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Info.ijllr@gmail.com

# THE CLIMATE EXODUS

*Shritika Suresh & Simantini Baraokar, ILS Law College, Pune.*

***Abstract***

*Today, displacement is driven by complex factors; climate change being an obscure one. It has a global impact on shifting weather patterns, rising sea levels, flooding, land degradation, etc. Supposedly a separate category, 'Climate refugees' are unable to receive sanctuary under international law as they do not legally fall into the definition of a refugee. Until recently, this category was not recognized by international law. The case of Ioane Teitiota v. New Zealand set a global precedent in January 2020, by acknowledging the existence of 'Climate Refugees.' This landmark ruling by the UNHRC says that 'a state will be in breach of its human rights obligations if it returns someone to a country where – due to the climate crisis – their life is at risk, or in danger of cruel, inhuman or degrading treatment triggered.' Although a momentous step in international law - it doesn't open the floodgates to the upsurge of climate refugees. The existing 1951 Geneva Refugee Convention has minimal scope in the level of indissolubility while inclining towards soft law instruments. This paper shall delve into climate change and the mobility accompanying its urgent global challenges that require new and innovative solutions along with international cooperation.*

## I. INTRODUCTION

There's always been an assumption that it's all going to be there - the land, the trees, our homes, our families, our communities - as it has been, for thousands of years. We are wrong. Communities around the globe are fighting the exodus and erasure as an impact of climate change[1].

The worldwide call for humanitarian assistance, that's already substantial, is in all likelihood going to see a surge in the coming decades. The largest singular trigger may be climate change with increased prevalence of incidents and extremity of weather events related to it.
Forced human migration will certainly be one of the most considerable impacts of environmental degradation and climate change in the years to come. It is argued by many that a significant number of humans are already on the move with tens of millions more anticipated to follow suit as evidence amounts.

At the earliest, in 1990, the Intergovernmental Panel on Climate Change contested that the most significant consequence of Climate change is human migration[2]. An estimation was made by Professor Norman Myers of Oxford University, which even today is probably the best-known estimate of the future migration affected by climate change. He argued that by 2050, 'when global warming takes hold there could be as many as 200 million people displaced by disruptions of monsoon systems and other rainfall regimes, by droughts of unprecedented severity and duration, and by sea-level rise and coastal flooding'[3]. This is a formidable number, a ten-fold boom on the current populace of documented refugees. It would imply that by 2050 one in every 45 persons globally, might be displaced or rendered homeless due to climate change (from an expected global

[1] *Colette Pichon Battle: Climate change will displace millions. Here's how we prepare*, TED, https://ted2srt.org/talks/colette_pichon_battle_climate_change_will_displace_millions_here_s_how_we_prepare (last visited Sep 19, 2020).
[2] *IPCC — Intergovernmental Panel on Climate Change*, https://www.ipcc.ch/ (last visited Sep 19, 2020).
[3] Oli Brown, *The numbers game*, FORCED MIGRATION REVIEW, https://www.fmreview.org/climatechange/brown#_edn1 (last visited Sep 19, 2020).

population of 9 billion)[4]. Obviously, there are varied estimates in terms of numbers, time frames and causes. The UN university's Institute for Environment and Human Security, in 2005, cautioned that the communities, at an international level, have to prepare and plan ahead for the influx of 50 million' environmental refugees' by 2010[5]. The UN Environments Programme (UNEP) claims that in Africa itself, there might be 50 million' environmental refugees' by 2060[6]. In 2007 Christian Aid terrifyingly suggested that about one billion people could be permanently displaced by 2050 out of which 250 million people would be displaced by climate change disasters such as floods, droughts, earthquakes etc. and around 645 million by developmental schemes and projects[7].

