

Migration, Environment and Climate Change: Policy Brief Series

ISSN 2410-4930

Issue 5 | Vol. 2 | May 2016

The *Migration, Environment and Climate Change: Policy Brief Series* is produced as part of the **Migration, Environment and Climate Change: Evidence for Policy (MECLEP)** project funded by the European Union, implemented by IOM through a consortium with six research partners.



Madeira River Floods of 2014 in Porto Velho, capital of the Rondonia State. © Decom/Divulgação 2014

Environmental migration in Brazil: Current context and systemic challenges

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Introduction

Environmental migration is already a reality in Brazil as a country of destination of cross-border displacement caused by disasters and internal migration. The impacts of climate change and disasters identified in the country, and in the region, indicate increasing human mobility.

However, there are gaps in policies and law concerning migration caused by disasters, climate change and other environmental changes, and lack of interaction between the legal frameworks on these issues. This policy brief aims to show these gaps and present some strategies to



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European Union



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promote the following: (a) interaction among decision makers and policymakers; and (b) coordination of policies related to climate change and disaster management, as well as migration policies for preparedness and provision of adequate responses to environmental migration within and to Brazil.

Background and triggers of environmental migration to and within Brazil

In Brazil, extreme events, long-term environmental degradation and the impact of development projects are causes of internal displacement (Muggah, 2014). According to the Internal Displacement Monitoring Centre, between 2008 and 2014, Brazil was among the countries with the highest levels of displacement due to disasters related to natural hazards (IDMC, 2015).

Disasters are a main cause of displacement and migration within and to Brazil. The increasing impacts of disasters in Brazil is a consequence of a dangerous combination of the following: (a) environmental degradation (especially deforestation and occupation of protected areas); (b) non-coherent public policies; and (c) lack of effective implementation of environmental norms, combined with socioeconomic vulnerabilities, such as poverty, discrimination or lack of information (Ministry of Environment, Brazil, 2007 and 2011).

Regarding changes in temperature and levels of precipitation that impact Brazil, between 1961 and 1990, a tendency of increasing heavy precipitation (rain) was identified in the Amazon and the north-east region of the country (a rise in both high and low temperatures, aridity and drought were also noted). In the projected changes for the end of the twenty-first century, there is a degree of certainty both in relation to the increase of highest and lowest temperatures, as well as tendency of heat waves and periods of heat in both regions (CDKN, 2012).

Migration seems to be a contributing factor to the increase in vulnerability, such as in the case of north-eastern rural–urban migration in drought-affected areas and its impacts on food security and health in the areas of origin, as well as pressure on health services and other existing urban problems in the areas of destination (PBMC, 2014).

Although 2014 has been one of the driest years recorded in Brazil, marked by the almost depletion of the water reservoirs in the most populated area in the country (south-east region), there are regular floods and landslides occurring every year.

A recent example of displacement due to flooding has occurred in the States of Acre, Rondônia and Mato Grosso due to high precipitations combined with flooding in the river basins of the Acre, Madeira and Mamoré rivers, worsened by the construction of dams. In the event that the resulting displacement becomes international, as all three States share borders with the Plurinational State of Bolivia, Brazilians abroad may be defined as climate migrants by Article 4 of the Bolivian Law n° 370 of 2013.¹

In terms of development-induced displacement, and in light of the lack of official statistics and data, it is estimated that 1 million people have been displaced as a result of the expansion of the hydroelectric sector in Brazil (MAB, n.d.) with 70 per cent without any assistance and/or protection. This number tends to increase as a consequence of the new projects implemented in Brazil, including the large hydroelectric plants in the Amazon (Souza, 2010; MAB, n.d.).

There is no specific definition of environmental migrants in the Brazilian legislation. For Haitians, the National Council of Immigration adopted an exceptional measure due to the gap in the current legislation (permanent residency authorization).² 58,000 Haitians are estimated to have entered Brazil since the January 2010 earthquake in Haiti (IOM, 2016).³

However, the practical challenges of protection remain due to the following: (a) normative gaps; and/or (b) theoretical-conceptual problems of definition that impact the gathering and diffusion of data on migration induced by environmental changes in Brazil in a more encompassing way.

