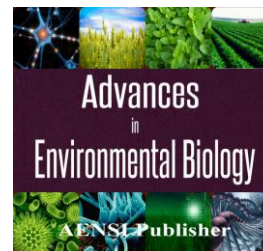




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The Legal Status and Causes of Environmental Refugees under International Law

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ABSTRACT

During recent decades we have witnessed a fast increasing number of refugees who have left their native lands or domiciles, due to unhealthy and intolerable changing of their environments! Such refugees are referred to here as 'climate migrants' or 'environmental refugees'. This paper aims to identify the meaning of an 'environmental refugee', and protection of environmental refugees under international documents, as well as the causes of environmental refugees will be discussed. Furthermore, in this paper also will be suggested the solutions for environmental refugees problems.

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INTRODUCTION

Movement of people from their origin country to other countries for environmental and climate change is one of the most important reason. It can provide a means of escaping danger and increasing resilience, especially when it is planned. But the immigration laws of the countries impose heavy restrictions on such movement of non-citizens people, resulting, in some cases, even in punishment of those who have tried to!

While the international law only recognizes a very small class of forced migrants as people whom other countries have an obligation to protect: 'refugees', 'stateless persons', and those eligible for complementary protection, but we are witnessing the increasing number of people who cannot stay and continue to live and tolerate environmental devastation of their surroundings anymore! This situation has brought about the identification of a new category of displaced people i.e. the environmental displaced people so called 'environmental migrants' which has also in some legal literatures referred to as 'environmental refugees'. It is predicted that their number will rise to at least 50 million by 2050, though, some say it could be as high as 200 million [13].

History of the concept:

The migration has a long history in the world. For example in Holly Quran, there is a clear-cut verse to the effect that if one is entangled with the conditions of a place living in, then he/she must migrate to another place devoid of such conditions (Nisa, 97) "Indeed, those whom the angels take [in death] while wronging themselves - [the angels] will say, "In what [condition] were you?" They will say, "We were oppressed in the land." The angels will say, "Was not the earth of Allah spacious [enough] for you to emigrate therein?...".

As well as analysis of climate change-induced displacement can be traced back to earlier deliberations on environmental displacement, which were particularly prominent during the 1990s [19].

Governments have long recognized that forced migration and displaced persons pose a significant international challenge to refugees and to host countries that provide asylum.

In 1951 the United Nations members had meeting in Geneva for legal status of refugees. In this meeting the Convention codified the basic rights of refugees and established minimum standards for their treatment. The issue of what constitutes a 'refugee' has been changing over time. In this way, the United Nations recognized that the emergence of new refugee situations required changes in the Convention. In the 1967 Protocol relating to the Status of Refugees, these changes were codified [17].

*Definitions of terms:**Refugees:*

The term 'refugee' has a long history of usage to describe 'a person who has sought refuge' in broad and non-specific terms. In these article 1.A.2 of the 1951 United Nations Convention Relating to the Status of Refugees a 'refugee' is defined as:

"Any person who: owing to a 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 to or, owing to such fear, is unwilling to avail himself of the protection of that country"

As defined in Article 1 of the Refugee Act of 1963/12/16 Islamic republic of Iran, Regulations made by the Council of Ministers: "The purpose of a refugee is a person who for reasons of politics, religion, race, nationality, or membership in a particular social group for fear of their lives, torture and members of his family who are dependents of refugees, Iran" he said.

Another definition is about refugees in Iran law is article 180 of Economic, Social and Cultural Development Plan of the Islamic Republic of Iran which defined: "A refugee is a person that is due to fear of being justified on grounds of race, religion, nationality, membership of a particular social group or political opinion persecuted".

Environmental refugees:

There is not an internationally recognized definition for the phenomenon of environmental refugees. This void has led to great confusion over the terms used to describe the people displaced by environmental events. "Environmental refugees," "ecological migrants," "climate refugees," or "environmentally displaced people" are all terms frequently used by scholars and the media to describe what they assume is a common reality.

A number of reasons account for lack of definition: the difficulty of isolating environmental factors from other drivers of migration, the absence of a legal definition, and also the confusion between forced and voluntary migration. A common assumption is that environmental disruptions trigger only forced and often brutal displacements, an assumption emphasized in the term "environmental refugees." Many authors stress, however, that environmental factors also induce voluntary migration [12,25,26].

Many authors have distinguished between migration, which is assumed to be voluntary, and displacement, which is forced migration [10].

