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**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

## **Report of the Special Rapporteur on the human rights of migrants**

### **Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the human rights of migrants, Felipe González Morales, submitted in accordance with Assembly resolution [74/148](#) and Human Rights Council resolution [43/6](#).

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\* [A/77/150](#).



## **Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales**

### *Summary*

The present report outlines the main activities undertaken by the Special Rapporteur on the human rights of migrants, Felipe González Morales, during the reporting period since his most recent report to the General Assembly.

In the report, the Special Rapporteur reviews the complex relationship between climate change, human rights and migration, as well as the multifaceted drivers of cross-border migration in the context of climate change. He examines the human rights situation of migrants, especially women, children, indigenous peoples, minorities and other groups in specific vulnerable situations, affected by the adverse effects of climate change, and he analyses progress made on devising available and flexible pathways for regular migration in the context of climate change as an adaptation option.

On the basis of the information and analysis provided by States, international organizations, civil society and other stakeholders, the Special Rapporteur identifies promising practices, ongoing efforts and existing challenges and provides a set of recommendations aimed at promoting migration with dignity for all migrants, including those affected by climate change, and addressing their specific human rights and protection needs.

## I. Introduction

1. The present report is submitted to the General Assembly by the Special Rapporteur on the human rights of migrants, Felipe González Morales, pursuant to Assembly resolution 74/148 and Human Rights Council resolution 43/6.

## II. Activities undertaken by the Special Rapporteur

2. On 30 March 2022, the Special Rapporteur participated in a round table on migration and human rights in Africa, convened by the African Commission on Human and Peoples' Rights.

3. On 7 April, the Special Rapporteur participated in the launch of a book entitled *Acceso a la Justicia de las Personas Migrantes, Refugiadas y Otras Sujetas de Protección Internacional en las Américas* (Access to Justice for Migrants, Refugees and Other Persons Subject to International Protection in the Americas), published in Mexico by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Sin Fronteras and the International Committee of the Red Cross.

4. On 21 April, he was the keynote speaker at the thirtieth edition of a conference on migration and international protection, organized by the Spanish Bar Association, where he gave a presentation on current trends in migration from a human rights perspective.

5. On 29 April, the Special Rapporteur delivered the closing speech at a regional meeting on regularizing the migration status of Venezuela migrants and refugees, held in Peru and organized by the International Organization for Migration, where he spoke about challenges in regularization processes.

6. On 2 May, he participated in the inaugural conference of the international migration law course organized by the International Institute of Humanitarian Law in San Remo, Italy, and gave a presentation about current trends in migration.

7. On 3 May, the Special Rapporteur gave a presentation on migration and human rights for the participants of the specialized training on migration and asylum from a human rights perspective at the University of Lanús in Buenos Aires.

8. From 4 to 6 May, he participated in an international conference on the migration crisis in Europe and the Americas in the light of international human rights law, organized by the National Autonomous University of Mexico.

9. From 17 to 20 May, the Special Rapporteur participated in the International Migration Review Forum in New York. He was the keynote speaker at round table No. 2 on saving the lives of migrants, managing borders, promoting alternatives to immigration detention and other related issues. He also gave presentations at the side events entitled "Upholding the human rights guiding principle in the Global Compact for Safe, Orderly and Regular Migration", "By migrants, for migrants: advocating for migrants' meaningful participation in International Migration Review Forum and Global Compact for Safe, Orderly and Regular Migration processes", "Vulnerability to trafficking in mixed migration contexts: community perspectives and current approaches" and "Saving lives and missing migrants: from commitment to action".

10. On 24 May, the Special Rapporteur attended the launch of a report entitled *Bajo la Bota: Militarización de la Política Migratoria en México* (Under the Boot: Militarization of Migration Policy in Mexico) and a microsite, organized by the Fundación para la Justicia.

11. On 30 May, he gave the inaugural lecture, on the importance of the special procedures for the prevention of human rights violations, for the twenty-third edition of the programme of advanced studies on human rights and humanitarian law at the American University Washington College of Law.

12. On 14 June, the Special Rapporteur participated in a webinar, held in parallel to the forty-seventh session of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on the role of national prevention mechanisms in monitoring places where migrants are deprived of their liberty.

13. On 24 June, he presented his report entitled “Human rights violations at international borders: trends, prevention and accountability” (A/HRC/50/31) to the fiftieth session of the Human Rights Council.

### III. The impact of climate change and the protection of the human rights of migrants

#### A. Introduction

14. Climate change, an increasingly potent driver of migration, continues to compel millions of people to leave their homes every year. The latest *Groundswell* report released by the World Bank finds that climate change could force 216 million people across six world regions to move within their countries by 2050.<sup>1</sup> Given the interrelation between internal displacement and migration, this figure helps to illustrate the scope of cross-border climate change-related migration. Building on the findings of the report of his predecessor on the human rights of migrants (A/67/299), which was submitted to the sixty-seventh session of the General Assembly, the Special Rapporteur aims to examine the human rights situation of migrants, especially women, children, indigenous peoples, minorities and other groups in specific vulnerable situations, affected by the adverse effects of climate change, as well as to analyse progress made on devising available and flexible pathways for regular migration in the context of climate change as an adaptation option.

15. Every year, as millions of people are displaced in the context of sudden-onset disasters, the livelihoods of millions more are affected by slow-onset environmental change and degradation, with many being compelled to leave their countries of origin, while others remain trapped in at-risk areas. Such high levels of human mobility associated with disasters and the adverse effects of climate change may impose significant challenges that undermine sustainable development, climate change adaptation, disaster risk reduction and migration governance efforts. Likewise, desertification, rising sea levels and more frequent and severe weather events undermine the enjoyment of human rights, including the rights to life, food, water and sanitation, health and adequate housing. In addition, migrants who are compelled to move owing to the adverse effects of climate change are less likely to be able to make choices about when and how they move or to develop alternative options when facing difficulties. They are therefore more likely to migrate in conditions that do not respect human dignity and integrity. However, if well governed, safe, regular and orderly migration can also be a form of adaptation to climate change and environmental stressors, helping to build the resilience of affected individuals and communities.

<sup>1</sup> Viviane Clement and others, *Groundswell Part 2: Acting on Internal Climate Migration* (Washington, D.C., World Bank, 2021). The six regions refer to Eastern Europe and Central Asia, sub-Saharan Africa, North Africa, South Asia, East Asia and the Pacific, and Latin America.

16. In preparing the report, the Special Rapporteur issued a questionnaire on the impact of climate change and the protection of the human rights of migrants. He expresses his gratitude to all those States, United Nations entities, academia and civil society organizations who provided their contributions.<sup>2</sup> The report is based primarily on the inputs and submissions received, complemented by additional research, data and legal documentation issued by the United Nations, international organizations and States, as well as civil society organizations, academics and other open resources, that were publicly available as of May 2022.

## **B. International legal instruments and policy frameworks on cross-border migration in the context of climate change**

### **1. Human rights law and refugee law**

17. International human rights law, norms and standards relating to migration in the context of climate change offer a comprehensive and flexible framework for the protection of all migrants in vulnerable situations, including those affected by climate change. Under the International Covenant on Civil and Political Rights, in conjunction with the International Covenant on Economic, Social and Cultural Rights, the inherent right to life of every individual without discrimination is guaranteed, as is the applicability of other fundamental rights to migrants, including the right to an adequate standard of living, health, personal integrity and freedom of movement. Pursuant to the above-mentioned Covenants, all States have the obligation to respect, protect and fulfil human rights for all without discrimination. Human rights obligations, standards and principles have the potential to inform and strengthen international, regional and national policymaking in the area of climate change. Moreover, all international human rights instruments apply to all migrants, and discrimination against them is prohibited on the grounds of their nationality or migration status.

