Involuntary Environmental Migrants’ Non-protection in the International Milieu: 

The Case Study of Climate Change-Induced Displacement

Master’s Thesis

Bc. Katarína Šrámková

Supervisor: JUDr. Mgr. Ivo Pospíšil, Ph. D.
UČO: 107517
Study Field: International Relations
Year of Enrolment: 2006

Brno, 2009
“Like many birds, but unlike many animals, humans are a migratory species. Indeed, migration is as old as humanity itself. Of this fact there is no better proof than the spread of human beings to all corners of the earth from their initial ecological niche in sub-Saharan Africa” (Davis 1974: 53).
Abstract

This work investigates whether existing international system takes forced environmental migration phenomenon into account, and whether its mechanisms provide forced environmental migrants with appropriate protection. The research has been conducted in the particular context of slow-onset environmental degradation – the current anthropogenic climate change. To be more specific, the climate change-induced human displacement has been observed in and from Bangladesh, from Tuvalu, and within the Arctic zone. After demonstration of the realness of involuntary human displacement due to environmental disruption, the examination of international legal and institutional frameworks’ accuracy with regard to forced environmental migrants’ protection follows. The enquiry shows that there is significant international legal and institutional lacuna which results into non-protection of forced environmental migrants. Indeed, the mechanisms of the international system initially designed to provide forced politically persecuted migrants with effective protection remain rather conservative. This means that no other involuntary migrants than conventional refugees classify for protection under the current international law. Consequently, there are no appropriate mandatory institutions which would deal with forced environmental migrants’ protection and assistance either. In these circumstances, reconceptualisation of the refugee system in line with human rights is suggested. A protocol broadening the term “persecution” is proposed as a concrete instrument for the refugee regime updating. In a newly designed international protection framework, forced migration is suggested to be approached as continuum. Two criteria would be decisive then for deciding whether a migrant deserves international community’s protection or not – involuntariness of migrant’s displacement and migrant’s vulnerability (in human rights terms). In general, the human rights-based refugee policy would be oriented less towards the cause of the need to flee than towards the actual need itself. Finally some propositions how to emphasise human rights within the international climate policy are also made.

Key words

At this place, I would like to thank my supervisor JUDr. Mgr. Ivo Pospíšil, Ph.D. for his guidance, advice and encouragement throughout the research and the writing of my Master’s thesis.

I would like to thank also my dear family and my friends Anicka, Mata, Ivana for their support and useful comments.

I hereby declare that I wrote the submitted work “Involuntary Environmental Migrants’ Non-protection in the International Milieu: The Case Study of Climate Change-Induced Displacement” on my own, and that the only data and sources I used are mentioned in the thesis.

Brno, 22 November 2009

........................................
Katarina Šrámková
# Table of Contents

Abbreviations and Acronyms ........................................................................................................ 6
List of Tables, Figures and Boxes .................................................................................................... 8
Introduction ........................................................................................................................................ 9

1. Involuntary Environmental Migration Due to Global Climate Change: Myth or Reality? .............................................................. 13
   1.1. Conceptual Framework and “Labels” .................................................................................. 13
   1.1.1. Involuntary Environmental Migration ......................................................................... 13
   1.1.2. Current Anthropogenic Climate Change and Its Impacts ........................................... 20
   1.2. Climate Change-Induced Migrations: Far from Fairy Tales .......................................... 25
      1.2.1. Bangladesh .................................................................................................................. 26
      1.2.2. Tuvalu .......................................................................................................................... 29
      1.2.3. Inuit people .................................................................................................................. 32

2. Involuntary Environmental Migrants Due to Global Climate Change Currently Unprotected within the International Milieu: ......................................................... 35
   2.1. Involuntary Environmental Migrants and the International Law Matrix: Labels Matter. .......................................................................................... 35
      2.1.1. International Refugee Law and Involuntary Environmental Migrants ......................... 38
      2.1.2. Human Rights and Involuntary Environmental Migrants ........................................... 43
      2.1.3. International Environmental Law, Sustainable Development and Involuntary Environmental Migrants .................................................................................................................. 48
   2.2. Does Current International Institutional Framework Reflect the Reality? ....................... 51
      2.2.1. UNHCR’s job? .............................................................................................................. 51
      2.2.2. UNFCCC’s fair and sustainable “microworld”? ........................................................... 54

3. Human Rights – Based Policy towards Involuntary Environmental Migrants as an Alternative .......................................................................................................................... 58
   3.1. Possible “ways out” .............................................................................................................. 58
      3.1.1. A different Refugee Convention interpretation ........................................................... 60
      3.1.2. Refugee Convention amending .................................................................................... 62
      3.1.3. New Treaty ................................................................................................................... 64
   3.2. Human rights-based move forward ..................................................................................... 70
      3.2.1. Human rights-based upgrading of the refugee regime ................................................ 70
      3.2.2. Climate policy in line with human rights concept ....................................................... 75

Conclusion ....................................................................................................................................... 80
Bibliography .................................................................................................................................... 84
### Abbreviations and Acronyms

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACIA</td>
<td>Arctic Climate Impact Assessment</td>
</tr>
<tr>
<td>CAT</td>
<td>Convention against torture and other cruel, inhuman or degrading treatment or punishment</td>
</tr>
<tr>
<td>CDM</td>
<td>Clean Development Mechanism</td>
</tr>
<tr>
<td>CE</td>
<td>Council of Europe</td>
</tr>
<tr>
<td>CIA</td>
<td>Central Intelligence Agency</td>
</tr>
<tr>
<td>CoP</td>
<td>Conferences of Parties to UNFCCC</td>
</tr>
<tr>
<td>EACH-FOR</td>
<td>Environmental Change and Forced Migration Scenarios</td>
</tr>
<tr>
<td>ECE</td>
<td>Economic Commission for Europe</td>
</tr>
<tr>
<td>ECHR</td>
<td>European Convention of Human Rights and Fundamental Freedoms</td>
</tr>
<tr>
<td>ECtHR</td>
<td>European Court of Human Rights</td>
</tr>
<tr>
<td>EDP</td>
<td>Environmentally Displaced Person</td>
</tr>
<tr>
<td>ERTB</td>
<td>Environmental Refugee-To-Be</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>FMO</td>
<td>Forced Migration Online</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
</tr>
<tr>
<td>IDP</td>
<td>Internally Displaced Person</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organisation for Migration</td>
</tr>
<tr>
<td>IPCC</td>
<td>Intergovernmental Panel on Climate Change</td>
</tr>
<tr>
<td>IRIN</td>
<td>International Regional Information Network</td>
</tr>
<tr>
<td>LiSER</td>
<td>Living Space for Environmental Refugees</td>
</tr>
<tr>
<td>NASA</td>
<td>National Aeronautics and Space Administration</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organisation</td>
</tr>
<tr>
<td>OAS</td>
<td>Organisation of American States</td>
</tr>
<tr>
<td>OAU</td>
<td>Organisation of African Unity</td>
</tr>
<tr>
<td>RMMRU</td>
<td>Refugee and Migratory Movements Research Unit</td>
</tr>
<tr>
<td>UDHR</td>
<td>United Nations Universal Declaration of Human Rights</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
</tbody>
</table>
UNDP  United Nations Development Programme
UNEP  United Nations Environmental Programme
UNFCCC United Nations Framework Convention on Climate Change
UNFP  United Nations Population Fund
UNGA  United Nations General Assembly
UNHR  United Nations High Commissioner for Refugees
UNU-EHS UNU Institute for Environment and Human Security
WB    World Bank
WCED  World Commission on Environment and Development
WHO   World Health Organisation
WMO   World Meteorological Organisation
List of Tables, Figures and Boxes

