**UNICEF’s input to the report on addressing the human rights implications of climate change displacement including legal protection of people displaced across international borders**

UNICEF’s input focuses on children and families on the move and displaced due to climate change. We have prioritized questions 3, 5, 6, 7, and 8. Much of the input is drawn from UNICEF and IOM’s ‘[Guiding Principles for Children on the Move in the Context of Climate Change](https://www.unicef.org/globalinsight/reports/guiding-principles),’ UNICEF’s publication ‘[Lost at Home: The risks and challenges for internally displaced children and the urgent actions needed to protect them](https://www.unicef.org/sites/default/files/2020-06/Lost-at-home-risks-and-challenges-for-IDP-children-2020.pdf)’, and UNICEF’s report ‘[Children Uprooted in a Changing Climate](https://www.unicef.org/environment-and-climate-change/migration#:~:text=Uprooted%20children%20and%20young%20people%20are%20among%20the%20most%20exposed,unheard%20and%20their%20potential%20overlooked.).’

Millions of children around the world are on the move, driven from their homes by the impacts of slow-onset disasters, environmental degradation and sudden-onset disasters exacerbated by climate change. An estimated 2.4 million children were internally displaced by acute disasters at the end of 2021 – and 95 per cent were due weather-related events.[[1]](#footnote-2) Disasters can affect children in many ways, notably reducing their access to child protection and mental-health care, education and work, and other services that help them reach their potential. A further one billion children are at extremely high risk to the impacts of climate change.[[2]](#footnote-3) Even if major progress is made to mitigate the impacts of climate change, mobility remains a critical coping mechanism, an adaptation strategy, particularly for young people. There is a need to protect children uprooted by climate change and harness climate mobility as a positive adaptation strategy.

3. 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?

Argentina’s new humanitarian visa

At the first International Migration Review Forum held in May 2022, the government of Argentina introduced a new humanitarian visa for people displaced in the context of ‘socio-natural’ disasters in Mexico, Central America and the Caribbean. This new programme of international complementary protection allows them to remain in Argentina for three years.[[3]](#footnote-4)

Vanuatu’s National Policy on Climate Change and Disaster-Induced Displacement

The policy seeks to minimise the drivers of displacement from sudden and slow-onset disasters. Where displacement or planned relocation does occur, it seeks to minimize negative impacts on the people affected, especially on vulnerable and minority groups, including children, women, the elderly and people with disabilities. Key to the approach is close consultation with those affected – both displaced populations and their host communities – in order to ensure that they can make voluntary and informed choices and decisions.

Family reunification for separated children displaced in the context of disasters in Africa

The African Charter on the Rights and Welfare of the Child, a regional agreement between member States of the Organization of African Unity, contains an explicit request that obliges member States to “take all necessary measures to trace and re-unite children with parents or relatives where separation is caused by internal or external displacement arising from armed conflicts or natural disasters” (Article 25, para. 2b). The Charter further asks States to cooperate with international organizations in their efforts to protect and assist refugee children, including by tracing the parents or other close relatives of separated or unaccompanied child refugees.[[4]](#footnote-5)

Preventing statelessness following cyclone Idai

In the aftermath of cyclone Idai, which made landfall in Zimbabwe in 2019, causing rapid devastation and displacing many from their homes, the Government of Zimbabwe and UNHCR joined forces to prevent the risk of statelessness for those who lost essential documentation. They set up mobile documentation services, which issued as many as 65,000 documents to affected people, including birth certificates and national identity cards.[[5]](#footnote-6)

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

There is currently no global policy framework for addressing the needs and rights of children moving in the context of climate change. Where child-related migration policies do exist, they do not consider climate and environmental factors, and where climate change policies exist, they usually overlook children’s needs. UNICEF and IOM have developed the following Guiding Principles to safeguard the rights and well-being of children moving in the context of climate change:[[6]](#footnote-7)

