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Environmental Refugees: Analysis of the changes required in The Laws for Environmental Refugees

Sohankita Mukherjee^a

^aMumbai University, Mumbai, India

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This research paper has been written after going through various articles, online sources, and research materials. This research paper presents a clear analysis of the required changes that will be a game changer for the climate/environmental refugees. International law covers more than just human rights law when it comes to refugees. Environmental and climate refugees are one of the deep concerns in today's many crises. Where all climate refugees are considered to be environmental but not all environmental refugees are categorized to be climate refugees. Environmental refugees or the people who are displaced due to environmental factors like volcanic eruptions, floods, earthquakes, or the breakout of an epidemic. It was much before scientific researchers took interest in climate change when there were environmental refugees. Millions of people will be displaced due to shoreline erosion, coastline flooding, agricultural disruption, and various other climatic causes that would make it impossible for those people to thrive on those lands. These people are also referred to as climate-induced migrants. This research paper aims to answer two main questions in regards to the circumstance; what alterations in the laws have to be made in regard to the climate changes? And how to achieve a strong solution to the climate refugee plight?

Keywords: *environmental refugees, international law, climate-induced migrants, environment, climate change.*

INTRODUCTION

“The climate is changing. A proper political debate would be how to deal with these risks.”

- Steven Chu

In the year of 1990, the Intergovernmental Panel on Climate Change (IPCC) announced that the substantial repercussions could be on human migration. Millions of people will be displaced due to shoreline erosion, coastline flooding, agricultural disruption, and various other climatic causes that would make it possible for those people to thrive on those lands. Many analysts tried to predict and estimate a clear number of so-called "climate refugees"- Widely recognised and also repeated predicted number is around 200 million by 2050. But, the main solution to the situation itself questions; what to be done to help those migrants to go back to their homeland. The complication of environmental migrants and refugees is not only limited to the problems faced by the sufferers of the calamities but it is going further to those who are going to face the victims in person. Over time, the situation is not getting any better and despite the future combination, there is no sign of a plan to find a permanent solution for the coming days. The scientific predictions show quite confidence in the fact that the coming change in human population distribution, which consists of diverse cultural ethics is going to be a threat to the cultural acceptance and arbitration between different countries.

THE CONTEMPORARY PROBLEM

The forgotten victims of climate change"- It was reported that the number of people, who were displaced due to natural calamities such as land degradation, pollution, flood, and land degradation is around 25 million. The number of environmental refugees around the world has exceeded the number of refugees produced by political prosecution and war altogether. According to Professor Myers evaluate, more than 200 million environmental refugees will be produced by 2050, in the publication of his in IPCC to the austere review of the Economics of Climate Change. The current estimation of displaced people by 2050 is around 2.5 million to 1 billion. Also, according to the Australian think tank IEP, at least 1.2 billion people would face displacement due to climate change-related disasters and events. The very prediction of Professor Myers is well accepted by many. Though, all of these predictions face many criticisms as usual because the premise on which the predictions are based is itself unsettled. Nobody

knows or can predict the consequences of climate change or how the human population distribution will be affected all around the world.

In 2010, the eruption of Mount Merapi in Java, Indonesia created at least 250,000 refugees, and the people living in the surrounding areas, faced property damage and the area became inhabitable as the river got ash-swollen. In another incident in Haiti, as an aftermath of the 2010 earthquake, basic practise like trash collection were sparse. But the earthquake dismantled the human labour force and now the population suffers from disease outbreaks every year, which has forced them to be dependent on foreign aid to have some support in education and healthcare. In 2005, Hurricane Katrina, which lashed the Gulf Coast of the United States, displaced millions temporarily. The situation displayed the preview of the probable incidents that can happen on earth which will include the displacement of millions and it would not be temporary displacement at that time but permanent. The 2019 report produced by the Internal Displacement Monitoring Centre, shows five countries including India, the Philippines, Bangladesh, China, United States produce most of the environmental refugees. India generated the highest number of victims whereas, the USA produced the lowest. The Philippines and Bangladesh produced second and third highest respectively and China produced the second-lowest.