Disasters, climate change and migration in Brazil: The normative framework

From the normative standpoint – although several international documents recognize the relationship among climate change, disasters and the intensification of migration – in the Brazilian context, these topics are still treated in complete isolation from one another. Brazil has a legal framework for natural and man-made disasters that encompasses the whole cycle of disaster, with a systemic approach of the prevention, mitigation, preparedness, response and reconstruction actions (see Table 1).

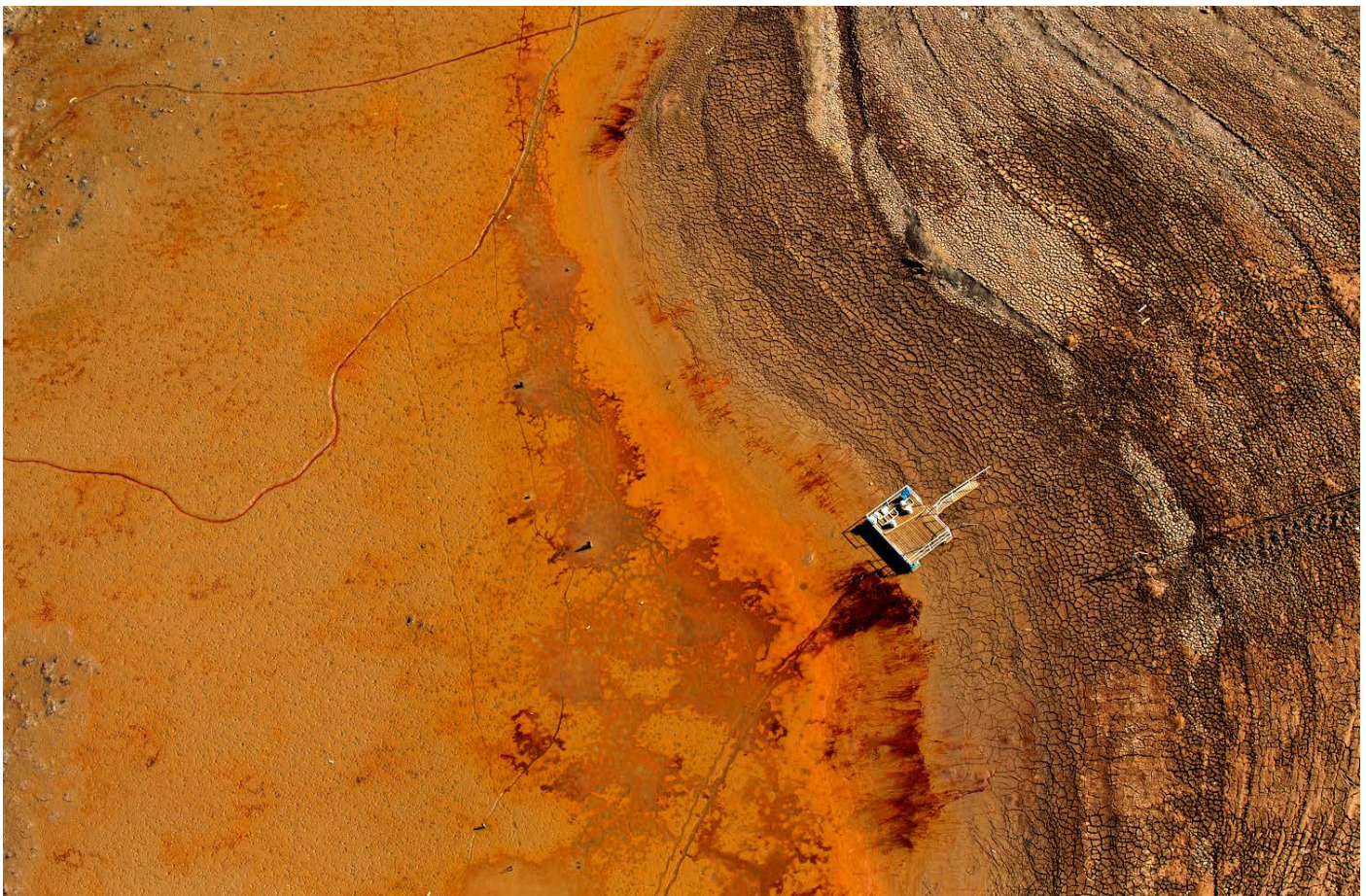
¹ Plurinational State of Bolivia. *Ley de Migración*. Ley n° 370 of 8 May 2013. Available from <http://bolivia.infoleyes.com/shownorm.php?id=4429>

² Normative Resolution n° 97 of 2012.

