



## CLIMATE REFUGEES: A GLOBAL ENVIRONMENTAL AND LEGAL CRISIS

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### ABSTRACT

The erratic climatic conditions are impacting the lives of millions. Many natural resources are becoming scarce in different parts of the world. In response to it, people are trying to adapt to the conditions but nevertheless many are forced to migrate either internally or cross-borders. The migration impedes development of vulnerable people in four ways; by inducing unmanageable stress on urban infrastructure and other services, by weakening the growth of economy, by raising the risks of disputes and by paving way to disrupted educational, health and social factors amongst the migrants.

This research paper focuses on bringing about a more substantive and rigid terminology for these people so that it can be generally accepted in international law. Studies have shown that there are no taut and sound laws for climate refugees in India and elsewhere. This paper will take help of examples to elucidate the gravity of the situation by analyzing the reports of eminent organizations, like International Organization for Migration, the United Nations, The UNHCR (The UN Refugee Agency), etc.

The research paper intends to *hypothesize* that the ongoing industrialization is doing pernicious and irreparable damage to the environment which in turn is putting large

chunk of population at the verge of losing out on livelihood opportunities, socio-economic and socio-cultural status. Through the course of research, various findings shall be discussed with relevant case studies. The ultimate aim of the research will be to suggest changes in the system and encourage masses to unite in the mission of alleviating the effects of ever-changing environmental conditions.

### 1. Introduction

Climate change is no longer an alien word. The catastrophes that mankind is seeing today is deplorable and heart-wrenching. The natural resources like, drinking water, are becoming scarce in various parts of India and elsewhere. Climate change is negatively impacting the agriculture, animal husbandry thereby threatening smooth survival of large chunk of population. Despite the efforts to mitigate the effects of climate change people have to flee to take residence in a safer place. This forced migration is inviting more rigorous competition for survival as resources are limited but consumers are increasing at an alarming rate.

The first case of climate refugee came in 2014 when Loane Teitiota, a man from Kiribati knocked the doors of court in New Zealand. But his plea was rejected and he was asked to deport back to his native place. The rising sea level in Kiribati is creating havoc and it is projected that by 2050 the large part of this archipelago will be underwater. And now it is accepted by the global minds that environmental disasters are becoming one of the leading causes of displacement round the globe. There is a vital need to look for some prospective solutions to the problem.



## 2. What is Acceptable: Refugee or Migrant?

Labeling the environmentally effected people is one of the contentious issues of today. It's difficult to decision whether they should be termed "migrants" or "refugees". It is imperative, for this not limited to semantics but this will pave a way for these people to secure an identity in the international law. Campaigners have long tried to term them either "climate refugee" or "environmental refugee" to add seriousness to the current issue. They believe that such people are in need of refugee because of homelessness and any other term of reference would defeat the purpose. Moreover, masses connect better which the term "refugee", they sympathize with sense of agony it brings. But "migrant" is a more flexible terminology as it can be used to refer to the people who seek voluntary movement due to reasons other than climate change.

However, the word "refugee" is not appropriate in international law. The 1951 Geneva Convention on Refugees defines refugee as *"owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."*

But problems are associated with usage of "refugee" too as this word connotes to refer to only cross-border movement and not

internal displacement. Given the reality, mostly people want to take asylum within the geographical border and thus restricting the definition to only cross border movement will downplay the seriousness of this situation. Secondly, the term "refugee" suggests that people have a right to return to their homes once the persecution has ceased to exist. This proposition is not appropriate in case of climate change induced mass exodus because it might become totally impossible for them to return to their original place of stay.

To find a fitting definition has become a cause of hot debates amongst the human rights lawyers. It has been seen that there is considerable resistance to advance the process of expansion of the definition of "refugee", mainly because that would compel the developed countries to protect not only political refugees but also climate refugees, a standard no country wants to comply with.

Due to this inadequacy these migrants are almost invisible in the global scenario; no institution is readily working to keep a watch on these people's miseries. In an effort, The International Organization for Migration (IOM) proposes the definition as:

*"Environmental migrants are persons or groups of persons, who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or chose to do so, either temporarily or permanently, and who move either within their country or abroad"*.

