

Regional Academy on the United Nations

Climate refugees in the 21st century

Petra Ďurková - Anna Gromilova - Barbara Kiss - Megi Plaku

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Introduction:

A striking phenomenon of climate change is climate-induced displacement. Every year, around the globe millions of people are being forced to move or flee due to natural hazards in their environments and many of these risks relate to extreme weather situations. Climate change is making matters worse by increasing the intensity and frequency of important drivers of displacement such as droughts, floods and other extreme weather events.¹

Movement in response to climate change is a normal human adaptation strategy.² According to scientific estimations the number of those likely to relocate due to climatic reasons – sea level rise, increased water scarcity, desertification etc. - ranges between 50 and 350 million by 2050.³

“What we are now seeing are more and more people that are forced to flee because of lack of water, because of lack of food, because of extreme poverty and many of these situations are enhanced by climate change.”

António Guterres, United Nations High Commissioner for Refugees

In a changing world, the traditional definition and understanding of the concepts of ‘refugee’ and ‘protection’ may both need to change to accommodate new situations and circumstances that arise. A fundamental concern is that while refugees from persecution and war are protected by international law, it is unclear what conventions and policies protect people displaced by extreme weather events. This is the problem that the international community has to address urgently.⁴

“This new category of ‘refugee’ needs to find a place in international agreements. We need to better anticipate support requirements, similar to those of people fleeing other unviable situations.”

¹ The Nansen Conference, ‘Climate Change and Displacement in the 21st Century’ (Oslo, Norway, June 5-7, 2011) <http://d2530919.hosted213.servetheworld.no/expose/global/download.asp?id=2280&fk=1633&thumb=> accessed 09 December 2012

² Side Event to the High Commissioner’s Dialogue on Protection Challenges, ‘Climate Change Displacement and International Law’ (Palais des Nations, Geneva, 8 December, 2010) <http://www.unhcr.org/4d05ecf49.pdf> accessed 09 December 2012

³ Report of the Secretary-General, ‘Climate change and its possible security implications’ (11 September 2009) UN Doc A/64/350 <http://www.unhcr.org/refworld/pdfid/4ad5e6380.pdf> accessed 09 December 2012

⁴ The Nansen Conference, ‘Climate Change and Displacement in the 21st Century’ (Oslo, Norway, June 5-7, 2011) <http://d2530919.hosted213.servetheworld.no/expose/global/download.asp?id=2280&fk=1633&thumb=> accessed 09 December 2012

This paper seeks to reveal whether the existing international framework is covering the climate refugees issue adequate or not in view of the challenges of the 21st century and to demonstrate how international organizations address the case of people forced to move due to climate change.

Possible causes, areas concerned mostly:

Natural disasters are becoming more and more disastrous. Livelihoods are eroding and deteriorating faster. Larger numbers of people are being forced to move or flee from the unbearable situation.⁶

According to the report of the Intergovernmental Panel on Climate Change (IPCC), three consequences of climate warming appear to be the most threatening potential causes of forced migration. If no effort is made to protect the groups of people at risk, then they have no alternative but to emigrate.

1. Hurricanes, torrential rains and floods⁷
2. Drought and desertification⁸
3. Rising sea levels^{9 10}

While the growth of environmental refugees has been the most significant in sub-Saharan Africa, other areas are also at heavy risk. Areas at risk that have been identified include: Yemen, China, Louisiana, Tuvalu, Kiribati, Bangladesh.¹¹ Terrible predictions on

⁵ Refugee Studies Centre 'Environmentally displaced people, Understanding the linkages between environmental change, livelihoods and forced migration' (University of Oxford, November 2008) <http://www.rsc.ox.ac.uk/publications/policy-briefings/RSCPBI-Environment.pdf> accessed 09 December 2012

⁶ The Nansen Conference, 'Climate Change and Displacement in the 21st Century' (Oslo, Norway, June 5-7, 2011) <http://d2530919.hosted213.servetheworld.no/expose/global/download.asp?id=2280&fk=1633&thumb=> accessed 09 December 2012

⁷ The impact of hurricanes and floods in population displacement is among the easiest to identify, as they manifest themselves in a brutal and direct manner.

⁸ Freshwater availability in Africa and Asia is projected to decrease due to climate change, which can adversely affect more than a billion people by the 2050s.

⁹ An increase in sea level is irreversible and manifests itself over a long period of time. The projected sea level rise makes populations living at an altitude of less than 1 metre directly vulnerable.

¹⁰ Etienne Piguet, 'Climate change and forced migration' (New Issues in Refugee Research, Research Paper No. 153, January 2008) <http://www.bvsde.paho.org/bvsacd/cd68/newissues153.pdf> accessed 09 December 2012

¹¹ Yemen may run out of water, China is affected by the expansion of Gobi desert, Louisiana and Alaska are losing land to the sea at about 3 metres per year, Tuvalu or Kiribati are among the most threatened, as they are

environmental forced migration have been suggested also for other areas of the world, including Morocco, Tunisia, Libya, Egypt, Turkey, Vietnam, Niger, Ghana, Ecuador, Mexico, Argentina etc.¹²

1. The issue of climate refugees

1.1. Historical framework and development

Governments have long recognized that forced migration and displaced persons pose a significant international challenge to refugees and to host countries that provide asylum.

The United Nations met in Geneva in 1951 to discuss and draft a convention relating to the legal status of refugees. As a result of this meeting, the United Nations adopted the milestone of the international refugee protection, the Convention Relating to the Status of Refugees. The Convention codified the basic rights of refugees and established minimum standards for their treatment. The issue of what constitutes a ‘refugee’ has been changing over time. In this way, the United Nations recognized that the emergence of new refugee situations required changes in the Convention. In the 1967 Protocol Relating to the Status of Refugees, these changes were codified.¹³ In these documents a ‘refugee’ is defined as someone who:

“owing to 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 formal habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”.¹⁴

There are similar definitions of ‘refugee’ in other international documents. These definitions vary slightly, but not insignificantly.

situated only centimetres above water and Bangladesh may lose one-fifth of its surface area due to rising sea levels.

