

# Environmental Migrants and Canada's Refugee Policy

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## Abstract

*Canada is among the world's foremost refugee resettlement countries and is signatory to international agreements that affirm its commitment to the protection of refugee rights. Asylum seekers come to Canada from around the globe. But as climate change continues to affect growing regions of the world—threatening to create as many as 200 million environmental migrants by the year 2050—Canada has not yet begun to address the issue of climate change migration. In an era defined by a neo-liberal approach to migration issues, and until international actors determine the status of environmental migrants, Canada's policy response to the looming crisis may be conjectured from an historical review of its refugee policy. This provides an understanding of the various factors, both domestic and international, that may have the greatest influence on Canada's future refugee policy.*

## Résumé

*Le Canada est aux premières loges dans le domaine de la réinstallation des réfugiés et est signataire de conventions internationales qui confirment son engagement envers la protection des droits des réfugiés. Des demandeurs d'asile viennent au Canada de partout dans le monde. Mais alors que le changement climatique continue d'affecter les régions viticoles du monde, menaçant de créer non moins de 200 millions de migrants climatiques d'ici l'an 2050, le Canada n'a pas encore commencé à aborder la question des migrations dues aux changements climatiques. Dans une époque caractérisée par une approche néolibérale envers la question de la migration, et jusqu'à ce que le statut des migrants climatiques soit déterminé par les acteurs internationaux, on peut deviner la réponse politique canadienne à la crise*

*imminente à partir d'un examen historique de sa politique envers les réfugiés. Cette approche éclaire les différents facteurs, tant internes qu'internationaux, qui peuvent avoir le plus d'influence sur l'avenir de la politique canadienne envers les réfugiés.*

Nature may be viewed parochially from the perspective of the nation-state's territory and the ability of the ecology to support the existing population. Nature may also be viewed globally from the perspective of world ecology and the right of all individuals, including future generations to have access to the essentials of life. In either case, the pre-eminent value in determining justice claims is the preservation of an ecological balance. The goal sought is survival.<sup>1</sup>

When Canadian philosopher Howard Adelman wrote the above in 1992 he was asking what rights and justice principles should be considered for those who "have fled in order to survive."<sup>2</sup> In 2011, migration forced by climate change represents an evolving humanitarian crisis where survival is paramount, yet the nations of the world have so far failed to agree on establishing formal protections for environmental migrants. In countries where climate change has already triggered environmental migrations the situation is escalating and urgent. For example, in Bangladesh the sea comes ever closer for the roughly 75 million people who live less than twelve metres above sea level. Environmental migrants typically make their way to urban centres and Bangladesh is no exception. Its capital, Dhaka, is already full up. By the middle of this century as many as 25 million Bangladeshis are at risk of displacement because of climate change. Migration within the country could stress the social, economic, and political structures to such a degree that regional security would be compromised.<sup>3</sup>

In 2009 Bangladesh's finance minister asked the world's industrialized countries to take millions of climate

refugees. His plea was supported by the chairman of the Intergovernmental Panel on Climate Change (IPCC), who said that the developed world will need to take “legislative action” in order to process and settle up to 40 million people.<sup>4</sup>

When veteran Canadian Liberal MP Maria Mina visited Bangladesh in 2010 she was asked whether Canada would accept “Bangladeshi climate refugees.” Mina told reporters, “It’s not impossible. And of course Canada would look out a new policy that would address the crisis of climate change and obviously Bangladesh will be included there.”<sup>5</sup> While Minna’s public remarks are not Liberal Party policy, they are indicative of increasing international pressure to respond to environmental migrants.

By the year 2050 the world could have as many as 200 million environmental migrants whose forced displacement from their homelands would be definitively linked to climate change.<sup>6</sup> If these projections are to be believed, Canada will become a manifestly desirable destination for a large diversity of people from around the globe.<sup>7</sup> Although most climate migration will be within state borders or shared among neighbouring states, those with financial and social capacity will follow established migration routes to traditional refugee receiving countries or forge new ones.<sup>8</sup>

Despite the “outward manifestation of profound deprivation and despair”<sup>9</sup> that populations displaced as a result of persistent ecological change represent, the international community has failed to deliver any adequate response to their needs. In the meantime, industrialized and emerging states continue to build regional networks of security between themselves and the asylum seekers who make increasingly risky journeys between their countries of origin and their destinations. For example, India is building an eight-foot high, 2,500-mile long, barbed wire fence between itself and Bangladesh.<sup>10</sup>

There is a profound lack of capacity in the developing world to deal with the social, economic, and political problems associated with climate change and forced migrations. Developing states are demanding more funding for climate adaptation and mitigation strategies as well as aid for hosting regional migrant populations.

While the international community negotiates these issues, including the continuing debate on the status of environmental migrants, Canada’s political parties have neither begun their own deliberations nor attempted to engage Canadians in any discussion. At its annual conference in August 2008 the Institute of Public Administration of Canada (IPAC) made the following spare recommendation: “The Canadian government should collaborate [with regional and international actors] on developing a policy to deal with anticipated ‘climate change refugees.’”<sup>11</sup> This

paper moves beyond IPAC’s recommendation and asks: Given the absence of any formal law, regulation, government statement, or policy that directly articulates a position on environmental migrants, do any international or domestic factors have the potential to produce either a formal or ad hoc change in Canadian refugee policy that recognizes any special status for people whose migration and permanent displacement is directly linked to climate change?

