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Re-Looking the Issue of Environmentally Displaced Person From an  
Environmental Justice PerspectiveRE-LOOKING THE ISSUE OF ENVIRONMENTALLY DISPLACED PERSON FROM AN  
ENVIRONMENTAL JUSTICE PERSPECTIVE

by

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## ABSTRACT

*There is no dearth of evidence to say that there exists an overwhelming number of people who are migrating from their nation of origin to neighboring states and also internally, due to disasters which are unprecedented both in terms of destruction and frequency. However, the problem lies in quantifying and ascertaining the dominating cause of the disaster as well as the displacement. In fact, there has been growing consensus on the reliability of the data published by IPCC and other organizations which clearly points out that the tangible impacts of anthropogenic climate change is here and now. Nevertheless, there is a struggle for data to prove that in substantial number of cases, the dominating cause of migration is anthropogenic climate change. This paper is an effort to bring a paradigm shift in the way we look at the issue of 'environmentally displaced persons'. This shift shall be from looking at the issue from a 'refugee law crisis' to an 'environmental justice crisis'. This shift in approach is needed because refugee law regime has failed to provide protection to this ever-growing group of displaced people. More so, because the 'environmental law' regime is scientifically better equipped to solve the problem of ascertaining the cause of displacement. The issue of environmentally induced displacement thus deserves special attention post Paris Conference of Parties held in December 2015, where a binding climate agreement was signed by state parties. This paper also builds a case for*



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*formulating a workable legal solution to the issue of environmentally induced displacement through a specialized UN organization which specializes in dealing with environmental issues.*

Keywords: IPCC, Climate Change, UNHCR, UNEP, Refugee, Environmentally Displaced People

## I. INTRODUCTION

The Inter-Governmental Panel on Climate Change (IPCC) fifth assessment report released in 2014 is a reflection of the gravity of the issue of 'environmentally displaced people'. This report on climate change impact, adaptation and vulnerability featured a specific chapter on security implication of climate change. It concluded that slow and rapid onset environmental changes have 'significant' impact on forms of migration that compromise human security.<sup>1</sup> In stark contrast to the IPCC report which raised serious security concerns due to displacement caused by environmental change, is the statement made by UNHCR which clearly disowns the issue of 'environmentally displaced persons'.

The UNHCR has clarified<sup>2</sup> that terminologies like 'environmental refugees' and

'climate refugees' have no basis in international law as these terms do not fulfill the criteria under 1951 Convention or 1969 Protocol. Two reasons for giving a narrow interpretation to defining refugees are prominent from the UNHCR perspective document:

*"Using such terminologies which are not recognized by the international legal community, will undermine the efforts of the international legal regime to uphold the rights and obligations of refugees which are clearly defined for the protection of the refugees.*

*Environmental factors do not fall under the five 'Convention' grounds and also does not satisfy the*



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*condition of persecution, thus creating confusion by using terms like 'environmental refugees.'*"

IPCC in 1990 predicted that "the gravest effects of climate change may be those on human migration as millions are displaced by shoreline erosion, coastal flooding and severe drought". A lot has changed since 1990. Although, we still have not found a legal recognition of the issue of 'environmentally displaced person' in any international instrument including the 1951 Convention relating to the Status of Refugees, climate change negotiations is seeing a shift from limiting the discourse from euro-centric 'mitigation' action to an increasing focus on 'vulnerability', 'adaptation', 'capacity building'<sup>3</sup> and 'loss and damage'<sup>4</sup>. Capacity building has been discussed in almost all of the recent Conference of Parties including the ones held in Doha, Warsaw and Lima. It also holds great importance in the Ad Hoc Working Group on the Durban Platform for Enhanced Action Negotiations and negotiations under Subsidiary Body for Implementation (SBI) held as a preparation for the Paris Conference held in December 2015, where a binding agreement on Climate Change was signed by parties to UNFCCC. In Cancun (2010)<sup>5</sup>, the Conference of Parties developed an understanding on long term cooperative action to address climate change loss and damage including the climate induced migration. This was the first explicit reference to the issue of climate induced population movement by the international community.

