

STUDY

Requested by the LIBE committee



Climate Change and Migration

Legal and policy challenges and responses to environmentally induced migration



Policy Department for Citizens' Rights and Constitutional Affairs
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Abstract

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, examines legal and policy responses to environmental migration and displacement. Following a review of international, regional and national initiatives and legal instruments, it offers recommendations on ways to better address root causes and consequences of the climate change-migration nexus in Europe and beyond.

This document was requested by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs.

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LIST OF ABBREVIATIONS

ALERT	Acute Large Emergency Response Tool
AU	African Union
BPA	Brazil Plan of Action
CAT	Convention against Torture
CAMM	Common Agenda on Migration and Mobility
CEAS	Common European Asylum System
CFR	Charter of Fundamental Rights of the European Union
CJEU	Court of Justice of the European Union
CO₂	Carbon dioxide
COP	Conference of the Parties
CSM	South American Conference of Migration
DREF	Disaster Relief Emergency Fund
ECHR	European Convention on Human Rights
ECTHR	European Court of Human Rights
EMN	European Migration Network
EU	European Union
GCM	Global Compact for Safe, Orderly and Regular Migration
GCR	Global Compact on Refugees
GAMM	Global Approach to Migration and Mobility
GIZ	German Agency for International Cooperation
IASC	Inter-Agency Standing Committee

ICCPR	International Covenant for Civil and Political Rights
ICMPD	International Centre for Migration Policy Development
IDMC	Internal Monitoring Displacement Centre
IDP	Internally displaced person
IGAD	Intergovernmental Authority on Development
IOM	International Organization for Migration
KNOMAD	Knowledge Partnership on Migration and Development
MDG	Millennium Development Goals
MICIC	Migrants in Countries in Crisis
MS	Member State
MEP	Member of the European Parliament
OAU	Organisation of African Unity
PACE	Parliamentary Assembly of the Council of Europe
PDD	Platform on Disaster Displacement
QD	Qualification Directive
RCM	Regional Conference on Migration
RD	Return Directive
SDG	Sustainable Development Goals
TFD	Task Force on Displacement
TPD	Temporary Protection Directive
UN	United Nations
UNDP	United Nations Development Programme

UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNHCR	Office of the United Nations High Commissioner for Refugees
WHS	World Humanitarian Summit
WMO	World Meteorological Organization

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GLOSSARY

CLIMATE CHANGE	“[T]he change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.” ¹
CLIMATE (ENVIRONMENTAL) REFUGEE	“The term ‘climate/environmental refugee’ is used to refer to a category of environmental migrants whose movement is clearly of a forced nature.” ² More specifically, the term “climate refugee” is used to refer to persons who are forced to leave because of impacts of climate change. Individuals and communities threatened by sea-level rise are a classic case. Generally, the terminology is disputed and the notion of forced displacement usually limited to disasters.
DISASTER	“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.” ³
DISASTER-RELATED DISPLACEMENT	Forced displacement related to a disaster, whether related to environmental or other causes.
ENVIRONMENTAL CHANGE	“Changes in the physical and biogeochemical (chemical, geological, and biological) environment, over a large scale, either caused naturally or influenced by human activities,” thus including both changes attributable to climate change and changes that are not. ⁴
ENVIRONMENTAL DISPLACEMENT (SYNONYM: ENVIRONMENTALLY INDUCED DISPLACEMENT)	Forced displacement caused by environmental factors, for example a flood or drought.
ENVIRONMENTAL MIGRATION (SYNONYM: ENVIRONMENTALLY INDUCED MIGRATION)	Migration driven in significant part by environmental factors, but not forced.

¹ Foresight (2011), p.233.

² IOM (2019), p.32.

³ Ionescu et al. (2016), p.124.

⁴ Foresight (2011), p.233.

ENVIRONMENTAL MIGRATION AND DISPLACEMENT	The term “environmental migration and displacement” is an umbrella term to capture all movements where environmental factors have played a role.
FORCED DISPLACEMENT (SYNONYM: DISPLACEMENT)	The movement of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters. ⁵
INTERNATIONAL PROTECTION	<p>“In the global context, actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin who lack the national protection of their own countries.</p> <p>In the EU context, protection that encompasses refugee status and subsidiary protection status.”⁶</p>
MIGRATION	“The movement of persons away from their place of usual residence, either across an international border or within a State.” ⁷ International standard definitions distinguish between short-term migration (between 3 and 12 months) and long-term migration (at least 12 months). Short term movements below 3 months of stay are generally not considered migration.
MIGRATION DRIVERS	Migration drivers refer to factors shaping migration decisions, including migration decisions in the context of forced displacement.
MOBILITY	(Geographical) ‘mobility’ is an overarching term to denote the relocation from one place to another. More specifically, this study refers to mobility when movements cannot be characterised as migration, notably in the case of short-term movements.
SLOW ONSET EVENT	Gradual environmental changes such as drought, sea-level rise or soil erosion whose impact builds up over time.
SUDDEN (RAPID) ONSET EVENT	Events such as extreme weather events like flooding or storms that strike suddenly and have an immediate impact.

Note: definitions are derived from this report except otherwise noted.

⁵ IOM (2019), p.55.

⁶ EMN (2018a).

⁷ IOM (2019), p.136.

EXECUTIVE SUMMARY

In 2011, the European Parliament's Policy Department on Citizens' Rights and Constitutional Affairs commissioned the International Centre for Migration Policy Development (ICMPD) to undertake a study on legal and policy responses to environmentally induced migration. While looking at both forced and voluntary cross-border movements, the study generally focused on protection needs and the possible role of asylum and other policies related to forced displacement. This current study, nearly a decade later, re-examines the issue in light of increased interest and momentum in responding to the migration-climate change nexus.

Indeed, this study comes at a time when **the issue of climate change has fully moved to the centre of political and societal debates**. The evidence available today on the expressions of climate change, its human causes, the speed of changes and interlinkages between different aspects of climate change (e.g. global warming, sea level rise or extreme weather events) is increasingly sophisticated, enabling better, more nuanced and more specific assessments of current and future impacts. This includes discussions of equity and justice in the context of climate change that acknowledge that the impacts of this phenomenon are uneven, for instance disproportionately impacting poorer and more vulnerable populations and among these, in particular women. In addition, researchers have also examined how climate change is affecting enjoyment of basic human rights.

At the policy level, **the European Union's (EU's) global engagement – both in terms of climate policy and migration and displacement policy – has significantly expanded** and is set to become yet more important in the context of ongoing geopolitical shifts. **This study explores the intersection of these two prominent issue and policy areas**. At the same time, the impasse on a way forward to reform asylum in Europe raises questions as to the EU's capability to accommodate migration and displacement challenges connected with environmental change.

This study reviews academic evidence on the impact of climate change on migration and displacement. It also examines policy debates and concrete initiatives addressing the nexus of migration, displacement and climate change, focusing on the global and regional levels, to assess the fitness of the legal and policy frameworks in place. The report concludes with recommendations and the presentation of possible options for the European Parliament to further develop policy frameworks at the EU level. **Its primary focus is needs arising in the context of adverse environmental changes, and thus environmental displacement – although migration as a strategy to cope with climate change is also explored**. The study is based on desk research of academic literature and selected policy documents and jurisprudence as well as a survey of policymakers in select EU Member States (MSs).

The impact of climate change on migration, mobility and displacement

A review of the literature underscores that **the impact of environmental change on migration is complex**: Environmental change interacts with and is mediated by other drivers of migration. Forced displacement following sudden- or slow-onset environmental events, in contrast, offers a more tangible category for analysis, raising specific practical and legal concerns. However, it should be noted that environmental change cannot only spur mobility, it can also drive immobility. In addition, it may adversely affect immobilised populations, such as those facing protracted displacement situations as a result of conflict, persecution or violence.

Climate change is likely to increase the likelihood and intensity of natural hazards, which in turn will impact drivers of migration. Slow-onset environmental change is mediated by a variety of social, economic and political factors and generally affects migration indirectly. While disasters often have a more direct effect, these, too, are socially mediated, disproportionately affecting vulnerable populations. **Existing estimates of the numbers of 'environmental migrants and displaced persons' are problematic on several counts**, including because of the difficulties in establishing causality, the often unclear nature of estimates (do they refer to stocks of migrants or flows? Do they refer to the present or a future point in time?), and the absence of a transparent methodology. However, for over a decade the Internal Displacement Monitoring Centre's **(IDMC) tracking of disaster-related internal displacement provides a robust evidence base on displacement caused by disasters** and classifies the data by type of natural hazard causing displacement, thus allowing to distinguish environmental from other causes. No such estimates are currently available for cross-border situations. The IDMC's data collection methodology, however, offers a good basis for potential further development of global estimates in this area.

Rather than simply a reaction to climate change or disasters themselves, **migration should also be understood as an adaption strategy**, a way to cope with related impacts on lives and livelihoods. Migration thus needs to be part of the solution both in respect to internal and cross-border situations, for example through facilitating migration and making it an option for a larger group of people through planned relocation in internal situations or through considering environmental factors in the context of resettlement, amongst others.

International policy initiatives addressing environmental migration and displacement

With environmental migration and displacement being an increasingly visible topic in international policy discussions and initiatives, **efforts to address the issue through global fora have gained momentum and can be seen in frameworks, guidance, capacity building and other actions.** In the field of migration and displacement, many of these efforts focus on cross-border displacement. The state-led **Nansen Initiative** has been particularly active both globally and regionally in strengthening protection for environmentally displaced persons. Meanwhile, the **Global Compact for Safe, Orderly and Regular Migration** has raised the profile of environmental drivers of migration and ways to address them through international cooperation. Beyond this, preventing and responding to environmental displacement has been part of broader global discussions on climate change and disasters, while the issue is also on the agenda of humanitarian and development actors.

In addition to such global initiatives, **several regional initiatives**, especially in Africa and Latin America, as well as national-level efforts, particularly in the Pacific islands, **represent important steps in strengthening frameworks for protection in the context of environmental migration and displacement.** Notably, the African region has developed a few instruments that are legally binding, in contrast to the voluntary nature of most initiatives.

A number of United Nations agencies, multilateral development banks and other actors have engaged in this work, reflecting the increased prominence of the topic and need to both strengthen protections for those displaced and to foster the resilience of those who could potentially be displaced in the context of climate change and disasters. As international and regional initiatives have gained

momentum, they have provided tools to better respond to environmental migration and displacement, filling in key gaps, and **underscored the utility of international cooperation** to do this. But despite this progress, the voluntary and fragmented nature of most of these efforts, the need to effectively implement them, and continued concerns regarding climate change all remain key challenges to effectively responding to environmental migration and displacement going forward.

Addressing environmental displacement in Europe

The EU and its MSs have taken an active role in promoting environmental protection in global fora; although the EU was late to the game, it has increasingly addressed the nexus of environmental change and migration over the past decade. **Environmental change and migration is addressed in its civil protection, humanitarian aid and development policies.** However, **in the context of policies on international protection, no concrete initiatives to date have addressed the protection needs of people affected by environmental change,** and specifically environmental – and other – disasters: According to the prevailing interpretation of the 1951 **Refugee Convention**, displacement based on environmental reasons alone does not meet the requirement for refugee protection. Within the EU, complementary forms of protection deriving from the **Qualification Directive** and the **Temporary Protection Directive**, as well as protection from non-refoulement in the **Return Directive**, could provide protection alternatives. However, **all of those instruments reveal deficiencies for the protection of environmentally displaced persons.**

Looking at the national level, only Sweden and Finland provide for protection of persons affected by environmental change and natural disasters and unable to return under national legislation. However, Finland and Sweden both suspended their national provisions following the high numbers of migrant arrivals in 2015-16.

Meanwhile, **judgments by the European Court of Human Rights and the Court of Justice of the European Union on sick migrants can serve as examples of how these courts may assess applications from persons displaced or unable to return for environmental reasons.** Socio-economic reasons in the broader context of Articles 2 and 3 of the European Convention on Human Rights could offer crucial bases for protection; however, the threshold is set very high. While national courts of EU MSs have not yet had to judge cases related to displacement and climate change, **Australian and New Zealand courts have dealt with several cases.** However, the only case where a court in New Zealand has granted residence to a person who claimed to be unable to return due to climate change was decided based on family ties in New Zealand and not on the situation in the applicant's country of origin (Tuvalu). Lastly, in a remarkable recent decision, the **United Nations Human Rights Committee** declared that inaction in the face of global warming can lead to violations of human rights and trigger non-refoulement obligations.

Conclusions and recommendations

Solutions for environmental migration and displacement must acknowledge the diversity of environmental drivers, including their scope, intensity and duration, as each may involve different needs and frameworks with which to respond. This calls for a multi-sectoral approach that addresses both root causes and consequences of the nexus between environmental change, on the one hand, and migration and displacement, on the other. While protection needs of those affected by slow or sudden-onset events arise independently of the question whether climate change can be established as a cause

of such events, there is clear evidence of the increased risk of environmental hazards due to climate change. Addressing climate change through climate change, development, trade and other policies is thus a key element of prevention.

The Study recommends that **the European Parliament should:**

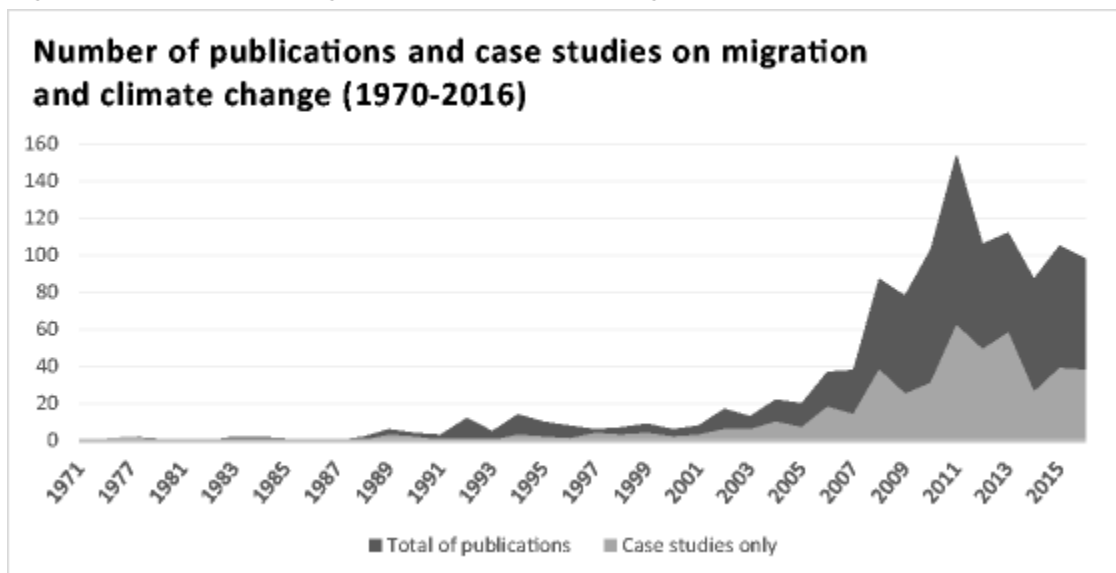
- **Strengthen conceptual clarity, defining its position on climate change and environmental change more broadly and its impacts on migration and displacement.** This includes more robust data collection and analysis to build the research base; an exploration of MS' readiness to address environmental factors in supra-national and national policies on migration and asylum; and the adoption of a common EU position on the climate change-migration nexus.
- **Develop a coherent policy to address migration in the context of climate change and natural disasters and mobility in the external dimension.** This entails mainstreaming environmental and mobility considerations across policies, strategies and programs; taking concrete solidarity actions under the Global Compacts; encouraging European regional and national actors to engage in addressing the issue; and leveraging participation in international initiatives to foster the further development of tools and policies in areas of the world most affected by these environmental events, including through technical and financial assistance. These efforts should encompass the development and expansion of measures in reaction to crises as well as forward-looking approaches that address future risks, including adaptation strategies such as migration.
- **Push for forward-looking EU asylum and migration policies at internal level, which take into account climate change and natural disasters alongside other emerging challenges.** Such an effort should recognise that there are different avenues through which the European Parliament can seek to address the needs of those affected by climate change and natural disasters within the EU. One such pathway is devising a strategy for providing solutions for protection claims submitted in Europe that are connected with climate change and natural disasters.
- **Strengthen various forms of assistance to countries particularly affected by environmental disasters as well as environmental and climate change more broadly as well as step up the EU's climate change policies more broadly.**

1. INTRODUCTION

In 2011, the European Parliament's Policy Department on Citizens' Rights and Constitutional Affairs commissioned the International Centre for Migration Policy Development (ICMPD) to undertake a study on legal and policy responses to environmental migration. Although addressing both forced and voluntary cross-border movements, the study generally focused on protection needs and the possible role of asylum policies on forced displacement more widely.⁸

The study came at a time of increased policy and research interest in the relationship between migration, climate change and issues of environmental change more generally, reflected amongst others in an enormous growth of the relevant research literature (see Figure 1, below) and, at the policy level, the launch of a state-led policy initiative – the Nansen Initiative⁹ – dedicated to addressing the nexus between environmental change and migration. The growth of both research and policy interest at the time reflected the wider growth in attention to climate change and its various social, economic and political impacts.

Figure 1: Research on migration and climate change



Source : Reprinted by permission from Springer Nature, Population and Environment, The uneven geography of research on “environmental migration”, Etienne Piguet et al., 2018.¹⁰

That period also saw an important leap in the overall understanding of the nexus of environmental change and migration, made possible by a number of large-scale and comprehensive studies conducted at the time.¹¹ In a similar vein, the launch of continuous data collection on disaster-related

¹ Kraler et al. (2011).

⁹ <https://www.nanseninitiative.org/>. See in more detail section 4.2.1.1 below.

¹⁰ The Climig database can be accessed at <https://climig.com/>.

¹¹ A notable example is the influential Foresight report (Foresight, 2011) bringing together a wide range of expertise from a large number of scientists from different disciplines, involving some 80 background papers and involving several hundred scientists and other stakeholders. Another example is a slightly earlier project funded under the EU's FP6 research programme “Environmental Change and Forced Migration Scenarios (EACH-For, 2007-2009).

internal displacement by the Internal Displacement Monitoring Centre (IDMC),¹² with a first report published in 2011,¹³ has considerably improved the evidence base on displacement caused by disasters, including and in particular extreme weather events such as floods, cyclones or drought.

Almost a decade after the publication of the 2011 European Parliament-commissioned study, the issue of climate change has fully moved to the centre of political debates, both at the Member State (MS) and European Union (EU) level, even if temporarily overshadowed by the Covid-19 crisis and response. What is perhaps equally, if not more important, it has moved to the centre of broader societal debates: **EU citizens consider it as one of the top societal challenges Europe is facing**.¹⁴ The evidence available today on the expressions of climate change, its human causes, the speed of changes and interlinkages between different aspects of climate change such as global warming, sea-level rise or extreme weather events is increasingly sophisticated and powerful and enables better, more nuanced and specific assessments of climate change impacts now and in the future.

In the meantime, debates on 'climate justice'¹⁵ have highlighted the centrality of issues of "equity and justice aspects inherent to both the causes and the effects of climate change",¹⁶ stressing amongst other points that climate change does not affect everybody equally and may hit vulnerable groups particularly hard. Indeed, as recent research has shown, it is the global poor that are disproportionately affected by climate change.¹⁷ Additionally, climate change impacts are clearly gendered.¹⁸ Apart from raising concerns around equity and justice, climate change has important human rights implications, with a number of basic rights being at stake, while responses to climate change in turn may raise new human rights issues.¹⁹

At the policy level, the EU's global engagement – both in terms of climate policy and migration and displacement policy – has significantly expanded; this is set to continue in the **context of ongoing geopolitical shifts that have made EU leadership in regard to these global challenges even more important**. At the same time, **the impasse around the reform of the Common European Asylum System (CEAS) and the different views on the future of asylum in Europe raises questions as to the EU's capability to accommodate human mobility due to environmental change**.²⁰

It is against this background that the European Parliament commissioned the present study in February 2020. The study is tasked with reviewing the academic evidence on the impact of climate change on migration and displacement, in addition to policy debates and concrete initiatives addressing the nexus of migration, displacement and climate change both at the global and the EU level and assessing the fitness of the legal and policy framework in place. Lastly, the study was tasked with describing possible

¹² The IDMC database can be accessed at <https://www.internal-displacement.org/database/displacement-data>.

¹³ IDMC & NRC (2011).

¹⁴ The increasing salience of climate change is captured by the Eurobarometer, see European Commission (2019) for results also in comparison to previous waves.

¹⁵ See for a comprehensive overview of different aspects of climate justice debates Jafry (2019).

¹⁶ Jafry et al. (2019), p.3.

¹⁷ See Hallegatte & Rozenberg (2017) for short summary and Hallegatte et al. (2016) for the full World Bank Study on which the summary is based.

¹⁸ See Perkins (2019).

¹⁹ See Duyck et al. (2018). Policies on planned relocation as opposed to temporary evacuations is one example of a policy issue raising human rights issues.

²⁰ As we will argue in the below, the spectre of mass migration due to climate change is both wrong on factual grounds (see for a critique de Haas 2020) and unhelpful in thinking about protections for those affected by adverse environmental change.

options for the further development of a policy framework at the EU level. The primary focus of the study concerns the needs arising in the context of adverse environmental changes and related mobility, and thus environmental displacement.

The study will proceed as follows: In the next section (section 2), we will describe the terms, definitions and conceptual framework of the study. Section 3 reviews the evidence on the impact of climate change on migration, mobility and displacement. In so doing, the study will also examine migration as an adaptation strategy and the issue of trapped populations in whose case such options are often absent. Section 4 undertakes a broad review of instruments and initiatives on the international level that either explicitly address environmental migration and displacement or have been mobilised to this end. Apart from global initiatives, the section also examines a number of regional and national initiatives. Section 5 focuses on European policy debates, examining both the global (external) and internal dimension of EU policies, that is the EU's legal framework on international protection, legislation at the MS level and relevant case law.

The final section (section 6) will provide conclusions and make a number of recommendations.

Note on methodology

This study is based on desk research of academic literature and select policy documents and legal cases. In addition, section 5.1 also draws on responses to a questionnaire disseminated amongst select EU MSs.

2. BACKGROUND

KEY FINDINGS

Climate change is an important driver of environmental change, but not all environmental change can be attributed to climate change. The present report thus uses the more general term environmental change.

The impact of environmental change on migration and displacement is complex. Environmental change interacts with and is mediated by other drivers of migration. The concepts 'environmental migration' and 'environmental migrant' are thus only a shortcut for expressing that environmental factors have played a crucial role.

Displacement following environmental events such as a drought (a 'slow-onset event') or a flood (a 'sudden-onset event') presents a more tangible category, raising specific practical and legal questions in the context of migration and asylum policies.

The present report uses the umbrella term 'environmental migration and displacement' to denote individuals affected in some way or another by the nexus of environmental change and migration.

2.1. Conceptual framework

The debate on environmental change and migration can be traced back to the 1970s, when the term "environmental refugees" made its first appearance,²¹ entering common usage in the 1980s.²²

The term "**environmental refugee**" suggested two conclusions: first, that movement in response to environmental change was involuntary, and second, that the involuntary nature of movement gave rise to specific protection challenges.

However, these assumptions were heavily criticised: The criticism concerned the analytical value of the concept for helping to understand the relationship between environmental change and migration,²³ the often loose use of these terms in relevant debates and their normative implications. Social scientists refuted the terms climate or environmental refugees as implying a simplistic and mono-causal understanding of the relationship between climate change, environmental events and displacement, also drawing on broader debates within refugee and migration studies questioning the sharp distinction between voluntary and forced migration and stressing individuals' agency.²⁴ The Office of the United Nations High Commissioner for Refugees (UNHCR) rejected the use of the term 'refugee' in this context on grounds that the term 'refugee' was a legal term and should be reserved for refugees

²¹ According to Black (2001), the term can be traced back to Lester Brown of the World Watch Institute.

²² The popularisation of the term is commonly attributed to an influential study by a researcher from the United Nations Environmental Programme (UNEP), El-Hinnawi (1985) (see McLeman R. & Gemenne, F. 2018, p.10).

²³ Notably in terms of the scope of phenomenon.

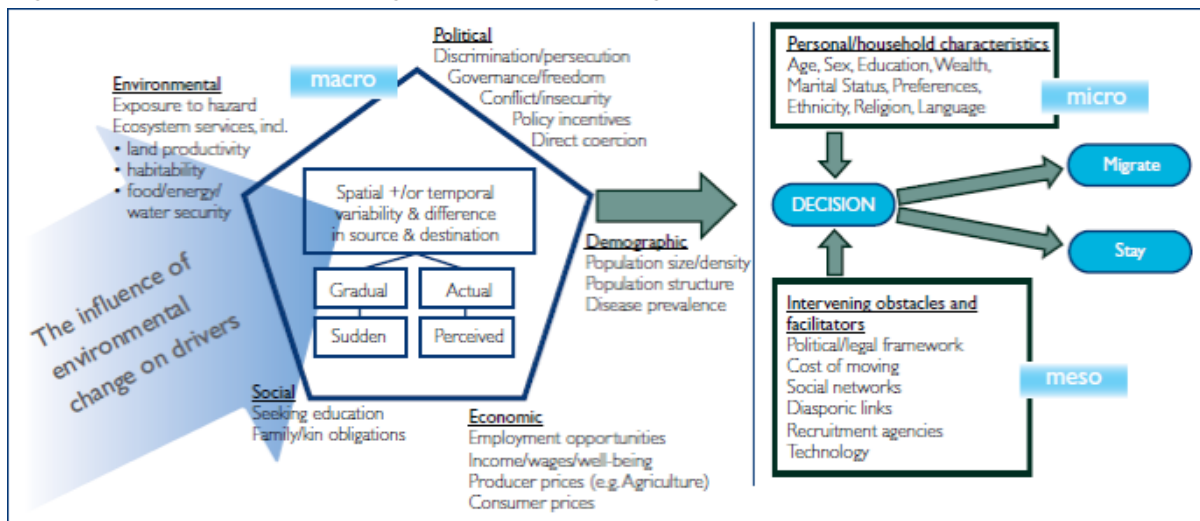
²⁴ See for a prominent voice in the debate and at the same time representing a new consensus Foresight (2011), p. 34. The sharp dichotomy between voluntary and forced migration has been amongst others highlighted by Zetter, R. (2007) and Bakewell (2008) both drawing attention to the political function of 'labels'. For a recent critique of the forced vs. voluntary migration dichotomy see Erdal & Oeppen (2018).

protected under the 1951 Geneva Refugee Convention.²⁵ At the same time, the term was embraced by a variety of scholars and activists, often writing from a human rights perspective, as appropriate in terms of conveying both a sense of urgency and in highlighting the protection needs arising in the context of climate change and related movements.²⁶

Commenting on these conceptual debates and the broader notion of ‘environmental migration’, a **major study on environmental change and migration commissioned by the United Kingdom Government’s Office for Science (subsequently referred to as the “Foresight Study”)** reasoned that “[it was] almost impossible to distinguish a group of ‘environmental migrants’, either now or in the future”. Discussing related attempts to estimate the numbers of ‘environmental migrants,’ the report argued that these are “methodologically unsound, as migration is a multi-causal phenomenon and it is problematic to assign a proportion of the actual or predicted number of migrants as moving as a direct result of environmental change.”²⁷ The Foresight study **criticised** what it called ‘**deterministic approaches**’ to infer the number of migrants from the number of populations likely to be affected by environmental change, arguing that such an approach neglects human agency in dealing with environmental change and constraining factors influencing migration outcomes.