18. The Special Rapporteur further refers to the principles of equality and non-discrimination. Such principles are core human rights principles reflected in the above-mentioned Covenants and in several other instruments, including the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination. By disproportionately affecting persons in vulnerable situations, including migrants compelled to move owing to the adverse effects of climate change, children, older persons, persons with disabilities, women at risk, migrant workers, indigenous peoples, minorities and other groups, climate change threatens the fulfilment of States' obligations regarding non-discrimination and equality.<sup>3</sup> It must be acknowledged that human rights law can establish grounds of admission and stay for migrants, which give effect to international human rights obligations and principles. These include the right to private and family life and the deriving obligation to maintain family unity, the principle of the best interests of the child, the right to health, the principle of equality and non-discrimination, the fundamental principles and rights at work and the principle of non-refoulement.<sup>4</sup>

19. The Convention relating to the Status of Refugees may offer protection to individuals affected by the adverse effects of climate change in some circumstances, such as where: (a) national authorities' denial of protection from the adverse effects of climate change amounts to persecution; (b) national authorities use the negative

<sup>2</sup> A total of 22 submissions were received.

<sup>3</sup> See [www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Key\\_Messages\\_HR\\_CC\\_Migration.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Key_Messages_HR_CC_Migration.pdf).

<sup>4</sup> See [www.ohchr.org/en/migration/migrants-vulnerable-situations](http://www.ohchr.org/en/migration/migrants-vulnerable-situations).

impacts of climate change to persecute particular groups or individuals; or (c) serious human rights violations or armed conflict triggered by climate change causes people to flee based on a well-founded fear of persecution. In those cases, protection relates to the action/inaction by national authorities that constitutes persecution on prohibited grounds rather than the adverse effects of climate change. In rare circumstances, the Convention relating to the Status of Stateless Persons might also provide protection for people fleeing climate change; however, it should be noted that it does not apply to or respond to the needs of most people fleeing the adverse effects of climate change (A/HRC/38/21, paras. 25 and 32).

20. Broader definitions of the term “refugee” have been adopted at the regional level in the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa and the Cartagena Declaration on Refugees, thus increasing the possibility of refugee status and protections applying to persons displaced by climate change. Under article I (2) of the Convention Governing the Specific Aspects of Refugee Problems in Africa, refugee status is extended to persons who, owing to events seriously disturbing public order, are compelled to seek refuge outside their country of origin or nationality. Similarly, in article III (3) of the Cartagena Declaration on Refugees the definition is extended to persons who have fled their country because their lives, safety or freedom have been threatened by massive violation of human rights or circumstances which have seriously disturbed public order (A/HRC/38/21, para. 26).

## 2. Policy frameworks

21. In the United Nations Framework Convention on Climate Change, its Kyoto Protocol and the Paris Agreement, States are called upon to act jointly and separately to mitigate climate change and adapt to its adverse effects. Although the Framework Convention does not explicitly address migration, in the preamble to the Paris Agreement States are called upon to respect, promote and consider the rights of all persons in vulnerable situations, including migrants, when taking climate action. Similarly, State measures to address climate change must protect the rights of those most vulnerable to its impacts, including those whose vulnerabilities may render them unable to move.

22. It must be acknowledged that the work of the Conference of the Parties to the Framework Convention and its subsidiary bodies, including the Task Force on Displacement of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, serves to provide a forum for discussing issues relating to the protection of those displaced owing to the adverse effects of climate change. The Task Force and the Executive Committee of the Mechanism are mandated to develop recommendations for integrated approaches to avert, minimize and address displacement in the context of climate change (A/HRC/38/21, para. 29).

23. In the 17 Sustainable Development Goals and 169 related targets of the 2030 Agenda for Sustainable Development, the importance of including migration in development strategies in order to commit to protecting the rights of all migrants and leaving no one behind is explicitly recognized. For instance, Goal 6 on clean water and sanitation is relevant because both climate change and migratory patterns have the capacity to significantly affect water resources. In Goal 7 on access to affordable and clean energy the importance of managing local energy development planning in tandem with migration policy to address the economic and environmental drivers of migration, thereby facilitating environmentally sustainable socioeconomic opportunities for migrants, is highlighted. Goal 13 is on taking urgent action to combat climate change and its impact. Goal 15 on life on land is especially important when considering the impacts – both positive and negative – of migration upon local

land systems.<sup>5</sup> The 2030 Agenda further calls for international cooperation to achieve sustainable development and contains references to orderly, safe, regular and responsible migration, as well as to climate change.

24. There are also many policy processes and instruments that address important aspects of climate change. For example, the Sendai Framework for Disaster Risk Reduction 2015–2030 contains references to climate change-related migration. This instrument focuses on reducing disaster risks, strengthening disaster risk governance and enhancing disaster preparedness, especially for people in vulnerable situations. It further includes guiding principles that call for the promotion and protection of all human rights and the development of coherent policies covering climate change, disaster risk reduction and sustainable development agendas.

25. In the New York Declaration for Refugees and Migrants of 2016 (General Assembly resolution 71/1), Heads of State and Government and High Representatives recognize the interconnection between migration, environment and climate change issues. They further recognize climate change as a driver of migration, address the issue of migration in response to environmental degradation and climate change and call for the creation and expansion of safe, regular pathways for migration. This recognition was considered a pivotal step towards migration policymaking processes to address climate and environmental migration challenges.

26. The Global Compact for Safe, Orderly and Regular Migration contains specific commitments to address the drivers that compel people to leave their countries of origin in the context of disasters, climate change and environmental degradation, and to protect and assist those who leave their countries in such contexts (General Assembly resolution 73/195, annex). In objective 5 on enhancing availability and flexibility of pathways for regular migration, further details are provided on the commitment to cooperating to identify, develop and strengthen solutions for migrants compelled to leave their countries of origin owing to slow-onset natural disasters, the adverse effects of climate change, and environmental degradation. It is the first intergovernmentally negotiated agreement on international migration in which the linkages between migration and climate change, disasters and environmental degradation are recognized.

27. On the occasion of the first International Migration Review Forum, States adopted the Progress Declaration (General Assembly resolution 76/266, annex), one of the commitments of which centred on efforts to enhance and diversify the availability of pathways for safe, orderly and regular migration for migrants in vulnerable situations, as well as those affected by disasters, climate change and environmental degradation. The need to conclude labour mobility agreements, optimize education opportunities, facilitate access to procedures for family reunification and regularize migrants in an irregular situation, in accordance with national laws, was further highlighted.

28. The Nansen Initiative, a State-led, multi-stakeholder, consultative process, specifically addressed cross-border migration in the context of natural disasters and climate change. Through its Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change, endorsed by 109 States, the Initiative calls for the integration of human rights-based approaches in disaster risk reduction, adaptation measures and sustainable development efforts. It further calls for well-managed human mobility, including the broadened application of humanitarian protection measures and the use of planned relocation as a last resort (A/HRC/38/21, para. 35).

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<sup>5</sup> See <https://environmentalmigration.iom.int/migration-environment-and-climate-change-sustainable-development-goals>.