1. Rights-based approach: Children who move in the context of climate change maintain all rights of children as enshrined in the Convention on the Rights of the Child.
2. Best interests of the child: In all decisions and actions affecting children on the move in the context of climate change, the best interests of the child shall be a primary consideration.
3. Accountability: Governments and other actors are accountable for their decisions and actions that contribute to children’s mobility in the context of climate change.
4. Awareness and participation in decision-making: Children have the right to be informed, consulted and to participate in making decisions to move or stay in the context of climate change, in line with their ‘age and maturity’, recognising the rights of the parents (or of caregivers in the case of unaccompanied or separated children) to provide appropriate guidance to the child in exercising these rights.
5. Family unity: Children who move in the context of climate change have the right to be cared for by their parents or caregivers and to not be separated from them. If separation does occur, children have the right to special protection and assistance by the State which should ensure their temporary alternative care and take all measures necessary to reunite them with their parents or other relatives.
6. Protection, safety and security: In all decisions and actions affecting children on the move in the context of climate change, the best interests of the child shall be a primary consideration.
7. Access to education, health care and social services: Children who move in the context of climate change have the right to access education, health care and other social services, at all stages of their journeys.
8. Non-discrimination: Children on the move in the context of climate change have the right to non-discriminatory treatment and to provisions necessary to enable them to exercise their rights, irrespective of their or their parents’ migratory status.
9. Nationality: When stateless children move in the context of climate change, or when children become stateless as a result of moving away from their country of nationality, States have an obligation to ensure that they have a nationality including, where necessary, granting them the nationality of the receiving State.

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

Today, more children than ever before are displaced within their own countries. The World Bank estimates there could be more than 140 million people internally displaced by climate by 2050.[[7]](#footnote-8) The majority of climate mobility is internal. While most of those internally displaced do not end up crossing international borders, many will become refugees and vulnerable migrants. Internally displaced persons can be displaced multiple times or live in protracted displacement, their needs and vulnerabilities changing during the process.[[8]](#footnote-9) Some become caught up in cyclical displacement, which can mean finding durable solutions is even more difficult.[[9]](#footnote-10)

In many countries around the world, internally displaced children persistently lack access to basic services. This effectively limits or denies them the right to education, health, protection and non-discrimination. These deprivations can be particularly acute in the life of a child. Removed from a stable, secure home and the communities they need to thrive – family, friends, classmates and teachers – internally displaced children are exposed to a host of harms and dangers. Family separation, negative coping strategies such as child labour and child marriage, and violence, exploitation, abuse and trafficking pose direct threats to their lives and futures.[[10]](#footnote-11) Women and girls are at higher risk of violence during displacement and tend to face greater barriers in accessing education and finding decent work. Despite its global scale, internal displacement is not explicitly addressed in the Global Compact for Migration and the Global Compact on Refugees, despite the fact that the first step for many refugees and migrants in displacement is within their own borders.

Displacement across international borders comes with distinct protection concerns and risks, including dangerous journeys, the risk of detention, deprivation, discrimination, or statelessness. Like internally displaced children, migrant children and youth may also experience family separation, be forced into child labour, pressed into early marriage, exposed to aggravated smuggling, subjected to human trafficking, and put at risk of violence and exploitation. They often miss out on education and proper medical care, and don’t find it easy to feel at home in the communities they arrive in; trying to learn a new language and fit into a new culture can make things especially hard. These difficulties have lasting physical and psychological effects and can prevent children and youth on the move from reaching their full potential.

For young people in particular, migration across borders can provide opportunities to pursue their aspirations, diversify their skills and contribute at their destinations. But for those most at risk of the impacts of climate change, there are often few options to move safely and legally across borders. Migration laws are often not conducive to receiving, providing protection, or realizing the rights of environmental migrants. Many people uprooted by climate change are unlikely to meet legal definitions or other conditions for employment-based, family or humanitarian admissions to destination countries, leaving many children stranded with nowhere to go.