By contrast, the Foresight study **advocated for an approach that focuses on the impact** of environmental change **on drivers of migration**, and thus on changes to the volume of migration resulting from environmental change, as plotted in Figure 2, below.

Figure 2: Environmental change and drivers of migration



Source: Foresight (2011), figure ES.1, p.12.

The criticism raised by the Foresight study specifically referred to global estimates of ‘environmental migrants’ and the related identification of a global subset of migrants that could be designated as ‘environmental migrants’. It does not – per se – concern the conceptual efforts to identify migrants

²⁵ UNHCR (2008), p.8. Despite these concerns, the term entered the UNHCR’s ‘Thesaurus of refugee terminology’ (quoted after EMN 2018a, p.119).

²⁶ See for a recent example Behrmann & Kent (2018) which uses “climate refugees” as the key concept of the book, even if it also contains critical essays on the discourse on ‘climate refugees’.

²⁷ Foresight (2011), p.11.

affected by environmental change and in need of protection, as a protection-oriented approach is less concerned with the cause of the need for protection than with identifying protection needs. The most important point here is that it may be moot to try to arrive at a conceptual definition that captures environmental factors as single causes of any migration (or forced displacement, for that matter). At the same time, there is a need to have terms to denote both processes of migration and displacement related to environmental changes and individuals involved in these processes, whatever the real weight of environmental factors – amongst other drivers – are.

Following the usage in the *Routledge Handbook of Environmental Displacement and Migration*, we will generally speak of '**environmental migration and displacement**' when we refer to the overall nexus of environmental change and migration – 'migration' here understood as an overarching term referring to a change of residence between different locations for a certain period of time.

Reflecting the terminological debates mentioned above, and maintaining a basic differentiation between voluntary and involuntary migration, we propose to distinguish between 'environmental migration' on the one hand and 'environmental displacement' on the other. We refer to **environmental migration** (labelled environmentally induced migration in table 1 below) when we refer to (more) voluntary migration where environmental factors somewhat play a role, and refer to **environmental displacement** (called environmentally induced displacement in table 1 below), where some form of coerced movement takes place, recognising, at the same time, that the distinction between 'forced' and 'voluntary' is extremely blurry, as is also discussed in more detail below in chapter 3.

Following the Foresight Study, we distinguish between environmental changes attributable to climate change and non-climatic changes, such as land and coastal and marine ecosystem degradation attributable to human factors (see box 1).²⁸

We use the term **environmental change** (as opposed to the more specific term environmental degradation) for two main reasons: first, the term 'environmental change' is the most widely used term in debates on migration and environment, and secondly, it is a more neutral concept covering a wider range of situations.

Box 1: Environmental change vs. climate change

The Foresight Study defines **environmental changes** as "[c]hanges in the physical and biogeochemical (chemical, geological, and biological) environment, over a large scale, either caused naturally or influenced by human activities," thus including both changes attributable to climate change and changes that are not.

In contrast, **climate change** is defined as "[t]he change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods."

²⁸ Foresight (2011), p.39.

Source: Foresight (2011), p.233.

The key conclusion from the distinction between environmental changes attributable to climate change and those which are not is that we should speak of climate change-induced migration and displacement only if the underlying phenomena – such as a drought, a flood or a hurricane – can be attributed to climate change.

A second set of key concepts are the concept of ‘**slow-onset**’ and ‘rapid’ or ‘**sudden-onset events**’.²⁹ ‘Slow-onset events’ include gradual environmental changes such as drought, sea-level rise or soil erosion. ‘Sudden-onset events’ include extreme weather events such as flooding or storms.³⁰ Both sudden- and slow-onset events can imply forced displacement: While forced displacement related to environmental hazards is usually associated with disasters such as typhoons or flooding (and thus ‘sudden-onset events’), more gradual forms of adverse environmental change such as severe drought or sea-level rise can also induce displacement, with the case of inhabited islands whose existence is threatened by sea-level rise being the most extreme example.³¹ In many cases, however, such gradual environmental change may only be one amongst several factors triggering movement. Environmental factors may thus play a role in migration decisions but do intersect with other motivations. While such ‘voluntary migrants’³² may not require particular protection, policymakers still need to be aware of environmental drivers as they may affect the volume and nature of migration

Table 1: Typology of environmental migration and displacement

Category	Cause of movement	Nature of movement	Protection Challenges
Environmentally induced temporary displacement	Sudden-onset events; Slow-onset events	Temporary displacement within national borders; Temporary cross-border displacement	Cross-border displacement: Temporary, humanitarian protection; Internal displacement within countries: Limited internal protection
Environmentally induced long-term displacement	Sudden-onset events (if recovery of the impacted area is slow and ineffective); Slow-onset events (no alternative livelihood possible)	Long-term cross-border displacement; Long-term internal displacement	Cross-border displacement: Access to protection, access to durable solutions (resettlement, local integration, voluntary return); Internal displacement: Limited internal protection; access to durable solutions (resettlement, local integration, voluntary return)

²⁹ The relevant literature also often uses the term “hazard” as a more general term.

³⁰ Kraler et al. (2011), p.19.

³¹ See for influential academic voices in the debate Biermann & Boas (2008, 2010). On the notion of “root causes” see Carling & Talleraas (2016).

³² The dichotomy between voluntary and forced migration have long been criticized in refugee and forced migration studies. Prominent voices include Roger Zetter (2007) and Oliver Bakewell (2008) both drawing attention to the political function of ‘labels’, arguing that such labels do not say much about migration decision making. For a recent critique of the forced vs. voluntary migration see Erdal & Oeppen (2018).

Environmentally induced migration	Slow-onset events; Sudden-onset events	Temporary or long-term voluntary migration in anticipation of worsening conditions, search for more attractive opportunities within or across national borders	No specific protection challenges
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Source: Adjusted from Kraler et al. (2011), Table 2, p.35

Given the focus of this study – migration and asylum policy responses to environmental change, including climate change – **the starting point must be protection needs**. In this context, it is revealing that both the academic literature and related policy discussions do not limit themselves to the field of environmental migration and displacement narrowly speaking when discussing protection gaps and challenges. Indeed, key examples of policy challenges that have been discussed in the literature – such as responses to the 2010 earthquake in Haiti – are not related to environmental changes, let alone climate change.³³ Others, like the Fukushima disaster in March 2011, escape an easy categorisation, being the result of a combination of a geophysical event (an earthquake provoking a Tsunami) and a nuclear accident leading to the long-term contamination of large areas.³⁴

Recognising that a specific causality might be less important for recognising protection challenges, important initiatives such as the Nansen Initiative have also gradually moved to address disaster-related cross-border displacement in general.³⁵

Oxford-based scholar Alexander Betts has suggested dropping references to causality altogether, as for him the specific cause is unimportant in assessing protection needs. Rather, he suggests using the broader category of what he terms ‘survival migration’, relating to “persons who are outside their country of origin because of an existential threat for which they have no access to a domestic remedy or resolution.”³⁶ While the concept of ‘survival migration’ in a sense only shifts some of the difficult questions of scope and thresholds for protection, a key point indeed is that **there are a number of high-impact situations**, including but not limited to environmental change, that **have the capacity to influence drivers of migration or indeed forcibly displace persons from their habitual places of residence or countries of origin**, or, in a related way, hinder them from returning. The ongoing Covid-19 crisis, which has prompted a number of countries to adopt regularisation measures and other measures to protect migrants stranded in countries under lockdown, is a case in point.³⁷

More practically, the IDMC has collected data on disaster-related internal displacement since 2011 (with reference years 2008-2010). Disaster-related displacement covers a wider range of causes than environmental displacement.

Conceptually, the categories meteorological, hydrological and climatological hazards distinguished in the table below can be considered to be instigators of ‘environmental displacement’. Yet also, the

³³ See Weerasinghe (2018).

³⁴ See on Fukushima and industrial accidents more generally Ionescu (2016), p.54.

³⁵ Mayer (2018), p.328.

³⁶ Betts (2013), p.23.


³⁷ PICUM (2020).

category of biological hazards may be linked to environmental factors. For example, the locust plague affecting several countries in East Africa ongoing at the time of writing can be linked to the impact of climate change, and specifically the increased frequency of extreme weather events – in this case unusually wet conditions over prolonged periods of time on the Arab peninsula.³⁸ Thus, while capturing a number of clear-cut cases of movement that can be attributed to high-impact environmental changes, some basic conceptual problems associated with the notions of environmental migration and displacement remain.

In addition, IDMC's data collection does not include some important categories of 'environmental displacement', such as the permanent loss of habitat through sea-level rise.

Table 2: Types of natural hazard events covered by IDMC's data collection

Climate-related hazards	Meteorological	Hydrological	Climatological
Sudden onset	Tropical, extra-tropical and local storms	Floods and wet mass movement	Extreme temperature and wildfire
Slow onset	-	Long-lasting subsidence	Drought*
Non climate-related hazards	Geophysical	Biological	
Sudden onset	Earthquakes, volcanic eruptions, dry mass movement	Epidemics, insect infestation, animal stampede	
Slow onset	Long-lasting subsidence	Epidemics, insect infestation	

Notes :  not included by IDMC data-collection. * Droughts are included only since the 2018 Global Report on Internal Displacement.

Source: Adapted from IDMC (2011), p. 7.

Overall, the category 'disaster-related displacement' constitutes an important overarching category that we will refer to throughout the study where appropriate.

2.2. Conclusions

As has been argued in this chapter, the relationship between environmental change and migration (to be discussed in more depth in section 3) is complex. This report will use the umbrella term 'environmental migration and displacement' as an indicative context helping to denote individuals somehow affected by the nexus of environmental change and migration. We distinguish between environmental migration to refer to voluntary forms of migration where environmental factors somewhat play a role, on the one hand, and environmental displacement, where some form of coerced movement – following a severe environmental event – has taken place, on the other. At the same time, we also refer to disaster-related displacement as an overarching concept that includes both environmental drivers and others (such as human-made disasters or geophysical events) which,

³⁸ Salih et al. (2020).

although not related to environmental factors, raise similar protection challenges and thus are relevant when thinking about policy responses.

3. THE IMPACT OF CLIMATE CHANGE ON MIGRATION, MOBILITY AND DISPLACEMENT

KEY FINDINGS

Climate change is likely to increase the likelihood of a number of natural hazards, which in turn will have significant effects on migration drivers and migration outcomes.

Slow-onset environmental change affects migration outcomes largely indirectly – through its impact on social, economic and political factors. While disasters frequently involve direct threats to the life and safety of those affected and thus have a more direct effect, disasters too have substantial indirect effects spurring movement. They also affect more vulnerable populations disproportionately.

Existing estimates of environmental migration and displacement are problematic on several counts. They tend to assume a straightforward attribution of causality, are often unclear as to their temporal reference and rarely are based on a transparent methodology.

By contrast, in our view, the Internal Displacement Monitoring Centre's tracking of disaster-related internal displacement provides a robust evidence base for any further development of global estimates on disaster-related displacement that would include both internal and cross-border displacement."

Environmental change not only may act as a driver of mobility, but also of immobility. In addition, it may adversely affect immobilised populations, such as persons in protracted displacement situations as a result of conflict, persecution or violence.

Migration should also be recognised as an adaptation strategy. While the frame of 'migration as adaptation' is not without risk, migration needs to be part of the solution both in respect to internal and cross-border situations.

In this chapter, we review recent evidence regarding overall trends in climate change and its impact on migration, mobility and displacement. We start with a brief description of overall trends in climate change and its effects on a number of areas. In section 3.2, we discuss the impact of climate change on migration and mobility, discussing environmental change and environmental shocks as drivers of migration, including its scale, environmental change and mobility and migration as adaptation. Section 3.3 provides a conclusion for the chapter.

3.1. Trends in climate change

The most recent statement by the World Meteorological Organization (WMO) on the State of the Global Climate suggests an **accelerated pace of climate change**, noting that 2019 was the warmest year on record and each decade since 1980 has been warmer than the decade before. Greenhouse gas concentrations in the atmosphere reached record levels in 2018, a trend that continued in 2019. While the oceans absorb an important share of atmospheric carbon dioxide (CO₂) emissions, CO₂ absorption

leads to the acidification of oceans, affecting marine ecosystems. In addition, ocean heat levels ('ocean heat content') reached record levels in 2019, which in turn contributed to the melting of sea ice and sea-level rise, exacerbated by the melting of ice on land. The global mean sea level in 2019 was the highest since high precision measurements began in 1993.³⁹ While climate change is a global problem, the **impacts of climate change are unevenly distributed and are most heavily felt in poorer countries.** This bigger impact is partly because of greater exposure to climate-related hazards (such as flooding or droughts), but to a large extent also because of greater vulnerability (e.g. importance of agriculture for livelihoods and economies) and more limited resilience (e.g. more limited state capacity and reliance on community adaptation).⁴⁰

Climate change, i.e. the rise in global average temperatures as a result of greenhouse gas emissions, is a complex phenomenon involving a number of interrelated yet distinct changes. The contribution of climate change to these different environmental changes is increasingly well documented. New approaches and powerful models for assessing the contribution of climate change to diverse environmental changes and for individual environmental events ("attribution studies") demonstrate the important role of climate change in ongoing changes while also allowing scientists to better predict future outcomes.⁴¹

The Foresight study distinguishes six types of climate-related environmental changes, including:

- Sea-level rise leading to higher risks of coastal flooding, erosion and salinisation of low-lying agricultural land;
- a rise in tropical cyclone and storm intensity;
- changes in rainfall regimes, impacting agricultural productivity;
- an increase in temperatures and related higher frequency of extreme temperatures, involving risks to health as well as more frequent and intense wildfires, etc.;
- a change of atmospheric chemistry affecting crop productivity as well as productivity of marine and coastal ecosystems; and
- the melting of mountain glaciers affecting the exposure of mountain regions to hazards.

In addition, however, the Foresight study also highlights non-climate related changes, notably land degradation and coastal and marine ecosystem degradation caused by human factors.⁴² All these environmental changes are likely to influence 'migration drivers', that is the "[c]omplex set of interlinking factors that influence an individual, family or population group's decisions relating to migration, including displacement."⁴³ These drivers then will shape migration outcomes.

³⁹ World Meteorological Organization (2020), p. 5.

⁴⁰ See Hallegatte & Rozemberg (2017), p.255 and Jaffry, Mikulewicz & Helwig (2019), p.2.

⁴¹ See Scott for a short discussion of different approaches used in attribution studies (2016).

⁴² Foresight (2011), p.51f.

⁴³ This is the definition in IOM's 2019 edition of the Glossary on Migration (IOM, 2019, p.58).

3.2. Key impacts

3.2.1. Environmental change as a driver of migration

Since the beginning of academic and policy debates on climate and broader processes of environmental change and migration, the main focus has been the impact of environmental change on increased levels of migration, including displacement. The **expectation that environmental change impacts migration dynamics is, generally, supported by available evidence.**⁴⁴

But this evidence is more nuanced than some of the ‘alarmist’ voices in the debate on environmental change and migration, who warn that dozens, if not hundreds of millions, of people will be uprooted by climate change in the years and decades to come, would indicate.⁴⁵ Scholars have criticised the underlying ‘environmental determinism’ informing such views, the framing of migration as an involuntary uprooting of now stable populations and the related neglect of existing migration dynamics and patterns.⁴⁶ A notable recent example for this alarmist viewpoint is a study associating climate change, drought, internal migration and the outbreak of the conflict in Syria by a group of climate scientists in 2015 that was widely picked up by the media and policymakers and which, in the midst of the unfolding ‘migration and refugee crisis’ in Europe, suggested that mass migration due to climate change was already happening. Critical reviews of the study later highlighted that the study quickly jumped to conclusions where evidence was lacking.⁴⁷

Nevertheless, **there are clear links between environmental change and migration.** Thus, a recent review of the academic literature on drivers of migration finds that environmental drivers indeed seem to impact migration dynamics, although studies have largely focused on developing countries in the Global South. Thus, slow-onset changes in temperatures and precipitation are associated with out-migration from affected areas. However, studies generally find that environmental factors mostly affect migration decisions indirectly, e.g. through the impact on income and wages.⁴⁸

Another review of recent literature comes to a similar conclusion, finding that existing studies show a significant impact of climate change on both international and internal migration, noting that “rising temperatures, in agriculture-dependent countries in particular, tend to induce out-migration,” often mediated through wages and agricultural productivity.⁴⁹ The study observes mixed results for natural disasters, with almost no effects on international migration but significant effects on long-term internal migration in the case of especially severe disasters (such as Hurricane Katrina), overall suggesting that the impact of disasters seems to be short term, with no significant international spill-over, a finding also

⁴⁴ See for example Flavell et al. 2019, Foresight (2011), Ionesco et al. (2016), McLeman & Gemenne, (2018).

⁴⁵ See for an analysis of securitized narratives on ‘climate migration’ Bettini (2011). For a recent critical appraisal of the “fabrication of a migration threat” see de Haas, 2020.

⁴⁶ See Wiegel et al. (2019), p.2.

⁴⁷ See for the original study Kelley et al. (2015). For a short review of the debate see Karak (2019); for a thorough review of the debate and implications for climate research see Ide (2018).

⁴⁸ See Czaika & Reinprecht, (2020), p. 15f. See also Flavell et al. (2019) and Neumann & Hermans (2015).

⁴⁹ Berlemann & Steinhardt (2017), p.377f.

supported by empirical data on disaster-related (internal) displacement discussed in section 3.2.3, below.⁵⁰

As noted before, the impact of environmental change on migration is often only indirect, with economic and social factors the primary drivers of decisions to migrate. However, the impact on other factors “such as incomes, livelihood opportunities, and food security” can be significant. If these indirect effects are factored into the analysis, the impact of environmental changes is often larger.⁵¹ Thus, **while individuals may still see their migration decisions primarily as economically motivated, deteriorating environmental conditions can be linked to migration dynamics by analysing the impact of environmental change on the economy.**

Disasters such as floods, storms or droughts involve direct threats to life and security for those affected by them. While the impact of disasters may appear to be more immediate, their impact is similarly mediated by socio-economic factors shaping individuals' and communities' vulnerability to be adversely affected by environmental shocks, as well as their resilience in the face of these.⁵² For example, a flood may pose a direct threat to life when dwellings are flooded and become uninhabitable. The flooding of fields or factories, in contrast, poses a threat to the livelihoods of populations in affected areas. A decision to move elsewhere in order to maintain a family income may appear to be a voluntary decision but is clearly dictated by the circumstances.⁵³

Put in more general terms, **disasters may also affect other drivers of migration**, such as employment prospects or market accessibility,⁵⁴ **and therefore the ability to stay in an area.** However, also in the context of classic situations of forced displacement due to violence, conflict and persecution, environmental factors may play a role. The interaction between conflict or persecution and environmental factors as drivers of displacement has so far been rarely studied, with the exception of indirect links between environmental change and conflict-related displacement, as in the case of Syria discussed above.⁵⁵ However, a recent study commissioned by UNHCR, although primarily concerned with how countries of first asylum used refugee law frameworks to respond to disasters, demonstrates how the 2010-11 drought and ensuing famine in Somalia led to renewed outflows from the country and intersected with ongoing insecurity.⁵⁶

3.2.2. Environmental change and immobility

Importantly, **environmental change may also cause significant levels of immobility.** Indeed, one of the central messages of the 2011 Foresight report was that people might become trapped in areas of high vulnerability to environmental hazards, noting that “a significant group of people living in environmentally prone locations in the future face a double jeopardy: they will be unable to move away

⁵⁰ See Berlemann & Steinhardt (2017), p.378

⁵¹ Czaika & Reinprecht (2020), p.15.

⁵² See for a discussion of natural hazards, crises and vulnerability and resilience Hendow et al. (2018), p.15-17.

⁵³ Flavell et al. (2019), p.12.

⁵⁴ Czaika & Reinprecht (2020), p.15

⁵⁵ Most literature on ‘classical’ displacement and environmental change is concerned with the impact of the large-scale presence of refugees especially in camp-settings on the environment. See for a brief review of that literature Kraler et al. (2011), p. 24-26.

⁵⁶ Weerasinghe (2019).

from danger because of a lack of assets, and it is this very feature which will make them even more vulnerable to environmental change.⁵⁷ However, the decision to stay may also be voluntary: Individuals may opt to stay because they see a better future compared to other alternatives. Immobility is related both to abilities (such as financial means, social capital – that is networks in other places or the lack thereof, as well as physical abilities and perceived employability) as well as migration aspirations. Aspirations, in turn, may be shaped by (perceived) abilities but also positive and negative place attachment.⁵⁸ A recent survey-based study examining migrant-sending areas in highland Peru affected by climate-related changes highlights that place attachment, rather than resource constraints, explain immobility in that specific context, questioning the underestimation of individuals' agency in the notion of 'trapped populations' put forward by the Foresight study and emphasising that immobility, too, needs to be understood along a continuum.⁵⁹ In some contexts, the decisions to stay put may also be a response to specific opportunities arising out of situations of environmental change for specific categories of people.⁶⁰

A major concern in debates on 'trapped populations' has been that populations are willing to move and feel the need to move, but are unable to do so.⁶¹ The Foresight study thus highlighted, among others, the case of Somali pastoralists who were unable to relocate elsewhere in response to drought because of ongoing conflict and insecurity, thus preventing pastoralists from utilising traditional adaptation strategies in times of drought.⁶² The case of Somalia also highlights the intersection of classical issues of international protection and protection issues brought about by environmental change.

In summary, existing evidence shows that environmental change impacts migration drivers. In general terms, **four migration outcomes can be distinguished: migration, displacement, being trapped and voluntary immobility** (see figure 3, below).

⁵⁷ Foresight (2011), p.29.

⁵⁸ See Zickgraf (2018).

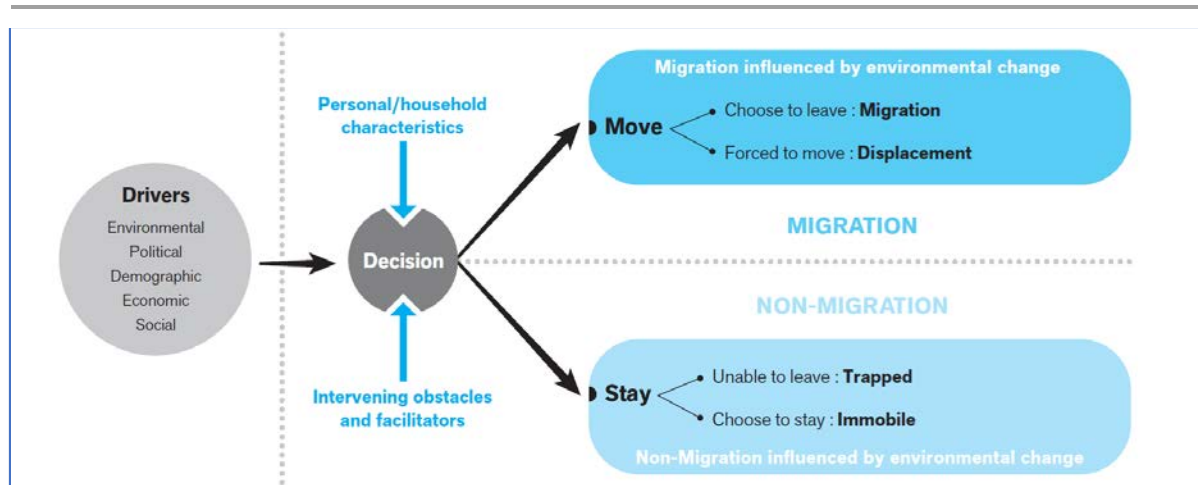
⁵⁹ See Adams (2017). On the discussion of trapped populations in the Foresight study see Foresight (2011), passim and box 1.3, p.29. See also Zickgraf (2018).

⁶⁰ Hendow et al. (2018, p.29) note specific employment opportunities arising in the context of flooding affecting Thailand in 2011. In a similar vein, the departure of many labour migrants in Libya in 2011 provided increased opportunities for migrants still in the country and working (ibid.).

⁶¹ Zickgraf (2018), p.74.

⁶² Foresight (2011), p.119.

Figure 3: Mobility outcomes of environmental change



Source: Ionescu (2016), p. 19, simplifying a figure in Foresight (2011).

3.2.3. Empirical dimensions of environmental migration and displacement

Since the mid-1980s, a series of estimates have been put forward on the volume of migration likely to be engendered by adverse environmental changes, generally focused on migration resulting from slow-onset events.⁶³ A review of estimates conducted in the framework of the 2011 Foresight study found existing **estimates lacking on several counts**. First, conceptually they were often based on vague definitions of environmental migration and/or displacement; most lacked a clear methodology how estimates were reached, while some were simply updated extrapolations of problematic base estimates suggested by earlier contributions to the debate. Finally, their temporal reference and the nature of the figure (whether they should be understood as flows or stocks) often remained unclear.⁶⁴ Recent critiques of such estimates also note that their purpose seems primarily targeted at drawing attention and presenting potential migration engendered by environmental change in general and climate change in particular as a security risk.⁶⁵

More importantly, **efforts to estimate the scale of environmental migration and displacement in general often rest on a simplistic equation of populations affected by environmental change (“exposure”) and populations at risk of migrating**. A recent study examining the correlation between extreme weather events and asylum applications in the EU arguing that asylum applications will increase in the future due to global warming can be criticised on similar grounds, namely by a simplistic interpretation of correlations found between extreme weather events and migration flows.⁶⁶ As result of the impossibility of singling out environmental drivers as a factor in migration movements, the Foresight study and similar stocktaking exercises have thus limited themselves to providing estimates

⁶³ Flavell (2019), p.39.

⁶⁴ Gemenne (2011).

⁶⁵ See Boas et al. (2019), de Haas (2020).

⁶⁶ The study referred to is Missirian & Schlenker (2017).

of exposure to climate-related hazards without attempting to estimate the share of the total number of people exposed to a certain hazard (such as floods or storms) that are likely to migrate.⁶⁷

IDMC's data collection on disaster-related displacement, however, shows that a more limited approach that focusses on displacement is feasible and can provide high-quality estimates. Some of the basic conceptual and methodological issues remain, but they are often not so different from those related to internal displacement due to violence and conflict, notably as regards the question of where to draw the line between voluntary migration and displacement (see the discussion in section 3.2.1, above).

