

EXAMINING INTERNATIONAL LEGAL PROTECTIONS FOR ENVIRONMENTAL REFUGEES: A CRITICAL ANALYSIS

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Abstract

The Refugee Convention of 1951 was created primarily to resolve the refugee condition of post war Europe and was both temporally and geographically limited to persons who became refugees as a result of events in Europe before 1st January 1951. While the temporal and geographical limitations were removed by the 1967 Protocol relating to status of the refugees, the Convention remained a Euro-centric instrument with “an exclusive focus on protection from persecution based on civil and political rights”. Thus, the convention excluded economic migrants by privileging a very narrow aspect of human dignity in sync with the cold war politics and the ideological aims of the Western Bloc. Accordingly, the term “refugee” under the 1951 Convention remains narrowly defined, state-centric and based on the needs of post war Europe. It does not adequately cover those displaced solely due to climate change. Even the larger body of International law is complicit in the scant recognition of the new trajectory of environmental refugees. According to reliable reports, as the impact of climate change worsens, the number of persons evacuated across international borders is rising quickly. However, there is no effective international legal framework that recognizes environmental refugees as a separate category.

Keywords: International Law, Environment Law, Climate Change, UNFCC

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I Introduction

HUMAN DISPLACEMENT caused by environmental degradation is not a phenomenon that will only occur in the future; it has already occurred historically and continues to do so currently. People have had to relocate because of environmental problems brought on by humans as well as natural disasters. But the rapidly changing global climate is a serious issue

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that is driving an increase in both domestic and international migration. The current migration dilemma is greatly exacerbated by climate change, and cannot be attributed just to causes like poverty, globalization, and wars. The problems of the modern world are exacerbated by cases of people being compelled to migrate, either domestically or externally, due to the impact of climate change, such as rising sea levels, stronger storms and droughts, flooding, and other natural catastrophes. According to scientific estimations, between 50 to 350 million people may have been evacuated or moved due to climate-related issues by the year 2050.¹ In its fifth assessment report, the Intergovernmental Panel on Climate Change (IPCC) projects that climate-related catastrophes would become more frequent and severe, putting people's capacity to support themselves in some regions of the world at serious risk.²

Everyone agrees that individuals in underdeveloped and least developed nations will be disproportionately affected by climate change. Ironically, these countries have the least culpability for creating climate change and are highly dependent on natural resources. They lack the means for adapting to it and are already very susceptible.³ As such, these nations are probably not equipped to address the complex issues raised by climate change and the ensuing population relocation. It's crucial that the world community pays attention to this problem. The states that are directly impacted by climate change are not the only ones that face threats from population displacement. Migration movements bring with them a host of difficulties, such as unstable political and economic environments, security issues, and substantial consequences for human rights for both the receiving communities and international stability at large. Global collaboration and coordinated efforts are needed to address these issues.⁴

Approximately one-fifth of the global population resides along the shore, where they are vulnerable to natural disasters and increasing sea levels. Furthermore, there is a significant risk that these environmental problems could eventually cause a number of small island

¹UN Secretary General, *Report of the Secretary-General on Climate Change and Its Possible Security Implications* (UN Doc A/64/350, 2009) 15.

²Inter-Governmental Panel on Climate Change, *Fifth Assessment Report, Summary for Policymakers, Climate Change: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the IPCC* (2014) 20.

³Kälin, W., & Schrepfer, N., *Protecting People Crossing Borders in the Context of Climate Change: Normative Gaps and Possible Approaches* (UNHCR, Legal and Protection Policy Research Series, 2012).

⁴Gogarty, Brendan, "Climate Change Displacement: Current Legal Solutions to Future Global Problems" 21 *Journal of Law Information and Science* 1 (2011).

nations, including the Marshall Islands, Kiribati, Tuvalu, Nauru, and the Maldives, to be totally submerged.⁵ might eventually be completely submerged because of these environmental issues. Scientists have not, however, made any concrete prediction over the outset of climate change induced displacement or imprinted the exact numbers of people will move. Thus it articulates the silence of existing international and national normative frameworks to deal with this issue.

The environmental refugee situation calls for quick response and raises concerns about moral and legal responsibility to save them. It is imperative to recognize that individuals who are relocated due to climate change frequently lack certain rights, and states must take action to guarantee the preservation of these rights and avoid infringement.

II Basics of Climate Change

Climate always had an important role in human displacement; however, the severity of this due to negative consequences of climate change has turned into a serious concern for humankind. Climate change denotes a consolidated word for reflecting changing phenomena either at regional or global level leading to shifts in agriculture pattern, rainfall, marine or land biodiversity changes, extreme weather changes, etc. The IPCC in its fourth assessment report defined climate change as:

“Climate change refers to a statistically significant variation in either the mean state of the climate or in its variability, persisting for an extended period (typically decades or longer). Climate change may be due to natural internal processes or external forcings, or to persistent anthropogenic changes in the composition of the atmosphere or in land use.”⁶

Above-mentioned definition highlighted two elements leading to climate change, one, which occurs naturally and other due to anthropogenic activities. The major concern starts when these climatic changes and complexities occur due to human activities.

⁵Mohammad, Nasheed, President of the Maldives, Address to United Nations Climate Change Summit in New York (2009), *available at*: < <https://media.un.org/photo/en/asset/oun7/oun7448534> > (last visited on June 24, 2024).

⁶Intergovernmental Panel on Climate Change, “Climate Change: Synthesis Report” (2007) *available at*: <https://www.ipcc.ch/site/assets/uploads/2018/02/ar4_syr_full_report.pdf> (last visited on June 24, 2024).

The United Nation Framework Convention on Climate Change (UNFCCC), 1992 that defined the word “climate change” under its Article 1:

“Climate change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.”⁷

The UNFCCC was introduced in combating climate change due to anthropogenic activities. The definition emphasized human activities as the major factor which has or has been contributing in growing complexities to the components of the atmosphere or climate system. It reflects the responsibility of the humans over environmental degradation which gave birth to the problem of climate change affecting globally. One of the biggest risks to human life and environmental deterioration is climate change. Its impacts are dangerous, hazardous, irrevocable and continuing.

