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“Dharma is to protect the Needy”

Research Article on
“ADDRESSING CLIMATE CHANGE INDUCED MIGRATION
AND ITS INTERNATIONAL LEGAL CHALLENGES”

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ABSTRACT

Climate change has become a critical topic affecting nations at large and our day-to-day lives in many-fold ways. There are various issues that are prevalent and need immediate action, one of them being the mass displacement of people. Extreme weather conditions, droughts, desertification etc. are just the tip of the iceberg when it comes to the serious environmental and human disasters that occur. The migration of people as a consequence to these climate change-induced occurrences is what implicates human rights law. The author through the article covers the main issues of climate-related displacement and provides an analysis of the same legally. Adapting mechanisms though is widely accepted there is still no solid grasp of its scope. It is predicted that the 21st century would witness mass displacement of around 200 to 250 million people migrating to avoid the impacts of climate change.

The Universal Declaration of Human Rights along with its proponents that ensue ensure that fundamental rights like that of life and liberty along with shelter, food and non-discrimination are provided to human beings. However concrete legislation for the same has not been provided. The author through the paper aims to critically analyze the issue of climate induced migration and the existing laws that are present if any for this form of migration. Then the author will further analyze why this form of migration is faced with a form of vagueness and is not addressed while proposing ways to amend the existing enactments whilst making new ones.

KEYWORDS

Climate Change, Conventions, Human Rights, Internal displacement, Migration

I. INTRODUCTION

People get displaced and are compelled to migrate from their country of origin due many reasons now one of them mainly being loss of livelihood due to climate change which lead to loss of human life , economic, cultural and livelihood losses. Temporary human displacement

is caused due to rapid-onset events such as hurricanes, floods, storms as opposed to drought and desertification which have slower onsets but threaten human life and become serious environmental disasters ultimately leading to permanent migration in search of a new life.

The dialogue on the protection of climate-induced migration is presently formed within the field of international migration law and human rights. One way could be through recognizing state responsibility for failure to mitigate climate change as opposed to facilitating migration being a remedy. While the Kyoto Protocol provides for environmental protection, the adaptation programs for those affected and the standards that exist for internal migration, there are a form of vagueness in the legal protection for the vulnerable groups inclusive of the extent to what level can the migrating people be protected while crossing international border in search of a new livelihood.

The Intergovernmental Panel on Climate Change (“**IPCC**”) fourth and fifth assessment reports are a clear indicator that climate change is already having visible impacts on the earth and it’s not only mitigation but also migration policies that need to be developed for the same.¹ Small island nations like Tuvalu, Kiribati and the Maldives are under threat of being uninhabitable and the people who are displaced in the past were blatantly denied legal recognition and migration facilitation despite there being basic provisions for human rights.² Hence these nations there are many nations that need to enact legislation to be able to facilitate migration of the people in a more uniform manner.

II. RESEARCH QUESTIONS

- Why there is a need to have recognition and protection for Climate Change induced migration and the consequences that could ensue as existing laws fail to address the situation.
- Despite there being provisions in Conventions for basic human rights, how people have and continue to suffer having vague climate induced migration laws and policies.

¹ L. Nurse & R. Mclean, Chapter 29. Small Islands’ in: Intergovernmental Panel on Climate Change (IPCC), Barros, VR; Field, CB; Dokken, DJ; Mastrandrea MD et al, Climate Change 2014: Impacts, Adaptation and Vulnerability. Part B Regional Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change Cambridge, Cambridge University Press, 2014.

² Raymond Rayfuse, W(h)other Tuvalu? International Law and Disappearing States, University of New South Wales Faculty of Law Research Series Paper No. 9, 2009; Burkett, M. “Climate Reparations,” *Melb. J. Int’l. L.* Vol 10(2), 509, 2009.

