



The Life Of An Environmental Migrant: What Does The International Framework Have To Offer?

- Mimansa Mishra (II B.A.LL.B.)

As the planet faces the increasing impact of climate change, natural disasters, and environmental degradation, more people are being compelled to leave their homes in search of safety and stability. These environmental migrants, as defined by the International Organization for Migration (IOM), are “persons or groups of persons who, predominantly for reasons of sudden or progressive change in the environment that adversely affects their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad.” With discourse being present about the need to call these migrants ‘Environmental Refugees’, there emerges a need to analyse the existing international framework present to remedy such displaced persons.

Environmental migrants seeking a remedy from the international system, through a brief analysis, realise that there exists no well-established legal basis upon which

States are obliged to assist people displaced by climate change. What remedies do exist are partial avenues of assistance. The 1951 Convention Relating to the Status of Refugees (commonly referred to as the 1951 Refugee Convention), does not explicitly cover environmental migrants, as it defines refugees as those fleeing persecution on the basis of race, religion, nationality, membership of a particular social group, or political opinion. While climate change is certainly recognized as a legitimate threat to the lives of people by the international community, the 1951 Refugee Convention offers very little help to environmental migrants. This was seen in the ruling of the UN Human Rights Committee in 2020, which stated that worsening climate change conditions can be a violation of an individual’s right to life. The ruling had been based on a complaint by Ioane Teitiota, a Kiribati national seeking asylum in New Zealand who was deported back with the New Zealand Court’s rationale being that he had not undergone persecution as mentioned under the 1951 Refugee Convention. This was due to the fact that he was seeking asylum due to climatic conditions and was therefore not covered under the

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Russia employed starvation as a method of warfare during their 85-day siege of Mariupol in 2022, said in a report published by Global Rights Compliance (GRC). The report, titled ‘The Hope Left Us: Russia’s Siege, Starvation, and Capture of Mariupol City,’ was published by the GRC Starvation Mobile Justice Team, as part of a UK, EU, and US-sponsored advisory group on Atrocity Crimes. GRC’s research involved intelligence specialists, open-source intelligence, and geo-location experts analysing satellite imagery, photographs, film, official public statements, and other digital data. For more information, see here.



convention. Hence, it becomes evident that until environmental degradation and natural disasters are included as grounds for providing a proper refugee status, environmental migrants cannot seek remedy under the 1951 convention.

The [Paris Agreement](#) under the UN Framework Convention on Climate Change (UNFCCC), under [Article 8](#), recognizes the need to address climate-induced displacements by emphasizing the importance of minimizing and addressing loss and damage due to climate impacts, including displacements. In addition to this, the [Global Compact for Safe, Orderly and Regular Migration](#) adopted by the [UN General Assembly](#) in 2018, directly addresses environmental migration under [Objectives 2 and 5](#), addressing the enhancement of flexibility of pathways for regular migration, as well as minimizing the adverse drivers and structural factors which compel people to leave their country of origin, which include natural disasters and environmental degradation.

Furthermore, while regional instruments like the [Kampala Convention of the African Union](#), do provide broader definitions for

the term refugee, proving effective for [mitigating the conditions of environmental migrants](#), these conventions again, are not devised with climate change or environmental degradation as the sole basis for the migration and are also quite restricted in their scope of action.

In the context of the International Human Rights Treaties, as has already been stated prior, the UN Human Rights Committee has recognized adverse climate change as a potential violation of an individual's right to life. The Universal Declaration of Human Rights ([UDHR](#)) under Article 3 and Article 25, along with Articles 11 and 12 of the International Covenant of Economic Social and Cultural Rights ([ICESCR](#)) and Articles 6 and 26 of the International Covenants on Civil and Political Rights ([ICCPR](#)) highlight the importance of life, health and a good standard of living which is necessary for environmental migrants to sustain themselves, although these do not explicitly mention environmentally displaced persons either.