III Displacement caused by climate change

One of the most pressing issues of the present and the future is figuring out how to deal with those who are compelled to leave their home nations due to the negative consequences of climate change. Human displacement and climate change have a complex and multidimensional interaction. It is much advocated by scholars that scarcity of resources, desertification process, droughts- floods, rise in sea-level, will force people in search of shelter and to have sustainable livelihood.⁸ A special reference is made by the IPCC reports stating that small island states or mega deltas in Asia and Polar Regions are much prone to climate change effect⁹. Out of various negative consequences of climate change three consequences are been considered that will and is resulting in human displacement or force

⁷ UNFCCC, 1992 available at:

<https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf> (last visited on June 24, 2024).

⁸ Nicholas Stern, *the Economics of Climate Change: The Stern Review* (Cambridge University Press, 2007).

⁹ Intergovernmental Panel on Climate Change, “IPCC Fourth Assessment Report: Summary for Policymakers” (2007), available at: <http://www.ipcc.ch/pdf/assessmentreport/ar4/syr/ar4_syr_spm.pdf> (last visited on June 24, 2024).

people to flee from their homeland in search of human security from these climate change effects i.e. extreme weather events, sea-level rise, drought and desertification.¹⁰

According to climate change expert Janet Sawin, rising global temperatures are expected to cause sea levels to rise and the frequency of extreme weather-related disasters to increase.¹¹ Additionally, several experts advocate that a substantial number of individuals will be uprooted from their countries of origin because of worries about the insecurity of their livelihoods. Factors contributing to this displacement include desertification, deforestation, droughts, and other effects of climate change. It is thought that climate change may have a bigger effect on population displacement than earthquakes and volcanic eruptions.¹²

The Asia Development Bank's report on "Climate-induced migration will affect poor and vulnerable people more than others"¹³, emphasized how migration driven by climate change will disproportionately impact vulnerable and poor communities. This concern is particularly severe for less developed nations and small island developing countries. Because the repercussions of climate change are more likely to affect developing nations than developed ones. Additionally, according to the United Nations High Commissioner for Refugees (UNHCR) 2008 annual report, 80% of refugees worldwide seek safety in developing countries.¹⁴ The IPCC, for instance, issues a warning that, by 2020, 75–250 million people may experience water scarcity, which would seriously jeopardize their capacity to support themselves.¹⁵ Climate change is expected to cause migration across Asia, particularly in low-lying regions vulnerable to sea level rise. With over 75% of this movement expected to

¹⁰ Docherty, Bonnie, and Thomas Giannini, "Confronting a Rising Tide: A Proposal for a Convention on Climate Change Refugees" 33 *Harvard Law Review* 349 (2009).

¹¹ Janet Sawin, "Climate Change Poses Greater Security Threat Than Terrorism", World Watch Institute (2016)

¹² Ferris, Elizabeth, "Displacement, Natural Disasters, and Human Rights Friday," *available at*: <<https://www.brookings.edu/on-the-record/displacement-natural-disasters-and-human-rights/>> (last visited on July 2, 2024).

¹³ Asian Development Bank, "Migration Due to Climate Change Demands Attention" (2011) *available at*: <<https://www.adb.org/news/migration-due-climate-change-demands-attention-adb>> (last visited on July 2, 2024).

¹⁴ UNHCR, Annual Report (2008), *available at*: <<http://www.unhcr.org/4a37c9076.html>> (last visited on July 2, 2024).

¹⁵ UNFCCC, "Climate Change: Impacts, Vulnerabilities and Adaptation in Developing Countries" (2007), *available at*: <<https://unfccc.int/resource/docs/publications/impacts.pdf>> (last visited on July 2, 2024).

happen in nations like Bangladesh, Pakistan, China and India this would seriously disrupt lives.¹⁶

According to a paper titled “In Search of Shelter: Mapping the Effects of Climate Change on Human Migration and Displacement,” certain regions have been identified as “hot spots” for eco-migration.¹⁷ These regions include “low-lying islands in the Indian and Pacific oceans, arid regions of Africa, river systems in Asia, and the interior and coastal regions of Mexico and the Caribbean.”¹⁸ Furthermore, according to a World Wide Fund for Nature research titled “Mega-Stress for Mega-Cities,” Dhaka, the capital and largest city of Bangladesh with a population of 19 million, has the lowest capacity to adapt to climate change and the greatest risk from its effects. This emphasizes the idea that a country or city’s geographic position affects both the level of threat and damage posed by climate change in addition to its ability to adapt by migrating.

The International Federation of Red Cross and Red Crescent Societies in its report on World Disasters in 2001 makes a noteworthy discovery: “More people are now forced to leave their homes because of environmental disasters than war.”¹⁹ This demonstrates the increasing influence of environmental issues on global relocation. In support of this claim, the UNHCR reported in its report that there were 11.4 million refugees worldwide in 2008, up from 9.9 million in 2007.²⁰ This demonstrates that among the primary factors of the global increase in migrants is climate change.

Numerous catastrophic disasters, such as the tsunami in the Indian Ocean in 2004, Hurricane Katrina in New Orleans, and the devastating floods in Pakistan in 2010, have resulted in a significant number of displaced individuals. The combined effect of these occurrences resulted in the forced relocation of about 20 million people, underscoring the significant

¹⁶ United Nations Office for Disaster Risk Reduction, “Global Assessment Report on Disaster Risk Reduction” (2009), available at: <<https://www.unisdr.org/we/inform/publications/9413>>(last visited on July 2, 2024).

¹⁷ Koko Warner, Charles Ehrhart, et. al., *In Search of Shelter: Mapping the Effects of Climate Change on Human Migration and Displacement* (CIESIN, Columbia University New York 2009).

¹⁸ *Ibid.*

¹⁹ International Federation of Red Cross and Red Crescent Societies, “World Disasters Report” (2001), available at: <http://www.ifrc.org/Global/Publications/disasters/WDR/21400_WDR2001.pdf> last visited on July 2, 2024).