Environmental migrants are believed to be those people, groups, or communities, who decide to, or are compelled to, emigrate due to detrimental climatic and ecological factors. These extensive groups tier from human beings forced to escape disastrous events such as from flooding to farmers forsaking degraded land and moving to urban areas as an alternative. There are still ongoing efforts to replace and unify the terminology employed in this discipline. A central concern over the terms used calls for a decision or evaluation on the usage of the words environmental or climate' refugee'. These are widely used but give rise to many objections because it infringes on the term generally used and legally defined in the Refugee conference of 1951 for the classification of refugees from violence and political intimidation.

What should the terminology be, refugees or migrants? Is there a need for separate legislation, or is there sufficient protection under existing legal instruments? Some advocate that the refugees as a result of environment or climate change should be included in the definition of 1951 refugee convention, while others want to bring in the new movies and adopt new instruments to provide for their protection. Notions and terminologies such as environmental migration, climate change-induced migration, environmental refugees, climate change migrants are dispersed through works of literature. The predominant cause for the shortage of definition relating to migration due to environmental degradation or change is associated with the difficulty of separating environmental

[4] Id.
[5] Oli Brown, *Migration and Climate Change*, Report No. 31, IOM, 11 (2008).
[6] BROWN, *Supra* note 4.
[7] Id.

elements from various other drivers of migration. Another persisting conundrum that poses as an obstacle is the perplexing concept of voluntary migration and forced migration. Inherently, does environmental migration take the shape of forced displacement, or can it be termed a voluntary relocation? Is the distinction between forced and voluntary crucial? How does one construe the governments' preparedness of resettlement schemes for an anticipated disaster? These questions tend to affect the definition of these terms and must not be eluded.

For an in-depth understanding of environmental migration and climate refugees, and also for the development of strategic legislative responses to tackle its interwoven problems, a definition is an essential step. However, two principal considerations riding the want for a definition might hamper its development[8]. Firstly, several scholars will have the tendency to establish environmental migration as a specific field under the broad subject matter of migration studies. Hence, there will be a likelihood to cordon off this area and regard it independent of the classical migration theories and treating environmental migration as another type. It would be beneficial if we try to integrate environmental factors into existing migration studies and not dissect it. Secondly, there is a massive want for numbers and forecasts amid journalists and policymakers. In making analysis policy-relevant, many of them feel the need to provide some estimation of the number of those who are or could become 'environmentally displaced'. These numbers, indeed, need to depend upon an explicit definition of who is an environmental migrant. The broader the description, the bigger the number. Thus, there is a tendency to amplify the scope of the definition in order to include as many people as feasible. However, if the definition of environmental migration or climate refugees is allowed an extensive scope, then it could prove to be detrimental to those who are in need of its protection the most.

The majority of those who flee natural disasters are in need of assistance and do not leave their country for fear of persecution. Hence the need for them to escape won't arise if they are readily assisted by the government. When they do cross the border to escape, the host country has an international obligation to give them protection or legally, they'll qualify as refugees, if their

[8] Olivia Dun and François Gemenne, *Defining environment migration*, 31 FRM, 10-11 (Oct. 2008), https://www.refworld.org/pdfid/50c07c5f2.pdf

governments are deliberately annihilating their environment, are discriminating against them in the name of aid or are portraying the consequences of the disaster in such a way that qualify as persecution for any reasons under the 1951 Refugee conference[9]. With the advent of advanced technology, humans will expect their governments to take protective measures and defend them from disasters and effects thereof, and thus minimize the after-effects. On the contrary, there are many examples of ongoing environmental degradation, inclusive of desertification, in which people adapt and might finally migrate, and where it may not be obvious to treat and perceive them as refugees. There is also a possible situation where at some point of time in the future some states even disappear altogether, not only leaving their residents and citizens homeless and in need of seeking refuge but also in a stateless milieu. Perhaps this is the most glaringly horrifying scenario from the point of global protection.

If migration is forced and blended with the absence of protection and safety by its own nation, then comes the question of international protection. At this point, theoretical explanations and generalizations unavoidably come to a standstill. There is then a clear need for case wise determination and analysis of facts and causes, in the standing debate of climate refugees and displaced individuals.