¹² L. W. Marshall, ‘Toward a new definition of ‘refugee’: is the 1951 convention out of date?’ (2011) Vol. 37 EJTES 61-66.

¹³ L. W. Marshall, ‘Toward a new definition of ‘refugee’: is the 1951 convention out of date?’ (2011) Vol. 37 EJTES 61-66.

¹⁴ Convention and Protocol Relating to the Status of Refugees (1951, 1967) <http://www.unhcr.org/3b66c2aa10.html> accessed 09 December 2012

The UNICEF defines a refugee as “someone who has been forced to leave their country because they are unable to live in their home or they fear they will be harmed. This can be due to a number of reasons, including fighting or natural disasters, like earthquakes and floods”.¹⁵ Similarly, some regional refugee instruments, such as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration on Refugees, extend the definition to persons fleeing “events seriously disturbing public order”. This supplement may equally apply to persons fleeing sudden-onset disasters.¹⁶

We can see that only the UNICEF has gone as far as stating that refugees include those persons displaced by natural disasters, other international documents have included in the definition the term “events seriously disturbing public order”. Certainly, natural disasters can seriously disturb public order and cause people to flee.¹⁷ But a refugee, according to the international refugee Convention does not specifically include someone displaced by a natural disaster or by climate change related impacts.

There is a growing concern of the international community about the consequences of migration resulting from environmental deterioration.

The term ‘ecological refugee’ first appeared in 1970s. Besides other terms also developed to describe this population of people include ‘environmental migrants’, ‘environmentally displaced persons’, ‘climate refugees’, ‘climate change refugees’, ‘environmental refugees’.¹⁸

The term ‘environmental refugee’ was first coined by Essam El-Hinnawi in a 1985 United Nations Environmental Programme report. He defined environmental refugees as: “...those 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”.¹⁹ In fact, over the years since El-Hinnawi created the definition of environmental refugee in 1985, there

¹⁵ L. W. Marshall, ‘Toward a new definition of ‘refugee’: is the 1951 convention out of date?’ (2011) Vol. 37 EJTES 61-66.

¹⁶ UNHCR ‘Summary of Deliberations on Climate Change and Displacement’ (April 2011) <http://www.unhcr.org/4da2b5e19.pdf> accessed 09 December 2012

¹⁷ L. W. Marshall, ‘Toward a new definition of ‘refugee’: is the 1951 convention out of date?’ (2011) Vol. 37 EJTES 61-66.

¹⁸ Refugee Studies Centre ‘Environmentally displaced people, Understanding the linkages between environmental change, livelihoods and forced migration’ (University of Oxford, November 2008) <http://www.rsc.ox.ac.uk/publications/policy-briefings/RSCPb1-Environment.pdf> accessed 09 December 2012

¹⁹ Vikram Odedra Kolmannskog, ‘Future Floods of Refugees, A comment on climate change, conflict and forced migration’ (Norwegian Refugee Council, April 2008) <http://www.nrc.no/arch/img/9268480.pdf> accessed 09 December 2012

have been several other similar definitions by other writers.²⁰ The other most well-known definition derives from the British environmentalist, Norman Myers. He described environmental refugees as: “persons who no longer gain a secure livelihood in their traditional homelands because of environmental factors of unusual scope, notably drought, desertification, deforestation, soil erosion, water shortages and climate change, also natural disasters as cyclones, storm surges and floods”.²¹

Avoiding the term ‘refugee’, the Office of the United Nations High Commissioner for Refugees has moved towards a definition of ‘environmentally displaced persons’ as those: “who are displaced from or who feel obliged to leave their usual place of residence, because their lives, livelihoods and welfare have been placed at serious risk as a result of adverse environmental, ecological or climatic processes and events”.²² António Guterres first voiced his concerns about climate change-related movement in 2007, at UNHCR’s Executive Committee meeting. However he also stated that UNHCR’s legal mandate precludes its formal involvement in this new challenge.²³

1.2. Estimating environmentally–induced displacement

While the definition is being debated, it is extraordinary difficult to estimate and calculate the number of environmental refugees worldwide.

Norman Myers, who in 1995 predicted 25 million environmental refugees, stated in 2005 that the impact of global warming could potentially displace 200 million people.²⁴

According to the International Federation of Red Cross “climate change disasters are currently a bigger cause of population displacement than war and persecution”.²⁵ It estimated

²⁰ L. W. Marshall, ‘Toward a new definition of ‘refugee’: is the 1951 convention out of date?’ (2011) Vol. 37 EJTES 61-66.

²¹ Norman Myers, ‘Environmental Exodus, An Emergent Crisis in the Global Arena’ (Project of the Climate Institute, Washington DC, June 1995) <http://www.climate.org/PDF/Environmental%20Exodus.pdf> accessed 09 December 2012

²² Refugee Studies Centre ‘Environmentally displaced people, Understanding the linkages between environmental change, livelihoods and forced migration’ (University of Oxford, November 2008) <http://www.rsc.ox.ac.uk/publications/policy-briefings/RSCPb1-Environment.pdf> accessed 09 December 2012

²³ Jane McAdam, ‘Climate Change Displacement and International Law: Complementary Protection Standards’ (Legal and Protection Policy Research Series, UNHCR, May 2011) <http://www.unhcr.org/refworld/pdfid/4fdf2002.pdf> accessed 09 December 2012

²⁴ Refugee Studies Centre ‘Environmentally displaced people, Understanding the linkages between environmental change, livelihoods and forced migration’ (University of Oxford, November 2008) <http://www.rsc.ox.ac.uk/publications/policy-briefings/RSCPb1-Environment.pdf> accessed 09 December 2012

²⁵ L. W. Marshall, ‘Toward a new definition of ‘refugee’: is the 1951 convention out of date?’ (2011) Vol. 37 EJTES 61-66.

in 2001 that for the first time the number of environmental/climate refugees exceeded those displaced by war.²⁶

The UN High Commissioner for Refugees stated that 36 million people were displaced by natural disasters in 2009, and about 20 million of those were forced to move for climate change-related issues.

