

The problem of environmental refugees

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Abstract. *Environmental refugees, not included in the 1951 Convention on the Status of Refugees or in the 1967 Protocol relating to the Status of Refugees, are in fact becoming a pressing problem. The continual rise in migration for environmental reasons has led governments to acknowledge a new category of refugees: environmental refugees. The number of environmental refugees, as estimated by the IOM, could reach 200-250 millions of people by 2050; it is therefore absolutely necessary to redefine the notion of refugee to provide the same international protection as is granted to "traditional" refugees (as defined by the Geneva Convention on the Status of Refugees).*

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Environmental refugees, not included in the 1951 Convention on the Status of Refugees or in the 1967 Protocol relating to the Status of Refugees, constitute a pressing problem. The continual rise in migration for environmental reasons has led governments to acknowledge a new category of refugees: environmental refugees. The current international refugee mechanisms and definitions were created to suit the needs of post World War II Europe. Currently, this system is completely out-dated, as both internal government's laws and treaties offer insufficient protection. The number of

environmental refugees seems to be growing at an alarming rate: one particular 1997 study estimates a total of 25 million worldwide, with a possible rise to 200 million within 50 years.¹ However, the author of this same study had to revise his own estimate in 2005, suggesting up to 200 million as a possible refugee number.²

The term "environmental refugee" is attributed to Lester Brown of the World Watch Institute in the late 1970s.³ Definitions followed the use of this term. Myers defined environmental refugees as:

*People who can no longer gain a secure livelihood in the homelands because of drought, soil erosion, desertification, deforestation, and other environmental problems, together with associated problems of population pressures and profound poverty.*⁴

This definition is rather ample; Essam El-Hinnawi, which defines environmental refugees in the following way, gives a more specific definition:

*... 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 jeopardised their existence and/or seriously affected the quality of their life.*⁵

Environmental refugees do not necessarily cross borders in order to reach another state; for this reason, they are often considered “internally displaced persons” and are therefore out of reach of the protection offered by the 1951 Convention Relating to the Status of Refugees. Internally displaced persons are still within the state’s borders but have no possibility whatsoever to return to their homes because of events such as natural disasters or industrial accidents.

Even when internally displaced persons cross borders and therefore become environmental refugees, there is still the huge problem presented by the strict limits of the Convention Relating to the Status of Refugees.

An interesting definition is given

by the International Organisation for Migration and Refugee Policy Centre. It is a broad definition, whose aim is to offer protection to people in a wide range of circumstances while aiding identification. It defines environmental refugees as:

*... persons who are displaced within their own country of habitual residence or who have crossed an international border and for whom environmental degradation, deterioration or destruction is a major cause of their displacement, although not necessarily the sole one.*⁶

Internally displaced persons might feel so desperate as to attempt journeys across borders or seas in order to reach another country that could supposedly offer better living conditions.

The crucial point in the problem of immigration, both concerning “traditional” refugees as defined by the 1951 Convention and environmental refugees, is the fact that in desperation, these people attempt incredibly dangerous journeys because they feel that there is no alternative, no viable choice.

In any case, the problem cannot be ignored any longer. The fear of persecution as intended in the Refugee Convention is individualized; it is based on five concepts (religion, race, nationality, social group and political opinion) and is unclear and confusing. It is problematic in the case of large migrations such as ecological disasters, “ethnic cleansing”,

genocidal attempts and other conflict situation, especially in developing countries.

However, in most cases, ecological disasters are not the direct result of deliberate persecution by governments. Usually, if these situations occur within the government's territory, it is almost certain that the government has allowed the activities that have produced the hazardous results⁷ without necessary precautions.

Causes of displacement can be natural and anthropogenic disasters, such as earthquakes and floods, industrial accidents, and environmental and ecological damage caused by armed conflicts.⁸

In any case, the line between natural and human-induced environmental destruction, particularly in the case of long-term degradation, is often indistinct. Human actions, in some cases, will result in flooding or desertification, phenomena which we often refer to as "natural". Frequent floods and prolonged droughts can be indicative of the negative environmental consequences of human activities.

