**Climate forced mobility - Answers with a focus on Mexico**

Armelle Gouritin, Researcher for Mexico (Mexican National Council for Science and Technology – CONACyT), Facultad Latinoamericana de Ciencias Sociales, Mexico.

[armelle.gouritin@flacso.edu.mx](mailto:armelle.gouritin@flacso.edu.mx)

1. **What experiences and examples are you aware of, of individuals or communities, displaced by climate change?**

**Internal climate displacement in Mexico.** Mexico is a country severely impacted by climate change[[1]](#footnote-1) and, according to the World Bank, by 2050 and in the worst case scenario, climate change will forcefully displace more than 3 millions people in Mexico.[[2]](#footnote-2) On the other hand, the Internal Displacement Monitoring Centre (IDMC) reports that in 2020 conflicts globally displaced 9.8 million people, while disasters displaced 30.7 million people.[[3]](#footnote-3) The IDMC specifies that 88.9% of the disasters are climate related. As for country-specific data, the IDMC enumerates that disasters displaced 101 000 people, and conflicts displaced 9 700 people.

I believe Mexican NGOs and Civil Society Organizations are also answering the questionnaire, providing more details and case-studies re. people and communities currently displaced by climate change.

I would like to emphasize another dimension of the phenomenon: trapped populations. Trapped people and communities refers to those who meet all the objective and subjective criteria to be forcefully displaced, but cannot do it for a variety of reasons (economic, social, age, etc).[[4]](#footnote-4) A clear example of such trapped populations is New-Orleans’ population that could not escape Katrina even though they knew they had to. Beatriz Felipe Pérez[[5]](#footnote-5) reports such cases have already occurred in Mexico.

*Recommendation. Current legislative proposals do not address trapped populations. For the sake of completeness they should do it.*

**International climate displacement – Mexico as a territory of origin, transit or destination.** Current research has already firmly established climate impacts are one of triggers of international migration and displacement to the USA from Mexico.[[6]](#footnote-6) Such impacts (for example the “dry corridor”) are also found as a trigger of Centro American displacement to México as a destination or transit territory.[[7]](#footnote-7)

*Recommendation. Considering that Mexico is the scene of internal forced climate displacement on the one hand and international climate migration and displacement as a territory of origin, transit and destination on the other hand, Mexican norms should recognize and address the phenomenon.*

1. **Do you think there are differences between the notion of climate change migrants and people displaced by climate change? If yes, what are these differences?**

Heated debates are still occurring within academia re. definitions. Some portray climate displacement as referring to internal forced displacement and climate migration as meaning international forced displacement. Others refer to climate displacement (both internal and international) as forced mobility, while climate migration (both internal and international) would refer to voluntary mobility.

In that context, in its latest report, the IPCC dedicates lots of attention to climate mobility and endorses the latter typology: it articulates a typology that distinguishes between voluntary migration and involuntary displacement:

1) adaptive migration (i.e where migration is an outcome of individual or household choice); (2) involuntary displacement (i.e. where people have few or no options except to move); (3) organized relocation of populations from sites highly exposed to climatic hazards; and (4) immobility (i.e. an inability or unwillingness to move from areas of high exposure for cultural, economic or social reasons).[[8]](#footnote-8)

I somehow disagree with the IPCC proposal: in my opinion, organized relocation and forced immobility belong to “involuntary displacement” that would include involuntary immobility. I would also suggest to include forced immobility (the trapped population phenomenon mentioned in the former question).

1. **What legislation, policies and practices are you aware of that are in place to give protection to the rights of individual and communities displaced by climate change.**

To assess whether a legislation, policy or practice is addressing climate displacement, and whether those give protection to individuals and communities’ human rights, I think it is necessary to constantly bear in mind the six scenarios that generate forced climate displacement.

Disaggregating climate forced mobility scenarios allows to evaluate political and legal norms and attention actions on the one hand, and to make sure all the people and communities displaced by the climate are covered and protected. Several typologies are circulating.[[9]](#footnote-9)

I personally prefer a typology that most disaggregates the scenarios. Building on Walter Kälin’s five scenarios typology[[10]](#footnote-10) that I slightly modified and complemented with a sixth scenario, the typology is as follows:[[11]](#footnote-11) 1) gradual (slow-onset) environmental deterioration amplified or induced by climate change (e.g., biodiversity loss, droughts), 2) sudden-onset events (e.g. fires or hurricanes), which intensity and frequency is amplified by climate change, 3) violence triggered by any climate change impact (e.g. access to land suitable to agricultural activities), 4) internal mobility decided upon by public authorities in the context of climate change impacts and threats (e.g. resettlements, managed retreat), 5) islands and coasts disappearing because of sea-level rise, and a sixth scenario: 6) development projects re. renewable energies. Such projects are meant to enable States to meet their climate change mitigation objectives (e.g. wind farms). It is worth mentioning that all six scenarios are found in Mexico.[[12]](#footnote-12)

