



“Climate Refugees” beyond Copenhagen

Legal concept, political implications, normative considerations

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Preface

Numerous partner organizations of “Brot für die Welt” (Bread for the World) in Africa, Asia and Latin America, as well as their target groups, are directly affected by the impacts of climate change. A growing number of peoples’ livelihoods are threatened by the consequences of climate change. Many are forced to relocate permanently from their homes. Especially smallholder subsistence farmers and settlers in rural areas – poor and marginalized people – cannot sustain themselves anymore and are left with no other option but to leave their land.

Various scientific studies expect at least up to 500 Million people forced to leave their homes due to climate change and ecological degradation until 2050. However, climate-induced migration and so called “climate refugees” have not yet received significant attention in the preparations to and realization of the 15th Conference of Parties of the United Nations Framework Convention on Climate Change (UNFCCC) in Copenhagen in December 2009. While the issue does attract media interest, the problem has not been addressed with the corresponding urgency in international politics.

Either way, the first climate refugees are precedents: Are the state and the international community accountable to those who have lost everything due to manmade climate change and catastrophe? If yes, on which legal basis can these people claim their rights? Substantial rights-based analysis and international law are essential for “Brot für die Welt” and its partner organizations.

So far, however, it is not clear which solutions, in particular which legal status, can be offered and conferred to persons who were forced to leave their livelihood due to climate change. Who is going to acquit the damage? How can polluters be held accountable? Those questions are of utmost relevance. Therefore, there is a need to develop principles and policies that offer responses to the global challenge of climate-induced migration.

Currently, answers to the challenges of “climigration” are insufficient. Therefore, this analysis recommends

policy-making on climate change to be aligned with human rights principles – in order to both prepare for the unavoidable and foreseeable effects of climate change, and to reduce future Green House Gas emissions (Hirsch/Lottje 2009).

This analysis is an attempt to stimulate the international debate. It needs to be mentioned that it does not refer directly to the large number of people affected by climate change who cannot even opt for migration. Migration as an adaptation strategy implies being able to leave. It is often not a viable adaptation strategy for those marginalized and vulnerable groups who are not in the physical or material position to migrate, and are therefore forced to stay – for example the elderly, children, or sick people.

The first draft of this paper was presented prior to the Copenhagen summit to sensitise political actors on this fringe issue. The failure of Copenhagen left us with a sceptical outlook. But a new attempt at an international agreement has to be pursued vigorously in order to address climate change in the only possible way – ambitious, fair and within the UN system. Such an international climate agreement must incorporate legally binding, common but differentiated obligations of all countries, with a special focus on the most vulnerable people – including climate induced migrants.

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1 Introduction

From 7 to 18 December 2009, delegates of 192 member states convened for the 15th Conference of the Parties to the United Nations Framework Convention on Climate Change – commonly referred to simply as “Copenhagen” in acknowledgement of the city that was hosting one of the most anxiously anticipated international conferences in recent history. As governments and countless nongovernmental stakeholders around the world braced themselves for this truly global gathering, expectations depended as much on the eye of the beholder as they depended on the particular issue at which it is looking. The conference did not agree on an ambitious, fair, and legally binding treaty aiming at taking the necessary short, mid and medium term action to mitigate dangerous climate change (i.e. keeping the increase in temperature well below 2 centigrade) and to adapt to the unavoidable adverse impact of climate change. Instead, it took no decision but only “took note” of a weak political statement.

The first draft of this analysis was presented previously to the Copenhagen summit with the aim of sensitising actors on one of the fringe issues of climate negotiations: forced migration resulting from the local consequences of global warming or the fate of “climate refugees”. Indeed, the prospects of a growing number of people that are forced to abandon their homes because of the existential consequences of global environmental change is yet to be considered with adequate urgency in international climate negotiations, even as adaptation to climate change receives more attention than ever before.¹

Migration, of course, is a phenomenon that is virtually as old as humankind and that can be considered a primordial adaptation strategy of homo sapiens. It is in itself neither good nor bad, but has always been one possible option for people to respond to changing external conditions. As such it can occur as a permanent or

temporary response, within relatively narrow local or regional contexts and across great distances, on a voluntary basis or forced by necessities of physical survival. In view of the globalizing and increasingly populated world of the 20th and 21st century, migration has been conceptualized as an essential component of “global transformations” (Held et al. 1999, ch. 6) that is interlinked with other transformative processes across socio-economic and ecological dimensions. Forced migration as a result of anthropogenic climate change, however, appears to emerge as a large-scale migratory movement that has no historical antecedent.

This analysis discusses the empirical plausibility and political significance of this assumption and is structured as follows. First, it will briefly look at the impacts of climate change and describe how they link to migration, displacement and the proliferation of “climate refugees”: What are the causes of climate-induced migration, what are the expected consequences in terms of numbers, and what are the main concerns related to the thus established prospects (chapter 2)? The study will then review the status quo of international legal as well as political perspectives on the unfamiliar subject of “climate refugees” (chapters 3 & 4 respectively). Against this background, a number of principles and policy options that are under discussion as potential responses to the global challenge of climate-induced migration will be considered (chapter 5). The analysis concludes with a sceptical outlook beyond Copenhagen.

¹ I thank Vera Künzel and Sophia Wirsching for valuable research assistance and helpful comments and suggestions. Any shortcomings remain the responsibility of the author.

2 Climate impacts and migration

2.1 Causes

The impacts of global warming are manifold and have different implications in different regions. Some will be directly felt, some will affect people more indirectly, for instance by altering the parameters of agriculture or tourism. On balance, however, they can be expected to put human security at risk and to force great numbers of people to migrate from environments that are no longer hospitable for human civilization.² In the short term this pertains first and foremost to people in least developed countries, especially in coastal areas and small island developing states. In the medium and long term few places might be spared, however, unless climate change is effectively mitigated and stabilised at around 2°C of average global warming compared to pre-industrial times.

Three major consequences of global warming stand out as particularly potent drivers of climate-induced migration and an ensuing proliferation of people displaced by the consequences of climate change: sea-level rise, storm and flood disasters, and scarcity of freshwater and arable land (either of which undermines food security). In addition, the escalation of conflicts triggered by climatically exacerbated environmental degradation may generate “classic” refugees on top, namely people fleeing from violence (WBGU 2008).