²⁰ UNHCR, “Climate Change and Disasters” (2008), available at: <<http://www.unhcr.org/climate-change-and-disasters.html>> (last visited on July 2, 2024).

influence of natural catastrophes on human displacement.²¹ Furthermore, the consequences of water shortages, desertification, and sea level rise have progressively exacerbated family relocation around the globe. For example, the massive Lake Chad in North Africa and the Sahel area has shrunk by 95% as a result of heat and drought since 1963, forcing millions of people to escape their homes. Furthermore, countries like Tuvalu and the Maldives may become collective refugees due to the severe effects of climate change, particularly rising sea levels.²²

There is no denying the widespread acceptance of the truth of climate change. The international community must recognize the sensitivity and susceptibility of some locations, such as low-lying islands and deltas, coastal areas, areas dependent on water systems fed by glaciers, least developed nations, and areas prone to protracted drought. These areas, which include tiny island states, are disproportionately more susceptible to the consequences of climate change than are rich or industrialized nations. Global activities aimed at both reducing and adapting to climate change should place a basic focus on identifying and solving the unique problems faced by these vulnerable locations.

IV Meaning of Environmental refugee

Indeed, the international legal framework currently lacks a specific definition of environmental refugee. At both national and international levels, there is no legislation that provides a clear definition of this term. As a result, there exists a disparity of opinion and approaches among academics and the environmental community regarding the interpretation and application of the term environmental refugee. Along with environmental refugees, various alternative terminologies are used to describe individuals displaced due to environmental factors. These include climate change-induced displacement, climate change refugees, environmental migration, environment migrants, eco-refugees, environmentally displaced persons and disaster refugees. Each of these terms may carry slightly different connotations and nuances, reflecting the complex nature of displacement caused by environmental degradation and disasters.

²¹ B.A. Ellick, "Floods Could Have Lasting Impact for Pakistan" *The New York Times*, (August 16, 2010), available at: <<https://www.nytimes.com/2010/08/17/world/asia/17pstan.html>> (last visited on July 2, 2024).

²² J. Adams., "Rising Sea Levels Threaten Small Pacific Island Nations" *The New York Times* (May 3, 2007), available at: <<https://www.nytimes.com/2007/05/03/world/asia/03iht-pacific.2.5548184.html>>(last visited on July 2, 2024).

Differentiating between forced and planned migration can be difficult and confusing since the terms climate displacement and migration can refer to both involuntary and voluntary migration. Forced migration is defined by the International Association for the Study of Forced Migration (IASFM) as:

*“a general term that refers to the movements of refugees and internally displaced people as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, or development projects.”*²³

Till recently, the appropriate term to define the phenomenon of human displacement due to threat of life and property due to environmental degradation has not been depicted in any international or national document; also for persons who are displaced, there is no established definition in place due to unfavourable and unsustainable situations caused due to environmental harm. Whereas there is a word which is commonly used by various scholars and academicians in environment studies is “environmental refugee”. It was first coined by Lester Brown in 1970’s and gain its popularity during 1985 with the usage of the said word by El-Hinnawi in his report titled as “environment refugee” for United Nation Environment Programme²⁴. According to him, an “environmental refugee” are those who have been compelled to leave their native habitat, either permanently or temporarily, due to a significant environmental disturbance (natural or caused by humans) that has threatened their survival and/or negatively impacted their standard of living.²⁵

Essam El-Hinnawi identifies three major groups of environmental refugees, the first group consists of people who have been temporarily uprooted due to environmental stress. They go back to their natural habitat after the disturbance has been resolved and the ecosystem has been restored. Natural disasters like earthquakes, cyclones, or environmental accidents such as an industrial catastrophe that caused a brief environmental disruption like Bhopal usually result in the displacement of communities. The second group consists of those who must relocate permanently and dwell in a new location. They are uprooted due to long-term,

²³ International Association for the Study of Forced Migration, *available at*: <<http://www.efms.uni-bamberg.de/iasfm/mission.htm>> (last visited on July 2, 2024).

²⁴ Elias Hinnawi, “Environmental Refugees” UNEP (1985).

²⁵ *Ibid.*

mostly man-made changes that impact their natural habitat, including the construction of massive reservoirs or, more recently, the longer-term, nearly permanent relocation consequences of nuclear accidents like Chernobyl. The third group consists of environmental refugees are persons or groups who leave their native habitat, either permanently or temporarily, in pursuit of a higher standard of living. They typically only take this action when the resources in their original habitat have degraded to the point where they can no longer be supported. Smallholders and sharecroppers whose farms are being salinized and flooded and who lack the funds to restore them frequently abandon their properties and move to neighbouring cities in pursuit of employment.²⁶

V The Existing International Legal Framework for Protecting Environmental Refugee

The 1951 Refugee Convention establishes an important international legal framework for refugee protection.²⁷ Article 1 of the Refugee Convention states that

*“the term refugee shall apply to any 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 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.”*²⁸

The definition laid down certain parameters to be satisfied to qualify as ‘refugee’ although there are certain obstacles or concerns that must be looked at, such as the requirement of exile. One of the prerequisites outlined in the Refugee Convention criteria is that individuals must have crossed international borders. This implies that people who have not yet crossed international borders or who have been internally displaced inside their nation of origin are not eligible. In corollary, international refugee law will be inadequate to protect a sizable portion of internally displaced persons. The definition’s implication that people will only be

²⁶*Ibid.*

²⁷ UNHCR, “The UN Refugee Agency. History of UNHCR” available at: <http://www.unhcr.org/history-of-unhcr.htm> 1 (last visited on July 2, 2024).

²⁸*Ibid.*

eligible for protection if they transfer to another nation or anywhere outside of their country of origin raises additional concerns about the necessity of exile. The definition's lack of a preventive strategy, which is essential for safeguarding those displaced by environmental damage or climate-related displacement, is one of its flaws.

The requirement of persecution under the refugee convention is another major obstacle to embrace environmentally displaced persons within the ambit of refugee convention. Although the term "persecution" is not widely agreed upon, it is commonly understood to have political connotations and to refer to circumstances where people are subjected to mistreatment and atrocities at the hands of governmental authority. Since natural disasters and other weather-related events are hard to classify as persecution, it is hard to accept environmentally displaced people under the refugee agreement. Under the 1951 Refugee Convention, risks such as increasing sea levels, salinization, and the frequency of earthquakes, floods, and storms would not always be regarded as persecution.

Moreover, "Persecution" is defined in Article 33 of the 1951 Refugee Convention as prohibiting the deportation or return of individuals to nations where their freedom or life may be in jeopardy because of their "race, religion, nationality, political convictions, or membership in a particular social group."²⁹ The particulars of each case will determine whether or not such acts or threats qualify as persecution.³⁰

According to the UNHCR handbook authorities of the country is regarded as an agent of persecution³¹. That makes it obvious that to be recognised as a refugee due to environmental impairment applicant has to identify the 'persecutor'. To elaborate, an applicant has to bring evidence that the cause of harm lies in the actions of the government and show the incapability or repugnancy of the government to prevent from continuing the persecution. However, it brings intricacy to establish this cause and effect link between displacement due to environmental harm and fault of the government.