Setting aside the talk of natural disasters, man-made climatic disasters win the race here. Global warming is the current situation that has alarmingly changed every natural system around us. Human activities like the burning of fossil fuels, deforestation, and mismanagement of toxic wastes have affected the atmosphere, land, water, and other elements of the earth to its core, making the area impossible for habitation. Again, very recently, a report by the Intergovernmental Panel on Climate Change (IPCC) warned that the maximum city might go underwater by the end of the century. Surveys conducted by various reporters of renowned TV channels in India and outside India, engaged native and indigenous communities, climate scientists, activists, and urban planners. According to the statements given by them, Mumbai is alarming as the water level of the Arabian Sea is rising. If the current climate trend continues, after a decade or two, Mumbai might go 1.9 feet underwater. A report by NASA has also

released another report on the drastic changes that the environment is going through that can bring fatal effects. The report also revealed that a total of 12 Indian coastal cities have the greatest chances to get submerged underwater.

Sundarbans in both east (Bangladesh) and West Bengal, which, as per research by the University of Calcutta, have consumed more than 4.15 crore tonnes of carbon dioxide have been affected by the rise of water level in the Bay of Bengal. The salinity of the seawater has not only affected the health of the mangroves badly but also helped in the deterioration of the soil quality and crop growth rate. Approximately 4.37 million people are living in the area and it's home to several species. Several small island nations like the Pacific Island nations of Tuvalu, Kiribati, the Republic of the Marshall Islands, and the Maldives in the Indian Ocean, experienced the risk of becoming practically uninhabitable (or economically nonviable), and, not only that, these nations may eventually be entirely underwater. Small island nations are now threatened to be dangerously affected by climate change.

KINDS OF CHALLENGES FACED BY THE CLIMATE REFUGEES

In the 26th UN Climate Change Conference of the Parties (COP26) UNHCR¹ urged all the participating parties to work together to support those countries which are affected by the adverse climate condition by helping them to prepare and to take sufficient measures to deal with the situation with utter concern. But the world has not even witnessed half of the impact caused by climate change. It is very difficult to predict what the future holds.

Adverse climatic conditions like desertification, heavy rainfall, sea-level rise, prolonged droughts, and floods are already causing more than 20 million people to leave their homes. Displaced people face an immense crisis in various aspects, which are important for maintaining their livelihood, such as basic natural resources. Once people are displaced from an area, they have to move to another place that has an abundant number of natural resources on which they can thrive and depend. Natural resources like drinking water, favourable climatic conditions,

¹ 'Human Mobility COP 26' (IOM) <<https://environmentalmigration.iom.int/human-mobility-cop26>> accessed 07 July 2022

land, and food. Climate displacement can change the whole population distribution within the country and other than this, it can also disturb the nation's peace. Accepting refugees was never easy and smooth for any country as the responsible country has to take the responsibility for those refugees, who faced such unfortunate situations. Border security laws are breached and the countries face the problem of national security while taking in the refugees. *“The term “climate refugee” is not endorsed by UNHCR, and it is more accurate to refer to persons displaced in the context of disasters and climate change.”*

As the topic of the climate refugee remains an “untouchable topic”, many aspects of the crisis remain vague when it comes to solving this dire problem. The problems faced by the climate refugees are as common as any other refugees but as the number of them is increasing uncontrollably, it has become a burden to those countries, who are potential caretakers of the refugees. According to the World Bank estimation, the consequences of climate change (droughts, crop failure, sea-level rise, water shortage) will displace more than 143 million people and will force them to migrate (countries like sub-Saharan Africa, South Asia, and Latin America). But here is again a case of responsibility that has to be taken by the privileged countries and in many cases, no country will be willing to take the responsibility.

Politics will play a vital role in this situation. Another means of politics is exploitation. Many refugees face humanitarian crises after migrating to a country. The term “Modern Slavery” is an apt term to identify the exploitation faced by today’s refugees. Modern slavery comes in many forms and as it is a matter that has not yet into the limelight so much, so it also remains unconcerned to many. Human rights organization Anti-Slavery International calls it *“The severe exploitation of people for personal or commercial gain.”* People(refugees) are desperately looking for jobs for living in a foreign land. These people are quite vulnerable to the nasty traps and exploitations are driven by some illegal groups of people and ultimately, those innocent people end up being in jail and from where they are sold to the black market. Their lack of education or access to information or the lack of knowledge about their legal rights and the laws of the country.