Table 1: Estimated Impact of Environmental Factors on Population Movements. 18
Table 2: People Affected by Natural Disasters 1980-1990. 19
Table 3: Climate-related impacts, vulnerable areas and sectors in Bangladesh. 27
Table 4: Climate change and vulnerabilities in different sectors in Tuvalu. 31

Box 1: Globally recognised “labels” used to define forced displacement - “refugees” and “internally displaced persons”. 15
Box 2: Typology of phenomena and events relating to the environment that may lead to the migration. 18
Box 3: Regional Adverse Impacts of the current climate change. 24
Box 4: Labels’ discourse due to the lack of precise definition of environmental migrant/refugee. 36
Box 5: The United Nations High Commissioner for Refugees. 39
Box 6: Human security concept. 48
Box 7: Key jargon in the climate change policy. 57
Box 8: The Kyoto Protocol. 57
Box 9: Adaptation funds established under the Kyoto-based climate policy. 79

Figure 1: Natural Disasters 1950 – 2006. 19
Introduction

The submitted work “Involuntary Environmental Migrants’ Non-protection in the International Milieu: The Case Study of Climate Change-Induced Displacement” aspires to demonstrate that in current international relations we actually do not take into account existence of persons who have to displace because of environmental degradation. This results in serious omission and violation of the human rights commitments by the whole international community and individual state actors. In other words, we attempt to prove the hypothesis that: The current international system and its mechanisms omit the phenomenon of forced human displacement due to the environmental degradation and consequently, forced environmental migrants are not provided with adequate protection in the international milieu.

We actually examine the inaccuracy of the existing international legal and institutional framework with regard to forced environmental migration in the particular context of the current anthropogenic climate change.

The choice of this, in Czech milieu rather controversially perceived environmental disruption as a case study is on purpose. The reason is that we believe that global warming despite the uncertainties about its exact future development and scope (which are due to the complexity of the involved processes) represents one of the main challenges for humanity in general.

In fact, we have already dealt with relevance of climate change impacts for the international human rights commitments in our previous work “Climate change and Human Rights: Climate change as an equity issue” written at The Perelman Centre of the Legal Philosophy of the Free University of Brussels within the European Master Programme in Human Rights and Democratisation. The actual thesis represents thus an attempt to further develop acquired knowledge on the climate change and human rights issue. At the same time, we focus now on a specific problem within the issue.

We consider the topic of climate change and its impacts to be relevant for the research within the international relations. This is because as a form of global man-made environmental degradation, current climate change has not only far reaching environmental, but also socioeconomic and political consequences. Indeed, no international, by no means a global affair can be solved at the national level. Last but not least, the reason why we deal with the global warming is the approaching end of the Kyoto Protocol-based climate policy in 2012 and the related intense political negotiations on future nature of the international climate
policy regime. Thus, in our opinion, there is a unique opportunity to contribute to shaping the climate policy in favour of the forced environmental migrants right now.

Our critical analysis of the status quo of the international system and its mechanisms should highlight the urgent need to provide forced environmental migrants with effective international protection and assistance. This demands institutional and legal reforms which cannot be done without sufficient political willingness. Consequently, the very first purpose of this work is not to find the ways to hold individual states accountable for the international (human rights) law omission or violation. The purpose is rather to propose concrete legal and institutional reforms which would foster the international protection of those who have been forced to migrate because of the environmental degradation; either within or across national borders.

Another reason why we have decided to write this work is our disappointment with the current prevalent negative perception of the migration phenomenon. Generally, migration has been seen as part of human history from the earliest times until recently. Indeed, it was not seen as a central public or political issue until late 1980s. It was only at that time when the international (not the internal) migration became “a hot topic” and began to gain high-level attention (Castles- Miller 1998: 5-8). The increasing racism and anti-immigration extreme-right movements from the 1980s led some politicians and decision-makers to perceive the immigration as a threat to the public order, social cohesion and national interests (Marfleet 2006: 154-158). This resulted into the restrictive political and legal measures on the migration; both at the national and international level (Castles-Crawley- Loughna 2003: 3).

Further, we are persuaded that the forced environmental migration and forced environmental migrants’ protection issues likewise the human rights discourse and climate change phenomenon are interrelated topics which must be addressed simultaneously in today’s international relations research if the international relations seek to be a dynamic social science reflecting contemporary socioeconomic and political world events in their complexity. Moreover, all mentioned subjects have a common denominator – the human security which, without any doubt, has formed an integral part of the international relations research since the Second World War atrocities.

In fact, the general framework for the environmental migration is in its very formative stadium. Therefore we believe that this study could be contributive to this particular research area of the international relations.
In our work, the international law obviously plays an important role as it is via the international law that such phenomena as human migration and migrants’ protection are instrumented within the international relations.

Regarding the structure of the work, exactly because of the very formative stadium of the research on the forced environmental displacement, first of all, we had to settle a conceptual framework and to clear up the definitions in the first chapter. As there are no generally agreed “labels” within the debate, we approach the topic through the classification of the forced movement according to the type of the environmental degradation due to which the migration has been undertaken. Besides, we introduce established definitions of the refugees and the internally displaced persons (IDPs) as well as some relevant working definitions related to the forced environmental migration. We also present some basic notions and data on the current anthropogenic climate change. Further, we observe in case of three concrete case studies the negative impacts of the global warming on vulnerable populations in climate change-sensitive places and how these are connected with the involuntary human displacement. To be more specific, we examine the climate change-induced migration of Bangladeshi population, Tuvalu population and Inuit population in the Arctic zone. Although the choice of the case studies is necessarily subjective, these case studies have not been chosen randomly. All studied areas belong to the most global warming exposed environments, thus, they allow us to find out whether the environmental change can be one of the decisive “push” factors of the forced international and/or internal migration. Indeed, we look at how the environmental factors influence the socioeconomic ones. This is because we believe that the environmental change correlates with the socioeconomic conditions and vulnerability, both elements crucial for determining whether one leaves or stays. Further, the Bangladeshi and the Inuit case studies clearly show that the forced environmental migration happens within the state borders too. Thus, it reminds the problem of the insufficient protection of the IDPs within the international relations in general. The Tuvalu case study points out the problem of the unprecedented statelessness of the whole nation due to the environmental cause.