We look forward with the view that this long debate on definition will settle for good in the near future and this vulnerable class will be officially recognized in the international law like any other refugee.



## 1. Impeding Development

The biggest irony of today is that the poor countries and the developing nations will bear the brunt of climate change- the ones emitting the least possible greenhouse gases in the atmosphere. The lacuna in legal system to deal this menace is causing unwarranted duress upon the economy and social fabric of nations.

### 1.1.The inundation effect:

The climate change is igniting water and food scarcity which in turn is accelerating rural to urban shift in most of the developing nations. Urban areas do make life easy by providing basic services at doorstep. However, the unplanned urbanization is leading to serious ramifications in terms of urban welfare and infrastructural facilities.

Already, 1 billion of the population in urban structure is living in slums without access to clean water, education services and sanitation. In the next ten years, it is estimated that count of slum population is destined to increase to 1.7 billion. With this there are chances of increase in community spread diseases, plagues, epidemics and other health issues. For example, in India unplanned urbanization gives rise to spread of dengue fever.

### 1.2.Stymied economies:

The economy of the developing nations is worst hit by changing weather patterns. Migration of masses in search of stable life leads to stress on the production systems, undermining the domestic market growth. In addition to it, the dropping of human capital further undermines the economic growth. The competition for a single commodity is increasing because of excessive large amount of consumers which is further widening the gap between rich and poor.

### 1.3.Political and cultural conflict:

The mass mobility of people from one place to another will eventually redraw the cultural map of various countries and this will bring proximity between distinct cultured people and also competition for resources. The UN Security Council has identified mass migration of people from one place to other a possible cause for discontentment between already existing people at a place, and this is a threat to international security and peace.

### 1.4. Upset health and welfare systems:

The healthcare systems are greatly affected by mass population displacement, making it even more difficult to cope up with deadly diseases and epidemics. The studies have shown that the displaced population is more adversely affected than already settled population. The migrants easily fall prey to the wrongs, like human trafficking, sexual exploitation.

## 3. How Does India Fight?

The reports show that in India nearly 1.5 million people are said to be internally displaced each year due to harsh climate conditions. The WORLD BANK REPORT named 'Groundswell-Preparing for Internal Climate Migration', explains that the risk of displacement is hanging upon the population of 143 million people. It is more likely that this mass exodus will try to fit in the developing nations of the world, South Asia, Sub-Saharan Africa and Latin America.

The abovementioned data shows the urgency with which this issue should be tackled by Indian government. There is dire necessity to strategize the region plans in orderly fashion to better adapt the climate change effects. Therefore, the action plan needed to deal with the situation of drought in Rajasthan will be absolutely different from the one dealing with cross-border displacement of people



from Bangladesh owing to sea-level rise. Furthermore, climate change can exasperate the already existing agrarian crisis. There are specific communities who pay a heavy price for climate change than others. For example, in the times of serious air pollution the poor can't temporarily shift to cleaner place like elites. This suggests the importance of implementing relief policies considering the requisites of targeted people.

In India, The National Asylum Bill 2015, The Asylum Bill 2015 and The Protection of Refugees and Asylum Seekers Bill, 2015 are the attempts that the government has undertaken to deal with refugee law. However, there is no precise mention of "climate refugee" in these laws. So this suggests that India should chalk out a comprehensive law to umbrella cover this vulnerable class of migrants.

It is propounded that in years to come, India is going to be one of the most desirable countries for migrants to inhabit. Considering this fact there is need to propose a mechanism in order to provide short-term visas to environmentally affected people.

The Disaster Management Act, 2005 envisages the procedures to deal with internal disaster. But this is not sufficient to serve the purpose because this legislation is not enough to deal with the plethora of plights which changing climate might invite in running years.

Now, it's the responsibility of government to either revamp the existing laws or to formulate new ones in response to increasing threat of climate change. Moreover, there should be awareness programs to generate consciousness in people to promote more environmental-friendly practices.

