

## **WHY NOT USE THE WORD 'REFUGEE' FOR THOSE DISPLACED BY CLIMATE CHANGE?**

'Refugee' is a special word because of the unique rights of sanctuary that attach to it. In recent times, governments and humanitarian organizations in particular are revisiting the meaning of 'refugee,' largely because of the unprecedented number of people being forced from their homes, with many millions applying for recognition as refugees.

Concurrent to these challenges are emergent tensions regarding the use of the word refugee in circumstances that are not consistent with its legal meaning. A contemporary example of the tension is the use of 'refugee' in the reporting of Hurricane Katrina. Many argued that those who lost their homes and livelihoods were displaced in their country of origin and not as a result of persecution, so they were not legally 'refugees'. Certain media replied that no other word adequately captured the scale of devastation and loss people had suffered - 'internally displaced people' was simply too clinical. Furthermore, the use was consistent with dictionary definitions of 'refugee'.

### **How does the law define 'refugee'?**

'Refugee' is defined by the 1951 United Nations Refugee Convention Relating to the Status of Refugees and 1967 Protocol Relating to the Status of Refugees as:

*A person (who) owing to (a) 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 nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country. (Refugee Convention Article 1A(2), Protocol Article 1(2)).*

Whilst there have been large population movements for millennia, mostly for reasons related to environmental conditions and/or conflict, the above legal definition and rights of protection for refugees was born from crisis arising out a particular conflict. The persecution of Jews and ethnic cleansing of others in WWII forced many millions to flee persecution, creating a massive humanitarian challenge for European nations. In response, the newly constituted United Nations adopted the Convention on the Status of Refugees in 1951. It endeavored to codify who of the displaced was entitled to protection and resettlement. However the Convention required that the persecution feared by a refugee had to arise from events flowing from WWII in Europe prior to 1951. The UN formalized its recognition that the refugee experience was not confined to Europe by adopting the Protocol Relating to the Status of Refugees in 1967. The 1967 Protocol extended Convention protection to refugees worldwide by removing the link to events occurring in WWII.

The obligation to grant refugee status to those who qualify does not attach to a country unless the government of that country has formally adopted and ratified the 1951 Convention and 1967 Protocol. Australia, along with many other countries, has done this.

The Refugee Convention and Protocol provide the only existing means by which an asylum seeker can apply for recognition as a refugee and if successful, be entitled to permanent protection and re-settlement.

## **The UN Convention on Refugees – support and criticism**

For about the last 10 years governments worldwide have been formally declaring that the Refugee Convention needs to be overhauled (for example see EU Presidency, *Strategy paper on immigration and asylum*, Brussels, 1 July 1998 [www.proasyl.de/texte/europe/eu-a-o.htm](http://www.proasyl.de/texte/europe/eu-a-o.htm) and [http://www.foreignminister.gov.au/releases/2000/fa097\\_2000.html](http://www.foreignminister.gov.au/releases/2000/fa097_2000.html)).

Broadly, criticisms of the Refugee Convention include:

- It is no longer relevant to the world to the world we live in. The mass migrations and refugee surges occurring today are far greater in scale than when the Refugee Convention was first conceived.
- The Convention does not cover the internal displacement of people, like the millions displaced by civil war in the Sudan and the Democratic Republic of the Congo, and yet these people have the same needs as Convention recognized refugees.
- Only a minority of asylum seekers can show personal rather than generalized persecution for the purpose of the Convention definition of refugee, and given the huge numbers of asylum seekers, it is impractical to continue with case by case assessment of refugee applications.
- The Convention definition is vague and courts in Western countries in particular, have interpreted elements of the definition inconsistently resulting in the law becoming uncertain and contentious.
- Signatories to the Convention and Protocol have varying acceptance rates, undermining the spirit of the Convention.

Supporters of the Convention argue:

- The Convention must continue as the cornerstone for determining refugee status because the human rights it protects are fundamental to maintaining a humane and civil society.
- A restructure of the Convention would likely result in a substantial erosion of rights for refugees.
- A restructure of the Convention could provide countries with an opportunity to opt out of the Convention, thereby relieving themselves of the Convention obligations and permitting the treatment of refugees to

- lapse into a globally ad hoc approach, highly vulnerable to the political pressures of the day in any given country.
- The legal demarcation between those who currently qualify for protection and those who do not focuses the need for the global community to urgently address complementary protection schemes for the many millions displaced for reasons falling outside of the Convention definition.

### **Green Cross' position on the use of the term 'climate change refugee'**

'Climate change refugee' is a term frequently employed by the media to describe those forced from their homes due to the impacts of climate change. Many NGO's are currently positioning themselves on the appropriateness of using 'refugee' in this context. Whatever philosophical approach NGO's ultimately adopt, all are united in the belief that the debate over terminology must not detract from the urgent need for the world to develop a burden-sharing agreement to deal with people displaced due to climate change impacts.

At this point in time Green Cross Australia has determined not to use 'refugee' to describe those displaced by climate change. Green Cross believes that maintaining consistency with the Refugee Convention and the practice of the UN, its agencies and donor countries is desirable from both a philosophical and practical point of view. The UN and donor countries will be integral to implementing solutions to climate change displacement.

Through its People's Assembly on the Victims of Sea-level Rise, Green Cross is at the forefront of NGO's engaged in the challenge of finding sustainable, humane and just solutions to the needs of millions displaced by the effects of climate change.

Sonia Caton BA/LLB  
Solicitor and Migration Agent specialized in refugee law.