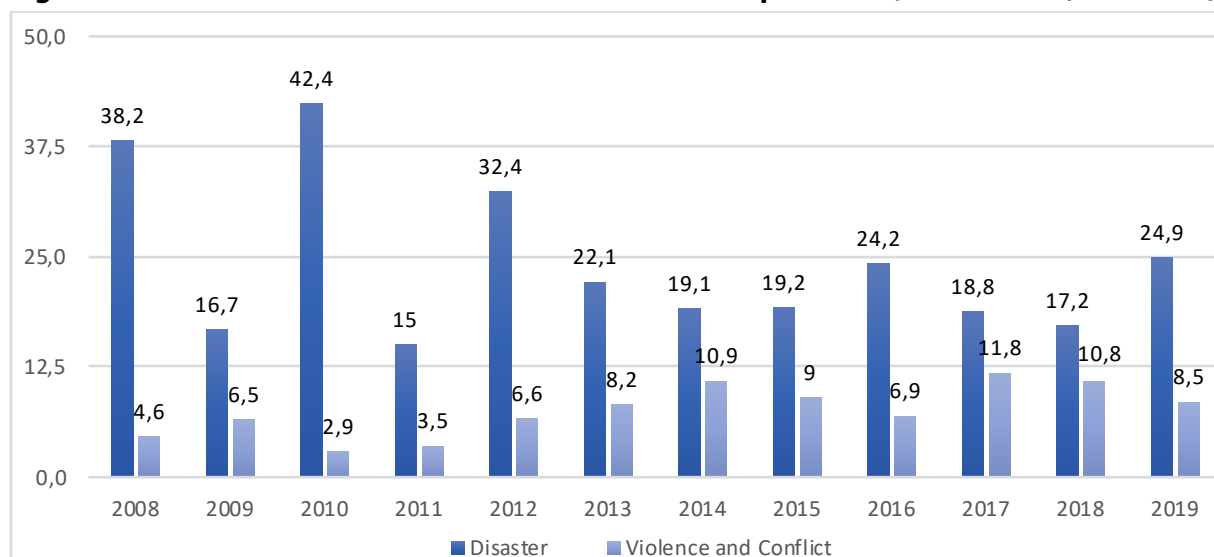
IDMC collects data on both current displacement and displacement risk, defined as probable annual disaster displacement with a ten-year perspective. The IDMC estimates of current displacement cover new disaster-related displacement in a given calendar year. In addition, the data are classified by broad hazard category (weather related vs. geophysical events), which is further broken down into specific hazard types (such as floods, storms, wildfires, etc.). IDMC's "weather related" category corresponds to the notion of "environmental change" in general and "environmental events" in particular used for the present report. Importantly, the number of displaced persons due to weather-related disasters cannot be taken as numbers of displaced persons due to climate change. For this to happen, individual weather-related disasters would have to be assessed as to whether they would have happened in the absence of climate change – a question that so called 'attribution studies' seek to answer (see above). At the same time, there is robust evidence on the increasing frequency and severity of extreme weather events and displacement caused by weather related disasters;⁶⁸ it is thus a relevant statistical indicator.

As figure 4 (below) indicates, the scale of new displacement caused by disasters outstrips by far new displacement caused by conflict and violence. At the same time, the figures also show the volatility of disaster-related displacement, which is due to a number of factors, most importantly the type, severity and the geography of the event, i.e. whether it strikes in a densely populated area or not.

⁶⁷ See Flavell et al. (2019), p.12 for a brief discussion.

⁶⁸ See Flavell et al (2019), p.39.

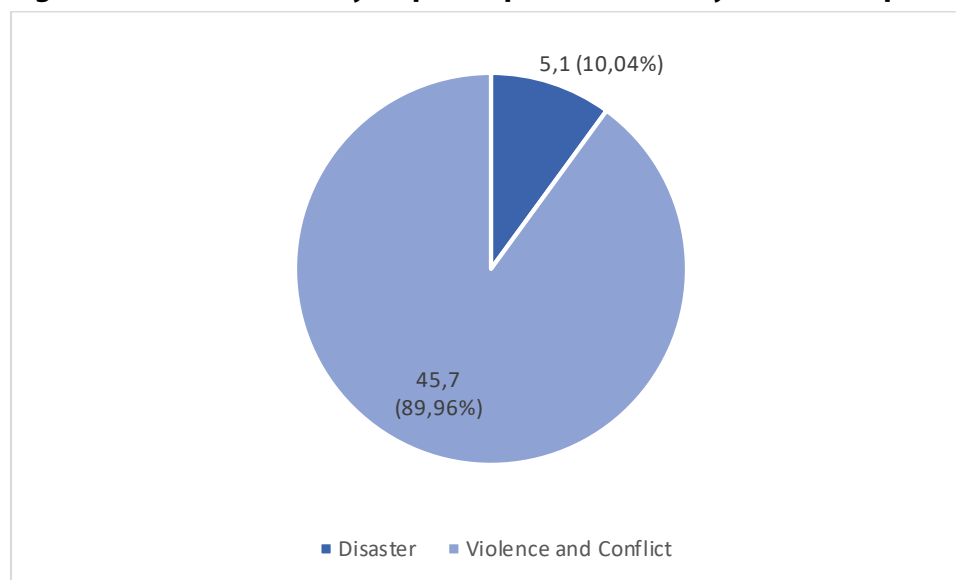
Figure 4: Disaster vs. conflict/violence-related internal displacement, 2008-2019 (in millions)



Source: figures on new displacement 2008-2018 taken from IDMC (2019), figure 1, p.2; figures on new displacement in 2020 and stocks of IDPs taken from IDMC (2020).

Since 2019, IDMC has also collected figures on the stock of disaster-related internal displacement (see figure 5, below). The relationship between new internal displacement caused by disasters vs. new displacement caused by conflict and violence, and the total stock of disaster-related internal displacement vs. the stock of internal displacement due to violence and conflict, demonstrates that disaster-related displacement is largely short term, which thus corroborates existing studies on the issue.⁶⁹

Figure 5: Stock of internally displaced persons (IDPs) by cause of displacement, 2019 (in millions)



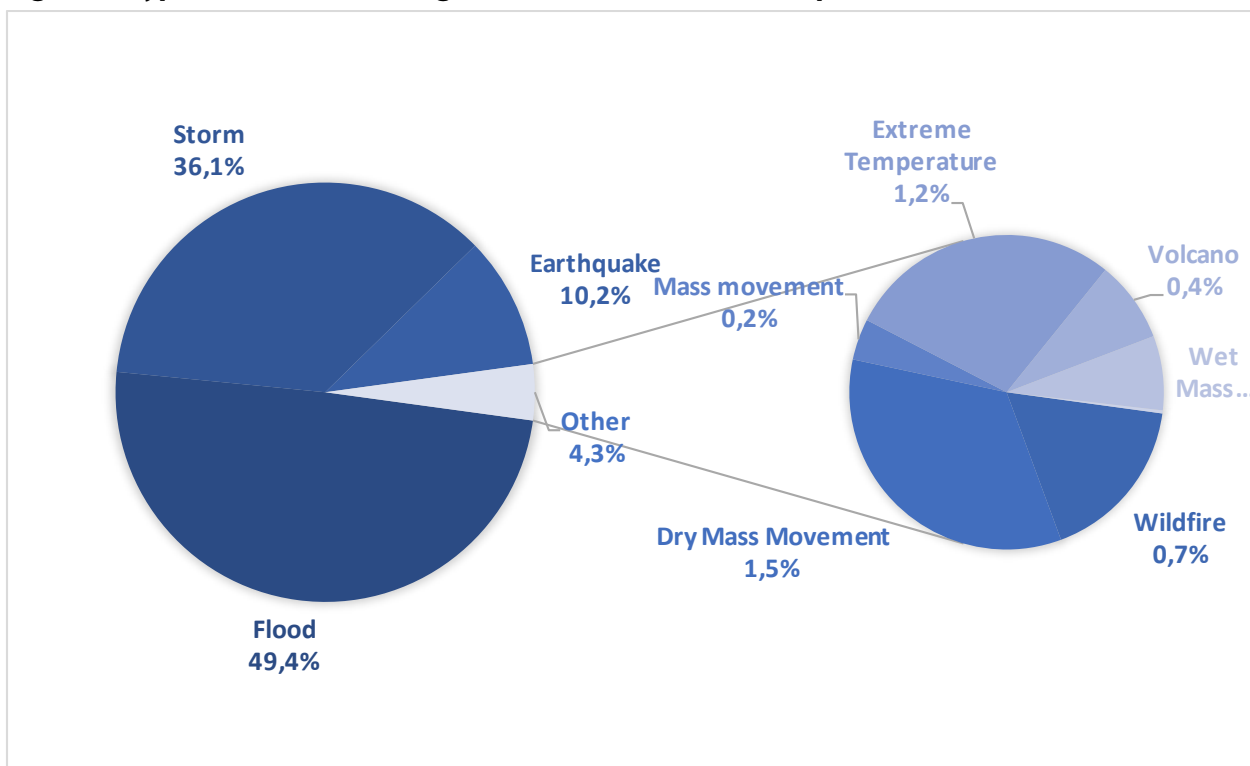
Source: IDMC (2020).

⁶⁹ See on the temporality of disaster related displacement Flavell (2019), p.44.

That being said, IDMC's stock data show that there are nevertheless significant numbers of disaster-related internally displaced persons (IDPs) whose displacement situations last longer, some of whom are at risk of ending up in a protracted displacement situation.⁷⁰ To date, no systematic breakdown is available to show the scale of protracted and short-term disaster-related internal displacement.

For the roughly 288 million people newly internally displaced due to disasters between 2008 and 2019, weather-related disasters were the most important causes of displacement, with floods causing about half of all disaster-related displacement. As IDMC's 2018 Global Report on Internal Displacement documents, disaster displacement risk is highly uneven and concentrated on five countries in Southeast and South Asia (India, China, Bangladesh, Vietnam and the Philippines) characterised by "high levels of exposure of people and assets, and only slow progress in national efforts to reduce vulnerability."⁷¹

Figure 6: Types of hazards causing disaster related internal displacement 2008-2019



Note: The three quantitatively most important categories are shown in the first pie chart to the left. Smaller categories are shown in the pie chart to the right.

Source: authors' presentation of IDMC data⁷²

⁷⁰ See IDMC (2020), p.12. The report notes the case of some 33,000 persons in Haiti still displaced as a result of the 2010 earthquake, but does not provide a comprehensive account of protracted disaster related displacement.

⁷¹ IDMC (2018), p.60.

⁷² Data are available from <https://www.internal-displacement.org/database/displacement-data>.

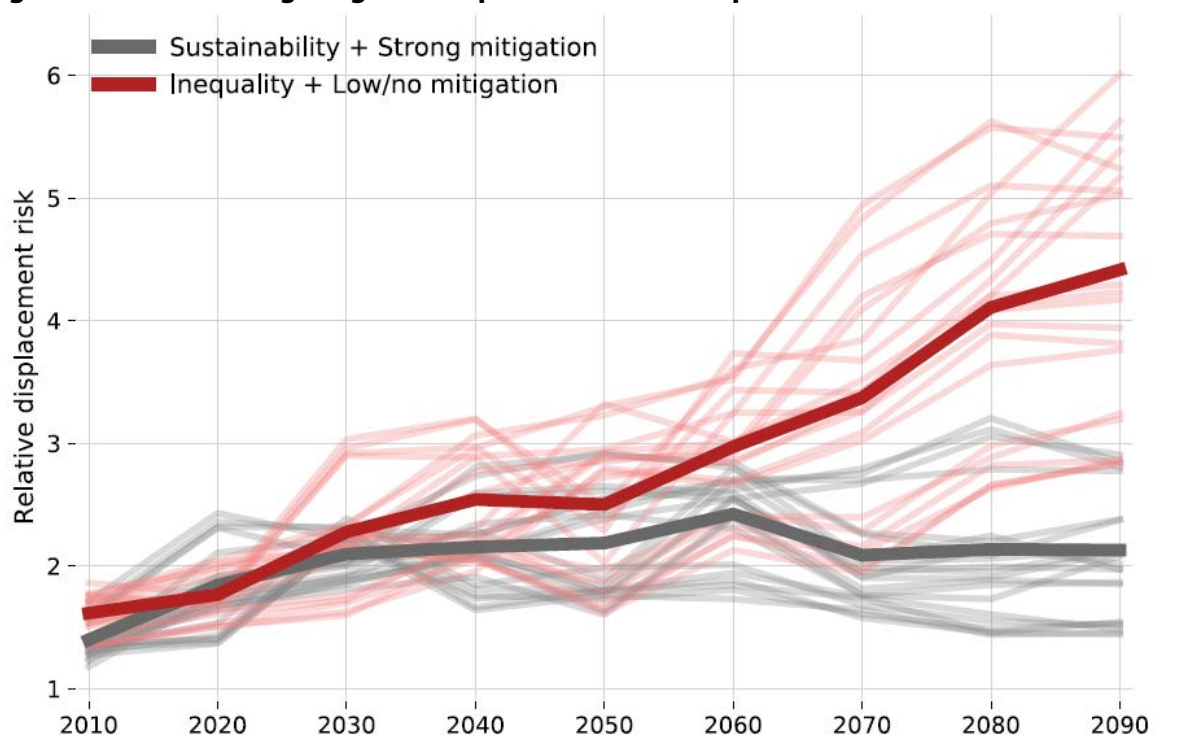
IDMC also provides estimates on the risk of future displacement, estimating the expected annual disaster-related displacement within a ten-year period.

Table 3: IDMC'S Disaster Displacement Risk Index (2015)

Focus Region	Population	Average Annual Displacement Risk	Relative Annual Displacement (per 1 million people)
South Asia	1,730,000,000	9,200,000	5,300
Southeast Asia	1,990,000,000	30,000,000	15,100
South Pacific	10,800,000	45,600	4,200
Latin America and Caribbean	186,000,000	809,000	4,300

Source: Ginnetti (2015) quoted after Flavell et al. (2019), p.39

The risk assessment model is based on historical data stretching back to the 1970s and shows an upward trend related to population growth, better disaster preparedness (fewer casualties but more people displaced) and better reporting. While the risk model does provide some tangible measure of disaster-related displacement risk in the medium term, broken down also by type of hazard and for different countries, it does not allow for an assessment of the role of climate change. However, for flooding – the most significant cause of disaster-related displacement, accounting for some 50 per cent of disaster related displacement in the 2008-2019 period – IDMC has estimated displacement risks for the period until 2090 (see figure 7, below) combining different scenarios established by the International Panel on Climate Change.

Figure 7: Relative change in global displacement risk compared with the 1976-2005 baseline

Source: IDMC 2019a, figure 2

We have incorporated the figure for illustrative purposes only. Suffice it to say that the relative risk of flood-related displacement will significantly rise. As the dark, bold red line in the above figure (an average of different models in lighter red) shows, the risk is projected to increase almost five-fold between 2010 and 2090, using the period 1976 to 2005 as a baseline.⁷³

3.2.4. Migration as adaptation

The 2011 Foresight report and several academic papers building on it⁷⁴ were particularly influential in promoting a perspective that considered **migration in the context of environmental change not as a problem whose root causes must be fought but as an adaptation strategy to adverse environmental changes and part of the solution.**⁷⁵ While the role of migration in adapting to environmental change had already been made apparent by a number of earlier studies,⁷⁶ the Foresight report was particularly influential in promoting the perspective amongst policymakers, including the European Commission, whose 2013 Staff Working Paper on 'Climate change, environmental degradation, and migration' drew heavily on the report.⁷⁷ The focus on 'migration as adaptation' has

⁷³ IDMC (2019b).

⁷⁴ See in particular Black et al. (2011) and Black et al. (2013).

⁷⁵ See Foresight (2011), chapter 8.

⁷⁶ See the studies quoted in Kraler et al. (2011), p.22.

⁷⁷ See European Commission (2013), in particular p.8

also been taken up by the International Organization for Migration (IOM).⁷⁸ As an important knowledge broker and intermediary between academic research on environment and migration on the one hand, and policymakers on the other, IOM has been an important actor in further promoting this perspective amongst the latter.⁷⁹ The focus on 'migration as adaptation' needs to be understood in the context of the debates in global climate change policy on adaptation to climate change, and specifically the 2010 Cancun Adaptation Framework.⁸⁰ The significance of this understanding of migration is that it provides a strong rationale for the promotion of mobility and migration options, both with regard to domestic situations and internationally, even if actual or potential environmental change will not, and in most cases cannot be the only political rationale for facilitating movement, for example through the creation and consolidation of free movement areas and regional arrangements for migration and settlement. In more general terms, the "migration as adaptation" perspective shows that migration can be used as a means to an end, in the same way as migration has been shown to have positive effects on human development.⁸¹

Based on ample evidence that migration presented a standard coping strategy vis-à-vis environmental changes,⁸² the Foresight report recommended the creation of policies enabling affected populations to embrace migration as a coping strategy, while – as a last resort – also developing policies regarding planned relocation⁸³ in contexts where areas become inhabitable in a longer term, whether as a result of slow- or sudden-onset events. Directed mainly at internal situations, the conclusions of the Foresight study nevertheless have broader ramifications and also raise the question of broader mobility options across international borders, whether in a regional or a more global context. The study itself recommended enhancing livelihoods, including by migration, facilitating temporary and circular labour migration and remittances and utilising migration as an insurance strategy against risks associated with environmental change.⁸⁴

3.3. Conclusions

This chapter has provided a review of the existing evidence on migration, mobility and displacement. It has shown that **climate change is likely to increase the likelihood of a number of natural hazards, which in turn will have significant effects on migration drivers.** In most situations, environmental events do not per se trigger migration. **Even in the case of disasters, movement is often a response to consequences of the disaster rather than a response to a life-threatening situation as such, and thus is mediated by a variety of social, economic and political factors.** Importantly, the impact of environmental changes is highly differentiated and **generally affects vulnerable populations disproportionately.**

⁷⁸ See the landing page of IOM's Migration, Environment and Climate Change division at <https://www.iom.int/migration-and-climate-change>, which mentions the promotion of migration as climate change as one three focus areas in that area – alongside prevention of forced migration in the context of environmental change and assistance to forcibly displaced due to environmental factors. See also Wiegel et al. (2019), p.3.

⁷⁹ See Sakdapolrak et al. (2016), p.82.

⁸⁰ See Sakdapolrak et al. (2016), p.82.

⁸¹ UNDP (2009).

⁸² See references in Czaika & Reinprecht (2020), p.15.

⁸³ Relocation refers to the domestic context. For cross-border planned movements, the term resettlement is used.

⁸⁴ Foresight (2011), in particular chapters 6 and 8.

This chapter has highlighted the focus of much of the debate on environmental migration and displacement on the role of environmental change in general and climate change in particular on triggering migration. **Existing estimates put forward, largely by climate scientists, have been shown to be problematic and resting on a simplistic and deterministic understanding of the relationship between environmental change and migration**, typically lacking basic quality criteria such as precision of the concept to be measured and transparent methodology. However, for over a decade, IDMC has been collecting data on current disaster-related displacement. Since 2020, data on total stocks of disaster-related internal displacement are also available. This data collection provides a robust and continuously improved evidence base that should be the basis for any further development of data on global disaster-related displacement. Apart from the expansion of existing data collection to cover more types of displacement – such as has happened with the recent addition of drought-related displacement – data collection could be extended to cover cross-border displacement. IDMC’s disaster displacement risk modelling offers a promising avenue for assessing future risks of disaster-related displacement, including assessing the likely impact of climate change on weather-related disaster displacement.

As this chapter has shown, environmental change cannot only act as a driver of mobility, it may also trigger significant immobility. In addition, it may adversely affect immobilised populations, such as persons in protracted displacement situations as a result of conflict, persecution or violence.

Finally, **migration also needs to be seen as part of the solution and not just as an effect of environmental change**. The notion of ‘migration as adaptation’ highlights the need to embrace the idea that mobility, including cross-border mobility, can and indeed needs to be part of responses to adverse environmental changes and provides another rationale – apart from economic or development-related reasons – to promote migration.

4. FILLING A GAP: INTERNATIONAL POLICY INITIATIVES ADDRESSING PROTECTION IN THE CONTEXT OF ENVIRONMENTAL MIGRATION AND DISPLACEMENT

KEY FINDINGS

Environmental migration and displacement has become an increasingly visible topic in international policy discussions and initiatives. Efforts to address the issue can be seen in frameworks, guidance and other action in the fields of migration and displacement, climate change and disaster and humanitarian and development assistance.

In the field of migration and displacement, much of these efforts focus on cross-border displacement. The state-led Nansen Initiative has been particularly active both globally and regionally in strengthening protection for environmentally displaced persons, although it does not focus on slow-onset disasters. Meanwhile, the Global Compact for Safe, Orderly and Regular Migration has raised the profile of environmental drivers of migration and ways to address them through international cooperation.

Preventing and responding to environmentally induced displacement has been part of broader global discussions on climate change and disasters, notably through the United Nations Framework Convention on Climate Change and its Paris Climate Conference as well as the Sendai Framework for Disaster Risk Reduction 2015-2030.

The issue is also on the agenda of humanitarian and development actors, as reflected in the 2030 Sustainable Development Agenda and 2016 World Humanitarian Summit and Platform on Disaster Displacement.

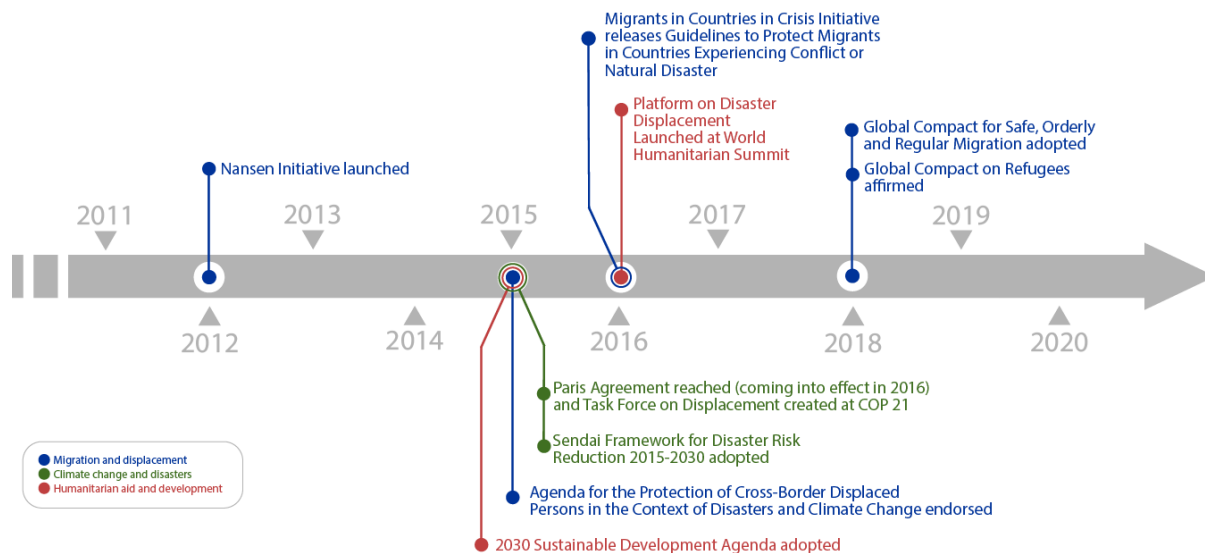
In addition to such global initiatives, several regional initiatives, especially in Africa and Latin America, as well as national-level efforts, particularly in the Pacific, represent important steps in strengthening frameworks for protection in the context of environmental migration and displacement.

While this momentum has led to progress in filling protection gaps, the largely voluntary nature of these initiatives and the need to effectively implement them all remain key challenges to an effective response – amid expectations that climate change will continue.

Since the publication of the 2011 European Parliament study, **the link between migration, mobility and climate change has moved from the margins of policy debates at the international level to a more prominent place both in the context of specific debates on climate change and those related to migration and forced displacement, as well as broader conversations about humanitarian and development assistance.** These issues have been touched upon in a series of initiatives, including new formats for exchanging practices and supporting policy development and the creation of (mostly) soft law instruments considering environmental displacement. This chapter

summarises the progress of debates and actions at the international level and reviews major milestones in different arenas in which environmental migration and displacement has been addressed.

Figure 8: Milestones in the global governance of environmental migration and displacement, 2011 – 2020



Source: authors' compilation and Camilla Fogli, ICMPD

With climate change expected to become an increasingly important issue, **a range of multilateral initiatives have endeavoured to strengthen protections for those displaced for environmental reasons and to foster the resilience of those who could potentially be displaced.** The Nansen Initiative was the first global initiative addressing cross-border movements in this context, spurring and inspiring many of the efforts that followed. In addition, both IOM and UNHCR have taken up the topic and both helped to support state-led initiatives and addressed it in their ongoing work.

IOM has worked on environmental migration in its operations, research, policy and advocacy activities. These efforts centre around its three overarching objectives on this topic: minimising involuntary and unmanaged migration; supporting and protecting forced migrants; and promoting migration as a climate change adaptation strategy.⁸⁵ While it has worked on the migration-environment-climate change nexus since the 1990s, MSs first requested that IOM report on its work in this area in 2007. In 2015, the agency created the Migration, Environment and Climate Change Division to spearhead work on the subject.⁸⁶ Its work includes:⁸⁷

- participating in global processes, including the Global Compact for Safe, Orderly and Regular Migration (GCM), United Nations Framework Convention on Climate Change (UNFCCC), United Nations Convention to Combat Desertification, Sendai Framework for Disaster Risk Reduction, 2030 Agenda for Sustainable Development and Global Forum on Migration and Development, as well as regional dialogues;

⁸⁵ See <https://environmentalmigration.iom.int/iom-and-migration-environment-and-climate-change-mecc>.

⁸⁶ IOM (2019c), p. 2.

⁸⁷ IOM (2019c).

- funding and implementing projects addressing environmental migration and displacement;
- conducting capacity-building activities for policymakers and practitioners, including regional and national trainings; and
- undertaking research and strengthening data collection to build the evidence base on the nexus of these issues.

Recognising that environmental and climate change will become increasingly important to migration governance, IOM has incorporated the issue into its 2019-2023 Strategic Vision.⁸⁸

As with IOM, **UNHCR** has long paid attention to environmental change and displacement, often with a specific focus on the nexus of forced displacement under its mandate and environmental change. Recognising that forcibly displaced persons depend on the environment for food, warmth and shelter, and that the scarcity of natural resources can spark competition or worse, the agency has undertaken efforts to strengthen sustainable management of the environment, decrease environmental degradation and improve the availability of resources for displaced persons and host communities. Meanwhile, given the scale of displacement in disaster contexts, climate change and disasters have become an increasing concern for UNHCR, and the agency has worked to respond to relevant protection challenges.⁸⁹ UNHCR has been working on displacement in the context of climate change since the mid-2000s, and its efforts in this area have included:

- supporting states in devising legal and policy approaches to extend protections to those displaced by climate change, including through state-led initiatives such as the Nansen Initiative and Platform on Disaster Displacement (PDD);
- drafting guidelines for temporary protections;
- promoting policy coherence regarding protection across frameworks such as the Global Compacts, Sustainable Development Goals (SDGs) and Sendai Framework for Disaster Risk Reduction;
- providing technical assistance to the UNFCCC and other support in international fora;⁹⁰
- participating in responses to natural disasters, including in interagency responses to disaster-induced internal displacement;⁹¹
- developing, with partners, guidance regarding planned relocation; and
- conducting research aimed at filling gaps and informing policy and operations.⁹²

⁸⁸ IOM (2019b).

