

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019



Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

ADDRESSING THE PLIGHT OF CLIMATE REFUGEES: AN EMERGING GLOBAL CHALLENGE

AUTHORED BY - PARTH VERMA,

5th Year BBA LLB (Hons) Student

School of Law, CHRIST (deemed to be University), Bengaluru

CO-AUTHOR - ANSUMAN BARIK,

3rd Year BA LLB (Hons) Student

School of Law, CHRIST (deemed to be University), Bengaluru.

1. Introduction

In the last two to three decades, there have been severe climate-related issues that have shaken the entire world. These have had a profoundly adverse impact on several island countries leading to a constant rise in sea levels so much that they are at a risk of submerging in the next 15-20 years. As this global climate crisis continues to rise, there are an increasing number of people and entire communities at large which at the cost of protecting their lives from such rising sea levels particularly, will be required to flee their homes under such adverse circumstances. Apart from the issue of rising sea level, even droughts, earthquakes, and desertification of lands can also be considered as a part of this climate crisis. The communities forced to flee their homes owing to all such reasons are known as Climate Refugees in common parlance. This word was coined to primarily describe the increasing movement of people across borders which were partly caused by such climate disasters. Despite this significant rise in climate refugees over the years, as per the UNHCR Report, negligible efforts have been made to provide protection to them proactively under various international conventions. The global response has been far from satisfactory regarding the same. This article seeks to delve deep into the core issues associated with climate issues based on forced migration and define climate refugees in the most appropriate manner.

2. Who's a Climate Refugee?

In order to define a climate refugee, there is first a need to determine who is a refugee. According to the 1951 Convention Relating to the Status of Refugees, a refugee is an individual who is not able to return to their country of original nationality owing to a fear that they shall

be persecuted on the grounds of nationality, religion, race or any political reason. As a result, a Climate Refugee shall be, on an idealistic front, defined as an individual unable to return to their country owing to adverse climatic conditions in the origin country. In recent times, the issue of climate migration has substantially increased because of increasing sea levels globally. The current refugee convention is unequipped to deal with climate refugees and covers only individual political refugees to a large extent, who flee from the countries because of persecution on previously mentioned grounds.

3. Current Regulatory Framework

A. Convention Relating to the Status of Refugees, 1951

The 1951 Refugee Convention provides is at the helm of refugee laws throughout the world. It provides the terminologies such as that of refugees, how they are entitled to claim protection, and under what circumstances the rights in other nations shall be conferred upon them. However, climate refugees haven't been explicitly recognized under this convention, and individuals displaced solely by environmental disasters or climatic issues haven't been directly covered under the same. The UN Human Rights Committee has, however, stated that climate change has caused threats to life expectancy and quality of life in general and that the principle of non-returning of individuals to nations where they may face persecution can be applied in situations involving climate change.

B. New York Declaration for Refugees and Migrants, 2016

The New York Declaration was a significant step taken to address the refugee crisis. The basic purpose was to emphasize the objectives stated in the 1951 convention and extend its application to climate refugees. It sought to strengthen the framework for migration and basic human rights protection of climate refugees, thereby enhancing International Cooperation for the rights of climate and other types of refugees.

C. Global Compact for Safe, Orderly, and Regular Migration, 2018

This is a non-binding cooperative framework that was adopted in 2018 by the UNGA. It provides a legal framework for all states concerned (member states) to determine the procedure for allowing immigrants into their own home states and includes climate refugees within its purview to a significant extent. As per Article 21(h), nations ought to cooperate with each other in finding, formulating and reinforcing responses to the migrants who are forced to depart from their countries of origin as a result of their slow onset natural disasters, climate change impact and environmental degradation.

D. Global Compact on Refugees

This Compact is essentially a chance to consolidate the global response to a massive movement of refugees occurring primarily among the industrialized world. While an overt reference to Climate Refugees hasn't been made under the same but the New York Declaration has explained to a large extent the effect of climate change leading to mass migration. The four key objectives of this global compact are as follows: a) Ease the pressures on host countries; b) Enhance refugee self-reliance; c) Expand access to third-country solutions; d) Support conditions in countries of origin for return in safety and dignity.

4. Global Case Studies

A. Africa

According to the reports of the 5th and 6th Intergovernmental Panel on Climate Change (IPCC), Africa has been considered the most vulnerable continent to climate change because of its lack of mitigating capabilities such as technology, infrastructure, and finance. This results in an increase in vulnerabilities among the people of Africa. Africa is heavily dependent on agriculture and fisheries. Any change in temperature, rainfall or climatic disaster will have a serious impact on the continent. Earth's rising temperature will create vulnerabilities and a decline in fisheries in the Horn of Africa, which will impact the African nations severely. It has been projected in 6th IPCC that there will be a decline in fisheries in the Horn of Africa and West Africa around 10%-30%, which creates vulnerabilities for species extinction. The impact also extends to a deterioration in rangeland productivity. It is projected that West Africa will lose 40% of its rangeland productivity if the temperature goes beyond 2°C. Moreover, there will be 86 million internal climate migration in the African continent due to climate changes by 2050, according to the World Bank report- Groundswell: Preparing for Internal Climate Migration.