The term "environmental refugee" was first proposed by Lester Brown in 1976, [4] since then there has been a proliferation in the use of the term at which "environmental migrant" and a cluster of similar categories, including "forced environmental migrant", "environmentally motivated migrant", "climate refugee", "climate change refugee", "environmentally displaced person (EDP)", "disaster refugee", "environmental displacee", "eco-refugee", "ecologically displaced person" and "environmental-refugee-to-be (ERTB)". [11].

Under the United Nations Convention Relating to the Status of Refugees of 1951, a refugee is more narrowly defined (in Article 1A) as a person who "owing to a 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 to or, owing to such fear, is unwilling to avail himself of the protection of that country". While the concept of a refugee was expanded by the Convention's 1967 Protocol and by regional conventions in Africa and Latin America to include persons who had fled war or other violence in their home country, in its present state the convention does not provide long-term legal protection to refugees due to environmental change.

The International Organization for Migration defined environmental migrants:

"Environmental migrants are persons or groups of persons who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad."(<http://www.iom.int/cms/en/sites/iom/home.html>)

Essam El Hinnawi also defined Environmental refugees as follows:

"Environmental refugees are defined as those people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural or triggered by people) that jeopardizes their existence and/or seriously affected the quality of their life" [8].

By adding 'in a broad sense, all displaced people can be described as environmental refugees', El Hinnawi places environmental refugees in a category that he views as primary or foundational, rather than simply viewing them as 'displaced peoples'. They are not accepted as legitimate refuge seekers, according to the 1951 Convention on Refugees (CSR), but rather as internally displaced persons (IPDs), not qualified to claim refugee status.

The status of environmental refugees' in charter of the United Nations:

The UN Charter was adopted on June 26, 1945 and entered into force on October 24, 1945. It sets out the purposes of the United Nations, including the protection of human rights, maintenance of international peace and security, as well as promotion of economic and social co-operation. Article 55 of the Charter requires states' commitments to promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and
- c. educational cooperation; and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

It is important to mention that the environmental issues are not expressly mentioned in the UN Charter, these social and economic provisions lay the foundation for the elaboration of human rights to incorporate environmental protection.

Causes of Environmental Refugees:

There are many causes to be a person as environmental refugees such as:

Natural disasters, like: earthquakes and floods have, and continue to force people from their homes [7].

As Lonergan notes [16], five groups of factors can be singled out as environmental push elements that might lead to migration:

1. Natural disasters;
2. Development projects that involve changes in the environment;
3. Progressive evolution of the environment;
4. Industrial accidents; and
5. Environmental consequences due to conflicts [16].

Natural Disasters:

A natural disaster is a major adverse event resulting from natural processes of the Earth; examples include floods, volcanic eruptions, earthquakes, tsunamis, and other geologic processes. A natural disaster can cause loss of life or property damage, and typically leaves some economic damage in its wake, the severity of which depends on the affected population's resilience, or ability to recover [3].

As state David Kean, natural disaster have played a major role in causing migration. A natural disaster refers to "events such as volcanic eruptions, droughts, earthquakes and all other types of disaster generated by an unstable natural environment" [7].

International Red Cross in 2012 have reported that; natural disasters affected 144 million people per year and contributed to the displacement of more persons globally than wars or other conflicts, Hurricanes, torrential rains and floods (World Disasters Report 20, International Federation of the Red Cross and Red Crescent Societies 2012)

In 2012, there were 905 natural disasters worldwide, 93% of which were weather-related disasters. Also 2012 was a moderate year. 45% were meteorological (storms), 36% were hydrological (floods), 12% were climatological (heat waves, cold waves, droughts, wildfires) and 7% were geophysical events (earthquakes and volcanic eruptions). Between 1980 and 2011 geophysical events accounted for 14% of all natural catastrophes. [24].

Environmental degradation and resource depletion:

Environmental degradation is the deterioration of the environment through depletion of resources such as air, water and soil; the destruction of ecosystems and the extinction of wildlife. It is defined as any change or disturbance to the environment perceived to be deleterious or undesirable [15].

Environmental degradation and resource depletion play a contributing role in affecting population movement, often filtered through contexts of poverty, food deficiency, conflicts and social inequity. Some authors [20,21,5] declare that number of incidents, that cause people to leave their houses and fields due to environmental problems, is increasing rapidly and they perceive this as a global serious issue, especially in the light of analysis of climate change identified by the Intergovernmental Panel on Climate Change as being very likely to occur in this century [18].

Industrial Accident:

Industrial disasters, such as; defense industry, energy industry, food industry, manufacturing industry, and mining industry are forms of industrial accident where great damage, injury or loss of life are caused. Industrial accidents have resulted in the displacement of thousands of people. A chemical incident displaced over 200, 000 people in Bhopal, India while a nuclear accident displaced 10, 000 people in Three Mile Island in the United States.

