

Regionalism: a strategy for dealing with crisis migration

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Regional solutions are becoming a strategic tool in dealing with the lack of globally agreed protection for crisis migrants.

The increasing scope, scale and complexity of population movements which are not covered by the existing mandates of international agencies or by states (and which in general affect several countries along a migration route) challenge the ability of individual states to respond and point to the need for joint strategies. In order to tackle the lack of legal protection or status of people involved in such movements, proposals have ranged from the expansion of existing systems and regimes – mainly an enlargement of the normative concept of refugee – to the creation of new legal concepts and institutions. Little though has been achieved, despite existing proposals in progress, among which two deserve mention.

First is the Draft Convention on the Protection of Persons in the Event of Disasters being developed by the UN International Law Commission which aims to regulate cooperation and assistance among affected and non-affected states, establishing the duties to cooperate, seek assistance, consent to external assistance and offer assistance to people affected by disasters.¹

The second is the Project for a Convention on the International Status of Environmentally Displaced Persons, drafted by research groups at the University of Limoges and other contributors (individuals and institutions), which proposes recognition of a specific legal status for a new category of migrants, that is, potential and actual victims of natural, environmental and technological disasters.² This proposal does not create new rights for the people affected nor an obligation on states to protect them but aims to adapt the protection of existing human rights to the specific condition of environmentally displaced persons.

The apparent lack of success of these and other initiatives seems to stem from the lack of willingness to adopt practical concepts of responsibility-sharing, the constant intertwining of the issue of migration (even forced displacement) with economic and security concerns, and the perception that this is a problem for which a one-time commitment will not suffice, as it requires political will for long-term endeavours and solutions.

An alternative route that could allow for new developments is a focus on regionalism. This strategy would not compete with existing efforts but would aim to complement them. Regionalism seems to be working in the field of IDPs in the absence of a global system, especially since the Kampala Convention. It has also worked in the Latin-American context of refugees through the expanded definition in the Cartagena Declaration,³ as well as the regional approach to resettlement stemming from the periodical review of this document.⁴ In 2012 the MERCOSUR Declaration of Principles on International Protection of Refugees highlighted the need for strengthening the regional humanitarian space, encouraging all states to adopt the wider definition of refugees from the 1984 Cartagena Declaration.⁵

In the same region, the institution of political asylum, recognised in international regional law since the 19th century and since the mid-20th century by the International Court of Justice as regional customary law, is another example of a regional initiative on migration. In light of the regional effects of crisis migration, regional solutions that are tailored to the specific scenarios may be politically more acceptable, and therefore more effective and easy to apply, than universally established formulae.

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Indeed, it seems that regional solidarity – or at least the perception of regionally shared problems and situations – is more likely to succeed in the present world, giving time for the global system to come up with a comprehensive system of protection for migrants. Such a focus on regionalism would not jeopardise any international search for universal solutions but would enhance a rights-based approach to humanitarian situations.

That said, existing regional initiatives do not eliminate the need for adopting a global instrument and policy that set minimum general standards of protection for internally and externally displaced people and that, if necessary, provide access to international assistance but they can be a stepping stone towards them. In this sense, regionalism, especially in Latin America, emerges as a strategic option that can provide an open dialogue among states and non-state actors. It can, thus, stimulate cooperation to

elaborate more coherent policies and legal frameworks to address common impacts on the countries of the region, as well as allow for the effective protection of these migrants.

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1. Draft Convention on the Protection of Persons in the Event of Disaster <http://legal.un.org/ilc/reports/2012/english/chp5.pdf>
2. Proposed in 2008 by Centre International de Droit Comparé de l'Environnement (CIDCE), Centre de Recherche Interdisciplinaire en Droit de l'Environnement, de l'Aménagement et de l'Urbanisme (CRIDEAU) and Centre de Recherche sur les Droits de la Personne (CRDP) and others, and still under review. *Projet de Convention Relative au Statut International des Déplacés Environnementaux*, Second version (May 2010). <http://tinyurl.com/CIDCE-Environmental-displaced>
3. www.refworld.org/docid/3ae6b36ec.html
4. www.refworld.org/docid/424bf6914.html
5. Declaration of Principles on International Protection of Refugees. Unofficial English version at: <http://tinyurl.com/Declaration-MERCOSUR-En>