conflict in 1992, Somalis have made up the vast majority of arrivals, but since 2010 Ethiopians have been the majority.

Up until recently, the numbers have been rising despite – or perhaps because of – the fact that for the past few years Yemen has been struggling not only with poverty and drought but also with civil conflict, a rise of Islamic militancy and political upheaval. The situation in Yemen has meant that rule of law and the resources available for border control are reduced, providing people with greater opportunities to travel to and through the country (DRC and RMMS, 2012; RMMS, 2013). However, in last months of 2013 the volume of people arriving has shown a slight decline. This trend was documented and confirmed during discussions with various interlocutors. The decline may be attributed to a number of causes, in particular the increasing deportation and strict border control by Saudi Arabia and restrictions on emigration in Ethiopia.

Multiple reasons were mentioned for coming to Yemen. According to several reports (van Gemund, 2007; Soucy, 2011; DRC and RMMS, 2012) as well as international agency staff members and others interviewed for this study, the majority of Ethiopians seem to be motivated by the lack of economic opportunities at home. Ethiopians interviewed for this study also mentioned livelihoods and education as motivating factors. Many Ethiopians as well as Somalis hoped for better livelihoods in Saudi Arabia or the Gulf states. However, we found that in many cases environmental and political aspects were also contributing factors.

The severe drought in the Horn of Africa in 2011 coincided with political upheavals in Yemen and international agencies evacuating Yemen. This means that there is some uncertainty about arrivals and reasons for arriving during this period. Statistics from the Regional Mixed Migration Secretariat show that around 8 per cent of Ethiopian respondents and 14 per cent of Somali respondents listed drought as the reason for leaving in 2011. According to staff members in UNHCR, the Danish Refugee Council (DRC) and other organizations, many Ethiopian farmers and pastoralists probably came because of the drought. Oromos mentioned that they were particularly affected by drought because they

are farmers. Others said that floods following the 2011 drought destroyed their farms and was their reason for leaving.

Most Ethiopians spoke of ethnic and/or political aspects in addition to the environmental challenges. In line with previous studies (Soucy, 2011; DRC and RMMS, 2012), many Oromos and Ogadenis referred to ethnic and politically based discrimination and persecution interacting with droughts and other disasters. Several mentioned how they were not given access to assistance before, during or after disasters. "If they suspect you are OLF [Oromo Liberation Front], you don't receive assistance," said Mohammed (35).

Even more extreme stories surfaced. Several Ogadenis, including an ex-soldier in the Ethiopian army, claimed that Ethiopian soldiers killed their livestock even during the drought, thereby contributing to the creation of disaster. This is not unprecedented in Ethiopian history (see for example de Waal, 1991 about the 1983–85 famine).

There are also some reports about persecution on the basis of religion (see for example al-Jazeera, 2009), and most Ethiopian Muslims are either Ogadeni or Oromo, the main groups coming to Yemen.

The case of Ethiopia had some similarities with the situation in Somalia during the 2011 and 2012 drought when armed groups sought to control and limit access to humanitarian assistance. The findings related to the Somalis in Yemen were similar to those in the Kenya and Egypt case studies. Generalized violence, persecution, lack of humanitarian assistance as well as environmental reasons often interacted. There was, however, a recently arrived group of young men in Bassateen that said they had come solely due to floods that had occurred the previous month in South Central Somalia. While conflict and lack of humanitarian assistance aggravated the drought of 2011, they explained that now, there was less of a security problem but rather the floods

themselves that made access to humanitarian assistance difficult. They explained that they had preferred Yemen over Kenya and Ethiopia because here there was freedom of movement as opposed to the encampment policies in the other countries.

Trafficking

A main protection risk described in previous reports (van Gemund, 2007; DRC and RMMS, 2012), by staff members in international organizations as well as the Ethiopians and Somalis, was related to trafficking. While Somalis also recounted stories of abduction and torture, there seemed to be agreement among staff members in international organizations that the Ethiopians were more at risk; possibly the traffickers were aware that their irregular status made them more vulnerable.

Several interviewees had been captured on the Yemeni coast. Often the traffickers are present on the frontline while the Government as well as national and international organizations wait further inland. Staff members from international organizations and the Government explained that you would need an army to prevent the heavily armed traffickers. The captured Ethiopians and Somalis were taken to camps where they were tortured until they or their families paid a ransom. Some had no resources and were finally set free after months of torture. Women were held as sex slaves, several becoming pregnant, others were sold. Trafficking of women seems to be a particularly serious problem with interviews and previous reports suggesting they may be sold as sex workers or domestic workers to Saudis and others (DRC and RMMS, 2012).