Furthermore, the guide ignores the primary barrier to classifying environmental injury as persecution. Numerous instances imply that environmental harm is considered a kind of

²⁹*Ibid.* at 51.

³⁰*Ibid.* at 52.

³¹*Ibid.* at 65.

persecution. For example, in the African Sahel desertification case, the Sahelian administration received criticism for not implementing policies and initiatives to deal with population expansion, advance agricultural practices, or increase food production.³² Another instance is the 1986 nuclear accident at Chernobyl, when the Soviet Union was criticized for having a slow reaction time and seeming disdain for environmental and safety issues in its quest for nuclear power. These incidents highlight the causal linkage between political acts and the effects on the environment, but further conditions must be satisfied to prove a definitive connection.

Under the refugee convention it is presumed that once the persecution which was triggered ceases this gives refugees a right to return back to their original inhabitants³³ which is negligible or creates an impossible situation of extreme weather events or irrevocable environmental harm. This makes it more difficult and complicated to include environmental refugees in the scope of international and regional refugee legislation. In the extreme cases where a small island is completely submerged into water because of sea level rise as predicted by various scientists under such a situation the option of going back will be impossible.

Furthermore, the UNHCR raised the worry that expanding the existing definition of refugee “would possibly lead to an erosion of the currently valid international refugee protection regime”³⁴. The UN agency also expressed worry that changing the definition of a refugee would force the 1951 Refugee Convention to be renegotiated, which might lower the protection criteria for refugees under the current definition.³⁵ On the contrary these agencies were reluctant to provide a solution or way forward to combat this issue.

On the contrary neither the definition under the convention nor protocol has spoken on protection of the human displacement due to serious threats posed due to environmental degradation. However, those who were compelled to migrate due to harm to the environment

³²Angela Williams, “Turning the Tide: Recognizing Climate Change Refugees in International Law.” (2008) 30(4) *Law & Policy* 508.

³³Oli Brown, “Migration and Climate Change” (International Organization for Migration. Geneva, Switzerland, 2008).

³⁴Committee on Migration, Refugees and Population Report, “Environmentally Induced Migration and Displacement: A 21st Century Challenge” 55, *available at*: (2009)<<https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17719>> (last visited on July 2, 2024).

³⁵*Ibid.*

or the unfavourable impact of climate change are excluded from this criterion. 1979 also saw the publication of the UNHCR Handbook, “Handbook on Procedures and Criteria for Determining Refugee Status.” The interpretation of the refugee definition under the document has adhered to a similar analogy of interpretation as defined under the 1951 Refugee Convention and the 1967 Refugee Protocol by excluding victims of natural disasters and prohibiting them from obtaining refugee status under the aforementioned framework.

VI Criteria for Evaluating the International Human Rights Law Framework for protecting Environmental Refugees

Human rights are “rights inherent to all human beings, regardless of our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status,”³⁶ according to the UN Human Rights Office of the High Commissioner. Without exception, everyone has an equal claim to their human rights. All of these rights are inalienable, interconnected, and dependent upon one another.

This explanation leads to highlighting basic characteristics features of human rights law like elements of universality and inalienability; interdependent and indivisible; equality and non-discrimination, and the existence of both rights and obligation. Especially human rights entailed with both rights and obligation meaning thereby states are under obligation to respect and protect an individual or group of individuals against violation of their human rights and to provide effective mechanisms to facilitate the enjoyment of basic human rights.³⁷ We must determine if the legal framework provided by international human rights legislation is adequate to safeguard and alleviate the difficulties experienced by those who have been displaced by the environment.

The UNHCR in 1998 has come out with non-binding guidelines on internal displacement, which protect the people within the national boundaries against forced and arbitrary displacement. It indicates that a mechanism exists for internally displaced individuals, but not for those who flee from their homeland due to environmental harm. The term “displaced group,” as defined by the guiding principle, also refers to individuals or groups of individuals who have been compelled to leave their homes or places of habitual residence, particularly

³⁶United Nations Human Rights, “What Are Human Rights,” *available at*: <<https://www.ohchr.org/en/what-are-human-rights>>(last visited on July 2, 2024).

³⁷*Ibid.*

due to the effects of armed conflict, situations of widespread violence, human rights violations, or natural or man-made disasters, and who have not crossed an internationally recognized border.³⁸

The definition reflects the need to safeguard people who are displaced because of armed conflict, violence or abuses of human rights. However, it excludes people who are displaced because of environmental destruction, even though that would still qualify as a “disaster” under the definition. Thus the guiding principle lacks and falls short of providing protection to internally displaced people due to environmental harm or climate change effect. People who have been displaced as a consequence of climate change or environmental degradation are not acknowledged.

And whereas it is interesting to note that state still have an obligation within its boundaries under human rights law to protect, respect and fulfil the human rights of all the people³⁹ which automatically includes the people victimised due to displacement influenced by climate change. The issue still exists because developing nations lack the means to grant economic, social, and cultural rights to Environmentally Displaced People (EDPs). These individuals will also encounter challenges since, in many of these countries, those whose human rights have been violated are unable to take their case to a court of law.⁴⁰

Where people displaced out of their national boundaries due to environmental harm they will be entitled to basic human rights in the hosting state due to the human rights obligation of that state. However, in the above-mentioned paragraphs it is explained how and why developing countries will be mostly affected by this cause therefore making it vulnerable and doubtful on the part of these contracting states to guarantee and safeguard human rights of EDP's.

Analyzing nations' extraterritorial duties to safeguard EDPs is necessary. Certain international human rights treaties may not contain such stringent jurisdictional restrictions,

³⁸United Nations High Commissioner for Refugees, 'Handbook for the Protection of Internally Displaced Persons' (2006), *available at*: <<https://www.unhcr.org/in/sites/en-in/files/legacy-pdf/5ad5a43a7.pdf>> (last visited on July 2, 2024).

³⁹For example, ICCPR, 1976, art. 2; The European Convention on Human Rights, 1950, art. 1.