These developments among others have brought the much deserved international attention from north centric climate action to issues of south, environmentally induced displacement being one of the most important among them.

Further, the various issues faced in providing protection to 'environmentally displaced people' have been discussed in the paper. Special attention has been given to the problems related to ascertaining the scale, incidence and nature of environmentally induced displacement. It has also been presumed that a special section on whether anthropogenic environmental change is real is not required as these facts are well settled. As to the question 'Do environmentally displaced people exist?', although there is active debate over the issue, this researcher has presumed *de facto* existence of those displaced due to anthropogenic environmental change (as in the case of a Kiribati national where the Court of Appeal at New Zealand conceded



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that the concern of Environmental Change has been growing in the international community, but the effect of the phenomenon on nations like Kiribati has been

overlooked in the Refugee Convention)<sup>6</sup>, however *de jure* recognition of the issue is lacking, which calls for an effort to bring together the challenges in addressing the issue and its solution.

## II. DEFINING ENVIRONMENTALLY DISPLACED PEOPLE: ISSUES AND APPROACHES

A plethora of issues are associated with defining people who are displaced due to environmental factors. Among them are the issues like whether to include people who have decided to migrate to another country, not out of compulsion but voluntarily, whether permanence of the destruction caused in the country of origin is a pre-requisite to granting of refugee status by the receiving state, whether suddenness of a disaster is a criteria for refugee determination and determination of the anthropogenic element of a disaster before refugee status is granted. All these factors among others need to be taken into consideration before coming to a convenient definition of 'environmentally displaced person'.

But before delving deeper into the technicalities involved in the above issues, it is important to highlight some of the definitions adopted by scholars which have earned wide acceptance.

### A. Drop the Term 'Refugee'

The term refugee is too problematic to be used to address people who have been displaced. The term 'refugee' is conceptually inadequate to meet the complex structural causes and consequence of flight.<sup>7</sup> Moreover, in contrast to the elements involved in the conventional definition of refugee as defined in the 1951 convention, which revolves around 'persecution' as the central criteria for refugee status determination, environmentally displaced person demands a broader outlook as it is based on multi-causality.<sup>8</sup> Multi causality includes a complex mixture of social, economic and institutional factors. This has been confirmed in cases of El Salvador, Haiti, the Sahel and Bangladesh, among many other nations.<sup>9</sup> Although the term persecution



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is too narrow to be used to address the issue of 'environmentally displaced persons', it can safely be deduced from Amartya Sen's epochal work on famines<sup>10</sup> which points out hidden issues of rights in relation to inequality, poverty, market and policy failures as deeper causes of so called natural disasters.

### B. Open-Ended Approach

El-Hinnawi<sup>11</sup> (a researcher in UNEP) is credited by many to have made the first attempt to define Environmental Refugees in 1985 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 [sic]. By 'environmental disruption' in this definition is meant any physical, chemical, and/or biological changes in the ecosystem (or resource base) that render it, temporarily or permanently, unsuitable to support human life."*

Although the definition coined by Hinnawi is vague and open ended, many author have picked up elements from it to define 'Environmental' as well as 'Climate Change' Refugees.

### C. Close-Ended Approach

Bierman and Boas<sup>12</sup> who are advocates of the opinion that the issue of 'Climate

Change Refugees' shall be dealt by adding a protocol to the UNFCCC defines them as "people who have to leave their habitats, immediately or in the near future, because of sudden or gradual alterations in their natural environment related to at least one of three impacts of climate change: sea-level rise, extreme weather events, and drought and water scarcity."

No distinction has been made by Biermann and Boas on the basis of the character of the migration by the environmentally displaced persons. First of all, they outrightly reject voluntariness as a criterion for determination of the coverage of migrants. Secondly, they contend that it should hardly

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matter whether relocation is temporary or permanent. Lastly, Biermann and Boas argue that their distinction between transboundary and internal migration is not intentional. Their primary objections with the distinctions lie in the fact of discrimination in protection received by different refugees on different grounds.

