

Review

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Review

United Nations on Climate Refugees: A Contemporary Analysis

Jiya Chauhan and Shivam Kumar Pandey *

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Abstract: The prevailing challenge in our current era is climate change, a crisis recognized by the global community that has prompted immediate actions to confront and mitigate its consequences. There is a consensus among scientists that human activities, driven by developmental ambitions, are the driving force behind the ongoing climate crisis. "The well-documented aftermath, including the rise in sea levels, coastal erosion, reduced agricultural yields, compromised access to clean water, and health implications, emphasizes the intricate and wide-ranging effects of climate change." [1] Furthermore, there is an increasing recognition that climate change gives rise to distinct social, economic, and divergent consequences. "Although all countries worldwide will undergo the impacts of climate change, the distribution of these effects will differ among regions, generations, age groups, income levels, occupations, and genders." [2] Notably, the adverse consequences will disproportionately impact the impoverished, predominantly situated in developing nations. "This paper explores the effects of climate change on displacement and the ensuing refugee dilemma." [3] It aims to scrutinize the inclusion of climate-induced displacement in the present international framework, encompassing both climate change and refugee regimes. The paper promotes a human rights-centred approach to tackling displacement stemming from climate change.

Keywords: migration; Adaptation; policy; displacement; international law; Humanitarian Response

Introduction

Tuvalu is a Pacific Island nation made up of nine island atolls with a combined area of 26 square kilometres. Nonetheless, as one of the lowest-lying nations on Earth, Tuvalu and its 11,000 citizens are seriously threatened by the continued effects of climate change and increasing ocean levels. [4]

"The effects of climate change have already forced some Tuvaluans to relocate to neighbouring islands such as Fiji and New Zealand." [5]

"An annual quota for citizens of Tuvalu to become residents of New Zealand is established by the Pacific Access Category (PAC) agreement between Tuvalu and New Zealand." [6] This special immigration arrangement helps environmental refugees displaced by climate change relocate to a less vulnerable environment. It is unclear if this is enough to address the significant risk of displacement brought on by climate change. Reduction Climate change initially appeared as a problem for scientists and politicians, but it later became apparent that it had economic repercussions as well, including decreased agricultural output, negative effects on health and livelihoods and forced internal migration or relocation. Academic and policy circles began to acknowledge that these social impacts violate human rights. One documented consequence of climate change is the increase in migration, which is mainly related to rising sea levels. [7]

Over the past century, there has been an enormous rise in global temperature, which is the fastest and most significant warming trend on record. "Sea levels are predicted to rise as a result of the predicted increase of 1.4 to 5.8 degrees Celsius (Fahrenheit) in the coming century, which will have an impact on low-lying coastal areas and small island states worldwide." [8] Eight million of them could be in Europe alone impacted by flooding because of the sea level rising by one meter.

Glacier melting, especially in the Himalayan region, causes flooding in mountainous areas in addition to rising sea levels and melting glaciers. As a result, there have been more instances of glacial

lake flooding, which have killed people, destroyed property, and destroyed infrastructure in the mountains, farms, and forests downstream. Given the extraordinary rate of glacier melting, forced relocation is thought to be the most practical course of action.

In addition to their immediate consequences, droughts and floods in the future can lead to evictions because of decreased agricultural productivity and limited access to water. When it comes to internal or external displacement, the complexity increases, prompting concerns about the names used to identify those who have been displaced. Since the idea of human displacement due to climate change is relatively new, there hasn't been a lot of agreement on politicising the matter.

Although there is evidence of climate-related migration, linking environmental variables directly to migration is difficult, even for experts. There isn't much agreement because of the human element in this intricate relationship and the uncertainty surrounding the effects of climate change. Like most human endeavours, migration has a gender component which impacts men and women in different ways. "Gender variables may play a role in the decision to migrate. Migration has complex aftereffects that impact the economic and social systems in both the origin and destination regions, sometimes putting additional strain on resources that are already scarce and rising tensions." [9]

Climate Change Legal Framework and Climate Refugees' Protection

The main topic of discussion is the legal protection and safeguards that are necessary for climate change refugees. This paper aims to evaluate whether the international climate change regime has the appropriate provisions to address the social and human rights issues faced by climate refugees. Additionally, the paper analyzes the linkage between human rights and climate change, and whether human rights law has the necessary safeguards to address this crisis. Finally, the paper focuses on the extent to which international refugee law can be of assistance in dealing with this situation.