### **Method**

My study endeavours to evaluate factors that may influence Canada’s future response to an emerging issue. At the same time, it is directly informed by Canada’s past response to refugees, changes in national political and public discourse, and/or concrete changes in refugee policy. Therefore I conceptualize and hypothesize based on learning from Canada’s actions in response to past events. My observations emerge from both scholarly and grey documents as well as media reports. I explore five factors that could lead to the inclusion of environmental migrants in the political and public discussion of refugee policy and produce specific policy on environmental migrants: (1) an international agreement on the status of environmental migrants; (2) international moral pressure led by the United Nations High Commissioner on Refugees (UNHCR); (3) the influence of Australia’s historical record of immigration and refugee acceptance on Canadian policy; (4) strong domestic pressure; and (5) a rejection of the emerging conflation between humanitarianism and national security.

I begin this study with an assessment of the evolving debate on the status of environmental refugees. An historical account of Canadian refugee policy and its relationship to Australian refugee policy and influence on both countries from the UNHCR follows. I then look at the current discourse that informs humanitarian practices and frames the current era. Finally I assess the level of awareness in Canada of environmental refugees and compare this to the awareness abroad—particularly in Australia, the UN and international agencies, and the EU. Specifically, this paper provides a context with which to assess the influence of the UNHCR on the evolution of Canadian refugee policy. A discussion of Australia is included since it provides a valuable context with which to forecast the progression of Canada’s future policy.

The policy of a national government can be influenced by domestic factors, but also by its relationship with other states and international organizations. For example, in her study of how national interests are learned from international actors, Martha Finnemore notes, “[T]he definition of the ‘problem’ and the strategies for solving it came from international organizations and the individuals who created

and ran them.”<sup>12</sup> This parallels the work of other scholars in the area of policy convergence and diffusion who note that international imposition, as well as emulation, are often important drivers of domestic policy actions.<sup>13</sup> This paper reflects on the experiences and influence on Canada of the UNHCR, the world's principal international refugee organization.

The influence of international norms on domestic policy, however, is not unidirectional, and international organizations are also vulnerable to domestic pressures for change as promoted by their members. In recent decades, the UNHCR has adjusted its emphasis from protection to repatriation. Member states have used earmarked funding<sup>14</sup> to steer the UNHCR's mandate.

Canada's refugee response has also been informed by, and has informed, Australia's refugee regime. Rebecca Hamlin finds that “[both] nations tend to oscillate between moments of crisis and calm in extremely reactive fashion, never able to anticipate potential pitfalls until they are occurring.”<sup>15</sup> These two states are similar in their post-colonial relationships, their patterns of settlement, and the evolution of immigration policies that initially excluded non-Europeans but went on to foster multicultural policies.

Constructivists theorize that states are embedded in transnational and international social relations that shape their role in the world. They are socialized to want certain things, and power and wealth are means, not ends. Internationally held or communicated norms also influence citizens, who, in turn, influence states.<sup>16</sup> Likewise, policy diffusion occurs when national policy makers voluntarily adopt policy models that are communicated internationally.<sup>17</sup> For example, the diffusion of international norms promoted by the UNHCR in Canada and Australia was an important reason for both countries dropping immigration and refugee policies that discriminated on the basis of race. If Australia and Canada were to take their place among the leading developed nations and become participants in the international regime of refugee protection, they needed to be seen to subscribe to the new ideologies that were grounded in human rights and celebrated the spirit of decolonization.

Both countries have since contracted to a number of similar international and supranational agreements. But domestic events also influence policy makers. In my study I will show how comparable refugee events in a domestic setting of both Australia and Canada tend to have similar policy outcomes. In recent years, domestic state interests have also influenced the UNHCR which in turn has set new international norms. Hence, the influence of international norms on domestic policy is not unidirectional, and international organizations are also vulnerable to domestic pressures for change as promoted by their members.

### ***Climate Change and Its Relationship to Migration***

Any Canadian refugee policy that recognizes environmental migrants will have acknowledged the direct link between climate change and migration. International obligations would form around the responsibility of the industrialized world—which has benefited from carbon emissions—to the developing world, which is least able to adapt to new climate environments. Much of the prevailing political reluctance is justified using the work of scholars such as Richard Black who say that no pristine cause of migration can be identified.

Even if the world manages to slow climate change to arguably manageable levels<sup>18</sup> by reductions in greenhouse gas emissions or through geoengineering,<sup>19</sup> there will continue to be those who are displaced or who have their daily access to sustenance threatened by climate change. Emissions that exist in the atmosphere today can persist for decades and will continue to affect the global climate. According to the UNHCR, “Nine out of every ten natural disasters today are climate-related [and] ... as many as 20 million people may have been displaced by climate-induced sudden-onset natural disasters in 2008 alone.”<sup>20</sup>

In May 2009, a United Nations University report made several fundamental observations that are supported by a variety of studies worldwide: It found that migration due to climate change is already under way, and that climate change can cause the “collapse of social safety nets,” which in turn fuels conflict and violence. It also observed that people who migrate because of “gradually deteriorating living conditions” are regarded as economic migrants, and as such have no recourse to any of the international instruments that differentially protect the rights of internally displaced people, asylum seekers, and refugees.<sup>21</sup> In addition, migrant populations place enormous strain on the environments in which they settle. This in turn can accelerate degradation already precipitated by climate change.

Although all the nations of the globe will experience climate change effects, states most affected by rising sea levels will be Bangladesh, Egypt, China, India, and, to a lesser degree, Indonesia, Thailand, Pakistan, Mozambique, Gambia, Senegal, and Suriname. Certain island states in the Pacific and Indian oceans face the prospect of elimination. Storms will force permanent displacement within the Caribbean. Drought will affect northern Mexico and parts of South America including some of its cities. Water scarcity and drought will also afflict parts of Africa, tropical Asia, southern Europe, Australia, the U, and southern Canada. Although most climate migration will be contained within state borders or among neighbouring states, forecasts anticipate environmental migrant flows from sub-Saharan Africa to Europe and the Middle East.<sup>22</sup> Migrations to the United

States are expected to come from Mexico, Central America, and the Caribbean.<sup>23</sup>

While terms such as “climate refugee” and “environmental refugee” appear throughout this paper, Koko Warner et al. offer the following definition, which is also used by the International Organization for Migration (IOM). There are no international norms or obligations attached to this definition.

