



### POLICY BRIEF

Climate Migrants on Unceded Lands

ADRIANA LAURENT

The LEVEL Youth Policy Program takes place on the traditional and unceded territories of the  $x^w m \ni \theta k^w \ni \dot{y} \ni m$  (Musqueam),  $S\underline{k}w\underline{x}w\acute{u}7mesh$  (Squamish) &  $s\ni\dot{l}ilw\ni ta?$  (Tsleil-Waututh) Coast Salish peoples.

#### **GRAPHIC DESIGN**

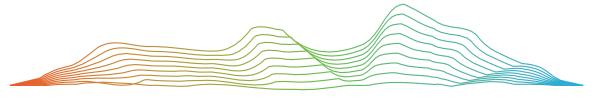
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#### **COVER ILLUSTRATION**

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## **About the LEVEL Initiative**

LEVEL is a youth engagement initiative of Vancouver Foundation that aims to address racial inequity. We do this by investing in the leadership capacity of Indigenous, racialized, immigrant, and refugee youth to create more opportunities throughout the non-profit and charitable sector.

Despite being the fastest-growing youth populations in British Columbia, Indigenous, immigrant, and refugee youth don't have the same opportunities as other young people. Race continues to be a factor that hinders their ability to have a say in decisions that impact their lives.

LEVEL empowers these youth by building their capacity to challenge and change those systems that hinder their ability to build a more just world.

### LEVEL consists of three pillars of work to advance racial equity

- 1. LEVEL Youth Policy Program
- 2. LEVEL Youth Organizing
- 3. LEVEL Youth Granting

### About the LEVEL Youth Policy Program (LEVEL YPP)

The LEVEL Youth Policy Program (LEVEL YPP) brings together young people between the ages of 19 and 29 from across British Columbia who identify as being Indigenous or racialized immigrants or refugees. Indigenous

and racialized Newcomer youth are disproportionately impacted by certain public policies but are rarely included in the development and implementation of public policy process. The LEVEL YPP aims to provide these youth with equitable training and leadership opportunities to better navigate the public policy landscape, and to develop new tools and skills to influence, shape, and advocate for policy changes that are relevant in their own communities. Having young people directly involved in shaping policies that impact their lives is essential to creating systemic, meaningful change. The LEVEL YPP's training is grounded from and within Indigenous peoples' worldviews, which the program acknowledges, could vary from person-to-person or nation-to-nation. Indigenous worldviews place a large emphasis on connections to the land. This perspective views the land as sacred; where everything and everyone is related and connected; where the quality of the relationships formed are key in life; where what matters is the success and well-being of the community, and where there can be many truths as they are based on individual lived experiences. 1 As such, an important premise of this training is to centre and place a particular focus on the fact that the work that has gone into developing this training, as well as the training itself, has taken and will take place on unceded (never given away/stolen) territories of the hang 'əmin 'əm-speaking Musqueam peoples, of the Halkomelem-speaking Tsleil-Waututh peoples, and of the sníchimspeaking Skwx wú7mesh (Squamish) peoples.

 https://www.ictinc. ca/blog/indigenous-peoples-worldviews-vs-western-worldviews

## **Biography**

### **Adriana Laurent**



Adriana is a recent University of British Columbia (UBC) graduate from the Faculty of Land and Food Systems. She's originally from Honduras, Central America, and is a queer, mixed-race, Afro-Latina who is passionate about social justice, climate change, and food security. She's been an active member of the climate and youth organizing community at UBC and Vancouver for several years. Adriana is a co-founder of the UBC Climate Hub and currently works as their Projects Administrator.

# **Acknowledgements**

This policy proposal takes place on the stolen territories of the xwmə0kwəy əm (Musqueam), Skwxwú7mesh (Squamish), and səlilwəta?† (Tsleil-Waututh) peoples. This policy ask attempts to provide protection for climate migrants and refugees while also trying to uphold Indigenous sovereignty on unceded lands. I hope to center BIPOC (Black, Indigenous, People of Colour) communities impacted by climate change in a way that values their lived experience. This policy ask was created while I was thinking of the people in my

community in Honduras who are already migrating due to the impacts of climate change, and are suffering at the hands of cruel migration policies. I am grateful for the 2020 Vancouver Foundation LEVEL Youth Policy Program (LEVEL YPP) and all of the incredible mentors and participants involved who helped me reflect and think deeply on these issues. I'm particularly grateful for my brilliant and kind mentors Michelle Nahanee and Amanda Aziz for giving me much-needed guidance and support through this process.