III. CRITICAL ANALYSES OF CLIMATE CHANGE INDUCED MIGRATION

To analyze how mass displacement occurs due to climate change and the need to facilitate migration, the first part of the paper breakdowns how the current Conventions for Migration, climate change and human rights have no direct link and that there needs to be a recognition for the same and the second part would deal with instances of vulnerable groups and their stories through case studies that would lead to propositions for ways to recognize the issue at hand.

a) General Obligations of States

Under International law the obligations that states owe to each other is a fundamental concern. However under humanitarian and human rights doctrines, there exist additional duties that a state owes to its people for special protection to the vulnerable population. Under Human rights law there are basic obligations that a state has to perform to safeguard life and property against any disaster. It necessitates that states mitigate any harmful impacts and provide for a mechanism to evaluate and provide relocation setups for the affected in harmony with the right of freedom of movement.³ These groups get further vulnerable to climate shocks if there is already existing poverty, discrimination and socio-economic impact. Certain disaster management and reduction programs are also a part of the international legal framework to provide assistance within the 2005 Hyogo Framework for Action.⁴

Humanitarian obligation reinforced by International Human Rights law obligates states to cooperate and assist governments, especially for those affected by climate change. The treaty body which is a part of the International Covenant on Economic, Social and Cultural Rights (“ICESCR”) monitors and provides aid and relief.⁵

b) Policies focused on migration and climate change

There are many key instruments that have been initiated concerning migration caused due to climate change.

Firstly, the guiding foundation to all conventions is the Universal Declaration of Human Rights (“UDHR”). This sets out all the basic fundamental rights of a human which countries must

³ Walter Kalin, Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Addendum: Protection of Internally Displaced Persons in Situations of Natural Disasters, A/HRC/10/13/Add.1, 2009.

⁴ Final Report of the World Conference on Disaster Reduction, U.N. Doc. A/CONF.206/6 (2005).

⁵ International Committee on Economic, Social and Cultural Rights, Article 14, 10 December 1966 United Nations, Treaty Series, vol. 993, p. 3

strive to abide to. Following this, there was a common belief that individuals who fled from one country to another were often termed as refugees and hence many conventions addressing their needs came to light. Conventions like that of Cartagena Declaration⁶ and Kampala⁷ focused on individuals fleeing due to serious disturbance of public order in the country and those who were internally displaced due to natural disasters.

Some national legislations like that of the Brazilian Declaration and Plan of Action⁸ adopted in 2014 covered those who were displaced due to climate change and call for action. One major global initiative undertaken for cross border movement was the Nansen Initiative and Platform on Disaster Displacement which introduced the Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change endorsed by 109 governments adopted in 2015. This builds on the United Nations Framework for Climate Change Conventions (“UNFCCC”) in Cancun which called for a common collaboration regarding climate change displacement.⁹ This was one essential agreement which led to a range of state consultations with governments and societies in five major regions across the globe. This initiative did not seek to create new legal obligations, instead worked to foster a global consensus on components for an agenda to protect the displaced individuals across borders caused by climate change.¹⁰ The agenda that followed focuses on admission and stay of persons moving across borders and those not returning back. It impels inter-sectoral coordination in policy and practice.

c) Rights of the migrants

Under human rights all individuals are ensured their fundamental rights which include their civil, political, economic, social and cultural rights which are right to life, privacy, health, employment and freedom of movement, residence, engaging in religious practices. However it is not inclusive of the right to enter another country and have the same legal protection as a

⁶ Regional Refugee Instruments & Related, Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984

⁷ African Union, Kampala Declaration on Refugees, Returnees and Internally Displaced Persons in Africa, 23 October 2009, Ext/Assembly/AU/PA/Draft/Deck.(I) Rev.1

⁸ Regional Refugee Instruments & Related, Brazil Declaration and Plan of Action, 3 December 2014, (accessed on September 21, 2020), <https://www.refworld.org/docid/5487065b4.html>

⁹ K. Warner, Climate Change Induced Displacement: Adaptation Policy in the Context of the UNFCCC Climate Negotiations, UNU-EHS, 2011.

