



Parliamentary Assembly
Assemblée parlementaire

<http://assembly.coe.int>

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Provisional version

Forced migration: a new challenge

Report¹

Committee on Migration, Refugees and Displaced Persons

Rapporteur: Mr Philippe BIES, France, SOC

¹ Reference to Committee: Doc. 13381, Reference 4023 of 31 January 2014.

Contents

	Page
A. Draft resolution	3
B. Explanatory memorandum by Mr Bies, rapporteur	5
1. Introduction.....	5
2. Distinguishing between forced migrants and economic migrants	5
3. Emerging forms of forced displacement.....	6
3.1. Natural, environmental and chemical or nuclear disasters.	6
3.2. Consequences of climate change	6
3.3. Food insecurity.	7
3.4. Development policies and projects.	7
3.5. Importance of the reaction of states.	8
3.6. Reactions and consequences resulting from the different social categories.	8
4. Definitions and the current legal framework.....	8
4.1. Gaps in the international legal framework.....	8
4.2. Defining new vulnerabilities.....	9
4.3. Defining the nature of the impact of climate on mobility	9
5. An example of forced migrations and relocations : the situation in Central Asia	10
6. Conclusions and recommendations	10

A. Draft resolution²

1. According to the UNHCR, about 50 million people have been displaced worldwide, because of conflicts, persecution and violence or as a result of natural, chemical or nuclear disasters in recent years.
2. Despite having grown in intensity, these last factors are not recognised by the international conventions governing migration and there is no international instrument designed to protect persons forced to move for reasons other than political or security-related ones.
3. The Assembly further notes that there is no agreement on the terminology used to describe, or on the definition of, victims of forced migration. Applying the term “refugee” to victims of forced migration is controversial as environmental factors are non-discriminatory and no form of “persecution” is involved in these situations.
4. According to the Intergovernmental Panel for Climate Change (IPCC), the movement of people could be the biggest single impact of climate change in the coming years. It also estimates that the flow of environmental migrants will reach 150 million by 2050, while the Stern Review on the Economics of Climate Change puts the figure at closer to 200 million.
5. The Assembly wishes to underline that the impact of climate change and natural, chemical or nuclear disasters varies depending on the vulnerability and adaptability of the populations concerned, and on the capacity of States to prevent or deal with such events.
6. The Assembly emphasises the need to acknowledge the vulnerability of the groups concerned and to remedy any gaps in their protection status.
7. The Assembly notes, however, that international conventions provide for an indirect right of admission and residence if sending a person back to their country of origin would amount to inhuman treatment, thus enabling the principle of non-refoulement to apply.
8. Referring to existing guidelines and international standards, the Assembly notes that these texts apply only in exceptional cases and for a limited time.
9. In this context, the Assembly welcomes the steps taken by Sweden and Finland to grant temporary protection in cases of environmental displacement and also the Nansen Initiative led by the governments of Norway and Switzerland and which is intended to fill the legal gap in the protection of people displaced as a result of natural, chemical or nuclear disasters.
10. The Assembly therefore recommends that member States:
 - 10.1. give greater priority to devising protection policies and norms for victims of natural, chemical or nuclear disasters and for the victims of the consequences of climate change;
 - 10.2. acknowledge the vulnerability of these groups and ensure that their fundamental rights are fully observed;
 - 10.3. review the relevant international rules and expand them to include a definition for these migrants;
 - 10.4. revise the 1951 Geneva Convention relating to the Status of Refugees, by means, for example, of an Additional Protocol;
 - 10.5. adopt measures to prohibit any overexploitation of natural resources and pursue solutions aimed at meeting people's fundamental needs;
 - 10.6. implement strategies for the successful integration of persons displaced for environmental reasons, whether they are internally displaced or have been forced to emigrate to another State;

² Draft resolution adopted unanimously by the Committee on 15 December 2015.

10.7. ensure full respect for fundamental rights and take the necessary measures to resettle the populations concerned, especially in cases where their territory has disappeared as a result of natural, nuclear or chemical disasters;

10.8. prepare country/regional reports in order to gather information and assess the outlook for environmental migration.

B. Explanatory memorandum by Mr Bies, rapporteur

1. Introduction

1. At the Sixteenth Conference of the Parties (COP 16) to the United Nations Framework Convention on Climate Change in Cancun, Mexico on 9 December 2010, the Director General of IOM (International Organization for Migration), Mr William Lacy Swing, stated that "Climate change is already triggering displacement and migration, as a result of increasingly intense weather events, rising sea levels, and accelerated environmental degradation. In the future, we may be facing an increase in population flows that the world is presently ill-equipped to tackle effectively. While climate change is not the only driver of such movements, it is likely to be one of the major ones in the decades to come".

