LAW AND CLIMATE REFUGEES IN AFRICA

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The Law can be obsolete,
The Medias may be mute,
The Climate Council may remain timid,
The Political actors may remain insensitive,
But they are here to stay: the climate refugees!

- Around 60,000 climate refugees in 2021 from Cameroon to Chad;
- According to the IPCC, between 74 and 250 million people in Africa will face water shortages by 2050.

We are taking measured steps towards massive displacement of populations in search of Water, or... fleeing from Water;

We are witnessing a frantic pace of peasants in search of arable land or prey to irreparable wars.

Deadly floods, severe droughts, rising sea levels, depletion of natural resources, and dwindling food supplies are just a few of the problems in Africa which are caused or aggravated by global warming. These problems, which are experienced daily, monthly, and annually by the majority of the deprived populations, are at the heart of the various internal and international displacements.

According to the UNHCR's five-year strategic plan 2017–2021, conflicts are not the only factor driving displacement. In addition to serious human rights violations and poor governance, people are "on the move because of extreme poverty, the collapse of traditional means of subsistence in a context of globalization and rapid urbanization, the effects of climate change, natural disasters, and environmental degradation that often exacerbate the struggle for control over scarce resources. These different factors often overlap or intersect with each other."[1]

With the pace at which climate change is worsening, there is no doubt that climate change-induced displacement will increase in Africa and globally.

The climate refugee should be a person with a different status from the political refugee because of the extraterritoriality of climate responsibility. The climate problem puts the industrialized and developed countries under the spotlight – at least in terms of their consciousness – for the price paid by the countries that are now being hit by this ecological crisis. Climate change can be the cause of conflicts leading to displacement, or simply the direct cause of hundreds of displacements.

1 UNHCR, 16 janvier 2017, *Orientations stratégiques du HCR 2017–2021*, p. 7.

THEN, WHAT DOES THE LAW SAY ABOUT THIS SERIOUS ISSUE OF CLIMATE MIGRATION?

The legal framework for climate, be it the UNFCCC, the CBD, or the UNCCD, has not extended to provide protection for persons displaced by climate change. It was only mentioned/included in the 1994 International Convention to Combat Desertification, which very clearly and explicitly mentioned the relationship between environmental damage and the consequences of migration in its preamble and in some articles.[2]

Regarding the 1951 Convention of 28 July 1951 related to the status of Refugees, more commonly known as the 1951 Geneva Convention, the criteria it uses to categorize the migrants are unsuitable for climate-related displacement. When it was drafted, this text did not consider the climate as a cause for as a basis for refugee status recognition. The 1951 Geneva Convention, through its definition, construes persecution as being for the following reasons: race, religion, nationality, association with a social group, or the political opinions of the victim. Furthermore, its applicability does not extend to internal displacement.

The fact that laws are silent about climate refugees at the regional and international level makes one wonder what could be done to support the rising wave of migrants in the face of an increasingly prominent driver of migration. The regional texts do not provide any specific framework for this category of migrants, either. And the question remains as to how legal assistance can continue to be delayed in such a way as we face a multitude of current and future climate refugees?

To fill this gap from a legal perspective, Stéphanie Njiomo invites us to take part in the debates and discussions surrounding the Global Compact for the Environment to include recommendations pertaining to the protection of individuals who are directly affected by climate change. Her involvement on the ground in Ci4Ca's activities also shows us small-scale practices that have a great human impact. https://www.linkedin.com/feed/update/urn:li:activity:7051095834846744576/

She also proposes to rethink the trade union movement to find a way to protect both workers and their environment. https://library.fes.de/pdf-files/bueros/kamerun/19687.pdf

2 The author refers to articles 2 and 5 to 8, which specify the actions to be taken to mitigate the effects of desertification such as drought and the resulting exoduses; Cournil C., "A la recherche d'une protection pour les "réfugiés environnementaux": actions, obstacles, enjeux et protections", Revue Alyson(s), N°6, novembre 2008, Exodes écologiques.