29. In the light of the above-mentioned legal instruments and policy frameworks, the Special Rapporteur takes the opportunity to emphasize that States have obligations, including extraterritorial obligations, to respect, protect and fulfil all human rights of all peoples, including migrants. He specifically notes an increasing number of people being compelled to migrate owing to the hazardous, inadequate living conditions provided by their States of origin, which lead to the escalation of hydrometeorological disasters, evacuations of areas at high risk of disasters, environmental degradation, the disappearance of small island States as a result of rising sea levels, and an increase in conflicts over access to resources.

30. The Special Rapporteur notes with concern the insufficient pathways for regular migration, especially for climate-driven migration, putting migrants at risk. It is important to recognize the right to liberty and freedom of movement for all persons as a right to ensure that people can move away from areas affected by climate change to avoid or reduce climate impacts and build resilience. States have an obligation to provide access to regular status when the return of a migrant may be in breach of human rights obligations, including, but not limited to, the principle of non-refoulement under international human rights law.

### **C. Adverse effects of climate change, cross-border migration and human rights challenges**

31. Climate change, specifically slow-onset and sudden-onset events, can negatively affect an array of human rights. The increased vulnerabilities of migrants caused by the adverse effects of climate change and the need for approaches that respect, protect and fulfil human rights are well documented. Risks to human rights in situ contribute to vulnerabilities, which consequently can act as a driver of migration. There are also specific impacts on the human rights of migrants that need to be addressed, including a lack of rights protection for migrants at all stages of their journey, in particular when gaining admission to other countries.<sup>6</sup> Climate change-related migration is multicausal and complex, as it interacts with a wide range of factors that influence a decision to move and the degree to which that decision is voluntary. It further interacts with factors such as violations of economic, social, cultural, civil and political rights, conflicts, and multiple and intersecting forms of discrimination. The Special Rapporteur will briefly describe the rights implications of the adverse effects of climate change, including the challenges they pose.

#### **1. Climate change and cross-border migration: drivers and responses**

32. Climate change can constrain resources and access to rights and needs and pose a threat to human life. Climate change and slow-onset processes can also affect nutrition through disruption of food systems and sources, loss of livelihoods and increases in poverty. Moreover, when salinization or desertification reduces agricultural outputs or results in crop failure, access to adequate food is put at risk. The impacts on food sources are compounded in places where malnutrition and hunger are already problems.<sup>7</sup>

33. As the then Special Rapporteur on the right to food highlighted in her report entitled “Critical perspective on food systems, food crises and the future of the right to food” (A/HRC/43/44), an estimated half of the world’s 854 million hungry people live in already degraded lands, degradation which will be exacerbated by climate change. Furthermore, food insecurity can lead to migration, which is often precarious

<sup>6</sup> See [https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/OHCHR\\_slow\\_onset\\_of\\_Climate\\_Change\\_ENweb.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/OHCHR_slow_onset_of_Climate_Change_ENweb.pdf).

<sup>7</sup> Ibid.

when undertaken without adequate resources. Water quality and availability are also negatively impacted by climate change. Sea-level rise can result in the salinization of fresh water sources, drought can reduce access to water supplies and flooding can affect the quality of water. Health is tied to adequate food and water, and thus, where access to these rights is limited, so too is human health. Migrants – and rural to urban migrants, in particular – face increased disease and health risks from conditions in slums and informal employment sectors.

34. Adequate housing is a component of the right to an adequate standard of living. The right to adequate housing includes protection against forced evictions, security of tenure, access to affordable housing, habitability and accessibility, and availability of facilities, services, materials and infrastructure.<sup>8</sup> The right to adequate housing also means that adequate housing must meet a number of criteria, including privacy, space, security and location. People who are compelled to leave their homes owing to slow-onset effects of climate change may face poor living conditions and, while in transit, are likely to live in precarious conditions.

35. Slow-onset events of climate change, such as coastal erosion in areas of Honduras, for instance, are exacerbating pre-existing poverty, inequality and exclusion, compelling people to migrate. In this sense, the absence of public policies on prevention and mitigation, as well as a lack of environmental due diligence by private companies, may be drivers that exacerbate these impacts on territories and peoples. Likewise, the adverse effects of sudden-onset events linked to climate change may have serious effects on subsistence in the territory, while they can also accentuate dynamics of violence, insecurity and political persecution.<sup>9</sup>

36. The adverse effects of climate change are placing existing environmental systems, governance and social structures under stress. They are also increasing the drivers of internal migration within Vanuatu, as people increasingly move towards urban centres. Storm surges represent the highest displacement risk for Vanuatu, and there is a 64 per cent probability that one will displace 10,900 people in the next 50 years.<sup>10</sup>

37. The Special Rapporteur on the human rights of migrants notes that climate change is challenging the adaptive capacities of many different communities and overwhelming some owing to its interaction with and exacerbation of existing problems of food security, water scarcity and the scant protection afforded by marginal lands. The critical aspects are clearly varying from place to place and from individual to individual. Natural disasters might displace large numbers of people for relatively short periods of time; however, the slow-onset drivers are likely to displace permanently many more people, those who can access migration as an adaptation strategy, in a less headline-grabbing way.<sup>11</sup>

38. It must be acknowledged that migration should serve as an important adaptation strategy to climate change and a means to build resilience among individuals and communities, while also reducing exposure and vulnerability to hazards. The Special Rapporteur reiterates the analysis of his predecessor that migration has been a traditional coping mechanism, widely used by populations around the world since time immemorial to adapt to changing environments. If properly managed, migration can therefore also be a solution to cope with climate change (A/67/299).

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<sup>8</sup> See [www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing](http://www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing).

<sup>9</sup> Submission by the Center for Justice and International Law and Franciscans International.

<sup>10</sup> Submission by Vanuatu.

<sup>11</sup> See <https://olibrown.org/wp-content/uploads/2019/01/2008-Migration-and-Climate-Change-IOM.pdf>.

39. When well governed, migration becomes a safe and accessible choice and can help people to adapt to environmental and climate change pressures. Making humane migration part of the solution is an important practice to address the climate emergency. Furthermore, there is a need to mitigate the adverse environmental and climate drivers that compel people to move, address and reduce the risks and vulnerabilities of migration, and boost community resilience to avert, minimize and address displacement. The extent to which migration can be a positive adaptation experience will be influenced by gender, age, race, disability status and other relevant factors.<sup>12</sup>

40. Existing international frameworks, mechanisms and practices to govern safe and regular migration in relation to climate change are limited, and those that do exist have not all adequately integrated a gender-responsive approach. Addressing the linkages among gender, age, race, disability status, climate change and migration requires an integrated multisectoral approach that brings together global, regional, national and local efforts in order to ensure that political commitments are translated into concrete actions.<sup>13</sup> It is equally important to take into account procedures to assess admission and stay claims submitted by migrants in situations of vulnerability that should be people-centred and child-sensitive, and uphold international human rights, including the prohibition of discrimination. States should put in place human rights-based, gender-responsive and child-sensitive procedural safeguards to ensure that all migrants are able to present their cases on the basis of equality and non-discrimination.<sup>14</sup>