As a remedial measure, Biermann and Boas have based the foundation of their definition on the evident causation behind this relocation, that is climate change. The definition propounded by them is inclusive of both the gradual environmental change as well as the sudden environmental change; the reason being that climate change can affect either. They put a check on the kinds of environmental destructions that would have qualified refugees for assistance to three "direct, largely undisputed climate change impacts": "sea-level rise, extreme weather events, and drought and water scarcity", to make sure they cover only those migration which are climate-induced. Events which are peripherally related to climate change are excluded. For instance, exodus caused due to other kinds of environmental disruptions (e.g., volcanoes and industrial accidents), consequentiality connected loosely to migration (example heat waves), exodus caused by mitigation steps (example building the dams), and impacts which are indirectly connected to change in climate (example disputes stemming from the claim to natural resources).

Despite the fact that the definition propounded by Biermann and Boas nearly encompasses everyone who would have otherwise escaped the direct consequentiality of climate change, it does have legal and technological defects. It qualifies a huge population for availing aid by the inclusion and adoption of the larger constituents of the character and nature of migration. This makes it antithetical to the legal precedent related to the traditional perception of the idea of the refugees. For an instance, the definition furthers an opposed perspective to the Refugee convention by counting both refugees and IDPs while not mandating a forced displacement (element of persecution). Studying the definition given by Biermann and Boas with more depth highlights its confinement in terms of the emphasis that has been put on the enlisted impacts of climate change. It does invite attention to the idea that the onus of the damage caused is on the global community. However, it fails to arrive at acceptance of the fact that the advancements in scientific technologies can make it possible to mark with accuracy which of the occurring events are really rooted in climate change.<sup>13</sup>

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#### D. A Blended Approach<sup>14</sup>

Bonnie & Giannini who are advocates of a new binding instrument specifically for 'Climate Change Refugee' elaborates on the nature of definition by highlighting its key elements, without actually defining them.

The proposed new definition of climate change refugee requires the following six elements to be met for a refugee to be considered a victim of climate change:

- a) Forced migration;
- b) Temporary or permanent relocation;
- c) Movement across national borders;
- d) Disruption consistent with climate change;
- e) Slow or swift environmental changes; and
- f) A "more likely than not" benchmark for collaborative human efforts towards dealing with destruction.

The design of the definition is in such a way that it facilitates for a binding instrument instead of a general policy. Therefore, it delineates the class of people it covers in accordance with the pre-existing legal precedent and principles which are associated with the term refugee. These restrictions are balanced with the purpose of addressing particular character of climate change-induced migration and of meeting humanitarian needs.

A holistic approach where inputs from disciplines like law, technological innovation, poverty alleviation, development, science and economics are taken, is desired. Settings beyond environmental disruption, like poverty, may lead to displacement caused mainly by climate change. Armed conflicts that increase population flow may be induced by climate change. Stresses like poor governance and growth of population influence the determination of environmentally displaced persons. Climate change migration also involves a wide range of actors, including individuals, communities, home and host states, and the international community more broadly, which complicates the struggle to deal with migration induced from climate change in a fair and effective manner.



### III. TECHNICAL CHALLENGES IN DETERMINING REFUGEE STATUS

There are chances of a hurricane being a natural occurrence or an outcome of human induced change in climate. Thus, IPCC says, that identifying causation may be scientifically challenging. Some commentators have included natural disaster in their definition and some have excluded them, including only anthropogenic climate change. Whichever side is been taken in an instrument which may be drafted in the future to deal with the issue of environmentally displaced person, there are too many technical aspects related to environment involved to be addressed by a Refugee agency or any other humanitarian aid agency for that matter.