However the most infamous incident occurred in Chernobyl, Ukraine when an explosion destroyed a nuclear reactor releasing radiation into the environment [9]. The result was the worst technological disaster in history. The explosion had a devastating effect on the social and economic life of Ukraine and its neighboring countries, but the impact of the explosions transcended national borders to become a symbol of global disaster and a common cause of concern for the entire world. Thousands of people became refugees as a result of the Chernobyl accident. (ibid)

Unlike refugees in other emergencies, many people displaced by Chernobyl may not be able to return to their homes because the area continues to be contaminated by radio nuclides. A decade after the accident a 30km zone around Chernobyl remained largely uninhabited. Most of the victims of Chernobyl fled to other parts of the Soviet Union [14].

Environmental Consequences due to Conflicts:

The causes of environmental conflicts vary across the globe and their manifestations differ considerably. Causes can range from control over vital environmental resources such as fossil fuels to contestations over natural resources at the community and/or household level. Conflicts can manifest in various ways from outright wars and even genocide to disagreements at the local level. There seems to be agreement that while conflict depends on the actions (not necessarily violent) of actors, it relates to incompatibilities.

Wallensteen argues that conflict is formed of three parts: incompatibility, action and actors and therefore a 'complete definition' of conflict is 'a social situation in which a minimum of two actors (parties) strive to acquire at the same moment in time an available set of scarce resources' [30].

Numerous types of environmental conflicts are as follows:

Biodiversity conflicts: conflicts between people about wildlife or other aspects of biodiversity. This also includes conflicts relating to conservation of protected areas, green technologies as well as fair trade and patenting rights in relation to biodiversity and indigenous knowledge linked to natural resources. These conflicts can occur internationally and have serious regulatory and policy implications. Impacts on the natural resource base in terms of land clearing for development and agricultural production as well as the effects of genetically modified crops on biodiversity are important considerations as well.

Coastal zone conflicts. Conflicts in coastal zones are interesting in that they could develop from a combination of other types of conflicts. In this issue, Ahmed [2] considers such conflicts in particular and highlights that coastal areas are unique in the dynamics they produce around environmental conflicts. This has to do with high development demands, high population density, environmental degradation and importantly, poor and disjointed management to balance conservation and development. The author highlights two types of coastal zone conflicts those related to ecosystem change and those related to coastal development.

Conflicts disproportionately affecting women. Women are often vulnerable in the broader sense (physically, economically, socially and politically) and therefore often carry a disproportionate brunt of the effects of environmental conflicts and stress. Perry *et al.* assert that while the actual costs of environmental conflicts on women are multifaceted and hard to measure, women often experience greater food and economic insecurity, and are affected by unsafe or illegal practices.

Land conflicts:

In Africa, a significant proportion of people is dependent on land to make a living. As noted by Kok *et al.* The importance of land in conflicts relates to people's ability to make a living or make a profit. Land scarcity or ambiguous property rights can contribute to grievances and violent conflict. Moreover, when land contains valuable mineral resources, conflicts can arise between local communities and those who seek control over land for resource extraction...Population growth and movement, international markets, insecure property rights and legislation, climate change, environmental degradation and a myriad other factors all appear to be variables that need to be tracked in analyzing conflicts where land plays a role. Finally, desertification, unsustainable use or drought can bring communities with competing livelihoods into further conflict.

Water conflicts:

Klare states that by 2050 the increased demand for water could produce 'intense competition for this essential substance in all but a few well-watered areas of the planet'. Countries that share rivers therefore have a higher risk of military disputes or water wars. Furthermore, several countries rely on water sources from outside their boundaries. The water itself is not only a source of conflict, but the resources in the water bodies, specifically fish, and are also points of contestation. For example, Onuoha explained how environmental degradation and in particular diminishing water resources in Lake Chad has created conflicts and undermined livelihood sustaining activities in Cameroon, Chad, Niger and Nigeria.

Intensive water conflicts were caused, in which different irrigation systems and uses of water (as hydropower generation) also played roles.

Conclusion:

Environmental refugees are currently seen as a minor problem but that could become a major global crisis. A recognition and protection of environmental refugees in international documents and treaties is very important subject, it should be mentioned that, in international law there is no agreed definition of environmental refugees. The absence of an agreed definition is a fundamental difficulty that hinders action.

As Lambert notes that, "By recognising environmental refugees you recognise the problem. By recognising the problem you start on the road to accepting responsibility and implementing solutions." (Jean Lambert, Green MEP).

Thereafter, a holistic approach and new mechanisms of coordination are needed in order to take this truly crosscutting issue into consideration.

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