

Chapter 14

Navigating the Gap: Protecting Human Rights in the Era of Environmental Migration

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ABSTRACT

Human migration has helped populations survive harsh environments. However, international law has mostly addressed migration caused by persecution, conflict, and war, leaving environmental migrants unprotected. This chapter critically evaluates four essential international human rights and environmental law tools to protect environmental refugees. These include the refugee convention, complementary protection, guiding principles on internal displacement, and UNFCCC. By carefully analyzing these instruments, it becomes clear that they cannot fully address environmental migration. This constraint highlights the need for a separate international mechanism to address environmental displacement. The instrument should strengthen affected populations' resilience and assist in relocation.

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INTRODUCTION

A catastrophic magnitude-8 earthquake that rocked the Chinese Sichuan province in 2008 caused an incredible 15 million people to be displaced (Bernal & Procee, 2012). A 'superstorm,' Hurricane Sandy pushed 1.2 million people from six countries—including the United States—to flee their homes three years later in 2011 (Burger et al., 2019). In 2018, 1.6 million people were forced to flee their homes due to the destructive effects of Typhoon Mangkhut in the Philippines (IDMC, 2020, p. 28). Even if these instances alone amount to a significant human tragedy, they only make up a small portion of the roughly 260 million people who were forced to from their homes due to various disaster-related incidents during the previous ten years (IDMC, 2020). The scientific community and international law have mostly focused on comprehending anthropogenic climate change and its influence on weather patterns and coastlines, notwithstanding the historical usage of human migration to cope with climatic changes. Unfortunately, very little thought has gone into how climate change would affect people's ability to move about. The legal system has primarily addressed migration brought about by persecution, war, and violence, therefore excluding environmental migrants from a complete system of protection (Brown, 2008). Furthermore, environmental migration strains already unstable governments and the international community, and it challenges the human rights of impacted communities. These issues have received little attention in international politics.

This lack of focus is alarming, particularly in light of the sporadic and selective character of international cooperation in migration. A prime illustration of this problem is the current "*crisis*" of refugees resulting from the civil war in Syria. Despite their shared commitment to the right to asylum under the 1951 Geneva Convention relating to the Status of Refugees, European Union (EU) Member States engaged in lengthy discussions over responsibility-sharing and allocation, while Middle Eastern states found it difficult to receive new arrivals (Brown, 2008). This crisis highlighted how inadequate ad hoc solutions are for handling mass migration. The issue of environmental migration is expected to worsen as the effects of climate change increase. As a result, it becomes urgently necessary to develop a global, legally obligatory protection framework for environmental migrants. Such a regime is required to guarantee collective responsibility within the international community and stop human rights breaches. This chapter investigates how current international legal tools might effectively protect environmental migrants' rights.

METHODOLOGY

The study reported in this chapter results from a careful and systematic review of the literature regarding the changing state of international human rights protection for people forced to migrate because of environmental circumstances. To attain accuracy in the definition of environmental migration, we combined resources from two reputable international organizations: the United Nations Environment Programme (UNEP) and the International Organisation for Migration (IOM). Academic articles delving into many aspects of the phenomenon supplemented these basic definitions. We used information from the Internal Displacement Monitoring Center's annual Global Report to calculate the scope of the problem (IDMC) quantitatively. We also examined international human rights conventions and the authoritative interpretations of those conventions found in the General Comments that corresponded with them, grounding our viewpoint in the human rights domain. We expanded our scope by including peer-reviewed books and

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