⁸⁹ See <https://www.unhcr.org/en-us/environment-disasters-and-climate-change.html>.

⁹⁰ UNHCR (2017c).

⁹¹ UNHCR (2019) I.

⁹² See <https://www.unhcr.org/en-us/climate-change-and-disasters.html#:~:text=UNHCR%20recognizes%20that%20the%20consequences,and%20other%20people%20of%20concern.&text=It%20recognizes%20that%20climate%2C%20environmental,of%20climate%20change%20are%20numerous.>

UNHCR pledges in its 2017-2021 Strategic Directions to support the enhancement of protection solutions for environmentally displaced persons in law, policy and practice; the agency has since appointed a special advisor on climate action.⁹³

In 2019, the United Nations (UN) Secretary General created the **High-level Panel on Internal Displacement** and tasked members with finding solutions for the rising number of IDPs across the world.⁹⁴ The United Nations Development Programme (UNDP) has also worked to tackle the issue, from the lens of long-term development efforts including the 2030 Agenda for Sustainable Development.⁹⁵ Meanwhile, the issue has also been discussed at high-level dialogues such as the Global Forum on Migration and Development and in regional consultative processes. Multilateral development banks have also been active in this space to varying degrees, illustrating that a range of international organisations are incorporating environmental displacement into their strategy development and programming.

As international and regional initiatives have gained momentum, they have enhanced ways in which policymakers and other stakeholders think about and respond to the issue of environmental displacement, including through **information sharing, the development of practical recommendations and capacity-building efforts**. They have also **underscored the utility of international cooperation to address the issue** of environmental migration and displacement and have **helped to fill in key gaps**, particularly related to concrete guidance and strategies for policymakers. However, the voluntary and fragmented nature of most of these efforts and the need to effectively implement them remain key challenges to responding to environmental migration and displacement. Meanwhile, all signs point to continued implications for displacement and other forms of migration in the context of climate change, necessitating an effective protection response.

4.1. Background: International protection instruments in the context of environmental displacement

The international refugee regime, enshrined in the **1951 Refugee Convention**, defines a refugee as a person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside his or her country of nationality (or habitual residence for stateless persons) and is unable or, owing to such fear, unwilling to avail himself or herself of the protection of that country.⁹⁶ To enjoy the protection given by the Convention, a person must fulfil all elements of the refugee definition. **According to most commentators of international refugee law, there are a number of difficulties in applying the 1951 Refugee Convention in the context of natural disasters.**⁹⁷ Two main arguments (among others) that have

⁹³ Platform on Disaster Displacement (2018a), p.10; UNHCR (2017b), p.18.

⁹⁴ See <https://www.un.org/internal-displacement-panel/content/high-level-panel>.

⁹⁵ See <https://www.undp.org/content/undp/en/home/2030-agenda-for-sustainable-development/prosperity/recovery-solutions-and-human-mobility/migration-and-displacement.html>.

⁹⁶ Art 1A 1951 Convention Relating to Status of Refugees.

⁹⁷ Scott referring to various court decisions and the understanding articulated by Dr Jacob Robinson, Israeli Ambassador Plenipotentiary to the Refugee Convention at the Twenty-Second Meeting of the Conference of Plenipotentiaries remarking that the refugee definition 'obviously did not refer to refugees from natural disasters (Scott (2020) chapter 1.2.); see also UNHCR at

been raised in this discussion are: 1) that natural disasters do not discriminate, while this is an integral feature of the refugee definition⁹⁸ and 2) it is difficult to identify a persecutor in environmentally induced cases.⁹⁹

The inoperability of the refugee definition for environmental claims has been also acknowledged by the former High Commissioner for Refugees, Antonio Guterres, who stated that 'adopting the terminology of "climate refugees" "or "environmental refugees" would only complicate and confuse UNHCR's efforts to protect victims of persecution and armed conflict.'¹⁰⁰ Among other reasons, he referred to the lack of a "persecutor" and the "indiscriminate nature" of its impact.¹⁰¹ Still, some people affected by climate change have based their claims on the Refugee Convention (see below section 5.3.5).

In contrast, regional refugee protection instruments in Africa and Latin America employ a wider refugee definition. The 1969 **Organization of African Unity (OAU) Refugee Convention** also extends protection to "every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality." While the transposition of the OAU convention in national law by signatory states is far from complete, some African countries applied the OAU Convention's expanded definition on a prima facie basis to Somalis who were victims of famine threats and unable to receive assistance from domestic authorities.¹⁰² Additionally, Ethiopia endorsed the Protection Agenda¹⁰³ to open its borders to persons compelled to leave their place of habitual residence due to natural disasters, while Kenya welcomed some 200,000 Somalis fleeing such calamities without invoking the OAU Convention.¹⁰⁴

In a similar vein, the 1984 **Cartagena Declaration on Refugees** uses a definition of refugees that is broader than the 1951 Refugee Convention and as the OAU convention includes a reference to persons fleeing 'other circumstances which have seriously disturbed public order.'¹⁰⁵ **While this provides flexibility for states, who may wish to apply the definition to those displaced due to natural or environmental disasters, such an application is not necessarily required.**¹⁰⁶

While the aforementioned instruments outline protections for cross-border movements, it was not until 1998 that international standards were reached for IDPs. Due to this protection gap, a rising number of IDPs in the 1990s resulting from conflict and human rights abuses, and requests for the development of a framework to address their needs by the UN Commission on Human Rights and General Assembly,

<https://www.unhcr.org/49e4a5096.html>; Cohen, R. and Bradley, M. (2010); McAdam (2011); Kälin, W and Schrepfer, N (2012); Scott, M (2019).

⁹⁸ Scott (2020), p.4.

⁹⁹ McAdam (2011), p.12.

¹⁰⁰ Guterres, A. (2012).

¹⁰¹ Ibid.

¹⁰² McAdam (2016), p.1536.

¹⁰³ The Nansen Initiative (2015a).

¹⁰⁴ McAdam (2016), p.1537.

¹⁰⁵ UNHCR (1984), p.36, see also <https://www.unhcr.org/en-us/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html>.

¹⁰⁶ UNHCR (2013), p.4, 6-7.

the non-binding **Guiding Principles on Internal Displacement** were ultimately created under the auspices of Representative of the UN Secretary General on IDPs Francis Deng after a multi-year process.¹⁰⁷ The Guiding Principles lay out 30 standards for protection, taking and adjusting principles from human rights and humanitarian law and applying them to IDPs; while non-binding, they are based on and consistent with binding laws and have gained significant traction among the international community as a useful tool for addressing internal displacement.¹⁰⁸ For instance, among others, the Guiding Principles form the basis for the Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons.¹⁰⁹ The Guiding Principles define IDPs as persons who were compelled to leave their homes or habitual residences, 'in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border.'¹¹⁰ **The Guiding Principles thus also apply to internal displacement caused by environmental events.**¹¹¹ They do not foresee a specific status for IDPs, as these people are expected to be able to enjoy the same rights as other citizens and legal residents in a country. But they do spell out a number of specific protections that are particularly relevant in the context of internal displacement, such as the prohibition from arbitrary displacement, including arbitrary evacuation in the case of disasters or the obligation of authorities to prioritise all feasible alternatives to displacement (principle 7).¹¹² The Guiding Principles do not explicitly consider indirect causes for migration, for example the economic consequences of disasters. As a result, it is not always clear who exactly falls under them.¹¹³ This question is not just an academic question, but may become relevant, for example, when state authorities decide who should be eligible for IDP assistance programmes.

The voluntary nature of these guidelines means that they are only binding if states incorporate them into their domestic laws. By June 2020, the Global Database on IDP Laws and Policies¹¹⁴ recorded 26 IDP laws (i.e. binding regulations) in 14 countries and 60 policies (i.e. guidelines outlining the main goals of the government) in 36 countries. An analysis of IDP laws and policies revealed that a minority, about one-third, addressed disaster-related displacement.¹¹⁵ More broadly, although the Guiding Principles have been seen as an important tool that could be leveraged to strengthen protections for this population from, during and following displacement, for several reasons, efforts largely continue to focus on addressing protection in the context of cross-border rather than internal displacement, as illustrated by the initiatives explored in this section.¹¹⁶

While the Guiding Principles provide recommendations on responding to internal environmental displacement, to date there is no established global instrument that would address cross-border

¹⁰⁷ See for the guiding principles OCHA (1998).; For an early commentary by one of the experts involved in the drafting see Cohen (2001)

¹⁰⁸ Cohen (2001)

¹⁰⁹ Bradley et al. (2017) .

¹¹⁰ UN (2004), p.1.

¹¹¹ Kraler et al. (2011), p.41.

¹¹² See also [Cohen \(2001\)](#).

¹¹³ Kraler et al. (2011), p.42.

¹¹⁴ See Global Protection Cluster <https://www.globalprotectioncluster.org/global-database-on-idp-laws-and-policies/>.

¹¹⁵ Nicolau & Pagot (2018).

¹¹⁶ For a discussion of these reasons see Kraler et al. (2011), p.41-42.

migration related to climate change. The international legal landscape therefore leaves a protection gap regarding people who are forced to flee their country of origin (or habitual residence) due to environmental reasons and who are not protected by regional instruments. Thus, it is because of the lack of a dedicated legal instrument that would allow people affected by climate change to cross an external border in order to seek refuge that people have sought to use existing international protection frameworks to seek refuge in other countries.¹¹⁷

4.2. Initiatives and instruments in the field of migration and displacement

This section discusses efforts of stakeholders in the area of migration and displacement to address environmental migration and displacement at the global and regional levels. Table 4, below summarises the main global and regional initiatives.

Table 4: Overview of key instruments and initiatives concerning environmental migration and displacement

Name of tool	Date	Agency or initiative	Scope	Binding ?	Type of situation addressed
Organization of African Unity (OAU) Refugee Convention	Adopted in 1969	OAU (since renamed the African Union [AU])	Regional – Africa	Yes	Persons fleeing across borders, including because of events seriously disturbing public order in part of or the entire country
Cartagena Declaration on Refugees	Adopted in 1984	Colloquium on the International Protection of Refugees in Central America, Mexico and Panama	Regional – Latin America	No	Persons fleeing across borders, including those leaving due to circumstances that seriously disturb public order
Guiding Principles on Internal Displacement	Presented in 1998	United Nations (UN)	Global	No	IDPs who have been compelled to leave their homes, including because of or to avoid natural disasters
Kampala Convention	In effect as of 2012 (adopted in 2009)	AU	Regional – Africa	Yes	IDPs who have been compelled to leave their homes for reasons including natural disasters

¹¹⁷ McAdam (2015), p.132.

Brazil Declaration and Plan of Action (BPA)	Adopted in 2014	Cartagena +30	Regional – Latin America and Caribbean	No	Refugees and displaced persons, including due to climate change and disasters
Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change	Endorsed in 2015	Nansen Initiative and Platform on Disaster Displacement (PDD)	Global	No	Cross-border displacement due to climate change and natural disasters
Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster	Released in 2016	Migrants in Countries in Crisis (MICIC)	Global	No	Migrants already in countries experiencing conflict or natural disasters
Guide to Effective Practices for RCM Member Countries: protection for persons moving across borders in the context of disasters	Adopted in 2016	Regional Conference on Migration (RCM) [developed by Nansen Initiative]	Regional – Central and North America	No	Foreigners affected by natural disasters
Regional guidelines regarding protection and assistance for persons displaced across borders and migrants in countries affected by natural disasters	Adopted in 2018	South American Conference of Migration (CSM)	Regional – South America	No	Cross-border displacement due to climate change or natural disasters and migrants already in countries experiencing natural disasters
Global Compact for Safe, Orderly and Regular Migration (GCM)	Adopted in 2018	UN	Global	No	International migration, including in the context of natural disasters, climate change and environmental degradation
Global Compact on Refugees (GCR)	Adopted in 2018	UN	Global	No	Refugees, including those whose drivers of displacement were impacted by climate, natural disasters or environmental degradation
Protocol on Free Movement of Persons in the IGAD region	Endorsed in 2020 [awaiting signing by Heads of State]	Intergovernmental Authority on Development (IGAD)	Regional – East Africa	[Not yet signed or ratified]	Free cross-border movement of persons, including due to disasters

Source: authors' compilation

4.2.1. Global initiatives

Since the 2011 report, several state-led, global initiatives have addressed the issue of environmental migration and displacement. The Nansen Initiative in particular has played a key role in this regard.

4.2.1.1. The Nansen Initiative and related efforts

The **Nansen Initiative** was established to help address the protection gap for persons displaced across borders as a result of disasters and climate change. Its work builds on the 2010 UNFCCC Cancun Agreements, which call for ways to strengthen knowledge and collaboration regarding climate change and displacement, as well as conclusions of the 2011 Nansen Conference on Climate Change and Displacement.¹¹⁸ Following the 2011 Nansen Conference, Norway and Switzerland committed to working towards a more coordinated approach to addressing the protection needs of those displaced across borders due to disasters and climate change at the 2011 UNHCR Ministerial Conference.¹¹⁹ The Nansen Initiative was then launched as a state-led project with the support of additional countries and stakeholders in 2012.¹²⁰ The Initiative has undertaken a range of state-led consultations with government and civil society stakeholders in five regions of the globe. These were then brought together for a global discussion in 2015. Rather than creating new legal obligations or standards, the Nansen Initiative has worked to foster a global consensus on components of a protection agenda for those displaced across borders by natural disasters and climate change, which could then be used to craft various laws and agreements at different levels.¹²¹

The work of the Nansen Initiative culminated in **the Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change** ('Protection Agenda'), which was endorsed by 109 government delegations in 2015.¹²² This document consolidates findings from the regional consultations and meetings and was developed as a toolbox for states and other stakeholders responding to cross-border displacement. It aims to support these actors by offering a framework for a comprehensive response before, during and after displacement, and includes examples of good practices for temporary and long-term solutions while also exploring gaps and challenges. The Agenda focuses on cross-border displacement, looking at the admission and stay of persons moving across borders as well as not returning those already present in a foreign country. However, it also addresses IDPs and ways in which countries of origin can manage risks of displacement through reducing vulnerability and fostering resilience, including migration as a strategy to cope with impacts of climate change and natural disasters. The Protection Agenda calls for inter-sectoral coordination in policy and practice, encompassing migration management, humanitarian aid, development, human rights and

¹¹⁸ The Nansen Initiative 2015a, p. 15; United Nations Framework Convention on Climate Change (UNFCCC) 2011 <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

¹¹⁹ The Nansen Initiative, <https://www.nanseninitiative.org/secretariat/>

¹²⁰ A Steering Group, Consultative Committee, Envoy and Secretariat oversaw the work of the Initiative. The Steering Group was chaired by Switzerland and Norway and also included Australia, Bangladesh, Costa Rica, Germany, Kenya, Mexico, and the Philippines. See the Nansen Initiative, <https://www.nanseninitiative.org/secretariat/>.

¹²¹ See <https://www.nanseninitiative.org/secretariat/>; Kälin (2015).

¹²² The Nansen Initiative 2015a; See also <https://www.nanseninitiative.org/global-consultations/>

other fields, and promotes the incorporation of good practices into regional, sub-regional and state organisations to address their particular contexts.¹²³

Upon the endorsement of the Protection Agenda, the **PDD** was created to support the implementation of its recommendations. Launched at the 2016 World Humanitarian Summit (WHS), the Platform is led by France and Fiji¹²⁴ and forges partnerships for multi-sectoral dialogues, information sharing and policy development.¹²⁵ Its activities are aimed at supporting interested countries and stakeholders in strengthening protection for environmentally displaced persons, including information sharing, promoting data collection and harmonisation, building partnerships with a range of stakeholders and offering input to policy processes, including the GCM.¹²⁶

Professor Walter Kälin, envoy of the Nansen Initiative, remarked that its consultations underscored the importance of regional and sub-regional organisations as actors supporting national governments in finding protection solutions.¹²⁷ Indeed, the Nansen Initiative has informed global and regional processes, and in doing so, has helped to further the development of policies and tools addressing environmental displacement. For instance, it has influenced policy processes in Latin America, notably the Cartagena +30 and Regional Conference on Migration¹²⁸, as well as the Strategy for Climate and Disaster Resilient Development in the Pacific.¹²⁹ At the international level, the Initiative's outcomes supported the incorporation of internal and cross-border disaster-related displacement into the Sendai Framework for Disaster Risk Reduction 2015-2030. It has also informed negotiations regarding the 2015 Paris Climate Change Agreement and consultations undertaken as part of the 2016 WHS (these are discussed later in this section).¹³⁰

4.2.1.2. Migrants in Countries in Crisis

The breakout of conflict in Libya in 2011, a destination and transit country for a significant number of migrants, led the international community to launch the **Migrants in Countries in Crisis** (MICIC) Initiative. This Initiative sought to fill gaps in emergency preparedness and response, efforts which have often overlooked the needs of migrants.¹³¹ MICIC was a state-led effort, co-chaired by the Philippines and the United States, that worked to strengthen protection for migrants affected by a natural disasters or conflict. MICIC was launched in 2014 at the Global Forum on Migration and Development. Following research and consultations, it released non-binding **Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster** in 2016 to offer practical guidance for actors providing protections while preparing for and responding to crises.¹³² These Guidelines provide

¹²³The Nansen Initiative (2015a), p.19, 7.

¹²⁴ Other members of the Steering Group are Australia, Bangladesh, Brazil, Canada, Costa Rica, European Union, Germany, Kenya, Madagascar, Maldives, Mexico, Morocco, Norway, Philippines, Senegal, and Switzerland. See Platform on Disaster Displacement, <https://disasterdisplacement.org/about-us/the-steering-group>.

¹²⁵ See <https://disasterdisplacement.org/>.

¹²⁶ PDD (2018a).

¹²⁷ Kälin (2015).

¹²⁸ Kälin (2015); Betts (2015).

¹²⁹ Kälin (2015).

¹³⁰ Kälin (2015).

¹³¹ See <https://micicinitiative.iom.int/about-micic/background>.

¹³² See <https://micicinitiative.iom.int/about-micic> and <https://micicinitiative.iom.int/about-micic/consultations>.

recommendations for states and international organisations as well as civil society and the private sector (and representatives from all of these sectors participated in the consultative process).¹³³ Additionally, the MICIC website houses an online repository of good practices to which stakeholders can contribute.¹³⁴ Although the initiative itself has ended, it has given rise to a variety of capacity building activities addressing its recommendations. While migrants have been impacted by conflicts and natural disasters in destination or transit countries, such as hurricanes in the United States or conflict in Yemen, their specific needs are often not incorporated into responses. MICIC's work targeting this specific, overlooked context can be seen as part of broader efforts to close protection gaps faced by at-risk migrants.¹³⁵

4.2.2. Addressing cross-border movement in two regional contexts

With most cross-border displacement occurring within world regions, sub-regional and regional organisations stand to play important roles in strengthening protection responses.¹³⁶ While consistent data collection remains a challenge, the information available illustrates that Africa and Central and South America have the most occurrences of disaster-related displacement across international borders.¹³⁷ With environmental displacement a particularly pressing issue in these areas of the world, this section highlights efforts to strengthen protection for affected populations in Africa and the Americas.

4.2.2.1. The Americas: Guidance for disaster-related displacement protection

Tropical storms and hurricanes have affected millions in the Americas, with storms increasing in strength because of climate change. Meanwhile, earthquakes, floods, landslides, volcanoes and other disasters have also had significant consequences, while droughts present a challenge of a more extended nature.¹³⁸ In fact, the United Nations Office for the Coordination of Humanitarian Affairs named Latin America and the Caribbean as the second most 'disaster-prone' world region.¹³⁹ Such disasters can spark migration movements and have led regional governments to seek ways to deal with their cross-border displacement impacts.

As noted above, the Cartagena Declaration on Refugees embraces a broad definition of refugees, applicable to persons displaced by disasters. To mark the 30th anniversary of the Cartagena Declaration (**Cartagena +30**), 28 Latin American and Caribbean governments met in Brasilia in 2014 and adopted the **Brazil Declaration and Plan of Action (BPA)**. This document, developed following a year-long consultative process, was aimed at responding to new protection challenges and solutions for the next decade. It builds off of regional structures, the 1994 San José Declaration on Refugees and Displaced Persons and 2004 Mexico Declaration and Plan of Action to Strengthen the International Protection of

¹³³ MCIC (2016).

¹³⁴ The MICIC repository of practices can be viewed at <https://micicinitiative.iom.int/repository-practices>.

¹³⁵ Foreword to the Guidelines by the Special Representative of the United Nations Secretary-General for International Migration, Peter Sutherland: MCIC (2016), p.5.

¹³⁶ The Nansen Initiative (2015a), p.10.

¹³⁷ The Nansen Initiative (2015a), p.6.

¹³⁸ UN Office for the Coordination of Humanitarian Affairs (2020), p.5.

¹³⁹ UN Office for the Coordination of Humanitarian Affairs (2020), p.2.

Refugees in Latin America, and is meant to serve as a blueprint for cooperation and protection solutions for displaced and stateless persons.¹⁴⁰ In the BPA, signatory countries acknowledge the challenges related to climate change, natural disasters and ensuing displacement, including the need to increase their focus on this topic.¹⁴¹ Participants pledge to work together to respond to new displacement trends and put creative solutions for displaced persons into action. The BPA contains a list of programs related to the areas of asylum, solutions, solidarity, statelessness and regional cooperation, that are to be carried out by governments (as willing) by 2024. In addition to its importance in the regional context, the BPA influenced the consultations surrounding the Global Compact on Refugees (GCR) and Comprehensive Refugee Response Framework.¹⁴² In its first triennial progress report, covering 2015-17, UNHCR finds improvements in several aspects, including the areas of asylum, alternative legal pathways, local integration, and elimination of statelessness.¹⁴³ It concludes that, looking at the current situation and good practices thus far, establishing protection measures for persons affected by climate change and natural disasters is among the priorities for strengthening the quality of asylum and ensuring full BPA implementation.¹⁴⁴ Meanwhile, improving responses to natural disaster-related displacement is among the priorities named for enhancing regional and international cooperation.¹⁴⁵

Meanwhile, the **Nansen Initiative** has worked with Central American countries, holding consultations followed by a 2015 workshop that included a study of laws, policies and practices in the region that have been used to respond to the needs of those displaced by disasters.¹⁴⁶ At this workshop, the Nansen Initiative received feedback that countries wanted more concrete guidance on how immigration law can better support displaced persons and worked to develop such a tool.¹⁴⁷ The **Regional Conference on Migration (RCM)**, a multilateral body consisting mostly of Central and North American countries,¹⁴⁸ endorsed the resulting **Guide to Effective Practices for RCM Member Countries: protection for persons moving across borders in the context of disasters** ('Effective Practices Guide'), drafted by the Nansen Initiative, in 2016. It offers guidance to RCM Member Countries on how they can respond to the temporary humanitarian protection needs of persons affected by sudden-onset disasters using examples from current laws, policies and practices, with a focus on the use of immigration law.¹⁴⁹ The Effective Practices Guide focuses on three groups of people:

1. those who wish to enter a foreign country, seeking temporary protection and support before (in anticipation of), during, or after a disaster has taken place in their country of origin;

¹⁴⁰ See <https://www.unhcr.org/en-us/brazil-declaration.html>.

¹⁴¹ Cartagena +30 (2014) f; UNHCR (2014).

¹⁴² UNHCR (2018), p.11.

¹⁴³ UNHCR (2018), p.11.

¹⁴⁴ UNHCR (2018), p.99.

¹⁴⁵ UNHCR (2018), p.101-02.

¹⁴⁶ Cantor (2015) <https://www.fmreview.org/climatechange-disasters/cantor>; Nansen Initiative (2016) <https://disasterdisplacement.org/wp-content/uploads/2016/11/PROTECTION-FOR-PERSONS-MOVING-IN-THE-CONTEXT-OF-DISASTERS.pdf>; Nansen Initiative (2015b) https://disasterdisplacement.org/wp-content/uploads/2015/07/150715_FINAL_BACKGROUND_PAPER_LATIN_AMERICA_screen.pdf.

¹⁴⁷ Cantor (2015).

¹⁴⁸ Current Member Countries are Belize, Canada, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, and the United States. Argentina, Colombia, Ecuador, Jamaica, and Peru have observer status. See <https://www.rcmvs.org/en/about-us>.

¹⁴⁹ Nansen Initiative (2016).

2. those in a foreign country at the time that a disaster takes place in their country of origin and who wish to stay in this foreign country to avoid disaster-related impacts; and
3. those who are in a foreign country that has experienced a disaster and are seeking protection and support there.

In addition to reviewing applicable laws, the guide explores regional practices, including those concerning the identification of affected persons and the use of processes related to the admission and stay of different categories of migrants.¹⁵⁰ The guide takes the approach of looking at existing tools rather than developing new requirements. Since its adoption, Costa Rica and Panama have used the Effective Practices Guide as a resource to inform the development of Standard Operating Procedures for joint responses to environmental displacement across their shared border, thereby helping to spur further measures to address the needs of those displaced.¹⁵¹ It has also been used as a resource to inform the response of authorities to natural disasters, such as Costa Rican officials in the aftermath of Hurricane Otto in 2016.¹⁵²

Pointing to the utility of such a resource, the **South American Conference of Migration (CSM)**¹⁵³ signalled its desire to develop similar guidance in 2017.¹⁵⁴ The CSM adopted its own guidelines the following year, **Regional guidelines regarding protection and assistance for persons displaced across borders and migrants in countries affected by natural disasters**.¹⁵⁵ These focus on cross-border displacement due to natural disasters and migrants already in countries experiencing natural disasters. This document, like its RCM counterpart, explores policies and practices that have been used to respond to displacement in these contexts.¹⁵⁶

Although the RCM and CSM guidelines are non-binding and do not establish governmental obligations, they are viewed as important steps in enhancing protection for people displaced across borders by natural disasters and as a tool for further policy development in this area.¹⁵⁷

4.2.2.2. East Africa: The Protocol on Free Movement of Persons in the IGAD Region

The **Intergovernmental Authority on Development (IGAD)**, an intergovernmental body in the East Africa region, was created to address issues of drought and desertification.¹⁵⁸ In a region where rainfall is inconsistent, land and environmental degradation can exacerbate challenges of food insecurity,

¹⁵⁰ Nansen Initiative (2016).

¹⁵¹ Kälin & Cantor (2017) <https://www.fmreview.org/latinamerica-caribbean/kaelin-cantor>.

¹⁵² Kälin & Cantor (2017).