## 2. People living in vulnerable areas

41. As previously stated by the former Special Rapporteur on the human rights of migrants, no country is safe from slow-onset and sudden-onset events. However, some circumstances are more conducive to climate change-related migration. Available data indicates that nearly 1 billion people live in areas “highly to very highly” exposed to climatic hazards. Vulnerable places bordered by major rivers, such as the Ganges, Indus and Brahmaputra, are highly susceptible to glacier melt and reductions in snowfall but are also densely populated. Likewise, sea-level rise poses a particular threat to deltas, large urban settlements and major infrastructure along the coast, as it is estimated that 13 per cent of cities are located in low-lying coastal zones, and particularly in small island developing States, where the ability to retreat to higher ground is limited. Rising sea levels will greatly increase risks from storm surges and tropical cyclones, in particular for highly exposed small island developing States and low-lying coastal zones. Regions at risk also include Arctic ecosystems, dry lands and, more generally, the least developed countries, which have systems that are less adapted to cope with climate change.<sup>15</sup>

42. According to the Nansen Initiative, Latin America is among the areas of greatest fragility and vulnerability to the impacts of climate change, together with the African Sahara region. The most vulnerable countries identified are: Bolivia (Plurinational State of), Guatemala, Guyana, Haiti and Honduras. In Central America, one of the impacts of slow-onset events of climate change is that a significant part of the movement of people is caused by droughts in the region’s dry corridor. In this regard, the Food and Agriculture Organization of the United Nations highlighted that drought-related food insecurity in the dry corridor of Central America has left

<sup>12</sup> Submission by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women).

<sup>13</sup> Ibid.

<sup>14</sup> See [www.ohchr.org/sites/default/files/2022-01/guidance\\_note\\_migrants\\_in\\_situations\\_of\\_vulnerability\\_2021.pdf](http://www.ohchr.org/sites/default/files/2022-01/guidance_note_migrants_in_situations_of_vulnerability_2021.pdf).

<sup>15</sup> Submission by the Carlos III University of Madrid.

3.5 million people in need of humanitarian assistance in El Salvador, Guatemala and Honduras.<sup>16</sup>

43. Many of the expanding urban areas are located in low-lying coastal areas, already threatened by sea-level rise. The confluence of these factors has led the World Bank to predict that the collective South Asian economy (Bangladesh, Bhutan, India, Maldives, Nepal and Sri Lanka) will lose 1.8 per cent of its annual gross domestic product owing to climate change by 2050.<sup>17</sup> While slow-onset processes and effects are a key factor for migration, it is difficult to predict or even know the number of people who will move in any given geographical area. This is due in part to a lack of data generally and to the particular difficulty of isolating slow-onset or gradual environmental change as a driver of migration. This difficulty stems from the complex relationship between environmental change and migration, the latter being influenced and the former being compounded by demographics, poverty, governance and other social, economic and political factors. Those challenges, and the risks posed by slow-onset effects, mean that effective mechanisms to protect rights and long-term planning and solutions are required.

44. The Pacific region constitutes approximately one fifth of the Earth's surface and includes the large island States of Australia, New Zealand and Papua New Guinea, as well as 22 countries and territories across the Federated States of Micronesia, Melanesia and Polynesia. According to the available data, 90 per cent of the population of the small island States and territories of Oceania live within 5 km of the coast.<sup>18</sup> As for the small coral atoll nations of Tokelau and Tuvalu, the entire population lives within 1 km of the ocean. With a largely coastal population, the Oceania region is highly vulnerable to climate change-related migration. While economic and social factors remain the primary reasons for migration, climate change-related migration associated with the loss of land owing to coastal erosion and sea-level rise, the increased frequency and severity of extreme weather events and the loss of traditional livelihoods are increasingly emerging as contributing components of the decision to migrate. Internal relocation, both on a temporary and permanent basis, remains the most common form of climate-related mobility within the region.

45. Despite the fact that the small island developing States of the Pacific region contribute minimally to global carbon emissions, they are disproportionately experiencing the adverse effects of climate change. Coastal populations are increasingly vulnerable to acute risks, such as natural disasters, and chronic climate-related risks, including coastal erosion, salinization of freshwater sources and sea-level rise. In general, the adverse effects of climate change are threatening the availability of food and fresh water and affecting the productivity of ecosystems, including reef and fisheries resources. The ocean, which for so long has been a source of fulfilment and nourishment, is increasingly threatening the lives and livelihoods of coastal populations.

### **3. Marginalized individuals and groups**

46. Climate change disproportionately affects women, girls, boys, young people, persons with disabilities, older persons, lesbian, gay, bisexual and transgender (LGBT) persons, minorities, indigenous peoples, people living in poverty and the least economically secure. The impact of natural disasters does not affect everyone equally. Marginalized people are often highly vulnerable to natural disasters, as they are more likely to be compelled to move into the most vulnerable areas as a result of unaffordable land and housing markets. Natural disasters and post-disaster events

<sup>16</sup> Submission by the Center for Justice and International Law and Franciscans International.

<sup>17</sup> John Podesta, "The climate crisis, migration, and refugees" (Brookings, 2019).

<sup>18</sup> See <https://www.britannica.com/place/Pacific-Islands>.

often kill more women than men. Indigenous groups are also particularly vulnerable to the adverse impacts of natural disasters, owing to certain risk factors such as climate change, vulnerable livelihoods, resource extraction, health risks, and loss of culture and identity. There is also a growing body of research demonstrating that climate change will disproportionately affect children's health and well-being.<sup>19</sup>

### **Women and girls**

47. The impacts of climate change can worsen the cycle of poverty and exacerbate situations of vulnerability for women and girls, such as gender-based discrimination in access to land, natural resources, financial services, social capital and technology, leaving them with limited or no assets to utilize in the case of natural hazards or disasters. While global sex-disaggregated data and gender statistics on migration in relation to climate change are limited, figures on internal displacement can shed some light on population movements associated with climate change, with some reports estimating that approximately 80 per cent of people currently displaced by climate-related events are women and girls. Moreover, as women are 4 per cent more likely than men to live in extreme poverty, the impacts of climate change, including slow-onset effects, may lead to higher numbers of women migrating as a result of decreasing crop productivity, increasing water shortages and rising sea levels.<sup>20</sup>

48. While migration may be an opportunity for increased autonomy and independence for some women, it may also expose them to risks. The increase in gender-based violence in the aftermath of disasters is well documented, in particular against women and girls who are displaced and those living in camps or other places without privacy. Domestic violence, intimate partner violence, sexual abuse and exploitation, and forced and early marriage also increase significantly during climate crises.<sup>21</sup> Women and girls face a heightened risk of gender-based violence and child marriage, negative impacts on maternal and neonatal health and a greater burden of unpaid care and domestic work.<sup>22</sup>

49. Climate change is linked to other drivers of migration, such as women's lack of access to information and resources and the disproportionate burden of unpaid care work on women, especially single mothers and women with dependants, which includes the responsibility for fetching water and fuel, as well as the challenge of seeking paid work. Climate change-related migration is also linked to human trafficking. Human trafficking does not always involve migration, but traffickers often exploit migrant women and girls who take risks to find work and shelter. Individuals, including women, leave their homes to flee poverty and unemployment, criminal violence, armed conflict or natural disasters, which can make them vulnerable to exploitation. As climate change affects the physical and social environments, and the incidence of natural disasters increases, more people will move and may be at risk of being trafficked.<sup>23</sup>

### **Children**

50. When sudden or slow-onset processes result in large-scale migration, children may be separated from their cultural heritage and face barriers in gaining access to schools, adequate health-care facilities and other necessary goods and services.

<sup>19</sup> Submission by the Center for the Human Rights of Children, Loyola University School of Law.

<sup>20</sup> Submission by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women).