In the second chapter, we try to evaluate critically the international legal as well as the international institutional frameworks with regard to the non-protection of the involuntary environmental migrants within the international relations. Regarding the international law, we examine possible links between the forced environmental migrants’ protection and the international refugee, human rights and environmental laws. Afterwards, we do a brief analysis of the current international institutional framework’s appropriateness regarding the
forced environmental migration governance. That is to say, we study the refugee regime’s and
the climate policy regime’s institutions suitability for forced environmental migrants’
protection.

In the final chapter, we deal with the possible ways out from the current *status quo*. We
come up with a human rights-based proposal on how to ensure involuntary environmental
migrants with appropriate protection and assistance within the international milieu. Referring
to the case studies, we take into account both, international and internal displacement of
people due to the environmental causes; either sudden or slow-onset. Our suggestion is to
reconceptualise the refugee regime through a protocol to the Refugee Convention. This
protocol would broaden the conventional protection scope by reinterpreting “persecution” in
line with human rights principles. Before we introduce this option, we naturally evaluate other
suggestions on how to bring the forced environmental migrants’ protection into the
international relations. Namely, we look at the following propositions: a different 1951
Refugee Convention interpretation, the Refugee Convention amendment, and a new treaty
adoption.

Finally, we would like to say few words on the methodology of our critical analysis. The very
first step was investigation on the sources available on the topic. As it has already
been mentioned, the forced environmental migration is rather a new area of the research
within the international relations. Thus, there are not many relevant studies elaborated on the
subject yet. Neither there are databases available which track force environmental migration
in detail. Indeed, it is often emphasised in the existing literature that further research is
needed. Actually, we have worked mainly with secondary sources, but not solely. Together
with academic books and articles in either paper or electronic form, we have used also the
primary sources, such as international policy and international legal documents. After having
selected, analysed and evaluated the found information and data, we attempted to build upon
them our proper argumentation and conclusion on whether our hypothesis is valid or not.
Consequently, we suggested how the examined problem could be addressed.
1. Involuntary Environmental Migration Due to Global Climate Change: Myth or Reality?

The number of foreign-born persons enumerated worldwide grew substantially from about 75 million in 1965 to about 120 million in 1990 and 150 million in 2000 (Zlotnik 1998: 432). Of the migrant population at the dawn of the twenty-first century, about 120 million were “voluntary”, propelled by economic necessity and opportunity; the remaining 30 million were “forced” migrants, of whom about 20 million were formally recognized as “refugees” (in Zolberg 2006: 232).

We believe that among above mentioned 10 million of forced migrants who have not been recognised as “refugees” might be also those who had to flee because of environmental degradation.

International Federation of the Red Cross and Red Crescent Societies estimate that the number of people affected by natural disasters has tripled over the past decade to 2 billion (IRIN 2005). This number is approximately five times the number of people affected by the conflict over the past decade (Merheb 2006: 27). In fact, it is recognised that the number and the severity of the natural disasters is about to increase in the future, not exclusively but also as a result of the current climate change (IRIN 2005). Despite this, the forced movement of people due to the environmental degradation and disasters continues to be of the marginal attention within the international relations.

In the following opening chapter, we firstly conceptualise the issue of the involuntary environmental migration in general. Then we deal with this specific migration in the particular context of anthropogenic climate change. We introduce fundamental definitions and concepts.

1.1. Conceptual Framework and “Labels”

1.1.1. Involuntary Environmental Migration

Migration is a form of mobility. Normally, it is a movement from one administrative unit to another; either within the borders of a state or from one country to another. In the first case,
we speak about the internal migration, in the latter about the international migration (Kliot 2004: 76).

Speaking about the international migration we use the terms emigration and immigration; when speaking about the internal migration we use the terms “out-migration” and “in-migration” (Ibid.).

We usually classify migratory flows into following groups: internal and international migration, voluntary and involuntary migration, permanent and temporary migration (King 2008: 8). However, these categories are overlapping in reality. We should therefore avoid thinking on migration within closed, rigid categories. Indeed, we should try to understand the aspects of the concrete migratory flows in the most comprehensive way.

Regarding the causes of migration, no single cause is ever sufficient to explain why people decide to leave their home. Quite on the contrary, the whole cluster of economic, social, demographic, political and environmental factors must be analysed before answering the questions which are the decisive driving forces behind the migration (Castles 2002: 5). Nevertheless, despite this “causal matrix”, we believe that a clear distinction between migration resulting from a voluntary decision and that resulting from an external compulsion can be done.

The voluntary migration is characterised by deliberate decision to relocate usually made at the individual or at household level. On the other hand, migrants compelled to relocate by external forces are known either as “refugees”, or as “forced migrants” (Bates 2002: 467).

Forced (or involuntary) migration includes several legal and political categories. They involve people who have been forced to leave their homes and seek refuge elsewhere because of external constraints. Although in the public discourse we tend to label them all “refugees”, this category is a very narrow legal category (see Box 1). In fact, majority of involuntary migrants move for reasons not recognised by the international refugee regime, and many of them are displaced within the country of origin – they are named “internally displaced persons” (Castles - Crawley - Loughna 2003: 5)¹ (see Box 1).

¹ It is estimated that there are as many as 191 million migrants today; 23.7 million of these are internally displaced people and 8.4 million are refugees (Bogardi et al. 2007: 16).
Box 1: Globally recognised “labels” used to define forced displacement - “refugees” and “internally displaced persons”.

**Refugees** are in international law defined by the 1951 *United Nations Convention Relating to the Status of Refugees* and its 1967 *Protocol Relating to the Status of Refugees* as persons forced to flee across an international border because of “a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion”. The condition to be recognized as a refugee is that the person “is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable, or owing to such fear, unwilling to return to it” (UNHCR 2007b).

**Internally Displaced Persons (IDPs)** are according to *Guiding Principles on Internal Displacement* “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.” (UNCHR 1998: Art.2 para.2).

The statement that the environmental factors influence migration and that the migrants shape their environments throughout the whole human history all over the world seems simple and obvious. However, there is a dynamic and a very complex relationship behind this evidence (Wood 2001: 42).

As anthropologist Kathy Sawyer mentions in her article, according to some estimation, *homo erectus* ancestors may have migrated out of Africa and into Asia as long as two million years ago (2004). Firstly, the simple tools they brought helped them make the unknown environment habitable. Later on, ironically, undertaken development and modernisation often made the environment uninhabitable; usually because of the overexploitation of the local natural resources *(Ibid.)*.

Thus, in the far history, it was environmental degradation which made our ancestors to move on. The question we are dealing with in this chapter is whether the environmental degradation can still play a key role in migration in our times? More specifically, we make enquiries on the involuntary migration induced by the climate change impacts.

Although there is a growing international concern about the environmental degradation from the 1980s, until recently little attention has been paid to the impacts of changing environmental conditions on migrants. Traditionally ecological “push factors”,
while associated with “primitive” migrants have been treated as largely irrelevant to economics-driven “modern” migrations (Wood 2001: 44).

