



The migration policy toward environmental and climate change migrants: The case of the European Union and some of its countries

Summary

Forced to Flee is a non-profit organization focused on helping migrants, displaced people, refugees and asylum seekers by researching public policies that improve their situation and well-being and protect their human rights.

This policy brief covers the topic of environmental migration, a recent and popular phenomenon that will obtain important recognition in the current context of the climate crisis.

The purpose of this brief is to understand and contextualize the concept of environmental migration, and, at the same time, understand the policy and legal frameworks to address this problem through a human rights-based approach. For this aim, we analyze the international law on refugees to try to fit displaced people for environmental causes into the existing regulations. Also, we analyze the legal frame in the European Union, looking deeper into those countries that legally recognize the figure of environmental refugees. Finally, we made some recommendations to improve the international and European policy and legislation toward this kind of migrants.

What is environmental migration and why is it so important? Are environmental migrants and climate migrants the same?

Almost 400 million people in the world have been forcibly displaced by natural disasters from 2008 until 2022 (Apap & Harju, 2023). Storms, floods and droughts are the most common natural causes that force people to flee from their habitual residency because of the impact of these environmental changes on their quality of life.

The yearly average of people migrating for these changes in the environment is over 20 million people since 2008 (UNHCR, 2016). Only in 2022, more than 30 million people migrated throughout the whole world because of these kinds of natural disasters, which represent almost 30% of the total forcibly displacements registered in that year (UNHCR, 2022).

In the future, the migration trend caused by these phenomena is not very positive. The most conservative estimations calculated that more than 1 billion people will be forcibly displaced from their homes because of environmental factors (IEP, 2020).

Within this enormous variety of different natural disasters that will provoke an immense number of migrants by 2050, climate change stands out over other environmental phenomena, having the potential to generate more than 200 million migrants in the next 25 years (The White House, 2021). The increase in global temperatures due to climate



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change will create environmental situations such as desertification (with problems with the access to water in some regions, creating conflicts, wars and, in consequence, migration); sea-level rises (forcing to flee from affected areas) and threatens for agriculture and economic subsistence activities (Huang, 2023).

Taking into consideration the importance of climate change and the deterioration of the environment in recent years, this type of migration due to environmental issues stands out as one of the most important challenges for any country in the future, being a potential internal and international problem which is going to affect the common migration flows and will change all the migration patterns known until the moment.

That's the reason why in recent years it has become more common to hear about environmental migration as a new concept with a huge importance for the current climate crisis the world is facing. Environmental migration refers to the phenomenon of displacements provoked by sudden or progressive changes in the environment that affect the quality of life of people who are forced to move temporarily or permanently to a different location (within the same country, into a not affected area, or to another country) (IOM, 2007).

A different concept is the one referred to the climate migration. Climate migration occurs when people are forced to abandon their residences to move within the

country or abroad because of changes in the environment which are provoked by climate change and the rise in global temperatures (IOM, 2007). So, the difference between both concepts is that climate change migration refers to those migrants and refugees who were forced to be displaced because of the consequences of climate change (such as desertification or the rise in the sea level provoked by human action) while the environmental migration concept includes all the people forced to move from their habitual residence because any environmental changes, including climate change but also natural disasters (earthquakes, tsunamis, floods or storms) or other type of environment deterioration or transformation.

So, in this context, climate migration is a sub-category of environmental migration. Despite it always existed, referred to natural disasters, environmental migration gained special interest because of the relevance that is acquiring the phenomenon of climate migration for the advanced climate crisis and the rise of global temperatures.

It is important to understand both, environmental and climate change migration, and to consider the best policies to approach the problem because this new issue is claiming specific policies for the needs of this kind of migrants and refugees.