NGOs and others suggested that increased awareness was needed among people so that they do not set out on the journey. However, several interviewees said that they had heard of the risks, but that they were so desperate that they still chose to travel. In addition many of the Ethiopians – more than 10 per cent of registered new arrivals in October 2013 – had been to Yemen

once before. Some interviewees said that there are instances of women, knowing that they might be raped, who take contraception pills from the onset of their journey. In many cases, however, the abuse surpassed what they had imagined possible.

After international media reports (BBC, 2013), the Government attacked some of the traffickers' camps – everyone knows their location – and freed many people. In the aftermath, however, it became clear that they were not able to meet the basic needs of those rescued, such as shelter and food. While many Government interviewees and others said that trafficking was a great shame for Yemen, there were also accounts suggesting that high-level officials, military, tribal leaders and others were involved and profiting. At the time of the field visit, domestic legislation on trafficking was being discussed in Parliament. National and international organizations were hoping for strong sanctions. However, some Yemeni staff members in local and international organizations were only cautiously optimistic. They questioned how useful new formal legislation would be if powerful interests continued to be involved in the trafficking. Furthermore, since trafficking is already occurring in breach of strongly held Islamic beliefs, formal state law with relatively less legitimacy and power was likely to have limited effect. Finally, much of the country is outside the control of the Government and under tribal leaders.

Regular and irregular status in Yemen
Formal laws and mechanisms

The 1991 Constitution defined the republic as an independent and sovereign Arab and Islamic country and established sharia as the basis of all laws. It had several provisions of relevance to the protection of displaced people, including the commitment to human rights in article 6 and the explicit provision that "no political refugee shall be extradited" in article 46. Since the 2011 political upheavals the constitution has been suspended. Meanwhile, the 2011 Yemen Transition Agreement brokered by the Gulf Cooperation Council includes some provisions on human rights

(unofficial translation available in Al-Bab 2012). Yemen is party to several human rights treaties and the 1951 Refugee Convention and its 1967 Protocol. A domestic refugee law draft spearheaded by UNHCR has been shelved for now. None of the interviewees in the Government, UNHCR or elsewhere, had heard of the Arab Refugee Convention draft. When described, they believed there was little political will in the Arab region for such an instrument to be adopted and implemented.

DRC staff members mentioned that they have advocated for the rights of migrants on the basis of the former Constitution article 6 and carried out training together with IOM and UNHCR on refugee and migrant rights for government officials, communities, tribal leaders, coast guards, the military and others. According to many interviewees, what was needed was primarily better implementation of existing laws, not merely new formal legislation. Protection of Ethiopians and Somalis in practice is often difficult in a country with so many problems and so few resources.

Regardless, several ministries and governmental institutions remain involved in refugee and migrant affairs. The Government also co-leads and regularly participates in the Yemen Mixed Migration Task Force. UNHCR, which deals with refugee status determination and refugee assistance, has a close relationship with the Government. As of 1 April 2013, there were 231,064 Somali refugees and 5,270 Ethiopian refugees (UNHCR Yemen, 2013b).

Somali prima facie refugees

The majority of Somalis (over 90 per cent) seek refuge upon arrival as they are granted refugee status on a prima facie basis. The Government issues official documents, which must be renewed every two years. In late 2010, the Government had signalled that the automatic refugee status might change since they believed many were in fact economic migrants and others were militants seeking to join al-Qaeda groups to destabilize the coun-

try (IRIN, 2010). With the political upheavals in 2011 and during the transition period since then, there has been less focus on, and therefore also fewer changes to, refugee policies. For now the prima facie status is intact. While such status continues to provide protection to people who flee drought and disasters in addition to conflict and persecution, the 2010 incident shows that the status may be questioned or even withdrawn if it is perceived that many people are fleeing drought and other reasons rather than those recognized reasons in the 1951 Convention. As in the Kenya case study and judging from the interviewees' stories from this study, one could argue that drought was interacting with conflict and persecution in such a way that people should still be considered Convention refugees.