#### A. Technicalities in estimating environmentally displaced persons

Undoubtedly, the human induced factor in climate change is widely accepted. Anthropogenic emission of Carbon Dioxide and other greenhouse gases, deforestation are some of the contributing factors of climate change. Arguments in favour of anthropogenic climate change is that there are scientific evidence that the human induced Green House Gases (GHG) emission have potential for climate change and there is dramatic increase in concentration in GHG in last 150 years.

But, in applying the principle of Common but Differentiated Responsibility in relation to Climate Change, there is an ongoing debate on the contribution and quantification of the anthropogenic climate change in the environmentally displaced phenomenon.

The countries which lie in the receiving end of the issue of environmentally displaced person generally take certain typical defenses in order to get away with their historical responsibility towards anthropogenic climate change. Science is unable to qualify which environmental disaster is caused due to anthropogenic interference and which are caused naturally. There is enough evidence of environmental disaster and climate change without human intervention. Secondly, subjection of the earth to anthropogenic influences is not a formal experiment and there cannot be an absolute quantification of the intensity and potential of the anthropogenic factors. Thirdly, our primary information sources are observation and physical modelling, both well supplied with uncertainties. In order to observe the data of the past the scientist have to depend on some proxy indicators of climate variables, for instance amount of growth estimated from tree ring data are used to infer seasonal and annual temperatures.



Estimating the number of environmentally displaced person is complex. Take the case of identifying and mapping potential environmental 'hotspot' along with monitoring changing conditions, which is quintessential to solving the problem of protecting environmentally displaced persons according to Dr. Camillo Boano of Refugee Studies Center of University of Oxford<sup>15</sup>. This involves examining 'tipping' points that trigger displacement rather than adaption in local regions, tracking migration trend in relation to environmental depletion and tailor development policies of resilience and sustainable development to evolving local needs. A refugee agency is not expected to have comprehensive understanding of these technicalities, and therefore a specialized environmental agency is appropriate to address these essential requirements before an international instrument to deal with environmentally displaced persons in introduced in the international arena.

**B. Need for a specialized member from IPCC for refugee determination mechanism**

The determination of impact generated on account of individual efforts of the states is difficult to be ascertained and will have to be handled by body adept in scientific expertise. The scientific findings should be considered by a global fund along with information on the sufficiency of the states to pay and determine the ultimate responsibility of each state. Reevaluation of its allocations of responsibility shall be done periodically in order make sure that they remain up-to-date.

A similar organ was formed by the UNFCCC with its Subsidiary Body for Scientific and Technological Advice ("SBSTA"). SBSTA is required by UNFCCC from a technological and scientific viewpoint, to evaluate measures to implement the UNFCCC, to assess existing knowledge on climate change, to identify useful new technologies, offering advice on research and development, and to respond to questions of states parties. The SBSTA constitutes government representatives who are competent in their relevant fields of expertise. The 'independent' body of expert for 'environmentally displaced persons' could be on the lines of SBSTA.

First, the body of scientific experts shall be assigned the task of finding the

different kinds of environmental destruction which also secure a place in the definition of climate change refugee by the proposed instrument. Ascertainment of which disruptions are consistent with climate change and to which disruptions human have contributed would be ensured by this. Currently, it is not a task of ease for scientists to ascertain whether climate



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change is the cause of a particular event. However, the IPCC has marked many potent effects, like a constant increase in the sea levels, increased temperatures, powerful storms, desertification, and has classified the likeliness of human contributions in it. A member from IPCC in the body of expert is preferable. The principle of maintaining precautions does not imply that any uncertainty can be used as an excuse to avoid action. This stands true even if existing science is inept to eradicate all uncertainty.<sup>16</sup>

Second, information on state's contributions to climate change shall be provided by the body of scientific experts in order to facilitate the global fund the task of allocating similar and yet differentiated work for fulfilling the objective of aiding the climate change refugees.

Lastly, general studies related to the issue of climate change and how it falls axiomatic with the refugee flows shall be conducted by the body of scientific experts. Compilation of existing research, including those which are generated by IPCC, and steering research objectives in the future.