Still, we argue that even within the complex interaction process of environmental variables with economic, political, cultural, demographic and social factors, the environmental change can be, under certain circumstances, identified as a root cause of involuntary migration. Indeed, speaking about environmental forced migrants, authors usually point to rapid population growth, poverty, shortage of nature resources and their degradation as the main causal forces of the displacement (Kliot 2004: 70).

We are aware of the fact that the same environment might affect the individuals living in this environment quite differently. This is because one’s vulnerability depends not only on the measure of his/her exposition to the negative aspects resulting from the environmental degradation but also on his/her socioeconomic status. Persons at the socioeconomic margin are more vulnerable than the wealthier rest of the society as they lack the capacities to adapt to the hostile environmental transformation (UNDP 2007). As the case studies illustrate, in addition to income and community services, nature is another important source of livelihood especially for the people who relies on direct access to the fields, forests, pastures and waters (UNDP 1998: 80). In this context, the difference between rural and urban population has to be pointed out.

Recent poverty assessments have indicated the world’s poor as those living in rural areas with a quality of life lagging far behind those living in urban areas (WB 2001). When studying the rural poverty, we can identify six categories of rural populations at the greatest risk of poverty: small farmers, the landless, nomads/pastoralists, ethnic/indigenous groups, those reliant on small/artisanal fisheries (De Coninck – Kok 2004: 8). For such people, living in a process of unmediated exchange with nature, the stability and regular functioning

---

2 For example, A. Sen has shown that famines, such as those of north-eastern Africa in recent decades, can be as much the consequence of social, political and economic inequalities that affect access to food, as they are inadequate rainfall or changes in precipitation (Sen 1999).

3 The link between the poverty and the environmental degradation can be demonstrated, for instance, on the health indicators such as the infant mortality rates (Wood 2001: 50).

4 These categories are not clear cut. On contrary, many poor rural populations fall into more than one category (De Coninck – Kok 2004: 22).
of the ecosystem are preconditions for survival. If otherwise, these people become yet poorer and/or are forced to leave\(^5\).

Our main argument a propos the environmentally-induced migration is actually very straightforward. We agree with the US State Department geographer William B. Wood that if concrete environment drastically changes, an organism that has successfully adapted to a particular ecological niche either readapts, relocates to a similar niche elsewhere, or dies out (Wood 2001: 45). Consequently, even though migration is usually a very last form of adaptation to an environmental change, it is also a very natural form of adaptation. (Notwithstanding the fact that this affirmation is currently rather unpopular among the responsible decision-makers within the national and international politics.)

So far, there is no generally accepted definition and no one agreed typology upon environmentally-induced migrants or refugees in the current international milieu. All we can find are working definitions of environmentally induced migration. For instance, IOM’s working definition is: “Environmental migrants are persons or groups of persons who, for compelling 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” (Brown 2008: 15) (for other working definitions see Box 4).

In our work, we use the term “involuntary/ forced environmental migration”.

Despite the lack of the consent over the definition and concept of the forced environmental migration we can still classify the events and the processes relating to the environmental degradation that may lead to the human migration (see Box 2 and Table 1).

In this study we deal with forced human movement due to two categories of environmental degradation, which are in fact correlated: the long-term/ gradual environmental degradation and the sudden/ so called “natural” disasters (see Table 2 and Figure 1). More specifically, we focus on the migration induced by the current man-made climate change and sudden “natural” extreme events resulting from this gradual environmental degradation.

Finally, we take into account both, the international/ cross-border and the internal migration. As we accentuate the human rights-based approach towards environmentally induced migration, we think that people who become IDPs due to the global environmental degradation impacts such as those of the current anthropogenic climate change should be

---

\(^5\) Ever-increasing numbers of “third world” population residing in rural areas are moving to the urban areas. The reason is the problem with two most critical natural resources – water and arable farmland (Wood 2001: 50).
guaranteed the same measure of the protection as refugees. Actually, the definitions with respect to the environmentally displaced persons generally do not tend to distinguish whether these migrating or fleeing persons have crossed the state borders (Bogardi et al. 2007: 13). According to several sources, the majority of people displaced due to the climate change will likely stay within their own countries (Brown 2008: 14, Boano – Morris – Zetter 2008: 11, Black et al. 2008).

Box 2: Typology of phenomena and events relating to the environment that may lead to the migration. Source: Kolmannskog (ed.) 2008: 8.

| Phenomena and events relating to the environment that may lead to the migration: |
| 1. sudden natural disasters |
| 2. gradual environmental degradation/ slow-onset disasters |
| 3. environmental conflicts |
| 4. environmental destruction as a consequence of or as a weapon in armed conflicts |
| 5. environment conservation |
| 6. development projects (such as dam construction) |
| 7. industrial accidents (such as Bhopal and Chernobyl) |

Further distinction and subcategories:

A. human-made or natural change
B. climate change-induced or all environmental change
C. temporary or permanent
D. temporary or permanent migration
E. internal or international/ cross-border migration

Table 1: Estimated Impact of Environmental Factors on Population Movements. Source: Masters 2000: 863.

<table>
<thead>
<tr>
<th>Environmental Cause</th>
<th>Persons Affected per year</th>
<th>Migrants per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overuse of Resources</td>
<td>Over 1 billion</td>
<td>15 million</td>
</tr>
<tr>
<td>Natural Disasters</td>
<td>Up to 175 million</td>
<td>30 million</td>
</tr>
<tr>
<td>Development Projects</td>
<td>10 million</td>
<td>5 million</td>
</tr>
<tr>
<td>Industrial Activity</td>
<td>Under 2 million</td>
<td>Under 50,000</td>
</tr>
<tr>
<td>Industrial Accidents</td>
<td>Under 100,000</td>
<td>Under 50,000</td>
</tr>
<tr>
<td>Military Activity</td>
<td>Under 50,000</td>
<td>Under 10,000</td>
</tr>
</tbody>
</table>
Figure 1: Natural Disasters 1950 – 2006. Source: Hoeppe undated.


<table>
<thead>
<tr>
<th>Disaster</th>
<th>Approximate number affected (thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Droughts</td>
<td>952 200</td>
</tr>
<tr>
<td>Floods</td>
<td>524 600</td>
</tr>
<tr>
<td>Windstorms</td>
<td>150 300</td>
</tr>
<tr>
<td>Earthquakes</td>
<td>28 400</td>
</tr>
<tr>
<td>Landslides</td>
<td>3 100</td>
</tr>
<tr>
<td>Volcanic eruptions</td>
<td>620</td>
</tr>
<tr>
<td>Wildfires</td>
<td>610</td>
</tr>
<tr>
<td>Tsunami</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1 659 831</strong></td>
</tr>
</tbody>
</table>
1.1.2. Current Anthropogenic Climate Change and Its Impacts

“Real knowledge is to know the extent of one’s ignorance” (cit. Confucius in Trouwborst 2002: 1).

In this subchapter we introduce current global anthropogenic climate change phenomenon (hereafter also referred to as “climate change”) in general, so that we can afterwards observe its correlation with human migration in particular.