Regular and irregular Ethiopian migrants

Some Ethiopians, in particular young women, have a regular status as labour migrants, with many working as domestic workers. Most of the Ethiopians, however, are considered irregular. For many years, Ethiopians as a group were not considered legitimate asylum seekers but rather detained, deported and refouled (Human Rights Watch, 2009). There were a series of reasons for this treatment, including, according to some organizations (Human Rights Watch, 2009) possible ties between the Ethiopian embassy and the Government, which considers seeking asylum illegal. The situation improved as of March 2010 after pressure from UNHCR and other international organizations.

Ethiopians who wish to apply for asylum are now registered and given a 20-day grace period to make their way to UNHCR offices in either Aden or Sana'a to apply for asylum. According to interviews as well as previous reports (DRC and RMMS, 2012) it seems that many use the period to remain in Yemen legally and recover before they try to continue their journey to Saudi Arabia or elsewhere for work. Those who do apply for asylum are given a six-month permit to stay while the application is pending.

Many Ethiopians are focused on moving on to Saudi Arabia and the Gulf countries for work and do not see the benefit of seeking asylum in Yemen. According to several organizations, many lack necessary language, networks and knowledge of the system. Others do not want to wait for what may be years, in contrast to the Somalis who automatically obtain a prima facie status. There is a backlog of cases especially at the Sana'a office. Saleh (28), an Oromo who was living irregularly in Sana'a, explained that he had been to the office to apply for asylum and was told to come back later on several occasions. Eventually, he decided to leave it, he could simply not afford the time off from work. Another reason for not seeking asylum may be that some do not want to rule out return to Ethiopia, which would be difficult if the Ethiopian authorities knew they had sought asylum.

Among the few Ethiopians who do apply for asylum there is, according to UNHCR interviewees, an acceptance rate of around 20 per cent with most rejections being due to lack of credibility. According to UNHCR staff members as well as those of NGOs, people who had been affected by trafficking are given the chance to apply for asylum and could be considered as "members of a particular social group" under the 1951 Convention. However, most of the women who have been trafficked wanted to return to Ethiopia rather than apply for asylum. Ogadenis, who are ethnic Somalis, and sometimes even Oromos, claim to be from Somalia to benefit from the prima facie status, according to some organizations' staff members and previous reports (Human Rights Watch, 2009). According to people working with initial screening, however, this has become more difficult as they themselves are often Somalis with intimate knowledge of dialects, the geography and clans.

As described above in the section on reasons for coming, many Ethiopians, especially the Ogadenis and Oromos, may have ethnic, political and religious aspects to their stories that make them eligible for refugee status. DRC and RMMS (2012) support this, while Soucy (2011) is less convinced that current refugee

law would cover them. NGO staff members also mentioned that some of the Ethiopians have "a problem of vocabulary". Sometimes people explain that they moved for livelihood reasons while persecution and other factors more relevant to the law are only mentioned later or on further questioning. Issues of class, such as many of the Ethiopians being pastoralists and farmers with no or very little formal education, may influence how they approach the asylum system and tell their stories. The lack of Ethiopian networks in Yemen may also mean that they are not given adequate knowledge of the system and how to present their story. NGO staff members also mentioned that there is a substantial number of unaccompanied minors who may face particular obstacles in communication and presentation of their stories. Mohammed (13) initially told us he came to Yemen because he wanted education. Only later did he and others in the focus group discussion explain that his family had been affected by the 2011 drought and the lack of assistance from the Government. If lack of assistance is on one of the 1951 Refugee Convention grounds, this could be considered a legitimate refugee case.

When UNHCR staff members – both high-level decisionmakers and lower-level refugee status determination staff – were first asked openly about Ethiopians, most said they came for economic reasons and would not qualify for refugee status. When drought was raised as a reason for leaving, Yemeni UNHCR staff members distinguished between their "professional" and "personal" answers, saying that personally they believed that they should be allowed to stay. "We have hearts," said one. "Drought means death," said another. They mentioned that Yemenis themselves had fled to the Horn of Africa due to droughts in the past. Finally, they explained that Yemenis have religious beliefs, which include a duty of hospitality. There seemed to be a tension between their professional and personal opinions. They felt somewhat constrained by the Convention text. One way they negotiated this was through what they called a flexible and generous use of notions such as benefit of the doubt. When UNHCR staff were told stories of Oromos and Ogadenis where assistance

during drought had been denied or livestock and farms even destroyed due to their ethnicity or perceived political opinion, they were clear that this group of people would qualify as refugees. A main question that remains is whether refugee status determination staff are sufficiently aware of the "problem of vocabulary" and have the necessary country information to secure effective rights for the Ethiopians.