¹⁰ Nansen Initiative, Global Consultation Conference Report (Geneva 2015), p. 16., (accessed on September 21, 2020) www.nanseninitiative.org/wp-content/uploads/2015/02/GLOBAL-CONSULTATION-REPORT.pdf.

refugee. This is a major problem as international migration caused by climate change could provide them better human security.

There are no exclusive rights granted to migrants caused by Climate change however certain basic Human rights as mentioned in the UDHR, International Covenant on Civil and Political Rights (“**ICCPR**”) and ICESCR are common to all like those of movement within states and across borders as provided in international law. These include right to move freely within one where is lawfully resident, freedom to leave any states and returning to any state etc which have been mentioned under the UDHR¹¹ and the ICCPR¹². This was also mentioned under article 8 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (“**ICRMW**”) wherein migrant’s members were allowed to leave or return to any states and even can be taken to court to ensure that the rights are provided.¹³ The ICESCR which was articulated under the UDHR elaborates the rights to work, education, health, social security, food, water etc.

Further there is also a need for states to provide for protection to the individuals as a matter of national sovereignty which require to regulate immigration to ensure the records of entry and exit are maintained. It serves two major needs, one being restricting access to state territory and secondly removing non-national not authorized.

IV. THE LEGAL FRAMEWORK FOR MASS DISPLACEMENT

It is always imperative to understand the legal framework that is already present with respect to this looming problem. This is essential to analyze the existing national and international laws that potentially address the migration caused by climate change and take further action. There are some major lacunae in the current situation for these individuals as climate change migrants firstly, do not have the right to resettle in any other country, this includes even those individuals who are living on island nations and have no other options to themselves, especially when the nation is at the risk of disappearing. Crossing international borders gives them no special status for recognition and the only possible solution according to existing laws is to establish themselves into categories that are present within their immigrations laws of the host country. National laws in today’s situation are deficient in specific provisions to make immigration

¹¹ Universal Declaration of Human rights, Article 13, 10 December 1948, 217 A (III).

¹² International Covenant on Civil and Political Rights, Article 12, 16 December 1966, Treaty Series, vol. 999, p. 171

¹³ Case of Expelled Dominicans and Haitians v. Dominican Republic, (IACrTHR), 28 August 2014, (accessed on September 22, 2020) <https://www.refworld.org/cases,IACRTHR,546db31f4.htm>

caused by climate change any easier. Secondly, these migrants do not have any sort of international fund backing from either their home or host state to ease relocation costs that incur apart from the little assistance available to them beset at increasing development, mitigation and helping adapt to the situation.¹⁴ Only a few conventions like those parties that signed it introduced an Adaptation Fund to support projects to assist in adaptation.

a) Internal Displacement

Currently all internal movement resulting due to climate change is the primary responsibility of the nation as national sovereignty prescribes internal migration be an internal matter to solve and all citizens would come under the purview of domestic laws. However there are some instances wherein international law does apply for the internally displaced. This is where international human rights law comes into play as basic rights. There are some general Guiding Principles On Internal Displacement introduced on Internal Displaced Persons which are of relevance when individuals have to migrate involuntarily due to climate change.¹⁵ According to the principles people have the right to be protected against arbitrary displacement, and would also have rights to reside in safety and dignity and be returned or reintegrated. These however are still debated as to their applicability for slow onset disasters or sudden ones resulting from climate change. Countries are not bound by these principles however, they can be incorporated into domestic laws and policy.

b) Cross Border Movement

Domestic laws regulate who is given entry into a country and not, however there is still the existence of some international law that exercises influence over border control. The non-refoulement principle is a subset of the international law which restricts being sent back. There exist three categories which most domestic legislations recognize and people need to belong to those three categories. Firstly, the economic category which grants and admits individuals with skills and qualifications. Secondly, the family category which allows members of citizens and other immigrants and finally the humanitarian category which admits fewer people. National immigration has its own constraints and generally does not allow for permanent entry to those vulnerable groups who are displaced due to climate change. These national legislations lack

¹⁴ F. Gemenn, Climate-induced population displacements in a 4° C+ world, Phil. Trans. R. Soc. A 369, 182-195, 2011.