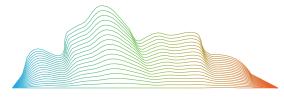
## **Executive Summary**

The acceleration of climate change is a direct result of the systems of White-supremacy, colonialism, and capitalism that continue to exploit people and the planet (Park, 2015).

Climate change is already threatening the lives of the most marginalized communities all over the world. It's already becoming apparent that the impacts of climate change are displacing people and impacting migration patterns (Dwyer, 2020). Unfortunately, there is no international and legally binding recognition for climate migration. Although this is an issue that has garnered some international attention from the United Nations Humans Rights Committee, most notably the case in New Zealand, the world is still years away from creating legal protection for climate migrants (UN landmark case for people displaced by climate change, 2020). Nations like Canada, who have been notable contributors to the acceleration of climate change, have an obligation to recognize and protect climate migrants through their existing migration pathways. Canada is going to launch the new Municipal Nominee Program (MNP) that mirrors their existing and very successful Provincial Nominee Program (PNP) (Harris, 2020). The MNP will allow for municipalities to nominate economic migrants based on a set of criteria. In order to accommodate climate migrants, who currently have no legal definition, the Minister of Immigration and Refugees can create a new migratory class, specifically for climate migrants, under Section 25.2 of the Immigration and Refugee Protection Act (IRPA), and under humanitarian and compassionate considerations from foreign nationals (Branch, 2020). A municipality like Vancouver, which

has declared a climate emergency, is one of the major cities immigrants move to, and is an ideal candidate for a trial run of this program. It's crucial that is done with the Host Nations and in a way that upholds Indigenous sovereignty. Vancouver has also passed framework to

become a "City of Reconciliation," and any work done to implement policy around climate migrants must be done in collaboration with Indigenous communities who will be impacted by this legislation. Climate migrants must be protected from the impacts of climate



There is no international and legally binding recognition for climate migration.

change through both sudden-onset disasters and slow-onset disasters. The connection between climate change and migration is complex and nuanced. As time goes by, and the impacts of climate change become more detrimental, this issue will become more pressing. Global North nations like Canada have the resources and the responsibility to alter their migration pathways to accommodate climate migrants and refugees. Migration is a form of climate adaptation and the world needs to begin to prepare for it in a way that centers the humanity and dignity of communities who are impacted by it.



# **Background**

The climate crisis has been called the biggest threat to human rights of the 21<sup>st</sup> century and the impacts of the climate crisis are already being felt around the world (Geneva, 2019).

The acceleration of climate change is a direct result of the systems of White-supremacy, colonialism and capitalism that continue to exploit and neglect to value and care for people and the planet (Park, 2015). Climate change has a "multiplier effect" meaning that it will exacerbate existing injustices and inequalities (UN Security Council, 2020). Wealthier countries in the Global North, like Canada. are primarily responsible for historic pollution and contributions to climate change, while countries in the Global South are burdened with the consequences. Countries in the Global South also have access to fewer resources to adapt to the changes due to the ongoing history of colonial exploitation available to adapt to the changes. In light of this, wealthy countries and corporations have a responsibility to assume the proportional cost for the harm caused by climate change. Within and across countries, marginalized and economically vulnerable communities will be disproportionately impacted by climate change. Women and other marginalized genders will disproportionately bear the burden of climate change as a result of existing gender injustices and power dynamics (Dazeon, 2019).

Moreover, with more frequent extreme weather and natural disasters, global human migration patterns are likely to be greatly impacted and will disproportionately impact already marginalized communities. Climatechange driven conflict over resources, natural disasters (e.g. water shortages, floods, forest fires, etc.), and other factors are forcing people to leave their homes. A conservative 2018 World Bank report predicted that without appropriate international action, over 143 million people will be displaced by 2050 in Sub-Saharan Africa, Latin America, and South Asia alone (Rigaud et al., 2019). Others estimate that there could be up to one billion climate migrants by 2050 (Migration, Environment and Climate Change, 2019). Migration is complex and layered, but climate change can act as a catalyst for the migration

and displacement of entire communities. The impact of climate change on food insecure and low-income communities in the Global South cannot be seen in a vacuum without considering the historic systems of oppression, which have distanced people from life-sustaining resources and, in turn, have caused the acceleration of climate change.