Therefore, in conclusion, an environmental migrant must understand that while there exist [indirect remedies](#) for them in the

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The UK Government announced its latest sanction package on Russia, the first to target Russia's "shadow fleet" of oil ships, in a bid to hinder President Vladimir Putin's ability to fund the country's war against Ukraine. UK Prime Minister Rishi Sunak made clear that the UK stands in support of Ukraine and that the sanction package seeks to prevent Putin from "funding his war machine." The UK imposed a sanction package targeting "illicit arms-for-oil transfers between Russia and North Korea." The UK government says that since February 2022, "sanctions have deprived Russia of over \$400bn worth of assets and revenues." For more information, see [here](#).



form of Human Rights Obligations on States, this is nowhere near enough. Unless and until there happens a proper broadening of the terms in existing conventions to include persons displaced due to climate change, by providing them with a place under the current definition of refugees or giving them a special status and a proper framework for mitigating their demands and problems, the migrants can only rely on these partial assistance avenues. Therefore, strengthening international legal frameworks is a crucial step to ensure that the rights and needs of environmental migrants are adequately addressed.

Ecocentrism - A Divergent Approach to International Environmental Law

- Soumik Ghosh (III B.A.LL.B.)

Nature or to be precise natural resources are the crux of human existence. However, the rapid onset of industrialisation and modernisation is culminating in an exponential rate of depletion of these resources. Several initiatives have been taken by stakeholders on a national as well as a global scale to curb these effects. Under international law, there exist numerous treaties, conventions,

and declarations which aim to promote coordination among stakeholders. Despite these efforts, their effectiveness remains limited, which eventually brings into question the efficacy of the current approach taken by international law to conserve nature.

Ecocentrism, a model based on the Rights of Nature approach, has been gaining significant traction as an alternative to the current paradigm of laws protecting the environment. In essence, this model aims to grant rights to natural entities, resulting in stricter and more efficient approaches by stakeholders in furtherance of their conservation. Natural entities include rivers, mountains, specific ecosystems, and everything else along the same lines. This movement aims to redefine the relationship between humans and nature, by recognising that the human connection to nature is one of intrinsic interdependence rather than dominance, with nature being positioned at the center.

An ecosystem has the right to legal personhood, and with it, the ability to defend itself in a court of law against injuries such as environmental degradation brought on by a particular

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The Special Rapporteur on the situation of human rights in Afghanistan released a report (A/HRC/56/25), ahead of the 56th session of the Human Rights Council taking place from June 18 to July 12, 2024, where the Special Rapporteur will address the findings. A critical analysis of the worsening subjugation of Afghan women and girls by the Taliban is highlighted and described as a systematic entrenchment that “leads to devastating and long-lasting harm to all genders, with implications extending well beyond the borders of Afghanistan that are likely to arise from poorly conditioned engagement with the Taliban”. For more information, see here.