## II. IOANE TEITIOTA V. NEW ZEALAND

On 7th January 2020, the world saw a landmark ruling by the United Nations Human Rights Committee in which it was acknowledged, for the first time, that forcing a person to return to a place where the unpleasant effects of climate change may pose a risk to their lives and in turn, may violate the right to life under Article 6 of the International Covenant on Civil and Political Rights (ICCPR). The case analyses contemporary jurisprudence on obtaining refugee status due to climate change. Teitiota's case became the talk of the town for ecologists, conservationists and human rights activists as it found its way towards the Supreme Court. This case gained global prominence as being that of the world's first 'Climate Change Refugee'. Teitiota stated that he encountered territorial conflicts and struggled to obtain access to the water safe for drinking in his home country

[9] Id.

as a repercussion of the climatological setback. Therefore, he was compelled to relocate with his family to New Zealand, where he applied for refugee status after his visa expired in 2010. Following the rejection of his application, Teitiota questioned his eviction under the International Covenant on Civil and Political Rights. In October 2019, his statement was held to be justifiable but the United Nations Human Rights Committee declared found no violation of Teitiota's right to life.

As a Kiribati citizen, Teitiota appealed the rejection of refugee status in the New Zealand High Court. He contended that the impact of climate change on Kiribati, namely rising ocean levels and environmental degeneration, are forcing citizens off the island. Nevertheless, since it was surmised that they were not subjected to active persecution, it was found by the High Court that the consequences of climate change on Kiribati did not qualify the Teitiota family for refugee status. It should be noted that 'Active Persecution' is one of the main factors prescribed for the UN Convention relating to the Status of Refugees, 1951. Since there appeared to be no serious harm or extreme violation of human rights, Tetiota was ordered to return to Kiribati. However, this case gave rise to concerns relating to the expansion of the purview of the Refugee Convention and providing equal admission to millions of people who face hardship due to climate change. The Court distinctly expressed these concerns. Teitiota then petitioned the verdict to the Court of Appeals. While rejecting the plea, the Court of Appeals recognised the magnitude of climate change but proclaimed that the Refugee Convention did not suitably address the issue. He appealed once again, this time in front of the Supreme Court of New Zealand. The Supreme Court maintained the conclusion reached by the lower courts, finding that he did not meet the requirements to be qualified as an asylum seeker under international human rights law. However, the Court was clear on the fact that its decision does not rule out the fact that 'that environmental degradation resulting from climate change or other natural disasters could create a pathway into the Refugee Convention or protected person jurisdiction.'

Hence, while the Committee found that Teitiota's extradition had not been felonious because he didn't face an instantaneous danger to his life in Kiribati, it recognised that climate change represented a grim threat to the right to life. Hence, it is imperative that decision-makers take this into consideration when appraising obstacles pertaining to deportation. The Committee's decision

suggests that future claims might be successful where the evidence shows 'the effects of climate change in receiving states may expose individuals to a violation of their rights.'[10]

## III. ACTION TAKEN BY STATES

Even though Teitiota did not become the world's first climate refugee, the committee's decision principally acknowledged that climate refugees do subsist, a first for the organization. The verdict endorses a constitutional foundation for refugee protection for those whose lives are imminently imperilled by climate change. Thus, while this latest UN ruling is a significant gambit in international law, in no way does it open the barricades to surges of climate refugees.

However, it does represent a win for global climate activism. It is not legitimately indissoluble, but to all governments around the world, it emphasises the fact that climate change will have an aggravating influence on their constitutional responsibilities under international law. Hence, it is great news for citizens and governments of small island states who have long contended for climate action but have been met with impediments and dismissals.

For example, 16 island nations including New Zealand and Australia came together last year for the Pacific Island Forum, where the Tuvalu Declaration was proposed to ask for increased action on climate change. However, sections of the original declaration were struck down due to reservations from Australia and New Zealand. It was perceived that Australia allegedly had concerns about emanations reduction, coal use and endowment for the UN's Green Climate Fund, while New Zealand also revealed concerns about the fund. Ironically, in the wake of bushfires that recently exploded across Australia and uprooted thousands and rendered them homeless, concerns have emerged that Australia will soon have to deal with its own faction of climate refugees.