Current climate change, called also “global warming”\(^{6}\), makes part of long-term, slow-onset gradual environmental degradations. Nevertheless, as the slow-onset environmental degradations exacerbate the speed as well as the adverse effects of the sudden “natural” disasters (Jacobson 1988: 20), we speak about the global warming also in the context of sudden natural disruptions.

The issue of current global climate change is very sensitive, not only scientifically but also politically. That is because of its present and future environmental and socioeconomic consequences as well as the uncertainty about the details on future development of the phenomenon (Kuntz-Duriseti – Schneider 2002: 56). As Robert Henson says in his book *The Rough Guide to Climate Change*, the uncertainty has actually played in both direction of the political realism – there are those calling for the actions stressing the precautionary principle and pointing out that many areas of the life require acting under the uncertainty; on the other hand, there are so called “sceptics” who use the uncertainty as argument for either postponing or no action at all (2008: 5 - 6).

At this place, we intend to refer to some authorities, first of all, but not exclusively, to the Intergovernmental Panel on Climate Change (hereafter *IPCC*) saying that global warming is real and that proactive policy is indispensable. Nevertheless, we consider being indispensable to address sceptic views on anthropogenic climate change as well.

---

\(^{6}\) In 1975 Wallace Broecker from the New York’s Observatory published in *Science* an article entitled “Climatic Change: Are We on the Brink of a Pronounced Global Warming?” By the early 1980s the term “global warming” without the “a” became established among scientists. At the same time, it also became standard shorthand among media and public. On the other hand, as not the whole planet is warming, many scientists and scholars prefer the term “global climate change”. They thus avoid possible misinterpretation of the phenomenon as of a uniform one. In fact, the warming is not equal everywhere on the Earth, although the Earth, on average, warms up. Moreover, some authors recently prefer speaking about “global heating” to imply human involvement in what is going on (Henson 2008: 6).
At the beginning, we would like to introduce the IPCC institution. In 1988 the World Meteorological Organisation (hereafter WMO) and the United Nations Environment Programme (hereafter UNEP) jointly set up the IPCC. According to the official mandate, Panel should provide the decision-makers and others interested in climate change with an objective source of information about climate change (IPCC).

The IPCC actually does not conduct any research itself. Its role is purely “to assess on a comprehensive, objective, open and transparent basis the latest scientific, technical and socio-economic literature produced worldwide relevant to the understanding of the risk of human-induced climate change, its observed and projected impacts and options for adaptation and mitigation” (IPCC [emphasis added]). The establishment of the IPCC is generally perceived as an expression of the reached consent within the scientific community regarding the presence and the severity of the man-made climate change (Sciama 2006: 52, Kemp 2002: 554, Henson 2008: 250). Indeed, Panel’s four major assessments (released in 1990, 1995, 2001 and 2007) have served as principal reference on the state of climate science (Henson 2008: 287).

Key for this work is that we believe that the IPCC conclusion that current climate change is anthropogenic is scientifically correct. In fact, we refer mainly to data and observations from two last Panel’s assessment reports: The Third Assessment Report (IPCC 2001a) and The Fourth Assessment Report (IPCC 2007b).

The reason why we trust the IPCC assessments is that the main criticism of the IPCC does not actually concern its statement that climate change is caused by human activities. It regards mainly the “suspicious” consent which scientists reached and which is backed by (high) policy makers. For orthodox researchers, “scientific consensus” sounds, by definition, wrongly (Pearce 2005: 38). For them, nothing but Popper’s falsification paradigm counts.

According to some sceptics, the IPCC tries to shout down or ignore critics (MacRae 2008). We are certainly not in favour of any kind of “climate change censorship”. However, statements blaming the IPCC for unjustifiable constraining of “development”, prosperity or human freedoms do not represent for us very constructive criticism. Neither, we think that it is appropriate to speak about IPCC findings as incomplete and biased judgements. Actually, we do not believe that hundreds of scientists of different backgrounds (some nominated by the

7 For such a criticism is known also current Czech president Vaclav Klaus. See for example his speech held at the International Conference on Climate Change organized by conservative US think tank “Heartland Institute” in March 2008 in New York (Klaus 2008). Other known sceptics are, for instance, David Bellamy, Melanie Philips, S. Fred Singer, Peter Hitchens or Frederick Seitz (For more see Monbiot 2007: 20 - 42).
governments, other with NGO background) contributing to the IPCC reports would be willing to mislead global public by inventing an anthropogenic global warming “alarmist story”.

Indeed, neither, Bjorn Lomborg, probably the most known sceptical environmentalist on the global warming, says that the phenomenon does not happen. All he claims is that we should be critical when choosing climate policy’s pathway so that the solution won’t be more harmful than global warming itself: “Many of us fear inaction on global warming. But we should equally fear continuing down the perilous path of promising costly action that will either fail or be enacted […] We have within our grasp alternative policy options that would truly leave the planet in a better state” (Lomborg 2009).

Last, but not least, we would like to refer to some experts on climate who are independent on the IPCC, but whose findings are fully compatible with the IPCC’s conclusion that anthropogenic global warming occurs. Among these are: Melvin and Joan Lane Professor for Interdisciplinary Environmental Studies Stephen Henry Schneider, Benjamin F. Wissler Professor of Physics at Middlebury College Richard Wolfson, a palaeoclimatologist and Professor Emeritus at the University of Virginia William F.. Ruddiman, Distinguished Professor of Atmospheric and Climate Sciences Veerabhadran Ramanathan. In Czech milieu, we believe that it is worth to refer to two recognised climatologists – RNDr. Ladislav Metelka, PhD. and RNDr. Radim Tolasz, PhD. and their recent publication: “Klimatické změny: fakta bez mýtů” (2009). Other Czech climatologists stating that current climate change is scientifically proved are for instance, RNDr. Václav Cílek CSc. or RNDr. Ján Pretel CSc.

After having briefly clarified our position vis-a-vis IPCC and its conclusion that manmade global warming occurs, it is time to present the findings on climate change themselves.

First of all, writing about an area linked to climate change demands clarification of the term “climate change”. General definition given by the IPCC is: “a change in the state of the climate that can be identified (e.g. using statistical tests) by changes in the mean and/or the variability of its properties and that persists for an extended period, typically decades or longer. It refers to any change in climate over time, whether due to natural variability or as a result of human activity” (Hegerl et al. 2007: 667).

---

10 For more see Pretel 2006.
Further, for the purpose of this research, the “anthropogenic climate change”
definition is crucial. It is “a change of climate that is attributed directly or indirectly to
human activity that alters the composition of the global atmosphere and that is in addition to
natural climate variability observed over comparable time periods” (UN 1992: Art. (1)) 11.

As already mentioned, in this study, we refer to current climate change also as to
“global warming”. Today’s global warming is a phenomenon for the most of which human
activities for over the last 100 years are responsible (Hegerl et al. 2007: 667). It is caused by
increasing concentrations of greenhouse gases 12, wherein these trap the heat in the atmosphere
by preventing radiation from escaping into space (See Annex 1).