Clearly, a large number of Ethiopians may not have any element of persecution in their displacement stories and therefore fall outside refugee protection. However, this case study also shows that some Ethiopians who have fled in the context of drought and other disasters may fall outside due to a lack of knowledge and resources.

Local and religious norms

While interviewees from international organizations, such as UNHCR, IOM and others, were concerned with the status and categorization of Ethiopians and Somalis, the situation seemed slightly different among many Yemenis, including Government officials. As the Yemeni UNHCR interviewees also stressed, people have travelled between the countries and there is a spirit of generosity. "They are our neighbours, our brothers, so we want to help them," said a high-ranking Government official working on refugee and migrant issues. The duty of hospitality that was mentioned and described by several interviewees may include an obligation to provide food, shelter and other basic assistance to foreigners in the land. Many linked this to Islam. Respect for displaced people and appreciation of those who provide refuge have a particular place in sharia, and Islam pays special attention to the suffering of displaced people with concepts such as aman (safeguard) which is refuge that Muslims offer to non-Muslims (Rahaei, 2012). In a context such as Yemen, local and religious law may play an important role in addition to, and sometimes even instead of formal state law. While the relationship between the peoples was complex and dynamic, several Ethiopians and Somalis recounted how they – regardless of formal status – had received assistance such as food,

shelter and help to access medical facilities from ordinary Yemeni citizens that they had met along their way.
A high-level Government official highlighting the good connections between the countries suggested that bilateral solutions between the country of origin and Yemen might be a way forward in cases that fall outside the 1951 Convention. Such agreements, he said, could be guided by principles of good neighbourhood and humanitarianism.

At the same time, the increasing number of arrivals poses a major challenge for Yemen, which is struggling with political tensions and violent conflict as well as high poverty and unemployment, rapid population growth and dwindling water resources (MSF, 2008). The country is also under strong pressure from Saudi Arabia and other neighbouring states to halt the flow of people transiting through Yemen into their territory (Human Rights Watch, 2009). According to interviewees and previous reports (ibid.), neighbouring countries are certain to lobby against more progressive Yemeni refugee policies and laws because more people might seek to enter not only Yemen but also to move on within the region. In November 2013, a high-level regional mixed migration conference was hosted by the Yemeni Government in cooperation with UNHCR and IOM with participants from several neighbouring countries. At the conference they discussed how further regularization of labour migration in the wider region could help address the situation of many Ethiopians and Somalis.

Basic needs and experiences during displacement

Generally, the impression from NGOs and international organizations was more that the Yemeni Government lacked the ability rather than the will to assist Ethiopians and Somalis. Both IOM and UNHCR as well as other organizations claimed to have a generally good cooperation with the Government.

The only refugee camp in Yemen is located in a harsh and dry environment at Kharaz, near the coast in the southern Lahaj

governorate. Refugees are legally free to move in and out of the camp and travel to other parts of the country as they choose. UNHCR, implementing partners and other agencies provide assistance. Protection issues (see also Soucy, 2011) include the difficulties of growing sufficient food or raising livestock as well as lack of adequate shelter, sanitation and health services.

Save the Children explained that refugee ID cards had not been renewed for the past two years, which made access to education difficult. Another key issue for refugee children was gender-based violence.

Ethiopian refugees face additional obstacles in accessing education or work because of a lack of documents such as education certificates. In contrast to Somalis who have a good relationship with their embassy, the Ethiopian asylum seekers and refugees fear their embassy and would not go there to get documentation.

Until recently, UNHCR included asylum seekers in many of their assistance programmes, which meant that some Ethiopians and others also benefited. Due to limited resources, only certain groups of asylum seekers, who are considered particularly vulnerable, are now getting assistance.

Most Somalis and Ethiopians, both refugees and migrants, prefer to live in urban settings in hopes of becoming self-reliant. The highest concentration is in Bassateen on the outskirts of Aden, a densely populated slum with narrow traffic, many people and dirt streets clogged with rubbish. Relations with the locals, mainly Yemeni returnees from Somalia, are good. People feel safe as long as they stay within this area. Furthermore, a local imam and mosque is assisting greatly. International organizations are also providing some assistance. According to some NGO interviewees, refugee assistance is mainly camp-based, despite UNHCR's urban refugee policy and the freedom of movement that refugees have.