According to other estimates, there could be as many as 150 million by 2050²⁷

In accordance with the estimates of UN Environment Programme, by 2060 there could be 50 million environmental refugees in Africa alone.²⁸

1.3. Criticism

By reason of the above mentioned estimates, nations and aid groups urgently need to recognize and help this new category of refugee. Helping them first requires a clear definition of what exactly constitutes an environmental refugee, but the improvement is complicated

The term ‘refugee’ is a legal term of art and people displaced by environmental factors and climate change do not qualify as ‘refugees’ under international law.²⁹

First, the key aspect of the accepted refugee definition, set out in the 1951 UN Refugee Convention, is of a person with a well-founded fear of persecution. ‘Persecution’ means violations of human rights that are sufficiently serious, thus there are difficulties in characterizing ‘climate change’ as ‘persecution’. Storms, earthquakes and floods may be harmful, but they do not constitute ‘persecution’.

Secondly, the refugee definition only applies to people who have already crossed an international border, but many of those displaced by climate change are ‘internally displaced people’ (IDPs). Though the UNHCR is the lead agency for IDPs, it deals only with those forced to move as a result of a conflict.³⁰

Indeed, there is much concern that any expansion of the definition would lead to a devaluation of the current protection for refugees recognized by the Convention. Governments have a

²⁶ Refugee Studies Centre ‘Environmentally displaced people, Understanding the linkages between environmental change, livelihoods and forced migration’ (University of Oxford, November 2008) <http://www.rsc.ox.ac.uk/publications/policy-briefings/RSCPB1-Environment.pdf> accessed 09 December 2012

²⁷ http://education.nationalgeographic.com/education/encyclopedia/climate-refugee/?ar_a=1

²⁸ Refugee Studies Centre ‘Environmentally displaced people, Understanding the linkages between environmental change, livelihoods and forced migration’ (University of Oxford, November 2008) <http://www.rsc.ox.ac.uk/publications/policy-briefings/RSCPB1-Environment.pdf> accessed 09 December 2012

²⁹ Side Event to the High Commissioner’s Dialogue on Protection Challenges, ‘Climate Change Displacement and International Law’ (Palais des Nations, Geneva, 8 December, 2010) <http://www.unhcr.org/4d05ecf49.pdf> accessed 09 December 2012

³⁰ Jane McAdam, ‘Climate Change ‘Refugees’ and International Law’ (NSW Bar Association, 24 October 2007) <http://www.nswbar.asn.au/circulars/climatechange1.pdf> accessed 09 December 2012

strong interest in keeping the refugee definition narrow because of the obligations they have to refugees, in this manner a possible extension would result in reduced support for refugees.³¹

According to the UNHCR, these persons forced to move because of climate change may need some form of international protection, it would be wrong to identify them as ‘refugees’ or to equate their status and needs with those of refugees, thus it states that the phrase ‘climate refugee’ is a misnomer.³²

2. Comparison of UN and EU approaches

2.1. The UN approach to the issue of climate refugees

Climate change creates many challenges and one of them is related to the climate induced migration. There are two main law frameworks that evoke an association with the term “climate refugee”. First, the 1951 United Nations Convention Relating to the Status of Refugees sets out the rights and responsibilities of the individual and the state but does not explicitly express that climate refugees might be also considered as refugees. However, some argue³³ that climate refugee is part of a particular social group which is explicitly included in a definition of refugees. Furthermore, it is emphasized that the Geneva Convention is not adequate and progressive enough to adapt to changing environmental conditions and therefore is suggested an extension of the Convention.³⁴

Second principal framework is the Universal Declaration of Human Rights where among others are defined protection norms including freedom of movement. Nevertheless, it is not wise leaving the protection of climate refugees only on the Declaration since the climate change might affect already weak states’ capabilities that will not be able to protect their civilians.³⁵

³¹ Refugee Studies Centre ‘Environmentally displaced people, Understanding the linkages between environmental change, livelihoods and forced migration’ (University of Oxford, November 2008) <http://www.rsc.ox.ac.uk/publications/policy-briefings/RSCP1-Environment.pdf> accessed 09 December 2012

³² UNHCR ‘UNHCR and Climate Change: Involvement, Challenges & Response’ (Division of International Protection Services) <http://www.unhcr.org/4ad5820f9.html> accessed 09 December 2012

³³ Elin Jakobsson, ‘Global Policy Making on Climate Refugees: What is the Problem?’ (2010) p. 19 <http://www.pol.gu.se/digitalAssets/1309/1309786_vt10-elin-jakobsson.pdf> accessed 20 November 2012

³⁴ International Organization for Migration, ‘Migration, Environment and Climate Change: Assessing the Evidence’ (2009) p. 405 <http://publications.iom.int/bookstore/free/migration_and_environment.pdf> accessed 20 November 2012

³⁵ Ibid. p. 409

In recent years, much research, analyzes and theoretical work about proposals how to address the issue of climate refugees has been done but actions were missing. Finally, an important step was made towards enhancing action at the national, regional and international level. In December 2010 an Agreement on Long-term Cooperative Action³⁶ under the UN Framework Convention on Climate Change (UNFCCC) was created at the conference in Cancún where the understanding and the effort to address climate change's damage and loss including the climate induced migration was expressed. The importance of the agreement consists in the first explicit reference to the problem of climate change-related population movements by the international society foreseeing the inclusion of climate-related displacement into national plans and the acceptance of the argument that this issue should be solved on the cooperation basis in order to reach a global and international solution.³⁷ The Agreement was also one of the key incentives to initiate discussions on forums and in the whole global society. In this regard there is an-going UNFCCC 18th Conference of Parties in Doha where it is highly expected to come up with a final outcome including international mechanisms addressing both economic and non-economic losses caused by climate change.