2. The events known to us have corroborated these sentences and shown that much still remains to be done in order to face this new challenge.

3. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that about 50 million people have been displaced worldwide. Although the majority of these people have been forced from their homes because of conflicts, persecution and violence or for economic reasons, forced migration is increasingly being attributed to other factors such as natural, environmental and chemical disasters, the consequences of climate change, food insecurity and development policies. The growing inability of States to meet essential needs and secure fundamental rights for those living within their territories is a contributory factor in worsening this state of affairs, so that these people have no alternative but to migrate.

4. Another factor complicates matters; some forms of migration can act as strategies for adapting to pressures which may force people to emigrate in the future. Thus early migration can reduce vulnerability and enhance the resilience of communities of origin thanks to diversification of income and accumulation of financial and social remittances.

5. These new factors forcing people to change their surroundings are of a growing intensity but not recognised by legislation governing migration. The global governance system must therefore acknowledge the vulnerability of the groups concerned in order to provide adequate protection for their rights, for instance by establishing a new category of forced migrants and identifying gaps in their protection status. Accordingly, it is necessary to review the relevant international rules and, in particular, the Convention Relating to the Status of Refugees.

6. This therefore raises the question what is meant by forced migration and protection. One of the aims of this report is to answer the question whether protection should extend beyond refugees under the 1951 Convention relating to the Status of Refugees and 1967 Protocol and if so what would be the European and international legislative framework for meeting the expectations of the victims of forced migration.

2. Distinguishing between forced migrants and economic migrants

7. Before discussing the new causes of forced migration, I would recall the background to migratory flows. In the last half century, the three most common types of migration have been permanent re-settlement (mainly for economic reasons), temporary labour migration and forced migration (due to violence or armed conflicts). All these often led subsequently to migration for the purpose of family reunification, which became the largest flow in several receiving countries. Furthermore, as migration trends have evolved, combinations of the three aforementioned types have become common, with migrants citing several causes for leaving their countries of origin.

8. After the Second World War, officially sanctioned flows of economic migrants under guest worker programmes helped establish bridges between communities in the countries of origin and the receiving countries, making the adjustment easier for newcomers. Much of the current debate in European migration policy centres on the regulation of economic migration. In particular, policies have been aimed at giving high-skilled workers precedence over low-skilled workers.

9. Furthermore, the debate focuses on distinguishing between refugees and economic migrants. However, it is often impossible to make such a distinction. The pressure to migrate is often based on the desire both to escape impoverishment and to flee from conflict and human rights abuses; weak economies are often also States which are unable to protect their citizens' human rights. The causes

of migration therefore involve various motivations, often including the desire to improve conditions both for the migrants themselves and for their families.

10. Studies of migration in Africa point to the fact that the decision to send one family member abroad is a collective survival strategy that concerns the entire community. A family invests its sparse resources in one family member, usually the eldest son, believing that the benefits of this investment might be better realised in a more secure, stable economy. This kind of strategy represents a coping mechanism for people living in crisis-ridden conditions. It does not mean that the migrant is invariably sent to another country; it might involve rural-to-urban migration as well. Therefore, when analysing the new forms of forced migration, it becomes evident that economics, without a doubt, also enter into the rationalisation of the decision to leave, thereby blurring the distinction between forced and economic migrants. For example, some of the consequences of slow-onset climate change will include desertification, the shrinking of fertile land and rising sea levels, making living conditions untenable in some areas.

3. Emerging forms of forced displacement

11. Despite the complexities of separating out the different factors compelling individuals, households and communities to migrate, it is clear that new and interacting pressures to migrate from phenomena outside the control of those affected are likely to increase in the future. Climate change and environmental stress are increasingly significant features of forced displacement and mobility.

12. However, I wish to mention that, concerning climate change and environmental stress, the 1998 Guiding Principles on Internal Displacement and the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa could provide a sound basis for protecting the rights of people susceptible to internal displacement in the context of climate change, natural disasters or environmental stress.