Victims of natural disasters constitute a significant group that must be considered and protected. Changes such as rising sea levels, heavier floods, more frequent and severe storms, drought and desertification will cause large-scale population movements. Displacement, although relatively neglected in comparison with the ecological effects of climate change, presents an

urgent problem for the international community.⁹

The clearest effect of climate change can be seen in the Arctic; any change in temperature affects local ecosystem, causing the loss of species.¹⁰ As we can imagine, this has serious consequences; some animals are no longer available, causing difficulties in the hunt for food. Additionally, the warmer temperature causes ice to melt, meaning that it is increasingly unsafe for hunters to hunt for food "on land".¹¹

Changes in sea level are currently threatening a number of islands; in the Maldives, the government announced in November 2008 that a portion of its annual budget would be invested in a fund to buy a new homeland¹² as the risk of being completely submerged by water is too high.

Estimated figures of displaced persons for climate change are very worrying: the most cited estimate, Myers, is 200 million climate change migrants by 2050, or one person in every forty five displaced.¹³

Natural disasters are not, as we have seen, the only case of environmental displacement. A huge role is played by industrial accidents, which often result in chemical and industrial exposure to dangerous substances.

The most famous incident is, of course, Chernobyl (which is still largely inhabited, especially in the 30 km radius). However, there are a series of less known events which have been, and continue to be, just as dangerous. An example of this is the

highly toxic operations of uranium mining, which mainly occurs in Utah, Colorado, Arizona and New Mexico.¹⁴

Miners work in hazardous unventilated holes and accumulate multiple doses of radiation exposure, which eventually causes cancer and other diseases; some miners were found to have accumulated up to 60 micrograms of uranium in their urine samples, basically making them radioactive.¹⁵

It is evident that, in these cases, States have a responsibility towards the environment; activities within their control must not cause damage to the environment or to people living in the area where the activity is being sustained.

As far back as 1999, UNHCR and IOM had already recognized the problem and had appealed to the responsibility of the States:

As States have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction (Principle 2 of the Rio Declaration on Environment and Development, 1992), damage caused to other states by those displaced as a result of serious environmental disruption (except for natural disasters and accidents) should incur state liability. Each country bears the primary responsibility for protecting its people, infrastructure and other national assets from the impact and consequences of natural disasters and other emergency situations.

Furthermore, states from which migrants originate have the responsibility to cooperate with receiving countries in efforts to address transboundary movements of people.¹⁶

Based on these considerations, what can we hope for in the future? Human rights treaties were created long before the threats of climate change became evident but there are international principles which constitute potent safeguards against returning people into situations of harm, such as the *non-refoulement* principle¹⁷ whose reach should, however, be extended. Currently, the principle of *non-refoulement* does not explicitly contemplate environmental refugees. The international community needs to act now before the situation becomes life threatening.

There have been various proposals for a convention for climate change refugees of environmental refugees in general.

Biermann and Boas suggested a protocol on the recognition, protection, and resettlement of climate refugees.¹⁸ Docherty and Giannini proposed the creation of a stand-alone convention¹⁹ defining the 'climate change refugee' and containing 'guarantees of assistance, shared responsibility, and administration'.²⁰ These proposals treat the question of how the displaced are defined, whether they would be subject to individual status determination (like Convention refugees) or whether protection would be extended on account of the

objective country of origin conditions from which people flee differently.²¹

As environmental refugees cannot be protected under current refugee law, it is evident that the international community must act in the very near future. The best solution is the development of a convention which directly targets the causes which lead to displacement, effectively dealing with the consequences. Using the Convention Against Torture and other Cruel, Inhumane and Degrading Treatment or Punishment as a starting point, Falstrom suggested the following:

*... a treaty could be drafted offering both temporary protections for those displaced due to environmental problems, and requiring the state parties to work towards ensuring that similar types of environmental problems do not recur.*²²