The United Nations High Commissioner on Refugees (UNHCR) has stated that a refugee is someone who fits the 1951 Convention refugee definition. The definition states, "As a result of events occurring "Climate change [is] now found to be the key factor accelerating all other drivers of forced displacement. These persons are not truly migrants, in the sense that they did not move voluntarily. As forcibly displaced not covered by the refugee protection regime, they find themselves in a legal void."

UN SECRETARY-GENERAL
ANTÓNIO GUTERRES
(PROTECTING CLIMATE REFUGEES, 2020)

before 1 January 1951 and 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 nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality

and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it" (UNHCR, 2020). This is the global definition of a refugee that countries around the world use to frame their own definitions. This definition came together after World War II and was initially only applicable to European refugees. The 1967 Protocol allowed for the geographic limitations to be removed (Office of the High Commissioner for Human Rights ((OHCHR)), 2019).

The Immigration and Refugee Board of Canada (IRB) decides who is a Convention refugee or a person in need of protection. Canada defines Convention refugees as those who "are outside their home country or the country they normally live in. They're not able to return because of a well-founded fear of persecution based on: race, religion, political opinion, nationality, being part of a social group, such as women or people of a particular sexual orientation. A person in need of protection is a person in Canada who can't return to their home country safely. This is because, if they return, they may face: danger of torture, risk to their life, risk of cruel and unusual

treatment or punishment" (Immigration, July 23<sup>rd</sup> 2020). Since 1994, the IRB has explicitly "included women and people of a particular sexual orientation" as part of their definition under "member of a particular social group." Citizenship and Immigration Canada has stated that "the subordinate position of women throughout the world is an obstacle to recourse against violence, that deprivation

of fundamental human rights may be entrenched in social and legal systems, and that, because of domestic responsibilities and financial dependence, women are far less mobile than men." (Immigration, February 25, 2020). Gender plays a critical role in migration and this recognition in Canadian law sets an important precedent. There is clear evidence that shows that women and children

are disproportionately impacted by climate change. Women and children who are displaced due to the impacts of climate change and are forced to migrate are at an increased Refugee camp in Greece. Photo by Julie Ricard on Unsplash

Women and children who are displaced due to the impacts of climate change and are forced to migrate are at an increased risk for sexual exploitation, human trafficking, and sexual and gender-based violence.

risk for sexual exploitation, human trafficking, and sexual and gender-based violence (Bhagat, 2017). Applying a gender-based lens to climate change demonstrates clear alignment with existing migration policies in Canada.

The UNHCR definition has not changed since 1951, and it does not reflect the complexity of migration or understanding of what causes forced displacement. Climate migrants and refugees are not protected or legally recognized by any internationally binding

agreements. This glaring policy gap will leave millions of people displaced and unprotected for entirely preventable reasons. This is an issue that needs to be urgently addressed and cannot wait for international agreements to become binding. We have already seen examples of countries like New Zealand take crucial steps to address this issue.

Countries like Canada can also find ways within their existing immigration pathways to accommodate climate migrants.

## **Case Study**

### **NEW ZEALAND**

Although there is no legal recognition or protection for climate migrants on an international level, there are already some cases that have made this glaring policy gap increasingly apparent. There is a case that went to the United Nations Human Rights Committee (UNHRC) because New Zealand deported a refugee from Kiribati who claimed to be a climate migrant (Buchanan, 2020). The UNHRC ruled in favour of New Zealand, but this landmark decision could make future claims all over the world possible. They claimed that the applicant was not currently able to prove that he was at "risk of an imminent, or likely, risk of arbitrary deprivation of life upon return to Kiribati." However, the UNHRC did state that "The Committee is of the view that without robust national and international efforts, the effects of climate change in receiving states may expose individuals to a violation of their rights under articles 6 or 7 of the Covenant, thereby triggering the non-refoulement obligations of sending states. Furthermore, given that the risk of an entire country becoming submerged under water is such an extreme risk, the conditions of life in such a country may become incompatible with the right to life with dignity before the risk is realized" (Buchanan, 2020). Non-refoulement means that regardless of migration status, a nation cannot return a migrant or refugee to a country where their life is at risk or they are at risk of irreparable harm (Immigration, February 25th 2013). Although he was not successful in his claim to the UNHRC, this case sets a precedent for the recognition of climate change as a cause for migration. This case also sets a precedent for the protection of migrants and a recognition that climate change can put people's lives at risk for basic human-rights violations.