¹⁵³ Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay, and Venezuela are Member States; Mexico is an observer state.

¹⁵⁴ Kälin & Cantor (2017).

¹⁵⁵ It focusses on cross-border displacement due to natural disasters and migrants already in countries experiencing natural disasters. The original name of the document is 'Lineamientos regionales en materia de protección y asistencia a personas desplazadas a través de fronteras y migrantes en países afectados por desastres de origen natural'. PDD (2019) https://disasterdisplacement.org/wp-content/uploads/2019/06/CSM-Lineamientos-regionales-personas-desplazadas-por-desastres_compressed.pdf.

¹⁵⁶ PDD (2018b) <https://disasterdisplacement.org/south-american-countries-now-have-a-non-binding-regional-instrument-on-the-protection-of-persons-displaced-across-borders-and-on-the-protection-of-migrants-in-disaster-situations>.

¹⁵⁷ Kälin & Cantor (2017); PDD (2018b).

¹⁵⁸ Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, and Uganda are Intergovernmental Authority on Development (IGAD) members. See <https://igad.int/about-us>.

famine and poverty and can also help fuel tensions and conflict,¹⁵⁹ all of which can spur migration and displacement.

Following several years of discussions, in February 2020, all IGAD representatives at the ministerial meeting in Khartoum adopted the **Protocol on Free Movement of Persons in the IGAD Region**.¹⁶⁰ It is expected to be signed at the next IGAD Heads of State summit; the next steps will be to conduct national-level consultations, followed by regional discussions regarding a blueprint for implementation.¹⁶¹ Under this new Protocol, persons fleeing disasters will be allowed to seek refuge in a neighbouring country; they will not need to return until doing so is safe.¹⁶² This includes those who cross a border in expectation of, during or following a disaster. This work is part of efforts supported by the European Union Trust Fund.¹⁶³

The Protocol expands upon existing bilateral arrangements between MSs, such as visa waivers between certain countries.¹⁶⁴ In addressing entry and stay, it helps fill a gap for protecting those displaced by natural disasters – and is particularly noteworthy because the IGAD region is home to some of the countries most affected by drought, flooding and other environmental challenges.¹⁶⁵ The IOM called this endorsement “a **significant milestone** towards catalysing socio-economic development” that can foster regional integration and development through the free movement of people.¹⁶⁶ Indeed, it **could serve as a model for other sub-regional organisations in Africa and elsewhere**.¹⁶⁷

4.2.3. Addressing environmental displacement in the context of IDP protection

In addition to the above initiatives, some of which touch upon protection-related issues for IDPs, there are a few that focus specifically on internal displacement and in this way address issues related to climate change and natural disasters. This section explores developments in the latter arena since 2011, which make use of the 1998 Guiding Principles to strengthen protections for this population.

4.2.3.1. A regional approach: The Kampala Convention

The **African Union (AU) Convention for the Protection and Assistance of Internally Displaced Persons in Africa** (also known as the **Kampala Convention**) builds off the Guiding Principles of Internal Displacement in many ways while also strengthening the incorporation of natural disasters and climate change, including by referring specifically to persons displaced by climate change.¹⁶⁸ The Kampala Convention, adopted in 2009 and entering into force in 2012, includes in its definition of IDPs those who

¹⁵⁹ IGAD <https://igad.int/about-us/the-igad-region>.

¹⁶⁰ IGAD (2020) <https://igad.int/divisions/health-and-social-development/2016-05-24-03-16-37/2373-protocol-on-free-movement-of-persons-endorse-at-ministerial-meeting>.

¹⁶¹ International Organization for Migration Special Liaison Office in Addis Ababa, Ethiopia (2020) <https://ethiopia.iom.int/iom-welcomes-historic-endorsement-free-movement-protocol-igad-region>; IGAD 2020.

¹⁶² Wood (2020).

¹⁶³ See <https://eutf.akvoapp.org/en/project/5977/#summary>.

¹⁶⁴ IOM Special Liaison Office in Addis Ababa, Ethiopia (2020).

¹⁶⁵ Wood (2020).

¹⁶⁶ IOM Special Liaison Office in Addis Ababa, Ethiopia (2020).

¹⁶⁷ Wood (2020).

¹⁶⁸ Adeola (2018).

have been displaced because of or to avoid natural disasters, among other events.¹⁶⁹ The Kampala Convention has several objectives, all of which are important to strengthening protection frameworks for environmentally displaced persons who do not cross an international border. These are:¹⁷⁰

- advancing national and regional efforts to prevent and address root causes of displacement and promote the development of durable solutions;
- developing a legal framework for preventing displacement and supporting IDPs in the region, including a framework for cooperation in these efforts; and
- identifying the responsibilities and obligations of both states and non-state actors related to preventing and responding to internal displacement.

Under Article V, parties to the convention pledge to work to aid and protect persons who have been displaced internally as a result of “natural or human made disasters, including climate change”.¹⁷¹ Other obligations include putting into place strategies for disaster risk reduction and measures to prepare for and manage disaster situations.¹⁷² Moreover, signatories agree that everyone has a right to be protected from arbitrary displacement, including forced evacuations related to natural disasters (if not necessary for their safety and health), and that states will be liable for providing reparations if they shirk from protecting and aiding IDPs affected by natural disasters.¹⁷³

The Kampala Convention thus explicitly addresses protections for persons internally displaced due to both natural disasters and climate change. But what is perhaps most important for protection efforts is the fact that **the Kampala Convention is the first legally binding instrument related to IDPs that encompasses the African continent widely.**¹⁷⁴ **It thus marks a milestone in the development of international law on internal displacement.**¹⁷⁵ However, countries that have ratified the Convention must incorporate its provisions into their national laws; to date, of the AU’s 55 MSs, 40 countries have signed the Convention and 29 have ratified it.¹⁷⁶ Besides the partial signature to and ratification of the treaty, implementation of the Convention’s components remains a challenge.¹⁷⁷ To assist with implementation, at the first Conference of State Parties in 2017, MSs agreed on an action plan for implementing the Convention.¹⁷⁸ Additionally, to promote the incorporation of the Kampala Convention’s provisions into national legislation and speed up its implementation, the AU adopted

¹⁶⁹ African Union (AU) (2009), p.3

¹⁷⁰ AU (2009), p.4.

¹⁷¹ AU (2009), p.13.

¹⁷² AU (2009), p.12.

¹⁷³ AU (2009), p.12, 21.

¹⁷⁴ The Protocol on the Protection and Assistance of Internally Displaced Persons to the Pact on Security, Stability and Development in the Great Lakes Region, adopted in 2008, was the first legally binding instrument related to IDPs in Africa, albeit with a more limited geographical reach. See Boswijk (2012).

¹⁷⁵ AU (2018), p. 38 <https://www.refworld.org/pdfid/5afc3a494.pdf>.

¹⁷⁶ AU (2009); AU (2019).

¹⁷⁷ Bradley (2012).

¹⁷⁸ AU (2017).

model legislation in 2018.¹⁷⁹ Reflecting the broad scope of the Convention, this model law includes over 60 articles.

4.2.4. The New York Declaration and Global Compacts

4.2.4.1. The New York Declaration for Refugees and Migrants

Amid rising global displacement, the **UN General Assembly** adopted the **New York Declaration for Refugees and Migrants** in 2016, endorsing a number of pledges related to the needs and human rights of refugees and migrants meant to strengthen protections for these populations.¹⁸⁰ The New York Declaration recognises climate change, natural disasters and other environmental factors as drivers of migration¹⁸¹ and commits to addressing drivers of mass movements.¹⁸² As part of this effort, the document sets out a plan for comprehensive refugee response frameworks as well as two global compacts – one on refugees and one on international migration.

4.2.4.2. The Global Compacts

The **Global Compact on Migration (GCM)**, adopted in 2018, is a non-binding intergovernmental agreement that sets out common pledges to address challenges and opportunities related to international migration. Measures relevant to environmental migration are included under Objective 2, which looks at addressing root causes of migration in the context of natural disasters, climate change and environmental degradation, as well as Objective 5, which identifies ways to strengthen opportunities for regular migration for those impacted by slow-onset natural disasters.¹⁸³ Notably, there is a subsection under Objective 2 (h-l) devoted specifically to environmental drivers of migration. It calls on signatories to:¹⁸⁴

- Enhance collaboration through analyses and information sharing in order to increase knowledge about migration movements related to slow- and sudden-onset disasters, climate change and environmental degradation.
- Create strategies for adaptation and resilience in the face of these environmental challenges, with a focus on adaptation in origin countries.
- Incorporate displacement-related considerations into disaster preparedness efforts.
- Create and align strategies and tools across countries to address the needs of impacted persons, including through both humanitarian aid and efforts to boost self-reliance.
- Leverage recommendations already developed by state-led initiatives to craft consistent approaches to the issue.

¹⁷⁹ AU (2018).

¹⁸⁰ See UNHCR (n.).

¹⁸¹ UN General Assembly (2016a), p.1.

¹⁸² UN General Assembly (2016^a), p.9.

¹⁸³ Ionesco & Chazalnoël; UN (2018a).

¹⁸⁴ UN (2018a), p.9.

According to the head of IOM's Migration, Environment and Climate Change Division, the GCM 'is the first time that a comprehensive vision has been laid out, showing how states can handle – now and in the future – the impacts of climate change, disasters and environmental degradation on international migration.'¹⁸⁵ **While the GCM is non-binding** and has not been agreed to by every country, **it marks an important milestone in identifying climate change and other environmental factors** as drivers of migration and in **outlining areas of cooperation** to address the issue.¹⁸⁶

In contrast, environmental displacement is less prominently mentioned in the 2018 **Global Compact on Refugees (GCR)**. Rather than dedicating a chapter to the issue, language on climate change and disasters is instead woven into the GCR. These mentions include:

- Acknowledging that the climate, natural disasters and environmental degradation can interact with drivers of the displacement of refugees and are increasingly doing so.¹⁸⁷
- Calling on the international community to reduce the risk of disasters¹⁸⁸ and promoting the inclusion of disaster risk reduction in national preparedness planning.¹⁸⁹
- Encouraging stakeholders to respond to the protection needs of those forcibly displaced using applicable national or regional instruments, temporary protection, humanitarian stay or other forms of protection.¹⁹⁰
- Calling on the international community to help countries to include refugees in their efforts to reduce disaster risks.¹⁹¹

Notably, by recognising that environmental factors contribute to driving displacement, the GCR enables countries impacted by natural disasters and environmental degradation to utilise its responsibility-sharing and other approaches.¹⁹² Despite this, the more nuanced and detailed references to climate and migration featured in the GCM but not the GCR is yet more proof that it is considered less an issue of international protection but one that requires responses within the broader field of international migration.¹⁹³

These two intergovernmental Compacts are important milestones in the governance of international migration, and the GCM in particular raises the visibility of environmental migration and displacement as an issue to be better addressed through international cooperation. If the relevant provisions are implemented effectively, they can also serve to advance responses to environmental displacement before and if it occurs.

¹⁸⁵ UN News (2019).

¹⁸⁶ Beeler (2018).

¹⁸⁷ UN (2018b), p.2-3 [f](#).

¹⁸⁸ UN (2018b), p.3.

¹⁸⁹ UN (2018b), p.10.

¹⁹⁰ UN (2018b), p.12.

¹⁹¹ UN (2018b), 15.

¹⁹² See UNHCR (2017a).

¹⁹³ UNHCR (2017a).

4.3. Addressing environmental migration and displacement in the broader context of climate change and disaster policies

Multilateral efforts to respond to climate change and disasters, led by the UN, have continued with gusto since 2011, building off previous work under the IASC, 1994 UNFCCC and Hyogo Framework for Action 2005-2015. Although focusing broadly on climate change and disasters, these instruments have acknowledged the importance of addressing environmental displacement. In addition to these global efforts, national-level initiatives, particularly in Pacific Island Countries for whom climate change and disasters represent a particularly existential threat, have been launched to promote adaptation and other solutions.

4.3.1. IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters

In 2011, the **IASC** revised its 2006 **Operational Guidelines on Human Rights and Natural Disasters**. These Guidelines, which address human rights concerns in the context of natural disasters, look at a range of human rights issues, including access to different services and freedom of movement. Noting that human rights concerns are frequently a result of insufficient planning and response rather than intentional policies, the Guidelines promote the incorporation of human rights considerations into all phases of disaster response.¹⁹⁴ In this document, the IASC recognises that IDPs are a particularly vulnerable group, and the Guidelines state that they should be treated in line with the Guiding Principles on Internal Displacement.¹⁹⁵ While the Guidelines touch upon internal displacement, they do not focus on cross-border displacement.

4.3.2. The UN Framework on Climate Change and 2015 Paris Climate Conference

The 21st session of the **Conference of the Parties (COP) to the UNFCCC**, also known as COP21 or the **Paris Climate Conference**, took place at the end of 2015. The resulting **Paris Agreement**, which came into effect in 2016, builds off the UNFCCC and boosts government investment and action to tackle climate change.¹⁹⁶ It is particularly remarkable in that it is the first legally binding agreement on climate change;¹⁹⁷ the Agreement has been ratified by 189 delegations (of 197).¹⁹⁸ Under the Paris Agreement, countries pledged to address the climate change threat by working to mitigate temperature increases and building the capacity of states to respond to its impacts.¹⁹⁹ Most relevant to this report, the Agreement recognises that responses to climate change should respect the rights of migrants alongside other particular populations.²⁰⁰

COP 21 also called for the creation of the **Task Force on Displacement (TFD)**, giving the Warsaw International Mechanism for Loss and Damage the responsibility of executing this task force and

¹⁹⁴ IASC (2011), p.2.

¹⁹⁵ IASC (2011), p.2.

¹⁹⁶ See <https://unfccc.int/process-and-meetings/the-paris-agreement/what-is-the-paris-agreement>.

¹⁹⁷ See https://ec.europa.eu/clima/policies/international/negotiations/paris_en.

¹⁹⁸ See <https://unfccc.int/process/the-paris-agreement/status-of-ratification>.

¹⁹⁹ UNFCCC (n.d., d).

²⁰⁰ UNFCCC (n.d., c=p.2.

reporting back to the UNFCCC on its findings. The TFD was established to devise recommendations on coordinated strategies for responding to climate change-related displacement. In the first phase of its work (2017-2019), the TFD examined four thematic areas related to displacement: national and subnational policy and practice; international and regional policy; data and evaluation; and framing and connections.²⁰¹ Based on this effort, COP 24 (2018) adopted several recommendations and extended the work of the TFD.²⁰² Now in its second phase, the TFD is working toward the goals of its 2019 – 2021 Plan of Action, which include a range of activities related to information dissemination and capacity building to strengthen awareness of and responses to environmental migration and displacement.²⁰³

There is supposed to be a global check-in every five years, but due to the COVID-19 pandemic, the 2020 meeting (COP26) was postponed.

4.3.3. The Sendai Framework for Disaster Risk Reduction 2015–2030

Upon the UN General Assembly's request, the **UN Office for Disaster Risk Reduction** undertook an effort to develop an instrument to succeed the Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters. Following stakeholder consultations and international negotiations, the **Sendai Framework for Disaster Risk Reduction 2015-2030** was adopted at the Third UN World Conference on Disaster Risk Reduction in 2015.²⁰⁴ This new instrument works to further the efforts of its predecessor while also increasing the focus on managing risks of disasters (rather than consequences of disasters), including the reduction of current risks and prevention of new ones.²⁰⁵ It mentions, among other things, that international cooperation is important to reducing the risk of displacement;²⁰⁶ that those displaced should have access to shelter, food and other basic supports;²⁰⁷ and that migrants can and do contribute to resilience-enhancing and risk-reduction efforts.²⁰⁸

The **Global Platform for Disaster Risk Reduction** ('Global Platform'), which meets biennially, serves as an instrument to support the implementation and monitoring of the Sendai Framework; with outcomes also informing the 2030 Sustainable Development Agenda (discussed in the next section).²⁰⁹ The Global Platform was created by the UN General Assembly to serve as the primary multilateral forum for discussion and action on disaster-related risk reduction.²¹⁰ The 2017 Global Platform in Cancun was the first to take place after the adoption of the Sendai Framework; the 2019 meeting was held in Geneva, focusing on the theme of resilience.²¹¹

²⁰¹ UNFCCC (n.d., b).[↗](#)

²⁰² UNFCCC (2019); UNFCCC(n.d., b).[↗](#)

²⁰³ UNFCCC (2019b).[↗](#)

²⁰⁴ UN (2015b), p.5.[↗](#)

²⁰⁵ UN (2015b), p.5.

²⁰⁶ UN (2015b), p.18.

²⁰⁷ UN (2015b), p.21.

²⁰⁸ UN (2015b), p.23.

²⁰⁹ Global Platform for Disaster Risk Reduction (2019).[↗](#)

²¹⁰ Global Platform for Disaster Risk Reduction (2017).[↗](#)

²¹¹ Global Platform for Disaster Risk Reduction (2019).

4.3.4. National-level initiatives in the Pacific

Pacific island countries have been particularly active on the issue of environmental migration and displacement at the national level, reflecting the fact that climate change and disasters present a particularly extreme threat for many countries in this region – notably, including challenges related to sea-level rise, a slow-onset disaster.

4.3.4.1. Kiribati’s purchase of land abroad and Migration with Dignity Policy

In response to climate change-related economic and food security challenges, Kiribati **purchased 5,460 acres of land** for nearly \$9 million USD from the Church of England in 2014.²¹² This land is on Vanua Levu, Fiji’s second largest island, which offers land that is higher above sea level and that provides natural resources like fresh water, wood and stone. This government investment was intended to support potential agricultural, fishing, and other activities to support economic development.²¹³ While Kiribati’s government acknowledged that it would not be ideal to relocate all of its residents to this land, it would theoretically be possible if necessary.²¹⁴ As of 2017, the government was still in its planning stage and had not yet determined how the land would be utilised, although the president announced that land cultivation would begin.²¹⁵ The Maldives had previously considered buying land in another country, but Kiribati was the first to actually take this approach.²¹⁶

In addition to this purchase of land, Kiribati has launched its **Migration with Dignity Policy** with the idea that climate change will necessitate the permanent relocation of some and that labour migration creates an important pathway for this.²¹⁷ The policy is aimed at supporting voluntary, temporary and permanent labour migration as an adaptation strategy; it also works to foster the growth of the country’s diaspora, with the objective of enabling them to support other migrants in the future.²¹⁸ Additionally, the government is supporting efforts to upskill the population by enhancing their educational and vocational attainment to make it easier for people to find opportunities for labour migration.²¹⁹ These efforts support pathways for those who are willing and able to migrate.

4.3.4.2. Vanuatu’s National Policy on Climate Change and Disaster-Induced Displacement

Vanuatu, a country particularly vulnerable to both sudden- and slow-onset disasters, launched its **National Policy on Climate Change and Disaster-Induced Displacement** in 2018.²²⁰ In a context of worsening natural hazards and community requests for help in the face of eviction and conflicts over land, the government identified a policy gap regarding mitigating drivers of displacement, protecting those who are displaced and responding to long-term needs related to development and recovery. The aim of the policy is to encourage emergency and development actors to collaborate with the government of Vanuatu to respond to the needs of all of the various types of displaced persons and

²¹² Republic of Kiribati (2014).

²¹³ Hartig (2017).

²¹⁴ Caramel (2014).

²¹⁵ Hartig (2017); Radio New Zealand (2017).

²¹⁶ Caramel (2014).

²¹⁷ Republic of Kiribati (n.d.).

²¹⁸ Farbotko (2018) [lands](#); McNamara (2015).

²¹⁹ McNamara (2015).

²²⁰ Vanuatu National Disaster Management Office (2018).

displacement situations in the country.²²¹ The ultimate objective of the policy is to offer durable solutions for everyone impacted by displacement.

This policy offers national standards regarding displacement and provides a roadmap for responding to displacement resulting from climate change and natural disasters, focusing on internal displacement and planned relocation (also called resettlement). The document delineates the responsibilities of different government agencies and aims to facilitate cooperation among stakeholders. The Ministry of Climate Change Adaptation urges government and non-government stakeholders to use this document to mainstream migration and displacement into their policy and planning to facilitate durable solutions for displaced populations.²²² This roadmap takes a systems-level, multi-sectoral approach to facilitate a whole-of-government strategy for mitigating displacement-related challenges.²²³ The policy document covers 12 strategic areas, encompassing a range of issues including governance, research, safeguards, capacity building, land, housing, health, education, infrastructure, food security, culture and justice to take a comprehensive approach. As part of this effort, IOM is providing technical assistance to support policy implementation, while the Vanuatu National Disaster Management Office is managing the creation of standard operating procedures to promote the protection of and supports for IDPs.

4.3.4.3. Fiji's Planned Relocation Guidelines and trust fund

Fiji launched its **Planned Relocation Guidelines** at COP24 in 2018 to delineate clear and holistic procedures surrounding this method of climate change response.²²⁴ These Guidelines offer a roadmap for involving communities in the relocation process, facilitating inter-sectoral cooperation and incorporating considerations of gender, age and disability.²²⁵ They are meant to be a living document to be used to foster climate resilience by supporting governments, communities and other stakeholders in local-level relocation efforts before, during and after relocation. The Guidelines aim to ensure that relocation is sustainable and supportive of relocated persons to safeguard their wellbeing and rights. They were developed with the support of the German Agency for International Cooperation (GIZ) and in alignment with other national frameworks including the country's 5-year and 20-year National Development Plans, National Adaptation Plan and National Climate Change Policy.²²⁶ While relocation is considered a last resort, it is one that will likely become more frequently used: a few Fijian villages have already been relocated, and it is expected that at least 45 additional villages will need to relocate in the near future.²²⁷

In 2019, Fiji's prime minister launched the **Climate Relocation and Displaced Peoples Trust Fund for Communities and Infrastructure** on the sidelines of the 74th UN General Assembly meeting. It was created to pay for relocation and the rebuilding of infrastructure and community, with the aim of

²²¹ IOM (2018c).

²²² Vanuatu National Disaster Management Office (2018).

²²³ IOM (2018b).

²²⁴ Republic of Fiji (2018).

²²⁵ Government of Fiji (2019).

²²⁶ Republic of Fiji (2018).

²²⁷ Republic of Fiji (2018), p.5; Permanent Mission of Fiji to the United Nations (2019).

supporting community adaptation to climate change.²²⁸ Initial funding has come from the country's Environment and Climate Adaptation Levy; upon its launch, the prime minister asserted that support for the Trust Fund is 'one of the most effective ways [their] international partners can support [their] adaptation effort.'²²⁹ New Zealand contributed the first donation of \$2 million (New Zealand dollars) in early 2020, while Norway supported the establishment of the Trust Fund.²³⁰ A lawyer who supported the development of the Guidelines noted that Fiji was the first country to create sophisticated planned relocation policies in the context of climate change, and that these were central to attracting funding for the Trust Fund – constituting a model that could be emulated elsewhere.²³¹

4.4. Linking environmental migration and displacement to broader humanitarian and development aid agendas

With a range of international actors increasingly recognising the challenges related to natural disasters and climate change, discussions and planning in humanitarian and development spaces have also touched upon environmental migration and displacement issues. Risks associated with climate change and disaster are of concern for development stakeholders in particular because **developing countries are impacted disproportionately**. They are more likely to face these events and may find it more difficult to effectively respond due to challenges including less capacity and resources, weak governance and population growth.²³² Forced displacement has long been central to the topic of humanitarian aid response; meanwhile, development assistance has been increasingly viewed as an avenue for providing sustainable solutions for displaced persons.

4.4.1. The 2030 Sustainable Development Agenda

UN Member States adopted 17 SDGs in 2015 under the **2030 Agenda for Sustainable Development**, with the aim of achieving these goals by 2030. The SDGs succeed the Millennium Development Goals (MDGs), which had a target date of 2015. One of the findings at the conclusion of the MDGs was that, despite successes, progress was uneven and many people remained left behind, including in the context of climate change, gender inequality and conflict.²³³ Unlike the MDGs, the SDGs aim at addressing root causes of poverty and apply to every country. Moreover, addressing climate change is incorporated as a key element of sustainable development, with **SDG 13 focusing on fostering resilience and adaptation in the face of climate change**.²³⁴ The 2019 SDG report even names climate change as 'the defining issue of our time and the greatest challenge to sustainable development.'²³⁵ However, progress on these ambitious goals is uneven, and responding to climate-related challenges remains a key area for improvement in the 2020-2030 'decade of action' to ensure the SDGs are met.

²²⁸ Government of Fiji (2019).

²²⁹ Permanent Mission of Fiji to the United Nations (2019).

²³⁰ Goering (2020); Permanent Mission of Fiji to the United Nations (2019).

²³¹ Goering (2020).

²³² Martin et al. (2018), p.409.

²³³ UN (2015a), p.8.

²³⁴ See <https://www.un.org/sustainabledevelopment/development-agenda/> and <https://www.un.org/sustainabledevelopment/climate-change/>.

²³⁵ UN (2019)h.

4.4.2. 2016 World Humanitarian Summit

The **World Humanitarian Summit (WHS)** was convened in Istanbul in 2016 to spur **innovation in international responses to crises** and increase support for those affected. An important element of the Summit's work was strengthening connections between the humanitarian and development fields to reflect and respond to the frequently protracted nature of displacement.²³⁶ In his reports in preparation of and following the WHS, the UN Secretary General recognised climate change and natural disasters as two of the factors contributing to the worsening global humanitarian situation.²³⁷ As mentioned previously, the PDD was launched at the WHS to support the implementation of the Protection Agenda. Participants at the Summit also underscored the need to increase proactive efforts to reduce the risk of disasters and assist communities in coping with climate change.²³⁸

4.4.3. Efforts by multilateral development banks

Multilateral development banks have increased their climate-related financing; the most recent data, for 2018, shows a record high of \$43.1 billion, of which 30% was allocated to adaptation efforts.²³⁹

As part of its goals of ending extreme poverty and fostering shared prosperity, the **World Bank** has explored the intersection of environmental change and mobility. Its Knowledge Partnership on Migration and Development (KNOMAD) created a working group to explore connections between environmental change and migration, displacement and relocation. The aim of KNOMAD is to strengthen evidence-based policy and practice; to help achieve this goal, it is focusing on longitudinal and quantitative data, especially regarding South-South flows. KNOMAD is also investigating the impact of mobility on vulnerability and resilience, with the aim of protecting the most vulnerable.²⁴⁰ Additionally, in its 2016 Climate Change Action Plan, the World Bank pledges to expand and integrate efforts to address climate change across its work. Meanwhile, it has leant millions in funds for migration-related projects in the past 15 years; it also created a sub-window of support for refugees in its fund for the poorest countries in 2016 and that same year launched an effort to increase the quantity and quality of jobs, with a focus on high-risk situations including migration.²⁴¹

Looking at regional development banks, the **Asian Development Bank** has included migration in several areas of its work to address climate change, including research and technical assistance; it has published multiple reports on the climate change-development-migration nexus and has indicated its desire to support country-led adaptation efforts regarding climate change.²⁴² Arguing that policy debates should go beyond humanitarian assistance and legal protection to also look at migration more broadly as well as the role of development, with a focus on fostering resilience and making migration a voluntary choice, the Bank undertook a project focused on devising financial and policy responses to

²³⁶ Grandi (n.d.).