For the international community is essential how main UN bodies and specific offices have dealt with the issue of climate refugees. The *UN General Assembly* provided a comprehensive report on Climate Change and its Possible Security Implications to the UN Secretary-General who identified himself with the report and submitted it in 2009.³⁸ This report paid more attention to population displacement and involuntary migration in relation to environmental change than previous report³⁹ about UN activities. What is important is that the report focused on the international security impacts of climate change on a loss of territory, statelessness and cultural survival.

The *UN Security Council* considered the implications of the climate change on international peace and security regarding forced or voluntary population movements first during a debate

³⁶ UNFCCC, 'Report of the Conference of the parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010' (2011) <<http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=4>> accessed 20 November 2012

³⁷ UNHCR. 'Legal and Protection Policy, Research Series, Protecting People Crossing Borders in the Context of Climate Change Normative Gaps and Possible Approaches,'(2012) p. 50 <<http://www.unhcr.org/cgi-bin/texis/vtx/home/opensslPDFViewer.html?docid=4f33f1729&query=Climate%20change.%20natural%20disasters%20and%20human%20displacement>> accessed 20 November 2012

³⁸ UNGA, 'Report of the Secretary-General, Climate change and its possible security implications,' UN Doc. A/64/350 (2009) <http://www.un.org/ga/search/view_doc.asp?symbol=A/64/350> accessed 21 November 2012

³⁹ UNGA, 'Report of the Secretary-General, Overview of United Nations activities in relation to climate change,' UN Doc. A 62/644 (2008) <<http://www.un.org/ga/president/62/ThematicDebates/a-62-644.pdf>> accessed 21 November 2012

in April 2007.⁴⁰ Later, in 2011, the Council announced again its worries about the impacts of the climate change to the international peace and security,⁴¹ but has not passed any resolution yet.

The *Human Rights Council* adopted its first resolution about the connection of climate change to human rights in 2008.⁴² A year later, backed up by a study from OHCHR,⁴³ the Council adopted another resolution,⁴⁴ in which it recognized the effects of climate change on the population and its human rights, further the need of effective international cooperation and supports rather long-term political solutions at the international and national policy-making levels. Although the Human Rights Council recognized the importance of international cooperation in finding a global solution to this global problem in 2009 and 2011, it did not mention climate change induced displacement in a resolution. In order to address this issue in Human Rights Council in a resolution, it is possible to anticipate it in the term internally displaced persons (IDPs) only.⁴⁵

The *Office of the UN High Commissioner for Refugees (UNHCR)* has responded to the international community's expectations repeatedly. Recently, in 2010 international cooperation and protection gaps were addressed in the cross-border movement agenda of the international law during a dialogue of the High Commissioner on Protection Challenges.⁴⁶ During the 60th anniversary of the Refugee Convention and the 50th anniversary of the Statelessness Convention in a first expert meeting in Bellagio the UNHCR focused on protection and normative gaps regarding the cross-border movement. The outcome emphasised the need of coordination and unification of the approaches to this issue of the whole international community so that it is possible to create an adaptation strategy and face

⁴⁰ UNSC, '5663rd Meeting,' (2007) < <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Ener%20SPV%205663.pdf> > accessed 21 November 2012

⁴¹ UNSC, 'Statement by the President of the Security Council,' UN Doc. S/PRST/2011/15 (2011) <<http://www.un.org/News/Press/docs/2011/sc10332.doc.htm>> accessed 21 November 2012

⁴² HRC Res. 7/23 (28 March 2008) <http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_23.pdf> accessed 22 November 2012

⁴³ HRC, 'Report of the Office of the UN High Commissioner for Human Rights on the relationships between climate change and human rights,' A/HRC/10/61 (2009) <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/103/44/PDF/G0910344.pdf?OpenElement>> accessed 22 November 2012

⁴⁴ HRC Res. 10/4 (25 March 2009) <http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_4.pdf> accessed 22 November 2012

⁴⁵ HCR Res. 14/6 (17 June 2010) < <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/145/69/PDF/G1014569.pdf?OpenElement> > accessed 22 November 2012

⁴⁶ UNHCR, 'High Commissioner's Dialogue on Protection Challenges: Protection Gaps and Responses' (8-9 December 2010), p. 3 <<http://www.unhcr.org/4d09e47a9.html>> accessed 22 November 2012

this challenge effectively.⁴⁷ A few months later, these efforts led to a debate in Oslo during the Nansen Conference on Climate Change and Displacement in the 21st Century in a document covering the guidance to challenges of the climate related displacement, so called Nansen Principles addressing the protection of displaced people in the context of climate change. Despite the anniversary, the climate related displacement was not adopted in the UNHCR Ministerial Communiqué in December 2011. According to UNHCR, an international or regional instrument should be created with a soft law character which is more appropriate to the issue.⁴⁸

Generally, the following options on how to accommodate climate refugees in the law are discussed at the global level. Firstly the expansion of the 1951 Geneva Convention, secondly the extension of the Guiding Principles on Internal Displacement, thirdly the addition of a protocol to the UNFCCC on climate induced migration, fourthly the creation of a new tailored international convention, and fifthly using temporary protection mechanisms to accommodate environmentally induced displacement is debated.⁴⁹ In addition, two more options exist at the international level. A planned resettlement and reducing the vulnerability of affected population through tailored development cooperation measures.⁵⁰