#### C. Allowing Voluntary Migrants to be Given Refugee Protection

Characterizing the movement of migrants from one place to another has been a regular practice by some author. Forced relocation or voluntariness of relocation plays an important role in their determination. Naturally, an extreme disaster may force migrants to relocate themselves, but a gradual degradation may not be the direct cause of their relocation. El-Hinnawi limits his definition to those "forced to leave."<sup>17</sup> Myers adopts a similar approach.<sup>18</sup> He describes environmental refugees as those "who can no longer gain a secure livelihood in their homelands" and "who feel they have no alternative but to seek sanctuary elsewhere."

Subcategorization of displaced people according to the degree of compulsion is also a common practice. A report dated 2007 by the United Nations University report draws a tripartite categorization by Fabrice Renaud the co-author as: "environmentally motivated migrants," who "'may leave' a steadily deteriorating environment"; "environmentally forced migrants," who "'have to leave' in order to avoid the worst"; and "environmental refugees," who "flee the worst," this being inclusive of the natural disasters. These classifications suggest that generally those who are 'forced' to



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relocate are recognized as those who need special protection under any proposed instrument.

The decision to migrate is better conceptualized as a continuum. People who have absolutely no control over their relocation represent the right-hand end of the continuum, designated as "involuntary." Moving to the left across the continuum are people with more control over the decision to migrate. At the far left of the continuum, voluntary migrants include only those who maintain control over every decision in the

migration process. Such a continuum overcomes the debate over legalistic definitions of refugees and allows for a broad range of constraints on the decision-making process.<sup>19</sup>

The author subscribes to the concept of continuum as suggested by Diana C. Bates, as it takes a more practical approach to providing humanitarian assistance to people displaced to either sudden disasters (which compel the migrate) or slow onset disasters (which may equally lead to migration, although there is greater chances of other factors influencing the decision). Both Myers and El-Hinnawi fail at drawing any dissimilarities between sudden disasters and gradual onset. Dun and the co-author<sup>20</sup> clearly incorporate both “slow onset and rapid onset” kinds of changes in environmental in their definition of displacement due to environmental reasons.

Slow onset displacement is very difficult to predict because of the types of migration (seasonal, return, repeat, permanent and temporary), the multi-causality of intervening variables (socioeconomic status and migrant selectivity) and the complexity of environmental outcomes (deforestation and fisheries depletion).<sup>21</sup>

#### D. A Temporary Answer to a Permanent Question

A person might move only for a short time if his or her home and community can be repaired after an environmental disaster, or he or she might never be able to return because the destruction makes the area uninhabitable. On this point, El-Hinnawi and Myers have different views, with the former allowing for both kinds of relocation in his definition and the latter



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only for permanent or semi-permanent relocation. Olivia Dun and her coauthors<sup>22</sup> divide environmental refugees into three categories based on the degree of their compulsion to leave; for each, however, they specify that temporary and permanent displacement are covered. They describe temporary displacement as “lasting up to three years, and permanent as anything longer, even though eventual return may still be possible”.

The author believes that humanitarian assistance shall be given to both temporary and permanently displaced people because both are in equal need of humanitarian protection.

#### E. *Natural Disaster v. Anthropogenic Climate Change Disasters*

To make a distinction between whether a disaster is natural or anthropogenic is not an easy task. It demands the expert knowledge of scientific experts and therefore the author has suggested the establishment of a scientific body for the determination of refugees and for responsibility sharing among international parties.

Although the term persecution is too narrow to be used to address the issue of ‘environmentally displaced persons’, it can safely be deduced from Amartya Sen's epochal work on famines<sup>23</sup> which points out hidden issues of rights in relation to inequality, poverty, market and policy failures as deeper causes of so called natural disasters.

### IV. INTERNATIONAL RESPONSE

Although majority of nations do not have any law or policy regarding environmentally displaced persons, there are a few exceptions, which can provide some clues for the prospective instrument for environmentally displaced persons.