⁴⁰At the international level an optional protocol containing an individual right to complain about violations of the rights enshrined in the ICESCR, was adopted and opened for signature in 2009.

even if a state's obligations under international human rights law are frequently limited to its borders. According to the International Covenant on Economic, Social, and Cultural Rights (ICESCR) Article 2 (1):

“Each state party to the present covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present covenant by all appropriate means, including particularly the adoption of legislative measures.”⁴¹

The article 2(1) of the ICESCR talks explicitly about states collective and individual obligations to realize the full realization of the rights outlined in the convention, as well as international cooperation to understand such rights.⁴² This displacement brought on by climate change will mostly impact developing and impoverished nations. This responsibility entails, among other things, “taking steps through international cooperation and assistance, depending on the availability of resources, to facilitate the fulfilment of human rights in other countries, including disaster relief, emergency assistance, and assistance to refugees and displaced persons,”⁴³ according to the Committee supervising the ICESCR.

The ICESCR also urges us to provide victims of natural catastrophes or socially disadvantaged communities special consideration.⁴⁴ A framework for international cooperation is also imposed on the member states by the ratification of other international human rights accords⁴⁵ The UNFCCC⁴⁶ “common but differentiated responsibilities”

⁴¹ ICESCR, 1976, art. 2.

⁴² *Ibid.* Arts. 11(1), 15(4), 22 and 23.

⁴³ ICESCR, General Comment No. 12 on the Right to Adequate Food (Article 11); No. 13 (1999) on the Right to Education (Article 13); No. 14 (2000) on the Right to the Highest Attainable Standard of Health (Article 12); and No. 15 (2002) on the Right to Water (Articles 11 and 12 of the Covenant) (2000, August 11), *available at*: <<http://www.refworld.org/pdfid/4538838d0.pdf>>(last visited on July 2, 2024).

⁴⁴ *Ibid.* General Comment No. 12, para. 13.

⁴⁵ Convention on the Rights of the Child, 1989, arts. 4 and 24(4), *available at*: <<http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>> (visited on July 2, 2024); Declaration on the Right to Development, 1986, arts. 4 and 6, *available at*: <<http://www.un.org/documents/ga/res/41/a41r128.htm>> visited on July 2, 2024); Convention on the Rights of Persons with Disabilities, 2008, art. 32, *available at*: <<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>> visited on July 2, 2024).

approach appears to have been somewhat justified by the framework for international collaboration. In short, ICESCR convention gives extra mile to states extra territorial jurisdiction over fulfilling the rights laid under the convention which can be useful in protecting and safeguarding EDP's but at the same it may create a problem of over shadowing the other human rights under international human rights law.

An essential component of the 1951 refugee convention is the non-refoulement provision.⁴⁷ The principle forbids the contracting state from compelling an asylum seeker to return to a location where their life is in danger, where they fear persecution for the reasons designated in the convention, or in situations where they run the risk of suffering from brutal treatment such torture and related human rights abuses. "Complementary protection" is the word used to describe this expanded governmental obligation.⁴⁸ The concept is considered customary international law, meaning that all countries are bound by it, even those that have not ratified the convention or its protocol.⁴⁹

It's crucial to remember that the human rights convention shows a glimpse of protective standards and realising the problems of EDP and a way forward to formulate a framework for the people displaced due to climate change or environmental harm. Consequently, it is essential to scrutinize and acknowledge the reliance on a single state, particularly developing countries, to address a global issue. Realistically, the significant deprivation of human rights on a large scale cannot be effectively resolved by a single state with limited resources. Moreover, this reliance may exacerbate internal conflicts, pose security threats, and place an overwhelming burden on the said state.

⁴⁶ Human Rights Council, Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, para 87 (2009), *available at*: <<http://undocs.org/A/HRC/10/61>>(visited on July 2, 2024).

⁴⁷ Convention Relating to the Status of Refugees, 1951, art 33, *available at*: <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees>> (visited on July 2, 2024).

⁴⁸ Jane McAdam, *Complementary Protection in International Refugee Law* (Oxford University Press, 2007).

⁴⁹ UNHCR, "The Principle of Non-Refoulement as a Norm of Customary International Law: Response to the Questions Posed to UNHCR by the Federal Constitutional Court of the Federal Republic of Germany in Cases 2 BvR 1938/93, 2 BvR 1953/93, 2 BvR 1954/93" *available at*: <<https://www.refworld.org/jurisprudence/amicus/unhcr/1994/en/20625#:~:text=The%20principle%20of%20non%2Drefoulement%20constitutes%20an%20essential%20component%20of,may%20be%20exposed%20to%20p%20ersecution>> (visited on July 2, 2024).

VII International Environmental Law Approach in Protecting People Displaced by Climate Change

International environmental law (IEL) regime consists of substantive, procedural and institutional rules laid under international law having foremost and paramount objectives of protection of the environment. It is important to analyse and examine the legal framework under IEL relating to human displacement due to environmental harm. Though the principles and rules of IEL are criticised and challenged on the ground that the responsibility towards EDP's can be determined on the basis of IEL principle and rules.

The Trans boundary harm Principle has become customary international law. It provides that state shall be held responsible for trans boundary environmental harm which was outcome of Trail smelter's case in the year 1941⁵⁰ also known as 'no harm principle'. It read as:

“No state has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another or the properties or persons therein, when the case is of serious consequence and the injury is established by clear and convincing evidence.”⁵¹

The principle of 'no harm' was further elucidated and contributed in shaping IEL under Principle 21⁵² and Principle 2⁵³. These are considered to be 'fundamental objectives pulling in opposite direction'⁵⁴.

The objective stated under the Stockholm Declaration's Principle 21 is seen as:

“States have the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the

⁵⁰Trail Smelter Arbitration (United States v Canada) Arbitral Trib., 3 U.N. Rep. Int'l Arb. Awards 1905 (1941).

⁵¹*Ibid.*

⁵² Report of the United Nations Conference on the Human Environment, 1972, *available at*: <https://digitallibrary.un.org/record/523249?ln=en&v=pdf> (visited on July 2, 2024).

⁵³ Declaration of the United Nations Conference on the Human Environment, 1992, *available at*: <https://legal.un.org/avl/ha/dunche/dunche.html> (visited on July 2, 2024).