Nowadays, the attention is also rising to the pledges such as in Norway or Switzerland where they are trying to find a best way of protection for climate change affected people. Nonetheless, the disunity of exercise of the Conventions makes it very hard to deal with the climate refugees adequately. Some kind of criticism can be imposed also on a relatively new concept of *Responsibility to Protect (R2P)* which states that “the international community should only bear the responsibility if the state is unable or not willing to take its responsibility.”⁵¹ Nonetheless, climate change and natural disaster were excluded by

⁴⁷ UNHCR. ‘Legal and Protection Policy, Research Series, Protecting People Crossing Borders in the Context of Climate Change Normative Gaps and Possible Approaches,’ (2012) p. 54 <<http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=4f33f1729&query=Climate%20change,%20natural%20disasters%20and%20human%20displacement>> accessed 20 November 2012

⁴⁸ UNHCR. ‘Legal and Protection Policy, Research Series, Protecting People Crossing Borders in the Context of Climate Change Normative Gaps and Possible Approaches,’ (2012) p. 71 <<http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=4f33f1729&query=Climate%20change,%20natural%20disasters%20and%20human%20displacement>> accessed 20 November 2012

⁴⁹ European Parliament, ‘Climate Refugees: Legal and policy responses to environmentally induced migration’ (2011) p. 36 <<http://www.europarl.europa.eu/committees/de/studiesdownload.html?languageDocument=EN&file=60931>> accessed 23 November 2012

⁵⁰ Ibid

⁵¹ Gareth Evans et al., ‘The Responsibility to Protect,’ International Commission on Intervention and State Sovereignty (2001) <<http://responsibilitytoprotect.org/ICISS%20Report.pdf>> accessed 22 November 2012

narrowing the understanding of the concept by the UN General Assembly.⁵² Therefore, it is important to think deeper of what we all want to achieve and where we and future generations might live. But most importantly we should act by behaving responsibly towards the atmosphere and setting forth legal status for climate-displaced individuals, mobilizing international funds and implementation of adaptation of assistance and immigration policies among others.

2.2. The EU approach to the issue of climate induced migration

The existence of climate induced migration has been recognized and caused learning and planning process within the EU. Although climate refugees do not exist in EU as much as in Africa or Asia, the EU is trying to react on the issue in recent years. The EU approach has been developing from an overall framework focused on Africa and Mediterranean,⁵³ through impacts on international security,⁵⁴ and also impact on the migration to the EU.⁵⁵

With the adoption of the Lisbon Treaty a sufficiently broad mandate to the Union has been provided to develop and revise a Common Policy on Asylum and Immigration. Indeed, according to the principle of *non – refoulement* in the Article 78 of TFEU the Union can both harmonize national practices and adopt new legislation for environmentally displaced migration caused by rapid and slow onset environmental events.⁵⁶ Moreover, the European Council submitted a Stockholm Programme in 2010, which dealt with potential effects of climate change on international migration and on the Union, and invited the Commission to present an analysis on climate change & migration.

⁵² European Parliament, ‘Climate Refugees: Legal and policy responses to environmentally induced migration’ (2011) p. 65

<<http://www.europarl.europa.eu/committees/de/studiesdownload.html?languageDocument=EN&file=60931>> accessed 23 November 2012

⁵³ See Council of the European Union, ‘Presidency Conclusions of the Brussels European Council’ (2005), Doc 15914/1/05, REV 1.

<http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/87642.pdf> accessed 23 November 2012

⁵⁴ See European Commission, Climate Change and International Security: Paper from the High Representative and the European Commission to the European Council (2008) S113/08

<http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/reports/99387.pdf> accessed 23 November 2012

⁵⁵ See European Commission, ‘European Refugee Fund 2008-2013, Community Actions’ (2008)

<http://ec.europa.eu/home-affairs/funding/refugee/work_programme_2009_en.pdf> accessed 23 November 2012

⁵⁶ European Parliament, ‘Climate Refugees: Legal and policy responses to environmentally induced migration’ (2011) p. 53

<<http://www.europarl.europa.eu/committees/de/studiesdownload.html?languageDocument=EN&file=60931>> accessed 23 November 2012

Building on outcomes of consultations and the analysis by the Commission a revisited Global Approach to Migration⁵⁷ was adopted in November 2011, which together with a Commission Staff Working Paper considers that more emphasis should be given to links among migration, climate change and environmental degradation. Furthermore, it is noted that a uniformed terminology, definition and legal status of the migrant is needed urgently.

However, a common EU approach to the climate migration is part of the EU development and cooperation policy of the *Directorate-General* (DG) for humanitarian aid and DG for Home Affairs combined with a disaster risk reduction in the DG for Climate Action. Moreover, in the past there have been attempts to deal with the environmentally displaced individuals in Common European Asylum Policy at the political level.⁵⁸

Although there is no common EU instrument and provision concerning the climate refugee or environmentally displaced individuals, there is still a possibility of application of the Temporary Protection Directive (2001/55/EC). The problem is that this Directive does not take into account slow onset environmental changes. Another problematic fact is that actually only four EU member states (i.e. CY, FI, IT and SE) recognize some kind of protection for asylum related applicants in the case of environmental disasters, which shows that at the EU level there still exist no harmonized protection statuses, no deep coordination and exchange of information.⁵⁹ Nonetheless, the EU should not only wait for what should be done but could try to play a proactive role in this issue.