²³⁷ UN General Assembly (2016b), p.2.

²³⁸ UN General Assembly (2016b), p.11, 13.

²³⁹ World Bank (2019).

²⁴⁰ Martin et al. (2018), p.411.

²⁴¹ Martin et al. (2018), p.410.

²⁴² Asian Development Bank (2010).

environmental migration.²⁴³ Additionally, the Bank's 2020 strategy acknowledged the need for migration policies that address climate change, while priority three of its Strategy 2030 is focused on responding to climate change.²⁴⁴

The **Inter-American Development Bank** adopted its Integrated Climate Change Mitigation and Adaptation Strategy in 2011 to mainstream climate change in its work, strengthen knowledge of the topic among staff and clients, enhance institutional frameworks to respond to this challenge and increase investments, lending and technical assistance in this area.²⁴⁵ It has also named climate change and environmental sustainability as a current cross-cutting issue and focus area.²⁴⁶ While migration is not among the most prominent areas of the Bank's work on climate change, it has focused in particular on examining the impact of climate change on urbanisation and cities in the region, in alignment with its push for more sustainable cities.²⁴⁷

Similarly, the **African Development Bank** has focused on migration in the context of climate change as it relates to migration to urban areas, as seen in its 2009 Strategy of Climate Risk Management and Adaptation.²⁴⁸ Its Strategy for 2013-22 lists greengrowth as one of its two overarching objectives, which includes fostering resilience to climate change.²⁴⁹ Meanwhile, the Bank has since established an Africa Climate Change Fund to support small-scale pilot projects on climate adaptation.²⁵⁰

4.4.4. A regional approach: Framework for Resilient Development in the Pacific

Participants at the **2012 Pacific Island Leaders Forum** agreed to launch an initiative to create a regional framework to address risks related to climate change and disasters to replace two regional frameworks set to expire in 2015 (the Pacific Islands Framework for Action on Climate Change and the Pacific Disaster Risk Reduction and Disaster Management Framework for Action).²⁵¹ The consultative process undertaken to inform the development of the framework included meetings, workshops and interviews with a range of stakeholders, in addition to an online consultation that enabled public feedback.²⁵² The resulting **Framework for Resilient Development in the Pacific**, endorsed by regional leaders in 2016, offers advice on how to foster resilience in the face of disasters and climate change in a manner that aligns with sustainable development.²⁵³ One of the (voluntary) priorities the Framework identifies for governments is 'integrat[ing] human mobility aspects, where appropriate, including strengthening the capacity of governments and administrations to protect individuals and

²⁴³ Asian Development Bank (2011).

²⁴⁴ Asian Development Bank (2010); Asian Development Bank (2019).

²⁴⁵ Inter-American Development Bank, Office of Evaluation and Oversight (n.d.)

²⁴⁶ See Inter-American Development Bank <https://www.iadb.org/en/about-us/strategies>

²⁴⁷ Miller (2016).

²⁴⁸ African Development Bank (n.d.), p.5.

²⁴⁹ See <https://www.afdb.org/en/about-us/mission-strategy/objectives>.

²⁵⁰ See <https://www.afdb.org/en/topics-and-sectors/initiatives-partnerships/africa-climate-change-fund>.

²⁵¹ Pacific Community (2016), p.

²⁵² See the dedicated webpage for the initiative under <http://qsd.spc.int/frdp/>.

²⁵³ See <http://qsd.spc.int/frdp/>; Pacific Community (2016).

communities that are vulnerable to climate change and disaster displacement and migration, through targeted national policies and actions, including relocation and labour migration policies.²⁵⁴

4.5. Conclusions

International governance of environmental migration and displacement is a complex topic and one that is characterised by a high degree of fragmentation²⁵⁵ – providing both opportunities for flexibility and challenges to a comprehensive response. There have been a number of initiatives since 2011 that aim to establish approaches, spur action for cooperation and provide practical recommendations on responding to environmental migration and displacement. This reflects a recognition of the increasing importance of the issue and of the need for coordinated efforts to address it. Overall, this work builds off previous efforts, which have enabled ensuing discussions and actions to gain momentum.

The efforts explored in this report have emphasised practical guidance, information sharing, cooperation and capacity building as important tools for translating ideas into action. Meanwhile, increasingly forward-looking approaches have emphasised the need to identify, mitigate and prevent future risks, including through fostering resilience to climate change and disasters, in which migration can play a role. Notably, the efforts mentioned in this section are largely state-led, voluntary initiatives. At the global level, there seems to be an understanding that there is little appetite for a binding legislative framework for addressing environmental migration or displacement, with the notable exception of the Kampala Convention. Initiatives have thus largely taken the form of guidelines and toolboxes, which aim to collect and share good practices and thus make these ideas and approaches more accessible to stakeholders.

Despite progress in tackling the issue – both its root causes and consequences – several formidable challenges remain. With few legally binding instruments, most rely on the interest of states (or other actors) in participating and complying, and these often address pieces of the puzzle rather than constituting a holistic response to internal and cross-border migration and displacement in the context of climate change and slow- and sudden-onset disasters. Meanwhile, there are comparatively fewer international initiatives for addressing internal displacement, with most focusing on cross-border movements. Perhaps most importantly, the effective implementation of the above and future efforts is central to ensuring they will successfully and systematically strengthen protections for environmentally displaced persons. Moreover, climate change – and its impacts on natural disasters and on displacement (and other forms of movement) – continues, and addressing this is key to addressing environmental migration and displacement that can result.

²⁵⁴ Pacific Community (2016), p.15.

²⁵⁵ Lieberman (2019).

5. ADDRESSING ENVIRONMENTAL DISPLACEMENT AT EUROPEAN AND MEMBER STATES LEVEL

KEY FINDINGS

The EU and its MSs take an active role in promoting environmental protection in global fora. The EU started late but has increasingly been addressing the nexus of environmental change and migration over the last decade.

According to the prevailing view, displacement based on climate alone does not meet the requirements for refugee protection.

Within the EU, complementary forms of protection deriving from the Qualification Directive and Temporary Protection Directive, as well as protection from non-refoulement in the Return Directive, could provide protection alternatives. However, all of these instruments show deficiencies for the protection of people displaced due to climate-related reasons.

To date, most European countries have made no efforts to extend national protection statuses to those displaced due to environmental factors. Exceptions are Italy, Sweden and Finland, which developed national protection grounds for victims of climate change and natural disasters. However, Finland and Sweden suspended their respective national provisions as a consequence of high numbers of arrivals in 2015/2016.

Judgments by the European Court of Human Rights and the Court of Justice of the EU on sick migrants can serve as examples of how these courts would assess applications from persons displaced for climate-related reasons. Socio-economic reasons under Articles 2 and 3 of the European Convention on Human Rights could offer crucial protection bases; however, the threshold is set very high.

While national European courts have not yet had to judge cases of climate change, Australian and New Zealand courts have dealt with several cases. However, the only case where a court in New Zealand has granted residence to a person who claimed not to be able to return due to climate change was decided based on family ties in New Zealand and not on the situation in the applicant's country of origin, Tuvalu.

In a remarkable recent decision, the UN Human Rights Committee declared that inaction in the face of global warming can lead to violations of human rights and trigger non-refoulement obligations.

5.1. The European policy debate

5.1.1. The European Union

At the international level, the EU has positioned itself as an **active promoter in the fight against climate change** in international fora, above all the annual UNFCCC COP meetings. The EU, and its MSs

individually, are party to this Convention and were one of the driving forces convincing other countries to agree to an ambitious goal during the COP21 Paris Agreement²⁵⁶ of holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels.²⁵⁷ Addressing climate change remains a top priority of the current Commission.²⁵⁸

The involvement of the EU in environmental change and migration started rather late,²⁵⁹ in 2007-08, with a **green paper on climate change** and a **paper from the High Representative Javier Solana** to the Council linking climate change with security concerns.²⁶⁰ A **2009 White Paper on a European framework for action on adaptation to climate change** recommended considering the effects of climate change in broader EU discussions about security, development and migration policies.²⁶¹

The **Stockholm Programme** was the **first to address the connection between climate and migration**²⁶² and invited the European Commission to analyse the effects of climate change on international migration, including its potential effects on immigration to the Union. In response, the European Commission came up with a comprehensive analysis in its **2013 Commission Staff Working Document on Climate change, environmental degradation, and migration**.²⁶³ It provided a thorough overview of research and data on the interlinkages between migration, environmental degradation and climate change. The document concludes that further emphasis should be put on knowledge to better understand the phenomenon in all its dimensions and increase the focus on environmental migration in dialogues and cooperation frameworks such as the Global Approach to Migration and Mobility (GAMM). As outlined in the paper, **most displacement due to environmental reasons remains within countries of origin**²⁶⁴ or the closer region; the paper therefore envisions EU development and humanitarian aid policies as the focus of EU action on this matter.²⁶⁵

In the following **European Agenda on Migration from 2015**, the European Commission mentioned **climate change as one of the root causes of irregular migration and forced displacement**, alongside civil war, persecution and poverty, demanding an active and engaged EU external policy.²⁶⁶ However, in the communications that followed, the European Commission fully focused on events related to the so-called 'refugee crisis' and the responses taken. Climate was only mentioned as one of the drivers for the 'record numbers of migrants and refugees arriving in the EU in 2015'.²⁶⁷

²⁵⁶ Astuccia, E. (2019).

²⁵⁷ UNFCCC (2016), Article 2.

²⁵⁸ During her opening statement in the European Parliament Plenary Session in July 2019, the new President of the European Commission recognised the importance for the EU to demonstrate leadership in taking real action on climate change by aiming at becoming the first climate-neutral continent in the world by 2050. See: https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_19_4230.

²⁵⁹ Geddes, A. & Sommerville, W (2013).

²⁶⁰ High Representative and European Commission (2008).

²⁶¹ European Commission (2009).

²⁶² Council of the European Union (2009) 17024/09, p.29.

²⁶³ European Commission (2013).

²⁶⁴ European Commission (2013), p.17.

²⁶⁵ European Commission (2013), p.35.

²⁶⁶ COM (2015) 240 final, p.7.

²⁶⁷ European Commission (2016f) 85final.

As early as 1999,²⁶⁸ the European Parliament addressed the links between environmental degradation and security concerns in international relations in its report. Specifically, the resolution remarked that ‘climate refugees’ already outnumber ‘conflict refugees’.²⁶⁹ It therefore called for an official recognition for ‘environmental refugees’.²⁷⁰ Later, in 2011, the Parliament commissioned the above-mentioned study on ‘Climate Refugees’,²⁷¹ which aimed at taking stock of the discussion and the typology of environmental migration, identify the protection gaps and develop appropriate recommendations. In its 2016 report, the European Parliament specifically addressed environmental degradation as one of the triggers of population movements.²⁷² It reaffirmed that the Union must address the root causes of ‘push factors’, naming climate change and natural disasters as examples alongside conflict, persecution and others.²⁷³ In 2017, the European Parliament requested that the EU take a leading role in recognising the impact of climate change on mass displacement, ‘as the scale and frequency of displacements are likely to increase’.²⁷⁴

Members of the European Parliament (MEPs) were already actively proposing a community status of ecological refugees in 2001²⁷⁵ and issued a position paper on Climate Change, Refugees and Migration in 2013²⁷⁶ highlighting – among others – possibilities to include climate change either in the recast Qualification Directive²⁷⁷ (QD), Temporary Protection Directive²⁷⁸ (TPD) or the Return Directive (RD). Since these early initiatives, the concerns on the impact of climate and natural disasters on migration cuts across the groups in the European Parliament.

5.1.2. The Council of Europe

The Parliamentary Assembly of the Council of Europe (PACE) issued a report in 2008 entitled “Environmentally induced migration and displacement: a 21st century challenge,”²⁷⁹ which emphasised the lack of consensus within the international community regarding international legal terminology concerning human mobility associated with environmental disasters and degradation, hindering progress on the recognition and legal protection of environmental migrants. The report further calls for an investigation of “existing gaps in law and protection mechanisms with a view to an eventual elaboration of a specific framework for the protection of environmental migrants, either in a separate international convention or as part of relevant multilateral treaties.”²⁸⁰ Recommendation 1862 (2009) to the Committee of Ministers²⁸¹ adopted at the same time goes so far as to **advocate for**

²⁶⁸ European Parliament (1999).

²⁶⁹ European Parliament (1999), Art K.

²⁷⁰ European Parliament (1999), explanatory note.

²⁷¹ Kraller, Cernei, Noack (2011), see above under chapter 2.

²⁷² European Parliament (2016), para G.

²⁷³ European Parliament (2016), para 100.

²⁷⁴ European Parliament (2017), para 31.

²⁷⁵ See in more detail Srgo, A. (2008).

²⁷⁶ The Greens (2013).

²⁷⁷ Directive 2011/95/EU.

²⁷⁸ Council Directive 2001/55/EC.

²⁷⁹ Council of Europe (2008).

²⁸⁰ Council of Europe (2008).

²⁸¹ Council of Europe (2009).

considering an additional protocol to the European Convention on Human Rights (ECHR) on “the right to a healthy and safe environment”.

The Assembly considered this topic again in **2016**, with a report by Philippe Bies²⁸² asking MSs to give **greater priority to (among others) devising protection policies and norms for victims of natural disasters and for victims of the consequences of climate change**. The Assembly's preferred option at that time was to “revise the 1951 Geneva Convention relating to the Status of Refugees, by means, for example, of an additional protocol.”²⁸³

A report from **PACE in August 2019** was comparably more cautious, stepping back from proposing any additional protocol but emphasising the **potential of learning lessons from the IDP protection framework**. It further highlights the complementarity between prevention, emergency assistance and the search for sustainable solutions, accelerating societies' adaptation to climate change.²⁸⁴ PACE, however, concluded, that the absence of a legally binding definition of “climate refugees” does not preclude the possibility of developing specific policies to protect people who are forced to move as a consequence of climate change.²⁸⁵ In the respective resolution from **October 2019**, PACE called for protection measures to be developed in the asylum systems of Council MSs to **‘provide appropriate asylum’ for people who are forced to move as a consequence of climate change**.²⁸⁶ The resolution called on MSs to recognise human migration as a tool for increasing “livelihood resilience” and a legitimate form of adaptation to climate change.²⁸⁷

5.2. Addressing environmental migration and displacement in the EU external dimension

5.2.1. Tools in the context of migration and forced displacement

EU law, policies and programmes explicitly related to forced displacement have been developed from the perspective of development and humanitarian aid within the so-called ‘external dimension’ of the EU's migration and asylum policy. Although the developed frameworks hardly focus on environmental displacement, they are regularly mentioned as drivers or one of the root causes of displacement.

Since 2005, the (revised) GAMM is the overarching framework of the EU external migration and asylum policy. The framework defines how the EU conducts its policy dialogues and cooperation with non-EU countries, based on clearly defined priorities and embedded in the EU's overall external action, including development cooperation. It aims to better organise legal migration, preventing and combatting irregular migration, eradicating trafficking in human beings, maximising the development impact of migration and mobility and promoting international protection and enhancing the external dimension of asylum.²⁸⁸ Among others, the GAMM also addresses environmental migration by means

²⁸² Council of Europe (2016).

²⁸³ Council of Europe (2016).

²⁸⁴ Council of Europe (2019a).

²⁸⁵ Council of Europe (2019a).

²⁸⁶ Council of Europe (2019b), para 5.4.

²⁸⁷ Council of Europe (2019b), para 4.

²⁸⁸ European Commission (2011), p.7.

of adaptation to adverse effects of climate change.²⁸⁹ Under the GAMM framework bilateral cooperation was established between the EU and nine EU neighbourhood countries (Mobility Partnership) and the EU with three other third countries (Common Agenda on Migration and Mobility, CAMM). While at present none of these partnership frameworks explicitly address the nexus between climate change and migration, they aim at better managing migration flows in partnership with the EU in exchange for enhanced legal mobility pathways. Specifically, the **Mobility Partnerships provide a flexible tool with the potential to bring environmental migration and displacement into the partnership agenda.**

In 2015, the EU–Africa Summit on Migration was held in Valletta, Malta, which resulted in the **Valletta Summit Action Plan.**²⁹⁰ The political declaration which accompanied the Summit acknowledged that migration within and between the continents is a multifaceted phenomenon. The parties agreed – among other pledges – **to commit to address the root causes of irregular migration and forced displacement, mentioning environmental trends as one of them.**²⁹¹ The Valletta Summit also launched the EU Emergency Trust Fund for Africa. The **2019 Report on the EU Trust Fund mentions environmental challenges in various parts of Africa.**²⁹² Extreme temperatures as well as droughts and fluctuating rainfall in the Sahel zone, combined with fast-growing populations, will – according to the report – aggravate the existing pressure and will increasingly impact migration and conflict.²⁹³

Since 2016, the EU has a dedicated policy framework on forced displacement in place, which aims to “prevent forced displacement from becoming protracted and to gradually end dependence on humanitarian assistance in existing displacement situations by fostering self-reliance and enabling the displaced to live in dignity as contributors to their host societies, until voluntary return or resettlement.”²⁹⁴ It is based on the Communication of the European Commission **“Lives in Dignity: from Aid-dependence to Self-reliance”**²⁹⁵ and the Council Conclusions on forced displacement.²⁹⁶ Both address climate change as an aggravating factor forcing even more people to flee. The accompanying Staff Working Document, however, identifies violence as a key factor forcing people to flee, while characterising disasters and climate phenomena as threat multipliers for instability, conflict and state fragility.²⁹⁷

5.2.2. Tools in the context of humanitarian aid and disaster relief

EU humanitarian aid is an expression of international solidarity as laid out in the Lisbon Treaty Art 196 and 214. The EU provides assistance for affected countries and populations in cases of disaster or humanitarian emergencies. In this, civil protection and humanitarian aid are complementary. Although

²⁸⁹ European Commission (2011).

²⁹⁰ Valletta Summit Action Plan (2015), p.3 https://www.consilium.europa.eu/media/21839/action_plan_en.pdf.

²⁹¹ Valletta Summit Political Declaration (2015) https://www.consilium.europa.eu/media/21841/political_decl_en.pdf.

²⁹² European Commission (2019).

²⁹³ European Commission (2019), p.22.

²⁹⁴ European Commission (2016c) COM (2016) 234 final, p.2.

²⁹⁵ European Commission (2016c) COM (2016) 234 final.

²⁹⁶ European Council (2016).

²⁹⁷ European Commission (2016d) SWD (2016) 142 final, p.2.

institutionally covered by one Directorate General, DG ECHO,²⁹⁸ both humanitarian aid and civil protection policies in the EU are rooted in distinctly different institutional frameworks, and they are governed by different legal norms.²⁹⁹ In the case of humanitarian aid, the European Commission Civil Protection and Humanitarian Aid Operations department shares competence with EU MSs, and together they are one of the leading global humanitarian donors. When it comes to civil protection, the EU assumes a supporting role, coordinating voluntary contributions of in-kind assistance from countries participating in the EU Civil Protection Mechanism.³⁰⁰ The EU Civil Protection and Humanitarian Aid Operations Department has been providing assistance to people in need since 1992; its annual humanitarian budget is just over €1 billion.³⁰¹

The **Humanitarian Aid Regulation from 1996**³⁰² sets the rules for the provision of humanitarian aid, including its financing instruments. It stipulates that humanitarian aid shall be comprised of assistance, relief and protection operations on a non-discriminatory basis to **help people in third countries, particularly the most vulnerable among them, and as a priority those in developing countries and victims of natural disasters and human-made crises, such as wars and outbreaks of fighting.**³⁰³ The overall policy framework for humanitarian assistance is outlined in the 'European Consensus on Humanitarian Aid' (2007),³⁰⁴ signed by the three main EU institutions (the Commission, the Council and Parliament). The Hyogo Framework and its successor, the 2015 Sendai Framework, significantly influenced EU discourses and policy making in the field of humanitarian aid and civil protection. In particular, they informed the 'European Consensus on Humanitarian Aid - Action Plan' in 2008³⁰⁵ and the 'Implementation Plan of the European Consensus on Humanitarian Aid 2015'.³⁰⁶ The Consensus defines the EU's common vision, policy objectives and principles on a number of topics, including international humanitarian cooperation, good donorship, risk reduction and preparedness, civil protection and civil-military relations.

The **2019 Decision on a Union Civil Protection Mechanism**³⁰⁷ governs EU actions in the area of civil protection. It modified the respective 2013 decision that dealt with prevention, preparedness, response and financial provisions. The 2016 regulation on the provision of emergency support within the Union establishes the circumstances under which MSs may apply for EU support. It sets out the eligible actions and types of financial intervention.

The European Commission uses a **dedicated Emergency Toolbox** to respond rapidly to new emergencies. It contains four instruments: the Acute Large Emergency Response Tool (ALERT), the

²⁹⁸ Beside DG ECHO there are also a number of further DGs involved such as DG CLIMA or DG HOME for e.g. security aspects. Within the European Parliament, humanitarian aid falls within the remit of the Committee on Development (DEVE), and civil protection within that of the Committee on the Environment, Public Health and Food Safety (ENVI). See Perchinig, et al. (2017), p.8.

²⁹⁹ Perchinig, et al. (2017), p.7f.

³⁰⁰ See: https://ec.europa.eu/echo/who/about-echo_en; for a more detailed historic summary of the Development of EU Humanitarian Aid and Civil Protection Policies see Perchinig, et al. (2017).

³⁰¹ See https://ec.europa.eu/echo/who/about-echo_en.

³⁰² Council Regulation (EC) No 1257/96 of 20 June 1996 (the Humanitarian Aid Regulation).

³⁰³ Council Regulation (EC) No 1257/96 of 20 June 1996 (the Humanitarian Aid Regulation); Art 1.

³⁰⁴ Commission of the European Union (2007): COM (2007) 317 final.

³⁰⁵ Commission of the European Communities (2008). SEC (2008)1991.

³⁰⁶ European Commission (2015). SWD (2015) 269 final.

³⁰⁷ Decision (EU) 2019/420.

Epidemics Tool, the Small-scale Tool and supports to the International Federation of the Red Cross and Red Crescent Societies' Disaster Relief Emergency Fund (DREF).³⁰⁸ Some of these tools were used in 2018 to provide support to countries hit by natural disasters. ALERT, for example, provides rapid first-line funding for immediate response to sudden-onset large-scale natural disasters where more than 100 000 people are affected. In 2018, EUR 8.65 million was provided to respond to severe floods in Kenya, Ethiopia and Nigeria, earthquakes and a tsunami in Indonesia and the effects of a tropical cyclone in the Philippines.³⁰⁹ The Small-scale Tool was used to respond to seven disasters of a total of EUR 2.225 million, among them also some related to natural disasters, namely those in Tonga (tropical storm), Guatemala (volcano eruption), Venezuela (floods) and Haiti (earthquake).³¹⁰

5.3. Addressing environmental displacement in the EU internal dimension

Since international refugee law can only be applied to a very limited extent (see above at chapter 4.1.), **international human rights law remains a possible 'complementary' basis for protection claims from environmentally displaced persons.** These complementary forms of protection mainly derive from the International Covenant for Civil and Political Rights (ICCPR) and the Convention against Torture (CAT) as well as the ECHR and the EU's Charter of Fundamental Rights (CFR) as well as the Qualification Directive (QD, Directive 2011/95/EU) in the EU context. In particular, the right to life (Art 6 ICCPR, Art 2 ECHR, Art 2 CFR) and the prohibition of torture and inhuman and degrading treatment (Art 7 ICCPR, Art 3 CAT, Art 3 ECHR, Art 4 CFR; Art 15 QD) are of relevance in the context of the protection of environmentally displaced persons.³¹¹

5.3.1. European legislation

International protection within the EU is regulated by a set of EU Regulations and Directives jointly referred to as the Common European Asylum System (CEAS). Despite a brief reference to climate change and migration in the Stockholm Programme, also the second generation of CEAS instruments does not directly address protection in the context of climate change or natural disasters. Still, the QD and other instruments and initiatives within the EU may create entry points for such cases,³¹² which are outlined below.

5.3.1.1. The Qualification Directive

The purpose of the QD is to harmonise and set common standards across EU MSs on how to designate a person as being in need of international protection. This Directive defines international protection as being for refugees in the sense of the 1951 Refugee Convention; in cases where a person does not qualify for refugee status, he or she can be granted subsidiary protection status. The latter is based on

³⁰⁸ European Commission (2020): COM (2020) 6 final.

³⁰⁹ European Commission (2020): COM (2020) 6 final.

³¹⁰ European Commission (2020): COM (2020) 6 final.

³¹¹ Climate change of course may also impact other human rights, such as the right to adequate food (Art 11 ICESCR; Art 14 CEDAW; Art 5 CERD), the right to water (Arts 11 and 12 ICESCR42; Art 14 CEDAW; Art 28 CRPD; Art 24 CRC), the right to health (Art 12 ICESCR), or the right to adequate housing (Art 11 ICESCR).

³¹² Kraler, Cermei & Noack (2011).

“criteria drawn from international obligations under human rights instruments and practices in MSs” (recital 34 QD).

Refugee Protection

With slight modifications, the QD follows the definition of the 1951 Refugee Convention. To qualify as a refugee, a person thus must fulfil the definition as described in Art 1A 1951 Refugee Convention as adapted in Art 2(d) QD. **Victims of natural disaster therefore need to equally fulfil the definition to be recognised as a refugee under the QD.**³¹³ **Environmental reasons per se are not among the elements relevant for qualifying as a refugee.** As described above under chapter 4.1, the absence of a persecutor in environmental disasters and its non-discriminatory nature stands against qualifying victims of such disasters as refugees. However, environmental disasters can still indirectly also be a reason for the application of the refugee status, for example if a state arbitrarily restricts access to socio economic rights in the course of a natural disaster and thereby discriminates against a certain group of people and thus the condition of persecutor is met.³¹⁴

Subsidiary Protection

The complementary human rights-related protection grounds are provided under subsidiary protection in the QD. Subsidiary protection is defined as the “protection of a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin [...] would face a real risk of suffering serious harm” (Art 2f QD). Subsidiary protection thus requires the element of ‘serious harm’, which circumscribes the different criteria drawn from international obligations such as the right to life (Art 2 ECHR) or the prohibition of torture (Art 3 ECHR). It consists, according to Art 15 QD of:

1. the death penalty or execution,
2. torture or inhuman and degrading treatment or punishment of an applicant in the country of origin, or
3. serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflicts.

The recast of the QD did not change the scope of subsidiary protection. For some, this constituted a missed opportunity to further enlarge the scope of subsidiary protection, for example to people leaving their country due to environmental reasons.³¹⁵ Thus, the recast QD remains with the three criteria mentioned above that must be satisfied in order for someone to be granted subsidiary protection. While Art 15 a and c offer little scope for environmental protection, the prohibition of inhuman and degrading treatment upon return as stated in Art 15 b has provided leeway for

³¹³ EASO (2016), p.46 additionally noting that their claim is unlikely to arise from a threat of persecution.