Sea-level rise is an undisputed consequence of global warming as it follows from the most basic laws of physics. While the currently observed rise is largely a result of thermal expansion, far more significant rises are expected as land-based ice masses from glaciers and the Arctic melt into the oceans (WBGU 2006; IPCC 2007). As global warming continues, islands and coastal areas are increasingly at risk to be degraded or even submerged by rising sea levels, notably in the Southern Pacific, Indian

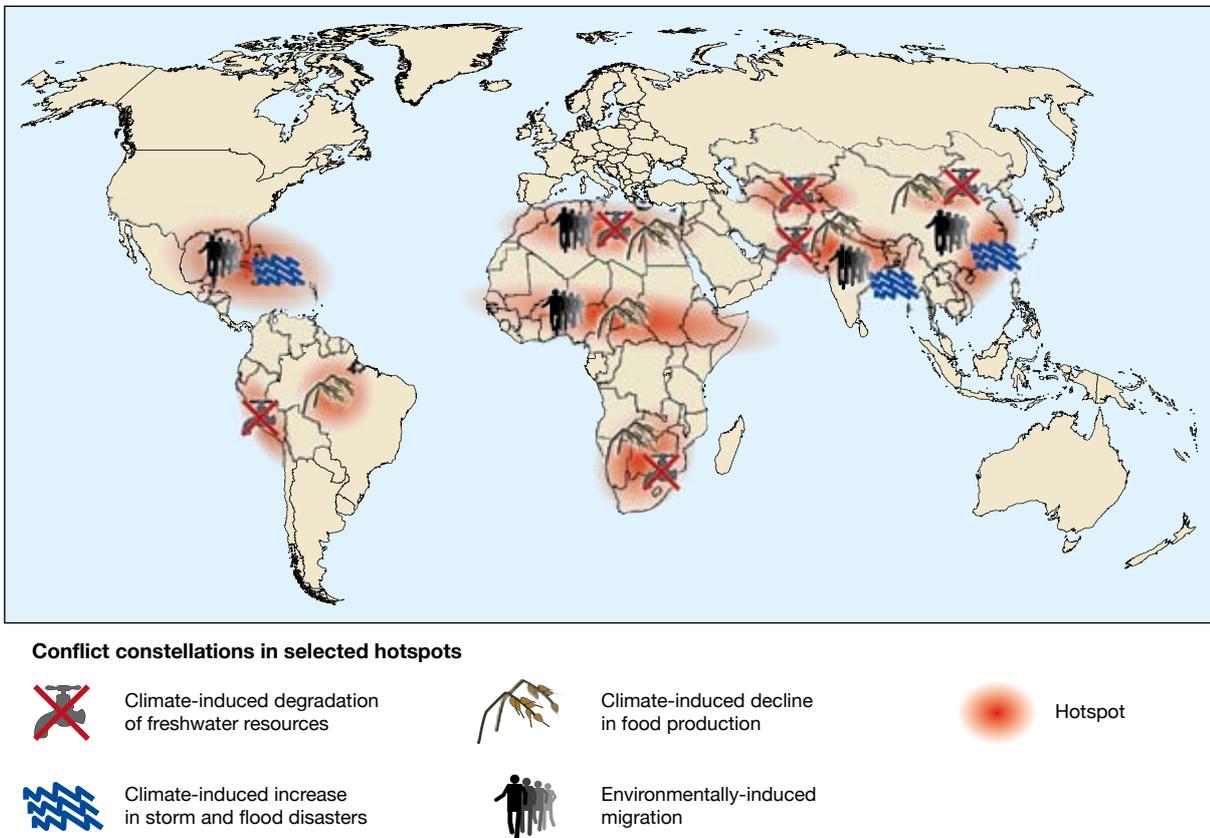
Ocean and Caribbean regions (WBGU 2006). Moreover, inland water resources and soils are subject to salinization as riverine systems take on ever more sea water. This can have severe consequences for agricultural conditions, for instance, in the Nile river basin which provides for much of Africa’s grain production. Coastal zones and river basins that are often densely populated as well as numerous small island developing states are likely to become uninhabitable within the next decades, unless climate change is effectively mitigated.

In line with rising sea levels and thermal acceleration of hydrological cycles, storm and flood disasters are expected to increase in frequency as well as in intensity thereby compounding the vulnerability of people living in coastal zones and island states. According to the latest World Development Report ten out of the world’s fifteen largest cities are particularly threatened by recurring storm catastrophes (World Bank 2009). New York City, for instance, which has been historically affected by devastating storm tides roughly once per century, would have to expect such flood disasters every four years under a 1-metre-sea-level-rise scenario (WBGU 2006). Similar extreme events would become frequently recurring phenomena around the world.

Whereas advanced metropolises such as Hamburg or The Hague are assumed to be able to afford suitable adaptation measures, this seems hardly realistic for small islands and sprawling developing country megacities such as Lagos, Sao Paulo, Calcutta or Dhaka. This said, Hurricane Katrina, as it devastated the city of New Orleans in 2005, has exposed the tremendous challenges faced by even the richest, most powerful and technologically advanced nations in the event of unprecedented storm and flood disasters. While the particular vulnerability of New Orleans – parts of which have over time subsided up to three meters below sea level – does not necessarily apply elsewhere, numerous cities in developing countries such as Bangkok in Thailand or Semarang on the Indonesian island of Java are similarly exposed to flood events (WBGU 2008).

² On the concept of human security in the context of environmental change see, for instance, Dalby (2002) and Brauch (2005).

Figure 1: Drivers of climate-induced migration (selection of prospective hotspots)



Source: Wissenschaftlicher Beirat der Bundesregierung Globale Umweltveränderungen (German Advisory Council on Global Change / WBGU) 2008

Climatically exacerbated degradation of land and water resources – which are scarce already in many densely populated developing regions – furthermore complicates agricultural production, thereby undermining food security and sustainable human development (UNDP 2007; Parry 2009). Most notably, although not exclusively, this poses existential problems in rural areas where poor people depend on rain-fed subsistence agriculture and where environmental degradation, desertification and global climate change thus might contribute “to destitution and desperation causing a negative impact on the realisation of the right to food, in particular in develop-

ing countries” (UNGA 2009b, HRC Res. 10/12). Under such circumstances rural-urban migration is a typical response strategy, even as it compounds poverty-related problems in sprawling urban agglomerates such as Lagos or Nairobi.

The resulting strong and increasingly obvious links between climate change, environmental degradation and migration have also been emphasised in recent United Nations’ reports, including the United Nations High Commissioner for Human Rights and the Human Rights Council (see UNGA 2009a, 2009b).³ It is also obvious

³ Indeed, the UN Human Rights Council recently reaffirmed that “impacts of climate change would have direct and indirect implications for the effective enjoyment of human rights, e.g. the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination and human rights obligations related to access of to safe drinking water and sanitation” (UNGA 2009b, HRC Res. 10/4).

that coping capacities will be lower in countries and regions with endemic poverty, poor infrastructure and bad governance. Hence, while a country such as The Netherlands faces similar challenges from sea level rise and flood disasters to Bangladesh, it is far better off in terms of adaptive capacity (Lynas 2007).

Recent research indicates that climate change is proceeding at an even faster rate and in more profound ways than has so far been expected (Levin and Tirpak 2009). Accordingly, saving the 2°C target appears increasingly unrealistic, even more after the poor outcome of the Copenhagen negotiations (Rogelj et al. 2009). Hence, it is plausible to assume that those prospective climate impacts that are no longer avoidable will force ever more migration and displacement. Against this background it seems irresponsible to simply discard pessimistic scenarios as being driven by alarmist scientists (see also Richardson et al. 2009).

Indeed, with a steeply rising number of people that have been exposed to extreme weather events in recent years, projections of the IPCC and others appear to be coming true rather fast. According to the UNDP's Human Development Report 2007/2008, the number of people affected by natural disasters at the beginning of the 21st century has more than tripled compared with the early 1980s (UNDP 2007); the World Bank – hardly a suspect of green alarmism – reaches similar conclusions in its recently published World Development Report 2010 (World Bank 2009).