*Recommendation. In order to comprehensively cover all climate forced mobility scenarios and not leave some people and communities out of prevention and protection schemes, all legislative and political instruments should apply to the six scenarios. In that respect, current Mexican legal proposals to regulate climate forced mobility[[13]](#footnote-13) share loopholes: they do not specifically cover (i) slow-onset environmental deterioration, (ii) territory loss induced by sea-level rise, and only partially cover (iv) conflicts and (v) development projects related to renewable energies.[[14]](#footnote-14) They should be accordingly modified. It is also true for the 1998 UN Guiding Principles on internal displacement that similarly only partially covers the six forced mobility scenarios.*

*Also, said instruments do not apply to forced climate immobility (trapped populations). Consequently, by not fully covering all climate displacement scenarios and ignoring trapped populations, said instruments leave several sectors of the population unprotected.*

1. **Please provide examples of policies, practices and legal remedies and concepts of how States, business enterprises, civil society and intergovernmental organizations can provide protection for people and communities displaced by climate change.**

For the time being, Mexico dos not count with a legislation or public policy aimed at addressing forced internal displacement or, a fortiori, climate forced internal displacement.[[15]](#footnote-15)

Against this background, it is not possible to provide such examples. However, it is possible to identify some benchmarks to do so. Among many others, current knowledge firmly establishes that climate change is not mono-causal. Quite the contrary: a series of factors come into play together with climate triggers (e.g. economic, social, gender, land tenure, age factors).[[16]](#footnote-16) In the same vein, current knowledge pinpoints climate displaced people and communities’ pre-existing vulnerability is crucial as a trigger.[[17]](#footnote-17) Three consequences and three recommendations flow from pre-existing vulnerabilities. First, climate forced displacement is firmly located within the climate (in)justice framework. Second, political and legal instruments should aim to attend structural causes (e.g., gender violence, marginalization, discriminations, impunity and corruption).[[18]](#footnote-18) Third, pre-existing vulnerabilities are specific to each person and community. Therefore, prevention and attention to climate forced displacement should be differentiated (women, children, older people, people with chronical diseases or handicaps).[[19]](#footnote-19)

*Recommendations. (i) Political and Legal instruments should tackle structural causes, (ii) climate forced mobility instruments should endorse a differentiated approach, and (iii) the gender approach should refrain from encapsulating women as an homogeneous group and encapsulate women as caregivers and mothers.*

1. **What international, regional and national policies and legal approaches are necessary to protect people and communities displaced by climate change**

Considering space constraints, I will rather briefly mention some of the risks that must be overcome when adopting instruments meant to protect individuals and communities displaced by climate change. All those risks are found in Mexico.[[20]](#footnote-20)

First, legal capture can be either too restrictive and leave sectors of the population unprotected, or too broad and thereby complicate its implementation/interpretation.

Second, too much a focus on resilience or resilience without participation can displace responsibility towards individuals and communities potentially displaced (thereby displacing responsibility towards the most vulnerable sectors of the population instead of carbon majors’ responsibility). It can also ground the narrative that climate forced displacement is a successful adaptation, thereby denying displaced persons’ massive human rights violations and, also, implying security should be renounced to. When resilience is articulate without acknowledging displaced individuals and communities’ agency (for example when procedural rights are omitted or not properly implemented), displaced individuals and communities can be encapsulated as passive victims/public policy and legal instruments recipients with no voice or possible active role to address climate change mitigation or adaptation.

Third, measures to address climate forced displacement can pave the way for land-grabbing (for example, forcefully resettling individuals or communities from territories to exploit the resources therein – this is all the more true for countries with an extractivist development model as is the case for Mexico).

Fourth, adopted measures can limit itself to the symptoms instead of addressing the phenomenon’s root-causes (poverty, land planning, marginalization, discriminations …), thereby endorsing a suffering management approach (necropolitics).

1. **Please provide separate considerations for people or communities internally displaced and those displaced across international borders**

Due to space constraints, I cannot elaborate on this point.

1. **What do you understand by the concept of “climate change refugee”? Do you think that the UN Refugee Convention should include a separate category for climate change refugees? How do you think this would work? What other legal options may be possible?**

The climate change refugee concept emerged as to oppose the security narrative regarding voluntary and forced climate mobility (the two other narratives are responsibility and human rights) and somehow try to put climate mobility on the international and national agendas.