Environmental migrants are persons or groups of persons who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad.<sup>24</sup>

Scholars have been struggling to find a definitive term to express the plight of people who are forced to migrate from their home territories due to environmental degradation since the mid-1980s.<sup>25</sup> Most climate scholars claim that there is indisputable evidence of a direct link between climate change and human migration.<sup>26</sup> Richard Black, however, argues that despite the large number of climate refugee typologies used it is not possible to separate climate causes of migration from causes such as poverty, overpopulation, political instability, land disputes, or a multitude of other factors that have historically caused people to migrate. He argues that scholars who recognize climate refugees do so based on lack of concrete evidence to support their methodology. According to Black, “despite the breadth of examples provided in the literature, the strength of the academic case put forward is often depressingly weak.”<sup>27</sup> Black’s findings, however, de-emphasize the climate change science that shows direct links between global warming, rising sea levels, desertification, and environmental conflict that cause human migration. Black places the term “environmental refugees” in quotation marks, implying a lack of veracity.

Current protections for refugees exist under the restrictive terms of the 1951 United Nations Convention relating to the Status of Refugees. (The 1967 Protocol expanded the Convention to include refugee events that occurred outside of Europe and after 1951.) Those who meet the terms of the definition trigger an international agreement on the part of signatory states to guarantee their protection. It also obliges those states not to return Convention refugees to their country of origin—the principle of *non-refoulement*. A Convention refugee is:

[A]ny person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his

origin and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or ... owing to such fear, is unwilling to return to it.<sup>28</sup>

While some scholars<sup>29</sup> argue that the Convention could be interpreted to include environmental refugees as a “social group,” or that “government-induced environmental degradation” is a form of persecution,<sup>30</sup> there appears to be growing scholarly agreement that an expansion of the Convention definition not only might overwhelm the mandate of the UNHCR but also would undermine the protections currently offered to Convention refugees.<sup>31</sup> The United Nations 2009 annual report advises that the UNHCR and the IOM would not expand the Convention and that the term “refugee” should be avoided in relation to environmental migrants.<sup>32</sup>

In his examination of findings from both Black’s and Myers’s studies, Castles<sup>33</sup> agrees that environmental refugees are created by a multitude of causalities where environmental factors such as rising water levels and floods, persistent and severe drought, growing numbers of extreme weather events, desertification, and so on may be linked to social, political, and economic factors such as poverty, ineffectual governance, development projects, poor agricultural techniques, civil war, and struggle over the control of land resources.<sup>34</sup> As a result, the challenge of identifying a pristine “well founded fear of persecution” as required by the Convention becomes very difficult, and mixed migrations forced by the consequences of climate change often continue to be counted largely as economic migrations.

The political reluctance to resolve the definition debate is characterized by the absence of discourse on environmental refugees at the highest levels of the United Nations. A study by Karen McNamara<sup>35</sup> suggests that the work of scholars such as Black, whose critiques emphasize multi-causalities and challenge the term “environmental refugees,” have allowed political actors and others to exclude the environmental from refugee research and policy. Her examination of the discourse of policy making used by UN ambassadors and senior diplomats revealed a growing trend toward unilateralism among the most powerful nations whose focus is currently on issues of national security. Increasing xenophobia among the public in their home states tends to support this thinking.<sup>36</sup> As long as the ambiguity of multi-causalities holds credence, Canada may choose to prioritize security rather than develop any rights-based policy on environmental migrants.

Any resolution of this debate is likely to be steered by the UNHCR, which has established itself as both an expert and moral authority on refugee flows by systematically extending its jurisdiction. Over time, and despite a general

lag in support for the reinterpretation and expansion of the UNHCR's mandate by its member states, the UNHCR has achieved many of its ambitious objectives.<sup>37</sup> This has been accomplished through a process of diffusion by which member states eventually came to agree with, and to support, the objectives of the UNHCR—ultimately incorporating them into their own domestic policies. Thus the humanitarian motivations, objectives, and actions of the UNHCR eventually became normalized in both the national and international discourse. Once any one of these is accepted and articulated by one state, other states may follow, led by the pressure of discourse in their own states or from other state actors in the international arena.

In 2010 it seems probable that environmental migrants may eventually be protected through an extension of the UN regulations governing Internally Displaced Persons (IDPs). This provides protections but is not legally binding on any party. It is categorized as soft-law. Indeed, soft-law is considered by many to be inadequate to the task of protecting as many as 23 million IDPs, and as such is considered an inappropriate model for climate refugees.<sup>38</sup>

### ***The UNHCR and Its Influence on Canadian and Australian Refugee Policies: Historic and Comparative Perspective***

The UNHCR was created to provide legal determinants for the passage of refugees with an emphasis on protection and resettlement. By the 1980s it had begun to emphasize repatriation and now prioritizes repatriation and human security. Some charge that this emphasis comes at the expense of refugee protection and the right to asylum.<sup>39</sup> Canada and Australia have had a fluctuating relationship with the UNHCR and its predecessors. Key events demonstrate meaningful periods of convergence or divergence of policy among Canada, Australia, and the UNHCR and provide context for the evolution of Canadian refugee determination. What then has been the history of change to Canadian refugee policy and does it offer any guidance on factors that might drive change that would recognize environmental refugees?