³¹⁴ Ragheboom (2017), p.326. Ragheboom distinguishes between different scenarios, such as when the degradation of the environment is deliberately caused by a state or non-state actor to harm a specific group, such as an ethnic, political, religious, national or social group (see Ragheboom (2017), p.328f). Another possible scenario would be if the ‘Degradation of the Environment is Caused by Technological Accident or Natural Hazard’. In such cases, Ragheboom indicates that ‘it must be shown that the threats to life or limb or threats of serious impairment of their economic, social and cultural rights affect the applicants specifically, as members of a group identifiable by the race, religion, nationality, political opinion or distinct social characteristic of its members.’ (p.331).

³¹⁵ See Borges (2019).

interpretation in literature and jurisprudence (see below). Art 15 b also provides some room for MS policies to address environmental reasons that prevent a person from returning. Some MSs indeed have included in their legislation refugee-type protection provisions concerning those who may be unable to return home owing to a natural disaster.³¹⁶

The **negotiation for a qualification regulation**³¹⁷ **offers yet another opportunity to broaden the scope of subsidiary protection.** The European Parliament proposed to include – among others – internal conflicts, severe violations of human rights or events seriously disturbing public order in the country of origin, or in a part thereof as factors to be taken into account when determining whether indiscriminate violence exists.³¹⁸ This proposal, however, did not meet the Council's mandate for negotiations with the Parliament,³¹⁹ while further negotiations have been pending since.

5.3.1.2. The Temporary Protection Directive

Also within the CEAS, the **TPD 2001/55/EC** is often cited as a potential instrument to extend to environmental migration. The application of this instrument, however, has a number of shortcomings. The term 'mass influx' is not defined, which may together with a lack of political will be but two of the reasons why the rather complex mechanisms to apply the directive have never been triggered.³²⁰ Moreover, **the temporary nature of the status may provide a solution for rapid onset disasters** but hardly for slow-onset disasters like sea-level rise. An entry point in this respect is Art 2(d), which refers to the 'Arrival in the Community,' whether spontaneous or aided, e.g. via evacuation programmes. The reference to evacuation programmes has been identified as a strength of the Directive, insofar as it could facilitate the legal and safe arrival of displaced persons,³²¹ potentially also for victims of natural disasters. The directive has, however, never been triggered, even during the 2015-16 so-called 'migration crisis'.

5.3.1.3. The Return Directive

Another EU secondary legal act of importance in the present context is the **EU RD 2008/115/EC**. The principle of non-refoulement is well enshrined in this directive, which states that the implementation of return must respect the principle of non-refoulement (Art 5) and that removal shall be postponed if it would violate this principle (Art 9).

The RD basically distinguishes between legal (non-refoulement or suspensory effects of appeals against return decisions) and practical obstacles that may postpone removal (Art 9). **Issues related to non-refoulement may well extend to cases of return to a country hit by environmental and/or natural disasters.** However, there is no EU harmonised status for non-refoulement cases (beyond those covered by the QD). MSs can, in principle, invoke Art 9(2) to postpone the removal of victims of environmental disasters; they may also devise more favourable provisions.

³¹⁶ European Commission (2013).

³¹⁷ European Commission.

³¹⁸ European Parliament (2017b), recital 34.

³¹⁹ Statewatch (2018) <https://www.statewatch.org/news/2018/jan/eu-qualification-req-trilogue-doc-10-1-17.pdf>.

³²⁰ Beirens et al. (2016), p.38.

³²¹ Beirens et al. (2016), p.17.

5.3.1.4. Non-harmonised protection status

The EU asylum and protection framework leaves a certain **gap with respect to cases that are at the interface between subsidiary protection and non-refoulement as derived from Art 3 ECHR**. In this intersection, MSs may develop national protection statuses provided they do not undermine the minimum standards deriving from the CEAS. The European Migration Network (EMN) reports³²² that 20 countries covered by a recent report have at least one national protection status. Most of them offer more general humanitarian statuses, two of them specifically addressing environmental change and natural disasters (see below under chapter 5.3.2).

5.3.1.5. Resettlement and humanitarian admission programmes

Resettlement is considered by UNHCR as one of the durable solutions for refugees and a life-saving tool to ensure the protection of those refugees most at risk.³²³ However, UNHCR estimated that 1.4 million refugees were in need of resettlement, while only 81,300 places for new submissions were provided by 29 resettlement states in 2018.³²⁴

Complementary to the global resettlement framework, a specific EU framework is negotiated.³²⁵ Under the proposal for a Regulation for an **EU Resettlement Framework**, 'resettlement' is defined as the admission of third-country nationals and stateless persons in need of international protection from a third country to which or within which they have been displaced to the territory of a MS with a view to granting them international protection (Art 2). The proposal contains no reference to environment- or disaster-induced migration. **While it will hardly evolve as a protection tool for climate-induced migrants per se, it may still offer a solution for refugees who need to be resettled due to adverse environmental change in their country of asylum.**

5.3.1.6. Other options

Besides the abovementioned protection tools, there are additional ones that come up when discussing alternative measures to fill protection gaps for people who need to leave their countries and regions of origin due to disaster and environmental change.

Humanitarian grounds are but one possibility for MSs to issue a visa with limited territorial validity.³²⁶ While such a **humanitarian visa** could bridge the lack of access to the EU for people in need of humanitarian protection including in the course of a natural disaster, the lack of existing protection or residence status would come up once the residence status needs to be determined in the country of destination.³²⁷ In its resolution from 11 December 2018, the European Parliament requested that the European Commission submit a proposal establishing a European Humanitarian Visa which would allow persons seeking international protection to enter an EU MSs for the sole reason of submitting an application for international protection.³²⁸

³²² EMN (2020) p.11.

³²³ UNHCR (2019), p.30.

³²⁴ UNHCR (2019), p.30.

³²⁵ European Commission (2016) COM (2016) 468 final.

³²⁶ Art 25 Visa Code; REGULATION (EC) No 810/2009.

³²⁷ For more see Jensen (2014).

³²⁸ European Parliament (2018).

Box 2: Beyond Europe: Brazil's humanitarian visa

Brazil's 2017 Migration Law (No. 13445) provides temporary visas for humanitarian reception for those displaced by natural disasters. It stipulates that 'the temporary visa for humanitarian reception can be granted to a stateless person or a national from any country in a situation of a serious or imminent institutional instability, armed conflict, major calamity, environmental disaster or serious violations of human rights or international humanitarian law, or on other grounds specified in the regulations.'

Sources: Cantor (2018); IOM (2018a)

Another possibility may entail '**humanitarian corridors**', by expanding the emphasis from the transit of material aid such as food, water and medical supplies to the movement of people displaced by disasters.³²⁹ Indeed, humanitarian corridors are already in place in some EU countries like Italy, France and Ireland to provide a pathway for people escaping conflict, which can well be extended to people forced into exile by environmental upheaval.³³⁰ However, it has not yet been used in this context.

In addition, at times a system of circular migration or, indeed, **seasonal work is proposed as a coping strategy for people affected by climate or environmental disasters**.³³¹ Within the EU, the Seasonal Workers Directive³³² offers MSs an opportunity to grant third-country nationals seasonal work permits for not less than 5 months and not more than 9 months within a 12-month period (Art 14). Such programmes would allow persons whose livelihood is threatened or even wiped out by climate change to seek work on a seasonal basis in the EU during those periods. This seasonal system could reduce stress on temporary and permanent residence systems by encouraging migrants to seek protection only for the minimum amount of time needed. **Seasonal work permits have already been tested as an adaptation strategy to climate change in the context of floods in Colombia in 2008 under a Spain-Colombia agreement**.³³³ Based on the bilateral agreement on circular migration, the project "Temporary and Circular Labour Migration Project" developed and facilitated temporary migration to Spain for Colombians affected by the floods in order to work in the agricultural sector for a limited time.³³⁴

³²⁹ Miller et al. (2017), p91.

³³⁰ Régnier (2019).

³³¹ Hush (2018). See also The Greens (2013), p.11.

³³² Directive 2014/36/EU.

³³³ Rinke(2011).

³³⁴ Rinke (2011), p.25.

Box 3: Beyond Europe: Australia's Labour Mobility Scheme

Australia's Seasonal Worker Programme (SWP) and complementary Pacific Labour Mobility Scheme are leveraging labour mobility arrangements to support migrants from areas impacted by climate change and disasters. The SWP replaced the Pacific Seasonal Worker Pilot Scheme in 2012, scaling up efforts to facilitate the recruitment of workers for the agriculture and accommodation industries while helping further the development of regional workers and their origin communities. Meanwhile, the Pacific Labour Mobility Scheme was established in 2018 following a pilot programme and aims to meet Australian low- and semi-skill labour needs and offer opportunities to those living in the Pacific region. It is one of the initiatives under Australia's 'Step-up' foreign policy to increase its engagement in the Pacific and respond to challenges the region is facing, including climate change and disasters. Spain and New Zealand have used a similar approach.

Sources: Australian Government, Department of Education, Skills and Employment (2020a & b); International Labour Organization (2019); Australian Government, Department of Foreign Affairs and Trade (2020); Australian Government, Department of Foreign Affairs and Trade (2019)

Seasonal work offers a valuable solution to compensate e.g. for the lack of work due to periodic or sudden-onset disasters. It, however, falls short of addressing situations in which climate change or natural disasters have a permanent impact on peoples' livelihoods.

5.3.2. National legislation and practice

An EMN ad hoc query on climate change and migration in 2018³³⁵ revealed that, **in most countries, the link between climate change and migration is not much discussed**. Debates are driven largely by academic researchers or the media rather than policymakers. Sporadic debates evolved, however, in the context of larger initiatives such as the French discussions in the context of the 2015 COP 21, the German chairmanship of the PDD or the discussions in the context of the development of the Austrian migration strategy.³³⁶ However, none of the countries reported any planned changes in their respective legislations as a result of these discussions.³³⁷

International Protection (EU harmonised protection status)

In accordance with the prevailing opinion that climate change and natural disasters do not offer any protection grounds for **refugee status** according to the 1951 Refugee Convention, European countries also reject such an interpretation.³³⁸ To qualify as refugee, the claimant would therefore need to provide a link to one of the five protection grounds under the 1951 Refugee Convention or rather, in the case of EU MSs, under the 2011 QD.

Similar to refugee status, the brief survey of selected countries for this study did not reveal that any of the EU MSs plan to make use of subsidiary protection for reasons of environmental or natural disasters.

³³⁵ EMN (2018b).

³³⁶ EMN (2018b).

³³⁷ EMN (2018b).

³³⁸ Explicitly stated by AT, CZR, DE to a questionnaire on environmentally induced migration distributed by ICMPD to selected EU+ countries in March 2020.

Again, the use of subsidiary protection may apply in certain circumstances: While environmental reasons are, for example, not explicitly stated in **Austrian** asylum and migration law, they could potentially still lead to a protection status if the return of a person who claims environmental reasons and who is not granted refugee status in Austria would constitute a real danger of violating Art 2 or 3 ECHR. In such cases it cannot be excluded that the person could be granted subsidiary protection in Austria according to Art 8 Asylum Act 2005.³³⁹

Non-harmonised EU protection status

Besides the harmonised international protection statuses, EU MSs make use of providing more favourable standards to protection than defined in the respective EU law by extending protection to people who do not fall under international protection. A recent EMN report provides an overview of such national protection statuses in 25 EU MSs plus Norway that participated in the survey. **The EMN found national protection statuses covering humanitarian or compassionate grounds, which encompass more generic legislative definitions to more specific ones such as medical cases, national statuses based on the principle of non-refoulement as well as statuses linked to environmental change and natural disasters.**³⁴⁰ The EMN classifies these statuses at the interface between subsidiary protection and Art 3 ECHR.³⁴¹

Table 5: Overview of non-harmonised protection statuses in MS+

Type of National Protection Status	Countries apply the status	# of countries
Overarching humanitarian grounds	BE, CY, CZ, EL, ES, FI, IE, IT, LT, MT, NL, PL, SE, SK, NO	15
Exceptional circumstances	AT, EL, FI, IT, LU, SE	6
Non-refoulement	CZ, ES, FI, HU, IT, PL, UK, NO	9
Climate change and natural disaster	IT, SE	2

Source: adapted from EMN (2020), only national protection statuses were listed that from their scope potentially could encompass protection due to environmental change and natural disasters.

As illustrated in the table above, an explicit mention and a dedicated national protection status for environmental reasons only exists in **Italy** and **Sweden**, while **Finland** encompasses such grounds under a more general status for humanitarian and compassionate reasons.

The **Swedish** Aliens Act (2005:716), Chapter 4 section 2a together with Chapter 5 section 1, provides protection for a person who cannot return to his or her country of origin because of an environmental disaster. The residence permit could last for up to 3 years; however it is currently suspended as a consequence of the high number of arrivals in 2015-16. In **Italy**, national protection can be granted to migrants – who first do not qualify for international protection – if there are "serious reasons" of a

³³⁹ Response from the Austrian Ministry of Interior to a questionnaire on environmentally induced migration distributed by ICMPD in March 2020.

³⁴⁰ EMN (2020), p.5.

³⁴¹ EMN (2020), p.5.

humanitarian nature such as famine or environmental/natural disasters in the country of origin, among others.³⁴² This kind of status could last 6 months and was, according to the EMN, used once.³⁴³

The **Finnish** Aliens Act 301/2004, Chapter 6 Section 88a, opens the possibility of granting humanitarian protection if neither asylum nor subsidiary protection can be granted but the person cannot return to his/her country of origin or habitual residence as a result of (among other reasons) an environmental catastrophe. As in the case of Sweden, Finland suspended the respected provisions as a consequence of the high number of arrivals in 2015-16.

Another example of providing a national status can be found in **Switzerland** in Art 83 of the Swiss Foreign Nationals and Integration Act. This article provides temporary admission if the enforcement of a removal order (from a humanitarian point of view) is not reasonable because the person concerned is 'in concrete danger in situations such as war, civil war, general violence and medical emergency in his or her home country or country of origin'. The Federal Council already affirmed in 2008 that this regulation is applicable to "disaster displaced persons". In addition, there is a provision in both the Swiss Asylum Act and the Aliens and Integration Act on the basis of which the enforcement of the return to a region affected by a natural disaster can be temporarily suspended (Article 44 para. 2 Asylum Act and Article 83 para. 4 Aliens and Integration Act).³⁴⁴

Beyond a specific status, in **Cyprus**, Art 29(4) of the Refugee Law of 2000³⁴⁵ includes environmental destruction as an additional reason for non-refoulement of refugees and beneficiaries of subsidiary protection. Environmental destruction does by itself not provide a protection ground but extends the non-refoulement obligation enshrined in international refugee law.³⁴⁶

Germany has been working to establish mechanisms to provide adequate protection to people affected by disaster-induced displacement in disaster-prone countries as part of its humanitarian assistance and development cooperation.³⁴⁷ While those discussions did not extend to a specific legal pathway or status, the German Advisory Council on Global Change proposed in August 2018 to develop a "climate passport" that "should offer those who are at risk of global warming the option to gain access to civil rights in safe countries." The climate passport should, in its first phase, open early, voluntary and humane migration routes to the populations of small island states whose territory will likely become uninhabitable due to climate change. The "climate passport" should therefore apply to those people who would become stateless if their home were uninhabitable.³⁴⁸

Besides these examples, the research revealed neither further direct reference to protection for environmental migrants in other countries nor any current plans on the part of national policymakers to introduce such provisions in the near future. While state practice can influence EU law, also illustrated

³⁴² Answer by Italy to EMN (2017); EMN (2020), p.23.

³⁴³ EMN (2020), p.23.

³⁴⁴ Response from the Swiss State Secretary for Migration to a questionnaire on environmentally induced migration distributed by ICMPD in March 2020.

³⁴⁵ See http://www.cylaw.org/nomoi/enop/non-ind/2000_1_6/full.html.

³⁴⁶ Art 33 of the 1951 Refugee Convention.

³⁴⁷ EMN (2018b).

³⁴⁸ German Advisory Council on Global Change (2018).

in the drafting history of subsidiary protection,³⁴⁹ the **low number of countries that have an environment-related element in their protection system** (especially with Finland and Sweden pausing this opportunity) **makes it unlikely that this could trigger respective changes at EU level.**³⁵⁰

While national humanitarian protection statuses offer leeway for countries to extend protection to persons affected by environmental change, and specifically natural disasters, these regularly provide for a lower protection status than the one stipulated in the QD for refugees and beneficiaries of subsidiary protection. This was also concluded in the EMN study.³⁵¹

Still, the examples of Finland and Sweden have inspired others as to how these examples could be integrated into the EU protection framework. Hush, for example, proposes either using the Swedish example to extend serious harm under Art 15 by inserting a new paragraph (d) extending to environmental catastrophes or, deriving from the Finnish example, adding a new harmonised protection ground 'humanitarian protection' as a new Art 15a which shall refer to an impediment to return as a result of an environmental catastrophe.³⁵²

5.3.3. European jurisprudence

5.3.3.1. Introduction

M Scott's³⁵³ review of judicial decisions globally found that disaster and climate change are peripheral to the majority of claims that were identified and reviewed. In the vast majority of the filtered cases, the claimant did not articulate concerns about being exposed to disaster-related harm if returned. References to disaster rather appear as general information from country of origin reports.³⁵⁴ Still, there are also a number of cases where the applicant claimed refugee status or a complementary status based on human rights violations.

As mentioned above and according to most commentators,³⁵⁵ the international refugee regime does not provide for a protection status for climate-induced migrants. In the European context, the jurisprudence of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) are of utmost importance in understanding whether the body of human rights law, anchored within the ECHR or the EU CFR, imposes an obligation to grant some form of protection to people fleeing because of environmental changes in their home country.

The present section concentrates on claims related to the right to life and the prohibition of torture and inhuman or degrading treatment or punishment. States are confronted with these questions when they must decide whether environmental migrants and displaced people can be sent back to their country of origin. Thus, while public discussions often centre around the question of whether a person who left

³⁴⁹ It was the aim of the QD to harmonise the wide spread state practice on protection for people failing to fulfil the strict criteria for refugee status. See Ragheboom (2017), p.270; Council Directive 2004/83/EC, recital 25.

³⁵⁰ Jean-Christophe Dumont of the Organisation for Economic Co-operation and Development (OECD), quoted in Rodriguez Martinez (2020).

³⁵¹ EMN (2020), p.5.

³⁵² See Hush (2018).

³⁵³ M Scott (2020).

³⁵⁴ M Scott (2020), p.32.

³⁵⁵ See chapter 4.1. above.

his/her country of origin due to environmental reasons can be defined as a refugee, administrative and judicial institutions are more often confronted with the more practical question of whether the principle of non-refoulement embedded in international refugee law as well as human rights law prohibits return to a country that is heavily affected by environmental problems.³⁵⁶

Both courts have not (yet) had to answer any claim solely based on climate change and natural disaster in the context of migration. However, a number of judgements contain some references to environmental change and the respective jurisprudence on health-related impediments to return, illustrating some similarities that may thus provide some insights.

The ECHR, in particular Art 2 (right to life) and Art 3 (prohibition of torture and inhuman and degrading treatment), extended the scope of protection obligations for Council of Europe states to not return a person if their life or physical integrity are arbitrarily endangered there. The jurisprudence of the ECtHR was essential to developing further the non-refoulement principle. Since the landmark decision *Soering vs. UK*,³⁵⁷ the court has developed a rich jurisprudence on Art 3,³⁵⁸ extending its scope from pure domestic to foreign issues. A state is thus not only obliged not to torture, but the state is also prohibited from returning a foreigner to his or her country of origin if torture or inhuman or degrading treatment awaits him or her there, constituting an extraterritorial effect of Art 3 ECHR.³⁵⁹

Compared to the cases that determined the obligation under Art 3 to not return a person to a country where torture or inhuman and degrading treatment awaits them, the situation of environmental migrants is different. The expected harm does not originate from physical violence but rather from socio-economic vulnerabilities, which are at first sight not protected by Art 3 ECHR.³⁶⁰ The ECtHR has not yet had the opportunity to develop jurisprudence around environmental change in the context of return. However, its **case law based on Article 3 ECHR prohibiting the removal of sick persons to a country where they would face inhuman or degrading treatment may provide an entry point.**³⁶¹

5.3.3.2. Return of sick people

Since the landmark ruling of *D vs. UK* in 1997, it became a well-established standard in migration processes to determine whether health-related reasons would impede the return of an irregular migrant, denied asylum seeker or a foreigner whose legal stay is coming to an end. The ECtHR set a very high threshold that must be met in order to invoke the protection of Art 3 ECHR from being returned to the country of origin or return in such cases.

The high threshold as first determined in the *D vs. UK* ruling and further concretised in *N vs. UK* referred to exceptional circumstances consisting of (but not limited to) a final stage of a disease with a real risk

³⁵⁶ McAdam (2020).

³⁵⁷ *Soering vs. UK*, Application no. 14038/88.

³⁵⁸ See further *Cruz Varas v. Sweden*, Application No. 15567/89, 20 March 1991; *Vilvarajah et al. v. United Kingdom*, Application No. 13163/87 et al., 30 October 1991; *Chahal v. United Kingdom*, Application No. 22414/93, 15 November 1996; *Ahmed v. Austria*, Application No. 25964/94.

³⁵⁹ Scott (2014), p.412.

³⁶⁰ Wallenberg (2016); p.25; McAdam 2007, p.140. On the link between socio economic rights and Art 3 ECHR, see also Mc Adam (2011), p 25, stating that 'breaches of socio-economic rights have often been 're-characterized' as violations of article 3 ECHR – an absolute right with a clear non-refoulement component'.

³⁶¹ Delval (2020).

of dying under most distressing circumstances including the lack of family, moral or financial support which altogether would amount to inhuman and degrading treatment. This high threshold dominated the case law until the 2016 *Paposhvili vs. Belgium* ruling. In the latter, the Grand Chamber refined its interpretation of “other very exceptional cases” as mentioned in *N vs. UK*. The Court concluded that “other very exceptional cases” would also include persons who are not at imminent risk of dying but who would face a real risk of “being exposed to a serious, rapid and irreversible decline in his or her state of health resulting in intense suffering or to a significant reduction in life expectancy” (para. 183).

Also, in *M.S.S. vs. Belgium and Greece*³⁶² (a non-medical Art 3 case), the court had to decide on a claim from an Afghan applicant whom Belgian authorities intended to return to Greece according to the Dublin Regulation. The Court referred to the inaction of the Greek authorities, “for the situation in which the applicant has found himself for several months, living on the street, with no resources or access to sanitary facilities, and without any means of providing for his essential needs” (para 263). The court followed that this situation amounted to a violation of Art 3 (para 264).

In arguing in how far states’ conduct is of relevance, the ECHR in *Sufi and Elmi v UK*³⁶³ emphasised that states shall not be liable for lacking the resources to mitigate an applicant’s circumstances when those result from external factors rather than its own act or omission. As an example, the court referred to natural phenomena such as drought (paras 281, 282).

In the quoted case law, the ECtHR repeated that a certain level of severity had to be met but also took a sincere view of living conditions and other accompanying elements. When **determining the real risk of an Art 3 infringement, the court thus regularly also takes socio-economic harm into account**, which can amount to inhuman or degrading treatment, especially if several risks accumulate.

However, as McAdam stated,

*“[Courts] have carefully circumscribed the meaning of ‘inhuman or degrading treatment’ so that it cannot be used as a remedy for general poverty, unemployment, or a lack of resources or medical care except in exceptional circumstances. They have been especially reluctant to find that a person needs international protection unless a State deliberately withholds resources or actively occasions harm. It is therefore unlikely that a lack of basic services alone would substantiate a complementary protection claim unless this were to render survival on return impossible.”*³⁶⁴

The question thus remains whether subsidiary protection according to Art 15b QD could develop an alternative ground for environmental claims in the EU protection framework. While by its wording Art 15b QD is very similar to Art 3 ECHR,³⁶⁵ the CJEU determined in *M’Bodj vs. Etat belge*³⁶⁶ that, to qualify for subsidiary protection, serious harm as outlined in Art 15 QD must be linked with one of the actors of persecution according to Art 6 QD. In this respect, the Court clarifies that Art 6

³⁶² MSS vs Belgium and Greece 2011-I Eur. Ct. H.R. 255, para. 249.

³⁶³ Sufi and Elmi v UK App No 8319/07 and App No 11449/07 (2012).

³⁶⁴ J McAdam (2014).

³⁶⁵ CJEU, Elgafaji (C-465/07) v Staatssecretaris van Justitie, 17 February 2009; para 28.

³⁶⁶ M’Bodj v Etat belge (C-542/13)

“sets out a list of those deemed responsible for inflicting serious harm, which supports the view that such harm must take the form of conduct on the part of a third party and that it cannot therefore simply be the result of general shortcomings in the health system of the country of origin.”³⁶⁷

Thus, despite the leeway granted to MSs to allow more generous protection than the QD, the CJEU clarified that it would be contrary to the general scheme and objectives of the directive to grant “[.] subsidiary protection status in situations which have no connection with the rationale of international protection.”³⁶⁸

While it is difficult to deduce how the ECtHR or the CJEU would respond to a protection claim based on environmental change, looking at the case law on the refoulement of sick persons, **the ECtHR might be more prone to conclusions similar to those of the UN Human Rights Committee** (see below). On the contrary, **the CJEU might exclude environmentally displaced from subsidiary protection.**³⁶⁹

Concluding that the CJEU may exclude subsidiary protection and thus the application of the QD, the question still remains whether, ultimately, a person can be returned to a country or region which became unsafe due to climate change or natural disaster. Again, the CJEU's case law on returning sick people may provide insight into how the court would rule in such cases.

5.3.4. National jurisprudence

The research regarding national jurisprudence on migration claims in environmental contexts revealed little. Some MSs reported that there have been sporadic claims related to environmental issues.³⁷⁰ However, these claims are usually interlinked with other claims in relation to the grounds laid down in the Geneva Convention. Statistics in this regard are non-existent. Still, national European courts sometimes mentioned natural disasters, but rather with the aim of substantiating and delimiting the requirements for refugee status. For example, the **Polish** Regional Administrative Court ruled that the Convention relating to the Status of Refugees contains a finite list of grounds on which refugee status may be recognised and does not include victims of war, natural disasters, or famine, family situation, unemployment, lack of educational opportunities or poverty.³⁷¹

In a case from the Administrative Court in **Luxembourg**, the judge looked in his reasoning at the possibility to grant subsidiary protection for reasons beyond the usual considerations (internal armed conflict, ability to get protection from the authorities, etc.) and examined the environmental conditions that can render a return difficult, if not impossible, for Iraqi applicants.³⁷² The case was not linked to climate change or ‘environmental protection’ but showed that environmental reasons can and are taken up by courts when deciding whether a person can be returned or not.