³ Number of Haitians who obtained a permanent visa for humanitarian reasons.

Table 1. The legal framework on disasters in Brazil

Legislation	Contents
Brazilian Constitution of 1988	Articles 21, XVIII, 22, XXVIII e 136.
Law n° 12.608 of 10 April 2012 (main norm)	National Policy of Protection and Civil Defence; authorizes the creation of an information and disaster monitoring system.
Law n° 12.340 of 1 December 2010	Resource transfers for the execution of preventive actions in disaster risk areas, response and recuperation of disaster-affected areas and the National Fund for Public Calamities, Protection and Civil Defence.
Decree n° 7.257 of 4 August 2010	Recognition of emergency situations and state of public calamity, resource transferring for relief actions, assistance to victims, re-establishment of essential services and reconstruction on disaster-affected areas.
Interministerial Resolution n° 2 of 6 December 2012	National Collective Protocol for the Integral Protection of Children and Teenagers, Elderly People and People with Disabilities in Situations of Risk of Disasters.
Normative Instruction n° 1 of 24 August 2012 (Ministry of National Integration)	Procedures and criteria for the declaration of urgency situations and state of public calamity and the recognition of situations of abnormality declared by the Federation's entities.



Cantareira System, Bragança Paulista, São Paulo State (Jaguari-Jacareí Dam). © Lalo de Almeida/Folhapress 2014

The Brazilian legal respective framework foresees the integration of the civil defence and protection policy into climate change and other environmental policies. The concept of disaster (art. 1, I of Normative Instruction n° 1 of 24 August 2012 altering Decree n° 7.257) does not refer directly to climate change but recognizes the role of vulnerabilities in the configuration of a disaster and understands disaster as stemming both from natural and man-made causes. In the National Policy on Climate Change and its regulation,⁴ there is no clear nexus between climate policies and disaster risk management, but there are references in the concept of adverse effects of climate change (art. 2, II) including natural disasters or the concept of vulnerability (art. 2, X) linked to the exposure of extreme events.

⁴ Law n° 12.187 of 29 December 2009 and Decree n° 7.390 of 9 December 2010.

The risks of population movements due to climate change and/or disasters remain unconsidered at the national level. Hence, there is still a gap in terms of migration induced by environmental factors, as well as a lack of cross-fertilization between environmental and migration policies.

The same gap is seen in relation to public policies for internal and international migration.⁵ There is no official definition or concept of migration in the current normative framework in Brazil. In addition, the current norms refer to foreigners as non-nationals of Brazil with no specification of any type of category of migratory status and/or migration (see Table 2).

⁵ Concerning internal displacement, Brazil has not incorporated the 1998 United Nations Guiding Principles on Internal Displacement into its national system.

Table 2. The legal framework and draft laws on migration in Brazil

Legislation	Current status	Main definition
Law n° 6.815 of 1980	In force	There is no specific definition; the law treats <i>aliens</i> as persons who do not hold a valid Brazilian nationality.
Law n° 9.474 of 1997	In force	<i>Refugee</i> is defined under the 1951 Refugee Convention (article 1, I and II) and also as a person who is compelled to leave his or her country of nationality due to severe and generalized human rights violations (article 1, III).
Bill n° 5.655 of 2009	Under appreciation at the Brazilian Chamber of Deputies (Joint processing with Bill n° 2.516 of 2015)	<i>Alien</i> is a person who does not hold Brazilian nationality, acquired by birth or otherwise (article 1).
Bill n° 2.516 of 2015 ^a	Approved by the Brazilian Senate; under appreciation at the Brazilian Chamber of Deputies (original number: 288 of 2013)	<i>Immigrant</i> is every foreigner who is in transit, works or lives temporarily or permanently in Brazil (article 1, §1º).
Proposal from the Specialists' Commission of the Brazilian Ministry of Justice of 2014 (Draft Law on Migration and Promotion of the Rights of Migrants in Brazil) ^b	Not sent to National Congress	Same general definition of immigrant (article 1, §1º) contained in Bill n° 288 of 2013/2516 of 2015. Immigrants are categorized under the following: (a) transitory immigrant; (b) temporary immigrant; and (c) permanent immigrant. Borderers are defined as persons who live in border municipalities (article 1, §5º) and emigrants are the Brazilian nationals or members of a family that is transitorily, temporarily or permanently living abroad (article 1, §6º). This also states that Brazil will grant humanitarian visas under cases of large-scale calamities when public order and social peace are threatened in the country of origin (article 27, II).