The UNHCR is the most influential international agency on refugee matters. While the world waits for its guidance on the status of environmental migrants, it is useful to look at the ways in which Canada and Australia have accepted, or rejected, its guidance in the past. Established in 1950, the UNHCR was never intended to be an operational agency concerned with material matters such as supplies of food and shelter.<sup>40</sup> Its first job was to establish a legal framework for the protection of refugees, which it accomplished with the 1951 Geneva Convention on the Status of Refugees. The strict terms of the Convention referred only to European

refugees whose displacement could be traced to events occurring before 1951. Western European nations recognized the value of an ostensibly non-partisan agency that could represent their interests and expedite the settlement of masses of displaced persons.<sup>41</sup> As the industrialized nations aligned in opposition to the Communist East, the UNHCR's resettlement of refugees from East to West lent legitimacy to the ideologies of the liberal democracies.<sup>42</sup>

In spite of resistance from developed states which were not inclined to support action on behalf of non-Europeans, the UNHCR began a process by which it would become the expert authority on refugees from anywhere in the world. "Ambitious high commissioners seized on various crises and global developments to campaign for a broader mandate."<sup>43</sup> In time, the UNHCR became the moral authority on refugees and refugee rights.

The successes of the UNHCR provided a model of engagement with refugees from which Canada and Australia drew norms and policy. Their involvement with the UNHCR developed in stages. Initially reluctant, they eventually took pride in adopting the UNHCR's humanitarian principles with regard to refugees. Canada's and Australia's participation in the international structure lent legitimacy to their newly emerged modern industrial democracies.

Canada's evident ability to shift policy positions suggests that future policy that might address environmental migrants is possible.

Canada signed both the Convention and the Protocol in 1969, during a period of prosperity and economic growth. Like Australia, its traditional sources of immigration had dwindled, and an immediate need for labour prompted it to explore new immigrant resources. Prior to 1967, Canada's immigration policy formally discriminated against non-white migrants.<sup>44</sup> Australia acceded to the Convention in 1954, but it did not sign the 1967 Protocol until 1973. Up until then it had maintained a "White Australia Policy," established in 1901, which restricted non-white immigration. Hamlin suggests that had the countries been able to envisage today's refugee challenges, they might not have signed at all. The Convention committed both states to the *non-refoulement* of Convention refugees. "In most circumstances, this commitment means that refugees acquire indirectly a right to remain in the state where they have claimed refugee status."<sup>45</sup>

Refugee flows in the decades before the Second World War demonstrate that the successive small groups of bureaucrats who were responsible for Canada's ad hoc immigration and refugee policy held to their principal task—keeping racialized non-Europeans out. They established legislation that demanded all asylum seekers to Canada should come in a continuous journey from source to destination. The

continuous journey requirement was designed “to deter immigrants from Asia and other alien parts of the world”<sup>46</sup> and foreshadowed the Safe Third Country agreement that would come into force some nine decades later. It was used effectively against all newcomers, refugees as well as would-be immigrants.

In 1938 Canada participated in the Evian Conference on Refugees,<sup>47</sup> convened by the US to discuss the growing plight of Jewish refugees fleeing the widening Nazi regime. Canada argued against the creation of any international body that would be responsible for refugees and was adamantly opposed to the imposition of refugee quotas for receiving countries. Australia’s position was much like Canada’s. Its representative told the conference, “we have no racial problem [and] we are not desirous of importing one by encouraging any scheme of large-scale foreign migration.”<sup>48</sup>

In 1947 Canada finally accepted displaced persons (DPs) who did not have relatives in Canada. Returning war veterans brought back to Canada a new respect for the ethnic soldiers who had fought alongside them, as well as revulsion at the atrocities that had occurred in Europe based on notions of racial superiority. This, combined with new pressure from domestic ethnic communities who had made their own contribution to the war, meant that the Canadian public was now more tolerant of a multi-ethnic society.<sup>49</sup> Despite this, refugees remained subject to criteria that were in Canada’s self-interest. The Canadian Department of Labour’s involvement in the selection process highlighted the priority of a refugee claimant’s economic potential and social suitability. Communists and Jews were still routinely rejected. “An external affairs representative said that Canada ‘selected refugees ‘like good beef cattle.’”<sup>50</sup>

In 1948 both Canada and Australia began to change their refugee regimes. British immigration to both countries had dwindled and it suited them to relax their restrictive policies and adopt a more generous stance framed by the new post-war environment. In part, this was a response to international pressure exercised by Britain, the United Nations, and the United States. But, as well, an unanticipated post-war boom meant a great need for more people, and the first decade after the war saw massive immigration to Canada of 1.25 million people, many from new source countries. That number included 100,000 displaced persons: “A new, more generous, more humanitarian policy towards refugees had captured Ottawa.”<sup>51</sup> Australia competed with Canada and other New World countries for a hierarchy of desirable, white, European DPs. By 1953 it had resettled 180,000 refugees.<sup>52</sup>

In 2011, an increasing number and diversity of immigrants from new source countries live in Canada. Over time,

they may begin to influence government policy on environmental migrants since many come from countries already affected by climate change, such as Bangladesh.

The UNHCR shaped an era for refugees in which modern, industrialized democracies needed and desired to be construed as humanitarian. In response to a series of refugee producing events that were outside of the original strictures of the Convention, the UNHCR expanded its reach and its mandate. It established itself as an operational agency by providing material assistance to 200,000 Hungarian refugees who were readily accepted by both Australia and Canada. Both countries quickly appreciated that the Hungarians, who were white, healthy, and educated, would contribute to their economies.

Now the UNHCR began to receive requests for help from outside Europe. It developed a Good Offices formula that provided “legal and political justification” for initiating assistance and raising funds for refugee flows outside of its mandate.<sup>53</sup> By 1965 the UNHCR had abandoned the distinction between Good Offices and Statutory refugees and endeavoured to protect all refugees. If Australia and Canada were to take their place among the leading developed nations and become participants in the international regime of refugee protection, they needed to be seen to subscribe to the new ideologies that were grounded in human rights.