Numerous countries have determined climate change as a critical issue in their national advancement policies. Some are involved in the National Adaptation Plan processes, while others have already produced standalone plans.

[10]Praveen Menon, *Sending back climate refugees may violate right to life - U.N. body*, THOMAS REUTERS FOUNDATION( Jan 21, 2020, 6:13 GMT), https://news.trust.org/item/20200121053924-363od/

A Climate Change Bill which was recently passed by Kenya has a National Climate Change Strategy and National Climate Change Action Plan in place and has prepared a blueprint national climate change framework policy and the climate finance policy. These plans command the government's prime concern for improving adaptability to climate change. They also permit the government to lay the foundations of specific institutions enfranchised to systemize and execute these priority measures.

Similarly, Bangladesh has developed a climate change strategy and action plan, with funding allocated for its enactment. The Government of Bangladesh established and financed the Bangladesh Climate Change Trust Fund, while the Bangladesh Climate Change Resilience Fund, a second fund is endowed by patrons. Both funds provide a vast amount, millions of dollars, to invest in operations like riverbank protection, agriculture and disaster management.

In 2014, Ghana refreshed its regulations for medium-term improvement preparing at the district and municipal level to incorporate environment change. Provincial governments have been tasked with the job of generating medium-term plans that combine climate change accommodation and disaster risk minimisation, and that include community-level acclimatisation programs. Meanwhile, a Local Climate Adaptive Living Facility assists some climate change acclimatisation ventures on a trial basis. While these enterprises generate possibilities, their effectiveness is restrained by local governments' notable capacity and assets challenges.

Countless propositions have been presented to attend to climate refugees, although none of them considerably address the situation of cross-border movement of people affiliated with climate change. One of them is the Nansen Initiative, introduced by the governments of Switzerland and Norway is based on a pledge made by them. It recognises that forced deracination linked to disasters is an actuality and among the most notable humanitarian obstacles facing the international community. This initiative has obtained significant traction and is the only known scheme that endeavours to dictate cross border deracination. However, limiting the framework to climate displacement due to severe weather phenomena is somewhat discriminative as those who are dislocated due to other consequences connected with climate change, such as sea-level rise, will not be included within this framework.

The Peninsula Principles on Climate Displacement advanced by Displacement Solutions cover both unforeseen and slow-progressing events. However, they are restricted to domestic repatriation. 'Climate displacement' is defined as: 'Movement of people within a State due to the effects of climate change, including sudden and slow-onset environmental events and processes, occurring either alone or in combination with other factors.'[11] However, since these postulates are restricted to internal displacement, hence, the existent UN Guiding Principles on Internal Displacement would be applicable.

A few steps by international communities that can be taken are removing some of the triggers that make it necessary for people to flee. Enhancing disaster preparedness, promoting livelihood diversification, reversing environmental degradation, and securing land tenure could increase the adaptive capacity of vulnerable communities against the impacts of climate change impacts[12]. In consonance with this, the Paris agreement does establish a task force to 'develop recommendations for integrated approaches to avert, minimise and address displacement related to the adverse impacts of climate change[13].'

While there are no legitimately confining global regimes that defend climate refugees, there are optional covenants that could be used to assist them. Most prominently, the 2030 Sustainable Development Goals (SDGs) which were adopted by 193 countries, which discuss both migration and environmental change. Many of the 169 targets ascertained by the SDGs lay out generic goals that could be used to defend climate migrants. Though the SDGs do not expressly combine climate change and migration, SDG target 10.7 appeals for signatories to 'facilitate orderly, safe, and responsible migration of people, including through implementation of planned and well-managed policies.'[14]

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[11]Sumudu Atapattu, *"Climate Refugees" and the Role of International Law"*, OXFORD RESEARCH GROUP, (Sept 12, 2018), https://www.oxfordresearchgroup.org.uk/blog/climate-refugees-and-the-role-of-international-law