<sup>21</sup> Ibid.

<sup>22</sup> See <https://migrationnetwork.un.org/events/approaches-gender-responsive-gcm-implementation-context-migration-and-climate-change>.

<sup>23</sup> See <https://giwps.georgetown.edu/resource/women-and-climate-change/>.

Overcrowded shelters with inadequate access to sanitation and clean water can increase the transmission of diarrhoea and malnutrition rates, both of which are leading causes of child mortality. Inadequate security and protection in some shelters can expose children to abuse and violence. Children who are travelling alone or separated from their parents can be particularly at risk of emotional, physical and sexual violence (see [A/HRC/35/13](#)).

51. The developing bodies of children are more sensitive to the impacts of climate change, including rising temperatures, decreased air quality, ecosystem disruption, floods, droughts and wildfires. Research shows that climate change impacts directly contribute to asthma, infectious and respiratory diseases, food insecurity and increased mortality. Children also experience exacerbated intersecting vulnerabilities that leave them increasingly at risk of harm. Girls, indigenous children, children with disabilities and other children with heightened vulnerabilities experience climate inequity at disparate levels.<sup>24</sup>

52. Children's education can be disrupted by displacement and migration in the context of disasters and the adverse effects of climate change. Even when the decision to migrate is linked to slow-onset impacts, children's education can suffer when families move from rural to urban areas and do not have the means to provide formal education to their children. Some children may also be forced to work to support their families, including in dangerous conditions.<sup>25</sup> In Chad, owing to the phenomenon of "child cattle herders", children on the move are particularly at risk of trafficking and sexual exploitation. As a result of precariousness and a lack of means worsened by the effects of climate change, parents send their children to work with herders in problematic conditions as well in isolated and hostile settings.

53. It is also important to consider the impacts of parents' migration on children who stay behind. Children who are left behind may remain exposed to hazards and the increasing impacts of environmental degradation, with acute potential impacts on their lives, health and physical integrity. The mental impacts linked to parental separation are also a matter of concern. All these disruptions have an impact on children's well-being and education and may reduce their resilience to future disasters.<sup>26</sup>

### **Indigenous peoples and minorities**

54. Owing to their isolation and exclusion, minorities and indigenous peoples in many countries are disproportionately exposed to the adverse effects of climate change, ranging from rising sea levels and higher temperatures to increasingly frequent extreme weather events, such as severe storms. Populations such as Dalits in South Asia are frequently concentrated in areas such as the flood-prone "colonies" of Dhaka, where a lack of access to water and sanitation leaves residents more vulnerable during monsoons. They may also be sidelined or excluded from emergency assistance in the aftermath of a monsoon owing to discrimination. Their stigmatization is therefore replicated at every stage and may be exacerbated further in the event of displacement, loss of income or illness.<sup>27</sup>

55. As has been highlighted by the Special Rapporteur on the rights of indigenous peoples, the adverse effects of climate change are exacerbating the migration and

<sup>24</sup> Submission by the Center for the Human Rights of Children, Loyola University School of Law.

<sup>25</sup> See [www.unicef.org/globalinsight/media/1821/file/Children%20on%20the%20Move:%20Why,%20Where,%20How?%20.pdf](http://www.unicef.org/globalinsight/media/1821/file/Children%20on%20the%20Move:%20Why,%20Where,%20How?%20.pdf).

<sup>26</sup> See [www.unicef.org/globalinsight/media/1821/file/Children%20on%20the%20Move:%20Why,%20Where,%20How?%20.pdf](http://www.unicef.org/globalinsight/media/1821/file/Children%20on%20the%20Move:%20Why,%20Where,%20How?%20.pdf).

<sup>27</sup> See [https://minorityrights.org/wp-content/uploads/2020/08/2019\\_MR\\_Report\\_170x240\\_V7\\_WEB.pdf](https://minorityrights.org/wp-content/uploads/2020/08/2019_MR_Report_170x240_V7_WEB.pdf).

urbanization of indigenous peoples. According to the United Nations Human Settlements Programme (UN-Habitat), indigenous peoples who are forced to migrate as a result of climate change often end up in precarious housing in the poorest urban areas, which are prone to natural disasters and environmental pollution. For example, droughts induced by climate change are forcing Tuareg herders to abandon traditional pastoralism practices and move to cities (see [A/76/202/Rev.1](#)).

56. For many Pacific islanders, as well as First Nations peoples in Australia and New Zealand, the ocean has long been a source of food, livelihoods, spirituality and cultural connection. With limited adaptation avenues available, indigenous peoples may be uprooted from their homes, which may result in the loss of traditional knowledge, the spiritual connection they have with their land, language and culture. Moving temporarily or permanently means sacrificing a part of their identity, potentially resulting in mental health illnesses, as well as other impacts on physical health.

57. The Special Rapporteur on the human rights of migrants particularly notes that indigenous peoples have an important contribution to make to address climate change. Owing to their close relationship with the environment, indigenous peoples are uniquely positioned to adapt to climate change. They are also repositories of learning and knowledge about how to cope successfully with local-level climate change and respond effectively to major environmental changes. Indigenous peoples' traditional knowledge of the environment can substantively enrich scientific knowledge and adaptation activities when taking climate change-related actions ([A/HRC/36/46](#)).

#### **Persons with disabilities**

58. The ability to migrate often depends on resources and mobility, and it is well-known that the most marginalized may be unable to migrate and forced to remain in locations that are subject to climate change harms. Persons with disabilities are at risk of being left behind in a degraded environment without social and support networks when members of their family or community move owing to the adverse effects of climate change. Those persons with disabilities who do move can face challenges related to mobility, the need for assistive devices and accessible transportation, accommodation and services. Many require support systems, including personal assistants, medical equipment and service animals, that are challenging to transport. Discriminatory migration policies constitute another challenge that persons with disabilities face with respect to migrating to other countries ([A/HRC/44/30](#)).

59. Persons with disabilities often face barriers to accessing information and resources, limiting their knowledge about and capacity to adapt to climate change. In addition, evacuation systems and personnel are not prepared in advance to support individuals with different impairments. Temporary shelters and evacuation centres are often inaccessible to persons with physical or visual impairments. Persons with disabilities may also face heightened protection risks, including discrimination, exploitation and violence, in disaster response contexts.<sup>28</sup>

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<sup>28</sup> See [www.unhcr.org/protection/environment/60896a274/disability-displacement-climate-change.html](http://www.unhcr.org/protection/environment/60896a274/disability-displacement-climate-change.html) and submission by the Office of the United Nations High Commissioner for Refugees.

### **Older persons**

60. Older persons, particularly older persons with disabilities and older women, are among those most affected by climate-related harms, such as the increasing spread of vector-borne diseases, heat stress, pollution and the increasing frequency and intensity of sudden- and slow-onset disasters, which can impact their physical and mental health and well-being.

61. In emergencies, older persons with limited mobility may have difficulty reaching safety. Infrastructure and policy may be insufficient to ensure that they are aware of evacuation warnings, orders or services, especially if new technologies are relied on to disseminate such information, and to account for older persons' needs with regard to travel, adequate food, shelter, health care and services. Physical challenges that have only minor effects on day-to-day life may become serious impediments in an emergency, limiting older persons' mobility and adaptive capacity. In such context, some face disproportionate difficulties in returning to their homes and in accessing restitution for damage, both because of physical factors and because of ageist exclusion from humanitarian aid for rebuilding purposes. When older people do move, migration in later life can be particularly traumatic, owing to severed social ties and a lack of facilities, rights and protection in unfamiliar new environments (see [A/HRC/47/46](#)).