⁵⁴ Sands, Philippe, *et. al.* (eds.), “*Principle of International Environmental Law*” (Cambridge University Press, 2012).

environment of other States or of areas beyond the limits of national jurisdiction.”

Similarly, the Rio Declaration’s Principle 2 objective was stated as:

“States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction”.

As a result, one part of this principle reflects “sovereign rights of the state over natural resources”, and the remaining part of the principle places limitations on this right or the state's duty to guarantee that activities conducted inside their national borders must not cause damage to the environment of another state. This is one of the classic examples of restrictive rights and establishes basic obligations of the state under international environmental law. Thus, the principle is recognised as international customary law⁵⁵. As a consequence, when there is a breach of such rule ‘no harm rule’ the concerned state is held responsible for the damages. Richard S J Tol and Verheyen R, in their article inked down four steps to establish state responsibility- “(i) Identifying the damaging activity attributable to a state, (ii) establishing a causal link between the activity and the damage, (iii) determining either a violation of international law or a violation of a duty of care (due diligence), (iv) owed to the damaged state.”⁵⁶

Applying the similar analogy in establishing state’s responsibility towards human displacement due to environmental impairment is a challenge under IEL. Put another way, it is difficult to prove a cause-and-effect relationship between damage and activity. For example, it might be difficult to prove that human activity or greenhouse gas emissions in a

⁵⁵ Advisory Opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons (1996) ICJ Rep 226, *available at*: <<https://www.icj-cij.org/sites/default/files/case-related/95/095-19960708-ADV-01-00-EN.pdf>> (visited on July 2, 2024).

⁵⁶ Richard S.J. Tol, and Roda Verheyen, “State Responsibility and Compensation for Climate Change Damages – A Legal and Economic Assessment” 32 *Energy Policy* (2004).

certain state have harmed a particular person or group of people in that state.⁵⁷ Another concern is, determining the wrongdoer in situations where nations have already seriously harmed the environment is another issue and due to which it forces people to migrate or flee from their original inhabitant in search of livelihood and security. For instance, certain Pacific islands, such as Kiribati and Tuvalu may be vanished from the map in coming years due to negligent and irresponsible people's behaviour during the nineteenth and twentieth century⁵⁸.

The Polluter Pay Principle (PPP) is reflected by the UNEP defining PPP as states "that whoever is responsible for damage to the environment should bear the costs associated with it"⁵⁹. PPP is a commonly accepted practice where the polluter or the person who pollutes and brings harm to the environment has to bear the cost for its restoration. It is considered to be economic mechanism inconsonance with system of justice and fairness.

There are international institutions which are also encouraged to inbuilt and internalise such mechanisms, for instance the Rio Declaration on Environment and Development states that "national authorities should endeavour to promote the internalization of environmental costs [via] the use of economic instruments..."⁶⁰ Furthermore, the North-East Atlantic Marine Environment Protection Convention of 1992 was founded. According to Article 2b:

"the contracting parties shall apply...the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter".

It can be inferred that the principle of polluter pay may find its relevance in protecting the rights of EDP's. The developed countries are the ones who have contributed highest to bring environmental damage due to which people of developing countries have been suffering and pose a serious threat to life and livelihood, they are the ones who are the victims of their wrong doing.

⁵⁷ Jane McAdam, "Environmental Migration Governance" *University of New South Wales Faculty of Law Research Paper* (2009).

⁵⁸ Stephen M Gardiner and Hartzell Nichols "Ethics and Global Climate: Essential Readings" *Nature* (2010).

⁵⁹ United Nations Environment Programme, "Taking Action: An Environmental Guide for You and Your Community" (1995).

⁶⁰ Rio Declaration on Environment and Development, 1992 principle 16.

The creation of the “Green Climate Fund”, which must be developed by a transitional committee to achieve the UNFCCC’s ultimate goal, was resolved during Cancun climate change summit in 2010 (COP 16).⁶¹ The document also mentioned about the execution as well which read as:

“.... in the context of sustainable development, the fund will promote the paradigm shift towards low-emission and climate-resilient development pathways by providing support to developing countries to limit or reduce their greenhouse gas emissions and to adapt to the impacts of climate change, taking into account the needs of those developing countries particularly vulnerable to the adverse effects of climate change.”⁶²

Nevertheless, it can be inferred by the above reading that the polluter pay principle is not adequate enough to protect and safeguard EDP’s or bring potential solutions to their problems. It is a challenge to identify the polluter under such a human displacement issue. For instance; if there are two or more countries emitting pollution leading to environmental harm then how to identify the polluter and apply the said principle; are few obstacles which hinders the status and protection of EDP’s.

The main legal foundation for resolving concerns related to global climate change is the UNFCCC. As demonstrated by the Cancun Adaptation Framework’s Article 14(f) during the 2010 COP16 UN climate change meeting in Cancun, human mobility was a major topic of discussion within the UNFCCC.⁶³

The Cancun Adaptation Framework, which guided the establishment of the Warsaw International Mechanism for Loss and Damage (WIM) during COP 19, gave migration,

⁶¹UNFCCC, “Green Climate Fund - Report of the Transitional Committee” (2011)<<https://unfccc.int/process/bodies/funds-and-financial-entities/green-climate-fund>>(last visited on July 24,2024).

⁶²*Ibid.*

⁶³ Cancun adaptation framework paragraph 14 (f) read as “Invites all Parties to enhance action on adaptation under the Cancun Adaptation Framework, taking into account their common but differentiated responsibilities and respective capabilities, and specific national and regional development priorities, objectives and circumstances, by undertaking, inter alia, the following: (f) Measures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at national, regional and international levels.”

displacement, and relocation more consideration. The WIM seeks to improve state collaboration, raise awareness of the connection between migration and climate change, and offer technical support to reduce damage and loss.