B. Pacific Island

Pacific island countries are at the forefront of climate change-related consequences. These small island countries face severe climatic change repercussions every year. Rapid industrialization in different countries worldwide for more than 150 years has increased the emission of greenhouse gases, leading to severe climatic changes. The rise in temperature, sea level, etc, is threatening the livelihood and culture and tradition of people in island countries. This can be evident from the UN's high-level panel on

internal displacement, which elucidates that more than 50,000 people in the Pacific are forced to abandon their homes due to serious climatic repercussions. The Pacific islands are prone to natural disasters, which makes it difficult for the people to live there peacefully. A survey conducted in 2015 by Samisoni Pareti, Editor of Islands Business Magazine, highlighted that 70% of households in Kiribati, Tuvalu and 35% of families in Nauru will see a migration if the climate worsens. This not only impacts their livelihood but also affects their culture, tradition, future and identity.

C. South Asia

Climate change has become a potent driver in the displacement of people in South Asia. As per the World Bank report in 2012, the internal migration in South Asia is expected to be 40 million by 2050. In 2020, another study by the World Bank was conducted, and it is predicted that internal migration may rise to 63 million by 2050. The International Organization for Migration (IOM) has also estimated that there could be 25 million to one billion climate refugees worldwide, and a significant portion shall be from South Asia. In South Asia, India is one of the countries that will face climate refugees from its neighbours. For instance, frequent floods in Bangladesh lead to loss of livelihood that forces people to migrate to India. Moreover, the melting ice of the Himalayan mountains poses another serious issue, creating vulnerabilities for countries like Nepal and Bhutan. And it is expected that around 50-120 million climate refugees might migrate to India. Therefore, serious actions must be taken because most South Asian countries signed the 1951 Refugee Convention, and there is no intergovernmental agreement among the nations.

5. Recommendations

Firstly, there shall be an incorporation of Climate Refugees under the 1951 Refugee Convention within the definition of 'Refugees' to afford them similar protection in comparison to all other refugees forced to flee on several other grounds.

Secondly, specific to South Asian Countries, regional treaties shall be developed and promoted in order to establish an orderly framework for regulating climate refugees in this specific region. This can be in the form of Multilateral Climate Treaties and a Special Task Force to oversee its efforts in this region.

Thirdly, developing nations lack the financial and technical know-how to deal with climate

refugees. Here, financial and technological cooperation with developed countries must be facilitated, thereby ensuring smooth accommodation of climate refugees, which also includes communities in many circumstances in the country of immigration.

Fourthly, with the increased advent of AI in these digital times, carrying out the immigration formalities specifically for climate refugees can be made absolutely smooth. AI can help detect the person's country of origin, the climatic conditions that necessitated immigration, and the genuineness of the immigrants' claims.

Lastly, the root cause of this entire issue, which is the climate change risks that have increased over the years, must be addressed. This includes reducing overall carbon and greenhouse gas emissions through mutual cooperation.

6. Conclusion

At the current juncture, there are absolutely negligible regulations or laws to afford any protection to Climate Refugees. While efforts have been made globally, it has proven to be extremely insufficient. The key in such circumstances lies in promoting mutual cooperation in both economic and technical terms to facilitate a conducive procedure for climate refugees to seek refuge in other nations. It is not only persecution on religious or political grounds that makes any individual eligible to seek refuge. Climate change has been the biggest concern for many nations and communities as a whole in recent times, and the communities displaced owing to adverse climatic conditions shall also be eligible to be granted refuge as climate refugees

References

1. **Sumudu Atapattu**, 'Climate Change and Displacement: Protecting "Climate Refugees" within a Framework of Justice and Human Rights' [2020] 11(1) *Journal of Human Rights and the Environment* 86.
2. UNHCR, What We Do: How We Work – Climate Change and Displacement (UNHCR, 2023)<https://www.unhcr.org/in/what-we-do/how-we-work/climate-change-and-displacement> accessed 2 March 2024.

3. **UNHCR**, 'Climate Change and Displacement: Myths and Facts' (*UNHCR*, 2023) <https://www.unhcr.org/in/news/stories/climate-change-and-displacement-myths-and-facts> accessed 2 March 2024.
4. United Nations General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations Treaty Series, vol. 189, p. 137.
5. UN Human Rights Committee, *Ioane Teitiota v. New Zealand*, Communication No. 2728/2016, CCPR/C/127/D/2728/2016, 7 January 2020.
6. United Nations General Assembly, *New York Declaration for Refugees and Migrants*, A/RES/71/1, 19 September 2016.
7. United Nations General Assembly, *Global Compact for Safe, Orderly, and Regular Migration*, A/RES/73/195, 19 December 2018.
8. United Nations General Assembly, *Global Compact on Refugees*, A/RES/73/151, 17 December 2018.
9. World Bank, 'Meet the Human Faces of Climate Migration' (19 March 2018) <https://www.worldbank.org/en/news/feature/2018/03/19/meet-the-human-faces-of-climate-migration> accessed 13 March 2025.
10. IOM, 'Why Young Pacific Islanders Need to Be in Conversations Around Climate-Induced Migration' (5 June 2024) <https://environmentalmigration.iom.int/blogs/why-young-pacific-islanders-need-be-conversations-around-climate-induced-migration> accessed 7 March 2025.
11. South Asian Voices, 'Climate Displacement in South Asia and India's Imperative to Act' (13 June 2023) <https://southasianvoices.org/climate-displacement-in-south-asia-and-indias-imperative-to-act/> accessed 8 March 2025.
12. NatStrat, 'Climate-Induced Displacement in South Asia: The Coming Challenge' (25 November 2024) <https://www.natstrat.org/article/detail/publications/climate-induced-displacement-in-south-asia-the-coming-challenge-170.html> accessed 6 March 2025.