¹⁵ Patrick A. Taran, Human Rights of Migrants: Challenges of the New Decade, December 16, 2002, (accessed on September 21, 2020) <https://onlinelibrary.wiley.com/doi/abs/10.1111/1468-2435.00141>.

the provisions for victims of climate change to give them permanent settlement in their nation. There are some temporary protection provisions available.

Hence, despite there being niche provisions for the rights of an individual under human rights law, it is found that elaborate provisions for climate migrants still have no absolute recognition.

V. STATES SHARED RESPONSIBILITY

The international communities across the world relate to the general principle of responsibility.¹⁶ One does not need to look into the nuances to notice the injustice of human consequences of climate change. The doctrine of shared responsibility needs to be invoked by those developing nations claiming a share of developed states benefits. An alternative to this is the doctrine of unjust enrichment will apply, which permits states that are affected to get some part for new opportunities. Applying principles like shared responsibility or the polluter pays principle would create accountability among nations and would lead to economic efficiency as it would result in domestic measures to mitigate climate change.¹⁷

- ***Maintenance of Peace and security***

Many countries cannot cope with the influx of migrants due to the magnitude of climate change and thus international migration should be authorized and scrutinized rather than be illegal and out of control. There are more than 30 million unauthorized migrants in today's day and age that have been displaced without additional documents.¹⁸ The areas affected by global warming or sea level rise are terribly impacted which would lead to nations becoming unstable and violent, hence western governments cannot ignore the disputes that might arise from this migration.

VI. THE ABSENCE OF INTERNATIONAL PROTECTION OF MIGRANTS RIGHTS

Climate change migrants can barely invoke their status under migrants as there is not much protection given to them under international law. So much so that even the ICRMW do not have any right to cross borders.¹⁹ Even the UNGA does not give these individuals the right to

¹⁶ Romain Felli, *Justice globale pour les réfugié-e-s climatiques?*, 6 ASYLON(S), 2008.

¹⁷ Nicholas Stern, *The Economics Of Climate Change*, The Stern Review vii, 2006.

¹⁸ Oecd, *The Future Of International Migration To Oecd Countries*, OECD Publishing, Paris, 2009.

¹⁹ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, December 18, 1990, A/RES/45/158 .

move or stay.²⁰ The only source for protection is under international human rights law. States only have the obligation to protect its citizens and any person within its jurisdiction.²¹ However they are not obligated to other countries' citizens who aren't under their jurisdiction which is commonly understood as 'effective control'.²² This was elaborated in the Bankovic case²³ wherein it was concluded that state parties of the NATO did not have effective control over the victims. Even if the state has effective control over its level of greenhouse gas emissions, it does not have control over the results of climate change years later.

Even today climate migrants are turned back by host nations with less hesitation than the returning of asylum seekers, however these migrants should be allowed to raise fundamental rights against a state that has effective control over them. Many states do not even accept their obligations for the protection of their rights especially if the border has been crossed illegally, thus forcing them to return by way of extradition or expulsion.²⁴ Going to court for such a violation is long and tedious apart from legislation being too vague.

There is absolutely no concrete provisions that can give migrants permanent asylum and rights that's ensue leading to numerous undocumented individuals.

VII. THE ONSET OF A DISASTER DUE TO CLIMATE CHANGE AND ITS REPERCUSSIONS

a) Slow-onset of climate change disasters and migration

The protection given under human rights law is still very limited like refugee law which is limited as the legal definition does not include those fleeing from environmental harm under the 1951 Convention.²⁵ Thus there is no binding force on governments to aid those affected from climate change. Victims that suffer due to droughts and slow on going calamities are still

²⁰GA Res. 40/144, Document A/RES/40/144, December 13, 1985, (accessed on September 20, 2020 <http://www.un.org/documents/ga/res/40/a40r144.htm>).