#### A. European Union

No specific instrument regulates environmentally displaced individuals' protection at the EU level. However some scholars have argued that to an extent or another.



available instruments providing complementary forms of



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protection could be applicable to environmentally displaced individuals,<sup>24</sup> as enshrined in the Council Directive 2001/55/EC of 20<sup>th</sup> July, 2001.<sup>25</sup>

The purpose of the directive is to establish minimum standard for giving temporary protection in the event of a mass influx of displaced persons from third world countries who are unable to return to their country of origin. However, the directives suffer from certain limitation. Firstly, it is applicable only in cases of mass influx. Secondly, it does not provide for a clear mechanism of determination of candidates for protection. Thirdly, only temporary protection is granted.

#### B. Finland

Only few of EU member states have introduced express provisions addressing the protection of environmentally displaced individuals. Section 109 clause 1 of the Aliens Act provides that *“Temporary protection may be given to aliens who need international protection and who cannot return safely to their home country or country of permanent residence because there has been a massive displacement of people in the country or its neighboring areas as a result of an armed conflict, some other violent situation or an environmental disaster.”*

The Finnish laws not only recognize the environmentally displaced persons, it also provides specific humanitarian aid to these displaced people. It is also interesting to note that the principle of *non-refoulement*, around which the traditional refugee regime revolves, also features in the Finnish law protecting environmentally displaced people. Section 88A (1) of the Aliens Act provides that *“An alien residing in Finland is issued with residence permit on the basis of humanitarian protection, if there are no grounds under Section 87 or 88 for granting asylum or providing subsidiary protection, but he or she cannot return to his or her country of origin or country of former habitual residence as a result of an environmental catastrophe...”*. It is important to note here that this humanitarian aid is provided to aliens who were already residing in Finland when the disaster hit the country of origin. Therefore it does not cover refugees in true sense, nevertheless comes close to the concept of ‘refugee sur-place’ in refugee laws.



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#### C. Sweden

The Aliens Act under Section 2(3) provides that *“a person otherwise in need of protection is an alien who in cases other than those referred to in Section 1(refugee grounds) is outside the country of the aliens nationality, as he or she is unable to return to the country of origin because of an environmental disaster.”*

Italy and Cyprus have similar provision which provide protection to environmentally displaced persons. However, in Cyprus humanitarian aid is provided to environmentally displaced person, only to those who already have been given refugee status under the refugee law.

#### D. Canada and Australia

Among the four political parties in Canada, only the green party makes reference to environmental refugees. It stated that it will *“advocate for the inclusion of*

*environmental refugees as refugee category in Canada and accept an appropriate share of the world's environmental refugees into Canada".<sup>26</sup> Canada made temporary arrangements for people who were already resident in Canada at the time of the Indian Ocean tsunami and following the Haitian earthquake in 2010.*

Australia has an ad-hoc policy towards environmentally displaced persons. This means that temporary protection may be provided to aliens who have reached the shore of Australia. In 2009 Australia announced a policy to support Pacific islanders who continue to abandon their villages to rising waters.

#### V. CONCLUSION

It is clear that the UNHCR has out rightly rejected the use or incorporation of the term 'climate change refugees' or 'environment refugees' and UNFCCC is a specialized instrument which hardly deals with functions essential to the issue of 'environmentally displaced person' like humanitarian assistance. Additionally, the author doubts the level of acceptance an independent international instrument specifically for the current issue will receive. It is therefore suggested by the author that the middle path lies in the framing a new instrument under the aegis of United Nation International Strategy for Disaster Reduction (UNISDR).

