

Introduction

People across the planet are on the move due to environmental disruption and degradation, causing them to abandon their countries of origin and find their future in new locations. To move away from natural disasters or long-term dangerous environmental phenomena such as drought or famine is a rational response to human survival. These people are referred to as ‘environmental refugees’ or ‘climate refugees’ in the international discourse. However, it is essential to state that ‘environmental refugees’ do not exist in legal terms despite the empirical evidence that people are migrating due to climate change. It is not defined as a category nor covered by the 1951 Convention relating to the Status of Refugees. Nevertheless, climate change will likely increase the number of people seeking to escape environmental pressures. As such, it is of great importance and urgency to address the gap of international protection for this class of migrants.

The objective of this research study is to examine the dilemma of forced migration due to climate change, given the hostile political climate towards migrants in general throughout the international community. Naturally, it is virtually impossible to come up with a definitive solution. However, I strive to maintain a focus on steps in the short-term that could lead in a positive direction for long-term answers. For clarity, this research study uses “protection” to refer to any type of positive or constructive action, legally based or not, assumed by state actors or non-state actors on behalf of climate refugees or people at risk of being displaced to strive to achieve full respect for their individual rights of personhood.¹ Chapter one will analyze the state of environmental refugees in the current international refugee legal framework and political context. It will highlight the significance of the erosion of international protections for climate refugees and describe their current options as of today. Chapter two will delve into the humanitarian side of the dilemma, and the advocated solutions. It will address what governmental and non-governmental agents are doing and the challenges they face. Lastly, chapter three will discuss the arguments made for reframing the discourse of environmental refugees as a human rights issue. The point of this exercise is to determine what can be achieved for environmental refugees based on the current conditions given the lack of international protection, and ultimately can environmental migration be reframed as a human rights issue? For the sake of depth, the scope of this study will focus primarily on the actions of the United Nations and the European Union as they are two of the most powerful multinational organizations that have a direct influence on the way climate refugees are recognized and protected. In addition, I chose to focus on the EU out of all regions throughout the world because I contend that it is uniquely positioned to be a leader in undertaking the climate refugee crisis given its progressive stance and leadership on confronting climate change.

Hypothesis

The hypothesis I have reached is that is unlikely that environmental refugees can be added as a new protected category of refugees given the reticence of state actors to accrue more liability and overwhelm their respective immigration systems, but it is possible to achieve greater protection in the medium to long term by reframing the discourse as a broader human rights issue, based on existing internationally recognized policies.

¹ This definition is in my own words and interpretation, however, it takes inspiration from the Nansen Initiative.

The Method of Study

Primary Resources

In order to evaluate the legal policies and regional frameworks, it was essential to consult those official international documents themselves. These included the 1951 Refugee Convention, the Bangkok Principles of 1966, the OAU Convention, the Cartagena Declaration, and the EU Qualification Directive. The Nansen Initiative and other UN-based documents were also consulted directly from their respective sources. Additionally, for the purposes of understanding the Teitiota case, it was necessary to consult the official court documents found in the United States Law Library of Congress and its subsequent ruling from the UN Human Rights Committee. Additionally, I had the privilege to have a brief correspondence about the migration-climate change nexus with the Migration, Environment, and Climate Change division of the International Organization of Migration.

Secondary Resources

A large array of books and academic articles were used to gain historical context and to track the evolution of the discourse surrounding climate refugees. Leading academics and experts in international refugee law such as McAdam, Kälin, Aleinikoff, and Williams were of particular significance to aid in the analysis of legal interpretation and documents in how they could or could not be applied to climate refugees. Given that this subject is an ever-evolving issue, few journalistic articles were consulted from reputable periodicals such as *Reuters*, *Scientific American*, and *The Diplomat* to investigate how the media portrays the current situation for climate refugees in context today. These media outlets reflected the most up-to-date sources of information as of 2020.