[12] Kristen Lamber, *The Paris Agreement: Spotlight on Climate Change*, YALE SCHOOL OF ENVIRONMENT BLOG (Dec. 19 2015), https://environment.yale.edu/blog/2015/12/the-paris-agreement-spotlight-on-climate-migrants/

[13] *Human Mobility and the Paris Agreement*, UNFCCC (May 19, 2016), https://unfccc.int/news/human-mobility-and-the-paris-agreement

[14]John Podesta, *The climate crisis, migration, and refugees*, THE BROOKINGS PRESS,( July 25, 2019), https://www.brookings.edu/research/the-climate-crisis-migration-and-refugees/

Climate change and environmental degradation affect developing countries the most and they are the least able or prepared to afford the ramifications. Their vulnerability is attributable to myriad factors that curb their potential to avert and act in response to the repercussions of climate change. In all its fairness, it can be agreed that climate change has the capability to capsize noteworthy development gains made in these countries.

Applying a broad brush to climate change, developing countries are more likely to encounter the antagonistic effects of global warming unjustly. Not only do most emerging countries have more temperate climates than those in the advanced world, but they also depend more massively on climate-sensitive sectors such as cultivation, arboriculture and tourism. It may also be presumed that developing countries may also be less likely to create harvests which are drought-resistant given the deficiency of funding for research. The escalating frequency and rigour of extreme weather mostly weigh on government budgets. The after-effects of natural calamities and catastrophes often fall on the administration who are then compelled to lay out exorbitant amounts on healthcare expenses and clear-up procedures that come with enduring severe weather conditions. Revenue curtailment may also be encountered by countries profoundly reliant on tourism.

As a severely under-developed country, Africa is exposed to numerous climate-sensitive diseases, including malaria, tuberculosis and diarrhoea. Under climate change, emerging temperatures are altering the topographical division of disease vectors which are transferring to new areas and higher elevations. Climate change is an additional burden to already threatened and vulnerable domains, ecosystems and endangered fauna and flora in Africa and is quite likely to activate species migration and commence habitat mitigation. Northwest Africa is already encountering rapidly rising sea levels, dry spells brought on by drought, and deforestation. These circumstances only add to the already considerable number of seasonal migrants and also add more strain on the native country, as well as on destination countries and the travel routes taken by refugees and migrants. The universal onus of climate change-imputable diarrhoea and starvation are already the largest in the world in Southeast Asian countries including Bangladesh, Bhutan, India, Maldives,

Myanmar and Nepal. An escalation in the frequency and duration of perilous heatwaves and muggy conditions throughout the summer also doubles the risk of perishability and morbidity, particularly in the old and urban poor populations of temperate and tropical Asia.

The impacts on the developing world are always binary. As advanced nations encounter an accumulating strain on national estimates, fewer resources in the form of cooperation and financial improvement reserves will proceed to developing countries. The authorities of these countries will be compelled to direct means away from prolific and growth-enhancing projects towards countering the expenses of severe weather. Such consequences hurt near-term growth possibilities. Moreover, developing countries are more likely to have less potential to restore. The time needed to recuperate from natural calamities will be prolonged[15] If more prolonged than the rate in which such disasters occur, many emerging economies could persist in a perpetual state of restoration. It has also been proved that environmental immigration is more prevalent in middle-income and agrarian countries but more restrained in low-income countries, where residents frequently lack means required for passage. The World Bank estimated in 2018 that three regions, namely, Latin America, sub-Saharan Africa, and Southeast Asia, would produce 143 million more climate migrants by 2050. In 2017, 68.5 million people were displaced compulsorily, more than at any point in human history. While it is hard to determine, roughly one-third of these people were mandated to migrate by "immediate onset" weather phenomena—flooding, woodland fires after droughts, and concentrated rainstorms.[16]Even though the residual two-thirds of dislocations are the consequences of different humanitarian emergencies, it is becoming indisputable that the climate crisis is adding to the delayed onset events. Some of these events could be classified as deforestation, extreme sea-level rise, ocean acidification, pollution and depletion of habitats and biodiversity. This degradation will worsen many humanitarian emergencies and may lead to more people being displaced and forced to live as refugees.