Subsequently, in 2015, the COP 21 conference produced the Paris Agreement, which serves as the current legal framework pertaining to climate change. With this agreement, nearly every state has made a commitment to reducing the negative impacts of climate change through partially enforceable Intended Nationally Determined Contributions (INDCs) for the first time. The Preamble of the Paris Agreement gave a place of recognition for the rights of migrants at the time of climate action plan in collaboration with Warsaw Mechanism to “develop recommendations for integrated approaches to avert, minimise and address displacement related to the adverse impacts of climate change.”⁶⁴

Nevertheless Paris agreement lacks behind in recognising and protecting the issue of EDP's the reasons can be several to quote few first it is still lacking sound funding and query related to liability and compensation are ambiguous and quarrelsome.⁶⁵ Furthermore, the agreement doesn't specifically address problems concerning the protection, aid, and legal standing of those who have been displaced by climate change. Although migration is mentioned in passing in the preamble of the Paris Agreement, its inclusion is viewed as a noteworthy but partial achievement rather than a full framework.⁶⁶ Some academics claim that the UNFCCC is inadequate to address displacement concerns and that it lacks necessary structures and capacities, making it challenging to advance its less contentious fundamental duties.⁶⁷

The concept of a “Climate Change Displacement Facility,” which would offer emergency support as well as assistance with planned relocation, organized migration, and compensation measures, brought the topic of human displacement to the centre of the Paris

⁶⁴ United Nations Framework Convention on Climate Change, “COP 21: Decisions Adopted by the Conference of the Parties”, Paragraph 50 (2015).

⁶⁵ Maxine Burkett, “Reading Between the Red Lines: Loss and Damage and the Paris Outcome” *Climate Law*, 118-129 (2016).

⁶⁶ Dina Lonesco, “COP21-Paris Agreement: A Stepping Stone for Climate Migrants” (2015), *available at*: <<https://reliefweb.int/report/world/cop21-paris-agreement-stepping-stone-climate-migrants>> (last visited on July 24, 2024).

⁶⁷ David Hodgkinson and Lucy Young “In the Face of Looming Catastrophe: A Convention for Climate Change Displaced Persons”, in Michael B. Gerrard and Gregory E. Wannier (eds.), *Threatened Island Nations* (Cambridge University Press, 2013).

negotiations.⁶⁸ But reaching an agreement on this condition proved difficult, especially with some nations like Australia.

In conclusion, despite attempts to create a legal framework for this goal, the UNFCCC and other treaty regimes have not yet adequately addressed the issue of relocation related to climate change. Notably, action in this direction has been requested from the International Law Commission (ILC), a UN agency entrusted by governments with advancing the evolution of international law. A noteworthy undertaking is the composition of the “Draft Articles on the Protection of Persons in the Event of Disasters”,⁶⁹ supplemented by stakeholder commentary, with the objective of providing legal safeguards for those uprooted by calamities, especially those brought on by climate change.

The draft articles seek to provide a thorough framework defining the rights and obligations of impacted countries as well as other international parties in order to respond to catastrophes in an efficient manner. They also establish humanitarian and human rights guidelines for aid provision. The draft articles define a “disaster” as a broad category of occurrences that includes both man-made and natural disasters. It defines a catastrophe as “a calamitous event or series of events resulting in widespread loss of life, significant human suffering and distress, displacement, or extensive material, economic, or environmental damage, thereby severely disrupting societal functioning” (Article 3). The draft articles are relevant for discussing displacement within the framework of climate change because of this broad definition.

Similarly, debates over the final Draft Articles have continued as the codification process draws to a close. With backing from the UN General Assembly Sixth Committee, ILC and its Special Rapporteur have suggested adoption as a legally binding framework agreement. They contend that the required impetus for action could only be produced by a legally binding document.

⁶⁸Oliver Milman, “UN Drops Plan to Help Move Climate-Change Affected People” *The Guardian*, October 7, 2015, available at: < <https://www.theguardian.com/environment/2015/oct/07/un-drops-plan-to-create-group-to-relocate-climate-change-affected-people>> (last visited on July 24,2024).

⁶⁹ International Law Commission, Draft Articles on the Protection of Persons in the Event of Disasters, 2016.

VIII Conclusion

The rising tide of environmental refugees is a major cause of concern globally but invisible in its recognition. The effect of climate change and related events are enormous, not only on nature, but also on human life. Many scientists and environmental specialists have highlighted the increasing number of disasters linked to climate change, which has resulted in a sharp rise in the number of people forced to migrate.

First, it is seen to be extremely difficult to draw a direct connection between the consequences of climate change and human relocation. The effects of this can be seen in other related challenges, including the impasse in understanding the scenario in which human displacement results from climate change and then bestowing legal status upon them. However, a number of predictions from UN agencies and scientific bodies, together with thorough research, indicate that the effect of climate change would render certain places' climates totally unsuitable for human habitation. People are therefore forced to migrate because they have no other choice. Large-scale population relocation will result from this, either directly or indirectly, creating a terrible scenario for regional and global stability.

Consequently, some academics have argued that, in the middle of theoretical discussions, politicians, policymakers, and researchers should give top priority to the development of solutions aimed at providing a timely response to the problem and protecting EDPs. Understanding the current international legal mechanism that may be used to deal with the issues of displacement brought on by climate change becomes essential in this respect.

International refugee law is the important framework that is being considered to fulfil the protection requirements of displaced populations. It is the main mechanism that operates on a worldwide scale. It's crucial to remember that safeguarding those who have been dislocated because of environmental degradation or climate change might be challenging when utilizing refugee legislation. However, there are different opinions on this matter. One argument is that amending the Refugee Convention to include climate-induced displacement may impede the protection of already protected categories of refugees. For instance, in 2006, the Maldives government proposed an amendment to the 1951 Refugee Convention with the aim of

recognizing and safeguarding people displaced by environmental degradation.⁷⁰ However, being the main organization tasked with protecting and assisting refugees, the UNHCR, is already overburdened with work and lacks the necessary funds or manpower to encourage the type of people for whom the Refugee Convention was first intended. The entire refugee regime may feel overburdened if everyone affected by climate change were granted refugee status. It's also crucial to remember that Bangladesh and India, two of the nation's most badly impacted by migration brought on by climate change, are not signatories to the Refugee Convention. They are unlikely to be motivated in the future to ratify the Convention.

As an additional legal framework, international human rights legislation is also discussed. This method is quite attractive for solving the causality problem's difficulties. States are required by international human rights law to shield citizens from harm that would make it difficult for them to exercise their rights, especially in situations when the state is not directly to blame for the threat. The causality conundrum, which frequently serves as a significant obstacle to the incorporation of EDPs inside international legal frameworks for protection, is resolved by this feature of human rights law. EDPs are theoretically entitled to all the safeguards provided by human rights law that their country is required to support, according to international human rights treaties that have been ratified by each of their various nations. This means that a state is required by international human rights law to protect the safety and rights of EDPs inside its borders, even if the state is not directly to blame for the environmental displacement. On the other hand, really using this protection might be difficult. However, the extraterritorial duties that the human rights framework entails—such as the international responsibility to collaborate and give assistance—make it crucial for protecting EDPs. This feature can function as a cornerstone upon which an EDP protection system can be built.