IOM and other organizations claimed that the Government did not have a problem with agencies working with the migrants. In fact, the Government had often asked them to provide migrants with more assistance. Major challenges were related to the mandates of the organizations themselves and donor funding programmes (see also DRC and RMMS, 2012). According to IOM staff members, the World Food Programme (WFP), for example, had problems justifying their assistance to migrants until they started including it in their refugee programme. IOM also explained that they themselves had had difficulties accessing humanitarian funding for projects with migrants since migrants are not normally seen as a humanitarian issue. Over the last few years – after inter alia international media attention and donor visits to the country – funding was improving somewhat and they were, for example, receiving some from the UN Central Emergency Response Fund. In addition to voluntary return programmes, IOM provides life-saving assistance such as food, medicines, shelter and health services to the most vulnerable migrants in Haradh, Sana'a and Aden. DRC and the Yemeni Red Crescent also work with migrants, inter alia providing new arrivals with a basic kit including some dates, biscuits, a torch, a sheet and some clothes.

Some NGO staff members said that Ethiopians face "a double risk" of being caught by traffickers or detained by authorities. If Ethiopians face abuse many would find it difficult to go to the authorities because of their irregular status. Some Ethiopians and Somalis explained that they were sometimes stopped by police and soldiers who wanted money. In the case of Somalis they would sometimes take their IDs and demand money before returning them.

In addition to the trafficking, a major human rights concern has been the situation of thousands of Ethiopians stranded along the Saudi border, particularly in Haradh, due to stricter border controls and deportations. In January 2013, the Yemeni Govern-

ment estimated that over 25,000 Ethiopians were stranded in various locations near the Saudi border (RMMS, 2013). Many of them were heavily traumatized, had no money left and little or no knowledge of Arabic. In addition to assistance from the local population, IOM has been particularly active in trying to find solutions. At the time of the field visit, the numbers were down to 300. IOM said this was due to both voluntary returns through their programme, the Saudi border being open for Hajj and the Ethiopian Government putting in place restrictions on emigration. Some Somalis who also try to reach Saudi Arabia and other countries face similar risks as the Ethiopians moving to and through these countries.

Two major challenges identified by Somalis and Ethiopians, both refugees and migrants, were related to shelter and livelihoods (see also Soucy, 2011). Attempting to protect Yemenis, the Government has made access to the formal labour market difficult, if not impossible, for foreigners, including refugees. Many resort to car washing, begging, domestic work, work on qat farms and other work within the informal sector. The combination of low and unstable salaries and high rental costs make access to adequate shelter difficult.

Thinking about the future

Few interviewees saw staying in Yemen as a longer-term option. Many argue that the conflict-affected country is struggling to provide access to basic services.

Many, if not most, interviewees were hoping to make their way onwards from Yemen. This is in line with previous studies showing that most Ethiopians, but also Somalis, eventually intend to continue their journey to Saudi Arabia or the Gulf states, or to the United States, Canada or Europe (see also de Regt, 2007; DRC and RMMS, 2012). With tighter border controls, some were now considering going back to the Horn of Africa and making

their way up north through Libya to Europe. Many refugees were also hoping for resettlement (see also van Gemund, 2007), but this has become increasingly difficult with the USA and other countries having stopped resettlement of Somalis from Yemen. Exploring labour migration channels and potentially expanding these in the wider region might be a way forward.

Few saw return as an option. For return to be possible, better livelihoods as well as addressing ethnic and political marginalization and persecution would be necessary in both Somalia and Ethiopia. Others, such as the stranded and extremely destitute Ethiopian migrants, did want to return. After a visit by an Ethiopian Government delegation during the summer of 2012, Ethiopia and Yemen agreed to work with IOM on return of migrants. Some NGO staff members interviewed for this study raised questions about the follow-up and whether some returned Ethiopians might face protection risks. IOM, who have a few reintegration programmes, expressed concern that the Ethiopian Government must also put efforts into reintegration. Much of the funding for returns is humanitarian funding, and an IOM high-ranking official said that it is a challenge to get donors to understand that even emergency returns need to be sustainable.

In 2012 hundreds of Somalis were also recorded as returning voluntarily from Yemen and Oman through Bossaso into Puntland and Mogadishu as conditions reportedly improved (RMMS, 2013). A Somali diplomat interviewed for this study mentioned that returns were continuing. Somali refugees we spoke with said that peace, education, livelihoods and shelter are prerequisites for return. Former farmers wanted better tools, seeds and irrigation systems.