2022 UN BIODIVERSITY CONFERENCE

COP 15 - CP/MOP10-NP/MOP4

Ecological Civilization-Building a Shared Future for All Life on Earth

KUNMING – MONTRÉAL



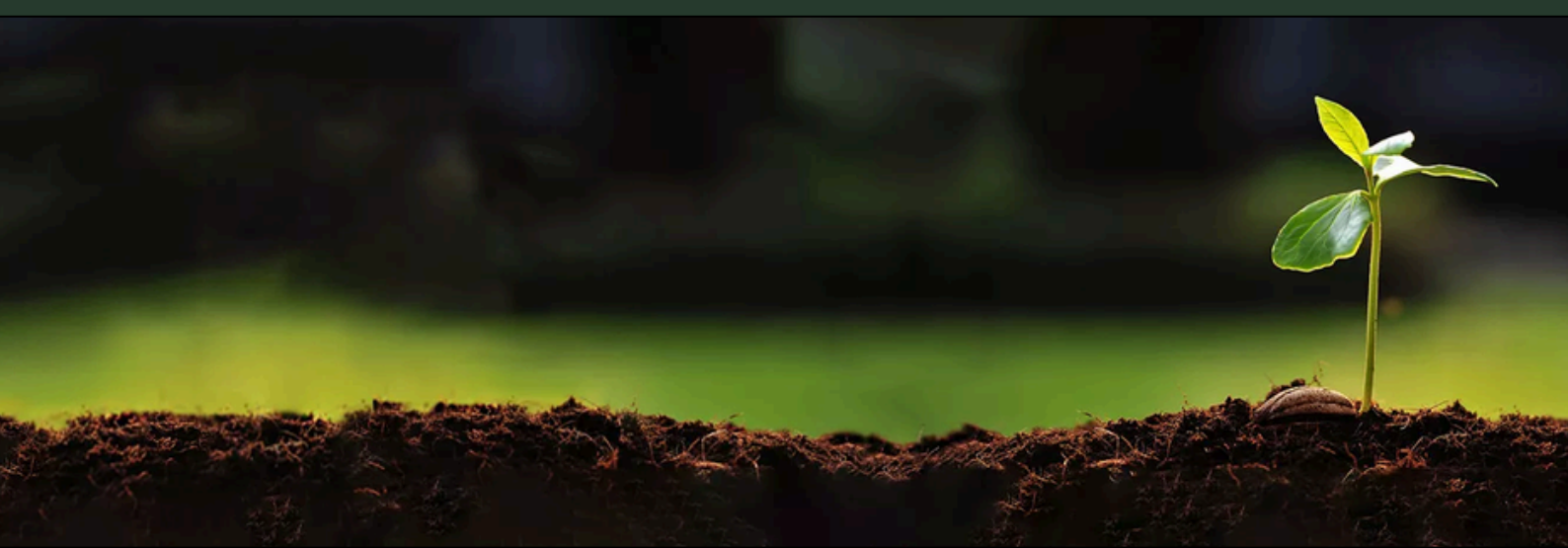
development project or even by climate change, according to the Rights of Nature theory. This method holds that an ecosystem has the freedom to live, thrive, replenish its essential cycles, and adapt organically free from human interference. Furthermore, an environment that is considered a "subject of rights" has the right to legal representation from a guardian who will act on their behalf and in their best interests. The appointment of this guardian is comparable to that of a trustee in a trust. Typically, this guardian is an individual or group of individuals with expertise in maintaining and managing that particular environment.

This movement has already found its way into domestic legislation in furtherance of the protection of at-risk environments. Ecuador, in 2008 became the first and only country to officially incorporate the Rights of Nature into its constitution in light of the grave environmental violations taking place within the country. There have been multiple sporadic attempts to incorporate these concepts within various other countries, however none have been as significant as Ecuador.

Conversely, this concept has not had a significant impact on international law, owing to the conflicting core ideologies of how nature is viewed. Contemporary international environmental law views nature as the absolute property of the sovereign and only assigns value to nature corresponding to the possibility of economic benefit from said resources. Thus, natural resources are only protected by their respective sovereigns for the purpose of efficient exploitation rather than in recognition of intrinsic value. However, there have been a few instances like the UN Biodiversity Conference (COP 15) and the UN Harmony with Nature Program which highlight the recognition of the Rights of Nature in the international arena. COP 15 only has a passing mention of the concept of the Rights of Nature under paragraph 9 of the Resolution which mentions that it is an integral part of the environmental plan to tackle climate change for countries that recognise it. The program, on the other hand, is the beginning step of the ecocentrism movement stepping into the international arena. While international environmental law remains largely anthropocentric, this program