²¹ Marko Milanovic, From Compromise to Principle: Clarifying the Concept of State Jurisdiction in Human Rights Treaties, 8 H.R. L. REV. 411, 435–36, 2008.

²² U.N. Human Rights Comm., General Comment No. 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant, § 10, U.N. Doc. CCPR/C/21/Rev.1/Add.13, 2004

²³ Bankovic et al. v. Belgium, 2001-XII Eur.Ct. H.R.333 ¶¶ 50–58.

²⁴ Soering v. United Kingdom, XI Eur. Ct. H.R. (Ser.A) at 439, 1989.

²⁵ UNHCR, Climate change, natural disasters and human displacement: a UNHCR perspective, p. 8, (2009).

conflicted with their position unlike those mentioned in the 1969 OAU Convention and the Cartagena Declaration which recognizes those events which cause serious public disorder.²⁶

It is however argued that temporary asylum can be granted if droughts or other calamities result in a national emergency. An individual should receive asylum by the host government even if the cause of fleeing across the border is due to multiple causes and the government should be obligated to provide food, shelter and security even if it can't provide employment or jobs. An example of such would be in East Africa the IOM has announced multiple individuals are crossing borders into Kenya due to droughts and resource disputes and are not seeking refugee status as Kenyan law would prevent freely traveling and working thus resulting in multiple undocumented individuals.²⁷ Countries that ratify the ICRMW could apply to climate related migrants who engage in international labour migration.²⁸ However countries like the United States who aren't legal parties to the treaty and have high levels of immigrants pay no heed to it. If this treaty is codified along with the existing norms and customary international law, its applicability would include climate change migrants. In Europe too there are Conventions for migrant workers but similar to others, the determination of being an immigrant is very discretionary to the authorities.

b) Rapid-onset of climate change disasters and migration

Vulnerable groups migrating from storms and floods most often seek to return home as soon as the disaster has occurred and it is safe to return unlike a slow onset disaster. Rapid onset migrants require instantaneous and provisional need for protection and where short term employment is required is when the return is delayed. The individuals under this are better protected by international law as earthquakes, tsunamis etc. cause a major change to the nations infrastructure, housing etc. which lead to instant mass displacement as this could qualify for asylum seeking and government assistance under for example the Cartagena Declaration.²⁹ This has occurred when in 2004 Asia was hit by a major tsunami displacing thousands of people. For those vulnerable groups who are unable to return as the impact of the disaster is so major comes under purview of the Temporary Protected Status.

²⁶ Fox S, Beall J, Mitigating conflict and violence in African cities Environment and Planning C: Government and Policy, 30 968–981, 2012.

²⁷ Gray C, Soil quality and human migration in Kenya and Uganda, Global Environmental Change, 21 421–430, 2011.

²⁸ G. White , Climate Change and Migration: Security and Borders in a Warming World, Oxford University Press, Oxford, 2011.

²⁹ Cartagena Declaration on Refugees, Section III(3), 22 November 1984, PPLA/2013/03.

For example, the United States Immigration Act 1990 gives discretionary grants of TPS in events which cause major infrastructural changes and the state origin cannot manage to be habitable.³⁰ This status has been granted to nations like Nicaragua and Honduras. It however only applies in the US at the time of a disaster for six-months extendable to 18 months and individuals can work during their stay but cannot apply for admission of spouses or family members. In Europe too there are TPS exceptions which vary, for example, in Finnish and Swedish Alien Acts give provisions to TPS when a return is impossible due to the depravity caused for which Denmark can provide for protection and families seeking humanitarian asylum.³¹ Unlike the rapid onset migrants, the slow onset disaster migrants cannot come under these exceptions and cannot qualify for Asylum seeking or special status.³² Even today there are no exclusive global migration agreements or bi-national agreements that cover displacement due to environmental disasters and climate change.