Other forms of modern slavery other than human trafficking are child labour, forced prostitution, Debt Bondage, traditional slavery, child soldier, and forced and child marriage. In the year 2016, International Labour Organization calculated the number of victims of modern slavery and found a shocking result. A total number of 40 million victims are there around the world and 70 percent of them are women and girls. Around 10 million children were among the victims. Most of them are involved in child labour duties, which are forced and bonded labour duties. Around 15 million of them are forced into marriage. But the report is based on the refugees displaced due to other reasons and the record of displaced by climate refugees is not yet available.

Lawlessness is another problem faced by climate refugees. All refugees have to face a similar problem after they are displaced from their homeland. Border Movement is very difficult without any legal precedent that will give guidance to the people regarding reallocation in a new country. Apart from that, there are not enough reallocation options, lack of documentation, unplanned reallocation, and no development in solutions or even identifying them. Besides all these, there comes policies about immigration. Countries like USA and UK have experienced a wave of anti-immigrant and nationalism and as a result, taking measures for the execution of the policies has become difficult. Even, the existing protocols could not be executed properly due to politics and clearly, it is just far from reach to talk about expanding and making developments in those policies.

THE POTENTIAL SOLUTIONS AFTER THE CORE PROBLEM ANALYSIS

In 2017, as the CSIS report says; up to 70 percent of the five million people living in Dhaka's slums were displaced from their original homes due to environmental disasters². Discussing the very topic, Steve Trent, executive director of the Environmental Justice Foundation said that "The situation and scope of this problem are entirely new, and of biblical proportions and It demands an entirely new legal convention. The global compacts are a start, but it's clear that

² Tim McDonnell, 'The Refugees The World Barely Pays Attention To' (*NPR*, 20 June 2018) <<https://www.npr.org/sections/goatsandsoda/2018/06/20/621782275/the-refugees-that-the-world-barely-pays-attention-to>> accessed 07 July 2022

they're not enough." Adapting to the new trend in a very short time is very difficult for the legal system and the people. People are in a hopeless condition and there is no legal system that can support or help them rather, it is going to cause them harm shortly. Very clearly, this adverse environmental change can soon turn the world upside down in a very short time and despite the condition is serious, the topic is not getting enough attention from the world.

Now the two big questions arise; How can the law be shaped to suit the current situation? And what is the best solution to save the world from falling into the mouth of chaos? To answer the first question, it is very important to know, what human rights principles apply in the context of climate change. The very basic problem that arises when it comes to refugees, is a humanitarian crisis. When an individual is displaced from his/her homeland, he/she is deprived of his/her basic human right. The Declaration on the Right to Development emphasises that every individual and group would work and take actions collectively in favour of the development of human rights. It also emphasises that "All human beings have a responsibility for the development, individually and collectively... and they should therefore promote and protect an appropriate political, social and economic order for development". The negative impact of climate change has risen concerns about climate justice, fairness, equity, and access to remedy. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), and other human rights instruments have made it very clear that "all persons who suffer human rights harms are entitled to access to an effective remedy".

The reason why human rights should be integrated into climate change adaptation is that having access to natural resources like water, land, and air is their basic human right to survive. But climate change violates the right and affects communities and individuals and they are deprived of enjoying the right to survive properly and so the participation of humans in the due process to stop this from happening is very important. So, actions have been taken by the Human rights council to address how human rights impact climate change. Resolution 7/23 (March 2008), Resolution 10/4 (March 2009), Resolution 18/22 (September 2011), Resolution 26/27 (July 2014), and Resolution 29/15 (July 2015) are the resolutions that have been adopted to find out the

effects of climate change on human rights and which aspects of human rights, for example; the right to health, are mostly affected by the same.