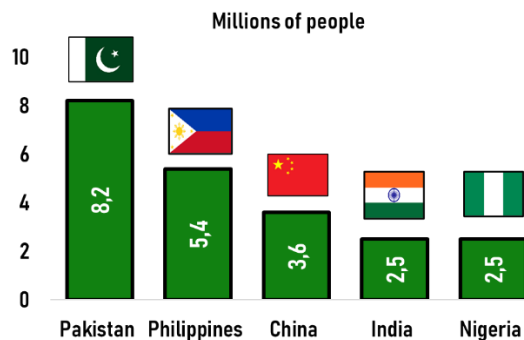
Where are environmental migrants from and where are they going? Data about environmental migrants: Origin, nationalities and destinations

The data about environmental migration is very limited because of the novelty of the topic. In any case, according to the data provided by the World Bank (Clement et al. 2021) the most affected regions by this phenomenon will be Africa (especially Sub-Saharan Africa) and Eastern and Southern Asia. Almost 100 million people from Sub-Saharan Africa will be displaced because of climate causes, and nearly 6% of the population of Northern Africa will be forced to flee.

One fact that is important to stand out is that the majority of current displacements that are caused by climate and environmental phenomenon are internal displacements, this means that the affected people who are forced to flee their homes move to another location within the same national borders. Taking this into consideration, most of the destinations are currently in the same country, but this is a trend that will change to the extent that climate change and natural disasters will start to affect entire countries.

According to the data provided by the Global Report on Internal Displacement (2023), there were more than 30 million internal displacements because of environmental causes. Almost all of them take place only in 5 countries affected by climate damage and natural disasters: Pakistan, the Philippines, China, India and Nigeria.

Figure. Top 5 countries with the most internal displacements for environmental causes (2022)



Source: Own elaboration based on IDMC data (2023)

As was said above, currently environmental migrants are characterized by internal displacements searching for better conditions in the same country they live in. But spillovers will occur very soon. The European Union recognize that Africa and the MENA region are some of the most vulnerable areas to climate change, and Europe will be one of the predilect destinations for climate migrants and refugees (Noonan & Rasu, 2022). At the same time, to the extent that this situation could affect Latin America and the Caribbean, the United States is one of the destinations for these migrants due to the existent migration pathway and pressure through Central America to the US (Alfonso, n.d).

In any case, climate migration is an urgent matter which will affect not only the countries that are currently suffering internal displacements but also those regional neighbors' countries that will be affected by the massive flow of people forced to flee because of climate change. Taking this into consideration, it is necessary to develop a specific framework for people migrating for these issues.



The environmental migration legal status: Is the policy for environmental migrants and refugees the same policy for the rest of refugees and migrants?
The case of the European Union

The most important legal document about migration and refugees is the 1951 Convention Relating to the Status of Refugees, which was created to define the legal framework of the refugees in the context of the ending of the Second World War. This document's central contribution was to establish a clear characterization of what a refugee is. According to the Convention, a refugee is someone forced to flee due to a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion" (CRSR, 1951).

This definition of a refugee has remained almost inalterable since then. Taking into consideration this issue, environmental refugees affected by natural disasters and climate change can't be considered refugees by the umbrella of the Convention.

The impact of natural disasters, the effect of climate change and the number of environmental displacements have suddenly changed from 1951 until this moment, so, of course, it is necessary to a new legal framework and approach, differently of those who are considered refugees affected by persecution, for the status of environmental migrants.

Despite some approaches that could consider environmental refugees as

victims of structural discrimination and oppression that forced them to live in vulnerable environments susceptible to natural disasters and negative impacts of climate change, exposing them to a continuous hazard and having the possibility to be included in the definition of refugee given by the Convention (For more information: Scott, 2020), or other approaches that consider climate migrants victims of the persecution of the "environmental persecution" (Conisbee and Simms, 2014), the reality is that, in legal terms, the countries that are part of the Convention aren't under legal obligation to receive, and many are forced to return to their country of origin in spite of the environmental situation of the country.

One famous case is the situation of Ioane Teitiota, a man from Kiribati who was requesting refugee status in New Zealand because of the environmental degradation in Kiribati due to the rises in the sea level that are affecting the habitable surface of the country. All the judiciary levels of New Zealand rejected the arguments of Ioane because of the inexistence of this particular cause for being a refugee in the Convention of 1951, being finally deported again to Kiribati (Supreme Court of New Zealand, 2015).