Notes: (a) Special Commission's workplan, item 3: "work with the idea that the humanitarian crisis involving the issue of refugee of armed conflict and environmental and social disasters in this historical moment should be one of the main challenges of the new legislation." Available from www2.camara.leg.br/atividade-legislativa/comissoes/comissoes-temporarias/especiais/55a-legislatura/pl-2516-15-institui-a-lei-de-migracao/documentos/outros-documentos/proposta-de-roteiro-de-trabalhos-apresentada-em-07-10-15. Contributions on protection and assistance related to environmental migrants in the draft legislation were sent to the deputies by the South American Network for Environmental Migrations (Red Sudamericana para las Migraciones Ambientales or RESAMA) and will be officially presented at a public hearing.

(b) Some elements of this proposal were incorporated into the debate on the project under appreciation. Proposal available from <http://library.fes.de/pdf-files/bueros/brasilien/10947.pdf>

Several Brazilian States have included in its climate change policies and legislation topics of civil defence, prevention and response to extreme climate events, as well as protection and assistance to the population exposed to risks.⁶ Yet the proposals of new bills on migration under appreciation at the Brazilian Congress

do not mention environmental migration, nor do the current Immigration Law (Law n° 6.815 of 1980) or the Refugee Law (Law n° 9.474 of 1997). Some initiatives on legal and migration management developments in the area of environmental migration can be mentioned (see Table 3).

The lack of a concept of environmental migrants in Brazil heightens the difficulty of their identification and categorization. On the other hand, there are significant opportunities in progress to change this scenario of normative gaps and public policies on environmental migration.

⁶ See, for instance, the laws on climate change policies in the States of São Paulo (Law n° 13.789/2009), Rio de Janeiro (Law n° 5.690/2010), Espírito Santo (Law n° 9.531/2010), Pernambuco (Law n° 14.090/2010), Piauí (Law n° 6.140/2011), Paraná (Law n° 17.133/2012) and Mato Grosso do Sul (Law n° 4.555/2014). Available from <http://proclima.cetesb.sp.gov.br/legislacao/estadual/>

Table 3. Initiatives/Actions on environmental migration in Brazil

Initiative/Action on environmental migration in Brazil	Outcome
The First National Conference on Migration and Refugees (COMIGRAR) (30 May–1 June 2014) ^a	National mobilization process with the participation of the federal government (Ministry of Justice, Ministry of Work and Employment and Ministry of Foreign Affairs) and local authorities, academia, civil society, immigrant associations, Brazilian expatriates and returnees to contribute to a new Brazilian migratory policy. Protection and assistance to environmental migrants were among the proposals.
Cartagena +30 Conference (December 2014)	The Brazilian Declaration and Brazil's Plan of Action call for more attention and cooperation by States on the challenges posed by climate change, natural disasters and the cross-border displacement in the region; adoption of measures, tools and guidelines, including response strategies, contingency plans, integrated solutions for disaster risk management and humanitarian visas programmes.
Draft Law on Migration and Promotion of the Rights of Migrants in Brazil (Proposal from the Specialists' Commission of the Brazilian Ministry of Justice of July 2014) ^b	Humanitarian visas in case of large-scale calamities when public order and social peace are threatened in the country of origin (article 27, II).
Draft of the National Adaptation Plan (NAP) on Climate Change ^c	<i>Chapter on Strategies for vulnerable people and population:</i> New migration flows as a possible strategy of adaptation to climate change. Public policies that promote the development of these groups should include climate risk assessment in order to promote the resilience of these populations.
Brazilian States' legal norms on climate change (proposals of State's bills) ^d	Mato Grosso and Pará call for the elaboration of plans of organized migration and the construction of emergency infrastructure to shelter the population affected by disasters due to extreme climate events.
National Collective Protocol for the Integral Protection of Children and Teenagers, Elderly People and People with Disabilities in Disaster Risk Situation (2012)	Protection for vulnerable groups that can be affected by displacement, such as unaccompanied children and teenagers or those who have been separated from their families, as well as the respect of their human rights in shelters and camps; actions of protection for all groups under this protocol in all phases: prevention, recuperation and reconstruction.