Canada dropped its explicitly racist immigration policy in 1969, under the “Just Society” government of Liberal prime minister Pierre Trudeau. Despite the absence of a formal domestic refugee policy Canada was one of the first countries to respond to requests from Britain to accept Ugandan Asians and took 6,000 people. According to Irving Abella, these were the “cream of the crop” who most closely met immigration criteria.<sup>54</sup> Australia was less forthcoming, and even though its White Australia policy was drawing to a close, it only issued about 200 visas. It did, however, make an additional contribution to the UNHCR to help resettle the Asians.<sup>55</sup> But Canada had now established a precedent that would allow it to respond to international calls for help in the case of specifically identified environmental migrants.

Canada was now providing lessons for Australia’s policy makers to draw on. By 1973, Australia’s White Australia policy was considered a “dangerous anachronism,” and following much public and political pressure the government made discrimination based on race illegal.<sup>56</sup> Australia signed the 1967 Protocol, the UNHCR document that removed formal Convention limitations to non-Europeans, and following Canada’s lead, began to move toward a multi-cultural policy.<sup>57</sup> The signing of the 1967 Protocol seems to have come at a pivotal moment for both countries and signaled change to the world. Under the Trudeau government,

Canada signed the Protocol in 1969 and Multiculturalism was implemented as policy in 1971.<sup>58</sup>

Canada affirmed its commitment to refugees in the 1976 Immigration Act, recognizing their need for distinct, humanitarian consideration, and moving beyond the Convention definition to include “displaced and persecuted” people who could be processed as part of a “designated class.” Five years later Australia expanded its view of eligible refugees in its Global Special Humanitarian Program, which allowed it to accept “people who hold a fear of gross discrimination amounting to substantial violation of their human rights but not persecution.”<sup>59</sup> These two policy changes meant that both Canada and Australia could act outside the constraints of the Convention to bring in additional people whose fundamental human rights were compromised. Although not intended to address rights such as adequate food and clean water, now, both states had established the sort of policy that, in 2011, would potentially allow them to accept environmental migrants.

### ***From Boat People to Boat Invasions***

The sympathy of the developed nations for refugees fleeing communism was highlighted in the response to the needs of the Vietnamese boat people beginning in 1978. Public sentiment in both Australia and Canada encouraged their governments to generous action. In Canada, refugees arrived through the mechanisms of private sponsorship established by the 1976 Act. Eventually, including the additional numbers who arrived through family reunification programs, each country accepted about 137,000 people.<sup>60</sup>

While the Vietnamese remain perhaps the foremost contemporary success story of the absorption of non-European refugees into Canadian and Australian societies, they marked the end of an era for the UNHCR.<sup>61</sup> The refusal of neighbouring Southeast Asian states to give the Vietnamese refuge was exemplary of a growing discomfort in the developing world. Developing nations that struggled with the political implications of absorbing their neighbours' displaced populations, as well as the environmental and social pressures of refugee movements, made increasing conditional demands on the UNHCR, NGOs, and developed states to support them in their efforts to provide refuge.<sup>62</sup>

Two concepts left behind from the Indochinese experience—international burden-sharing and temporary asylum—proved a mixed legacy, both capable of being applied either to great humanitarian advantage or as an easy excuse to shift the responsibility and avoid the blame.<sup>63</sup>

Developed states no longer saw resettlement as a durable solution. Donations to the UNHCR, on which it depended,

were not keeping pace with its spiralling costs. In the 1980s the UNHCR began to de-emphasize protection and to address the root causes of flight and the potential for repatriation.<sup>64</sup> Over the next few years budgetary problems led to cuts to the UNHCR's staff by 15 per cent and its programs by 25 per cent. According to Barnett and Finnemore, “[W]hile in the 1970s UNHCR seemed able to confront and work with governments simultaneously, during the 1980s its relationship became more adversarial and it worried that it was angering the very states on whom it was dependent to sustain its activities.”<sup>65</sup> The doors were closing.

By the mid-1980s, the number of asylum seekers seeking refuge in the West had skyrocketed.<sup>66</sup> The increased financial cost of refugee flows overseas was reflected in increased requests from the UNHCR to donor nations for more help. As well, the already high cost of processing domestic asylum applications was climbing: “Jet age refugees were no longer confined to their region of origin and now travelled directly to Western countries by air transport ... The asylum crisis put Western governments into direct conflict with the UNHCR.”<sup>67</sup>

A degree of Canada's international reputation relates to the influence of the 1982 Charter of Rights and Freedoms. It established a measure of justice that was extended to refugees in the Singh decision and won Canada international commendations. (Its provisions would give environmental migrants the right to a refugee hearing in Canada. But without any defined status, they would likely be removed.) The Singh decision increased Canada's reputation as an asylum destination and Canadians quickly became concerned that too many potential asylum seekers viewed entry to Canada as easy. Those concerns eventually coalesced in a vigorous antipathy toward new boat arrivals. Fears about “opening the floodgates” dominated the discourse. Boat arrivals from Sri Lanka and India in the 1980s led to “tumultuous and acrimonious political and public debates.”<sup>68</sup>

Policy and legislation were designed to deal with asylum seekers who it was feared were drawn by the perceived welcome that Canada had conveyed to all asylum seekers with its perceived amnesty in 1986.<sup>69</sup> Bill C-55, which established the Immigration Review Board in 1988, also made provisions for Safe Third Country<sup>70</sup> legislation whereby asylum seekers would be returned to the country through which they had travelled on their journey to asylum, so long as that country was signatory to international laws of protection. It would not, however, be implemented until 2004. This legislation would allow Canada to effectively avoid internal or external pressure to extend protections to environmental migrants since they would be unable to claim asylum in Canada.