According to the Office of the High Commissioner of Human Rights the point has almost been reached, where

“as many people are forced to leave their homes because of environmental disasters and natural resource scarcity that affect their economic and social rights as those who flee their communities to escape political oppression, religious per-

secution, ethnic discrimination, and conflict.”
(OHCHR 2008)

This means neither denying uncertainty in the extrapolation of available data nor neglecting the complexity of numerous push and pull factors that drive human migration. However, there is no point in denying a growing number of cases where the immediate impacts of climate change are the main reason for migration, if not the single most important reason that actually forces migration. Indeed, it is plausible to assume a tendency for climate-dependent environmental factors to gain importance relative to other drivers of migration. If this is true, “climigration” is likely to proliferate to an extent that is tantamount to yet another major challenge for the current global governance system both in scale and scope.

2.2 Consequences

Given the uncertainty regarding demographic development and prospective climate impacts at local and regional levels, current efforts to quantify future migration and displacement driven by climate change are inevitably speculative. Indeed, precise numbers “may elude science for some time” (Warner et al. 2009, 1). This does not mean, however, that the educated guesses of researchers are merely science fiction. Neither are the risks and subsequent policy challenges that follow from the sheer magnitude of the problem.

A review of available studies and estimates suggests that by mid-century approximately 200 million people might be roaming the planet de facto as “climate refugees” and irrespective of the label that will eventually apply to them de jure. Available projections for 2050 range from 25 million to a staggering one billion people displaced by the consequences of climate change (IOM 2008). This broad range narrows considerably, however, if one focuses on the leading names in the debate, whose estimates tend to converge around some 200 million.⁴

⁴ Notably, Norman Myers projects 212-250 million by 2050; Sir Nicholas Stern's review of the “Economics of Climate Change” – on the basis of climate models employed by the IPCC – considers 150-200 million to be realistic (Myers 2002, 2005; Stern 2006). To put this into perspective, even the conservative estimate of 25 million displacees would surpass the current number of internally displaced persons, that is 24,5 million according to the UNHCR (2008).

From an academic angle the intricate challenges to quantify prospective climate-induced displacement and migration have been aptly summarised by Oli Brown (2008). Following his analysis, “the numbers game” is ultimately obfuscated by four known unknowns:

■ First, a precise and empirically robust attribution of causality to climate change as a driver of migration is virtually impossible. Discerning a multitude of pull factors (such as the economic lure of big cities or prosperous countries) from as many push factors (such as ethnic conflict or perennial drought) has always been a central puzzle to the study of migration. Adding the impacts of climate change to the equation does not make it easier to solve. Indeed, “deducing cause and effect between climate change and forced migration is very difficult” (Brown 2008, 9).

■ Second, there is considerable statistical “white noise” to control for as demographic change occurs simultaneously to changes in populated environments. This relates both to the dynamic of population growth and to the distribution of the world’s population around the globe. While the estimates of population researchers seem fairly reliable, they remain but estimates.

■ Third, there is a considerable lack of data, in particular with a view to internal displacement and transboundary migration between developing countries. This may be relatively easy to ameliorate as the awareness for the challenge of climate-induced migration is increasing, but for the time being available data is unsatisfactory for robust quantified research.⁵

■ Fourth, not least and in spite of major breakthroughs in climate models and scenarios, uncertainty remains a factor, too. Ultimately, climate science is a highly complex endeavour and to assess the future impact of

climate change on complex and ever-changing societies thus multiplies the potential margin of error (Brown 2008).

Despite these uncertainties and limitations, there are certain developments that can be detected and felt already today. With average global warming still below 1°C, climate variation, dryland degradation and desertification are already potent drivers of migration (WBGU 2006; Leighton 2006). Although robust figures on the displacement of peoples that is primarily caused by desertification are hardly available, these general dynamics have been well documented for many dryland regions in Africa, Asia and the Middle East as well as the Americas (see Leighton 2006).

In South Asia and the Pacific region half a million people are under immediate threat to abandon their homes because of sea-level rise alone (Lynas 2007, 52-53). The debate whether these people will eventually flee from climate change or are driven by other factors is obsolete in the case of virtually all small island development states, unless one expects people will knowingly stay put to perish in the ocean.⁶

Moreover, with migration working as a kind of transmission belt, societal and political impacts of climate-induced migration are bound to extend beyond places that are immediately affected by changes in the physical environment. For instance, pertaining to dryland degradation, the Millennium Ecosystem Assessment observed that an influx of migrants may reduce people’s ability to use ecosystem services in a sustainable way (MA 2005b). Such migration may hence exacerbate urban sprawl and by competing for scarce natural resources bring about internal as well as cross-boundary social, ethnic, and political strife and, hence, trigger further migration (WBGU 2008).

⁵ The need for specific research and more data could, for instance, be addressed and prioritized by the Intergovernmental Panel on Climate Change, namely through its Working Group II on Impacts, Adaptation and Vulnerability.

⁶ Though relatively small in number, “the first 980 ‘official climate refugees’” (Ammer 2009, 13) that have been evacuated from Papua New Guinea’s Carteret islands in 2005 due to rising sea levels are widely cited as a major precedent. Already facing profound impacts of rising sea levels and deteriorating coastal environments, the 42 member states of the Alliance of Small Island States has actually urged developed countries to set their targets for global climate mitigation not at 2°C but at 1,5°C in the run up to Copenhagen (Bom 2009a, 2009b).

2.3 Concern

To dispute prospective numbers of “climate refugees” is academic in the sense that it is at the same time reasonable and detached from the real world. It distracts from considering necessary steps to be taken as decision makers routinely call for robust figures before they act. While dramatic numbers rarely fail to attract attention and may even help to raise awareness, they inevitably smack of alarmism and are prone to criticism for being overly pessimistic as well as resting on shaky methodological grounds. Yet, even the most conservative estimates indicate a magnitude of migration forced from future climate change that dwarfs the 12 million refugees currently under the protection of the UN High Commissioner for Refugees.

Moreover, the precautionary principle established as Principle 7 in the Rio Declaration of 1992 and explicitly endorsed in Article 3 of the UNFCCC obliges states to take appropriate action in view of threats of serious or irreversible damage, even if these threats are uncertain. Indeed, “lack of full scientific certainty should not be used as a reason for postponing precautionary measures” (UNCED 1992; UNFCCC 1992).

The main conclusion thus following from the above is that neither precise numbers of “climate refugees” nor precise predictions of eventual climate impacts should be of immediate concern. Yet the prospect that people displaced by direct or indirect consequences of climate change will likely set unprecedented masses of people on the move and that the political world is so far ill-prepared to deal with the subsequent challenges in a constructive and humanitarian fashion should. This conclusion holds whether there will be 25, 50 or 100 million uprooted people looking for new whereabouts and whether they are fleeing from drought-induced famine in the Maghreb or land slides resulting from glacial melting in the Himalaya region or some other impact in some other corner of the world.

Either way, the foreseeable scope and scale of environmentally forced migration represents one of several mega-challenges for global governance that relate

directly or indirectly to climate change and that are evolving concurrently, thereby overtaxing the international community’s current problem solving capacities (Bauer and Messner 2007). Indeed, it is high time for states and governments to prepare both in international legal terms – there are no “climate refugees” as far as international law is concerned (see below) – as well as in political terms, including socio-economic and humanitarian aspects of the challenges resulting from prospective mass migration. As of now, however, no policies are in place that would be commensurate to adequately cope with even today’s migration flows.