3. Case studies

3.1. Case study I: Climate change in the Horn of Africa

The case of the Horn of Africa synthesizes a special role in our study. This special role is defined by the actuality of the crisis and its enormity. In 2011, this region suffered from the

⁵⁷ European Commission, ‘Communication from the European Commission: The Global Approach to Migration and Mobility’(2011) <http://ec.europa.eu/home-affairs/news/intro/docs/1_EN_ACT_part1_v9.pdf> accessed 24 November 2012

⁵⁸ European Parliament, ‘Report on the proposal for a Council directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection (COM (2001) 510. C5-0573/2001. 2001/0207(CNS)), ’ (2002) p. 55 <<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A5-2002-0333+0+DOC+PDF+V0//EN>> accessed 24 November 2012

⁵⁹ European Parliament, ‘Climate Refugees: Legal and policy responses to environmentally induced migration’ (2011) p. 73 <<http://www.europarl.europa.eu/committees/de/studiesdownload.html?languageDocument=EN&file=60931>> accessed 23 November 2012

worst drought in recent history, which led to a severe food crisis in East Africa and the flight of millions of people. The cause of this explosive flight is the disrupted rainfall patterns in the past decade, with longer and more severe droughts than in previous years.

The worst affected by this crisis have been the people in South and Central Somalia. 300.000 people – mostly women and children – had fled into their neighbour countries Kenya and Ethiopia, as a result of the drought and insecurity just one month after the big drought started. Governments in the region have continued to provide asylum to those in need, but the massive influx witnessed in 2011 has severely strained reception capabilities. The world's largest refugee camp in Kenya, Dadaab, with its over 10.000 climate refugees coming every week and seeking for some help is overcrowded. "The current number of registered refugees, 353,921, is four times its capacity," the UN's humanitarian affairs agency said.⁶⁰ The drought has hit the poorest people living in this region, in Kenya, Ethiopia and Somalia. The UN's Office for the Coordination of Humanitarian Affairs says that 10 million people in the Horn of Africa are affected by the failed rains and more than half of the refugees are children. These alarming facts bring us to the question what the UN and other global players are doing to provide these climate refugees help.

As for the position of the UN regarding the existing problem, UNHCR's strategy in 2012 regarding the crisis in the Horn of Africa is the focus on the assistance programmes which will ensure adequate assistance in the following key sectors: water and sanitation, shelter, health, primary education and the provision of core relief items. Supply management systems will be upgraded and strengthened to support protection and assistance activities. In Sudan, UNHCR will assume the management of the Common Humanitarian Pipeline (CHP). Staffing will also be increased significantly in Kenya and Ethiopia to ensure the proper management of programmes and monitoring of protection needs. The massive influx witnessed in 2011 also requires that greater attention be given to protection-related activities, such as the proper reception and registration of refugees, as well as the setting up of effective monitoring systems.⁶¹

Furthermore, the UNHCR will address the concern of human trafficking and smuggling of asylum- seekers in this area and will provide more solar cookers and improved stoves to reduce the consumption of firewood. The Transnational Solutions Initiative was established

⁶⁰ <http://ens-newswire.com/2011/07/07/millions-of-african-climate-refugees-desperate-for-food-water/>

⁶¹ <http://www.unhcr.org/pages/49e45a846.html>

together with UNDP and the World Bank and aims to modifying maintenance, self- reliance and microfinance schemes, which continue to be one of UN Refugee Agency's main targets.

So the UNHCR is undertaking a lot of short- term activities to help people in emerging situations directly, but it is also planning long- term projects to help refugees to become independent from assistance, especially in the region of Dadaab.

The goal the UNHCR is pursuing is to find a liveable solution for all the affected people, which could mean repatriation, resettlement or local integration. The UNHCR is also continuing to provide the cluster approach in Chad and to support the returnees under the Joint Verification Mechanism. Furthermore, UNHCR is phasing out its *Internally Displaced Persons Programme* - which is taking care of 1.8 million Ugandan who had been internally displaced - at the end of 2011 and handing over its protection responsibilities to the Uganda Human Rights Commission.

To the main constraints for the UN Refugee Agency affiliate the uncertainty of the situation in the home countries of the refugees and also the size of the recent Somali refugee outflow. Another big issue is the lack of access to the people in need in Sudan and Somalia and also the security threats in refugee camps close to Somalia. But not enough of this, the Somalis still face another problem; the neighbouring countries are about to reduce the asylum space of Somali refugees, a lot have been returned at borders or not been admitted to the asylum procedure. The government in Eritrea recognizes Somali and Sudanese refugees only on a *prima facia basis*, which means, they are just accepted until revoked, while Ethiopians are recognized by UNHCR Eritrea under its mandate.

Graph 1: *The UNHCR budget for the East and Horn of Africa*⁶²

UNHCR 2012-2013 budget for East and Horn of Africa (USD)							
Operations	2011 Revised budget	2012					2013
		Refugee prog. PILLAR 1	Stateless prog. PILLAR 2	Reinte-gration projects PILLAR 3	IDP projects PILLAR 4	Total	
Chad	208,949,721	159,394,146	0	0	17,551,621	176,945,767	174,590,180
Djibouti	26,798,669	26,683,669	0	0	0	26,683,669	24,950,445
Eritrea	17,891,596	7,076,302	0	0	0	7,076,302	6,200,000
Ethiopia	196,877,851	184,637,065	362,383	0	85,000	185,084,448	170,800,000
Ethiopia: UNHCR Representation to the AU and ECA	1,846,565	1,495,952	0	0	0	1,495,952	1,514,612
Kenya	230,762,207	235,335,692	301,350	0	441,850	236,078,892	236,125,269
Kenya Regional Support Hub	12,124,122	8,459,942	0	0	0	8,459,942	8,473,792
Somalia	75,466,519	9,438,916	0	0	39,124,374	48,563,290	50,000,000
Sudan [1]	232,472,193	92,804,132	5,926,472	0	51,346,682	150,077,287	142,133,273
South Sudan [1]		21,199,719	2,997,545	3,388,411	56,517,944	84,103,620	76,500,000
Uganda	80,968,903	65,835,649	132,428	0	100,000	66,068,077	62,036,000
Regional activities	7,000,001	6,312,924		0	0	6,312,924	5,000,001
Total	1,091,158,347	818,674,109	9,720,178	3,388,411	165,167,472	996,950,170	958,323,572

[1] From 2012, Sudan operations are separated into Sudan and South Sudan.