IEL is a crucial component of the global legal structure. This corpus of legislation covers strategies for reducing and adapting to climate change, as well as standards for assessing governmental responsibility for environmental harm. Nevertheless, it is clear that neither agreed-upon provisions found in agreements like the Kyoto Protocol and the UNFCCC nor customary international law specifically address or include specific guidelines for defending

⁷⁰ A small number of academics think that environmental refugees fall under the 1951 Refugee Convention's criteria. Jessica B. Cooper, for instance, contends that environmental refugees are already covered under the 1951 Refugee Convention. See, Jessica B. Cooper, "Environmental Refugees: Meeting the Requirements of the Refugee Definition" 6(2) *New York University Environmental Law Journal*, 480 (1998).

those who have been displaced due to the negative impact of climate change or environmental degradation. International environmental law is relevant to environmental challenges, but it does not yet have particular measures to fulfil the prerequisites of persons displaced by climate-related causes in terms of protection.

There is a difference of opinion by some scholars, stating that the issue of human displacement due to environmental factors can be resolved by granting recognition to the people leaving their homelands due to hazardous effects of environmental degradation within the umbrella of international environmental legal framework. Bringing a new protocol under the UNFCCC treaty that will particularly discuss the matter of climate-induced displacement is only one of the recommendations made by these researchers. Since many developed and developing nations, like Bangladesh, Tuvalu, Kiribati, and several of the worst impacted African states by climate change, are already members of the UNFCCC. The second advantage is the UNFCCC's long standing idea of common but differentiated commitments, which is a cornerstone of the agreement and calls attention to the states that are most vulnerable to the consequences of climate change.

However, the criticism faced in protecting EDP's are: lack of funds⁷¹ or incapacitated institution or limitation in its approach and application. One of the most common criticisms is that developed countries do not seem to value the UNFCCC's recognition of the unique needs of developing nations and the additional burden it places on them to lead the fight against climate change, despite this recognition and the principle of common but differentiated responsibility. After seeing such a situation, it would be dangerous to remove the EDPs' protection under the UNFCCC. Ultimately, it might be argued that the existing international environmental laws are insufficient to address the problem of ecologically displaced populations.

Finally, a new convention that focuses only on displaced individuals due to environmental impairments is a proposal that has been supported by certain academics and policymakers. This strategy appears to have the benefit of reflecting on the main issues related to environmentally displaced persons and accounting for all pertinent research. The discussion

⁷¹Joydeep Gupta, "Green Funds Dry Up for Developing Countries", *Down To Earth* July 06, 2018, available at: <<https://www.downtoearth.org.in/economy/green-funds-dry-up-for-developing-countries-61050>> (last visited on July 24, 2024).

over new international convention and protocol protecting EDP's has been made noteworthy through submissions made by various scholars.⁷² Further lawyers from Australia Tess Burton and David Hodgkinson have also put forward supporting arguments in bringing new international conventions for EDP's. They opined that the present UN refugee convention would be incapable of protecting people from the negative impacts of climate change and proposed a draft convention for its protection.⁷³

Docherty and Giannini of Harvard Law School propose a new convention to handle the issue of refugees caused by climate change in their paper "Confronting a Rising Tide: A Proposal for a Convention on Climate Change Refugees", in these words "the problem of climate-induced migration is sufficiently new and substantial to justify its own legal regime instead of being forced into frameworks which were not designed to handle it." According to the authors, this new international convention would not only protect and assist the climate change refugees but also provide them recognition under international legal framework.

The creation of the new piece of legislation has been backed by various researchers whereas criticised by some advocacy groups. The advocacy groups argue that tailoring separate conventions for climate change refugees is not the solution to the related issue; rather she emphasised more on developing bilateral and regional agreements.⁷⁴

The other criticism to the notion of a new convention guaranteeing special status and protection to EDP's is that, it is time consuming and a lengthy process which requires essential components like political will, international cooperation and source of concrete funding, difficulty in distinguishing between forced displacement and voluntary displacement in slow onset disaster like drought or other environmental disaster, problem in segregating displacement induced due to man-made disaster or natural disaster.

⁷² Biermann, Frank, and Ingrid Boas. Call for a Protocol to the UNFCCC to Deal with Climate Change Displacement (2007); Biermann, Frank, and Ingrid Boas. "Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees" 10 *Global Environmental Politics* 60-88 (2010); Docherty, Bonnie, and Terry Giannini. "Confronting a Rising Tide: A Proposal for a Convention on Climate Change Refugees" 33 *Harvard Law Review* 349, 352 (2009); Prieur, Michel. "Draft Convention on Environmentally Displaced Persons" 42 *The Urban Lawyer* 247-257 (2010/11); Hodgkinson, David, et al. "Hour When the Ship Comes In: A Convention for Persons Displaced by Climate Change" (2009).

⁷³ David Hodgkinson and T Burton, et. al. "Towards a Convention for Persons Displaced by Climate Change: Key Issues and Preliminary Responses" 6 *Earth and Environmental Science* (2008).

⁷⁴ Jane McAdam, "Swimming Against the Tide: Why a Climate Change Displacement Treaty Is Not the Answer" 23(1) *International Journal of Refugee Law* 2-27 (2011).

To sum up, there are still a lot of unknowns surrounding the recognition of the precarious position of population displacement as a result of environmental deterioration, and academics and policymakers continue to disagree on this point. There is still uncertainty about this group's definition and conceptualization, which makes it difficult to determine whether current international law can adequately protect persons impacted by environmentally driven relocation and control it. Environmental degradation, in our opinion, is a serious matter for worry. Currently, EDPs lack legal recognition and protection in many countries. This problem cuts over national lines and has the potential to impact areas all around the world. Given how swiftly the issue is growing, the international community needs to take swift action to stop environmentally driven displacement. Since the issue is becoming too urgent to ignore, the international community must act swiftly to choose a suitable structure for safeguarding people displaced by environmental deterioration. We cannot afford to hesitate any longer in addressing environmentally induced displacement.