VIII. SEA LEVEL RISE AND MIGRATION

The climate change migrants who cross borders due to rise in the sea-level inundating part of all of the small-island nations are particularly in an awkward situation and when this occurs they are not viewed as permissible for asylum seeking. However in such a situation, they do become stateless and the provisions that are applicable to a stateless person in treaties and international humanitarian law come into force. The principle of non-refoulement would however prevent return if the individual still is at the risk of threat to life but otherwise international law is still unclear on a stateless individual gaining a new state to reside. An example of this is reflected in the European Directive on Subsidiary Protection wherein the least temporary status to a developing country's nationals or stateless person who is not qualifying to be a refugee is at threat of serious life loss.³³

Case Study: The Families Of Tuvalu And Kiribati

Australia and New Zealand have been at the forefront at developing a broad jurisprudence on climate change induced migration. Both Kiribati and Tuvalu are island states which are

³⁰ Michelle Leighton, Climate Change and Migration: Key Issues for Legal Protection of Migrants and Displaced Persons, June 2010, (accessed on September 20, 2020) https://seors.unfccc.int/applications/seors/attachments/get_attachment?code=IJLWNQSDTL7CWKA7C2P255LDVWCLDNUE.

³¹ OHCHR, Forced displacement in the context of climate change: challenges for states under international law, UNHCR at p. 12, May 2009.

³² European Parliament, Climate Change and Migration: Legal Policy and Challenges, European Journal of Educational Research, 2020.

³³ AA. Lopez, The Protection of Environmentally-Displaced Persons in International Law, 37, *Envtl. L.* 365, 2007

threatened to vanish due to rising sea levels. In Tuvalu, people who claimed protection from Australia were dismissed by the Australian Tribunal to seek refuge and ultimate asylum. This was because Australia had no policy to facilitate the process for the groups. Further on New Zealand permitted migration only on the basis of Family ties and not a human rights claim, as there was no definition under which these migrants were defined.³⁴

In Kiribati case was the first to initiate thought on the developing of a status for climate migrants where the individual stating rights under the ICCPR for his right to life and human treatment was rejected by the New Zealand court as well as the Human Rights Committee which though recognized the grave circumstance of the individual however stated there was not immediate imminent danger causing deprivation of life and that even Kiribati did have effective legislation or agreement to protect its people. However the committee did recognize the human rights of those suffering from climate induced migration and the principle of non-refoulement and the obligations that follow. Both the cases were instances of how even though states are aware of the dangers of climate change and not having flexible migration laws, poor legislation and non-recognition put human lives in danger.

Hence, it is concluded that, the consequences of not having distinguished rights for climate induced migrants can prove detrimental for nations across the world leading to violation of existing aiding provisions and loss of human lives.

IX. GAPS/FINDINGS THAT LEAVE MIGRANTS UNPROTECTED

As mentioned above, humanitarian and human rights law are more effective for internally displaced persons. Most agreements, conventions lack specific provisions to address this crisis and need clarity for its application for climate change. Many of the provisions leave migrants to be abused to the vagaries of politics.

There are three main gaps as discussed above:-

- *Laws protect only few and not all potential vulnerable individuals*

While the UNHCR has a mandate to provide aid, however, governments do not follow the guidelines. Crossing borders undocumented gives rise to risks associated with suffering from criminal sanctions, xenophobia etc. the TPS mechanism are very discretionary and narrow for international migration cases. Those affected from Slow-onset climate disasters are wholly

³⁴ AC (Tuvalu), NZIPT 800517-520, New Zealand: Immigration and Protection Tribunal, 2014.

unprotected by any migration policy. In a situation of rising sea levels there is absolutely no clear requirement prescribed for the status of the individual for legal protection and the potential 'statelessness' that would arise and the treaties present for the same are highly insufficient to address the unprecedented climate change circumstance.

- *Standards are voluntary*

The present framework adopted like that of the 2005 Hyogo plan for Action and the IDP Principles are often seen as 'soft law' principles. They receive government support by addressing them as declarations and resolution however remain legally unbinding and without being codified are as good as being in vain

- *The mechanism lack clarity and accountability*

Admitting that there are instances when international guidelines are followed, however, their accountability and monitoring mechanisms are ineffective and it allows states to violate standards with impunity. In circumstances when individuals face abuse there is no complaint mechanism within the IDP guidelines or environmental agreements. There exist certain courts which are tailored for human right violations, however they are generic and not especially established for climate change or disaster victims.