[15] Keith Wade and Marcus Jennings, *Climate change and the global economy: regional effects,* SCHRODERS,(Jul 26, 2015), https://www.schroders.com/en/ch/asset-management/insights/economics/climate-change-and-the-global-economy-regional-effe

[16]Campaign Exchange, *CLIMATE AND MIGRATION,* CAMPAIGN EXCHANGE (Oct 20, 2019), https://www.campaign.exchange/campaigns/climate-and-migration/

Developing countries badly require global intervention and aid to support acclimatisation. They also need assistance in national planning for sustainable growth and stable development, enhancing capacity-building and conveyance of capital and technology. Methodical planning is also essentially required to lessen the prospect of disasters and boost the resilience of inhabitants to combat extreme ecological events such as droughts, floods, tsunamis and tropical heat waves and cyclones. Endowment for adjustment in developing countries must be adequate and maintained.

## IV. CONCLUSION

In many ways, the human story is a story of climate migration. Modern humans evolved in eastern Africa around 2,00,000, but dry conditions kept us from successfully moving some elsewhere until approximately 60,000 years ago when a wetter climate opened the door for our global expansion[17]. The reason behind the migration of our ancestors is not very clear, but they probably went in search of food, moderate weather, and more comfortable life. Today barring a few critical changes, people move for the same general reasons – better conditions, and a better life.

Now, as the climate changes – this time due to human activities – between 25 million and 1 billion people might get displaced by its impact before the year 2050[18]. The prediction is very because we don't know exactly how the impact will be or exactly why people move from one place to another. For example, an enormous population lives less than 10 feet above the sea level, in places like Bangladesh, making them susceptible to storm surges that are getting taller. Others will leave because of slow-moving changes. In Miami, the gradual ties of the sea level will eventually put some homes underwater even on come days, and in the North Atlantic, the warning of the oceans could mean that a few fish to catch. Communities may also face an increasing number of hot days and less detectable rainfall, like in Ethiopia, which can make it harder to keep crops and livestock healthy. Wealthy countries like the United States have more resources to deal with the impacts of climate change, but some of the citizens will have to migrate too. As Americans flee sea-level rise, many of them will probably leave major coastal cities like Miami, New Orleans, and Los Angeles

[17] *Ancient humans left Africa to escape drying climate,* UNIVERSITY OF ARIZONA (Oct. 4, 2017), https://www.sciencedaily.com/releases/2017/10/171004151231.htm
[18] Francesco Bassetti, *Environmental Migrants: Upto 1 Billion By 2050,* FORESIGHT (May 22, 2019), https://www.climateforesight.eu/migrations-inequalities/environmental-migrants-up-to-1-billion-by-2050/

and move inland, because only you can put so many buildings on stilts. And for communities where climate migrants end up, the influx of people can stress local infrastructure, and expose or trigger human prejudices. Overall the migration of people as a result of a changing climate will change the makeup of neighbourhoods, cities, and entire countries and even challenge our ideas of nationhood itself. It's been difficult, because, until the recent judgement, UNHCR has refused to grant people the status of refugees and refer to them as environmental migrants instead, largely due to its lack of resources to address their needs. Without a cohesive effort to look over this population, these already distressed people go where they can and not where they actually should. With the increasing numbers, the international community will not be able to evade these difficult challenges. With greater climate-related displacement in the future, there must be a redefinition of the term refugee to include climate migrants. However, the current political atmosphere clouded with anti-immigrant and xenophobic ideologies in countries like Europe and the US would not be welcoming such an expansion of the refugee definition with open arms. However, we must remember that we came from. If the earliest humans had ventured to new lands, we might not have ever populated or city, or countries, or even or continents. If we could successfully migrate across the changing planet tens of thousands of years ago, we can do it again. We just need to get ready for it, together.