#### 4. Climate Change Affecting lives

The pace with which the climate is changing today is a cause of worry and it is projected that it will keep changing not only during this century but beyond. Climate change in magnitude primarily depends upon the emission of harmful gases into the atmosphere globally.

The various effects that can be seen in near future are listed below:

- ✓ **Rise in global temperature:** Because of the various activities of human which ultimately leads to warming of the temperature clubbed with already varying climate, the temperature will continue to rise across the globe.
- ✓ **Landslides and Floods:** Both of these natural disasters add pains to the normal life of people. They cause large scaled destruction of life and property. There maybe increase in the rate of their occurrences due to changing climate. The large impacts can be seen in many countries, for example, Bangladesh, Netherlands, Sudan, and Khartoum.
- ✓ **Tornadoes and Hurricanes:** As the temperature of ocean is increasing, this will subsequently increase the speed of wind. When this speed surpasses 74 miles per hour, it is a hurricane in the case of Atlantic and in the case of pacific, it is a typhoon. It is seen that tornadoes are very frequent in United States causing massive damage to lives and properties of human population.
- ✓ **Droughts:** four types of droughts are identified, firstly, meteorological (meaning low precipitation), hydrological (meaning that the level of supply of groundwater is below normal), agricultural (meaning not appropriate amount of moisture available for crops) and lastly,





socioeconomic( meaning adverse effects seen on economy because of water scarcity)

- ✓ **Forest fires:** These are very common in countries like Australia and Indonesia during events of El-Niño. Forest fires can also be caused due to volcanic eruptions, spontaneous combustion and lightening. It has been noticed that exotic oily plants and slash and burn agriculture ignites natural fire.
- ✓ **Heat waves:** Heat waves have killed nearly 2500 people across India by the month of June till 2015. The most affected areas are Telangana, Uttar Pradesh, Bihar, etc. It not only affected people but it also damages cattle and production of crop.
- ✓ Climate change is also leading to acidification of water bodies, loss of ice sheets and glaciers, increment in air pollution, economical imbalances, etc.

##### 5. Treaty to Combat Climate Change

In 1992, at the international level the UN Framework Convention on Climate Change (UNFCCC) was created with the view to curb dangerous effects of climate change. There were 200 nations which came together to fight the climate change and its effects by undertaking various responsibilities according to their capabilities. It was mutually decided that the developed countries should take a step ahead in providing technological and financial aid and this will eventually help the developing nations to abide by their obligations without stress.

This body became effective in the month of March, 1994. Since then every year a COP, i.e., Conference of Parties meets to discuss the goals and to create new pathways by negotiating on various lines in order to acknowledge the threat of climate change.

The major step was taking at the (COP3) conference when Kyoto Protocol was

adopted. This created a breakthrough because it was first time when a legal document was formulated for already developed nations to lessen the emissions. This protocol created an obligation on the developed countries to minimize the emissions to 5.2 per cent, between the time frame of 2008 and 2012.

The first conferences were started in 1995 and till now 25 meetings have been successfully held. By the year 2019, the member nations of UNFCCC have become 197.

Now let's briefly take a glance at the conferences which have been conducted so far:

- ✚ **COP1:** It was held in Berlin, 1995. It agreed to the "activities which were implemented jointly". This was the first step towards climate change.
- ✚ **COP3:** It was held in Kyoto, 1997. It paved the base for carbon market. In this conference the developed countries committed to minimize the level of emissions in wake of industrialization.
- ✚ **COP13:** It was held in Bali, 2007. In this conference it was decided that it's the responsibility of not just developed countries but developing nations also to curb the emissions.
- ✚ **COP15:** It was held in Copenhagen, 2009. It was decided to keep the global temperature below 2° C and the developed nations took it on their shoulders the responsibility to give financial help to developing nations.
- ✚ **COP16:** It was held in Cancun, 2010. A climate fund was made with the objective of catering the climate actions taken in the developing nations.
- ✚ **COP18:** It was held in Doha, 2012. The Kyoto protocol was extended in this conference but that was not welcomed by



some countries like, China, Canada, United State and Russia.