Even though I have much affinity with the claims to depart from the security narrative, locate the phenomenon on the international and national agendas, and mobilize the moral and administrative tools that go hand-in-hand with the concept, I depart from those advocating for the concept.

First, it is quite clear that current refugee law (positive law) does not cover climate forced mobility for a variety of reasons (one of which being the difficulty, not to say impossibility, to establish persecution). Second, using the concept is, in my opinion, counterproductive: it implies internationally displaced individuals and communities enjoy the protection of the refugee regime when the situation is quite the opposite. For the time being, individuals and communities internationally displaced by climate change impacts face a void in international law. Human rights remain for such individuals and communities a safety-net. It is precisely the rights based approach that has been mobilized in recent international decisions on individuals and communities forced to displace themselves across frontiers. In the 2020 *Teitiota v. new Zealand*[[21]](#footnote-21) and 2022 *Torres Strait Islanders v. Australia*[[22]](#footnote-22) UN Human Rights Committee (HRC) Decisions, the HRC has fully made use of the rights-based approach and relied on human rights’ extraterritorial effect. In my opinion, this is quite distinct from the recognition of climate refugees. Third, adopting a voluntary approach to international law, current events and decisions in the USA, Mexico and the European continent do not point towards a willingness to expand international refugee law’s scope of application, but rather to further close their frontiers. In this context, I don’t think States will be willing to undertake any new commitment, and if they do, I doubt they would implement such new commitments.

*Recommendation. Against this background, I would rather dedicate efforts to further mobilize the rights-based approach, raise awareness and support the circulation of its current and forthcoming outcomes, and train public officers, administrative authorities and adjudicating bodies on the phenomenon human rights implications.*

1. **Should separate and particular considerations be given to indigenous peoples with respect to climate change displacement? What are these particular considerations?**

Current knowledge firmly establishes that climate change displacement is not mono-causal. Quite the contrary: a series of factors come into play together with climate triggers (e.g. economic, social, gender, land tenure, age factors).[[23]](#footnote-23) In the same vein, current knowledge pinpoints climate displaced people and communities’ pre-existing vulnerability is crucial as a trigger.[[24]](#footnote-24) Three consequences and three recommendations flow from pre-existing vulnerabilities. First, climate forced displacement is firmly located within the climate (in)justice framework. Second, political and legal instruments should aim to attend structural causes (e.g., gender violence, marginalization, discriminations, impunity and corruption).[[25]](#footnote-25) Third, pre-existing vulnerabilities are specific to each person and community. Therefore, prevention and attention to climate forced displacement should be differentiated (women, children, older people, people with chronical diseases or handicaps).[[26]](#footnote-26)

*Recommendations. (i) Political and legal instruments should tackle structural causes, (ii) the instruments that tackle climate forced displacement should endorse a differentiated approach not only limited to indigenous peoples,[[27]](#footnote-27) but also to women, children, elderly people, people with incapacity or chronic illnesses, people particularly vulnerable due to their sexual orientation or identification, and (iii) the gender approach should refrain from encapsulating women as an homogeneous group and encapsulate women as caregivers and mothers.*

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9. It is worth mentioning that climate displacement is mentioned since 2016 in the General Law on Climate Change. However, the Law does not provide a definition of climate displacement, nor its operational criteria (Gouritin, A. [2021c]. *Hacia el reconocimiento político y jurídico del desplazamiento climático en México*. Migraciones climáticas. <https://migracionesclimaticas.org/hacia-el-reconocimiento-politico-y-juridico-del-desplazamiento-climatico-en-mexico/>). [↑](#footnote-ref-9)
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12. *Ibid.* [↑](#footnote-ref-12)
13. Cámara de Diputados. (2020). *Iniciativa que expide la Ley General para prevenir, Atender y Reparar integralmente el Desplazamiento Forzado Interno*. México. <http://sil.gobernacion.gob.mx/Archivos/Documentos/2020/03/asun_4019970_20200318_1584045220.pdf>, Senado de la República. (2022). *Iniciativa con Proyecto de Decreto por el que se expide la Ley Nacional para la Prevención, Protección, Generación de Soluciones Duraderas y sanciones en materia de Desplazamiento Interno Forzado, se reforman y adicionan diversas disposiciones del Código Penal Federal y reforma la Ley Minera, todo ello en materia Dedesplazamiento Interno Forzado.* Sen. Emilio Álvarez Icaza Longoria, Sen. Nancy de la Sierra Arámburo, Sen. Alejandra León Gastélum, Sen. Gustavo Enrique Madero Muñoz, Sen. Germán Martínez Cázares. <https://www.senado.gob.mx/64/gaceta_del_senado/documento/123484>. [↑](#footnote-ref-13)
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