

# Protection of Climate Migrants from An International Law Perspective

<sup>1</sup>Arushi Bajpai, <sup>2</sup>Akash Gupta, <sup>3</sup>Rutendo Moira Ndoro

<sup>1</sup>Assistant Professor, Jindal Global Law School, O.P. Jindal Global University, Sonipat, India, [abajpai@jgu.edu.in](mailto:abajpai@jgu.edu.in)

<sup>2</sup>Assistant Professor, Jindal Global Law School, O.P. Jindal Global University, India

<sup>3</sup>Parliamentary and Legislation Officer, Cabinet Office, London, United Kingdom

## Abstract

Climate Change migrants are at high risk of permanent displacement and international law needs to address this issue. There are certain scholars who believes that displacement due to climate change doesn't exist. However, some agrees to the truth that human actions have contributed to the huge change in climate because of which lot of people are getting permanently displaced but, there is no specific law for them. This paper talk about this issue in detail and discuss about how international law helps and understands the climate change migrants.

**Keywords:** Climate, Migrants, International Law, Displacement, Permanent.

## Introduction

"One of the gravest effects of climate change may be those on human migration" (IPCC, 1990: 103)

Climate Change refugee is the problem that exist without making its legal existence. The term 'climate change refugee' was first popularised by Lester Brown of the World Watch Institute in the 1970s. climate refugees are those individuals who are required to abandon their home due to some change in climate conditions. This is typically an environmental occurrence, still many scientists believe that human actions everywhere in the globe has contributed in it which is accurate in my view since one of the main factor of displacement due to climate change is rising sea level which is result of global warming, it has left more than 700 million people displaced , Above 32 million people in 2012, were banished by hasty inception of natural menace, 98% of it was climate-related. The above numbers shows that due to the change in climate many people has been displaced and

also it is continuing problem which will force many more people to leave their place.

other factors that are related to environment change, for instance varying rainfall pattern, coastal erosion and drought possibly drove many most of the individuals to leave their homes, even though exact numbers are not known. The matter of environmental degradation is multifaceted and broad, 'Environment change will have coerced masses of individual to abscond their households over the coming years' because with each passing day due to human activities global warming is increasing and thrilling weather and climate inconsistency are progressively performing a role. Most of the human activity is contributing for such change in climate which is affecting the environment very badly. Also, displacement is happening worldwide mainly due to the rise in sea level, if we come to look into the reason, the level of sea is increasing due to the melting ice, this is of course not the only reason but one of the major reasons because of which the ice the glaciers are melting and contributing to the rise in sea level. The melting glaciers are result

of human activities leading to the global warming.

However, there is growing concern over the amount of which the grief dislocation or compulsory immigration due to environment change are protected.

Climate change induced displacement refers to the movement of individuals 'those are forced to vacate their place of customary residence because of the adverse effects of both direct and indirect climate change (Barnett and Webber 2009)'. More recently, Myers have defined climate refugees as 'those individuals that are not living in secured livelihood in their customary birthplaces mainly due to climatic factors of infrequent possibility'. The above definition explains widely that all those person who are displaced due to the climate change they don't have any secure living, reason behind is because of the sudden change in their place they have nothing to take with them and nowhere to go, they leave behind all what they have for their living, their including their home and searching a new place at new country make it difficult to them leading the to displacement. The issue of environmental refugee is very critical and very recently it has been emphasised by scientist subsequently provoking much debate among legal academics and giving scope to policy makers to think about this issue. However, the amount of protection provided by the international law to the environmental refugee from serious human rights violations are unfortunately negligible. The international community has yet not counting the climate refugees as any form of refugee.

This essay helps us to better understand the concept of environmental refugee and factors that leads to homelessness, these are considered as those group whose case has been side-lined in recent years, namely the phenomenon of environmentally-induced migration, alternatively climate refugees are described as third group, whose situation is being slightly side-lined in recent years, yet they are significant group of interest to many policy-makers at international level as 'environmental refugees'

This article aims to examine and explore the issues related climate change refugees their problems and how international law is helping

them to provide some legal protection. The legal gap in the international law regarding the climate refugees.in conclusion the essay examines some new legal protections to challenge the issue of climate change.

