

**Environmental Migrations: future prospects**

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With the expression “climate refugees” two recurrent headlines are brought together: migrants and climate change. They converge to bring the issue of forced population movements to a level never attained and recall, concerning these migrants of a new type, the question of their legal recognition.

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With climate change and the media echo around the subject, environmental migrations are making the headlines. There are numerous reasons for a person to migrate, and movements due to climate are not a new phenomenon. Nevertheless, the effects of climate change have made the environmental factor the leading cause for displacements. Environmental migrations remain a blurred phenomenon that is hard to grasp in its entirety, viewed as it is both under the angle of strategies of adaptation and as a factor of vulnerability. These multifaceted and sometimes invisible displacements complicate the evaluation of the situation as well as the elaboration of a global response, in law as well as in the field.

**The scope of migrations caused by climate change**

Norman Myers, a researcher specialised in the links between environmental matters and the economy, evoked a figure in 1995 which would later be taken up in a number of discourses: 200 million climate refugees by 2050<sup>1</sup>. On Myers's own admission, this estimation represented an extrapolation of a situation at a given point in time, without taking into account affected populations' capacities for adaptation and resilience, nor the measures that might potentially be taken to contain climate change and its consequences. Nevertheless, it is true that the number of people displaced by climate change continues to increase, with the environment becoming the leading factor of migration. More than 41 million people were reportedly displaced because of climate change and natural disasters in 2015<sup>2</sup>. Nonetheless, it is difficult if not impossible to get reliable figures. Climate change amplifies pre-existing factors and it is unbelievable to dissociate it from economic, political or social factors. The only reliable figures on population movements caused by climate change are the numbers of people displaced in the wake of natural disasters, which of course give only a partial overview of reality. Moreover, most migrations due to climate change take place over short distances, inside of national borders. A little over 19 million people moved in this way in their own country as a result of natural disasters in 2015, more than double

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<sup>1</sup> See for example *Environmental refugees: an emergent security issue*, 13<sup>th</sup> Economic Forum, Prague, 23-27 May 2005, <http://www.osce.org/eea/14851?download=true> and *Environmental refugees: a growing phenomenon of the 21<sup>st</sup> century*, The Royal Society, 19 octobre 2001, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1692964/pdf/12028796.pdf>

<sup>2</sup> For more details on these displacements, see the Nansen Initiative's Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change <https://www.eda.admin.ch/dam/deza/fr/documents/aktuell/agenda/The-Nansen-Initiative-fr.pdf>, as well as the Global Report On Internal Displacement 2016 published by The Internal Displacement Monitoring Centre <http://www.internal-displacement.org/assets/publications/2016/2016-global-report-internal-displacement-IDMC.pdf>

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the number of internally displaced persons fleeing violence or armed conflict. Additionally, there are invisible, often successive displacements caused by sudden disasters like floods, but also by the slow deterioration of the environment. These “off the radar” migrations cannot be tallied, complicating any possible response. In the same way, we have no data concerning the number of people who establish themselves elsewhere and renounce ever returning to their native region. The impossibility of getting a clear picture of the state of affairs explains the absence of forecasts regarding their development.

Though the scope of migrations caused by climate change is difficult to quantify, Walter Kälin<sup>3</sup> has identified five displacement scenarios: displacements due to hydrometeorological disasters (floods, hurricanes, landslides, etc.), to government declarations of zones being high risk for human habitation, to environmental deterioration and slow-impact disasters, to rising sea levels and the risk of flooding, and displacements due to armed conflicts triggered by resource scarcity. Models of displacements differ in the face of these different hypotheses. Confronted with a sudden natural disaster, people will migrate en masse, over a short period and over limited distances. A slow deterioration of their environment will lead, for its part, to a more diffuse movement, over a long period of time and over variable distances, with possible border crossings.

We are therefore witnessing, and this phenomenon will no doubt continue to develop, an increase in internal and regional displacements due to the proliferation of natural disasters, particularly in South East Asia, which is in the grip of flooding and storms. At the same time, droughts and increasing resource scarcity produces invisible and diffuse migrations. Rising sea levels will also lead to numerous displacements. Owing to the high economic and social costs of migration, the majority of displacements will take place on a regional scale. Whilst developing countries are the leading “producers” of environmental migrants, they are also the first to receive displaced populations. These incommensurable migrations lead to greater vulnerability, slow down economic development and prevent countries from carrying out their duty of protecting their population. This observation illustrates the necessity of considering developing countries not only as victims of climate change, but also as actors in the struggle against it and in the adaptation to its effects. And this explains the importance of climate justice between developed and developing countries. Owing to the multitude of forms and causes of environmental migration, it nevertheless seems impossible to conceive an all-encompassing response.

### The fantasy of a legal response

The term “climate refugee” is currently widely used. Yet it is important to note that the status of refugees is determined by the 1951 Geneva Convention, which makes no provision for inclusion in this status of people fleeing climate change<sup>4</sup>. The very concept of the Geneva Convention is opposed to recognising such a status. Following an individualistic approach, the determination of refugee status is made on the basis of the asylum seeker’s objective and personal concerns. This approach cannot accommodate environmental migrations, which rest, on the contrary, on a collective vision. *Prima facie* recognition - that is to say a determination of refugee status on the basis of apparent and objective circumstances in the country of origin and motivating the

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<sup>3</sup>The Climate Change. Displacement Nexus presented by Pr W. Kälin, available at <https://www.brookings.edu/on-the-record/the-climate-change-displacement-nexus>

<sup>4</sup> In 2013, and again in 2015, a lawyer defended the emblematic case of an asylum seeker requesting the status of climate refugee in New Zealand, as a result of rising water levels threatening the Kiribati archipelago. He argued that climate change, and the attendant risk of flooding in the archipelago, was a consequence of human action, which justified its qualification as persecution. His argument was not accepted by the magistrates and the request was denied in both cases.