Notes: (a) Proposals available from www.participa.br/comigrar/migracoteca/documentos/comigrar-caderno-de-proposta-posetapanacional.pdf#VKQIWSvF-So

(b) Proposal available from <http://library.fes.de/pdf-files/bueros/brasilien/10947.pdf>

(c) Launched by Ordinance n. 150 of 10 May 2016 of the Ministry of Environment. This ordinance established the Adaptation Technical Group to coordinate between agencies and entities, both public and private, in promoting the implementation, monitoring, evaluation and review of the National Adaptation Plan (NAP). Available from www.mma.gov.br/images/arquivo/80182/Portaria%20PNA%20_150_10052016.pdf. The NAP final document was officially launched on 10 May 2016. Available from www.mma.gov.br/clima/adaptacao/plano-nacional-de-adaptacao#consulta-p%C3%BAblica. RESAMA contributed at different stages of the Brazilian NAP development process. Available from www.mma.gov.br/comunicacao/item/10351-subs%C3%ADdios-ao-processo-de-elabora%C3%A7%C3%A3o-do-plano-nacional-de-adapta%C3%A7%C3%A3o-pna and www.mma.gov.br/images/arquivo/80182/ANEXO%203%20-%20Compilacao%20das%20Contribuicoes%20Validas%20das%20Consultas%20Publicas%20do%20PNA.pdf

(d) Draft laws on climate change of the Mato Grosso and Pará States (no number). Available from <http://proclima.cetesb.sp.gov.br/legislacao/estadual/>



Cantareira system faces historical drought (São Paulo State, south-east Brazil). © Thiago Queiroz 2015

Conclusions and recommendations

Regarding environmental migration and the protection of environmental migrants, there are systemic challenges in Brazil and some possible strategies to address them, such as the following:

- (a) To overcome the knowledge gaps in the migration–environment nexus in relation to its translation into public policymaking:
 - (i) Research to collect evidence and more accurate data on environmental migration due to climate change, disasters and other environmental changes and its impacts on legislation and public policies;
 - (ii) Creation of an inter-institutional dialogue to facilitate the interaction of public policies related to migration, environment (disasters, climate change and other environmental changes) and human rights;
 - (iii) Capacity-building for policymakers to support national initiatives and increase participation in regional fora related to these topics; and
 - (iv) Highlight the positive impacts of environmental migration as a strategy for preventing forced displacement to adapt to climate change and aid in the development of the country.
- (b) To fill the absence of legal norms and policies dealing with environmental migration, given that environmental migration is a reality in Brazil and will likely increase due to environmental changes:
 - (i) Inclusion of protection for environmental migrants, including for humanitarian reasons, in migration laws and policies, either to protect nationals affected by internal events or admit into Brazil populations, communities and persons affected in other countries, as done in other countries in the Americas;⁷
 - (ii) Regulation of the protection and assistance procedures for environmental migrants at the national, State and local levels;
 - (iii) Effective inclusion of environmental migration as an adaptation strategy to climate change in the NAP;
 - (iv) Incorporation at the national level of the recommendations of the Nansen Agenda for the protection of cross-border displaced persons in the context of disasters and climate change and of the Sendai Framework for Disaster Risk Reduction 2015–2030 concerning the legal aspects and governance of environmental displacement.

⁷ Bolivia (Law n° 370/2013); Argentina (Decree n° 616/2010); Venezuela (Bolivarian Republic of) (Decree n° 8.001/2011); Cuba (Decree n° 26/78 modified by Law-Decree n° 305/2012). For more information, see D.J. Cantor, *Migrants and natural disasters: National law, policy and practice in the Americas*. Migration, Environment and Climate Change: Policy Brief Series, 2(2) (Geneva, IOM, 2016). Available from https://publications.iom.int/system/files/pdf/policy_brief_vol2_issue2.pdf

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This publication has been produced with the financial assistance of the European Union. The views expressed in this publication can in no way be taken to reflect the views of the European Union or of IOM.



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