By the end of the 1980s, climate change had gained significant attention in the policy-making sphere. "Concerns about rising the atmosphere carbon dioxide (CO₂) concentrations prompted scientists and other interested parties to meet at the World Meteorological Organization's (WMO) First World Climate Conference in 1979." [10] This conference saw the official designation of climate change as an "urgent world problem." "In response to this realization, the World Meteorological Organization (WMO) established the World Climate Programme in 1979, which was a major step towards tackling the problems caused by climate change." [11] This conference saw the formal designation of climate change as an "urgent world problem." In response to this realization, the World Meteorological Organization, better known as the WMO, established the World Climate Programme in 1979, which was a major step toward tackling the problems caused by climate change.

"It is not enough to view climate change only as an environmental problem because it is a revolutionary force that will permanently alter the socioeconomic landscape of the world." [12] The most difficult people to adapt to climate change are those with few options. The threat to their territory and other economic and

social resources will also cause widespread migration, which will cause a serious internal and external refugee crisis. Human rights activists and humanitarian groups stress the importance of adopting suitable laws and regulations to protect climate migrants, recognizing the legal loopholes in protection.

Alternative forms of security should be investigated by states for people who do not fit the criteria for refugee status but cannot return because of personal circumstances or vulnerabilities that prevent them from coming back

The United States established the Temporary Protected Status Mechanism in the year 1990, and put into effect following the arrival of Hurricane Mitch in 1998, is a prime example of an arrangement of this type. Through this mechanism, foreign nationals who meet certain requirements related to environmental disasters, the foreign state's inability to handle their return, and an official request for such designation, can be granted refugee status and remain in the United States of America.

"States should think about setting up suitable coordination mechanisms for the policy discussion on the relationship between displacement and climate change within the framework of the post-

Kyoto regime.” [13] Regarding climate change, the principles that the writers of the Universal Declaration of Human Rights (UDHR) adhered to are an important point of reference. The UDHR was a globally comprehensive set of civil, political, cultural, social, and economic rights for "all members of the human family" in response to the tragedies of extreme nationalism, fascism, and world war, to prevent actions that "revolted the conscience of humanity as a whole the current viewpoint reveals an ongoing human rights tragedy, regardless of the UDHR was created in response to past tragedies.

If we let this tragedy happen, it would be an organized violation of the poor's and subsequent generations' human rights. "Through a variety of political and scientific conferences that were arranged in cooperation with UNEP, the United Nations Environment Programme (UNEP) and the International Council of Scientific Unions were instrumental in addressing climate change." [14]

These conferences were crucial in making climate change a major worldwide issue rather than just a scientific one. "The United Nations Framework Convention on Climate Change (UNFCCC), also known as the Rio Summit, was ratified during the Earth Summit in 1992 as a result of the increased global concern worldwide." [15] The UNFCCC essentially functions as a declaration of principles as opposed to a comprehensive and legally binding agreement for emission reduction. It doesn't include legally mandated caps on emissions of greenhouse gases for any one nation. Rather, it creates a framework for future climate change collaboration and actions.

"The primary objective of the convention is to keep greenhouse gas emissions under control to avoid detrimental human interference with the climate system." [16]

"The categorization of countries into "Annex I" (which includes 41 industrialized countries and economies in transition, such as the former Soviet Union and states in Eastern Europe) and "Annex II" (which includes twenty-four wealthy members of the Organization of Economic Cooperation and Development) is a noteworthy aspect of the framework." [17,18] The term "non-Annex I" countries refers to the remainder of the world. The concept of "common but differentiated responsibilities and respective capabilities" between industrialized and developing country parties is one that the UNFCCC has consistently emphasized. This is in line with the idea that developed countries have historically been more accountable for emissions of greenhouse gases and are better equipped to implement mitigation measures. [19] At the end of the 1980s, climate change was a major topic in global policy. "The United Nations Environment Programme (UNEP) and the International Council of Scientific Unions organized the 1979 First World Climate Conference, which brought together scientists and stakeholders in response to increasing worries about rising atmospheric concentrations of carbon dioxide (CO₂)." [20]