³⁶⁷ M'Bodj v Etat belge, para 35.

³⁶⁸ M'Bodj v Etat belge para 44.

³⁶⁹ Delval (2020).

³⁷⁰ Survey on environmentally induced migration distributed by ICMPD in March 2020 to selected European countries.

³⁷¹ Regional Administrative Court in Warsaw, 1 October 2012, V SA/Wa 873/12; quoted at <https://www.asylumlawdatabase.eu/en/case-law/poland-regional-administrative-court-warsaw-1-october-2012-v-sawa-87312>.

³⁷² ‘les conditions climatiques difficilement supportables pour des personnes habituées à des températures climatiques élevées’; see: Luxembourg - Administrative Tribunal, 3rd Chamber, 38651, 11 July 2017 at <https://www.asylumlawdatabase.eu/en/case-law/luxembourg-administrative-tribunal-3rd-chamber-38651-11-july-2017>.

In **Germany**, there were no environmental migration or asylum cases reported. Still, the various courts regularly decide and further elaborate on the requirements for return. As such, “[p]oor humanitarian conditions can constitute treatment within the meaning of Article 3 of the ECHR - provided that extraordinary individual circumstances arise - even if there is a lack of a responsible actor in the target area. Within the framework of Section 60 (5) of the Residence Act in conjunction with Art 3 of the ECHR, non-governmental dangers due to precarious living conditions can also be taken into account, although this is only considered in very exceptional individual cases.”³⁷³

The Court further took up discriminatory practice as a requirement for subsidiary protection and stated that “[e]ven if the person concerned is in an essentially comparable situation with other people, an exception to Art 3 ECHR can exceptionally be affirmed if the deportation would lead to a serious, rapid and irreversible deterioration in his health.” To answer the question of whether there is a risk of a violation of Art 3 ECHR, the Court took many factors (such as access to work, water, food, health care and the chance to find adequate accommodation, access to sanitary facilities and last but not least the financial means to satisfy elementary needs, also taking into account return assistance etc.) into account. The Court determined that “an exceptional case in the aforementioned sense only exists in the case of a very high level of damage, in which the humanitarian reasons are “mandatory” in accordance with the requirements of Art 3 ECHR.”³⁷⁴

5.3.5. Excursus: Case law on Kiribati and Tuvalu

Australia and New Zealand have developed the broadest jurisprudence on environmental cases to date. The probably most-noted cases derived from two island states, Kiribati and Tuvalu. Kiribati consists of around 33 islands in the equatorial Pacific. It is a remote and low-lying nation (mean elevation of 2 meters) in the Pacific Ocean with a population of about 112,000.³⁷⁵ Tuvalu is a country in Polynesia, located in the Pacific Ocean, about midway between Hawaii and Australia. The country has a mean elevation of two meters above the Pacific and a population of about 11,000.³⁷⁶ A rise in temperatures of 2 degrees more would – according to some calculations – make island states like Tuvalu disappear.³⁷⁷

5.3.5.1. The Tuvalu case law

Already in 1996,³⁷⁸ a 35-year-old woman from Tuvalu requested protection status in Australia. The Australian Tribunal dismissed the claim but recognised the potential for socio-economic harm to engage host state protection obligations under the Refugee Convention, provided that the causal nexus could be established between the harm feared and one of the five Convention grounds.³⁷⁹ For the claim in question, however, the Tribunal denied refugee status as the socio-economic impacts were not a result of persecution.

³⁷³ VGH Mannheim from 29.10.2019, A 11 S 1203/19, http://lrw.juris.de/cgi-bin/laender_rechtsprechung/document.py?Gericht=bw&nr=29831_para:96-100.

³⁷⁴ [Ibid.](#)

³⁷⁵ Central Intelligence Agency World Factbook, at: <https://www.cia.gov/library/publications/the-world-factbook/geos/tv.html>.

³⁷⁶ Central Intelligence Agency World Factbook, at: <https://www.cia.gov/library/publications/the-world-factbook/geos/tv.html>.

³⁷⁷ UN News (2019): Stop Tuvalu and ‘the world from sinking’ UN chief tells island nation facing existential threat from rising seas; at: <https://news.un.org/en/story/2019/05/1038661>.

³⁷⁸ RRT Case No96/10806 (1996).

³⁷⁹ Scott (2020), p.50.

While there were a number of further claims from people from Tuvalu, it took 24 more years for New Zealand to grant leave to remain – yet **this was not in recognition of refugee status but due to strong family ties to New Zealand**. This case concerned a Tuvaluan family of four (a couple and two children) who applied in New Zealand for refugee status or, *in event*, that they could not return because of the danger of arbitrary deprivation of their lives and because of the danger of being subjected to cruel treatment in case of return to Tuvalu. The court rejected the refugee and human rights claim³⁸⁰ because it did not fulfil the refugee definition in the absence of a persecutor and one of the five grounds of persecution. However, the Tribunal granted resident visas on the humanitarian claim because of their strong family ties in New Zealand.³⁸¹ Still, the case drew much media attention – wrongly – celebrating it as the first environmental protection case.³⁸²

5.3.5.2. The Kiribati case law

As described above, the absence of a dedicated form of protection status for people affected by climate change leads them to seek refugee protection in other countries. This also applied to Mr Teitiota, from Kiribati, who wished to extend his visa in New Zealand after he overstayed. As no other way to legalise his status was available, his case reached broad public attention or, as it was put, he became “an international celebrity, a stand-in for the thousands of people in Kiribati — as well as millions more worldwide — expected to be forced from their homes due to rising seas and other disruptions on a warming planet.”³⁸³

Mr Teitiota’s residence permit ended in 2010. After overstaying, he applied for refugee status in 2012, which was denied in first and further national instances in New Zealand. In 2015, he was returned to Kiribati, from where he filed a complaint to the Human Rights Committee claiming a violation of his right to life according to Art 6 ICCPR by removing him to Kiribati and not the right not to be subjected to inhuman or degrading treatment under Art 7 ICCPR.³⁸⁴ In his claim, Mr Teitiota argued that the effects of climate change and sea level rise led to saltwater contamination and scarce fresh water. Additionally, land erosion led to overcrowding on Tarawa and a housing crisis and related disputes, which exacerbated an untenable and violent environment for him and his family (para 2.1.).

The Committee, as the New Zealand national courts had done before, found the claim “entirely credible, and accepted the evidence”³⁸⁵ which was presented. The Committee in its judgement stated – for the first time – “that the effects of climate change or other natural disasters could provide a basis for protection.”³⁸⁶ However, the Committee found that Teitiota “did not establish that he faced a risk of an imminent, or likely, risk of deprivation of life upon return to Kiribati.” The Committee thus upheld New Zealand’s decision on the grounds that while “sea level rise is likely to render the republic of Kiribati uninhabitable ... the timeframe of 10 to 15 years, as suggested by [Mr Teitiota], could allow for

³⁸⁰ AC (Tuvalu), (2014) NZIPT 800517-520, New Zealand: Immigration and Protection Tribunal https://www.refworld.org/cases,NZ_IPT,585151694.html.

³⁸¹ AD (Tuvalu), (2014) NZIPT 501370-371, New Zealand: Immigration and Protection Tribunal https://www.refworld.org/cases,NZ_IPT,585152d14.html.

³⁸² McAdam (2015), p.131.

³⁸³ Weiss (2015) quoted in McAdam (2020), p.3.

³⁸⁴ Ioane Teitiota v. New Zealand, para 1.1.

³⁸⁵ Ioane Teitiota v. New Zealand, para 9.6.

³⁸⁶ Ioane Teitiota v. New Zealand, para. 9.6.

intervening acts by the republic of Kiribati, with the assistance of the international community, to take affirmative measures to protect and, where necessary, relocate its population” (para 9.12).

While the Committee’s decision was against the applicant, it still added some clarity, specifically in the potential applicability of human rights law for environmental cases, particularly with respect to the principle of non-refoulement. It declared that **inaction in the face of global warming can lead to violations of human rights and trigger non-refoulement obligations**,³⁸⁷ thereby creating a line of authority from the national to the international level.³⁸⁸ From a public relations point of view, the case, as with the Tuvalu case from 2015, was widely viewed as an opening for ‘climate refugees’;³⁸⁹ however, for some authors, this was an exaggerated interpretation.³⁹⁰

5.4. Conclusions: protection in the context of environmental displacement

The EU – with some exceptions – has remained quite silent on the issue of environmental migration and displacement. In the **external dimension**, the EU mentions climate change and disasters as potential root causes for migration, but hardly offers any concrete actions. In the **internal dimension**, the European Commission did not further build on its 2014 staff working paper. The European Parliament emphasised at times the links between climate change and disasters and migration and the need for addressing the identified legal gaps at EU level. At the **MS level**, with the exception of a few countries, environmental reasons are not addressed in laws related to international protection or legal migration. With hardly any cases based on environmental change and disaster related reasons for fleeing the home country, EU MSs currently see little need to address these phenomena in national laws. Additionally, European and national courts have not yet had to decide upon a claim by a victim of climate change or natural disaster.

In this context, it does not come as a surprise that neither the current nor latest proposals for the next generation of the CEAS include any references to the nexus between environmental change or natural disasters and international protection. In the absence of a specialised legal framework or dedicated provisions, the current EU legal framework – as described in this section – offers a piecemeal of possible entry points to the EU for people leaving their country of origin in the context of climate change and natural disasters:

Refugee protection according to the QD requires a well-founded fear of persecution because of race, religion, nationality, political opinion or membership to a particular social group as well as a lack of protection provided by the country of origin. People forced to flee due to climate change and natural disasters thus only may cater for refugee protection if they fulfil the definition of a refugee. This may apply, for example, if a state arbitrarily denies access to basic socio-economic rights of a particular group (e.g. a minority) in the country. Only in such cases may the person be granted refugee status, which

³⁸⁷ Behlert (2020).

³⁸⁸ McAdam (2020), p.38.

³⁸⁹ Among many other articles, see The Guardian (2020) <https://www.theguardian.com/world/2020/jan/20/climate-refugees-cant-be-returned-home-says-landmark-un-human-rights-ruling>; Newsweek (2020) <https://www.newsweek.com/climate-refugees-cannot-turned-away-united-nations-committee-rules-1483076>.

³⁹⁰ See McAdam (2020), p.38.

would provide international protection and a long-time residence permit with and comprehensive access to rights.

Should refugee status not apply, the QD offers **subsidiary protection** if a person shows substantial grounds for facing a real risk of suffering serious harm if returned to his or her country of origin. Serious harm is closely connected to the right to life and the prohibition of torture or inhuman and degrading treatment as protected by Art 2 and 3 ECHR. When deciding on the return of sick migrants, the ECtHR ruled that Art 3 ECHR could be violated in case of exceptional circumstances also in the absence of an actor of persecution or serious harm. However, in the context of the QD, the CJEU ruled differently and denied the benefits of subsidiary protection to sick people arguing that extending the protection to such cases would contradict the rationale of the directive. Consequently, even if courts would see a violation of Art 2 or Art 3 ECHR in cases of returning third country nationals to a place destroyed by climate change or natural disaster, it is likely that also in such cases the benefits of subsidiary protection according to the QD would be denied. Another solution therefore would require an amendment of the QD, e.g. by explicitly including climate change as one of the elements for serious harm in Art 15 QD. Subsidiary protection would provide for a temporary residence permit, limited access to rights, however, with the option for a long-term solution, should climate change or natural disaster prove to prevent the return over a longer period of time.

In the absence of international protection (i.e. refugee or subsidiary protection status), the applicability of Art 2 or 3 ECHR may still trigger the **non-refoulement** provision under the RD. Thus, the non-refoulement provision of the RD may still prohibit the return, however without any EU harmonised status.

In fact, various MSs fill the existing gap between international protection and non-refoulement according to Art 3 ECHR by applying **non-harmonised protection statuses**. Those non-harmonised protection statuses, however, usually offer more limited rights and protection than international protection does. Still, the few examples of EU MS legislation referring to environmental reasons and natural disasters, such as Italy, Sweden, Finland, are based on non-harmonised, thus national, statuses. While many other countries not explicitly mention environmental change or natural disasters in national protection status, they still may interpret such cases under broader notions of 'humanitarian protection' or 'protection based on exceptional circumstances'. The absence of any protection solutions, however, would leave affected persons in a situation of limbo.

Temporary protection in case of mass influx would be a valid tool for the mobility of larger number of people in the course of disasters, whether caused by environmental or other factors, but has so far proved toothless, and there is little to expect from this instrument.

The EU further has a number of tools that could be used as pathways to protection, either in the form of evacuation programmes or resettlement, but again they would also require adaptation to cater to victims of environmental change and natural disasters.

6. CONCLUSIONS AND RECOMMENDATIONS

6.1. Conclusions

The present study has focused on the nexus between environmental change, migration, displacement and protection. The report shows that **environmental change affects migration in very different ways. Addressing protection concerns is a key, but not the only response.** As a corollary, a focus on causation and related concepts such as ‘environmental migrant’ or ‘environmentally displaced person’ does not necessarily help to address protection challenges arising in the context of environmental change and migration. While the concept of ‘environmental migration and displacement’ remains contested, there are **clear links between environmental change**, including climate change **and various types of migration.** Thus, available evidence suggests that climate change is likely to increase the likelihood of a number of natural hazards which in turn will have significant effects on migration drivers and thus will have an impact on migration flows. Nevertheless, drivers of migration are complex, and environmental change will always be mediated by a variety of other social, economic and political factors.

As the report shows, **debates focus very much on the environmental change as a cause of migration.** Related estimates evoke images of a migration threat but, at the same time, largely do not stand up to scrutiny. By contrast, IDMC data collection on disaster-related internal displacement provides a robust and continuously improved evidence base that should be the basis for any further development of data on global disaster related displacement.

As the report has shown, **environmental change** not only may act as a driver of mobility, but also goes along with **significant immobility.** In addition, it may adversely affect immobilised populations, such as persons displaced in protracted displacement situations as a result of conflict, persecution or violence. **Finally, migration also needs to be seen as part of the solution,** and not just as an effect of environmental change, highlighting the need to embrace that mobility: (cross-border) mobility can and indeed needs to be part of responses to adverse environmental changes.

There have been **a number of initiatives since 2011** that aim to establish approaches, spur action for cooperation and provide practical recommendations on responding to environmental displacement. These initiatives signal a **recognition of the increasing importance of the issue and of the need for coordinated efforts to address it.**

The efforts explored in this report have **emphasised practical guidance, information sharing and capacity building** as important tools for translating ideas into action. Meanwhile, increasingly forward-looking approaches have emphasised the need to identify, mitigate and prevent future risks, including through fostering resilience to climate change and disasters, in which migration can play a role. At the global level, there seems to be an understanding that there is little appetite for a binding legislative framework for addressing environmental displacement. **Initiatives have thus largely taken the form of guidelines and toolboxes, which aim to collect and share good practices** and thus make these ideas and approaches more accessible to stakeholders.

At the European level, the nexus of environmental change and migration has **increasingly been addressed** in the last decade and in several contexts – civil protection, humanitarian aid and

development policy, although no concrete initiatives addressing protection needs have materialised yet.

While the overall nexus of environmental change, migration and displacement thus has received increasing attention, there has been only a very limited debate on appropriate tools to address the admission or residence of persons moving for reasons connected to climate change or natural disasters. To some extent, this can be attributed to **the lack of data** that would shed light **on the significance and scope of cross-border displacement**, or the scale of persons unable to return. While existing evidence shows that people affected by 'environmental change' predominantly remain in their country or the closer region, environmental considerations are likely to become more important – whether directly or indirectly – in future migration and asylum claims in the EU.

In the absence of a dedicated legal instrument, people affected may need to lean upon existing protection tools, whether appropriate or not. **Human rights safeguards may step in at times but they do not (yet) ensure full recognition of the problem and thus do not provide for an appropriate umbrella of protection.** The study reviewed various EU legal instruments designed for the protection of people in need for international protection and related legal instruments as well as the respective case law of the CJEU and the ECtHR.

From this, the study concludes that

1. environmental reasons are not among the grounds for international protection nor were they yet subject of claims in front of the CJEU or the ECtHR;
2. that the case law of the CJEU and ECtHR on the return of sick third country nationals offers parallels for potential cases of victims of climate change and/or natural disasters;
3. that, however, the CJEU interprets the scope of subsidiary protection in a restrictive manner, requesting protection from an actor of persecution or harm;
4. that in order to fill a gap of a dedicated EU international protection ground, a small number of three EU countries know non-harmonised national protection grounds for victims of natural disasters and broader environmental factors. Due to this small number of countries, the potential for a joint EU approach to this matter seems unlikely, particularly in view of the stalemate around the CEAS reform and the repercussions of the 2015-16 'migration and refugee crisis'.

Given that migration and asylum claims in the EU may in the nearer future more frequently also address reasons of environmental degradation due to climate change and/or natural disasters, the EU and its MSs, however, are well advised to proactively address the existing gap of available solutions. The **awaited Pact on Migration and Asylum may offer an opportunity to put migration in the context of climate change and natural disasters on the political agenda for the coming five years.** Given the long list of priorities in the field of migration and asylum, it is however unlikely that a 'relatively new' topic without evidence on its significance and urgency will be given much attention. Thus, while climate change and migration are both – separately – important issues on the European agenda, the nexus of the two stands to be much further strengthened.

6.2. Policy Recommendations

6.2.1. Contribute to conceptual clarity

Solutions for environmental migration and displacement must acknowledge the diversity of environmental drivers (including scope, intensity and duration), as different situations may involve different needs and frameworks with which to respond. Do environmental changes occur as slow or sudden-onset events? Do environmental events force people to leave or rather trigger voluntary migration? Do international protection tools provide adequate tools to address such movements, or should they be addressed through regular legal migration pathways? Does the strict dichotomy between forced and voluntary migration generally provide satisfactory answers for these challenges? More broadly, should responses address the consequences of climate change only or also encompass displacement due to geophysical events? The range of mobility needs and challenges associated with climate change and natural disasters calls for a multi-sectoral, two-pronged approach that both addresses root causes and consequences of the climate change-migration nexus. **A debate on these questions and a resulting consolidation of terminology are necessary preconditions for any further steps in the EU's external and internal dimensions.** The EU should thus clarify its position on concepts related to climate change and environmental degradation and its consequences.

The European Parliament should therefore

- further promote the **gathering of evidence on the effects of climate change and environmental change more generally on migration and displacement.** It should do this **in cooperation with third countries and regions** that are facing mobility issues in the context of climate change and environmental degradation. To improve the evidence base, data collection on disaster-related cross-border displacement based on the methodology of the IDMC data collection on internal displacement should be promoted.
- provide a **platform for information sharing on migration and displacement to the EU.** This discussion should extend – but not be limited to – an **assessment of migration and asylum claims** within the EU that have already brought forward environmental elements. The European Parliament should further initiate an **exchange with EU MSs to test the waters on MS' awareness and readiness** to address such reasons in the framework of migration and asylum policies, at the EU or national level, and promote the exchange of information on claims made with reference to environmental factors, such as through the establishment of a case law database.
- offer a **platform for an EU-wide discussion to adopt an EU position on the nexus between climate change, environmental degradation and disasters on mobility** to guide the EU's contribution to mitigate and prevent impacts of climate change and environmental degradation on mobility in the EU external dimension as well as its policy in the internal dimension.

6.2.2. Develop a coherent policy on the nexus of climate change and natural disasters and mobility in the external dimension

The European Parliament should

- **promote the mainstreaming of mobility considerations in the context of climate change and natural disasters across EU policies, strategies and programming** in the external dimension to reflect the multifaceted nature of related challenges and the need for comprehensive approaches to strengthen protections, reduce risks and foster resilience. These considerations should be regularly incorporated into programmes as part of EU external relations generally as well as into mobility-focused programmes including the EU's Mobility Partnerships, the various EU dialogues and programmes under the CAMM.
- **incorporate migration and displacement issues into the EU's international engagement on the issue of climate change.**
- insist to the European Commission that **EU policies, strategies and programming should not stop at solely acknowledging climate change and natural disasters as potential triggers for migration** but lead to concrete actions in related fields of the EU's external dimension. Relatedly, policies should not solely be aimed at keeping people from moving but also at creating ways in which people can migrate safely and legally as a way to cope with climate change-related challenges.
- urge that the EU take **concrete solidarity actions** on addressing the effects of climate change and natural disasters on migration **within the context of the GCM and the GCR.**
- encourage EU MSs and the Commission to ramp up actions to mitigate the consequences of climate change and natural disasters on mobility. Specifically, in the context of the implementation of the GCR, the European Parliament could request that the Commission **address in its pledges the nexus between climate change and natural disasters and mobility** by proposing concrete actions with third countries directly affected. Actions could include providing support for planned relocation or for contingency planning and emergency response structures.
- request that the EU **leverage its role in international fora**, including participation in and financial support to international organisation- and state-led initiatives and multilateral development banks, to address the complexities of environmental displacement, ensuring the incorporation of the issue into discussions and initiatives in the fields of migration and displacement, climate change and disasters and humanitarian and development aid. This should also include offering **financing to implement these and resulting efforts**. Promoting international cooperation through the Global Compacts, Global Platform for Disaster Risk Reduction and other venues can be important vehicles for the EU and its partners to address environmental drivers of migration and displacement.
- promote the **creation of protection guidelines in different world regions** like those created in the Americas, focusing on regions that are most impacted by climate change and disasters. It can also help strengthen guidance on thematic topics, as done by MICIC and the IASC Operational

Guidelines on Human Rights and Natural Disasters. To increase the efficacy of such support, the EU should also engage in **capacity building** activities around their implementation.

- provide **technical and financial assistance to support national-level initiatives**, like those conducted in the Pacific, including in collaboration with UNHCR, development agencies or other relevant organisations. This could include supporting efforts to develop comprehensive policies to facilitate a whole-of-government approach that works with civil societies and communities, as in Vanuatu, as well as more targeted policy development, like Fiji's planned relocation guidelines.
- support the **development and implementation of free movement agreements** like the Protocol on Free Movement of Persons in the IGAD region and promote them as **tools to provide migration pathways or humanitarian corridors for those facing climate change and slow- and sudden-onset disasters**.
- in addition to reacting to crises, **support the adoption of a forward-looking approach** that works to understand and respond to future risks, decrease vulnerability and promote resilience in line with Goal 13 of the SDGs, including the use of migration as an adaptation strategy but one that is a voluntary choice. This can **include supporting the creation of labour migration pathways in Europe** and elsewhere, especially for the portion of impacted persons for whom permanent relocation is necessary (e.g. Kiribati's program). Temporary programs or permits as those provided for by the Seasonal Workers Directive can also be leveraged and expanded to harness the potential of migration as an adaptation strategy.

6.2.3. Develop a strategy for providing solutions for asylum and migration claims connected to environmental change

Addressing environmental migration and displacement is not a priority of reforms within the EU in the area of migration and asylum. Both the 2015 'migration and refugee crisis' and the migratory and protection implications of the current Covid-19 pandemic leave little space for the issue at the moment. At the same time, the exclusive attention on these crises would be a missed opportunity, not least given the prominence of climate change as a leading policy challenge for the current Commission. In the EU context, the European Parliament has been at the forefront of advocating to more effectively address environmental migration and displacement.

Against this background, the European Parliament should

- continue this important role and request a **future-oriented EU asylum and migration policy which shall, finally, take more imperative actions on environmental migration and displacement** alongside other emerging challenges.
- continue to support **knowledge generation on the nexus of environmental change and migration and the concrete impact of this phenomenon on migration and asylum claims within the EU**. It is difficult to understand the scope of environmental migration and displacement to the EU without sufficient data and evidence; initiating more thorough research would build the evidence base and shed light on the scope of cases where third country nationals based migration and asylum claims on climate change and/or natural disasters in EU countries.

- proactively **test the waters** among respective EU institutions, the European Commission, the Council, EU MSs and other stakeholders with respect to **different policy options to address environmental migration and displacement**. An important test will come up with the forthcoming **Pact on Migration and Asylum**. Although the Pact has yet not been issued as of the time of writing this report, there are indications that the Pact will address environmental migration and displacement. The European Parliament should therefore use this window of opportunity to **take a clear position towards the European Commission on the importance to arrive at EU level at a common position on how to address future migration challenges in the context of climate change and natural disasters in its various facets**. The Parliament could request the European Commission to initiate a consensus making process on potential ways of addressing different facets of the impact of environmental change and natural disasters on migration and asylum to the EU. This process could be facilitated through a green paper on the impact of environmental change and natural disasters on migration and asylum to the EU. The paper could address different possibilities to address the phenomenon on a legal level (see the following recommendation).
- acknowledge that the impacts of environmental change on migration and displacements are multifaceted. Environmental change can lead to voluntary as well as to forced movements which may be long-term, mid-term or short-term. Therefore, there may be **different avenues through which the European Parliament can seek to address the needs of those affected by these phenomena**:
 - *Alternative 1: 'A Brave New Instrument'*: The European Parliament could support to develop a new, comprehensive legal instrument that would address environmental migration and displacement. Amongst others, it could offer new types of entry and residence permits for the EU with a duration depending on whether the impact of environmental events is long, mid or short term. Such a new instrument, however, could also address only specific forms of movements due to environmental change or disaster related displacement as an overarching category.
 - *Alternative 2: 'The Piecemeal Approach'*: The European Parliament could take a piecemeal approach and promote adding or expanding solutions across different protection and migration instruments. For instance the **QD** could qualify the consequences of climate change and natural disasters on the lives of people affected as 'serious' harm by extending an additional point 'd' to Art 15 or introducing a new ground beyond 'serious harm' by indicating a new Article '15 a'. The **TPD** could well be extended to situations of mass influx to an EU MS in case of serious and sudden on-set natural disasters in a third country. The **RD** may introduce safeguards to suspend return in case natural disasters impede the return of a person to her/his country of origin temporarily – e.g. by indicating a respective reference into Art 9. Respective changes could also be introduced into the Seasonal Workers Directive, the EU Resettlement Framework, etc. thus, existing migration and protection instruments could be adapted, keeping in mind that such migration may be temporary and linking conceptually to 'protection', 'work', 'education', 'vulnerability', etc.

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- o *Alternative 3: 'The Status Quo, Wait & Observe'*: The European Parliament, however, also could opt to promote no specific action at this point and trust in its MSs to address these challenges once they become more pertinent through adapting national (non-harmonised) protection grounds to meet evolving needs. In this alternative, the European Parliament could closely observe the developments in EU MSs, identify good practices and could then take appropriate actions to promote the harmonisation of the various approaches developed by EU MSs. Depending on the evolving practices, this may lead to a new legal instrument or could be incorporated into the existing EU asylum and migration framework.

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This study, commissioned by the European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs at the request of the LIBE Committee, examines legal and policy responses to environmental migration and displacement. Following a review of international, regional and national initiatives and legal instruments, it offers recommendations on ways to better address root causes and consequences of the climate change-migration nexus in Europe and beyond.

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