The UNHCR operations have seen a sharp increase in budgetary requirements in 2012 for this sub-region due to people fleeing the chaos, violence and drought in Somalia and the inclusion of the Chad, South Sudan and Sudan operations in the East and Horn of Africa. The amount which is needed to finance all the projects to protect and assist people in the Horn of Africa are USD 997 million.

3.2. Case study II: Tuvalu. A nation in "God's Hands"

The case with the small coral atoll nation of Tuvalu might be a perfect example to see the question with the climate refugees from a really different perspective. A Polynesian island state that consists of nine separate islands in the South Pacific Ocean spread over a very large area with only about 10,000 inhabitants in total has been attracting a lot of attention with its unique situation associated with climate change and the sea-level rise.

Tuvalu is ranked between the "least developed countries" and its economy primarily depends on public sector; the country doesn't export any goods and all the agricultural activities are limited due to the salinity of the soil. The country is substantially dependent upon the foreign

⁶² <http://www.unhcr.org/pages/49e45a846.html>

aid that mainly comes from New Zealand, Australia and the UK.⁶³ Due to the limited possibilities of employment at home, a lot of Tuvaluans have been traditionally going abroad (mainly New Zealand) to make a better living: back in the early 1970s it was estimated that more than a third of the nation's citizens were living overseas.⁶⁴

Tuvalu belongs to the group of countries comprised entirely of low-lying islands and atolls – the highest point of the country is only 4.6 meters above the sea level which evidently makes the sea-level rise a major concern for the Tuvaluan population. According to some estimation, there is about a 68% probability of the sea level change between 1.1 and 2.7 mm/year.⁶⁵ Some researchers state that Tuvalu will be practically inhabitable by 2050.⁶⁶

Another fact worth mentioning about Tuvalu is concerned with its' shortage of the freshwater resources. Having no surface rivers, streams or lakes, the inhabitants' only option is to rely on rainwater that they need to collect in water tanks. Therefore, long draughts (that have been more frequent in recent years) can be catastrophic to the nation that is economically weak as it was mentioned above. Observers state that land loss, shoreline retreat and coastal erosion are already affecting beach vegetation and mangrove forest in Tuvalu.⁶⁷ At the same time, saline contamination of freshwater will affect human health, increasing chances of diseases.⁶⁸ The question that should be raised at this point is how are these scientific prognoses perceived by the islanders and do they play as a motivation to leave Tuvalu?

There is a number of research and fieldwork done in Tuvalu observing the perception of Tuvaluans about the climate change threats and eagerness of them to relocate. Surprisingly, according to the outcomes of the questionnaires, there are a number of factors that make the Tuvaluans deeply attached to their land, families and culture.⁶⁹ Christianity is another

⁶³ A Trust Fund established in 1987 by the UK, Australian and New Zealand represents about 25% of the Tuvalu's GDP

⁶⁴ Colette Mortreux, Jon Barnett, 'Climate change, migration and adaptation in Funafuti, Tuvalu', *Global Environment Change* 19 (2009), p. 105-112

⁶⁵ Pacific Adaptation to Climate Change: Tuvalu, Report of In-Country Consultations, p. 7
<http://www.sprep.org/att/irc/ecopies/countries/tuvalu/49.pdf> accessed 20 November 2012

⁶⁶ Jane McAdam, 'Swimming against the Tide: Why a Climate Change Displacement Treaty is not the Answer', *International Journal of Refugee Law* 23(1), 2011, p. 6

⁶⁷ Pacific Adaptation to Climate Change: Tuvalu. Report of in-country consultations, p. 15

⁶⁸ Colette Mortreux, Jon Barnett, 'Climate change, migration and adaptation in Funafuti, Tuvalu', *Global Environment Change* 19 (2009), p. 105

⁶⁹ EACH-FOR Environmental Change and Forced Migration Scenarios. F. Gemenne and S. Shen, 'Tuvalu and New Zealand: Case Study Report', 2007, p. 27

important feature of the island's inhabitants as the majority believes that the God will not let anything happen to Tuvalu and, therefore, are reluctant to leave the island.⁷⁰

As it has been already mentioned, the UN does not consider Tuvaluans as refugees. Despite all the discussions on how important it is to fill the gaps in the international legal regime affecting “forcibly displaced persons”⁷¹, the measures of the UN regarding the case with Tuvalu have been seen as ineffective. It has also been complicated by the fact that the position of the Tuvaluan government has resisted the inclusion of ‘relocation’ in international agreements and has been stating a couple of times that “Tuvaluans will remain in Tuvalu”⁷² and were calling the developed countries to reduce their emissions.

Although New Zealand is the main destination of the Tuvalu's migrants, it does not have an explicit policy to accept people from Pacific island countries due to climate change but only has 75 places allocated annually for Tuvaluan citizens to gain New Zealand citizenship as a part of the so-called PAC (Pacific Access Countries) annual quota.⁷³ This quota has been largely criticized for being designated for the migrants between the ages of 18 and 45 and, therefore, leaving out the young and the old, for whom it is much harder to relocate.⁷⁴ Australia, on the other hand, is much more focused on mitigation and providing climate change assistance⁷⁵ and has lately been lobbying the UN to “ensure appropriate recognition of climate change refugees in existing conventions, or through the establishment of a new convention on climate change refugees”⁷⁶.

Nonetheless, it is possible to say that despite the attempts of Australia and New Zealand to address the question of the possible displacement of the Tuvaluans, the functioning regional legal framework is still missing. Same can be mentioned about the EU's activities in the region: it has been mainly focused only on the sustainable development aspects. For example, under the 9th European Development Fund (EDF), a grant of €3.3 million has been provided to fund the Outer Island Social Development Support Programme (OISDSP).⁷⁷ Regardless of

⁷⁰ EACH-FOR Environmental Change and Forced Migration Scenarios, F. Gemenne and S. Shen, ‘Tuvalu and New Zealand: Case Study Report’, 2007, p. 24

⁷¹ Ibid.