3 International legal status

3.1 Definitions

The international legal status of people who are forced to leave their homes due to direct or indirect impacts of climate change is unclear and increasingly debated. What is clear, however, is that they are currently not considered to be “refugees” in international law (and unlikely to be considered as such in the foreseeable future). The acknowledgement of the empirical phenomenon and the search for a legal concept that is both fitting and suitable for international legal practice has led to a considerable number of competing concepts that employ partially overlapping yet different definitions.

A common vantage point of many proposals have been earlier debates about the legal status of “environmental refugees”, which go back to the 1980s but have also remained inconclusive (see also Bates 2002). Notably, the United Nations Environment Programme sought to define environmental refugees as

“people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life.” (El-Hinnawi 1985, 4)

This has been repeatedly rejected inter alia by the United Nations High Commissioner on Refugees and the International Organization for Migration which have since established the less controversial category of environmentally displaced persons, that is

“persons who are displaced within their own country of habitual residence or who have crossed an international border and for whom environmental degradation, deterioration or

destruction is a major cause of their displacement, although not necessarily the sole one.” (UNHCR 2008)

To attribute the notion “refugee” to environmental displaced persons has been contested for a number of reasons. The two most important ones, which also resonate with the more recent debates about “climate refugees”, are (1) the requirement to establish a robust and exclusive causal link between a specific change in the environment and a person’s decision to migrate and (2) the specific guarantees warranted to refugees proper according to the Geneva Convention relating to the Status of Refugees of 1951 (and its Protocol of 1967).

The key element of the definition establishing refugee status in the Geneva Convention is actually “well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion”. It is, in a sense, sacrosanct to international legal scholars as well as human rights activists and does provide no basis to consider empirical phenomena such as climate change or environmental degradation as agents of persecution.⁷

Likewise, legal scholars, migration researchers and human rights advocacy organizations have been debating for some time the delineation of environmental migration and environmental displacement (see, for instance, Dun and Gemenne 2008; Stavropoulou 2008). Crucial issues in these debates are inter alia the “voluntariness” of an individual’s decision to move – as opposed to forced migration – and the need to discern internal displacement from transboundary movement. For instance, the Guiding Principles of Internal Displacement (see ECOSOC 1998) provide a reference point in international soft law as they acknowledge “natural or human-made disasters” as one possible cause of displacement. Yet the principles only apply to displacement within respective countries. The qualification of forced versus voluntary migration is relatively straightforward

⁷ The United Nations High Commissioner for Refugees, in a position paper of 23 October 2008, strongly reaffirmed “serious reservations with respect to the terminology and notion of environmental refugees or climate refugees. These terms have no basis in international refugee law” (UNHCR 2008, 7).

in the case of extreme environmental events such as storm and flood disasters, yet hard to establish in cases where gradual environmental degradation and climate-related slow-onset events are assumed to drive people to abandon their homes.

The International Organization for Migration recently emphasised the need to overcome definitional issues, explicitly giving up on the notion of “environmental refugees” and proposing instead a broad definition of environmental migrants as

“persons or groups of persons who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad.” (IOM 2008, 18-19)

This would encompass “climate migrants” and avoid the revision of existing international legal instruments regarding the status of political refugees. This pragmatic focus on migration appears to resonate as a suitable common denominator with most scholars of international law, human rights and migration studies (see, for instance, Warner et al. 2009; Leighton, Loster, and Warner 2009; ADB 2009).

Others keep arguing in favour of the term “climate refugees”, however, highlighting its “strong moral connotations of societal protection in most world cultures” (Biermann and Boas 2010). They thus transfer the debates of legal scholars to ethical grounds, hoping that by “using this term, the protection of climate refugees will receive the legitimacy and urgency it deserves” (ibid.).

A comprehensive legal review of the Ludwig Boltzmann Institute of Human Rights recently concluded that a liberal interpretation of the Geneva Convention could serve to

“protect marginalised groups among the poor, which are disproportionately affected by the impacts of climate change and whose lives and livelihoods are seriously threatened.” (Ammer 2009, 56)

Theoretically, this would not even require an amendment of the convention, yet, practically, neither states nor the UNHCR seem prepared to accept a liberal interpretation of the refugee definition enshrined in the convention (ibid.).

Either way, the ensuing questions that keep waiting for authoritative answers are the international legal implications for people that are migrating as a response to the environmental changes brought about by global climate change. The next section addresses these issues with a particular focus on empirical realities and the efforts in advance to UNFCCC COP-15, notably the specific proposals negotiated by the Ad Hoc Working Group on Long-term Cooperation (LCA).⁸

3.2 Directions

The discussion of the empirical challenges at stake and the intricate legal implications concerning the status of refugees, migrants or displaced highlights the need for pragmatic approaches to address the needs of people that are or will be forced to abandon their homes as a consequence of climate change. For a start, the issue linkages between climate change, migration and displacement must no longer be neglected in pertinent international processes, including negotiations under the UNFCCC.

The complexity of the challenge must not discourage substantive policy development, but take existing norms and institutions as stepping stones for action. After all, the phenomenon of “climate refugees” is increasingly acknowledged even as the term is virtually untouchable in international law.

⁸ Unless otherwise indicated the reference text for this study has been the so-called „LCA-Draft“ of 15 September 2009 (UNFCCC 2009), which is but a moving target pertaining to ongoing international negotiations of that very text.

3.3 International law and the United Nations

Given the overwhelming consensus among legal experts and policymakers that the special status of refugees as warranted in the Geneva Refugee Convention (GRC) must not be touched and that the convention as such should not be “unpacked” one way or the other, what alternatives are there in international law that might guide the global governance of climate-induced migration?

One approach to tackle the general neglect for migration in multilateral politics has been the negotiation of the “International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families” (UNGA 1990), which was ratified by the UN General Assembly in 1990. While it is explicitly addressing labour migration, its legal provisions might still be considered for application in a wider context. However, the convention enjoys limited international support and is hardly a success story so far. It took more than thirteen years to see the ratification of twenty member states required for its entry into force. Even today, the convention has merely 37 signatories and its regulations are hardly observed (Rother 2009, 331).

Given the novelty of addressing migration and displacement in relation to climate change, it seems worthwhile to consider the potential of the “Responsibility to Protect” (R2P). It is in itself an innovative approach to address an apparent operational protection gap in international law and has been developed to reaffirm the United Nations high moral authority for the universal protection of human rights. Ultimately the principle aspires to make it incumbent on states to take appropriate protective measures in events where human rights are imperilled. The principle has evolved against a background of genocide, ethnic cleansing and crimes against humanity in the 1990s, notably the tragedy of Rwanda, yet it might be applied to the fate of climate refugees, too. After all, R2P is meant to prevent the United Nations from failures of inaction, and the plight of prospective “climate refugees”

– it can be argued – obviously “contradicts global responsibility” (Biermann and Boas 2010).

Indeed, if the international community is supposed to bear responsibility for internal threats in cases, in which states fail to protect their population, it is conceivable to interpret R2P as imposing a positive obligation on states to take steps to prevent harm from those who enjoy no human rights protection and may even be without citizenship and national rights (Ammer 2009, 65; see also Barbour and Gorlick 2008). It is questionable, however, whether R2P provides the international legal leverage to protect, for instance, peoples from “submerging territories”, including migrants from small island development states whose countries of origin literally disappear.