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The Indian government has asked the Russian government to return the Indian citizens recruited by its army. This follows the death of two Indian citizens in the ongoing Russia-Ukraine conflict, as announced by the Indian Ministry of External Affairs. The Indian embassy in Russia has further asked for early return of the remains of the deceased. The full-scale war between Russia and Ukraine, ongoing since the Russian invasion of Ukraine two years ago, has resulted in around 18 Indians being stranded in areas near the Russia-Ukraine border. Some Indians in Ukraine alleged that they were conned into joining the Russian army after being recruited as "army helpers" but later had their passports confiscated and were forced into fighting. However, an official at the Russian Ministry of Defence stated that about 100 Indians had been recruited with full consent and were informed about the risks. It was also further claimed that the workers were paid for their service. For more information, see [here](#).



pushes the boundaries towards a more ecocentric approach. This program is an initiative within the UN General Assembly, reflecting the collective voice of member states promoting best practices and encouraging countries to move towards a more sustainable future, but the program doesn't create legally enforceable obligations for countries. Rather, it encourages dialogue among UN members, experts, and stakeholders.

Climate change is the single biggest natural threat to human existence and tackling it should be our foremost responsibility. The current paradigm of international environmental law is clearly inadequate and research shows that it will benefit from a diverging approach. While Rights of Nature is a promising approach, a significant amount of research is still required to effectively implement the same under the framework of international law as ecocentrism is a relatively new concept and it clashes with the fundamental concept of anthropocentrism which is the base of current environmental law. Additionally, enforcement of international law has always been a challenge and granting rights to natural entities

would require constant supervision and enforcement by interested parties which may be detrimental to the sovereign state's interests. Further, in order to implement this concept effectively, the current understanding of the use of force will also have to be reconfigured as this concept will require a different interpretation of force and subsequent remedies, and defences.

In conclusion, we need to make it our topmost priority to address climate change and the Rights of Nature approach seems to be a possible and effective alternative to the current paradigm. Thus, we need to explore possible avenues of rapid implementation by way of treaties and push the conservation of intrinsic value to the highest priority amongst stakeholders which, in turn, will spark further research and interdisciplinary collaboration.

Transboundary Water Management - An Analysis
- Harshita Tandon (I B.A.LL.B.)

Transboundary waters refer to the aquifers, lakes, and river basins shared by two or more countries. About 60% of the world's freshwater flows account for

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The European Court of Human Rights has ruled that Hungarian authorities' refusal of a citizen's request to end his life by physician-assisted death doesn't violate the European Convention on Human Rights. The case started with Daniel Karsai's request to have access to medical suicide after being diagnosed with an incurable motor neurone disease that causes the gradual loss of voluntary control of muscles, including respiratory muscles. This eventually leads to death, which occurs within three to five years, because of respiratory muscle paralysis. Karsai asked national authorities to have access to medically assisted suicide before reaching an advanced stage of the disease. However, Hungarian law criminalizes helping someone to end their life and anyone who offers assistance in Hungary or abroad could face criminal prosecution. For more information see [here](#).



transboundary waters. This prompts an evaluation of transboundary water management in the current times and a discussion on the reasonable use of shared water resources, environmental protection; and management during exceptional circumstances, such as droughts and floods.

There exists an expanding global institutional framework for the management of international transboundary waters. International laws on transboundary water management include agreements between basin states, like the Ganges Water Treaty (1996), regional legal frameworks, like the Southern African Development Community (SADC) 2000, and customary international law such as the 1997 United Nations Watercourses Convention. These laws form the basis of the rights and responsibilities of states with regard to transboundary watercourses. Their implementation may through national (state departments) or special multi-country joint entities (Amazon Cooperation Treaty Organization). Other practices that are essential to maintaining cooperative relationships among

nations sharing common water resources may include, and are not limited to, joint management institutions, regular consultations, and data sharing related to water quantity, quality, and ecosystem health.