UNISDR is part of the United Nations Secretariat. The UN General Assembly adopted the International Strategy for Disaster Reduction in



December 1999 and established UNISDR and its secretariat to ensure its implementation. Its mandate was expanded in 2001 to serve as the focal point in the United Nations system to ensure coordination and synergies among disaster risk reduction activities of the United Nations system and regional organizations and activities in socio-economic and humanitarian fields (GA resolution 56/195). UNISDR's core functions span the development and *humanitarian field*. This expansion of the mandate of UNISDR allows it to address the humanitarian issues involved in dealing with environmentally displaced person. No doubt, UNISDR is well equipped in environmental expertise. As its core areas of work includes ensuring disaster risk reduction (DRR) is applied to climate change adaptation, increasing investments for DRR, building disaster-resilient cities, schools and hospitals, and strengthening the international system for DRR, there is ample scope for UNISDR to initiate the process of introducing an international instrument exclusively for 'environmentally displaced persons' taking clues from the experience of the scholars in defining an appropriate definition of relocated people who are victims of environmental disbalances.

The author also recommends that till the time consensus is built to frame a new instrument under UNISDR, it is wise to formulate a well-framed guideline in the lines of the guidelines for internally displaced people which has been readily accepted by the international community. It is worth mentioning that inputs can be taken from the report published by UNHCR 'Planned Relocation, Disaster and Climate Change: Consolidating Good Practices and Preparing for the Future' and the suggestions made in the Nansen Conference held in 2014.

#### VI. PROPOSED SOLUTION

Keeping the above developments in mind, the author suggests that instead of taking the drastic step of amending the 1951 convention and changing the very essence and nature of the instrument by adding a terminology (climate change refugee) which does not directly fit into the meaning of persecution (although it is a highly debatable term) and the five convention grounds or adding a protocol to the

UNFCCC as has been suggested by many scholars and has been criticized by some<sup>27</sup>, a definition which harmonizes with the various stakeholders involved would make more sense.



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Therefore, in the opinion of the author, instead of choosing a controversial term like 'climate refugee' or 'environmental refugees' a more mellowed down term like 'environmentally displaced persons' would serve the purpose. This would certainly be a small step towards international peace and security. It also has the potential to stabilize the deteriorating condition of humanitarian affairs in a highly conflict-ridden international politics. States need to keep international standards of both international refugee laws and climate change laws in mind before framing their domestic policies regarding cross-border displacement induced by environmental change.

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<sup>1</sup> Available at: [http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-Chap12\\_FINAL.pdf](http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-Chap12_FINAL.pdf) (accessed October 20, 2015).

<sup>2</sup> UN High Commissioner for Refugees (UNHCR), "Climate Change, Natural Disasters and Human Displacement: A UNHCR Perspective", (August 17, 2015) (hereinafter UNHCR Perspective) available at: <http://www.unhcr.org/5448c8269.html> (accessed August 17, 2015).

<sup>3</sup> Available at: [http://unfccc.int/cooperation\\_and\\_support/capacity\\_building/items/7060.php](http://unfccc.int/cooperation_and_support/capacity_building/items/7060.php) (accessed September 23, 2015).

<sup>4</sup> See generally Report of the Conference of the Parties on its nineteenth session, held in Warsaw from 11 to 23 November, 2013, available at: <http://unfccc.int/resource/docs/2013/cop19/eng/10a01.pdf> (accessed September 24, 2015).

<sup>5</sup> Available at: [http://unfccc.int/meetings/cancun\\_nov\\_2010/items/6005.php](http://unfccc.int/meetings/cancun_nov_2010/items/6005.php) (accessed September 21, 2015).

<sup>6</sup> "Should international refugee law accommodate climate change?", UN News Center, July 3, 2014, available at <http://www.un.org/apps/news/story.asp?NewsID=48201#.Vebgnfmqqkq> (accessed September 19, 2015).

<sup>7</sup> Zetter, R.W., (2007) "More Labels, Fewer Refugees: Remaking the Refugee Label in an Era of Globalization", *Journal of Refugee Studies*, vol. 20(2), pp. 172-192.

<sup>8</sup> Lonergan, S., (1998) "The Role of Environmental Degradation in Population Displacement", *Environmental change and security program report*, Issue no. 4, Washington: Woodrow Wilson International Centre for Scholars, pp. 5-15.