Canada began to impose visa restrictions on source countries. Refugee claimants travelling from the US were barred from entry pending a hearing date. By 1989, under the Conservative government of Prime Minister Brian Mulroney, Bill C-84 allowed for the detention of asylum seekers until they had been proved credible by the authorities. Asylum seekers were now subject to immediate deportation (with judicial approval) and to increased search and seizure provisions. In 1992, subsequent legislation, Bill C-86, provided carrier sanctions, limits on rejected asylum seekers' right to appeal, fingerprinting, and rigorous entry interviews.<sup>71</sup> In the same period, Australia responded to boatloads of Cambodians with legislation that, in 1992, led to mandatory detention and deportations for arrivals without visas.<sup>72</sup>

Significant penalties were provided for people smugglers who had become an identified enemy delivering an illegal means of entry for those who would take advantage of generous legal protections and exploit domestic social welfare benefits. Janet Dench and Francois Crépeau argue that past refugees who used smugglers to escape oppressive and violent regimes such as Nazi Germany would be effectively kept out in today's environment.<sup>73</sup>

In 2001, Australia established draconian legislation that came to be known as the Pacific Solution, which virtually stopped asylum seekers from reaching its shores. Among its exclusionary tactics was the excision of outlying territories from its migration zone, thus eliding the obligations attached to hearing refugee claims on Australian soil.<sup>74</sup> The UNHCR played a supporting role in the Pacific Solution. With the IOM, it processed asylum seekers to Australia in third countries such as Nauru and Papua New Guinea. "States increasingly view refugee rights and non-refoulement as inconvenient obstacles when they have decided that it is time for refugees to go home."<sup>75</sup> Scott Watson argues that Australia's refugee humanitarianism is now characterized by "refugee resettlement and non-violation of international obligations."<sup>76</sup> Developed states may take their lessons from Australia: The number of asylum seekers who reached its borders dropped by 75 per cent between 2000 and 2005.<sup>77</sup> Canada finally implemented its contentious Safe Third Country legislation in 2004.

### ***The National/Human Security Discourse***

An analysis of the current discourse around asylum seekers that occurs both in Canada and internationally does not suggest that any Canadian refugee policy that would protect environmental migrants is at all foreseeable. The debate over environmental migrants has become more urgent in the current era of security and containment. The emerging discourse of states that portrays refugee migrations

as political matters of national security is evolving at the same time as the UNHCR's attempt to maintain state support for refugee protections with the discursive reframing of protection as "human security." "Uprooted populations,' 'displaced people,' and 'involuntary migrants' are new terms which tend to replace the concept of refugee; this slippage in the terminology is indicative of UNHCR's response to the new demands of its member states."<sup>78</sup>

In the meantime, developed states, including Canada, co-operate in regional and intraregional migration controls such as interdiction and detention. The security dimension of these practices allows government agents to justify a degree of secrecy and a growing list of Regional Consultative Processes (RCPs) take place behind closed doors.<sup>79</sup> In the 2000s, the developed nations of the world have containment as an early objective and the infrastructure to accomplish this is becoming more sophisticated. In the meantime, states that are signatory to the Convention continue to affirm the right of refugees to *non-refoulement*. Current measures are not articulated as exclusionary.

Until such time as international agencies such as the UN—and/or a collective of developing states—publicly and forcibly challenge this dominant and emerging regime, the UNHCR and the IOM will endeavour to keep refugee flows within the confines of their state. If asylum seekers cross borders they will be contained in neighbouring states. Funding for their stay will be processed through the UNHCR and the IOM. If they try to leave by plane they will need visas that prove nearly impossible to obtain. If they leave by boat they will face consequences that may include interdiction by state authorities. For example, a rarely documented case in 1999 revealed the complicity of an IOM official with the Canadian government in the forced "voluntary" repatriation of a boatload of Sri Lankan Tamils.<sup>80</sup> (Asylum seekers may die at sea since smugglers and traffickers have responded to the universal crackdown by putting their clients in boats that are unseaworthy—so reducing the smuggler's material and financial risk. Indeed, some asylum seekers are sent to sea in inflatable boats that they are responsible for sailing themselves.)<sup>81</sup>

The asylum seekers who do reach destinations in the developed states face the increased possibility of detention, sometimes in isolated, offshore locations. The UNHCR does not publish a list of all of the detention centres in all of the states.<sup>82</sup> Asylum seekers might find their applications "fast-tracked" (often leading to repatriation). If they do stay they may receive very little social support, or their protection will hinge on a temporary visa that can mean their status in country remains precarious, paving the way for a host of social problems.

Asylum applications to the developed countries rose from 200,000 in the early 1980s, to a record high of 850,000 in 1992, then dropped. Numbers peaked again in 2001 at 600,000.<sup>83</sup> Over those years, 68 per cent of the asylum applications were made in the countries of the European Union. Overall, between 1987 and 2006, Australia has experienced a 61.7 per cent decline in asylum applications, and Canada was down 8.6 per cent. In the EU countries the trends are extremely diverse. For example, applications to the Netherlands decreased by more than 60 per cent while France experienced an increase of more than 50 per cent. Despite this inequity, the EU moves steadily toward harmonization of refugee policy.