These gatherings were crucial in making climate change a major worldwide issue rather than just a scientific one. The United Nations Framework Convention on Climate Change (UNFCCC) was adopted during the Earth Summit in 1992 as a result of the raised global concern. As a statement of principles rather than a comprehensive treaty, the Framework Convention on Climate Change does not impose legally binding caps on greenhouse gas emissions for any particular nation. "Instead, it creates a foundation for future initiatives and cooperation in the fight against climate change." [21] Recognizing past emissions and disparities in the ability to take mitigation measures, the convention emphasizes the shared but distinct responsibilities and respective capacities of both developed and developing nations. "Then, realizing that a stronger international reaction was required, the Ad Hoc Working Group on Promises in Berlin Mandate (AGBM) was established to create a legal mechanism for making promises. As a result, the UNFCCC COP-3 in Kyoto, 1997, adopted the Kyoto Protocol." [22]

For developed [23] nations, the Kyoto Protocol sets legally binding quantitative caps on emissions of greenhouse gases from 2008 to 2012, with an overall reduction target of approximately 5.2% below 1990 levels. To reduce emissions, the protocol introduced flexible mechanisms like international emissions trading, a clean development system, joint fulfilment, and joint implementation.

However, there were many obstacles in the path of the negotiations over the procedures for running the Kyoto mechanisms, which were finally resolved during COP7 in Marrakech, Morocco in

November 2001. "After the Kyoto Protocol went into force in 2005, the global carbon market quickly developed and showed potential for future climate change rules and regulations." [24]

The UNFCCC and Kyoto Protocol fail to specifically address concerns about how migration and other climate change effects will affect society and human rights. "However, some nations, like India, have responded with action plans that take into account the socioeconomic effects of climate change, taking into account factors like health, demography, migration patterns, and the standard of life over coastal residents." [25]

Human rights concerns have historically gotten little attention in the mainstream literature and debate on the climate change legal regime, despite the obvious social and human rights impact of climate change. "This is beginning to change as more people become aware of it, as evidenced by events like the UN Deputy High Commissioner for Human Rights speech, the UN Office of the United Nations High Commissioner for Human Rights (OHCHR) statement, and the 2007 Bali Conference of the parties. In 2005, the Inuit peoples of the state of Alaska and Canada asserted that the negative effects of climate change on wildlife infringed upon their fundamental human rights, which helped to spark a movement linking climate change and the protection of human rights." [26]

"More people are realizing the complex and profound hyperlinks between climate change and human rights." [27] "It is anticipated that those with the lowest incomes, which have insufficient protections for their citizens' rights, will be most severely impacted by climate change, leading to a vicious cycle of vulnerability." [28]

"Initiatives linked to the 2007 Bali Conference, OHCHR statements, and Human Rights Council resolutions are examples of recent policy-level focus on the relationship between human rights and climate change." [29] "The impact on rights like self-determination, food, water, shelter, and health was brought out in the OHCHR's analysis in response to UN Human Rights Council Resolution 7/23 and afterwards resolutions, emphasizing the connection between climate change and human rights." [30,31]

Although attempts to identify and grant legal recognition to refugees are currently governed by the Refugee Convention, it has limitations in its capacity to address refugees that have become the result of environmental disasters. "Although there are currently no specific legal responses at the international level, the relationship between climate change and human rights is becoming increasingly recognized." [32]

"In the end, the lack of clear recognition of the social and human rights implications of climate change is partly due to the complexity of migration in the global context." [33,34] Different regulatory frameworks emerged from the different legal bases of environmental accords and multilateral human rights treaties. "One crucial and constantly changing component of addressing the impact of climate change on human rights is the endeavour to make government obligations and protection standards for migration and displacement caused by the climate clearer." [35-37]

Conclusion

It is not enough to view climate change only as an environmental problem because it is a revolutionary force that will permanently alter the socioeconomic landscape of the world. The most difficult people to adapt to climate change are those with few options. The threat to their territory and other economic and social resources will also cause widespread migration, which will cause a serious internal and external refugee crisis.

Human rights activists and humanitarian groups stress the importance of adopting suitable laws and regulations to protect climate migrants, recognizing the legal loopholes in protection. Alternative forms of security should be investigated by states for people who do not fit the criteria for refugee status but cannot return because of personal circumstances or vulnerabilities that prevent them from coming back.

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[38] environmental disasters, the foreign state's inability to handle their return, and an official request for such designation, can be granted refugee status and remain in the United States of America.

States should think about setting up suitable coordination mechanisms for the policy discussion on the relationship between displacement and climate change within the framework of the post-Kyoto regime.

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