

Responding to Climate-Induced Transnational Migration

An Action Plan



WORKING PAPER
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Acknowledgements

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Cover photo: Aerial view of flood affected villages nearby Jamuna River in Northern Bangladesh, Abdul Momin/Shutterstock

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Introduction

The pace of climate-induced migration is accelerating. While most climate migrants are to this point moving within their own states, there is little doubt that rising sea levels, extreme weather events, and environmental degradation will increasingly give rise to involuntary migration beyond the borders of the states most directly impacted.

The World Refugee & Migration Council (WRMC) believes that a thoughtful, coordinated approach can minimize the risk of political and social disruption, support the states that will receive climate migrants, and protect the dignity of those displaced. By planning ahead and implementing proactive solutions, states can turn the complex challenge of climate-induced transnational migration into a manageable one.

But the time to act is now.

The WRMC seeks to engage the climate-induced migration issue at a practical level – not to prepare another study or guidance note, but rather to provide leadership in designing a principled and practical action plan that can be shared with states and other actors. Specifically, the WRMC is committed to leading an effort to conceive a workable, politically saleable, and rights-regarding action plan that focuses squarely on the external migration component of responding to climate change.

The action plan comprises three components: one for the short term that focuses on providing external relocation options for the relatively small number of climate migrants now unable to find a solution within their own country; a second for the medium term that both bolsters national reception capacity and broadens the base to include creative regional cooperation initiatives; and a third for the longer term that envisages a normative shift in international treaty law to include a duty to protect climate migrants as de facto stateless persons.

Component 1

Short-Term: Climate Migration Pilot Program

Commencing in 2025, the WRMC will engage with the Government of Canada to design pilot programs anchored in well-established immigration pathways that can offer a proactive response to the inevitable challenges posed by climate migration, drawing on the recommendations of the Canadian Association of Refugee Lawyers' 2023 report on Climate Migrants. Once the pilot is developed and implemented, the WRMC will encourage and work with Canada to persuade partner states (including the US, UK, and others) to consider a coordinated or unified adoption of comparable measures for the benefit of climate migrants.

Specifically, the envisaged Canadian pilot program would operate within the framework of three existing initiatives to address the needs of climate migrants, admitting a small number of principal applicants and their dependents under each program:

- ▶ Canada's long-standing humanitarian and compassionate (H&C) program allows individuals to apply for permanent residence based on their unique personal circumstances, even where they do not otherwise meet standard immigration requirements. Immigration, Refugees, and Citizenship Canada provides and updates guidelines for assessing these applications, taking into account factors such as the applicant's level of establishment in Canada, the best interests of any affected children, and the hardships they would face if returned to their country of origin. WRMC will advocate for these guidelines to be amended to include consideration of hardship caused by environmental disasters and degradation.
- ▶ Canadian legislation allows the Minister of Immigration, Refugees, and Citizenship Canada to grant permanent residence on the basis of special consideration for specific groups in light of broader humanitarian factors. This Public Policy Class H&C program permits members of a defined class to become permanent residents in Canada. The WRMC will draft language and advocate for the creation of a specific Public Policy Class under s.25(2) of Immigration and Refugee Protection Act (IRPA) aimed at protecting at-risk climate migrants. This initiative builds on the success and history of WRMC's advocacy for the Lamp Lifeboat Ladder (LLL) program, which enables survivors of domestic violence to resettle in Canada under a Public Policy Class. To simplify the development, implementation, and review, the pilot might focus on a single region affected by climate (e.g., areas of South Asia affected by rising sea levels).
- ▶ Canada's acclaimed Private Sponsorship of Refugees program allows private groups to sponsor eligible refugees, providing financial, social, and emotional support for up to one year. The WRMC is uniquely placed to

advocate for the issuance of program instructions which aim to create a supportive environment for climate migrants in Canada. Although this program is currently on pause, investing in its development and design in preparation for its re-opening is valuable.

OUTPUT

Draft implementing language and lobby for a test pilot initiative under each of the three programs; monitor progress and collect data through access to information requests in order to track effectiveness; and conceive and support a transnational effort to undertake comparable initiatives to benefit climate-induced migrants in need of protection.

Component 2

Medium-Term: Regional Response Mechanisms

As the number of climate migrants increases, so too should regional and international cooperation on the issue. In the medium-term, the WRMC will advocate for states to adapt current mechanisms for climate cooperation – in particular those established under the UN Conference of the Parties (COP) process – to address climate migration. Specifically, we see the Fund for Responding to Loss and Damage (FRLD) serving this purpose as climate finance is a feasible way to secure the engagement of states less impacted by climate migration to fund solutions for states more impacted.