Citizenship and Immigration Canada (CIC) reports that, under a Liberal government, its international network of Migration Integrity Officers stationed in the countries most likely to generate asylum seekers successfully interdicted at least 40,000 people en route to Canada between 1996 and late 2002.<sup>84</sup> According to Brouwer and Kumin, Migration Integrity Officers “do not appear to have any mandate to examine the intercepted person’s motivation for migration or to address any need for international protection.”<sup>85</sup> In effect, they may be guilty of *refoulement* according to the Convention. Catherine Dauvergne argues that the various ways in which jurisdictions circumvent refugee law shows that they are engaged in a “race to the bottom to harmonize refugee law.”<sup>86</sup>

### **Humanitarianism and Security**

Sovereignty is premised upon the legitimate authority to control borders in order to protect the interests of those who have legal status within them. According to Watson, states have fostered humanitarianism in their citizens and this has paved the way for formal refugee resettlement in states such as Canada.<sup>87</sup> But scholars argue that once humanitarianism has been internalized and normalized as part of a state’s identity, it can also become securitized. This leads to justifications of exclusion on the basis of humanitarianism.<sup>88</sup>

Canada, Australia, and the EU have all used humanitarianism as a justification for keeping asylum seekers away from their borders. This is based on the pre-eminent and humanitarian necessity of protecting the social stability and safety of their citizens, while also stopping the activities of “people traffickers” who endanger the lives of the migrants who use them. B. S. Chimni argues, “Humanitarianism is the ideology of hegemonic states in the era of globalization marked by the end of the Cold War and a growing North-South divide.”<sup>89</sup>

Dauvergne contends that countries that claim to accept a “just” number of asylum seekers, or assert that their acceptance decisions are based on humanitarian principles, do so

in a moral vacuum. There is no agreement among states as to what number is “just,” or of how humanitarianism may be judged. These terms exist free of international norms, regulations, or laws. Decisions by developed states, therefore, take place in an “amoral realm.”<sup>90</sup> Today, “those who apply for asylum in the West are routinely assumed to be illegitimate.”<sup>91</sup> States lean heavily on past “humanitarian” actions, such as previous rates of refugee acceptance, while employing a discourse that redefines asylum seekers and refugees as “economic migrants,” “queue jumpers,” “illegals,” “gate crashers,” and “undocumented.” Once renamed, forced migrants are subject to a variety of strategies that thwart their entry or criminalize them once they have entered. This security-oriented concept of humanitarianism does not hold out a great deal of optimism for the potential recognition and protection of environmental migrants.

All refugees and asylum seekers must count on a perceived humanitarianism that transcends politics, sovereign interests and public sentiment. Instead, Nessel shows that forced migrants find themselves “floating between a humanitarian-based international protection regime and a restrictionist immigration regime.”<sup>92</sup>

### **Environmental Migrants: Contemporary Discourse in Canada, Australia, and the EU**

The historical development of refugee law and policy has evolved based on “geopolitical considerations” rather than humanitarian principles. According to Williams, the geopolitical nature of environmental migrant flows is now apparent to many developing countries and organizations such as the UNHCR, but has not yet been afforded “political priority” by the developed states.<sup>93</sup> An exploration of the evolving discourse of developed states is useful, since in the absence of moral and expert leadership from the UNHCR it is from these that Canada is likely to draw its lessons.

A search of the major Canadian media finds fewer than forty references to climate refugees or environmental migrants in the last three years.<sup>94</sup> The major NGOs such as the Suzuki Foundation make only cursory references to climate change refugees. A search of Canada’s four political parties’ platforms or policy statements finds that only the Green Party makes a reference to environmental refugees. It states that it will “advocate for the inclusion of environmental refugees as a refugee category in Canada and accept an appropriate share of the world’s environmental refugees into Canada.”<sup>95</sup>

Environmental refugees are very far from Prime Minister Stephen Harper’s stated concerns. His Conservative government, however, is currently engaged in a discursive reframing of immigration and refugee policies and he has recently called Canada’s immigration system “broken,”

thereby justifying the imposition of visa requirements on two additional refugee-generating countries.<sup>96</sup> CIC reports that the number of asylum seekers accepted to Canada has plummeted by 56 per cent in the three years between 2005 and 2008.<sup>97</sup> During the same period the number of people allowed into Canada as temporary workers, a strategic, economic category, jumped from 90,000 to 192,000.<sup>98</sup> Canadians guard and maintain their enormous privilege. An opinion poll conducted in July 2009 found that 56 per cent of Canadians felt that the refugee determination system should be changed to make it more difficult for people to make “false claims.”<sup>99</sup>

In 2007, a new prime minister was elected in Australia. The government of Kevin Rudd<sup>100</sup> acted to remove some of the previous government’s more contentious practices, but failed to signal that it might recognize environmental migrants. In August 2009, Australia announced a new policy to support Pacific islanders who continue to abandon their villages and farmland to rising waters; Australia would help with the internal relocation of refugees on the islands. Tuvalu is one of the Pacific islands off the coast of Australia that may well be submerged by the sea in the next few decades. Many islanders have already migrated to New Zealand. While New Zealand has a Pacific Access Category (PAC) agreement with Tuvalu, critics argue that its emphasis on labour qualifications means it is more concerned with economics than with environmental migrants.<sup>101</sup> Hoadley<sup>102</sup> argues that Australia’s concerns about Pacific migrants using New Zealand as a stepping stone to Australia’s social security system led to the trans-Tasman compromise, which resulted in a near convergence of Australian and New Zealand immigration and refugee policies.