Final remarks

As in the Kenya and Egypt case studies, several Somalis mentioned (lack of) livelihood options and the interaction of armed conflict and drought as main reasons for leaving Somalia. Some

said they had come mainly because of drought or floods. They had preferred Yemen because it was nearby and, compared to Kenya, refugees had freedom of movement. There were a series of motivating reasons mentioned by Ethiopian interviewees, often these also involved an interaction of drought and other disasters with political and ethnically based discrimination and persecution. In contrast to the Somalis, there were several social obstacles to applying for asylum, many did not see the benefit, and those who did apply were subject to individual refugee status determination where many faced rejection. While international organizations were concerned with formal categorization, local and Islamic law included a duty of hospitality towards both Somalis and Ethiopians.

Main protection issues involved trafficking and the stranded migrants along the Saudi border. Ethiopians and Somalis, both regular and irregular, mentioned livelihoods and shelter as main challenges in Yemen. Many were hoping to move onwards to Saudi Arabia and the Gulf states. Others hoped for resettlement. Many of the stranded Ethiopians as well as some Somalis were also now glad to return to their home countries. For others, better livelihoods and an improved political and security situation would be needed before they could return.

Disaster-Related Displacement from the Horn of Africa

Section 10: Conclusions and recommendations

This study has explored the policy and legal options in cross-border disaster-related displacement, including both formal laws and policies and effective socio-legal issues, in the Horn of Africa, Kenya and the MENA-region (Middle East and North Africa), with a particular focus on displaced Somalis and Ethiopians. Additional observations have emerged from the case studies in Kenya, Egypt and Yemen. In this section, a few conclusions are highlighted as well as possible ways forward. Returning to the research questions of the study, the findings conclude *that several Somalis and Ethiopians displaced to Kenya, Egypt and Yemen, were influenced in their cross-border movement by natural hazard-related disasters.* Quite often the *natural factors interacted with other social and political factors* in creating a disaster, such as the 2011 drought and famine, as well as triggering displacement (see also Kolmannskog, 2013). Without exception, displaced people mentioned (lack of) livelihood options as one of the main reasons for leaving their homes and going to any of the three countries. The armed conflict and lack of humanitarian access in Somalia played an important role in escalating the drought and famine. Many of the Ethiopians in Yemen mentioned that economic and political marginalization, and even persecution, interacted with drought and floods, forcing them to leave their homes. In terms of preventing displacement and facilitating return, this implies that *livelihood interventions are necessary,* and that *these must be addressed in the context of complex conflicts and political situations.*

This study's findings on disasters and displacement also have implications for what law is relevant and applicable (Kolmannskog, 2013). The second and third research questions concerned formal and effective (in practice) protection possibilities. Currently, there are no instruments explicitly providing entry, status and rights on the basis of natural hazard-related disasters. This leads many doctrinal lawyers as well as others to conclude that those displaced fall outside protection instruments and that there is a normative gap at the global level. However, with the conceptualization of disasters as involving contextual vulnerability and displacement as multi-causal as well as findings from local case studies, the report comes to a different conclusion (see also ibid.). Somalis in Kenya and Yemen were considered refugees. These findings fit with Alexander Betts' notion of "regime stretching":

[I]t highlights how international regimes – as norms, rules, principles, and decision-making procedures governing a particular issue area – are not fixed and static entities that exist in abstraction in Geneva or New York [...] But rather they are dynamic and adaptive, and vary in their local and national manifestations. Sometimes, the norms (in this case, international refugee law) and the organization (in this case, the UNHCR) may stretch to address unforeseen circumstances but, at other times, they may not. The question is: When and why does this happen, and what does this mean in practical terms for whether (and, if so, how) the refugee regime needs to be reformed? (Betts, 2010, p. 363)

While the prima facie status may be volatile, *the refugee status is arguably legitimate for many of those displaced in the context of disaster.* In other cases *people, such as the Somalis in Egypt and Ethiopians in Yemen, risk falling on the outside of existing protection instruments.* The cases thereby illustrate the importance of the local contexts. For example, important factors in Kenya's and Yemen's complex response included security concerns, UNHCR's relationship with the Governments, extreme human suffering, a sense of solidarity and historical ties, lack of border control resources, etc. A socio-legal approach also involves

a broader concept of law and norms than the doctrinal approach, which is merely focused on formal state law. An important finding related to formal and effective protection is the finding that *Islamic norms may provide protection in some disaster situations.* This finding merits further research.