The overall result of the climate change is thus warming atmosphere. However, its
impacts, such as: increase in global average air and ocean temperatures, widespread melting
of snow and ice and rising global average sea level, are and will be various across the world
regions (Ibid.: 5 - 9 ). Indeed, some regions are likely to be particularly affected by climate
change not only in long-term horizon, but also currently. The reason is that global warming
leads to higher temperature extremes, greater extremes in rainfall intensity and greater
extremes in storm surges and coastal flooding (Mitchell et al. 2006: 2130). Among the most
sensitive areas are namely: the Arctic zone, Africa, Small Islands, Asian and African mega
deltas (IPCC 2007a). IPCC Fourth Assessment Report is actually very specific while
enumerating projected regional impacts. It looks in detail at climate change – related impacts
within these geographic groups: Africa, Asia, Australia and New Zealand, Europe, Latin
America, North America, Polar Regions and Small Islands (see Box 3).

---

11 For more about IPCC procedures rules see IPCC 1999.
12 Main greenhouse gases are: Carbon dioxide (CO₂), Methane (CH₄), Nitrous oxide (N₂O), Hydrofluorocarbons (HFCs), Perfluorocarbons (PFCs), Sulphur hexafluoride (SF₆) (UN 1997: Annex A). The main anthropogenic greenhouse gas - carbon dioxide (CO₂) is emitted mainly when fossil fuels, like coal and oil, are burned. Since the industrial revolution, fossil fuel use has risen sharply (IPCC 2007a).
Box 3: Regional Adverse Impacts of the current climate change. Source: IPCC 2007a.

<table>
<thead>
<tr>
<th>Region</th>
<th>Impacts</th>
</tr>
</thead>
</table>
| **Australia and New Zealand:** | - significant loss of biodiversity by 2020  
- intensified water security problems by 2030 in southern and eastern Australia, in New Zealand, in Northland and some eastern regions  
- increased droughts and fires  
- agriculture and forestry production decline in southern and eastern Australia and in eastern New Zealand |
| **Northern America:** | - decreased snowpack in western mountains  
- more winter flooding and reduced summer flows  
- heat waves intensity and frequency increase (important challenge for cities)  
- new threats for coastal communities |
| **Latin America:** | - increases in temperature and associated decreases in soil water leading to gradual replacement of tropical forest by savannah in eastern Amazonia by 2050  
- semi-arid vegetation replaced by arid-land vegetation  
- significant biodiversity loss through species extinction in tropes  
- crop and livestock productivity decline  
- malnutrition and food insecurity  
- changes in precipitation patterns and the disappearance of glaciers negatively affecting water |
| **Europe:** | - increased risk of inland flash floods and more frequent coastal floods  
- increased erosion, due to storminess and sea level rise  
- mountainous areas facing glacier retreat, reduced snow cover and extensive species losses (in some areas up to 60% by 2080)  
- southern Europe challenged by high temperatures, drought, water stress and crop productivity decline  
- increased health risks |
| **Asia:** | - freshwater availability decreased in Central, South, East and South-East Asia, particularly in larger river basins by 2050s  
- coastal areas, especially heavily populated megalocdelta regions in South, East and South-East Asia facing increased flooding (from the sea and from the rivers)  
- spreading of diarrhoeal disease in East, South and South-East Asia due to projected changes in the hydrological cycle |
| **Africa:** | - an increase of arid and semi-arid lands of 5-8% by 2080  
- sea level rise affecting coastal populations  
- 75 – 250 million of people exposed to increased water stress by 2020  
- restricted agricultural production, yields from rain-fed agriculture reduced by up to 50% in some African countries by 2020  
- food insecurity and exacerbated malnutrition |
1.2. **Climate Change-Induced Migrations: Far from Fairy Tales**

“There are well-founded fears that the number of people fleeing untenable environmental conditions may grow exponentially as the world experiences the effects of climate change. This new category of “refugees” needs to find its place in international agreements. We need to better anticipate support requirements, similar to those of people fleeing other unviable situations” (cit. Bogardi in Boano – Morris - Zetter 2008: 4).

Climatic changes inducing important environmental changes caused several important migratory flows as in the prehistory so in the recent past (McLeman – Smit 2006: 32 – 33, Boano 2008: 17). Some cases from the recent past are: migration of a considerable number of households during the large-scale famines due to the droughts of the 1980s in northern Ethiopia (Ezra 2001); a wide scale migration within the Central American region and to the United States of America in 1998 caused by a severe hurricane Mitch (Morris et al. 2002); displacement of some 1.5 million people by the Indian Ocean Tsunami in 2004 (Fehr et al. 2006: 6) or the largest displacement of Americans in the country’s history – 1.5 million displaced people in about 14 days because of the hurricane Katrina in 2005 (Grier: 2005).

The fourth IPCC assessment report from 2007 says that the population migration is likely to occur due to three climate change – induced phenomena: drought increases, intense tropical cyclone activity increases and increased incidence of extreme high sea level (IPCC 2007a).

As seen in the previous subchapter, there are some regions particularly exposed and sensitive to the climate change – induced environmental changes. In this work we analyse three concrete case studies from these the most vulnerable parts of the Earth. We look at what
effects environmental degradation has and most likely will have on the local population and whether this leads towards or/and foster involuntary migration. We focus mainly on how environmental factors contribute to migration through pressures on the livelihoods. In the analysis, we try to reflect the complexity of interlinks between environmental and socioeconomic factors. Indeed, we are aware of the fact that neither in the most vulnerable areas all people are equally vulnerable to the adverse effects of the climate change.

Last, but not least, in our work we do not speak about people, such as nomads, for whom migration due to (regular) natural environmental changes represents an inherent part of the lifestyle.

1.2.1. Bangladesh

Bangladesh with estimated population of 140 million and density of 948 inhabitants per sq. kilometre is not only one of the most populated countries in the world but it is also the most densely populated country in the world (UNFPA undated: About Bangladesh). At the same time, with the Human Poverty Index (HPI) value of 40.5 Bangladesh is one of the poorest states (UNDP 2007: 232). It ranks 93rd among 108 developing countries for which the index has been recently calculated (UNDP 2007: 254). According to the World Bank, 34% of Bangladeshi people live below the national poverty line (WB 2002: ii). The majority of Bangladeshi is dependent on agriculture and nearly three quarters live in rural areas (Climate Change Cell of Department of Environment of Government of the People’s Republic of Bangladesh 2007). Rural population is directly dependent on the environment; its stability and regular functioning. Thus Bangladesh belongs to places with the strongest link between environmental change and population movement.