- ✚ **COP20:** It was held in Lima, 2014. In this summit all the countries came together to curb the menace of emissions of harmful gases.
- ✚ **COP21:** It was held in Paris, 2015. In this summit the Paris Agreement was accepted which has the primary goal to curb the temperature to 2°C globally.
- ✚ **COP22:** It was held in Marrakesh, 2016. The Paris Agreement came into power. It tried to highlight the importance of this agreement and not only this, a decision making body was also made to look after the affairs.
- ✚ **COP23:** It was held in Bonn, 2017. The Talanoa Dialogue was made, paving a way for the member countries to share their experiences and suggestions with everyone with the motive to achieve the objectives of Agreement.
- ✚ **COP24:** It was held in Katowice, 2018. In this summit the Talanoa Dialogue was done away and the steps were taken to ~~keep~~ look for ways to achieve the climate action plan. The work done by member nations is commendable but the struggle does not end here. In the times to come it will take a more colossal form and to flatten the rising graph of climate refugees, it is imperative that governments work more proactively and energetically than ever.

### 6. Menace of Climate Change

Mozambique's southeast coast was struck by the cyclone Idai on 14 March, 2019. According to the report of UN High Commissioner there was nearly 1.85 millions of population that needed immediate assistance. There were 1, 46,000 people who were displaced internally. This cyclone and flood damaged about 1, 00,000 homes, infrastructure worth \$ 1 billion and 1 million

of crops. This cyclone was the most dreaded in the history of Mozambique. And there are quite possible changes that disasters like these might occur in near future with more intensity and frequency. Due to this cyclone there was an intensified competition for basic amenities, like, shelter, food etc.

According to one of the reports of World Bank released in 2018, three main regions (Sub-Saharan Africa, Latin America and Southeast Asia) will alone generate more than 143 million of climate refugees by 2050. It is becoming obvious now that these crisis will contribute to events such as sea-level rise, air pollution, loss of biodiversity, desertification, global warming.

India has suffered a lot when it comes to climate disasters. Nearly 2.7 million of people were displaced because of floods and tropical storms. CSE published The State of India's Environment 2020 report which stated that India suffered nine disasters out of total 93 disasters in Asian continent and this caused 48 % deaths in the country. The National Disaster Management Authority has stated that there are 27 states and the union territories which are prone to disasters. There are various areas in the country which are prone to different types of risks depending on the geography of the place, like the rising of sea level is a cause of concern in Sundarbans, the mountains in the north of India are prone to frequent floods, landslides and cloud bursts. The floods that occurred in kedarnath in 2013 and the cyclone 'Ali' in 2009 brought devastation in Bay of Bengal are some of the examples.

Numerous reports have pointed out that the countries which will be most affected by rising temperature will be poor and other



developing nations of the world. And so India will have to prepare itself against catastrophes. The IPCC has through various reports deliberated that temperature is increasing and it will invite frequent natural disaster and unbearable weather events. As India's geography suggests it is one of the countries which will be most affected in this changing conditions. The country has witnessed to the least one climatic disaster every month. A study issued in Proceedings of National Academies of Science (PNAS) stated that GDP of a country like India can substantially fall and this can broaden the gap between poor and rich countries, thereby making it tough to narrow it down. This study indicated that had the country not been under the pressure of climate change, the GDP would have been up by 30% than it is today. The study highlighted that there are nearly 250 million people who live along the coastline of India and they depend on oceans or sea for their survival and increasing sea level and floods will adversely affect these people, mainly, fisherman and poor laborers.

#### **7. A Need for Legal Recourse**

Today human mobility is increasing because of the erratic climate patterns and the people who are forced to move have little or no legal protection. The current state of the system of international law shows a story where it is not equipped to protect rights of climate refugees. There is no legal identification of them and so countries are not obliged to give refugees to these people.