One interesting case is the legal and policy framework toward climate migrants of the European Union. Despite that, the EU already recognized the increment in the migratory pressure that is coming because of climate change (Apap & Harju, 2023) and in spite of the huge contributions of being part of the Global Compact for Migration (which



recognize climate change as a cause for migration), the Sendai Framework for Disaster Risk Reduction (2015 – 2030) and make huge contributions to the funds of the Conference of the Parties (COP) to help those countries which are more vulnerable to climate change, the reality is that there is not a specific legal framework for climate migrants in the EU and there is not a formal recognition of the status of refugee for environmental displaced people.

Notwithstanding the lack of specific regulations, some mechanisms are an opportunity for environmental migrants in the European Union. In addition to the Qualification Directive, which is part of the essential regulation of the EU in migration and asylum, the Temporary Protection Directive of 2001 is a legal instrument that prevents the devolution and return of migrants in case of the existence of systematic risks in the country of origin. Unlike the 1951 Convention that requires explicit persecution or discrimination to consider the refugee person at risk, the Temporary Protection Directive allow the climate refugee to access temporary protection as natural disaster consequences could be considered systematic risks for the integrity and the human rights of the person.

Nevertheless, the mechanism of the Temporary Protection Directive is very limited to specific circumstances, and the benefits are very limited too. On one hand, is very difficult to invoke this mechanism as requires mass flows of migrants and a qualified majority of the Council to apply, being ineffective for the protection of individual rights in

particular cases. On the other hand, the protection is limited to one year, so it's not very effective for huge disasters that could affect entire habitable locations. Although is a relevant normative in comparative terms for environmental refugees, the fact is that is not enough for the migratory and refugee pressure that the EU will receive while the climate change intensifies.

Also, the New Pact on Migration and Asylum of the European Union, which makes difficult access to the status of “refugee” and sends migrants to “third countries” (Civil Rights Defenders, 2024; International Amnesty, 2024), is not a favorable framework for the situation of environmental and climate migrants and refugees.

All in all, the European Union needs a specific policy toward this new situation. As the Convention of 1951 is not enough for the protection of the human rights of this kind of displaced people, and the Temporary Protection Directive is insufficient for the future trend of climate migration and asylum seekers, it is necessary a new framework more inclusive with the specific circumstances of natural disasters and climate change, recognising the legal status and facilitating social benefits for this kind of refugees.

Protection and social benefits for environmental migrants: The cases of Sweden and Finland.

Some countries around the world are preparing themselves for the increasing migratory pressure due to climate and environmental causes. In Africa, for example, the Kampala



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Convention of 2009, which was designed for internally displaced people due to civil and military conflicts, already developed a legal framework to protect those displaced by climate mitigation (Tyler, 2022). The application of the Convention is already having some results for example in the refugee camp of Kenya with migrants from Uganda and Somalia who are displaced because of the droughts and the crises for water in their countries and receive the temporary status of refugees (OHCHR, 2022). In other regions, such as Latin America, other countries already include the refugee status for climate-displaced people, as is the case of Bolivia, Peru or Uruguay (Tyler, 2022), or the case of Argentina, where the government created a specific “climate visa” in 2022 for environmental refugees fleeing of natural disasters (Bellizi et al. 2023). However, all the measures have limited effectiveness in the South American context.

But it is not necessary to go so far, in Africa or South America, looking for countries with holistic frameworks and legislation that consider the situation of environmental refugees. Among the countries of the European Union, some countries used to have an exemplary policy and legal approach for this type of refugee.

Some countries such as Italy regulate specific situations that are not contemplated in the 1951 Convention to give protection to people affected by several causes as natural disasters in the country of origin (Tyler, 2022). However, the most two advanced countries in this matter, not only in Europe but also in the whole world, at least until 2015,

are Sweden and Finland. “Nordic countries have in the past earned a reputation for implementing asylum policies that are more generous than what is required under international law” (Scott & Garner, 2022). Both Finland and Sweden’s Aliens Act, from 2004 and 2005 respectively, recognised special protection to those affected by environmental disasters and even gave residence permits and social benefits, to those who had been forced to flee in case it was impossible to return to their country of origin because of huge damage of the environment (Hush, 2018). This asylum and residence have a longer duration than those temporary and subsidiary ad hoc mechanisms that could be found in the European Union with the Temporary Protection Directive. This residency permit could have a duration of 3 years and even, in some cases, these temporary residents obtained permanent residency (Pérez, 2016). In the case of Finland, this permit could be even extensive to the family and relatives of the affected petitioner (Hush, 2018). These cases supposed an institutionalization, de facto, of the figure of the climate and environmental refugees, improving the protection and well-being of these people despite the lack of regulation at the international level (Lebrón et al. 2021).