X. RECOMMENDATIONS

- Firstly, defining a climate change migrant and giving them a status. Giving them a legal definition gives them the ability to seek asylum in another nation and look towards resettlement programs.
- There needs to be a legal and political framework at a national, state and regional level to deal with climate change such as the UNFCCC Paris Agreement and sustainable development goals of Agenda 2030 wherein leaders recognize the need for protection of human rights and access to a reasonable livelihood vis-à-vis human mobility. For migration of the vulnerable groups, nations need to develop national legislations integrating voluntary and forced migration as well as resettlement programs and adaptation.
- Another possible solution is to ensure that there is a strong interstate relation with neighboring countries as well as those who could facilitate migration in case of a national emergency caused by an environmental disaster. Building legal infrastructure by practicing the obligations under customary international law along with having binding agreements could develop a coherent harmonized system between nations.

- There needs to be a global acceptance for recognizing and addressing the issues and consequences that climate change possesses and that migration as a result of it is still not made into legal enactments. This includes a human rights based approach coupled with a recognition of customary and state laws.
- Global citizenship is a notable concept that arose in the past, which needs to be given serious thought. This is because climate change is not a result of one nation's act but that of many nations put together. Hence, there needs to be a provision for this school of thought.

XI. CONCLUSION

Climate change affects migration in very different ways. From the above paper it is understood that climate change is likely to increase along with the number of natural hazards which are going to have significant effects on migration drivers and facilitators. The IOM has been very vocal about the rising number of cases and their assertion of the need to enable human mobility with human rights. These drivers of migration are very complex and climate change will always be backed by economic, social, political factors. Now migration needs to be seen as a part of a solution and not just a part of being the induced problem due to climate change. Even though initiatives have been positive, the groundwork is still at its bare minimum. Protecting individuals from sea level rise is going to be a difficult challenge for governments and will need clarification for international migration and resettlement programs. Hence governments need to clarify their stance of the rights of climate change induced migration and responsibilities of the origin and host countries in terms and treatments and resettlements.

Even though migration, climate change and human rights has been at the topic of debate, there is no concrete work being put into ensuring any form of implementation. Given that Europe has become the new migration hub for all the migrants there is still a need to address the migration and asylum claim for climate change migrants there. The awaited Pact on Migration and Asylum does offer an opportunity to put migration on the forefront induced by climate change is still on the back burners and it is unlikely that without many more cases like that of Kiribati and Tuvalu much action will be taken. Thus, while climate change, migration and Human Rights are all separately essential issues around the world, the nexus of the three stand to be much further strengthened.

REFERENCES

A. Conventions/ Legislation

- International Committee on Economic, Social and Cultural Rights, 1966
- Cartagena Declaration on Refugees, 1984
- Kampala Declaration on Refugees, Returnees and Internally Displaced Persons in Africa, 2009.
- Regional Refugee Instruments & Related, Brazil Declaration and Plan of Action, 2014
- Universal Declaration of Human rights, 1948.
- International Covenant on Civil and Political Rights, 1966.
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990
- Cartagena Declaration on Refugees, 1984.

B. Cases

- Case of Expelled Dominicans and Haitians v. Dominican Republic, (IACrTHR), 28 August 2014, (accessed on September 22, 2020) <https://www.refworld.org/cases,IACRTHR,546db31f4.htm>.
- Bankovic et al. v. Belgium, 2001-XII Eur.Ct. H.R.333 ¶¶ 50–58.
- Soering v. United Kingdom, XI Eur. Ct. H.R. (Ser.A) at 439, 1989

C. Journal/Articles

- J. Vidal, Climate Change Not Expected to Lead to Mass Cross-Border Migration, The Guardian, 2011.
- L. Nurse & R. Mclean, Chapter 29. Small Islands' in: Intergovernmental Panel on Climate Change (IPCC), Barros, VR; Field, CB; Dokken, DJ; Mastrandrea MD et al, Climate Change 2014: Impacts, Adaptation and Vulnerability. Part B Regional Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change Cambridge, Cambridge University Press, 2014.