The migrants who are forced to flee from their habitats because of rage of climate are not recognized under international law. After the World War II, a system was established by the UN in order to give protection to the people who were forcibly made to leave their countries mainly due to political violence.

And today, nearly 20.4 million are named as refugees by the United Nations High Commission for Refugees (UNHCR). However, there is also a large chunk of people accounting for 21.5 million who are also made to evacuate their home countries because of natural disasters every year. The international law has no peculiar identification of climate refugees as it is restricted to political refugees.

The Kampala convention and the UN Guiding Principles( in Africa) is much wide in its approach as it covers people who leave their native places because of human- made or natural disasters, but there is no legal framework specifically for "climate refugees".

The UNHCR has so far not agreed to provide this vulnerable class the tag of refugees instead they are termed as "environmental migrants" because there is lack of resources to mark their needs. Due to unavailability of an organized action plan, they are left with no option than to go to places where they can, instead of finding refuge where they should.

Gradually the number of this section of migrating population is increasing and thereby this calls for an imperative action by the international community to take cognizance of the situation. Seeing the plight of refugees, it has become necessary to either redefine its basics on "refugees" or create a separate and new category for them. Therefore, it is need of hour to have international regimes which are legally binding to protect the interests of climate migrants. It is essential that every country should undertake environmental friendly approaches to dampen the effects of changing climate.

On the other side, The International Organization for Migration has always



actively addressed the agony of climate refugees. And in 2016 when this agency tuned with the UN, the opportunity was given to IMO to actively work with UNHCR. Despite restricted definition to regard these refugees, the UNHCR tries to help these victims.

### 8. Efforts to Make Headway despite Obstacles

Many proposals have come forward but they mainly lack in addressing the problem of cross-border migration. In 2012, the governments of Norway and Switzerland launched The Nansen Initiative with the objective to recognize the seriousness of issue of mass exodus due to changing climate. This is the only initiative which seeks to control the cross-border migration. However, restricting the framework to consider cases of displacement occurring due to harsh weather conditions will not serve the entire purpose because the mass movement due to other climatic events like rising sea level will be excluded.

The Draft Convention on the International Status of Environmentally-Displaced Persons of the University of Limoges attempts to put forth all-inclusive approach. According to its definition:

*“individuals, families, groups and populations confronted with a sudden or gradual environment disaster that inexorably impacts their living conditions, resulting in their forced displacement, at the outset or throughout, from their habitual residence.”*

This Draft suggests that environmentally-displaced refugees should be protected in compliance with the laws of human rights which are given by the international laws. They claim to include both internal as well as cross border migration. But this definition is

not satisfying because it is confined to “sudden or gradual environmental disasters” which is a restrictive approach. Mostly the proposals are unwilling to situate the elephant in a room -cases of cross border migration as the number of people affected is likely to be large.

### 9. Case Studies

The effects of climate change are tormenting millions and billions today. The worst hit is seen on the poor people all around the globe. Environmental catastrophe is taking toll over the people in Indonesia. The areas near sea are submerging into it and people are left with no option but to evacuate to safe places. Mr. Musjayadi Rehmetullah lives in Pantai Bahagia. The village is very close to the sea and almost 80per cent of people have seen water encroaching the land. Mr. Musjayadi is a teacher in that village and he described the devastating situation of the school. He said that most of the times during flood the children sit on benches with half their legs in water. Many students have left the school and moved with their families to some other place. According to Rachmat Witoelar (Indonesia’s Special Envoy for climate change) by 2050 almost 17,000 islands will be eaten up by the sea. There will be diseases, plaques and stagnant economic growth mainly because of “horizontal strife” as people will fight with each other for same commodities. Jakarta, the capital of Indonesia is the second largest conglomeration, nearly 30 million people live there. Most part of the population is suffering due to pollution, heavy traffic, poor hygienic conditions and majorly climate change. In February 2013, nearly half of Jakarta was underwater due to excessive rainfall and floods. Most of the people still live there because they are not affluent





enough to shift to elsewhere. In an effort to curb floods, the Government did try to make sea walls but the intensity of water is such that it rushes in despite walls. Dadap is a slum district near airport, nearly 500 residents live in there but today it seems that they live in the sea. Eko Sumarno is a resident of that area since 1970s and he described the pathetic conditions during floods. He said that mostly the water remains on the land for either two days or even a week. The people in that area lack basic facilities to sustain living. In the years to come, it is presumed that the district will submerge into the sea and people will be forced to completely relocate.