7. 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 1951 Refugee Convention is likely to protect only a small number of people displaced across borders in the context of climate change. To qualify, people must satisfy the refugee definition (that is, they must have a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group). But as UNHCR has noted, the impacts of climate change must be understood within a broader socio-political context, and disasters might exacerbate existing persecution, discrimination or marginalization, proving a refugee claim. Further, in Africa and the Americas, people may qualify for refugee status under the broader regional refugee definitions, where climate impacts could constitute events ‘seriously disturbing public order’, giving rise to protection. Children and youth moving in the context of climate change may be eligible for complementary forms of protection, temporary protection or stay arrangements, especially following sudden-onset disasters, or other discretionary and humanitarian forms of protection. While these forms of protection may vary from country to country, they often offer less formal and more flexible status determination procedures and may include provisions for those leaving their countries because of the risks of environmental hazards.[[11]](#footnote-12)

Instead of changing the Refugee Convention, UNICEF is pushing to expand safe and legal pathways for children to move before they become displaced. This is because:

* Climate mobility is mainly internal – people moving are under the responsibility of their own state, they do not cross borders and are not seeking protection from a third country or at the international level.
* Migration is not necessarily forced, especially for very slow onset processes migration is still a matter of choice, even if constrained, so countries need to think first migration management and agreements rather than refugee protection.
* Isolating environment/climatic reasons is difficult, in particular from humanitarian, political, social, conflict or economic ones. It can sometimes be an impossible task and may lead to long and unrealistic legal procedures.
* Creating a special refugee status for climate change related reasons might unfortunately have the opposite effects of what is sought as a solution: it can lead to the exclusion of categories of people who are in need of protection, especially the poorest migrants who move because of a mix of factors and would not be able to prove the link to climate and environmental factors.
* Opening the 1951 Refugee Convention might weaken the refugee status which would be tragic given the state of our world where so many people are in need of protection because of persecution and ongoing conflicts.
* Regular migration pathways can provide relevant protection for climate migrants and facilitate migration strategies in response to environmental factors. For children and young people this means expanding humanitarian visas, temporary protection, authorization to stay, regional and bilateral free movements’ agreements, among others.

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

Children and young people from indigenous and pastoralist communities are disproportionately vulnerable to the impacts of climate change, despite their minimal ecological footprint. “*The land protects our culture and beliefs. Sometimes I just think, wow, this is the very very place my ancestors stood. But every year the waves are eating away at our land, so we have less guarantee to live on*.” - Takjab, 13 years old, Marshall Islands[[12]](#footnote-13)

Often with strong material and spiritual reliance on their lands, indigenous and pastoralist communities depend on the environment and its resources for their livelihoods. Culture, rituals and medical practices are closely tied to nature and risk being disrupted by the changing climate. Further, indigenous communities often live in areas that are highly exposed to environmental degradation, like small islands barely above sea level, tropical forests threatened by deforestation or polar regions affected by global warming.[[13]](#footnote-14) Indigenous children and young people on the move can experience intersectional discrimination – as migrants and members of indigenous groups.[[14]](#footnote-15) Yet, policies and interventions often do not consider the unique needs of indigenous groups, such as their languages or literacy levels, which may leave them without access to timely emergency information, and potentially exclude them from the delivery of disaster relief and assistance.[[15]](#footnote-16) In the context of rural-urban migration, local governments can play a crucial role in preventing socio-spatial segregation from taking place and xenophobic narratives taking hold through urban planning and the delivery of social services to both long-time residents and newcomers.

But young people from Indigenous and pastoralist communities have a deep knowledge of their environment and understanding of appropriate prevention and adaptation measures to climate change. Young Indigenous activists, like Amelia Telford, a young Aboriginal and South Sea Islander woman from Bundjalung country in Australia, are leading efforts to protect their land, culture and communities form the impacts of climate change.[[16]](#footnote-17) Above all, uprooted children and young people – including indigenous children – have insights to offer, experiences to share and huge potential to help shape better solutions that work for them and their communities.