62. The Special Rapporteur recognizes that older persons possess vast reserves of knowledge, experience and resilience, making their participation, inclusion and leadership key to human rights-based global efforts to adapt to and mitigate the adverse effects of climate change.

#### **4. Addressing international law protection gaps in the context of climate change-related migration**

63. The Special Rapporteur observes that since the thematic report presented by his predecessor, in 2012, there have been few coherent policies in place regarding the rights of all migrants that take into account the motive behind their migration, including the need for human rights protection of climate change-related migration. At present, beyond the rubric of international refugee law, there seems to be a continuing gap in international law aimed at protecting persons on the move owing to climate change ([A/67/299](#)). It is well known that the impact that climate change has on migratory movement presents challenges for States and the international community. Current international law is able to meet some of these challenges and is lacking in other areas, in particular for many of the individuals who cross borders in the context of climate change.

64. Those who cross borders from areas adversely affected by climate change will do so under myriad circumstances. Some may move in the context of conflict and/or persecution, and thus may be refugees entitled to protection under international and regional refugee law. Others may not qualify for protection under the refugee regime or as stateless persons. Thus, gaps in protection under international law remain. However, these gaps do not imply that international inaction is acceptable; rather, they underline the need for and the importance of international cooperation and assistance. In this regard, States should enhance the flexibility and accessibility of pathways of admission and stay by ensuring that the criteria used are clear, transparent and rights-based and that they respond to the specific needs of migrants, the situations of vulnerability they face and their sociodemographic and economic reality. This includes expanding opportunities for admission and stay based on human rights according to international standards and best practices. Moreover, regardless of the specific procedure in place, human rights grounds and other considerations relevant

to migrants in vulnerable situations should be included in law or regulations as grounds to apply for admission and residence permits through a clear procedure.<sup>29</sup>

65. Some commentators propose to broaden the concept of “refugee” as contained in the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto and to transpose it into national legislation, thereby leading to the development of domestic policies. The Special Rapporteur particularly notes that States such as Canada, Finland and Sweden have taken measures to adopt this broader definition of “refugee” at the domestic level.<sup>30</sup> It should be acknowledged that the concept and requirement of “persecution” in the aforementioned Convention could not, in principle, be extended to all cases of climate change-related migration, as the majority will not be moving as a result of persecution. At the regional level, however, instruments in Africa and in Latin America have expanded the definition of refugees to include persons fleeing “events seriously disturbing public order”<sup>31</sup> or other forms of “generalized violence”<sup>32</sup> which may protect many migrants.

66. The Special Rapporteur welcomes the landmark decision of the Human Rights Committee in the case of *New Zealand v. Ioane Teitiota* (CCPR/C/127/D/2728/2016). The Committee acknowledged the relationship between climate change and human rights, stating that individuals who flee natural disasters and the adverse effects of climate change must not be returned to their country of origin if their human rights would be at risk upon return, specifically life-threatening risks (International Covenant on Civil and Political Rights, art. 6) or a real risk of facing cruel, inhuman or degrading treatment (art. 7). It supports the interpretation of existing protection frameworks, recognizing the applicability of international human rights law in the context of climate change and disaster displacement. Such an interpretation includes – but is not limited to – situations where natural disasters and climate change are intertwined with conflict and violence. The Committee’s decision further established that “environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats ... to life” (CCPR/C/127/D/2728/2016, para. 9.4). The Special Rapporteur therefore recognizes that, by assessing whether a State’s obligation not to forcibly return someone may arise, an interest is created in requiring concrete national, regional and international action to curb the adverse effects of climate change on people’s lives; otherwise, States will have to grant climate refugee protection in the future.

67. The Special Rapporteur emphasizes that international and regional refugee law should not be dismissed automatically in claims by migrants for refugee status. The adverse effects of climate change on migrants should be interpreted within a broader sociopolitical context and it should be considered how such a context can exacerbate pre-existing discrimination, persecution and marginalization, thereby reinforcing claims for refugee status under the 1951 Convention. State and non-State actors should equally conduct some form of “human agency”<sup>33</sup> and determine whether the claimant is facing direct, indirect or systemic discrimination leading to their potential persecution. Furthermore, the decision to grant admission and stay should be based on clear, transparent and human rights-based criteria and not be taken solely at the discretion of the State authority, in order to avoid discrimination and abuses of power. It must be noted that each case should be individually, impartially and independently

<sup>29</sup> See [www.ohchr.org/sites/default/files/2022-01/guidance\\_note\\_migrants\\_in\\_situations\\_of\\_vulnerability\\_2021.pdf](http://www.ohchr.org/sites/default/files/2022-01/guidance_note_migrants_in_situations_of_vulnerability_2021.pdf).

<sup>30</sup> Submission by the Carlos III University of Madrid.

<sup>31</sup> Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, art. 1 (2).

<sup>32</sup> Cartagena Declaration on Refugees, 1984, art. III, para. 3.

<sup>33</sup> See A/HRC/37/CRP.4.

examined by the State on its own merits, regardless of whether the criteria relate to individual or group situations.<sup>34</sup>

68. The Special Rapporteur wishes to highlight that human rights law is central to protection for all persons who move in the context of climate change. States have obligations to ensure human rights throughout the cycle of migration, including important protections for migrants whose rights are directly affected by climate change.

## **5. Climate-change-related migration and the coronavirus disease pandemic**

69. In his report on the Global Compact for Safe, Orderly and Regular Migration (A/76/642), the Secretary-General highlighted several ways in which climate change-related migration and the coronavirus disease (COVID-19) pandemic intersect. In April 2020, the Pacific Islands had to face a new threat, Cyclone Harold, while facing the paralyzing relief and recovery efforts and economic uncertainty caused by the COVID-19 pandemic. International aid workers could not enter Vanuatu because the borders were closed to prevent the spread of the virus. As previously mentioned, sudden-onset weather-related disasters have severe effects on children, including domestic violence, family separation, trauma and overcrowding in evacuation centres, where they are likely to be at increased risk of the spread of the virus. In the longer term, children's well-being will suffer from the economic impact of the COVID-19 pandemic on countries with long traditions of economic migration and intersections with environmental drivers. Furthermore, climate change, economic recession and the COVID-19 pandemic are likely to increase smuggling, trafficking, child labour and early marriage and lead to a diminished role for child protection advocates.

70. The COVID-19 pandemic has reminded us that, whenever human mobility is constrained, migrants in countries of origin, transit and destination may face unemployment, impoverishment, insecurity and exposure to risks, including health hazards (A/76/642). The Special Rapporteur is aware that major current disruptors, including those related to climate change and environmental degradation, health, security and sustainable development, should be addressed through integrated approaches.<sup>35</sup> To be efficient, such approaches should coherently articulate separate but connected dimensions, such as enhanced climate action, including necessary adaptation and mitigation measures, the promotion of green transition measures, public health considerations and the facilitation of safe and dignified migration. Integrated approaches will be key to successfully recovering from the COVID-19 crisis and reducing the potential impacts of future crises.<sup>36</sup>

## **D. Human rights-based approaches to cross-border migration in the context of climate change: towards prevention, protection and assistance**

71. The Special Rapporteur notes some of the measures that have been implemented by States to facilitate the admission and stay of migrants compelled to leave their countries of origin owing to the adverse effects of climate change and environmental degradation, as well as in the context of natural disasters. In the present section, the Special Rapporteur elaborates on and lists practices aimed at promoting prevention,

<sup>34</sup> See [www.ohchr.org/sites/default/files/2022-01/guidance\\_note\\_migrants\\_in\\_situations\\_of\\_vulnerability\\_2021.pdf](http://www.ohchr.org/sites/default/files/2022-01/guidance_note_migrants_in_situations_of_vulnerability_2021.pdf).