On the one hand, it is still a fairly new concept, thereby providing a vantage point for innovative options and approaches. On the other hand, it is “not yet legally binding under public international law” (Ammer 2009, 64) and – as with the refugees terminology – there is considerable reluctance regarding a broad interpretation (e.g. Ban Ki Moon as cited in Ammer 2009, 65).

Other normative principles such as the polluter pays principle, the precautionary principle or the principle of common but differentiated responsibility and respective capabilities are less elusive and have over time acquired – or are close to acquiring – the status of customary international law.⁹ They thus seem more suitable to inform and guide international negotiations concerned with the governance of climate-induced migration.

Indeed, the precautionary principle and the principle of common but differentiated responsibilities are explicitly endorsed in the UNFCCC (1992, article 3) and could consequently be interpreted to apply to climate-induced migration. Accordingly, “lack of scientific certainty” on the causal link between climate change and forced migration should not be used to neglect the issue in international climate negotiations. Likewise, if a link between climate change and forced migration or

⁹ For further details on the principles of international environmental law see Sands (2003).

displacement is indeed accepted, a state's contribution to the causes of migration will need to be considered alongside its capacities to prevent and control such migration (Ammer 2009, 16).¹⁰

The "polluter pays principle" – enshrined as Internationalization of Environmental Costs in principle 16 of the Rio Declaration (UNCED 1992) – is often referred to as a guiding principle in international climate negotiations, too. While its legal quality is contested, it is an important point of reference in the context of burden-sharing and responsibility sharing. Even if its applicability to intergovernmental relations is denied, it might serve to establish liability regimes for private actors at national levels (Ammer 2009, 17).

In contrast to the UNFCCC, the United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, particularly in Africa (UNCCD) explicitly acknowledges the link between environmental degradation and migration. Article 17.1 (e) specifically requests governments to account for "the relationship between poverty, migration caused by environmental factors, and desertification" (UNCCD 2002). While this provision has not translated into tangible political action so far, rather than starting from scratch parties to the UNFCCC might consider the ground that has already been covered in debates under the UNCCD.¹¹

So far, this has remained a fringe issue in international climate negotiations. In the run up to Copenhagen, however, the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (UNFCCC) was considering inter alia the inclusion of climate-induced migration and displacement in a post-Kyoto agreement. In particular, a draft text of the contract group negotiating the envisaged "Action Plan on Adaptation"

explicitly considered climate-induced displacement as a prospective area for international action on adaptation. Specifically, article 12 (c) out of the lately discussed non-paper stated that

"Activities related to national, regional and international migration and displacement or planned relocation of persons affected by climate change, while acknowledging the need to identify modalities of inter-state cooperation to respond to the needs of affected populations who either cross an international frontier as a result of, or find themselves abroad and are unable to return owing to, the effects of climate change." (AWG-LCA 2009a)

The contact group on the "shared vision" for long-term cooperative action – arguably of greater political eminence – has been more reluctant, however. While it acknowledged "the serious effects of climate change ... on the operation of socio-economic systems and transboundary migration levels" and thus as "a major obstacle to the attainment of the Millennium Development Goals" in the annex of its non-paper, it was not specific on cooperative action that should eventually follow from that (AWG-LCA 2009b, Annex, para. 3). Even in the shade of a failed COP-15 summit, the draft language at least signified a step forward and provided those who wish to see migration and displacement explicitly addressed under the UNFCCC with the proverbial "foot in the door", specifically so in the context of action on adaptation.

Besides, another key question that remains to be answered by any international legal approach to climate-induced migration pertains to the notion of territory as a *conditio sine qua non* for statehood. Subsequently, it will be essential to clarify how territory and statehood

¹⁰ Ammer (2009, 71f.) furthermore notes, that the principle specifically relates to preventive measures as "developed country Parties should take the lead in protecting the climate system for the benefit of present and future generations". This should affirm the principle's relevance for the governance of future "climigration".

¹¹ See Leighton (2006) for an analysis of migration in the context of the UNCCD and Stringer (2008) for an overview of the UNCCD's recent agenda and priorities.

correspond with citizenship and the rights attributed to citizenship. These questions are not at all academic as migration forced by sea-level rise, thereby creating “sea-level refugees” (WBGU 2006), and the rights of displacees from “submerging territories” (Ammer 2009) beg for realistic authoritative answers. Thus far, the possible disappearance of state territory is not envisioned in international law and consequently no issue in existing international agreements regarding the status and rights of stateless people, such as, for instance, the 1961 Convention on the Reduction of Statelessness (UN 2005). However further discussion of this intricate international legal puzzle would be beyond the scope of this analysis (see Ammer 2009 ch. 5, for an elaborate discussion and further references).

3.4 National and regional precedents

There are also some national laws and regional agreements in place that are concerned with the protection of people displaced by environmental degradation or disasters and that may hence inform international deliberations.

For instance, the Swedish aliens’ law of 2006 acknowledges “a category of persons who cannot return to their countries of origin due to environmental disasters” (Ammer 2009, 20). In Australia, the Migration Amendment Bill of 2007 contains a definition of “climate refugees” and empowers the immigration minister to allocate visa to people displaced subject to the declaration of a “climate change induced environmental disaster” (ibid.). The bill was originally tabled by the Green Party, but also enjoys the backing of the Labor Party which also called for “appropriate recognition of climate change refugees in existing Conventions, or through the establishment of a new convention on climate change refugees” (Ammer 2009, 20; see also Biermann and Boas 2010).

New Zealand, on the other hand, which has been considered to pioneer the acceptance of “climate refugees”

from neighbouring island states merely provides for an annual quota of migrants on the basis of the Pacific Access Category. This regional immigration agreement carefully avoids terms such as environmental or climate refugees and fails to cover for the protection of vulnerable groups (see Ammer 2009, 20 for details).

Pointing to the 1969 OAU Convention Governing the Specific Aspects of Refugees Problems in Africa and the 1984 Cartagena Declaration on Refugees concerning refugees in Central America, Mexico and Panama, Biermann and Boas (2010) argue that regional agreements offer precedents for broadening the refugees concept vis-à-vis the understanding of the Geneva Convention. Indeed, both provide expanded refugee definitions that highlight events that seriously disturb public order as a reason for flight. Similar language is included in the legally non-binding Bangkok Principles on Status and Treatment of Refugees which have been adopted by the Asian-African Legal Consultative Organisation in 2001 (cf. Ammer 2009, 54, fn 262).

The notion of seriously disturbed public order could arguably be interpreted to include environmental degradation and climate-induced natural disasters, although this is not yet considered an established *opinio iuris* (Ammer 2009, 54f.). Still, these regional agreements might guide the eventual elaboration of universal norms and principles that are needed to clarify the international legal status of “climate refugees”, as attention for the linkages between natural disasters and adaptation to climate change is increasing (see, for instance, WBGU 2008; Schipper 2009; World Bank 2009).

Recent developments, like the adoption of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, which was signed in Kampala on 23 October 2009, point in that direction, too. According to *The Economist*, “the most significant bit of the convention is the recognition accorded to climate change migrants” (*Economist* 2009, 52).¹²

¹² Article 5 para. 4 of the convention states that “States Parties shall take measures to protect and assist persons who have been internally displaced due to natural or human made disasters, including climate change” (Kampala Convention, authors’ emphasis).