3.1. Natural, environmental and chemical or nuclear disasters

13. Parallels between the Fukushima disaster and the 1986 Chernobyl power plant explosion have been drawn in terms of the government response to both disasters. The governments of both Japan and the USSR adopted a heavy-handed, directive approach to communicating with their populations; and while this method proved effective in the short term for the evacuation of the immediately affected areas, it also resulted in a lack of clear information about contamination and environmental degradation in the medium to long term. In the areas surrounding Chernobyl, the official announcement was very short and there were no clear instructions for evacuation. Following the disaster in Chernobyl, a computer system was developed in Japan to predict the spread of radioactive particles the better to guide evacuations; however, most radiation dose-monitoring systems had been damaged by the tsunami or de-activated by the loss of power. Inadequate communications with affected populations and ill-planned relocation efforts have continued to plague these communities, leaving millions in contaminated areas. Furthermore, accidents of this nature do not occur in a vacuum. The contamination continues to have an untold impact on the oceans, producing the largest discharge of radioactive material in history.

3.2. Consequences of climate change

14. Given the potential impact of climate change on migration and the necessary distinction between climate processes and climate events, it is expedient to develop a definition applicable to the populations affected. It can be seen that these consequences are already beginning to take effect, for instance in Asia and the Pacific. In this context, the World Bank has identified Bangladesh, India, the Maldives, Myanmar and Pakistan as the countries with the highest risk of mass environment-related displacement.

15. Another disturbing trend in the Asia-Pacific region is the sinking of islands, which represents an unprecedented challenge to the international community. Island nations like the Maldives, Tuvalu, Vanuatu and Kiribati are among those perceived as the most vulnerable to population displacement due to rising sea levels. The international community has a responsibility to protect the rights of these vulnerable populations and must endeavour to maintain their collective rights should entire nations need to be resettled as their territory disappears.

16. The substantial majority of climate induced displaced persons try to remain in their own country. The question which must be considered concerns the specific protection of migrants displaced owing to climate change, and who has the duty to protect them. It is in fact the duty of States to provide for

the vulnerable conditions to which people and communities are exposed, because all forced migrants must receive some form of protection.

17. As we can see, environmental migrants are not protected by the 1951 Convention and the 1967 Protocol and even proposals to create a new international convention on environmental refugees have found no support.

18. However, Sweden and Finland have less restrictive temporary protection provisions which open the possibility for claims resulting from environmental displacement. The Finnish Aliens Act provides “aliens residing in the country are to be issued with a residence permit on the basis of a need for protection if they cannot return because of an armed conflict or environmental disaster”.

19. Another initiative in the context of events due to environmental and climate change is the Nansen Initiative, led by the Governments of Norway and Switzerland, intended to fill the legal gap in the protection of people displaced across national borders due to natural disasters, particularly in the context of climate change.

3.3. Food insecurity

20. Food insecurity is a problem already affecting the world’s most vulnerable populations; however, it is also a common symptom of inadequate resettlement policy and a consequence of slow-onset climate change. Being uprooted from a habitual place of residence increases a community’s risk of suffering from temporary or chronic undernourishment, which is defined as calorie-protein intake levels less than the minimum amount required for normal growth and work.

21. A two-year research project conducted by the European Commission called the *Environmental Change and Forced Scenarios* project (EACH-FOR) showed that with changing precipitation patterns and increasing populations, shortages of water and food are likely to occur unless strict adaptation policies are adopted. Rising sea levels near low-lying agricultural plains could also lead to sea-water intrusion, causing a potential 40% decrease in food and grain production in Bangladesh, forcing populations into shanty towns. These forecasts serve to highlight the fact that the most vulnerable populations will be impacted by a combination of push factors prompting them to leave their present places of residence, making migration inevitable in some cases.

22. In this context, I shall refer to a study on migration in Bangladesh funded by the UK Department for International Development and the Dutch Ministry of Foreign Affairs which supported the Climate and Development Knowledge Network on behalf of the Bangladeshi Government. In the study it is suggested to establish specialised training centres in those locations prone to the impacts of climate change so that vulnerable people and communities could better benefit from their migration by making it a skilled rather than unskilled labour migration.

23. Gauging the potential scope of the forced displacement that will take place in the coming decades will be necessary in order to implement a meaningful policy framework to address it. Estimates of the number of people who have been or will be displaced this century vary considerably among the international research organisations that have worked on these forecasts. According to the International Federation of the Red Cross and Red Crescent Societies, environmental migrants have already exceeded the number of refugees displaced by war. The Intergovernmental Panel for Climate Change estimates that the flow of environmental migrants will reach 150 million by 2050, while the Stern Review on the Economics of Climate Change puts forward a figure closer to 200 million.