Another case of climate change comes from Tangier. It is an island near Washington DC. It is inhabited by fishing community located 18 miles offshore on Virginia side. This island is just 4 feet above sea level and rising of sea is slowly and gradually threatening the lives of people. Dave Schulte is a marine biologist who has been studying the topography of this island from over a decade now. In his views the state of Tangier is getting miserable with each passing year, the water is intruding into the island gradually. One of the reasons for sinking of this island is its sandy foundation. The foundation is getting eroded due to tidal cycles. Facts show that since 1890 this island has lost almost two third of its land masses and this ratio is increasing at a phenomenal rate. Carroll Pruett is a 7<sup>th</sup> generation Tangier and she reminisced over the lost landmass where once her grandparents and family used to live. People of Tangier feel that building a sea wall will give some more precious years to this island. The mayor of the city focuses on the need of providing funds for this cause because maybe this is the only thing which

can be done to maximize the longevity of the island.

These two studies reflect the gravity of situation, the agonies that people are going through. It's the call of hour that we all should work at all levels in unison to make our earth clean, habitable and adaptable for each of the human being irrespective of the place of their belongingness.

### 10. Conclusion

Climate change is a major issue, gone are the days when it found no first page mention in eminent news channels, newspapers, articles, etc. The problem is not just restricted to the regions which are currently experiencing environmental degradation but it has the potential to engulf other currently unaffected areas of the world. We as a part of humanitarian community should do efforts to curb the changing weather conditions. Both developed and developing nations of the world should work together to fight the damaging effect of changing weather conditions.

Below are the few suggestions that can be adopted to fight the climate change induced statelessness and displacement.

### 11. 1. FULLPROOF DEFINITION OF REFUGGES:

A major setback comes from the definition of "refugee" which does not include climate induced migration. There is a dire need to reorient the definition to include this vulnerable group of people because this way their plight can reach to global level in a more structured way. And if not this then the other solution could be to make a new category of refugee altogether.



### 11.2. DEVISE NEW INITIATIVES:

More initiatives like the “Nansen initiative” should be taken to deal climate change. The Nansen Conference on Climate Change and Displacement in Oslo (June 2011) is one of the constructive steps taken by the government of Norway and Switzerland in the process of addressing the climate refugees. Moreover, new imaginative solutions can be , temporary protection, humanitarian visas, and priority migration agreement. In addition to this, already operational initiative, like, the Sendai Framework for Disaster Risk Reduction, the Nansen Initiative, various COPs, should be taken to more higher levels.

### 11.3. DESIGN ALLAINCES:

One of the main concern for the countries is that acceptance of this category of refugees will cause extra burden on the already shrinking resources and ultimately on the economy. So by formation of alliance this problem can be collectively tackled by members. Under this alliance a quota of climate refugees can be made by countries and in the same manner other financial resources can be pooled to mitigate burden on a single economy.

Though climate refugees are not recognized under any convention but it’s a legal conundrum today. It’s not only the responsibility of a particular country but of humankind per se. Every individual attempt to bridge the gap is praiseworthy and urgent at the same time. The present situation can be aptly summarized from the words of Antonio Guterres (the Secretary General of UN), when he said *“The moment has come for a radical change in international efforts to address displacement. As humanitarians, we*

*are supposed to be the first responders - but we are at breaking point. There is no way we can go on treating the symptoms while talking about curing the disease as if that were possible only in an ideal world. We must stop just dealing with the consequences of displacement, and seriously start tackling its root causes”.*

Let’s hope that countries around the globe will take cognizance of the situation with a view to protect climate refugees against natural hazards.

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