4 Political implications

The legal intricacies of international refugees law and the status of displaced persons and migrants must not obscure the fact that the challenges posed by the likely empirical consequences of climate change are essentially political. In other words, if the political will to act on the issue of “climigration” is there, institutional responses – including international as well as domestic law – and resources will eventually follow.

In the following, four dimensions are taken into consideration along which the political implications of “climigration” may be framed: security concerns, financial implications, international coherence, and domestic capacities. While these categories are hardly comprehensive of the political challenges posed by the future occurrence of “climate refugees”, they should cover for those issue areas where profound political repercussions are to be expected. They require much more attention from political decision makers both at national and international levels.

In addition to the political implications, the normative and ethical implications of “climigration” need urgent consideration. This will be further discussed in the conclusions (chapter six).

4.1 Security concerns

The assumed security implications of future climate change have considerably increased attention for global warming at the highest levels of international politics (Detraz and Betsill 2009; Bauer 2010).¹³ From the outset, the perceived threat of a massive increase in South-to-North migration has been a central component of the emergent climate-security-discourse, even as available empirical evidence suggests no straightforward causal

links between migration and violent conflict (see Clark 2007; Gleditsch, Nordas, and Salehyan 2007; WBGU 2008). Still, a combination of increasing demographic and climate-driven environmental factors seems likely to increase future conflict potentials, particularly in weak developing countries (WBGU 2008).

The subsequent “securitization” of climate change in general and environmental migration in particular has since been criticised (e.g. Brzoska 2009).¹⁴ Indeed, prioritizing the issue of large-scale migration in public discourse works as a double-edged sword: On the one hand it has been instrumental to raise awareness for the prospective policy challenges, on the other hand it tends to be appropriated by advocates of defensive policy responses that are hardly commensurate to the problems at hand.

This pertains to both the international and the domestic dimension of the migration-security nexus. While securitization of migration at international levels is concerned, for instance, with the destabilizing impacts of migration in weak and fragile states and its significance for humanitarian interventions, security concerns at the domestic level typically pertain to the notion of territorial control and the protection of state borders in relation to illegal immigration and transnational crime. These legitimate concerns will prevail, not least as they are prone to populist distortion.

This notwithstanding, the manifest advantages of organized migration for both industrialized and developing countries are increasingly acknowledged and contribute to a differentiated discourse.

4.2 Financial implications

It stands to reason that dealing with large-scale migration will have considerable financial and economic

¹³ The explicit deliberation of climate change by the UN Security Council of 17 April 2007 and the decision to award the 2007 Nobel Peace Prize to the IPCC and to former US vice president Al Gore for their efforts to raise global awareness for the causes and consequences of climate change are but two examples that testify to this (see Bauer 2010, with further details).

¹⁴ On the analytical concept of “securitization” as such see Waever (1995; see also Brock 1997).

implications. These will in various ways affect countries of origin and transit countries as well as receiving countries. A detailed assessment of expected financial implications is beyond the scope of this paper.

While the Stern Review on the Economics of Climate Change does not specifically discern the cost of climate-induced migration in its analysis, it does consider large-scale migration a probable major impact of unmitigated climate change. The report's broad economic analysis of the macroeconomic costs incurred by ongoing climate change arrives at a very clear and convincing conclusion: the costs of inaction will be far higher than the costs of timely action for both mitigation and adaptation (Stern 2006). There is no logical reason, why this conclusion would not apply to the aspect of climate-induced migration, too.

Again, this pertains to national and international levels. Hence, resources must be mobilized and allocated accordingly. In terms of international negotiations the issue relates first and foremost to the costs of adaptation and ensuing questions of burden sharing. Indeed, the former European Commissioner for Development and Humanitarian Aid Karel de Gucht argued that industrialized countries will have to provide adequate additional funding for mitigation and adaptation to prevent, amongst other things, large-scale immigration of environmentally displaced persons.¹⁵

The share of international adaptation funding that might eventually be allocated to cater for the needs of prospective "climate refugees" is hard to foretell and will be subject to political as well as legal decisions on the rights and status of people forced to migrate by the consequences of climate change. If migration is to be dealt with under the UNFCCC and is supposed to be part and parcel of a meaningful agreement on adaptation that is to be fostered in Mexico or thereafter, the prospective

financial implications of migration must not be externalized whether they are subsumed with the Adaptation Fund, the Special Climate Change Fund, the Least Developed Country Fund or any new financial mechanism under the UNFCCC.¹⁶

Yet while international financing of "climigration" policies could generally be mandated to any of the funding mechanisms available under the UNFCCC, it remains doubtful whether this would be the most efficient and effective way forward. Biermann and Boas (2010), for instance, caution that

"integrating climate refugees in general environmental funding schemes might blur the specific moral link between climate refugees and potential donor countries and hinder claims for compensation, liability and responsibility from industrialized countries."

Moreover, issue-linkages in the negotiations for a post-Kyoto agreement are highly complex already. Governments might hence decide to tackle the issue of climate-induced migration outside the UNFCCC umbrella. For instance, they could refer the issue to major international development agencies with strong executive capacities such as the World Bank or the United Nations Development Programme. The principle challenges that they will need to meet would remain the same, however. The costs of large-scale migration will have to be stomachable either way and, if they are the result of climate-induced displacement, should be mobilized in addition and not in competition to overseas development aid.

4.3 International coherence

Climate-mainstreaming within the United Nations system has only just begun. While the United Nations

¹⁵ At the time of writing, the price tag the European Union is willing to accept is 17 billion Euros per year, provided that other industrialized countries will make commensurate commitments, too. This would amount to roughly a fourth of the USD 100 billion per annum that would be required according to UN estimates.

¹⁶ See Horstmann (2008) on institutional aspects of financing adaptation under the UNFCCC.

Foundation (2007) and the Human Development Report 2007/2008 (UNDP 2007) have at least flagged the need for action, much remains to be done within and between the numerous United Nations agencies whose policies will be affected by the impacts of climate change in one way or the other (Bauer 2008). Yet, ongoing efforts to enhance “system-wide coherence” (UN 2006) across agencies operating in the areas of development, humanitarian assistance and the environment will rapidly seem anachronistic, if they fail to adequately mainstream climate-related policy challenges.

Not the least, this pertains to the need for coherent international policies in view of forced migration and displacement resulting from climate change. The very challenge of “climigration”, however, is yet to register with decision makers dealing with migration at the international level.

For instance, the UN Secretary-General’s 2006 report on international migration and development fails to address environmental migration or displacement altogether, arguably precisely because the reporting panel was mandated to assess inter-national migration (UNGA 2006). It thus precluded consideration of internally displaced people, which constitute the bulk of today’s environmental migrants.

Accordingly, the report fails to flag climate change as a key driver of future migration patterns. Much the same can be said about the Global Forum on Migration and Development, which was established in 2007 to bridge migration-related concerns of governments and civil society organizations. So far, the annual gathering is but a talkshop, primarily concerned with non-committal deliberations of labour migration and the development impacts of remittances (see Rother 2009 for further details). Stuck in these arduous debates from the outset, it hardly appears to be the forum to refresh the agenda of international migration politics with emerging issues such as climate change.