- Raymond Rayfuse, W(h)other Tuvalu? International Law and Disappearing States, University of New South Wales Faculty of Law Research Series Paper No. 9, 2009; Burkett, M. ``Climate Reparations,” Melb. J. Int’l. L. Vol 10(2), 509, 2009.
- Benoit Mayer, The International Legal Challenges of Climate-Induced Migration: Proposal for an International Legal Framework, Colo. J. Int’l Env’tl. L. & Pol’y, 2011.
- Walter Kalin, Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Addendum: Protection of Internally Displaced Persons in Situations of Natural Disasters, A/HRC/10/13/Add.1, 2009.
- K. Warner, Climate Change Induced Displacement: Adaptation Policy in the Context of the UNFCCC Climate Negotiations, UNU-EHS, 2011.
- OHCR, Forced displacement in the context of climate change: challenges for states under international law, UNHCR at p. 12, May 2009.
- European Parliament, Climate Change and Migration: Legal Policy and Challenges, European Journal of Educational Research, 2020.
- AA. Lopez, The Protection of Environmentally-Displaced Persons in International Law, 37, Env’tl. L. 365, 2007.
- F. Gemenn, Climate-induced population displacements in a 4° C+ world, Phil. Trans. R. Soc. A 369, 182-195, 2011.
- Romain Felli, Justice globale pour les réfugié-e-s climatiques?, 6 ASYLON(S), 2008.
- Nicholas Stern, The Economics Of Climate Change, The Stern Review vii, 2006.
- Oecd, The Future Of International Migration To Oecd Countries, OECD Publishing, Paris, 2009.
- UNHCR, Climate change, natural disasters and human displacement: a UNHCR perspective, p. 8, (2009).
- Fox S, Beall J, Mitigating conflict and violence in African cities” Environment and Planning C: Government and Policy, 30 968–981, 2012.
- Gray C, Soil quality and human migration in Kenya and Uganda, Global Environmental Change, 21 421–430, 2011.
- G. White , Climate Change and Migration: Security and Borders in a Warming World ,Oxford University Press, Oxford, 2011.

D. Online Sources

- Michelle Leighton , Climate Change and Migration: Key Issues for Legal Protection of Migrants and Displaced Persons, (June 2010),(accessed on September 22, 2020) https://seors.unfccc.int/applications/seors/attachments/get_attachment?code=IJLWNQSDTL7CWKA7C2P255LDVWCLDNUE.
- Patrick A. Taran, Human Rights of Migrants: Challenges of the New Decade, December 16, 2002, (accessed on September 21, 2020) <https://onlinelibrary.wiley.com/doi/abs/10.1111/1468-2435.00141>.
- Marko Milanovic, From Compromise to Principle: Clarifying the Concept of State Jurisdiction in Human Rights Treaties, 8 H.R. L. REV. 411, 435–36, 2008.
- Nansen Initiative, Global Consultation Conference Report (Geneva 2015), p. 16., (accessed on September 21, 2020) www.nanseninitiative.org/wp-content/uploads/2015/02/GLOBAL-CONSULTATION-REPORT.pdf.

E. Other documents

- Final Report of the World Conference on Disaster Reduction, U.N. Doc. A/CONF.206/6 (2005).
- GA Res. 40/144, Document A/RES/40/144, December 13, 1985, (accessed on September 20, 2020 <http://www.un.org/documents/ga/res/40/a40r144.htm>).
- U.N. Human Rights Comm., General Comment No. 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant, § 10, U.N. Doc. CCPR/C/21/Rev.1/Add.13, 2004
- AC (Tuvalu), NZIPT 800517-520, New Zealand: Immigration and Protection Tribunal, 2014.