The growing number of environmental refugees will be hard

to ignore in the years to come. The adoption of a new Convention would not only protect human rights but also significantly reduce environmental events that lead to migration and displacement.²³ In the words of Biermann-Boas:

There is no need to wait for extreme weather events to strike and islands and coastal regions to be flooded. All areas that we cannot protect over the long-term through increased coastal defences, for practical or economic reasons, need to be included early in long-term resettlement and re-integration programs to make the process acceptable and enduring for the affected people. This, however, calls for early action in terms of setting up effective and appropriate governance mechanisms. The planning for a climate refugee protocol and the related institutional settings cannot wait until 2050 when it might be too late for orderly and organized responses. It must begin now.

Note

¹ Norman Myers, "Environmental refugees", in *Population and Environment: A journal of Interdisciplinary Studies*, Vol. 19, No 2, November 1997, p. 167.

² Norman Myers, "Environmental Refugees: An Emergent Security Issue", in *13th Economic Forum*, Prague, 2005, available at: <http://www.osce.org/eea/14851>

³ Ethan Goffman, "Environmental Refugees: How Many, How Bad?",

CSA Discovery Guides, 2006, available at: <http://www.csa.com/discoveryguides/refugee/review.pdf>

⁴ Norman Myers, *op. cit.*

⁵ Essam El-Hinnawi, "The Environmental impacts of production and use of energy", in *United Nations Environmental Programme*, 1981.

⁶ UNHCR and IOM (International Organization for Migration), "Environmentally-Induced Population Displacements and Environ-

- mental Impacts Resulting from Mass Migrations”, in *International Symposium*, Geneva, 21-24 April 1996, available at: <http://www.unhcr.org/refworld/pdfid/4a54bbd6d.pdf>
- ⁷ Laura Westra, *Environmental Justice & the Rights of Ecological Refugees*, London, 2009.
- ⁸ *Ibid.*
- ⁹ David Hodgkinson, Tess Burton, Heather Anderson and Lucy Young, *'The Hour When The Ship Comes In': A Convention For Persons Displaced By Climate Change*, 2009, available at: http://www.ccdp.convention.com/documents/Hour_When_Ship_Comes_In.pdf
- ¹⁰ Laura Westra, *op. cit.*
- ¹¹ *Ibid.*
- ¹² David Hodgkinson, Tess Burton, Heather Anderson and Lucy Young, *op. cit.*
- ¹³ Norman Myers, *Environmental Refugees: An Emergent Security Issue*, *op. cit.*
- ¹⁴ Laura Westra, *op. cit.*
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- ¹⁷ Kerstin Walter, *Exposing the Protection Gaps in International Law for Environmentally Displaced Citizens Of Small Island States*, Thesis for the University of Aberdeen, 2010, available at: https://circle.ubc.ca/bitstream/handle/2429/40097/ubc_2012_spring_walter_kerstin.pdf?sequence=3.
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- ¹⁹ Kerstin Walter, *op. cit.*
- ²⁰ Bonnie Docherty and Tyler Giannini, “Confronting a Rising Tide: A Proposal for a Convention on Climate Change Refugees”, in *Harvard Environmental Law Review*, 2009, available at: http://www.law.harvard.edu/student/orgs/elr/vol33_2/Docherty%20Giannini.pdf
- ²¹ Kerstin Walter, *op. cit.*
- ²² Dana Zartner Falsrom, “Stemming the Flow of Environmental Displacement: Creating a Convention to Protect Persons and Preserve the Environment”, in *Colorado Journal of International Law and Policy*, 2001, available at: <http://www.uio.no/studier/emner/jus/jus/JUR5530/v07/undervisningsmateriale/environmental%20refugees%20article.pdf>
- ²² Brooke Horne, “Internship Paper: What is the status of ‘environmental refugee’ under international and Australian law?”, in *Civil Liberties ACT*, 2006, available at: <http://www.cla.asn.au/Articles/060203BrookeHome.pdf>

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