<sup>9</sup> *Ibid.*

<sup>10</sup> Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation*, Oxford: Clarendon Press, 1981, pp. 23.

<sup>11</sup> Essam El-Hinnawi, *Environmental Refugees* 4 (1985).

<sup>12</sup> Frank Biermann & Ingrid Boas, "Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees", (Global Governance Project, Global Governance Working Paper no. 33, 2007).

<sup>13</sup> Docherty Bonnie & Tyler Giannini, "Confronting a Rising Tide: A Proposal for a Convention on Climate Change Refugee", 33-2, *HARV. ENVTL. L.REV.* 349, 372 (2009) at 368.

<sup>14</sup> *Ibid.*, at 372.

<sup>15</sup> Boano, Camillo, Zetter, Roger and Morris, Tim, "Environmentally Displaced People: Understanding the Linkages between Environmental Change, Livelihood and Forced Migration", *CliMig*, available at: <https://climig.omeka.net/items/show/613> (accessed November 15, 2015).

<sup>16</sup> This version of the precautionary principle borrows from Principle 15 of the Rio Declaration on Environment and Development. UN Conference on Environment and Development, June 3-14, 1992, Rio Declaration on Environment and Development, princ. 15, UN Doc. A/CONF.151/26 (vol. 1) (August 12, 1992) [hereinafter Rio Declaration].

<sup>17</sup> *Supra* note 11.

<sup>18</sup> Norman Myers, "Environmental Refugees: An Emergent Security Issue", 13<sup>th</sup> Economic Forum, Prague, 2005, available at <http://www.osce.org/eea/14851> (accessed August 3, 2015).

<sup>19</sup> Diane C. Bates, Environmental Refugees? "Classifying Human Migration Caused by Environmental Change", 23 POPULATION & ENV'T 465, 468 (2002).

<sup>20</sup> Olivia Dun, Francois Gemenne & Robert Stojanov, "Environmentally Displaced Persons: Working Definitions for the EACH-FOR Project" (October 11, 2007), available at: [http://www.each-for.eu/documents/Environmentally\\_Displaced\\_Persons\\_-\\_Working\\_Definitions.pdf](http://www.each-for.eu/documents/Environmentally_Displaced_Persons_-_Working_Definitions.pdf) (discussing environmentally displaced persons; dividing them into environmental migrants, environmental displacees, and development displacees; and explicitly avoiding the term environmental refugee).

<sup>21</sup> Curran, S., "Migration, Social Capital, and the Environment: Considering Migrant Selectivity and Networks in Relation to Coastal Ecosystems", Population and Development Review, vol. 28, 2002, pp. 89-125.

<sup>22</sup> *Supra* note 20.

<sup>23</sup> Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation*, Oxford: Clarendon Press, 1981, p. 23.

<sup>24</sup> Ammer, M., "Climate Change and Human Rights: The Status of Climate Refugee in Europe", Oxford University Press, 2009, p. 56.

<sup>25</sup> Available at: [www.eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:212:0012:0023:EN:PDF](http://www.eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:212:0012:0023:EN:PDF).

<sup>26</sup> Green Party of Canada, Immigration and New Canadians, 2011.

<sup>27</sup> According to Bonnie & Giannini "The UNFCCC applies directly to climate change, but it too has legal limitations for dealing with climate change refugees. As an international environmental law treaty, the UNFCCC primarily concerns state-to-state relations; it does not discuss duties that states have to individuals or communities, such as those laid out in human rights or refugee law."

"It is also preventive in nature and less focused on the remedial actions that are needed in a refugee context. Finally, although the UNFCCC has an initiative to help states with adaptation to climate change, that program does not specifically deal with the situation of climate change refugees. Like the refugee regime, the UNFCCC was not designed for, and to date has not adequately dealt with, the problem of climate change refugees." See Bonnie & Giannini, *supra* note 13 at 358.

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