Bangladesh is already facing too much water in monsoon and too little water in dry season. For instance, floods in August/September in 1988 affected as many as 48 million people (Kliot 2004: 79, 86) and floods in 1998 left 30 million homeless (RMMRU 2007). Yet, the situation is expected to aggravate as Bangladesh is projected to be one of the most negatively affected countries by climate change (UNDP 2007, Ahmed – Alam - Rahman 1999, Ali 1999, De Coninck - Kok (eds.) 2004). The reason why Bangladesh is prone to a multitude of climate change-related impacts are its geophysical location, hydrological influence by monsoon rainfall and regional water flow patterns (Thomalla et al. 2005: 5 - 6).
“Natural” disruptions caused by global warming which are projected to increasingly afflict Bangladesh are: prolonged and widespread drought and water scarcity in the north east, intensified and more frequent storm activity, exacerbated in coastal regions by rising sea levels, accelerated river bank erosion and more frequent flooding on account of intensified rainfall and (in short-term) upstream deglaciation, drainage congestion and deeper penetration of salinity in surface water, ground water and soils (Black 2008: 27) (for most impacted areas and sectors see Table 3). For instance, the OECD identifies as the key climate change impacts and vulnerabilities for Bangladeshi population the water and coastal resources (Agrawala et al. 2003: 6)

Table 3: Climate-related impacts, vulnerable areas and sectors in Bangladesh. Source: Rahman et al. 2007.

<table>
<thead>
<tr>
<th>Climate and Related Elements</th>
<th>Critical Vulnerable Areas</th>
<th>Most Impacted Sectors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temperature rise and drought</td>
<td>North-west</td>
<td>Agriculture</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Water</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Energy</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Health</td>
</tr>
<tr>
<td>Sea-level rise and salinity intrusion</td>
<td>Coastal</td>
<td>Agriculture (arable, fisheries, livestock)</td>
</tr>
<tr>
<td></td>
<td>Islands</td>
<td>Water (water logging, drinking water, urban)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Human settlement</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Energy</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Health</td>
</tr>
<tr>
<td>Floods</td>
<td>Central</td>
<td>Agriculture (arable, fisheries, livestock)</td>
</tr>
<tr>
<td></td>
<td>North-east</td>
<td>Water (urban, industry)</td>
</tr>
<tr>
<td></td>
<td>Char lands</td>
<td>Infrastructure</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Human settlement</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Health</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Energy</td>
</tr>
<tr>
<td>Cyclones and storm surges</td>
<td>Coastal and marine zones</td>
<td>Marine fishing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Infrastructure</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Human settlement</td>
</tr>
<tr>
<td>Drainage congestion</td>
<td>Coastal</td>
<td>Water (navigation)</td>
</tr>
<tr>
<td></td>
<td>Urban</td>
<td>Agriculture (arable)</td>
</tr>
</tbody>
</table>
The IPCC predicts that for 45 cm of sea level rise about 10 percent of the country will be inundated or that for a 1m sea level rise 21% of the country will end under the salt water (IPCC 2001b). Dealing with the environmentally-induced migration, it is important to accentuate that over two-thirds of densely populated country is actually less than 5 meters above sea-level (Agrawala et al. 2003: 14). Some estimation says that without an appropriate adaptation one meter rise in sea level could displace as many as 15 million people (Mimura – Nicholls – Topping 1995, UNEP/GRID – Arendal 2000) (See Annex 2).

In general, the whole Bangladesh will experience more food insecurity, water stress, health problems and energy insecurity. However, rural people from the coast with the majority of population’s income and livelihood dependant on climate-sensitive agriculture and fisheries are the first to face the negative consequences of global warming (Alam et al. 2007: 12).

Coastal Bangladesh with a population density of 738/km2, is home to 35 million people – over a quarter of the national population (Agrawala et al. 2003: 34). It covers 19 out of 64 districts facing, or in proximity to, the Bay of Bengal, encompassing 153 subdistricts thanas and exclusive economic zones (Islam 2006). In 12 of these districts, 51 thanas face a combination of cyclone risk, salinity and tidal water movement above critical levels and are designated as “exposed coast” (Ibid.) (See Annex 3, green areas). There is estimation that in the long run, sea level rise could displace tens of millions and to resettle 13 million of Bangladesh from the coast (Agrawala et al. 2003: 34).

Lives and livelihoods of Bangladeshi people living in low-lying coastal areas and the islands (chars) in rivers and estuaries are frequently threatened by flooding and extreme events, mainly tropical cyclones. Though, in general, the traditional lifestyle has been well adapted to the unique characteristics of the coastal areas (Islam 2006).

Ongoing climate change, inter alia promising Bangladesh sea level rise more than twice the predicted global rate, will affect coastal population’s livelihood and income resources so quickly and intensively that people’s capabilities to cope with them are far from being sufficient (Christian Aid 2006). Among the environmental disruptions on the Bangladeshi coast these are the most adverse: the longer/permanent inundation of agricultural

---

13 For example when in 2007 cyclone Sidr hit the southern coast of Bangladesh, 2000 people were killed and over 500 000 were displaced (Humanity First 2007).
lands, increased risk of cyclone damage and salinisation (Ahmed - Koudstaal – Werners 1999: 1). The reason is that they bring further flooding, storm surges and erosion, major constraints in fresh water availability, drainage congestion and food production (agriculture and fisheries), as well as intensified human health risks (such as malnutrition, cholera and other water borne and diarrhoeal diseases) (Ibid.). Indeed, considering the official indicators that the percentage of the coastal population living below the absolute poverty line is 52% (Islam 2006), we can estimate that the incapability of coastal inhabitants to adapt to degrading living conditions without displacement will persist and/ or worsen.

Finally, ongoing environmentally induced movement of Bangladeshi population, mainly from the coastal areas, is and most likely will stay rather out-migration than emigration. According to available data, so far, forced Bangladeshi migrants tend to stay within the region. They prefer returning “home” or relocating into the neighbouring village. Only if this short-distance displacement is not possible, they migrate further, usually to an urban area. Indeed, the emigration over the Bangladeshi borders triggered by environmental degradation is very limited (Black et al. 2008: 29 - 30).

### 1.2.2. Tuvalu

“We live in constant fear of the adverse impacts of climate change. For a coral atoll nation, sea level rise and more severe weather events loom as a growing threat to our entire population. The threat is real and serious, and is of no difference to a slow and insidious form of terrorism against us” (Saufatu Sopoanga, Prime Minister of Tuvalu: Tuvalu and Global Warming).

Tuvalu is a small island state consisting of nine coral atolls in the South Pacific Ocean (CIA). By population counting for 11 093 (WHO WPRO undated: Tuvalu), Tuvalu is actually the smallest member of the United Nations (CIA).\(^{14}\) Government revenues come mainly from the
sale of stamps, coins and the internet country suffix “.tv”\(^{15}\), issuing of fishing licenses and worker remittances and foreign aid (WHO WPRO undated: Tuvalu). Besides, Tuvalu’s primary economic activities remain subsistence farming and fisheries. Tuvalu’s socioeconomic system is a traditional community system wherein each family has its own tasks to perform for the community (such as fishing, house-building, defence etc.) \((Ibid.)\). Thus, the whole socioeconomic system of Tuvalu is closely tied to the island’s environmental system.

Due to the high population density - 427 people per sq. kilometre \((Ibid.)\) and country’s extremely low elevation - peak height is just 5 meters over the sea level (Schmidt 2005: A 607), Tuvalu makes part of the most vulnerable states to the adverse climate change impacts and extreme weather events (Barker 2008: 16).