The Finnish and Swedish Acts had a different conception of the definition of refugee that goes further than the traditional one provided by the 1951 Convention.



“An alien residing in Finland is issued with a residence permit on the basis of humanitarian protection (...) if he or she cannot return to his or her country of origin or country of former habitual residence as a result of an environmental catastrophe or a bad security situation which may be due to an international or internal armed conflict or a poor human rights situation”

- The Finnish Aliens Act 301:2004

“A person otherwise in need of protection in this law is a non-citizen who (...) finds herself outside the country that she is a citizen of because he or she is unable to return to her home country because of an environmental disaster.”

- Swedish Aliens Act 2005:716

Unfortunately, due to the migration crisis in the European Union in 2014-2015 as a consequence of the Syrian Civil War, both countries, Finland in 2016 and Sweden in 2021-2022, removed some of the important legal and social benefits and advances that their legislation includes (Hush, 2018). Even so, permits established at that moment passed to be temporary permits, which is still more than some of the international and European current legislation.

Recommendations for a new legal and policy framework for the international community and the European Union

Despite being already revoked, the legislation in Finland and Sweden about the legal status of environmental refugees has been a pioneer regulation that overcomes the limits of the current international law and improves the situation of this kind of migrants and refugees. Of course, both aliens act suppose an incredible influence on the development of a new framework not only for the European Union but also for the reconsideration of some current obstacles for environmental migrants at the international level.

It is necessary:

- A new international regulation or mechanism for the situation of environmental refugees:

The reforms of the 1951 Convention are very difficult because of coordination costs among all the current signatories and also for the conceptual problems that could bring the conciliation of the traditional conception of refugee (characterized by the persecution or the discrimination) and the new hazard suffered by environmental migrants.

A new regulation, convention, treaty or Protocol, in the framework of the UN system or the Conference of the Parties (COP) could be very useful for the beginning of the legislation of this phenomenon.



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- A complementary European legislation for the Qualification Directive and the Temporary Protection Directive: Finland and Sweden already pressed the EU to achieve the inclusion of the environmental migrants in the Qualification Directive or at least in the Temporary Protection Directive, but in both cases were rejected by the EU because of the lack of legal basis in the international law (Scott & Garner, 2022). For that reason, a new complementary regulation, specific to the context of the European Union, is necessary because of the inexistence of any kind of legal mechanism to receive climate refugees. These new mechanisms should include not only the legal status of the new refugee but also the extension of the status of their relatives and social benefits for their well-being.

Inspired by the cases of Finland and Sweden, these mechanisms should ensure protection (or even residency) with enough duration taking into consideration the seriousness of the matter.

- To maintain and increase the contributions to the reconstruction of the environment of countries of origin and the prevention of natural disasters: The financial and technical support to some international initiatives such as the

Refugee Environmental Protection Fund, the Environment and Climate Action Innovation Fund, or the funds for the ecological transition in the framework of the Conferences of the Parties (COP) are the best way to avoid the adverse effects of climate change. The best strategy to prevent environmental migration is to reduce the climate conditions that could produce natural disasters and huge displacements of people. Also, when the disasters already occurred, the joint efforts of multiple actors for the reconstruction of the affected locations and for the rehabilitation of the damaged environment are the fundamental steps to ensure that those forced to flee can return safely to their homes.

Adopting the legal mechanisms to guarantee the protection of human rights and the well-being of climate and environmental refugees is an international responsibility. Also, reducing the impact of climate change in vulnerable environments is a worldwide collective responsibility to reduce environmental damage and refugees.



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