3.4. Development policies and projects

24. Development policies and projects are often a major cause of forced displacement, especially in regions of high growth. These types of large-scale infrastructure projects, which include roads, dams and reservoirs, utility networks, airports and urban and industrial development, are frequently accompanied by the uprooting of development-induced displacees (DIDs).

25. Governments have a responsibility to protect internally displaced populations, rather than consider the negative side effects as a mere externality to be tolerated. Resettlement failure occurs because the welfare of the affected population is given a low priority in the planning phase and the displaced population is rarely consulted directly. Rather than land-for-land and cash compensation, development projects should involve the affected populations as much as possible and compensation should also include a “generalised safety net.” Furthermore, responsibility for implementing population resettlement has often been assigned to the agency in charge of the infrastructure projects, whereas

engineering and civil works firms do not necessarily possess the knowledge and skills for relocating vulnerable populations. Resettlement should be the responsibility of a more appropriate agency possessing experience in migrant relocation. In this way, policy planning would better reflect the social and cultural needs of DIDs, allowing the effects of these changes to be distributed more widely.

3.5. Importance of the reaction of States

26. Fragile and failing States are unable to provide for the population's fundamental rights and needs on their respective territories. In this context of poor governance, the movement of large groups can rekindle disputes between formerly divided ethnic groups, bringing these groups into close proximity and into competition for resources. For example, in Nigeria, 3 500 square kilometres of land is becoming desert each year, shrinking the arable land available and aggravating competition for it. The crisis in Darfur is believed to have at least partly originated because of an extended drought, and a similar catalyst could easily emerge elsewhere.

27. In order to help the States, particularly the most vulnerable, to address this problem, it would be useful to prepare country/regional reports in order to gather information and assess the evidence on environmental migration on a scale that could be useful for policymakers.

3.6. Reactions and consequences resulting from the different social categories

28. Beside all of the general problems of forced migration, I want to underline also that of the different social categories and their consequences. As a general remark, I noted that people coming from a higher social class had fewer problems when displacing internally or even when emigrating.

29. Indeed, the ability to migrate internationally typically requires money and family contacts in the country of destination. Therefore, the emerging forms of forced migration will probably result in more internal displacement than in international border crossing. Migrants will often seek refuge rather in places where there are cultural or ethnic similarities, or where precedents and post-colonial relationships exist. National adaptation strategies must be put in place to mitigate the vulnerability of IDPs.

30. Likewise, women and vulnerable people encounter more difficulties in going abroad and so prefer to desist even if their living conditions are disastrous.

4. Definitions and the current legal framework

31. It was as early as 1990 that the Intergovernmental Panel on Climate Change (IPCC) claimed that the movement of people could be the biggest single impact of climate change, warning that people would be displaced by coastal flooding, shoreline erosion and a myriad of extreme weather conditions. The term *environmental refugees* had been coined even earlier, in the 1980s, but is a source of much controversy, and still no universally recognised term exists. Furthermore, the current international legal framework does not afford these new vulnerable groups full protection.

4.1. Gaps in the international legal framework

32. The international legal framework does provide for a degree of protection for forced migration as a result of causes or "push factors" other than human rights violations; however, there is still a lack of consensus on where many of these migrants fit into the existing structures.

33. Article 1A of the 1951 Geneva Convention Relating to the Status of Refugees defines refugees as those who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, or political affiliation, are outside the country of their nationality and unable to return owing to this fear. This definition excludes a growing number of cases where people are forced to move because of events beyond their control.

34. There are other international guidelines and standards which also apply to forced migrants, including the UN Economic and Social Council's (ECOSOC) *Guiding Principles on Internal Displacement*, the UN Inter-Agency Standing Committee's *Operational Guidelines on Human Rights and Natural Disasters* and the Nansen Initiative, which is a State-led process outside the UN framework. The *Guiding Principles on Internal Displacement* state that people have the right not to be arbitrarily displaced from their place of residence and that internally displaced persons (IDPs) have the right to seek safety in another part of the country and to leave the country. The *Operational*

Guidelines on Human Rights and Natural Disasters aim to ensure that displaced persons' rights are maintained and acknowledge that they have a need for greater protection and assistance. Lastly, the Nansen Initiative, which was launched by the governments of Switzerland and Norway in October 2012, seeks to build a consensus on a protection agenda that addresses the needs of people who have been displaced by natural disasters, including those resulting from climate change.

