



CLIMATE CHANGE: PROTECTING THE RIGHTS OF MIGRANTS

Climate change is an increasingly important driver of human mobility. For instance, between 2008 and 2018, **24 million people were internally displaced by weather-related sudden-onset disasters** each year. This figure does not include those who moved due to slow-onset events, such as freshwater salinization, ocean acidification, sea-level rise, glacial melt or desertification. The number of persons whose decisions to move have been affected by climate change is likely to be much higher. It is expected that human mobility, including internal displacement, cross-border migration and planned relocation, will increase as global temperatures rise. People who move due to climate change out of necessity rather than free choice, are at higher risk of human rights violations. A human rights-based approach to climate action and migration, which addresses the needs of people affected by climate change and protects their rights before, during, and after migration is critical.

Impacts on migrants

A Complex Link: Decisions to move, even when the adverse effects of climate change are the predominant driver, can be compounded by violations of economic, social, cultural, civil and political rights, some of which may themselves be caused or exacerbated by climate change. Climate change can also indirectly increase the risk of violent conflict by amplifying well-documented drivers of conflict, such as poverty and economic shocks. Failure of Governments to undertake effective climate action can drive migration. However, sometimes, such measures themselves can adversely affect the enjoyment of human rights and drive human movement. For instance, some hydroelectric projects have resulted in forced evictions, and planned relocations of those affected involve high risks of human rights harms.

A Threat to Human Rights: The negative impacts of climate change can reduce adaptive capacity and affect a person's ability to move and the freedom with which they choose to do so. Persons moving in response to climate change may experience difficulty in exercising their rights throughout the entire migration process. There are numerous barriers to international migration, including restrictions on migrants' access to labour markets, a lack of safe, accessible and regular migration pathways for work, education, family unity and humanitarian needs, criminalization of irregular migration, and migration policies based on deterrence. Migrants may be denied entry or pushed back through dangerous border control regimes. Migrants who are compelled to move in an irregular manner are exposed to heightened risks and may face expulsion, marginalization, discrimination, persecution, arbitrary detention, lack of access to health care and other basic services, labour and sexual exploitation, human trafficking, violence, rape and torture.

Climate change exacerbates pre-existing inequalities and is most acutely felt by those that are already in vulnerable situations like people living in poverty, indigenous people, minorities or persons with disabilities. It poses an existential threat to inhabitants of small islands and low-lying coastal countries. Those who have contributed so little to causing it find

themselves most at risk. Migrant women and girls may face specific risks of human rights violations. In particular, harmful gender stereotypes, proscribed gender roles, discriminatory laws, sexual and gender-based violence, lack of financial income or access to skilled labour markets and limited access to social capital frequently restrict the ability of women to migrate safely or access their rights in countries of destination.

Legal, policy and implementation gaps: While many international laws and policy frameworks mention persons crossing borders in the context of climate change, implementation is lacking to provide comprehensive protection.

Bridging the gaps: All persons are rights-holders and all States have ratified at least one international human rights treaty. These obligations require a human rights-based approach to climate action and migration. States should address the needs of people affected by climate change and protect their rights before, during, and after migration. Such action includes measures to mitigate climate change and prevent its negative impacts on human rights, to ensure all persons have the capacity and means to adapt; and to ensure accountability and effective remedies for harms caused by climate change.

POSITIVE EXAMPLES

Switzerland takes account of environmental and socioeconomic situations to extend humanitarian protection to persons who would be endangered by a return to their country of origin.

Bolivia, in its Law No. 370 of 2013, has explicitly referenced climate change migration and the need to protect those migrating in its national legislation.

Cuba is focusing on disaster risk reduction through planned relocation and ecosystem restoration.

In several countries, migration has been promoted as a form of climate change adaptation. In Kenya, the National Climate Change Action Plan calls for migration to be defined as a potential coping mechanism for climate change.

Bilateral migration agreements with climate vulnerable countries can facilitate safe migration provided such agreements are non-discriminatory and comply with international human rights obligations. Italy, for example, has concluded several bilateral agreements that could potentially facilitate safe migration pathways as a climate change adaptation strategy.



What can we do?

The first step is to leverage public power and commitments to **secure more ambitious action against climate change**, in accordance with the Paris Agreement, to reduce its role as a driver of human mobility. Other key recommendations include:

Ensure fulfilment, promotion and protection of all human rights for all persons crossing borders in the context of climate change, regardless of their status.

Promote and **expand safe, regular, dignified and accessible pathways for migration** related to climate change.



Refrain from returning migrants to territories affected by climate change and uphold the fundamental principle of non-refoulement to protect those unable to return to their homes. Facilitate the inclusion of migrants in host communities, the regularization of their status and their access to labour markets.

Mobilize all necessary means of implementation for effective climate change mitigation and adaptation measures to address human rights protection gaps.

Ensure effective and meaningful participation of vulnerable communities in decision-making related to climate change and mobility. Empower communities displaced from their traditional livelihoods to decide about their futures and if possible, ensure their continued access to traditional lands. Support their right to plan their own movement and facilitate their access to justice.

Address data gaps through the collection of disaggregated data related to the drivers of human movement. Measure the adverse effects of climate change and generate knowledge.

Strengthen the role of regional bodies in addressing climate change-related human mobility. Engage with human rights mechanisms, including with their enhanced monitoring, review and technical support on the issue of climate change-related cross-border movement.

Integrate human rights and human mobility, as well as climate change impacts, in relevant national reporting to the UNFCCC and to UN human rights mechanisms, in particular the Universal Periodic Review. Include a climate change specific focus in national action plans on implementing the Global Compact on Migration.

Operationalize the OHCHR/Global Migration Group's Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations.

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Analytical study: undocs.org/A/HRC/38/21
Resolution 41/21: bit.ly/2R7MCuJ