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Climate Refugees: Redefining Human Rights for a Changing Planet

“Climate change is the defining crisis of our time and disaster displacement is one of its most devastating consequences.”¹

The Human Toll of a Changing Planet

Climate change needs no introduction. The rising sea levels, extreme weather conditions, and desertification of fertile agricultural land are not a distant threat; they are a lived reality for millions across the globe. These challenges have given rise to climate refugees – individuals who are forced to leave their homes and communities due to the impacts of climate change.² The UN estimates that by 2050, up to 216 million people could be displaced by climate change.³ The worst hit regions of the world include the island communities of Kiribati at the risk of being submerged as well as the people dwelling in the Sahel region of Africa tormented by severe droughts. These environmental changes are causing human rights violations in addition to ecological calamities and unprecedented levels of displacement.

Millions of people are displaced internally by climate change before it reaches a point where it is displacing people internationally. The Internal Displacement Monitoring Centre estimates that over 20 million lives were displaced in 2020 alone, and that number will rise tenfold by 2050.⁴ The marginalized indigenous communities and minority groups fails to maintain their traditional lands and natural resources, which are being degraded by unfavourable climatic

¹ Climate Change and Disaster, UNHCR (United Nations High Commissioner for Refugees), <https://www.unhcr.org/in/what-we-do/how-we-work/environment-disasters-and-climate-change/climate-change-and-disaster>, Last accessed on: January 25, 2024.

² Abdul Awal Khan, Social and Legal Barriers to Improving Human Rights of Climate Change Displaced People in Bangladesh, 20 Int'l J. Refugee Law 423 (2019).

³ United Nations International Organization for Migration (IOM), *Migration, Environment and Climate Change: Assessing the Evidence* (2009).

⁴ Global Report on Internal Displacement, Internal Displacement Monitoring Centre, (2023).

conditions. The dearth of education and healthcare infrastructure pushes these vulnerable communities further into poverty and desperation.⁵ Further, the denial of access to food, water, and sanitation blatantly disregards their right to life, liberty, and security.⁶

A Legal Framework in Limbo

According to Article 1 of the 1951 Convention Relating to the Status of Refugees,⁷ ‘refugee’ refers to those individuals who cross international borders due to the fear of persecution based on five grounds, namely, race, religion, nationality, political opinion, and membership in a particular social group. However, in a scenario where climate change does not neatly fit into either the Convention or its Additional Protocols, the recognition and rights of people displaced by climate change remains unaddressed.⁸ As a result, although the 2018 Global Compact for Migration lists climate as a potential motivator for migration, it is not currently permissible to use climate as a justification for applying for asylum or refugee status.⁹

The “non-refoulement principle” states that people who have crossed borders should not be deported or repatriated to their original countries against their will. The fact that governments have neglected to include the idea of protecting human rights in the execution of climate change adaptation strategies, makes it abundantly clear that the “non-refoulement principle” does not apply in this case. This lack of recognition of climate-induced displacement in the current legal framework leaves them vulnerable to exploitation, discrimination, and statelessness. Further, the environmental law principle of “Polluter Pays,” i.e., holding polluters accountable for the human cost of their actions, is exploited at the hands of the multinational corporations and big firms, owing to weak implementation, and glaring loopholes in laws.

Global Policy Responses to the Climate Refugee Crisis

⁵ Thomas, David S. G., and Chasca Twyman. "Equity and justice in climate change adaptation amongst natural-resource-dependent societies." *Global Environmental Change* 15.3 (2005): 166-182.

⁶ Office of the United Nations High Commissioner for Human Rights, Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights, A/HRC/10/61 (Jan. 15, 2009), available at <https://www.refworld.org/docid/498811532.html> (accessed Jan. 29, 2024).

⁷ Convention Relating to the Status of Refugees, Art. 1, 189 UNTS 150.

⁸ Walter Kälin and Nina Schrepfer, Protecting People Crossing Borders in the Context of Climate Change Normative Gaps and Possible Approaches, UN High Commissioner for Refugees (UNHCR), PPLA/2012/01, available at <https://www.refworld.org/docid/4f38a9422.html> (accessed Jan. 29, 2024).

⁹ Global Compact for Safe, Orderly and Regular Migration, Dec. 10, 2018, U.N. Doc. A/RES/73/195.

The Nansen project, introduced in 2012 by Norway and Switzerland, aimed to protect individuals forced to relocate due to climate crises and facilitated agreements among governments to implement a protection agenda.¹⁰ This project paved the way for the 21st Climate Change Conference of the Parties (COP21), when the Paris Agreement recognized climate change as a factor to forced human mobility in 2015.¹¹ The United Nations High Commissioner for Refugees (UNHCR) encouraged all States to confront the rising and disproportionate consequences of the climate emergency on the most vulnerable nations and displaced populations during the COP26.¹²

As we know that climate change litigation is a means for the public to influence policy change and hold governments accountable, the case of *Teitiota v. New Zealand* is the best example for it.¹³ This ruling allowed for the filing of refugee claims relating to climate change since it stated that those whose rights are infringed by the effects of climate change cannot be returned to their place of origin.

The future of Climate Change Refugees

Most importantly, expanding the definition of ‘refugee’ in both international and municipal laws to include those displaced by climate change, is a non-negotiable to address the hardships of climate refugees. The international framework should acknowledge their right to a safe and healthy environment, and life in general, as they are forced to flee their home due to a changing planet. Secondly, all states should ensure safe passage, resettlement, and support for climate-displaced populations before investing in climate adaptation and resilience measures. Lastly, one key aspect of redefining human rights for climate refugees is acknowledging and understanding the differential impacts of climate change on different sectors of society, particularly in developing world societies. These differential impacts can further exacerbate existing inequalities and injustices, making it necessary to consider equity and justice in adaptation strategies. A global commitment to reducing greenhouse gas emissions and embracing a low-carbon future is the ultimate preventive measure. Individuals play a crucial

¹⁰ The Nansen Initiative, available at: <https://environmentalmigration.iom.int/nansen-initiative>), Last accessed on 27th January, 2024.

¹¹ Joanna Apap & Sami James Harju, *The concept of 'climate refugee'*, https://www.europarl.europa.eu/thinktank/en/document.html?document=PE_698.753 (Oct. 2023).

¹² 26th UN Climate Change Conference of the Parties (COP26), 2021.

¹³ *Ioane Teitiota v. The Chief Executive of the Ministry of Business, Innovation and Employment*, [2015] NZSC 107 (New Zealand: Supreme Court, July 20, 2015).

role in addressing this by reducing their carbon footprint, advocating for climate action, and supporting local organizations, thereby contributing to a more sustainable future.