

Publicado en Actualidad Jurídica Ambiental el 8 de mayo de 2017

“CLIMATE REFUGEES”

“LOS REFUGIADOS CLIMÁTICOS”

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Fecha de recepción: 16/ 04/ 2017

Fecha de aceptación: 18/ 04/2017

Index of contents:

1. Who Are They?
2. Why They Are Not Political Refugees?
3. How Could They Be Regulated?
4. What Should Be Their Essential Rights?

Índice de contenidos:

1. ¿Quiénes son?
2. ¿Por qué no son refugiados políticos?
3. ¿Cómo se podrían regular?
4. ¿Cuáles han de ser sus derechos esenciales?

1. WHO ARE THEY?

The denomination of individuals affected by ecological migrations has often changed since the problem was first identified in 1985. In consideration of the subjective component, they are referred to as refugees, displaced persons or emigrants; in consideration of the reason that triggers their displacement, they are named environmental, ecological or climatic. The nine variants which result from the combination of these two sets of words conform the standard terminology in the matter. In particular, the use of the term ‘refugees’ seems to claim a correspondence with that of ‘political refugees’, and the adjective

'climatic' seems to impose a financial responsibility on the developed economies.

The scope of ecological migrations is yet an open issue. The IPCC initially considered it to be a matter of "*dozens of millions*" of environmental refugees (1990), though later it has said that numerical estimations are mere "*guessworks*" (2007). This does not mean that the phenomenon is of a small magnitude or can be ignored. We know that there are climatic migrations, though we cannot separate them net from migrations for economic or social reasons.

2. WHY THEY ARE NOT POLITICAL REFUGEES?

In the field of International Humanitarian Law, the application of the *Geneva Convention on Political Refugees* (1951) has been traditionally discarded as a mean to solve the problem. This is because victims of ecological catastrophes are usually either displaced within national borders or cross-border displaced who want to return to their home land. In either case, they do not seem to face a risk of being chased by their homeland authorities, nor do they have an objective characteristic which could lead to discrimination for race, religion, political opinion, belonging to a social group or a similar circumstance. Conversely, political refugees are characterized by having left their State of origin with no possibility of return, since they lost that State's protection due to an objectively discriminatory circumstance.

In view of such differences, it is considered inappropriate to apply the statute of political refugees to climatic refugees. It is also argued that an extension of such statute could weaken as it would have to be applied to a much broader set of cases.

3. HOW COULD THEY BE REGULATED?

The main project of a convention on an international statute for environmental displaced persons was developed in the French *University of Limoges* in 2008, with the following guidelines: (a) its *aim* is to guarantee the rights of environmental displaced persons, organizing their reception and eventual return to their homeland; (b) the *definition* of environmental displaced person refers to every individual who is forced to change his or her place of habitual residence within the same State or to move to another State, due to a radical or gradual change of the environmental conditions; (c) its *inspiring principles* are those of solidarity, common but shared responsibilities, effective

protection and not discrimination; (d) the *rights* guaranteed are the rights to information, participation, free movement, assistance, water, personality, work, education, cultural identity, nationality, as well as the civil and political rights; (e) in order to be a beneficiary of the convention, the *procedure* to follow consists of an individual recognition by a national commission with the possibility of an appeal before a High International Authority; and (f) in terms of *organization and financing*, it is foreseen to create a World Agency for the Environmental Displaced Persons and a Fund with the same aim.

4. WHAT SHOULD BE THEIR ESSENTIAL RIGHTS?

The role of the humanitarian action should be defended regardless of the origin of the concrete catastrophic situation, which can be due to either internal or cross-border factors.

As regards displacements within a State, it is essential to make the international action possible, as it is done in the *UN Deng Principles* (1998). The right of international humanitarian organizations to offer their services in support of internal displaced persons should be recognized, and to that end it is needed that national authorities grant and facilitate free access to humanitarian assistance.

As regards international displacements caused by irresistible events of force majeure, it should not be possible to claim either national borders or State sovereignties. The *right to transnational ecological migration* should be recognized as an essential content of the human right to free movement. Allowing displacements of individuals in order to preserve their own life and integrity in response to a catastrophe, crossing borders if necessary, while preserving their rights inherent to the human dignity in the State of destination, is arguably the most elementary of the requirements that should be guaranteed by international humanitarian action.¹

¹To learn more: Cuadernos Manuel Giménez Abad, n° 6 (2017), http://www.fundacionmgimenezabad.es/images/Documentos/Cuadernos/monografia_6_abril2017.pdf