Our specific medium-term goal is to promote programs that provide concrete incentives to neighboring states that agree to receive climate migrants, thus providing solutions that are geographically, socially, and culturally the least disruptive possible for the migrants concerned. We would draw on best practices – e.g., those with established precedent, such as traditional regional labor mobility agreements, and creative new arrangements, including land leasing treaties – in order to promote intraregional responses that have the potential not only to stabilize displaced communities, but also to avert large-scale, international/interregional migration.

The FRLD – agreed to at COP29 yet still undercapitalized and not fully operational – is likely to be the primary mechanism for climate finance cooperation. The potential uses of this fund are as diverse as the threats posed by climate change. Climate migration should be among them. The WRMC will advocate for the establishment of an explicit climate migration pillar within the FRLD, designed to fund short and long-term solutions for displaced climate migrants. In building the case for this reform the WRMC will address:

- ▶ Why should states advocate for and fund a climate migration pillar within the FRLD? What is in it for them?
- ▶ What should states fund within the climate pillar? What solutions can work to minimize the negative impact of climate induced migration on local and regional communities?
- ▶ How should states fund these solutions? The details matter: grants versus loans, conditional versus unconditional, rapid disbursements versus bureaucratic controls?

OUTPUT

Conceive and draft the case for a climate migration pillar and lobby for its adoption.

Component 3

Longer-Term: Protocol to the Statelessness Convention

At some point — at least, absent a dramatic reversal in climate change trajectories — national and regional relocation and protection strategies are likely to prove insufficient. There is thus a need to prepare a global mechanism that enables extra-regional protection claims to be addressed in a principled and managed way.

- ▶ It is of course true that some climate-induced migrants already qualify as Convention refugees, while others are entitled to benefit from legal duties of non-return under both UN and regional human rights law. Nothing the WRMC proposes should in any way call into question extant duties of protection.

The WRMC is uniquely positioned to explain the risks inherent in re-opening the UN Refugee Convention to consider including a broader class of climate migrants in the refugee definition.

There is in any event a conceptual mismatch between refugee status and the residual category of climate migrant not already entitled to refugee status (for example, because a state discriminates in protecting its citizens) or to protected status under human rights law (in particular, because they face non-discriminatory risks amounting to cruel, inhuman, or degrading treatment). Simply put, members of the residual class are not persecuted or abused persons, but are rather persons who can no longer be protected by their home state in any meaningful sense.

In this context, the WRMC will advance consideration of a Protocol to the UN Statelessness Convention (1954) that would expand the definition of a stateless person beyond its current *de jure* statelessness criterion to include also *de facto* stateless persons, i.e., persons whose state of formal nationality has been rendered uninhabitable as the result of climate change or natural disaster.

- ▶ This aligns with the non-binding recommendation in the Final Act adopting the 1954 Convention that states should “consider sympathetically the possibility of according” a *de facto* stateless person “the treatment which the Convention accords to [*de jure*] stateless persons” and Res. I of the Final Act of the 1961 UN Convention on the Reduction of Statelessness that “persons who are stateless *de facto* should as far as possible be treated as stateless *de jure* to enable them to acquire an effective nationality.”
- ▶ Recognition of particular individuals as *de facto* stateless persons does not call into question the continuing statehood of their country of origin. As McAdam (“Preserving Statehood through Population and Government: Safeguarding Nationality and Franchise in the Context of Sea-Level Rise and Mobility” (2024)) has made clear, adoption of laws e.g., allowing for

dual nationality and voting from abroad allow the “permanent population” and “government” criteria of the other criteria of statehood to be satisfied. Indeed, even the inundation or loss of a significant part of a state’s land mass does not end statehood since “the extent of a state’s territory... clearly includes land areas, subterranean areas, waters, rivers, lakes, the airspaces above the land etc. and the territorial sea” (M. Shaw, “Territory in International Law” (1982), at 66), thus satisfying the Montevideo Convention (1934) requirement that a state have “a defined territory.”

- ▶ An Optional Protocol would have no effect on the extant obligations of state parties to the Statelessness Convention that choose not to become a party to the Protocol; their obligation to protect only *de jure* stateless persons would remain fully in force.

Not only does the Statelessness Convention Optional Protocol route offer a relatively simple political solution that is much less risky than reopening the Refugee Convention (since fewer than 20 states have presently domesticated the Statelessness Convention), but the Statelessness Convention grants rights that are virtually indistinguishable from those of refugees, and is supervised by the same agency, UNHCR.

OUTPUT

Draft and lobby for adoption of a Climate Migrant Optional Protocol to the UN Statelessness Convention.

World Refugee & Migration Council

The World Refugee & Migration Council offers bold thinking on how the international community can respond to refugees and the forcibly displaced through cooperation & responsibility sharing.

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