### **Climate Change Refugees.**

Environmental refugees can be defined as individuals who are involuntary required to displace because of the change in climate covering national borders or within borders they include both internally displaced person and displaced person due to sea level rise, droughts etc. The academicians and literature talk of hundreds of displaced people, and their impact on regions, such that regional security is threatened.

The manner the climate change effects the population identified as victims of climate change can be best understood by understanding the problem deeply of small island and places where global warming is affecting either in form of sea rise or drought, forcing people to leave their home. Yet, 'the prevailing universal legal framework through its laws, policies and institutions does not sufficiently address the emerging crisis. because most of the academicians understand the issue that individuals are facing while the law makers are still not understanding the intensity and they do not recognize them as refugee.

In early1990, the Intergovernmental Panel on Climate Change (IPCC) settled that most noteworthy effects of environment change might be on human mobility , which is evident in today's era in most of the places. In South Asia one of the major delta leaving many people homeless is in Bangladesh, the refugees 'Increased the populace of bordering extents of India by 12 to 17 million' since the past forty years, while 'the inhabitants of the state of Assam has been boosted by at least seven million' also Sanders extensively defines as 'climate refugees' approximately 4.1 million rural-urban immigrants in Northeast Brazil in the 1960s and a additional 4.6 million in the 1970s yet so many people are being homeless, there is no such legal instrument that gives a clear solution to their problem while everyone knows it. There are number of factors in climate change that leads to human mobility,

the most unescapable climate change effect can be seen by drought because of which the land gets destroyed and the poverty-stricken farmers is forced to leave the land and another strident one is rising sea level, that force people to leave the small island.

There is even more explanation of the notion of climate migrants in the situation of more affected and enduring variations to the climatic situation related with disastrous incidents for instance volcanoes, floods, and earthquakes. Before the climate change agenda, 'deforestation of the Himalayan Mountains was a heated topic of discussion in the South Asian'. The conventional wisdom was that due to huge population growth in the mountains, demand for fuel wood, fodder and timber increased and therefore the mountain people had started uncontrolled forest removal. This phenomenon resulted in intensified erosion and peak flows in the river, severe flooding and siltation on the densely populated plains of the Ganges and Brahmaputra. The displacement is not always permanent these natural events also include momentary displacement, as at the time of the Kobe earthquake of 1995, in which, conferring to the Japan Times, a preliminary number of emigrants of over 300,000 cut down to less than 50,000 within few weeks of the tragedy.

'Likewise, during the time of flood in March 2000 at central and southern Mozambique millions of people were forcibly displaced, nonetheless a few weeks after this calamity, maximum of them were in position to go back to their places.' because of coastline destruction, seaside flooding and agrarian disruption connected to environment change is far from being forthright. Even though Myers classifies many parts of the globe, counting 'Bangladesh, Egypt, China, Vietnam, Thailand, Myanmar, Pakistan, Iraq, Mozambique, Nigeria, Gambia, Senegal, Columbia, Venezuela, British Guyana, Brazil and Argentina, as endangered by also a reasonable increase in sea-level

The above paragraph clearly describes that even a moderate rise in sea level can bring thousands of people homeless, with this high risk it becomes utmost important for government of such nations to start planning about the protection of their citizens. Placing utilitarian theory in the climate refugee model,

utilitarian believes that 'greater happiness for greater number of people' meaning thereby if a large section of society is in danger international law or the authority concern must take decision, so that those suffering can be given relief. In this case of climate refugees, we know that the population of victim is lot more than normal.

There is a statement by the World Foundation on Environment and Development and the Norwegian Refugee Council (an arm of the Norwegian government) contended for founding an organisation of defence for climate refugees while the International Organisation for Migration (IOM) and the US based Refugee Policy Group (RPG) likewise determined that novel global tools are required to aid or to guard a group presently overlooked by international policy.

When the world is focusing on migration because on war and poverty there is a need to focus on such helpless group who are forced to leave their house due to natural causes, International law must come up with protection measures for them.