Chapter 1: The Adequacy of Existing Legal and Policy Frameworks

1. Who Is and Who Isn't a Climate Refugee?

There has been a noticeable uptick in reports in the media about climate change migrants (or environmental refugees, climate refugees, climate change-induced displacements, etc.) due to the increase in crises that have compounded over the years. For this reason, the term 'climate refugees' has entered the popular discourse. Although there are political debates about the terminology, and there are valid reasons for the advantages on both sides, I will continue to refer to them as climate refugees for pragmatism. It provides a straightforward, easily comprehensible, and translatable label to a complicated phenomenon: the displacement of individuals or groups of people fleeing a slow-onset change in their environment or a sudden disaster, which are directly triggered, partly caused or at least exacerbated by climate change. I have adopted this posture from leading academics, organizations, and position papers submitted by the European Free Alliance (The Greens)² in the European Parliament (EP) and briefings of the EP, but this is in no way a political stance or endorsement.

In any case, there is no international consensus on whether climate change migrants should be classified as a distinct category. Betts suggests a new catch-all term to curtail the legal drama of refugee status: 'survival migrants'. Those who are compelled to move out of their native country because of "an existential threat to which they have no access to a domestic remedy".³ 'Survival migrants'⁴ encapsulates economic and climate change migrants. McAdam stresses that it is arbitrary to discriminate between those who are moving due to economic reasons as a consequence of climate change and those who are physically displaced by climate change when it comes to protection purposes.⁵ Others question the idea of an environmental migrant in the first place on the grounds of a poor definition and being legally meaningless such as McGregor, 1993 and Kibreab, 1994.⁶ The United Nations University's Institute for Environment and Human Security (UNU-EHS) defines a "forced environmental migrant" as "a person who "has" to leave his/her place of normal residence because of an environmental stressor ... in contrast to an environmentally motivated migrant who is a person who "may" decide to move because of an environmental stressor".⁷

The United Nations Environment Programme (UNEP) published a report in 1985 that popularized the term 'environmental refugees' in the global discourse. The UNEP researcher, Essam El-Hinnawi, defined environmental refugees generally as "people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life".⁸ By 1995, the trend of defining climate change refugees in broad strokes continued with Myers and Kent claiming that "environmental refugees" are people "who can no longer gain a secure livelihood in their traditional homelands because of

2 See: FLAUTRE, H  l  ne, LAMBERT, Jean, KELLER, Ska and LOCHBIHLER, Barbara, 2013, *CLIMATE CHANGE, REFUGEES AND MIGRATION* [online]. May 2013. [Accessed 5 January 2020]. Available from: <http://rosamartinez.org/wp-content/uploads/2015/11/Greens-EFA-Position-Paper-Climate-Change-Refugees-and-Migration.pdf>

3 BETTS, Alexander, 2010, Survival Migration: A New Protection Framework. *Global Governance: A Review of Multilateralism and International Organizations*. 2010. Vol. 16, no. 3p. 361-382. DOI 10.1163/19426720-01603006.

4 Ibid, 365.

5 MCADAM, Jane, 2011, Swimming against the Tide: Why a Climate Change Displacement Treaty is Not the Answer. *International Journal of Refugee Law*. October 2011. Vol. 23, no. 1, pp. 2-27. DOI 10.1093/ijrl/eeq045.23 IJRL 2, 4.

6 See KIBREAB, Gaim (1994). "Migration, environment and refugeehood". In: ZABA, B. and CLARKE, J. (eds.) *Environment and Population Change*, Li  ge, Belgium: International Union for the Scientific Study of Population, Derouaux Ordina Editions, 115-29. and MCGREGOR, JoAnn (1993). "Refugees and the environment". In BLACK, R. and ROBINSON, V. (eds.) *Geography and Refugees: Patterns and Processes of Change* London: Belhaven, 157-70.

7 RENAUD, FABRICE et al. 2007. Control, Adapt or Flee. How to Face Environmental Migration? Bonn: UNU-EHS, [Accessed 8 January 2020]. Available from: <http://www.ehs.unu.edu/file/get/3973>

8 HINNAWI, Essam E., 1985, *Environmental refugees*. Nairobi : United Nations environment programme.