35. Examples are found in national legislation of arrangements, such as temporary protected status (TPS) in the United States and the Temporary Protection Directive at European Union level, aimed at protecting groups of people who have been displaced by natural disasters; however, the legislation applies only in these extraordinary cases and for a limited time, on the principle that the migrants will return after order is restored. Furthermore, Sweden and Finland have included protection measures for environmental migrants in their national immigration policies.

36. The common feature of these protection measures is that they are piecemeal and often applied on a case-by-case basis. Besides, they generally only address natural disasters, not the slow-onset consequences of climate change.

4.2. Defining new vulnerabilities

37. Another persistent issue related to the difficulty of establishing international protection for new causes of forced migration has been the absence of an agreed definition for these migrants. Terms such as environmental or climate refugees have been posited, but applying the term "refugee" has been controversial, as environmental factors are non-discriminatory and no form of "persecution" is involved in these situations. The UNHCR further argues that the inclusion of "environmental refugees" under the 1951 Convention could weaken protection for refugees already coming under the Convention.

38. In order to remedy the lack of a term for these displaced persons, the International Organisation for Migration (IOM) in 2007 proposed a working definition of what it calls "environmental migrants." According to IOM, these are defined as "persons or groups of persons who, for reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad."

4.3. Defining the nature of the impact of climate on mobility

39. The impacts of climate change can be divided into two categories: climate processes and climate events. The slow-onset changes happen gradually and are less sensational; the migrants who will be affected by these slower climate changes seldom enjoy formal international protection and will likely be subject to other challenges, such as food insecurity and similar vulnerabilities.

4.3.1. Climate processes

40. Climate processes are slow-onset impacts of climate change such as rising sea levels, salinisation of agricultural land, desertification and growing water scarcity. For these slow processes, the urgency to migrate may appear less pressing and intending migrants could find different adaptive strategies for some time. For example, in Africa, indigenous populations have been able to make incremental changes to migration routes in response to decreased rainfall, incorporating new routes into their cyclical migration patterns. Adaptation strategies, especially linked to development policies, are an essential element for alleviating the vulnerability of people who will be affected by climate processes.

4.3.2. Climate events

41. Climate events encompass disasters and hazards that force people from their homes in a sudden and dramatic way. This would include hurricanes, typhoons, floods and other large storm surges. The impact of these natural disasters on populations is largely a function of the vulnerability of the population affected. The levels of exposure, such as living on a river delta, and the adaptive capacity of the community, are both to be considered in determining which storms or climate events become disasters.

5. An example of forced migrations and relocations: the situation in Central Asia

42. Since the late 1980s, the region of Central Asia comprising Kazakhstan, Kyrgyzstan, Uzbekistan, Turkmenistan and Tajikistan has been fraught with numerous tensions of an ethnic and political kind resulting in a surge of migrations and forced relocations which continued into the 1990s. This stems from the fact that these newly created States have taken measures favouring the indigenous populations, causing forced relocations also having regard to the growth of unemployment and the poor job prospects.

43. Of more specific relevance to this report is that Central Asia has faced environmental challenges which have forced the populations to move. These movements have been caused especially by very intense industrial activity leading to contamination of the environment and pollution of soils and rivers.

44. Central Asia is also subject to natural disasters such as earthquakes or landslides, and scientists have predicted that the melting of glaciers will have effects on the frequency of flooding and landslides.

45. At present, water scarcity and desertification make it impossible to survive, especially for those working in agriculture. For example, the Aralkum desert has over time taken the place of a lake. Experts estimate that this ecological disaster has caused the displacement of over 100 000 persons.

6. Conclusions and recommendations

46. If gaps in the international governance framework persist, millions of forced migrants will risk the denial of their fundamental rights. The emerging causes of forced migration are evolving at such a rapid pace that neither research nor policy implementation has managed to keep up.

47. Governments should give greater priority to devising protection policies and norms and mainstreaming them in plans and strategies dealing with climate change and migration. They should also try to expand professional expertise in human rights protection and environmental law, in connection with climate change related displacement.

48. Member States should consider adopting further protection measures for those people forced into migration primarily by environmental changes beyond their control, so as to protect those affected by acute natural, chemical or nuclear disasters. Furthermore, development policies should avoid overexploitation of natural resources and pursue sustainable solutions that mitigate deterioration in the ability of environments to meet fundamental needs and even to secure fundamental rights for those living there. And where resettlement is necessary, member States should support Least Developed Countries in the planning and national adaptation programmes of action (NAPAs) that protect fundamental rights and are responsive to the needs of the affected population.