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exodus<sup>5</sup> -, used in response to exceptional situations, seems more adequate. Should the 1951 Convention therefore be amended or renegotiated? The world is experiencing large-scale population movements, leading to border reinforcements and calling the right to asylum into question, which explains that a majority of people are opposed to modifying the Convention, fearing a regression of international.

The European Union, which for several years has been seeking to undertake a community approach of the right to asylum, is silent as to the question of climate refugees. The only possibility resides in reception and temporary protection in the case of massive influxes, for which provision is made in Directive 2001/55/CE ratified by the European Union Council on July 20<sup>th</sup> 2001. Yet this possibility appears ill-adapted, namely because of the temporary nature of the protection<sup>6</sup>. Certain regional texts, for their part, give more prominence to the recognition of a climate refugee status. The African Union's Addis Ababa Convention of 1969, and to an extent the Cartagena Convention of 1984, notably define the term of "refugee" as applying to any person having had to flee as a result of "events seriously disturbing public order in either part or the whole of his country of origin or in that of which this person is a national"<sup>7</sup>. One might assume that events seriously disturbing public order might include consequences of climate change and natural disasters. However, such an interpretation has yet to be admitted. For its part, the United Nations Convention to Combat Desertification establishes a link between desertification and soil impoverishment and causes of migration, without actually offering protection to environmental migrants.

Status and protection for climate refugees is therefore not set out in any international text. However, this legal vacuum is compensated for, in part, by the broad mandate of the UN High Commissioner for Refugees (UNHCR). As we have seen, there are a number of factors underlying the migratory phenomenon, and the consequences of climate change are also felt in different ways. The climate element may therefore have come into play in refugees' decision to flee Somalia. Rising sea levels and risks of flooding in certain insular states can produce stateless persons, and as we have seen, the majority of environmental displacements take place within a country's borders. Could "climate refugees" therefore fall within the scope of the HCR's protection mandate and thereby benefit, like refugees, state-less persons and "classic" internally displaced persons, from potential assistance and a status?

The idea of creating a status for climate refugees has been evoked on many occasions. However, it appears that the implementation of such a status is not an option. As we have mentioned, the multitude of factors involved in migration makes it impossible to dissociate economic, social or political reasons from the climate factor, and therefore makes the definition of criteria for the status of climate refugees more complex. The term "refugee" refers to a person who has been compelled to flee. How can coercion be defined in the case of a slow deterioration of the environment or rising sea levels? Likewise, the individual approach to asylum, which as we have seen, does not correspond to climate migration needs, requires to be reviewed. International law is also ill-adapted, whilst non-interference and state sovereignty are proclaimed and defended by a number of international texts. The status would have to apply without distinction to internally displaced persons as well as refugees. In fine, the protection granted to "classic" refugees is temporary, since it can stop if the reasons which motivated the recognition of the status

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<sup>5</sup> As defined by the UNHCR.

<sup>6</sup> Article 4 of the directive makes provision for protection attributed for the duration of one year. A maximum and exceptional prolongation can extend this protection up to three years.

<sup>7</sup> The first article of the AU Convention regulating aspects pertaining to refugee concerns in Africa was adopted on September 10<sup>th</sup> 1969, along with III, 3 of the Cartagena Declaration on Refugees, adopted on November 22<sup>nd</sup> 1984.

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disappear. Given the climate question, this protection ought to be permanent and develop the relocation of migrants in countries unaffected by the effects of climate change.

It is currently impossible to propose a status for climate refugees, be it by renegotiating the Geneva Convention or by hoping for the adoption of a specific convention, which in light of the prevail-ing inward-looking trend seems to be out of the question.

### **What leads, what hopes?**

Several projects and initiatives nevertheless show political awareness of the necessity and urgency of protection. The Nansen Initiative, a process launched by the Swiss and Norwegian governments following regional consultations, produced the Protection Agenda in October 2015, to be put in place by governments in order to meet the needs of displaced persons. The growing significance of the question is also demonstrated by certain legislation and national practices, such as the non-expulsion of environmental migrants or non-return to countries affected by climate change. Finally, a number of NGOs have begun to address the issue, putting in place programmes for Disaster Risk Reduction (DRR), like Action Contre la Faim in Bangladesh. Since 2007, the NGO has been working in partnership with a local NGO to reinforce the capacities of communities, local partners and gov-ernmental authorities to combat the effects of climate change and prepare themselves for natural disasters.

If the answer is not to be found in the law, or in the international bodies in charge of defining it, it is perhaps in the field, in proximity to populations, that protection will play out in the years to come, until the law finally take up the reins when climate change will have given visibility to all of these refugees-to-be.

*Translated from the French by Juliet Powys*

### **Biography • Paul Chiron**

He has a Masters degree in International and Comparative Law from the University of Toulouse 1 Capitole, and is specialised in humanitarian law and refugee rights. Since 2007 Paul Chiron has been working with Action Contre La Faim. Initially a departmental delegate in Calvados, he took on, at the age of 21, national responsibilities between June 2014 and June 2016 as Deputy Delegate for relations with (other) associations on the NGO's board of directors. He is a member of the association's Ethical Committee 2014-2016. In early 2016, he also carried out a refugee status determination mission for the High Commission for Refugees in Rabat, Morocco.

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