# **Policy Options**

## Include climate migrants via existing pathways and through the new Municipal Nominee Program

Given that there is no legal definition of a climate migrant or refugee, it's very difficult to provide protection for Convention refugees without legal precedent that would justify it. This option may take more time because it would require altering a binding international agreement. Instead, there is an option to include climate migrants via existing pathways and through the new MNP. The MNP currently intends to give municipalities all over the country the agency to nominate migrants. Most immigrants and refugees end up living in major cities in Canada like Toronto, Ottawa, Montreal, and Vancouver. Although the focus of the MNP is on economic migrants, there is an opportunity to include migrants who don't otherwise fit existing categories in the Immigration and Refugee Protection Act. The Provincial Nominee Program allows for provinces in Canada to nominate immigrants who meet certain criteria around education, language ability, skills, and job qualification through a point system. The new migration class would nominate climate migrants who fit the criteria set out in the selection process, rather than fitting the criteria for economic migration.

### RECOMMENDATIONS

### **1** Section 25.2 of the IRPA allows for the creation of a new migratory class (Section 25.2).

This new migratory class would be specifically for people who have been displaced due to climate or environmental reasons and who do not currently qualify as a Convention refugee. Section 25.2 in IRPA allows for humanitarian and compassionate considerations from foreign nationals. The Minister may "grant the foreign national Permanent Resident status, or an exemption from any applicable criteria or obligations of this Act, if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected" (Branch, 2020).

This new class shall be positioned as part of the new MNP, which will allow local communities and municipalities like the City of Vancouver, chambers of commerce, and local labour councils to directly sponsor permanent immigrants.

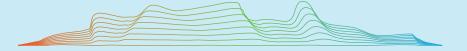
This process would require climate-refugee applicants to submit an expression of interest to the Canadian government. There would be a pool of applicants to review, and a selection



committee would use a separate list of criteria to select migrants. They would then invite applicants to apply to be a part of the migratory class. This application would then be reviewed by the IRCC and immigration officers with final approval from the Minister of Immigration. All successful applicants would need to still apply for permanent residence. This process mimics the existing PNP and is specifically for climate migrants, but rejects the need for a point-based approach currently used by the PNP.

### The process for the new class creation under the MNP must include Indigenous communities, including the Host Nations whose lands we inhabit.

Given that the root causes of climate change are colonialism and capitalism, it's crucial to center Indigenous sovereignty in all mitigation and adaptation processes. Since Vancouver, and many other municipalities in British Columbia, are on the unceded lands of Indigenous peoples, it's important to ensure that the process of inviting climate migrants to the region needs to be done through a Nation-to-Nation relationship. The United Nations Declaration of the Rights of Indigenous People (UNDRIP) has outlined the importance of their right to fully participate in policy and legislative issues that will impact them, particularly Articles 5 and 19. Article 5 states that "Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social, and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social, and cultural life of the State" (UNDRIP, 2020). Article 19 says that "States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them" (UNDRIP, 2020).



Given that the root causes of climate change are colonialism and capitalism, it's crucial to center Indigenous sovereignty in all mitigation and adaptation processes.



### The City of Vancouver has also adopted a framework to become the world's first City of Reconciliation (Vancouver, 2020).

It has committed to developing protocols with the three Host First Nations that enhance the relationship between the City and First Nations' governments. As such, the City of Vancouver needs to ensure that decisions that will impact Indigenous communities, such as inviting climate migrants to Vancouver, are made collaboratively with Indigenous communities from start to finish.

This recommendation takes a bold approach to addressing this issue. It would center the lives and well-being of climate migrants who are currently unprotected, and it would also center participatory leadership and community engagement in decision-making. On a bureaucratic level, it provides a simplified approach to addressing an incredibly complex global issue. When adopted, this would showcase the leadership role that Canada and its municipalities have played on a global level. Although New Zealand has begun shaping policy on this issue, Canadian municipalities can be global leaders. This program is one that can be piloted in some key cities like Vancouver, and can be scaled up to the rest of the country. Since this is a new initiative, potential pilot cities like Vancouver can provide learning opportunities for other municipalities and the program can improve over time.