<sup>35</sup> See <https://publications.iom.int/books/institutional-strategy-migration-environment-and-climate-change-2021-2030>.

<sup>36</sup> Ibid.

protection and assistance to migrants, as well as discusses the pivotal role of civil and other stakeholders in the above-mentioned contexts.

**1. Promising practices aimed at expanding and facilitating pathways for safe and regular migration in the context of climate change**

72. Under the Global Compact for Safe, Orderly and Regular Migration, regular migration pathways for people affected by environmental drivers are explicitly addressed and several States are taking promising steps to make such pathways a reality. In 2020, the Intergovernmental Authority on Development<sup>37</sup> adopted a protocol on the free movement of persons that includes provisions allowing persons affected by disasters to enter and stay in other countries in the region. In 2021, the United States of America recommended the creation of a legal pathway for humanitarian protection for people facing serious threats to their lives because of climate change (A/76/642, para. 64).

73. In early 2020, the Supreme Court of Cassation of Italy found that the destruction of a claimant's home owing to a flood that hit large parts of Bangladesh in 2012 and again in 2017 could affect the vulnerability of the applicant if accompanied by adequate allegations and evidence relating to the possible violation of primary human rights, which may expose the applicant to the risk of living conditions that do not respect the core of fundamental rights that complement the dignity. In this case, the Court argued that natural disasters can amount to compelling drivers of migration insofar that they are able to exacerbate people's vulnerability and to violate core human rights.<sup>38</sup>

74. The national policy on climate change and disaster-induced displacement of Vanuatu focuses on how existing policy frameworks and actors can integrate mobility arising from climate change and disasters into their existing planning and processes. The policy contains 12 strategic priority areas, including on information and monitoring; safeguards and protections; capacity-building, training and resources; and land, housing, planning and environment. Furthermore, Vanuatu has established a Gender and Protection Cluster within the Ministry of Justice and Community Services, which serves to ensure that the needs of vulnerable groups are addressed during instances of internal displacement.<sup>39</sup>

75. In Switzerland, article 83 of the Federal Act on Foreign Nationals and Integration, to which article 44 of the Federal Act refers, provides that provisional admission may be granted when the execution of a removal order is in fact neither possible nor lawful, as the person concerned is in real danger in situations, such as in case of war, generalized violence or medical necessity, in his or her country of origin or provenance. Nonetheless, the Federal Council has stated its position on the applicability of this regulation to displacement owing to natural disasters and the adverse effects of climate change. It has explained that Switzerland can provisionally admit people whose return is not reasonably required owing to environmental events.<sup>40</sup>

76. In Mexico, the migration legislation provides for the possibility of issuing a visitor's visa for humanitarian reasons to applicants who have Mexican or foreign relatives temporarily or permanently residing in the country. The visa may be requested by their relatives or by any agency of the federal, state or municipal public administration so as to allow the entry of foreigners who are victims of a natural

<sup>37</sup> Member States: Djibouti, Ethiopia, Eritrea, Kenya, Somalia, South Sudan, the Sudan and Uganda.

<sup>38</sup> Submission by Sant'Anna School of Advanced Studies.

<sup>39</sup> Submission by Vanuatu.

<sup>40</sup> Submission by Switzerland.

disaster or whose life or integrity is in danger owing to such a cause. In addition, the holder of such a visa may be granted refugee status following fulfilment of some requirements established in law.<sup>41</sup>

77. In August 2018, the German Advisory Council on Global Change proposed to develop a “climate passport” that would offer those who are at risk of global warming the option to gain access to civil rights in safe countries. The climate passport would allow voluntary and humane migration routes for the population of States whose territory will likely become uninhabitable owing to climate change. In this case, the passport would generally apply to the entire population and would not require a direct application by individual citizens, who therefore would not have to prove to have been directly affected by the disaster.

78. Ecuador provides humanitarian protection to migrant applicants who can demonstrate the existence of exceptional reasons of a humanitarian nature as victims of natural or environmental disasters. The applicant can be granted access to a humanitarian visa for a period of up to two years. Argentina grants humanitarian visas to enter the country and has recognized the right to stay for humanitarian reasons to any persons who, despite not requiring international protection, are temporarily unable to return to their countries of origin by reason of the prevailing humanitarian conditions or owing to the consequences caused by environmental disasters. The residence permit lasts six months, with the possibility of renewal before the date of expiration.

79. Under the law on migration of Brazil (Law No. 13.445 of 2017), the requirements for granting a temporary humanitarian visa are established in article 14 (c), providing that the temporary humanitarian reception visa may be granted to a stateless person or a national of any country in a situation of serious or imminent institutional instability, armed conflict, major disaster, environmental catastrophe or serious violation of human rights or international humanitarian law. Similarly, article 30 (c) of the law provides for the possibility of granting a residence permit for humanitarian reasons.

80. New Zealand has a framework in place for accepting migrants from Pacific Island States and for building capacity locally in the affected areas. Under the New Zealand Pacific Access Category Resident Visa programme, there is a quota for a total of 650 migrants from Fiji, Kiribati, Tonga and Tuvalu to apply for permanent residency in New Zealand every year, while a quota of 1,100 is allocated for Samoan migrants under the Samoan Quota Resident Visa. Australia has prepared a framework for accepting workers, targeted at citizens of Pacific Island States. The Pacific Labour Mobility Scheme, launched in July 2018, serves to enhance capacity across the Pacific region and eliminate labour shortages in Australia by accepting workers from nine countries including Fiji, Kiribati and Nauru.<sup>42</sup>

81. In 2019, Fiji established a trust fund to support the planned relocation of communities affected by climate change. The 2019–2024 strategy on drought-related disasters of the Intergovernmental Authority on Development includes efforts to build resilience and promote migration as an adaptation mechanism. The Coordination Centre for the Prevention of Natural Disasters in Central America used guidelines on disaster displacement as a training tool to support its member countries. Some countries also incorporate migrants and migration into their disaster risk reduction or preparedness frameworks (see [A/76/642](#)).

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<sup>41</sup> Submission by Mexico.

<sup>42</sup> See [www.spf.org/opri-intl/global-data/report/perspectives/20200526071205772.pdf](http://www.spf.org/opri-intl/global-data/report/perspectives/20200526071205772.pdf).

## 2. Engaging with civil society and other stakeholders and affected individuals

82. The Special Rapporteur recognizes the important role of civil society and other relevant stakeholders in bringing to the attention of the international community the issue of climate change-related migration and the crucial role of civil society in assisting Governments to develop effective actions, initiatives and programmes. It must be acknowledged that civil society, non-governmental organizations (NGOs), national human rights institutions, affected individuals and communities, and local leaders are likely to be the first players to take action in climate-related emergencies by supporting affected persons and communities while States' responses begin to be developed and implemented. Furthermore, they hold the advantage of understanding the context and challenges faced by communities affected by climate change, while also engaging in global processes with United Nations entities, the private sector and Governments, among others. Engagement with civil society actors equally facilitates access to timely, reliable data and evidence directly from the ground, enabling States to take a more accurate and targeted response.