There also exist several international principles for managing transboundary water resources. The No Significant Harm principle holds that the states must ensure that their use of shared water resources does not cause significant harm to other riparian states. Additionally, the principle of cooperation and information exchange underscores the importance of the punctual exchange of data and information about the watercourse for its efficient management. These principles are also present in the Indus Waters Treaty (IWT), 1960, where two conflicting nations, India and Pakistan came up with a largely successful arrangement which was mediated by the World Bank. It allocates the waters of the Indus River and its tributaries between the two countries. It has also established a Permanent Indus Commission for dispute resolution. Despite ongoing political tensions between the states, the treaty has persisted as a

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The Court of Justice of the European Union ordered Hungary to pay the European Commission a lump sum of €200 million and a penalty payment of €1 million per day of delay due to noncompliance with a previous asylum and migration judgment. This decision follows 2020's Commission v. Hungary, in which the court ruled that the country had failed to fulfill its obligations regarding the provision of international protection and the removal of third-country nationals staying illegally. For more information, see here.



framework for cooperation and conflict resolution.

For instance, there was the controversy surrounding the construction of the Baglihar Dam on the Chenab River in India which was settled on the basis of the IWT, where Pakistan argued that the project violated the treaty. This led to the appointment of a Neutral Expert, Professor Raymond Lafitte. In 2007, the Neutral Expert decided to allow India to proceed with the construction of the dam but required modifications to its design, such as reducing its height and spillways. Both countries accepted this decision, demonstrating the strength of the IWT in conflict resolution. At the macro level, the Baglihar case reinforced the importance of treaties in international law in managing transboundary water resources.

Other obstacles to cross-border water management include competing national interests, different legal and institutional structures, and varying technical and financial capacities. It is important to bear in mind that what one country does has an impact on another. This can be illustrated through the Mekong

River conflict. Here, the construction of an upstream dam and the extraction of water in China has resulted in decreased water flow and increased pollution downstream. This has severely impacted agricultural fields, fisheries, and the overall biodiversity of Laos, Cambodia, Vietnam, and Thailand.

Presently, transboundary water resources are under multiple growing pressures. Water allocation schemes may no longer reasonably be based on a stationary setting with fixed rules and permanent quotas of water. In these times, adaptive management of transboundary waters has become very important. Some of these measures include flexibility of water allocation arrangements, adaptive capacity in transboundary water allocation agreements, and drought and flood management as adaptive allocation.

The management of transboundary waters is critical for sustainability and regional cooperation. Synergic legal frameworks, such as treaties and international principles, are essential in mitigating conflicts arising due to the multi-state

Upcoming Activities

Online Symposium on 'Futureproofing Human Rights, Developing Thicker Forms of Accountability':

This symposium is on 18 June 2024 and it aims to strengthen human rights law by identifying means or mechanisms that ensure a thicker form of accountability that it can face up to current social challenges. This ambition is rooted in the disconnect between the formal legal system and the lived experiences of those who suffer harms that could logically be – but are not (yet) – understood as a human rights violation. The overarching question that is going to be asked is: "How can thicker accountability for human rights violations be achieved, so as to ensure better human rights protection in line with the everyday experience of rights holders?" For more information, see here.



ownership of these water bodies. The current academic discourse calls for Integrated Water Resources Management (IWRM) and other adaptive frameworks to address the changing dynamics of water governance. Despite the challenges of conflicting interests, varying capacities, and political relationships of the nations, successful examples demonstrate the efficacy of international treaties in addressing disputes and fostering cooperation. Maintaining dialogue, adapting existing legal frameworks to resolve differences, and adhering to international principles are vital for ensuring equitable and sustainable transboundary water management.

Upcoming Activities

SAIELN Fourth Biennial Conference: The South Asia International Economic Law Network:

The conference will take place on 16-18 December 2024 in Colombo, Sri Lanka, in collaboration with the Open University of Sri Lanka. The Fourth Biennial Conference will be held in person and aims to provide a platform for experts, policymakers, lawyers, academics, economists, and grassroots level actors to exchange views on the multifaceted challenges and innovative legal and policy solutions to further “local” approaches to IEL. For more information, see [here](#).

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