Particularly, in the resolutions 16/11, 19/10, 25/21, and 28/11, the human rights council has addressed the impact of climate change on the full enjoyment of human rights, and most importantly, it urged to come up with global solutions. The human rights which are deeply affected by climate change are; The right to life, The right to self-determination, The right to development, The right to food, The right to water and sanitation, The right to health, The right to housing, The right to education, The right to meaningful and informed participation, The rights of those most affected by climate change, The rights of future generations.

Reallocation of climate refugees is the first and foremost dilemma of many countries. Today, the discussion of environmental refugees stays at the conclusion that many countries will produce millions of refugees and some of them already are, but some refugees are adapting to the adverse climate of their homeland and a few of them are fleeing from their homeland to a different better land. Thus, we do not have an estimate of what will be the actual circumstances when the whole population of those countries will flee from the land (de-territorialized) because those land has become inhabitable or are completely underwater. As the sea level rises the small islands are concerned about their maritime rights under exclusive economic zones (EEZs) which provide fishing rights and ingress to other marine resources. The United Nations Convention on the Law of the Sea (UNCLOS) asserts that EEZs extend 200 nautical miles from the shore according to Article 76 of UNCLOS.³ But since the UNCLOS is not clear regarding the permanent boundaries of EEZs, it is difficult to settle on it and it is also a query that if the Sea levels rise, the EEZs would subside along with the coast of the country. This is one of the many problems that is creeping in slowly.

³ M.C.W. Pinto, 'Article 76 of the UN Convention on the Law of the Sea and the Bay of Bengal Exception' (Cambridge University Press, 18 June 2013) <<https://www.cambridge.org/core/journals/asian-journal-of-international-law/article/abs/article-76-of-the-un-convention-on-the-law-of-the-sea-and-the-bay-of-bengal-exception/F56E3FD48F93818ABC3D7E431A886526>> accessed 07 July 2022

The laws and provisions that are not in favour of supporting the climate refugees are also been identified; first, the climate change migrants do not have the right to resettle in another country, even those with no other option, such as citizens of an island nation that may disappear due to climate change and second, climate change migrants do not have the right to funding from the international community to help with the relocation costs incurred as a result of climate change and nor do their home or host States have the right to such funding.

AMENDMENT OF THE LAWS AND INNOVATION MIGHT SAVE THE FATE OF MILLIONS

It is not clear whether refugee law, as expounded by the 1951 Convention Relating to the Status of refugees, would apply to persons displaced by climate change, and also, other countries are not internationally obligated to take in refugees. According to the above discussion, it is certainly clear, that various flaws remain in the laws when it comes to climate refugees.

- *Amendment of the existing laws:*

Considering the structure of the existing laws, many international instruments have proposed the amendment of such laws to shape them in favour of the climate migrants. As it is quite difficult to restructure and develop new laws in regard to climate change and because it is unpredictable some specialists suggest that it is safe to develop and reshape the existing set of laws. It is also suggested that it is more important to think regionally over multilaterally in the case of reallocation. But there are still a lot of questions that remain unanswered, answering which could be the potential solution to the problems.

- *Technological support:*

Technology might not be the solution for the displacement, but surely it can save the lives of the displaced. As a helping hand like providing information, technology can help in education, services such as access to computers and the internet, and healthcare. But, as said earlier, that technology might not be the solution for displacement, well who can predict that artificial living arrangements could be made with the help of technologies? The questions lie here also. But to

achieve any permanent solution to the problem, there should be enough research done to come up with innovative ideas.

CONCLUSION

Coming across all the possible potential solutions that are expected to face execution in the near future, it has seemed quite comprehensible that there are a few ways through which millions of people can have faith in their future. There are certain laws that are still not in favour of climate refugees. To cope with the de-territorialization of islands, and sudden displacement of millions of people, the allocation of climate refugees, and the protection of basic human rights will need strategic planning and proper execution to avoid failure of the mechanism in the moment of demand. The clarifying statements in the paper in regards to human rights laws, border laws, and maritime rights under exclusive economic zones propose that the laws not only have to be amended and crafted in accordance with the degree of adversity of the situation but also, technological innovation is going to play a huge role in the whole process.