83. Nonetheless, civil society organizations and affected communities have played a limited role in the development of policies and strategies related to migration in the context of climate change. While the participation of NGOs, communities and other stakeholders is recognized as being crucial to the implementation of States' initiatives, there is a lack of established frameworks to engage meaningfully with these stakeholders and encourage their active involvement on an ongoing and long-term basis. Effective measures have not been taken to raise awareness, build resilience and capacities and create an enabling environment for community engagement and policy change.<sup>43</sup>

84. The Special Rapporteur wishes to reiterate his predecessor's position with regard to the absence of the voice of migrants themselves. This is owing to the lack of self-awareness and general reluctance of migrants (especially those in vulnerable and irregular situations) to report the human rights violations that they suffer. Supporting the development and sustainability of organizations representing migrants and giving them a voice is pivotal to elaborating inclusive policies aimed at addressing climate change-related migration (see [A/67/299](#)). It is crucial that States focus on climate change mitigation and response, ensuring meaningful participation and collaborating closely with civil society organizations, communities and local leaders working on the front line.

## IV. Conclusions and recommendations

85. **The Special Rapporteur concludes that there is a need for migration with dignity for all migrants, including those affected by climate change, and to address their human rights and protection needs. Such protection needs include water and sanitation, adequate food and housing, access to health care, access to justice, social security, education and decent work. The fundamental principle of non-refoulement and the prohibition of collective expulsion, as well as the rights to liberty, personal integrity and family unity, must also be upheld. States should put into action their commitment to expand and diversify the availability of pathways for safe, orderly and regular migration, as well as to put in place appropriate mechanisms to guarantee that all migrants who require human rights protection and are unable to return to their countries owing to climate change are provided with a legal status.**

<sup>43</sup> See [www.wri.org/our-work/project/world-resources-report/mainstreaming-climate-change-adaptation-need-and-role-civil](http://www.wri.org/our-work/project/world-resources-report/mainstreaming-climate-change-adaptation-need-and-role-civil).

86. The Special Rapporteur particularly emphasizes the need for robust national, regional and international efforts to avoid human rights violations of individuals in the context of climate change. Small island developing States of the Pacific region are at extreme risk of being submerged by rising sea levels. Even before that risk is realized, conditions of life, health and housing in such a region may become incompatible with the right to life with dignity. States have the capacity to reduce adversity and build resilience through inclusive, rights-based mitigation, risk reduction and adaptation, and evidence-based approaches that prevent the negative impacts of climate change on human rights.

87. It is important to note that planned relocation can help to respond to the predicted adverse effects of climate change by moving individuals and communities to safe areas. However, it should be a measure of last resort. States must refrain from, and protect against, forced evictions by ensuring that any relocation of persons is grounded in human rights, including the right to adequate housing. Planned relocation should also involve the meaningful and informed participation of all affected persons, including migrants and receiving communities, and maintain their previous living standards.

88. With reference to national laws and policies for migrants' admission and stay in this context, the Special Rapporteur notes that some laws and policies of indirect relation are in place and could be and are being applied. However, in the absence of explicit recognition of climate change-related challenges and migrants' protection needs in the context of climate change, the latter is not guaranteed. Efforts to identify temporary and permanent protection for persons from countries of origin affected by climate change is still lacking. The Special Rapporteur therefore calls for the implementation of objective 5 of the Global Compact for Safe, Orderly and Regular Migration on the availability and flexibility of pathways for regulation migration, in particular on permanent protection for migrants unable to adapt or return to their countries owing to loss and damage associated with climate change.

89. The Special Rapporteur takes note of some progress on the recognition of internal human mobility challenges as a key step towards addressing the risks of cross-border migration in the context of climate change. Nonetheless, he believes that greater attention could be devoted in national instruments to both the challenges and opportunities associated with climate change-related migration, in full accordance with international human rights law instruments and climate change-related policy frameworks, including the Global Compact for Safe, Orderly and Regular Migration.

90. The Special Rapporteur urges States to ensure access to justice, accountability and access to remedies for human rights harms caused by climate change. If persons crossing borders in response to the adverse effects of climate change fall outside the specific legal category and have no other access to safe, orderly or regular migration, it becomes critical to ensure that their human rights are respected, protected and fulfilled. In this regard, the Special Rapporteur encourages States to develop grounds for stay and admission aimed at providing protection for migrants compelled to move owing to the adverse drivers of climate change.

91. The Special Rapporteur recommends that States:

(a) Ensure that they respect, protect and fulfil, in the design and implementation of climate change-related migration policies, the rights of all migrants, including through awareness-raising and by ensuring access to education and environmental information, and public participation in decision-making of all affected individuals and communities, including women, LGBT

persons, children, indigenous peoples and minorities, older persons, persons with disabilities and other groups;

(b) Build on lessons, guidance and commitments to address the implications of climate change for migration and to foster people's resilience to remain in place with dignity or move as a form of adaptation;

(c) Improve cooperation between the different policy levels – local, national, regional and global – which is essential to ensure protection throughout the entire migration route, considering that migratory movements generally start as internal movements from rural to urban contexts, but may be subject to secondary relocations and cross-border migration. Involving city administrations and regional organizations in international processes concerning migration and development and including them in resource allocation mechanisms is crucial to meet the objective of the enhanced protection and integration of displaced people and migrants;

(d) Ensure that climate action not only reaches climate-vulnerable countries but also reaches people moving in the context of climate change and their host communities, in particular people living in unstable, vulnerable and hard-to-reach areas;

(e) Scale up adaptation financing and support for climate action in countries and host community areas in which migrants settle or to which they hope to safely return following their displacement, by strengthening preparedness and building resilience to climate impacts;

(f) Apply existing human rights and refugee instruments where there may be the need for international protection when cross-border migration occurs in the context of climate change and disasters;

(g) Increase action and support for measures to avert, minimize and address displacement, in particular in the most climate-vulnerable countries and communities, based on their specific needs. In this regard, ensure that human rights are upheld through meaningful and informed voluntary participation in timely relocation schemes;

(h) Address data gaps through the collection of disaggregated data, while upholding the right to privacy and data protection. In addition, invest in the collection, analysis and dissemination of sex-disaggregated data and gender statistics on climate change impacts and migratory movements;

(i) Develop and implement gender-responsive migration policies that protect and promote the human rights of migrant women and gender non-conforming migrants in the context of climate change. Create gender-responsive regular migration pathways related to climate change which allow for both temporary and permanent migration;

(j) Reduce the vulnerability of migrants by promoting regular pathways for migration. These can take the form of visas (humanitarian, work or study), humanitarian corridors established through partnerships with civil society organizations, visa waivers for specific populations, family reunification, regularization mechanisms based on human rights and humanitarian grounds, and temporary protection measures allowing family members to join a relative in a safe country;

(k) Take measures to promote access to essential services and take into account the vulnerable situation and specific needs of migrants in the planning, response and recovery phases of emergency management, in particular those of

**women and girls, LGBT persons, children, indigenous peoples and minorities, persons with disabilities, older persons and other groups;**

**(l) Ensure the participation of civil society, affected individuals and communities, and other stakeholders in international forums, discussions, policymaking and decision-making processes on migration in the context of climate change. Civil society organizations' work must be adequately and reliably funded for this crucial function to be sustainable.**

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