However, some encouraging steps have been taken and may eventually help to further a cross-sectoral approach to dealing with “climigration” in a more coherent fashion. Noteworthy in the context of this analysis are, for instance, the special procedures of the Human Rights Council that followed from an initiative of its Special Rapporteur on Adequate Housing (see Ammer 2009, 18 and fn 66 for details), the continued efforts of the United Nations Environment Programme to raise awareness in the international humanitarian and development community for the very phenomenon of environmentally induced migration,¹⁷ or the joint initiative of the United Nations Convention to Combat Desertification and the UN Special Rapporteur on the Right to Food to explore an international human rights law approach to advance the fight against desertification, land degradation and drought (UNCCD 2008).

In general terms, if greater coherence in international migration policies is to be achieved, policymakers will need to attend to pertinent issue linkages with human rights regimes, including the right to food, and complex interdependencies between migration, development and environmental change. With regard to the former, ensuring universal enjoyment of human rights will not be possible without inclusion of the people who will find themselves forced to migrate as a result of global warming. With regard to the latter, the focus on climate change must not lead to overlooking other “planetary boundaries” (Rockström 2009) that simultaneously bear on the conditions for socio-economic development and the push and pull factors of migration. Notably this relates to issues of land use and land degradation, energy security, loss of biodiversity and crucial ecosystem services (MA 2005b, 2005a; WBGU 2009a).

4.4 Domestic policy

The challenges from a domestic policy perspective are most obvious in countries that are seriously affected and particularly vulnerable to the impacts of climate change,

¹⁷ See <http://www.unep.org/conflictsanddisasters/Policy/DisasterRiskReduction/~ClimateChange~And-Migration/tabid/282/language/en-US/Default.aspx> [last accessed 9 February 2010].

typically least developed countries. Already struggling to develop, their lot will be compounded further unless comprehensive adaptation strategies are swiftly developed and effectively implemented. A growing body of academic literature and public policy debates is addressing at length the diverse and tremendous challenges of combining sustainable development and adaptation to climate change (see, inter alia, Adger et al. 2009; Parry 2009; UNDP 2007).

In this regard, forced migration and displacement represent a kind of “last exit” adaptation. Empirical manifestations of this practice are widely observable and aptly illustrated, for instance, in a recent mapping exercise by CARE International, the United Nations University and others (Warner et al. 2009). It includes a set of seven case studies of human mobility in diverse regions and societies that are particularly vulnerable to evident climate variation and foreseeable impacts of climate change. These highlight inter alia pressures on agricultural systems and livelihoods in the Himalaya and Sahel regions, the interlinkages of sea-level rise, flood events and desertification in the river deltas of the Ganges, Mekong and Nile, recurring drought and disaster responses in Central America and, not least, the fate of small island developing states such as Tuvalu and the Maldives.

Conversely, developed countries are also faced by formidable domestic challenges that must not be overlooked. Not only must these countries rapidly transform into low carbon economies and adapt to impending climate impacts themselves, but their societies will also have to come to terms with the challenge of unprecedented immigration resulting from climate change that is no longer avoidable. The latter implies considerable domestic challenges either way: more liberal, refugee-friendly countries will inevitably face difficulties associated with the integration of large numbers of impoverished immigrants that do not necessarily cater to the needs of the domestic labour market.¹⁸ More restrictive coun-

tries, trying to avoid an influx of climate refugees, will be occupied with costly defensive security issues such as fences and patrol boats as well as risking serious tensions with neighbouring transit countries that seek to share their burden.

As migration policies address by definition cross-border issues, respective domestic controversies inevitably transpire to the global discourse on migration. For instance, the Global Forum on Migration and Development, which is meant to foster dialogue, is mostly a showcase for fierce debates between advocates of a liberal approach and proponents of narrowly defined “container states” with strictly enforced entry and exit rules (see Rother 2009).

¹⁸ In contemporary fiction, the liberal dilemma has been aptly illustrated in T.C. Boyle’s (1996) novel “The Tortilla Curtain”, in which he intertwines the personal histories of a couple of distinctly liberal and wealthy suburbanites in Southern California and a couple of illegal Mexican immigrants.

5 Global governance of “climate refugees”: policy needs, principles and options beyond Copenhagen

What way forward to protect the victims fleeing from climate change without a viable roadmap? If their protection under a qualified legal concept of “refugees” is both legally undesirable and politically unfeasible, and if existing legal institutions and governance mechanisms fail to apply, what alternative options might be pursued that are at the same time pragmatic and commensurate to the challenge at hand?

It is the poor people who are most vulnerable towards climate change, e.g. the rural poor, indigenous communities, outcasts, women, children and elderly people. For many of these smallholder and subsistence farmers, people living with HIV and AIDS, indigenous people and the urban poor, climate change comes as additional stress factor on top of a variety of other poverty factors. It is therefore of the utmost importance to design adaptation policies, frameworks and programs in such a way that the priority focus is put on the needs of the most vulnerable people. This includes important aspects such as stakeholder participation, community based bottom up approaches and cultural appropriateness.

The UNFCCC should make a strong reference to human rights as the guiding principles for a post Kyoto treaty. This would partly shift the focus of adaptation policies from states to individuals who are threatened by climate change in a way that might become existential. The rights-based approach establishes procedural standards for government policies. It also supports vulnerable groups and individuals in holding their government accountable to fulfill their respective obligations towards the people who have individual rights to adequate housing, food, water, health, etc. In conclusion, rights-based adaptation policies are one good tool to ensure that money earmarked for adaptation is spent reasonably. The Office of the High Commissioner for Human Rights and the UNFCCC should cooperate more closely and develop a guideline, which helps governments to design adaptation policies accordingly (Hirsch 2009, 23).

The legal review of the Boltzmann Institute recommends an approach that capitalizes on a “complementary and mutually reinforcing” (Ammer 2009, 72) application of existing international human rights law and international environmental law. Both bodies of law are elaborately codified and have testified over past decades to the legal value and political clout of international “soft law”.

Indeed, once international norms are in place, compliance is usually high, even if they are not formally binding (Chayes and Handler Chayes 1993, 1998). Anne-Marie Slaughter even argues that

“soft law, provided in the form of international guidance and nonlegal instruments, is emerging as an equally powerful, if not more powerful form of regulation [than hard law].” (Slaughter 2004, 178; see also Abbott and Snidal 2000)

Soft law agreements have thus often “played a significant role in the evolution of normative structure” in human rights law, environmental law and even economic law (Desai 2004, 114). The proliferation of soft law instruments, particularly in global environmental governance, reflects the preferences of negotiating states to “allow gradual crystallization of law proper” on newly emerging policy challenges (ibid.). Such legal incrementalism is necessarily time-consuming. While it is thus no longer a responsible option for the negotiation of mitigation targets (see WBGU 2009b), it might still be a viable strategy to establish and successively strengthen the rights of future migrants and displacees.

Confidence in international institution building also transpires in Biermann’s and Boas’ (2010) case for a “sui generis regime” to address climate-induced migration. Their explicit preference for the term “climate refugees” notwithstanding, their proposal rests on five principles that should be commensurate for constructive international deliberations and, indeed, negotiation of a substantive multilateral agreement. These are:

- Planned re-location and resettlement, based on the assumption that local populations which can be foreseen to suffer from increased climate-induced risks

could benefit from voluntary relocation and resettlement programs that would be implemented over long time periods.¹⁹ From a global governance perspective, at least, an organized and calculable long-term approach appears preferable to a normalization of recurring ad hoc emergency and disaster relief responses. Indeed, the latter may even further “maladaptation” that would be adverse to problem solving (see Schipper 2009).