The debate as to the eventual status of environmental refugees in Australia remains vigorous. In October 2009, the Australian Green Party called for a new visa category for climate change refugees, and Australian lawyers are promoting a Convention for People Displaced by Climate Change.<sup>103</sup> Meanwhile, a government MP has warned Australians that if they don’t populate Australia’s underdeveloped north, they will “face invasion by Asian refugees driven south by climate change.”<sup>104</sup> In June 2010 Prime Minister Julia Gillard assumed office, and by July the Australian press had declared a swing to the right on refugee policies.<sup>105</sup>

The states most immediately at threat from sea level rises caused by climate change are lobbying vigorously for action. Tuvalu’s President Tong wants other countries to train his people for the jobs that they will need when they migrate. His people don’t want to be treated as refugees—they will be ready to fit in.<sup>106</sup> The president of the Maldives warns that his people face the prospect of life in a “climate refugee camp.”<sup>107</sup>

The EU’s geographical relationship to the countries of Africa is similar to that of Australia’s to the Pacific Islands and Asia. It is an obvious destination. In the absence of policy from the UN, the EU will arguably have the greatest influence on the international refugee regime as it attempts to form a position on environmental migrants. In 2007, the Belgian government voted in favour of promoting international recognition of environmental refugee status at the United Nations.<sup>108</sup> While there is differential response among various member states, the formal EU bodies are tackling the issue. In 2008, the European Parliament adopted a declaration to “organize legal protection for the victims of climate events.”<sup>109</sup> And in 2009, the Council of Europe stated that “the protection of people compelled to move due to climate and environmental factors is of paramount importance.”<sup>110</sup>

In 2011 only Sweden and Finland have allowed for both temporary and permanent status to individual migrants already resident in their countries who are unable to return to their countries of origin because of environmental disaster. Canada made temporary allowances for people already resident in Canada at the time of the 2004 Indian Ocean tsunami and following the Haitian earthquake in 2010.<sup>111</sup>

### Conclusion

In 2011, the question of what policy Canada might develop in response to environmental migrants is characterized by many unknowns. These persist because no developed state or international agency has committed to formulating rights and protections for environmental refugees who live outside of their borders. Canada has not even begun to address the issue. Other unknowns have been absent from the discussion presented in this paper, such as the degree of influence the US may have on Canada once it determines its own policy on environmental migrants. In the absence of policy from any developed state I have attempted to show the policy paths Canada may choose from by studying its historical record, reviewing the current trajectory of the international refugee regime, and revealing the nature of the developed world’s humanitarian response.

Does the existence of national and international debate on environmental migrants signal that there is a potential for change in Canada? In 2011, the Canadian public is racially and ethnically diverse and, as the historical record suggests, it will increasingly come to influence refugee policy. Globalization and transnationalism have created complex social, political, and economic international relationships. If the UNHCR is able to communicate a vision of a world in which the suffering of environmental migrants can be redressed, Canada, Australia, and other developed states might be convinced to fund and participate in international

programs. If the EU and the UNHCR agree on a designation for environmental migrants that obliges EU member states to engage in proactive and protective measures on their behalf, Canada might find pressure from political allies and trading partners, coupled with the concern of Canadian citizens about their former fellow nationals, difficult to resist. Canada would be able to draw its policy lessons from those formulated by the EU and communicated and diffused by international agencies and organizations. However, given its relationship to the US (affirmed by the Safe Third Country agreement), Canada is likely to follow once the US determines its own domestic policy on environmental migrants.

There now appears to be a high level of convergence in refugee policy between Australia, the EU, and, to a lesser extent, Canada. All have engaged in systematic efforts to secure their state's borders against asylum seekers and to contain refugee flows at their origin. Dauvergne argues that the various ways in which these jurisdictions circumvent refugee law shows that they continue to accept that they have an international obligation to refugee protection or they would have simply abandoned it altogether.<sup>112</sup> They are, however, complicit in a process that excludes an increasing number of bona fide refugees.

Canada's lack of commitment to Kyoto objectives, its absence from the debate on environmental refugees, its prioritizing of neo-liberal economic goals, and its shared place in the hegemony of globalization and the new humanitarianism would suggest that it will not change its refugee policy to recognize any special status for people whose forced migration and permanent displacement is directly linked to climate change. Given the foregoing contextualization, Canada may choose to draw its policy lessons from Australia, the state whose overseas refugee selection process most closely mirrors its own. If so, policy will be revised to effectively eliminate the right of migrants to claim refugee status in Canadian jurisdictions. Canada, however, would risk its international reputation—certainly among developing nations—for taking such a position and would no doubt be admonished by the UNHCR with whom it has had a successful relationship for decades.

By 2010, Canada's current Conservative government had managed a 56 per cent drop in asylum acceptance rates and was in the process of a discursive reframing of Canada's refugee regime. It has called the refugee determination system broken and allowed a backlog of claims that will (perhaps) eventually need to be addressed with emergency measures. No formal exclusionary policy has been announced. Harper's government will be aware that Australia's Hawke government collapsed in part because of extreme formal and informal<sup>113</sup> measures it used against asylum seekers. Nevertheless, the Harper government capitalized on the

arrival of 492 Tamil refugee claimants by boat to the West Coast in the summer of 2010 and introduced Bill C-49. The Canadian Council on Refugees warns that this proposed legislation, ostensibly aimed at people smugglers, would curtail refugees' freedom of movement, extend detentions, and deny family reunification.<sup>114</sup>

In the early months of 2011, it appears that the Conservative government is on a policy path closer to that of Australia. The negligible level of domestic public debate about environmental refugees and the increasingly security-oriented internal and external immigration and refugee apparatus is not encouraging. Canada's absence from the international debate on environmental refugees, its prioritizing of neo-liberal economic goals, and its shared place in the hegemony of globalization and the new humanitarianism would suggest that it will not change its refugee policy to recognize any special status for people whose forced migration and permanent displacement is directly linked to climate change. Canada's past refugee policy record shows that it rarely acts independently, but draws lessons from states with similar profiles and from international bodies, in particular the UNHCR.

The UNHCR has asked that states focus on international cooperation and human rights as they consider environmental migrants, since "it may take some time to reach agreement on the appropriate way forward."<sup>115</sup> The Canadian public is perhaps unaware of the many ways in which its government has evolved a regime of exclusion. Canada's reputation rests on its past record. It has received international recognition for its generous and progressive interpretation of the Convention to include gender persecution. Canada could yet choose to take a leading role, in hand with the UNHCR, on negotiations toward a new framework for environmental refugees.

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