Furthermore, there are some of the areas in the world that are expected to acknowledge a huge level of environmental refugee's inhabitants because of abundant factors. One of them being experience to environment change-related dangers and effects. 'some of the areas such as flood-prone deltas, low-lying island atolls, and thickly inhabited seaside parts are specially exposed.'

Deprived, emerging and battle-prone nations are especially at danger: frequent research has shown that failure of state and ferocious battle worsen natural hazard-related tragedies and lessen individual's adaptive dimensions also including, deprived nations especially where a huge number of the populace is reliant on rainfed cultivation for living, have established particularly vulnerable to environment-associated issues.

There are few states contracts that accept the Guiding Values for instance 'protection framework covering the 2009 Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa and the 2006 Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons, and they are lawfully

obligatory for ratification for such nations and protection to those displaced by natural disasters. Article 5, paragraph 4 of the Kampala Convention states that “States Parties shall take measures to protect and assist persons who have been internally displaced due to natural or human made disasters, including climate change’

Three type of protection gap are there with reverence of the Guiding Principles for those who are internally displaced due to the predictable consequences of environment change. The primary one ascends from the datum that the principles controlling the refugees necessitate that the undertaking be obligatory. As specified by the Internal Displacement Monitoring Centre, the self-imposed programme is basis to define the forced dislocation. It involves individuals obligated to leave the home where they live in or banished to evade the consequences or a risk of natural disaster. The view by the world bank on climate refugee is that the displacement occur if the conclusion of leaving the place is imposed and forced by exterior agent which is not man made and when there is no possibility of staying at place. This is adjacent to Kalin’s variation for internal emigrants whom he considers are those ‘who has choose to vacate their place of usual abode due to the outcome of environment change, for instance a worsening climate harmfully affecting the manufacture of nutrition, but are not required to abandon or escape as life still would be possible there.’

It has been predicted by scholars that, in the approaching years, ecological degradation caused by climate change will lead tens of thousands of people to leave their habitual places and in most of the circumstances their nations Simultaneously, the international legal agendas and their accompanying institutions have some breaks in their directives which frames it hard for the people to report the issue effectively. The laws for refuges and environment change that exist now are not sufficient to administer this likely migration. The explanation to the problem of migration due to environment change will necessitate a novel and different tactic since the issue did not just require merely within an international environmental law or human right context and it requires more attention ‘appreciation of the

evolving issue of environment migrant has risen since last twenty years’ since the climate if effecting a lot by the human use of different resources. It may be specified that the severest consequences of change in climate will certainly on human being in the framework of migrants since billions are evacuated by coastline destruction, floods and agrarian destruction.

Moreover, lately the ‘United Nations Office of the High Commissioner for Human Rights (“OHCHR”) has commenced to give explicit devotion to climate change, observing that it can disturb thousands of millions of individuals in abundant manner, inclusive of perpetual dislocation’ . The Deputy High Commissioner for Human Rights in February 2008 said: ‘till 2050, thousand of million of individual might be dislocated eternally due to increasing sea levels, floods, droughts, famine and hurricanes.’

‘The continuous deliquescing of layer of itself can be reason for the homelessness of 1 in every 20 people. Enlarged desertification and the change of environments, by compromising societies livelihoods, they are expected to prompt huge population dislocation’

Initial approximations specify the entire number of ‘individual that might be effected by sea-level rise in Bangladesh might be 26 million, in Egypt 12 million, in China 73 million, in India 20 million, and apart from above 31 million including other places, which makes sum of 162 million’ . Additionally, minimum 50 million people might be under harm over growing droughts and other climate changes.