Importantly, the case studies highlight that *there are local differences in what the gaps on the ground are*. Yet, let us highlight a few regular findings. In the case of cross-border displacement, *a fundamental first challenge is for people to be able to access and enter another country and apply for protection.* Many countries, such as Kenya, Saudi Arabia and the European countries, are increasingly putting obstacles in the way for asylum seekers with a right to seek asylum as well as for others who may not have these rights. Related to this, there are hazards of irregular migration, smuggling and trafficking. *The formal refugee or other legal status question may also be a concern*, although the case studies show much more variation than what would be expected from doctrinal law approaches.

Several interviewees were mainly concerned about the limited rights to work and the lack of livelihood options. Other regular concerns included shelter, food security, education, access to health care, security, including security against gender-based violence, and durable solutions such as resettlement. In Kenya freedom of movement was also a major concern. In Yemen, we also identified social and economic obstacles in accessing and succeeding with the asylum process, including a lack of knowledge, resources and adequate vocabulary to present their case.

These findings and a socio-legal approach primarily call for local and sub-regional solutions. New legislation may be needed but often formal legislation merely serves a symbolic function rather than addressing suffering on the ground (Kolmannskog, 2013). *Several contextual factors need to be addressed.* In socio-legal studies three perspectives are often highlighted, namely public opinion, material conditions and the wider normative environ-

ment (Mathiesen, 2005). Europe has elaborate international protection laws on paper, but strong anti-immigration and Islamophobic sentiments among politicians and in public opinion mean that many people are prevented from ever accessing this protection. New laws are a step in the right direction but will need alignment of public opinion and an enabling environment for implementation. With regards to the material condition, one can look at the right to work. While the 1951 Refugee Convention includes rights related to work and livelihoods, in many places material conditions place obstacles in the way and may also entail rights abuses such as trafficking and exploitation of irregular migrants. Importantly, refugees are not always an economic burden as the case of Dadaab shows.

In places such as Yemen, a "latent function" (ibid.) of laws hindering access to the formal labour market may be the provision of cheaper and more exploitable informal labour. Addressing material conditions may call for radical reforms. Again, *new formal legislation alone will not necessarily lead to positive change.* Turning to a somewhat different issue, in order to address the social and economic obstacles in accessing and succeeding with the asylum process, as illustrated with the case of Ethiopians in Yemen, there needs to be much more active outreach by legal aid NGOs and others. Finally, a normative perspective could involve an appreciation of how relevant Islamic norms in Yemen influence the application of law and protection. In sum, while new laws may be needed, the overall context is crucial in deciding how laws will be applied and function. Therefore, protection possibilities need to be exploited in existing laws and need to address contextual factors, and only in some cases must new formal laws be considered.

In terms of new formal laws and policies, two options are particularly worth exploring further. As a high-level Yemeni Government official suggested, *bilateral solutions guided by principles of good neighbourhood and humanitarianism might be a way forward in cases that fall outside current refugee law.* Second,

exploring labour migration channels and potentially expanding these in the wider region might also be a way forward as many of the people moving out from the Horn of Africa are in search of better livelihoods, where their immediate region may not be their ultimate and desired destination.

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The United Nations University Institute for Environment and Human Security (UNU-EHS) undertakes field-based empirical research on climate change and human society. This research contributes to policy processes (especially the United Nations Framework Convention on Climate Change (UNFCCC) climate negotiations) and practice (particularly climate risk management , adaptation, and loss & damage).

UNU-EHS is recognized internationally for its focus on empirical methods and fieldwork in areas of origin of migrants. Research undertaken by UNU-EHS has contributed to introduction of climate change and human mobility in international agreements such as the Cancun Adaptation Framework (paragraph 14(f)) and the Doha Climate Gateway Decision on Loss and Damage (paragraph 7a(vi)). This research has also been present in other intergovernmental fora like the Global Forum on Migration and Development (GMFD), and has contributed to the Intergovernmental Panel on Climate Change (IPCC) assessment report process.

UNU-EHS collaborates in research and research-to-policy processes with partners like the Nansen Initiative, the International Organization for Migration (IOM) and Office of the United Nations High Commissioner for Refugees (UNHCR), and academics and practitioners worldwide. This work is conducted primarily with scholars of human mobility, international finance institutions, the United Nations (UN) System and delegates to UN policy processes.