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3. Government of Argentina, [Migraciones anunció ante la ONU un visado para desplazados por desastres socio-naturales de México, Centroamérica y el Caribe](https://www.argentina.gob.ar/noticias/migraciones-anuncio-ante-la-onu-un-visado-para-desplazados-por-desastres-socio-naturales-de), 19 May 2022. [↑](#footnote-ref-4)
4. Organization of African Unity, [African Charter on the Rights and Welfare of the Child](http://www.achpr.org/public/Document/file/English/achpr_instr_charterchild_eng.pdf), OAU, 1990. [↑](#footnote-ref-5)
5. UNHCR, ‘[Statelessness and Climate Change](http://www.unhcr.org/en-us/protection/environment/618524da4/statelessness-and-climate-change.html?query=climate%20change%20and%20statelessness),’ October 2021. [↑](#footnote-ref-6)
6. Colón, Ferris, Szaboova, Duca, Passarelli, ‘[Guiding Principles for Children on the Move in the Context of Climate Change](file:///C%3A%5CUsers%5Claurenfarwell%5CDownloads%5Cunicef-iom-global-insight-guiding-principles-for-children-on-the-move-in-the-context-of-climate-change-2022.pdf),’ Office of Global Insight and Policy, UNICEF, New York, July 2022, pp. 11, 12, 15-51. [↑](#footnote-ref-7)
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8. Internal Displacement Monitoring Centre, ‘[Multidimensional Impacts of Internal Displacement](https://www.internal-displacement.org/sites/default/files/publications/documents/201810-literature-review-economic-impacts.pdf)’, The Ripple Effect: Economic impacts of internal displacement (thematic series), 2018. [↑](#footnote-ref-9)
9. Internal Displacement Monitoring Centre, ‘[Global Report on Internal Displacement](https://www.internal-displacement.org/global-report/grid2020/),’ 2020. [↑](#footnote-ref-10)
10. UNICEF, ‘[Lost at Home: The risks and challenges for internally displaced children and the urgent actions needed to protect them](https://www.unicef.org/sites/default/files/2020-06/Lost-at-home-risks-and-challenges-for-IDP-children-2020.pdf)’, 2020. [↑](#footnote-ref-11)
11. For more information on governmental approaches to those seeking entry because a disaster has occurred or environmental conditions make survival difficult, see: The Platform on Disaster Displacement, ‘[An Agenda for Protection: Towards better protection for people displaced across borders in the context of disasters and climate change](https://disasterdisplacement.org/the-platform/our-response),’ The Platform on Disaster Displacement, 2015. [↑](#footnote-ref-12)
12. Quote from IOM Development Fund Campaign “[DoTheRightThing](https://dotherightthing.iom.int/home).” Quote featured in UNICEF report, ‘[Children Uprooted in a Changing Climate](https://www.unicef.org/environment-and-climate-change/migration#:~:text=Uprooted%20children%20and%20young%20people%20are%20among%20the%20most%20exposed,unheard%20and%20their%20potential%20overlooked.),’ October 2021. [↑](#footnote-ref-13)
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14. Minority Rights Group International, ‘[No Escape from Discrimination: Minorities, indigenous peoples and the crisis of displacement](https://reliefweb.int/sites/reliefweb.%20int/files/resources/MRG_Displacement_Report_Dec17.pdf)’, MRG, 2017. See also: UNHCR, ‘[Strategic Framework for Climate Action](http://www.unhcr.org/604a26d84.pdf),’ UNHCR, n.d., p. 9; Intergovernmental Panel on Climate Change, ‘[Climate Change 2022: Impacts, adaptation, and vulnerability](http://www.ipcc.ch/report/sixth-assessment-report-working-group-ii),’ Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, IPCC, 2022. [↑](#footnote-ref-15)
15. Mendez, Michael, Genevive Flores-Haro and Lucas Zucker, ‘The (in)Visible Victims of Disaster: Understanding the vulnerability of undocumented Latino/a and indigenous immigrants’, Geoforum 116, pp. 50–62. [↑](#footnote-ref-16)
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