The prediction is that migration due to the change in climate some areas would be affected very badly, mainly small island states, coastal zones, and regions of Africa and Asia Floods and the occurrence and strength of hurricanes will probably rise dislocation, specifically in Asia. Escalation in Sea-level would be definitely severe for small island states and areas of Asia glaciers liquifies has always been connected to environmental migration in south Asia ‘Drought and water scarcity would perhaps have major impact on individuals who are in Africa and Asia’ ‘The Maldives, for instance, can perceive part of its capital flooded by 2025’ Other states, including Kiribati,

Tuvalu, the Marshall Islands, and several Caribbean islands, are also taken as under threat. Furthermore, it has been publicised that the rising sea level is a potential threat to people living near any sea or island. All the above climate change can lead to cause the populaces to leave their nations whereas many countries may stop existing, some might lose part of regional lands, that could in turn shoot immigration. Coastal areas in certain regions are significantly affected by climate change, as stated earlier, particularly in Asia. In Bangladesh, there is large areas of land that will be submerged. Most part of Bangladesh around eighty percent is delta, and the place is especially vulnerable from the effects of global warming, that include large cyclones, hurricane and increase in sea-level. At the end of 90's major part of of Bhola Island was eternally flooded, leaving which cause homelessness to 500,000 folks, who was stated as world's 1st environmental migrants of all, predictions have been done by the scientists that increase in sea levels may end up swallowing major part of Bangladesh's land

### Legal Gaps

Among both legal framework for climate refugees namely refugee law and climate change law, neither of them is precisely addressing the problem of environment change migrants, an expression that in this essay denotes to individuals who abscond their country due to climate-induced disruptions across national boundaries.

Although extensive ideologies of international law might have few protection and values that offer argument for supporting these climate refugees but still it can be mentioned that there is a visible gap in the current international legal system. Conversing the connection between climate change, migration, and human rights OHCHR's deputy commissioner in 2008 February highlighted the need and importance of focusing upon the gaps in protection of the refugees also, the refugee and climate change law suggested potentials for dealing with the issue of climate change migration., however, neither of the laws has contained the notion of providing rights and aid to those who flee environmental disruption.

Furthermore, even now most of the policymakers do not believe that environmental refugees fall under the scope of refugees. Most scholars argue that the climate environmental refugee have never been persecuted in the same manner as of traditional refugee, Environment migrant can still ask to their own nations for shield against the climate change in methods as for all who are escaping harassment, frequently by their home state. However, the climate refugee leaves there home because they are forced by environment, but they leave their country because they do not get any kind of support from their government and hence, they must also be treated as the traditional refugees.

The UNFCCC will directly apply climate change, but it also has some limitations where it does not cover all the aspect of climate change refugees, it mainly concerns the countries relations with each other and do not converse obligations that nations does have on individual and societies. For instance, those specified in human rights or refugee law. while the UNFCCC has proposal and some enticements to aid countries with variation in adoption to climate change, that convention did not directly and precisely discuss with the condition of climate change refugees. 'for instance, refugee regime, the UNFCCC was not intended for, and has not sufficiently dispensed with, the issue of environment refugee.'

Moreover, although some legal agenda for assisting aid and protection to climate change refugees and migrants might be initiated by international law, the truth is that the prevailing institutions in the international community are not actually addressing the problem concerned.

As a result, there is no comprehensive response to the said problem globally has arose and few ad temporary steps are not sufficient to deliver the reliability desired to solve the problem in long run. UNHCR has yet not given defences for climate change refugees and yet nor observed neither regarded its directive additional to the defences.

### Conclusion

This article examines about the climate refugees and their problems, there is a legal gap in international law and the legal policies framework with regard to the evolving problem

related to the refugees, until end of this century this problem would in fact be bigger and critical as with each passing day thousands of people are becoming homeless due to climate change. The international law has not yet made any such legal instrument that would provide protection to the climate migrants. The climate change is happening due to global human activity and emission and this is why international law must take responsibility on its own to protect the migrants.

The international law should make a new legal instrument which would help the migrants even if they leave their house, they should have some place to go and live their life peacefully.

The other thing international law can do is to make a funding for climate refugee and whenever there is a need they should be provided with the same. It should also guarantee the victims of climate change the surety of their protection. It should form an administrative body so that they take care of the refugee as and when needed. There must also be a clear legal distinction between the climate refugees and other refugees and the climate refugee must be given all the protection which they need, not only because climate refugee are increasing every year or because of the fact that in coming years thousand more will be displaced but for the reason that every human who are suffering problem which are violating their human right must be given legal help. Climate migrants are the issue of concern now which must be taken seriously at the priority otherwise in coming years there are a lot more displaced people will be seen.

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