■ Resettlement instead of temporary asylum, because much of climate-induced migration will necessarily be permanent, notably in the case of submerged territories. The principle of current refugee law, according to which refugees are expected to return to their homes once a given threat ceases, hence needs to be superseded for cases in which a return of “climigrants” is ruled out de facto.

■ Relocation and resettlement only after all possible other options have been profoundly checked. When resettlement is the only alternative, it has to be based on the principle that permanent relocation should never end in homelessness and that alternative accommodation, which complies with international human rights standards on adequate housing, should be provided to everyone as a matter of rights (see Leckie 2008).

■ Collective rights for local populations, to acknowledge that the subject of climate-induced push factors will in all probability be “populations of certain villages, cities, regions, provinces or – as in the case of small island states – of entire nations” (Biermann and Boas 2010) rather than individuals, which are typically in the focus of refugee law and related legal agreements.

■ International assistance for domestic measures, in line with the international responsibilities for adaptation and its means for implementation. Indeed, while

internally displaced persons will in principle require protection of their own countries, most affected least developed countries will need international assistance for domestic support and resettlement programs to be able to cope with the challenges of climate-induced migration within their territories. In essence, this principle complements those that address the governance of international “climigration”.

■ International burden-sharing, based on the assumption that historical and present emissions from industrialized countries are at the root of anthropogenic climate change and that industrialized countries hence bear the bulk of moral responsibility for the victims of climate change that is no longer avoidable. In the context of the UNFCCC, Ammer (2009, 72) argues, such burden-sharing could actually be “similar to the one taking place within the refugee context (e.g. measures regarding the ‘sharing of persons’ (resettlement, temporary protection), sharing of the financial burden, sharing of the material burden such as stand-by arrangements to strengthen preparedness for mass influx, enhance local capacity, expertise and flexibility)”. Negotiation and implementation of such a principle of burden sharing will, however, become increasingly complicated once projections of future emissions are included.²⁰ Moreover, negotiators will need to consider the “extent to which large refugee and returnee populations may impede or jeopardize the development efforts of developing countries” (UN Doc. A/AC.96/904 of 7 September 1998, cited in Ammer 2009, 14, fn 40).

The principles discussed above appear at the same time adequate to the tantamount challenge that is the global governance of prospective large-scale migration forced by climate change and reasonably pragmatic to be worth pursuing at the level of international climate politics. If the proposed principles – or alternative proposals aspiring to the legal protection for future “climate refugees”

¹⁹ See also the notion of “managed retreat” proposed by the German Advisory Council on Global Change in the context of rising sea-levels (WBGU 2006, 53f.).

²⁰ On the need to distinguish and consider historical versus future emissions and subsequent responsibilities see the German Advisory Council on Global Change’s proposal regarding a „budget approach“ to international mitigation efforts (WBGU 2009).

along similar lines – should actually be set on the international agenda in the context of the UNFCCC and a prospective post-Kyoto agreement, negotiations should be guided by and build on established international principles, notably the precautionary principle and the principle of common but differentiated responsibilities and respective capabilities that are already anchored in the text of the framework convention.²¹

The negotiation of ambitious principles, however, must not be an end in itself. Bearing in mind the effective protection of “climate refugees” as the ultimate objective of the undertaking, normative principles will eventually need to be put into practice. With regard to the latter, form will have to follow function in one way or another. Accordingly, it is a secondary question whether any such principles will become manifest in a stand-alone multilateral treaty or a protocol to an existing convention (presumably the UNFCCC).

²¹ Biermann and Boas (2010) furthermore propose to consider the principle of reimbursement of full incremental costs of affected countries incurred through resettlement of climate refugees and the principle of double-weighted decision-making procedures, in order to give developing and industrialized countries equal clout in the implementation of a prospective international regime on climate refugees.

6 Conclusion

Beyond Copenhagen, it remains hard to tell whether and how the issues of migration and displacement resulting from the impacts of climate change will be part of the post Kyoto agreement, which is to be convened in 2010. Ongoing negotiations, however, nourish hopes that attention for climate-induced migration and displacement will at least increase under an emergent action plan on adaptation.

Indeed, migration needs to be accepted as a legitimate, and in many cases existential, adaptation strategy. In the intricate context of global climate governance, however, many important issues still remain to be solved. These include the highly political questions of burden-sharing, compensation and, not least, the legal status of “climate refugees” and subsequent rights and responsibilities of individuals and states, to name but a few.

The interlinkages with the wider global development agenda are obvious. On a very generic level, it resonates with the 8th Millennium Development Goal, a global partnership on development, which remains meaningless unless it furthers adaptation to climate change at all levels. Meaningful adaptation to climate change, however, will be inconceivable in many of the world’s most vulnerable countries, without adequate governance of forced migration and displacement. Without effective adaptation, in turn, sustainable global development will come to be undermined and pushed out of reach for the most vulnerable people who are already facing “social limits to adaptation” (Adger et al. 2009). Both global governance of forced migration and displacement and general adaptation to climate change, require from UNFCCC negotiators not only a “shared vision” but tangible commitments regarding international cooperation and support to obtain results at local and national levels.

Besides all uncertainty regarding numbers and timelines, it seems safe to assume that those that are first and foremost driven to migrate as a consequence of global warming will be poor and will have contributed little to

the causes of anthropogenic climate change. Providing them with space, literally a new environment to live in, is both a local and a global challenge. It is a manifest local challenge to the communities which find themselves approached by climate refugees – whether they seek to integrate them or whether they try to fence themselves off. It is an unprecedented global challenge in as much as it has global root causes, is bound to become a reality around the globe and requires policy responses at the level of international politics and global governance.

If climate change is not effectively mitigated and global warming set to raise above three or four degrees in global average, this will be more than just inconvenient even for highly developed societies. Indeed, as science writer Mark Lynas, foretells

“powerful civilisations, when confronted with the collapse of their habitable homelands, may seek to shift their populations into subarctic areas in order to stave off widespread starvation and internal conflict.” (Lynas 2007, 225)

This urgency and magnitude of the problem, it seems, has still not registered with key decision makers at highest political levels. In the shade of the failure of Copenhagen, heads of states will need to follow up swiftly in major international forums, such as the United Nations General Assembly and the G-20 to add political authority and clout.

The good news is that we are in a position to anticipate the problem before us. Climate change does not hit us like a meteor strikes out of the clear blue sky. We know that the sea-level is rising, slowly but certainly. We know that storm and flood disasters will intensify – and in densely populated regions, too. We know that migration has always been a human coping strategy and there is no reason why organized migration and forward-looking resettlement should be beyond the capacity of civilization. However, we need to get going, quite literally. As foretold by Pericles (493-429 BC) in ancient Greece: “It is not predicting the future that matters, but being prepared for it” (cited in WBGU 2008, 15).

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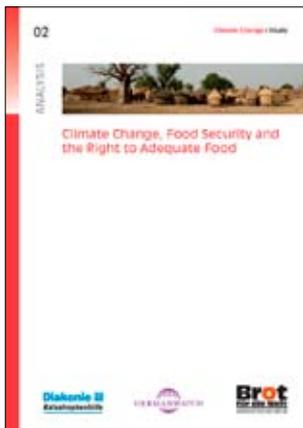
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