⁷² Jane McAdam, ‘Swimming against the Tide: Why a Climate Change Displacement Treaty is not the Answer’, *International Journal of Refugee Law* 23(1), 2011, p. 15

⁷³ Official page of the New Zealand Ministry of Foreign Affairs and Trade <http://www.mfat.govt.nz/Foreign-Relations/Pacific/NZ-Tuvalu-immigration.php> accessed 20 November 2012

⁷⁴ Neil MacFarquhar, ‘Refugees Join List of Climate-Change Issues’, *The New York Times*, May 2009, http://www.nytimes.com/2009/05/29/world/29refugees.html?_r=0 accessed 30 November 2012

⁷⁵ Ibid.

⁷⁶ Migration (Climate Refugees) Amendment Bill 2007, <http://www.comlaw.gov.au/Details/C2007B00149> accessed 12 December 2012

⁷⁷ Ibid.

that aid Tuvalu is receiving from the EU, it is notable that Europe is much less keen on cooperation and usually doesn't support Tuvalu when it is concerned with the emissions cuts and for taking responsibility for the climate change.⁷⁸

Therefore, it is evident that in case with Tuvalu, in order to develop effective policies one should keep in mind several factors. Firstly, it will be almost impossible to distinguish between those who indeed migrate due to climate change or to the social or economic problems. Secondly, simple relocation of the Tuvaluans cannot be considered to be an option: Tuvaluans are too attached to their land and it is necessary to respect the right of the nation to stay in its country of origin. Thirdly, the issue with the Tuvaluans cannot be seen only at the regional level, as it is also connected with the calls from the endangered peoples to the necessity to reduce the emissions and the reluctance of the developed countries to do so.

Conclusion:

People have been migrating due to environmental reasons from time immemorial, and, in some regions of the world, it has proved to be the only way to survive extreme weather events. However, prognoses on the current and the future rate of climate change show us that the issue is great on scale and requires immediate actions. The irony of climate change is however such that though contributing the least of the green house gas emissions, least developed states will be the first to suffer its dreadful consequences. Therefore, the issue requires global approach and close attention of the international bodies such as the UN appears to be crucial.

Currently, there is a general understanding that a solution for climate induced migration should be found at the global and international level. Nonetheless, the response of the international community is not adequate enough and is still at the early stages. As this research has shown, the main difficulty in framing the issue is the normative gap in the legal framework as this category of people is yet not recognized under the international law. Another obstacle is the institutional gap, as there is no body currently mandated with responsibility for climate-induced displacement.⁷⁹ It has been indeed very difficult to reach a

⁷⁸ Robert S. Eshelman, 'What is the EU's Position on a Legally-Binding Agreement?', 2009, : <http://www.treehugger.com/corporate-responsibility/what-is-the-eus-position-on-a-legally-binding-agreement.html> accessed 21 November 2012

⁷⁹Office of the United Nations High Commissioner for Human Rights: submission on the relationship between climate change and human rights, 19 September 2008, <http://www.ohchr.org/Documents/Issues/ClimateChange/Submissions/SydneyUniversity.pdf> accessed 16 December 2012

common agreement among all actors of international community. The example is the UN which tries to respond to so many different and burning issues of these days but since its members have opposite approaches, it is not easy to create a solution to the issue of the so-called “climate refugees”. At the regional level, such as the EU level, there is no coherent and harmonized legislation or instrument how to deal with the issue yet. Both the UN and the EU have recognized the threats of the issue and are trying to find a solution. However, to tackle this growing challenge more needs to be done.

"How you define somebody can be an issue of life and death for them."

Anthony Oliver Smith

With regard to the normative gap, it can be concluded that the definitions, by necessity, should change or need to be changed to adapt to newly emerged situations. Now, it is high time to redraft the definition of ‘refugee’ and to improve its components in order to provide appropriate protection and circumstances for environmental refugees. However helping them first requires a clear definition of what exactly constitutes an environmental refugee. These forced migrants may mean the potentially largest group of displaced people that will affect the international community, the world for many years to come. We have to deal with the following fact: there is a gap between what the law provides and what contemporary world needs. Our challenge is no longer to save the planet, we have to save the civilization itself and address the urgent issue of people in need due to climate change.

After the first steps - as creating a definition of people who are forced to move due to climate change and covering them by international law - are done, the international community should put their focus on strengthening their cooperation and exchange, and therefore deal with the institutional gap. A good collaboration on the intergovernmental level will not be sufficient in this emerging case, especially the NGO's should strongly be included in these efforts.

The two case studies (Horn of Africa and Tuvalu) that were chosen and analyzed in the current paper showed that the UN is already active in dealing with the issue of climate induced displacement and has potential to become a central player in helping to tackle the issue. However, this study has also shown some of the challenges of the United Nations in addressing the problem of the people displaced due to the environmental issues. First of all, it showed that so far the activities of the UN and other organizations were mainly limited to the

humanitarian aid and missed the legal background. Secondly, it showed that each case of the forced relocation is different and, therefore, should be treated differently.

Despite the problematic nature of the issue of climate induced displacement revealed during this research and the remaining issues associated with it, it is still important to note positive tendencies in the international approach towards the problem. The issue has been recognized and currently attracts a lot of attention from scholars, politicians and various international organizations. The UN as one of the main players in framing and tackling the issue has already devoted a significant deal of attention and launched numerous research initiatives and field projects. Yet, a lot more is to be done. And as the rate of climate change does not leave us time for procrastinations, more acute actions have to be taken as soon as possible.

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