### Indigenous organizations/communities that need to be involved in decisionmaking from start to finish to the capacity and engagement level of their own choosing:

- Host nations (Musqueam, Squamish, Tsleil-Waututh)
- Metro Vancouver Aboriginal Executive Council (MVAEC)
- Urban Native Youth Association (UNYA)
- Urban Indigenous Peoples' Advisory
- Committee (UIPAC-City specific)
- Tribal Councils

#### Organizations/communities that need to be involved in decision-making:

- City Council
- Minister of Immigration: The Honourable Marco E. L. Mendicino
- Immigration Refugee Citizenship Canada: Immigration Officers

#### **Organizations/communities that can be consulted:**

- Climate Migrants and Refugee Project
- MOSAIC
- Black Lives Matter Vancouver
- Battered Women's Support Services



#### **Outlining Criteria for Climate Migrants**

#### Those displaced by the impacts of climate change.

- · This includes both slow-onset (drought, sea-level rise, etc.) and sudden-onset disasters (hurricanes, flash floods, etc.) or a combination of both. People are forced to migrate because their lives are at risk if they stay.
- · This also includes people and communities who face imminent risk. We must ensure that we don't wait until entire communities are under water or uninhabitable to protect migrants. This migratory class must be open to folks from countries like Kiribati or Tuvalu who are at imminent risk of sea-level rise in the near future, as they are small island-nation states who are only one to two meters above sea level.
- This migratory class must also include communities who are devastated by sudden-onset disasters like deadline and destructive typhoons and hurricanes. These climate induced natural disasters can have detrimental impacts on communities for years and can impact people's basic human rights.

### They are unable to return to their home countries without violations to their basic human rights as described by the United Nations Universal Declaration of Human Rights.

- Article 25- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control (United Nations, 2020).
- Article 13- (1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country (United Nations, 2020).

There are several key issues that must be considered around implementing this policy. It's important to ensure that the criteria around the definition of a climate migrant centers the dignity and well-being of the migrant and does not center the economic gain of the receiving country. The criteria listed above is meant to set the foundation for selection but the final criteria should be co-defined with decision makers. Host Nations and other impacted Indigenous communities must be a core part of all decision-making, from start to finish, to the level of engagement of their choosing. A key question to consider is how to best facilitate the process of integration for migrants and connect them to existing resources once they arrive.

### Conclusion



Climate change is already disproportionately threatening the lives of the most marginalized communities all over the world. The impacts of climate change can be so severe that, for some communities, the only way to adapt to the impacts is to migrate. Unfortunately, there is no international legally binding recognition or protection for climate migrants. Although this is an issue that has garnered some international attention from the UNHRC, most notably the case in New Zealand, the world is still years away from creating legal protection for climate migrants. Countries who are notable contributors to the acceleration of climate change, like Canada, have an obligation to recognize and protect climate migrants through their existing migration pathways.

Canada is going to launch the new MNP that mirrors their existing PNP. The MNP will allow municipalities to nominate migrants based on a set of predetermined criteria. In order to accommodate climate migrants, who currently have no legal definition, the Minister of Immigration and Refugees can create a new migratory class specifically for climate migrants under section 25.2 of the Immigration and Refugee Protection Act (IRPA) under humanitarian and compassionate Countries who are notable contributors to the acceleration of climate change, like Canada, have an obligation to recognize and protect climate migrants through their existing migration pathways.

considerations from foreign nationals. Municipalities like Vancouver are ideal candidates for a trial run of this program. This must be done with the Host Nations, and in a way that upholds Indigenous sovereignty and any work done to implement policy around climate migrants must be done in collaboration with Indigenous communities who will be impacted by this legislation. Climate migrants must be protected from the impacts of climate change through both sudden-onset disasters and slow-onset disasters. Global North nations, like Canada, have the resources and the responsibility to alter their migration pathways to accommodate climate migrants and refugees. Migration is a form of climate adaptation and the world needs to begin to prepare for it in a way that centers the humanity and dignity of communities who are impacted by it.



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Vancouver Foundation is Community Inspired. We are a community foundation that connects the generosity of donors with the energy, ideas, and time of people in the community. Together, we've been making meaningful and lasting impacts in neighborhoods and communities since 1943. We work with individuals, corporations, and charitable agencies to create permanent endowment funds and then use the income to support thousands of charities. We recognize that communities are complex and that collaboration between multiple stakeholders is needed to help everyone thrive and evolve. Vancouver Foundation brings together donors, non-profits and charities, government, media and academic institutions, local leaders, and passionate individuals to build meaningful and lasting change in the province of British Columbia. We see young people, their voices and experiences as part of that vision to building meaningful change.

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