Tuvaluans suffer from the unreliable supply of drinking water, poor land and the soil hardly usable for agriculture already nowadays (Aalbersberg.- Hay 1991). It is also true that there are several factors, such as overpopulation, insensitive construction (of roads, buildings, jetties along shorelines) or sand mining, which are gravely degrading Tuvalu’s environment (Connell 2003, Bogardi et al. 2007: 20). However, global warming is bringing yet another environmental pressure and is contributing to the shortage of the natural resources, mainly of the potable water (Barker 2008: 16).

According to current research, climate change inducing sea level rise, sea surface warming, and increased frequency and intensity of extreme weather events puts at risk even the long term ability of humans to inhabit low lying atolls (Adger - Barnett 2003: 321). Indeed, this is fully compatible with the IPCC’s conclusion that the destiny of the small reef islands on the rim of atolls is of special concern as the low-lying atolls are among key societal hotspots of coastal vulnerability, occurring where the stresses on natural systems coincide with the low human adaptive capacity and high exposure (Nicholls et al. 2007: 317) (see Table 4). In other words, under the significant sea level rise \textit{de facto} the whole Tuvalu population faces forced migrations.

\(^{15}\) The internet country suffix “.tv” had been attributed to Tuvalu by International Organisation of Standardisation. Its sale to an American Company “TV Corporation” has allowed Tuvalu to double its Gross Domestic Product what allowed Tuvalu to send a permanent representative to the United Nations putting forward the environmental migrants’ agenda there (Gemenne 2006: 10).
Table 4: Climate change and vulnerabilities in different sectors in Tuvalu. Source: Ministry of Natural Resources, Environment, Agriculture and Land of Tuvalu 2007: 19.

<table>
<thead>
<tr>
<th>Sectors</th>
<th>General or current conditions and stresses</th>
<th>Climate change stresses or risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coastal Zones</td>
<td>Vulnerable to overexploitation</td>
<td>Vulnerable to sea level rise and sea temperature change</td>
</tr>
<tr>
<td>Soils</td>
<td>Vulnerable to increasing waste dumping</td>
<td>Vulnerable to saltwater intrusion and salinisation</td>
</tr>
<tr>
<td>Water resources</td>
<td>Sewage and waste leachate contamination</td>
<td>Sea level rise and salinisation</td>
</tr>
<tr>
<td>Land and Marine</td>
<td>Over-harvesting</td>
<td>Sea level rise altering habitats</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Water shortage</td>
<td>Sea level rise and intrusion</td>
</tr>
<tr>
<td>Health</td>
<td>Overpopulation</td>
<td>Sea level rise and changing temperature</td>
</tr>
</tbody>
</table>

Tuvalu government has already reported unprecedented flooding and erosion as a result of current sea level rise (Ielemia 2009). Indeed, the representatives of the small island do not wait passively but attempts to prepare to deal with future sea-level rise. In this regard, crucial step was that Tuvalu joined the United Nations with a particular aim of advocating the international Kyoto protocol regime and discussing the options of immigration and protection for its future stateless nation.

Besides, the government of Tuvalu undertook the dialogues on the asylum with Australia and New Zealand. While Australian Department of Immigration and Citizenship has no scope to accept Tuvaluans under the current Australian policy, Immigration New Zealand Department decided to accept annually 75 Tuvalu citizens between 18-45 years through a newly established Pacific Access Category (hereafter *PAC*) (Bogardi et al. 2007: 20).¹⁶

¹⁶ PAC is an immigration arrangement proposed by New Zealand in 2001 following a request of Tuvalu, and agreed between the governments of Tuvalu, Fiji, Kiribati, Tonga and New Zealand. It enables environmental forced migrants displaced by the effects of climate change to move to a less vulnerable environment. Each country has been allocated a set quota of citizens who can be granted permanent residency in New Zealand each year. These migrants are selected on a random basis, through a raffle-drawing. However, there are some selection-criteria that Tuvaluans must meet in order to qualify under the PAC scheme: an age requirement (between 18 and 45), a minimum level of English language ability (assessed by immigration officers), an “acceptable” offer of employment in New Zealand (full-time), a minimum income requirement (NZS 24, 793 annually if accompanied by children), a requirement of health and character, the payment of a NZS 50 registration fee and a residence in the country of origin or in New Zealand (Gemenne 2006).
On the one hand, it seems there is certain link between extended New Zealander immigration offer to Tuvaluan residents and Tuvaluan emigration due to the intensifying adverse impacts of the climate change on the island. On the other hand, however, regarding its selective character, PAC does not provide the protective measure for all prospective migrants from sinking Tuvalu. There are voices that PAC is more an economically oriented immigration move to support New Zealand workforce than any type of environmental migration arrangement (Williams 2008: 515, Glahn 2009).

1.2.3. Inuit people

Alike Tuvalu inhabitants, Inuit in the Arctic represent a community which environment is one from the most heavily exposed to the global warming impacts. The Arctic is a place where the impacts of climate change are those of the most obvious and dramatic (Hassol, 2004). This region has experienced a warming trend in air temperature of as much as 5°C during 20th century, and sees a continuous decrease in sea-ice extent (Macchi et al. 2008: 32) (see Annex 4).

In fact, Inuit fall into several “vulnerable categories” mentioned earlier; they are rural, indigenous people, partly landless nomads and largely reliant on traditional ways of livelihoods (such as small fisheries and hunting). Their survival directly depends on Arctic environment and resources highly sensitive to global warming. Concretely, melting permafrost and worsening storms damage Inuit’s homes (Watt-Cloutier - Inuit Circumpolar Conference 2005: 51 – 52); changes in animal populations threaten Inuit’s livelihood as hunting becomes more precarious (Ibid.: 45 - 49, 54 - 56); ice thaws make it dangerous to use traditional travel routes (Ibid.: 39 - 45); the ground is literally shifting under the Inuit’s feet. In short, common activities of daily Inuit life, from weather prediction to igloo building, are exposed to obstacles which are more and more difficult, even impossible, to overcome. Indeed, further degrading effects of global warming (mainly increased warming and precipitation) are projected for the region for the 21st century (Macchi et al. 2008: 34)17.

With regard to the given circumstances, Inuit decided to bring a petition seeking for relief from human rights violations due to climate change induced by human agents before Inter-American Commission on Human Rights (hereafter IACHR) in 2005 (Watt-Cloutier - Inuit Circumpolar Conference 2005). The fact that the IACHR has accepted the petition has

17 For more see also IPCC 2001b or ACIA 2004.
actually laid the legal precedence that anthropogenic climate change is real and that there are the state agents who can be liable for the adverse impacts of the phenomenon (UNU-EHS 2008). For us, Inuit petition demonstrates that the victims of environmental degradation can fight for their rights. The question, however, remains whether the same rights of the same people are protected once they are forced to flee.

Inuit petition evoked, among others, violation of subsequent rights guaranteed by the American Declaration of the Rights and Duties of Man: right to residence and movement (Art.7), right to inviolability of the home (Art.9), right to the preservation of the health and to well-being (Art.11), right to property (Art.23), right to benefits of culture (Art.13), right to use and enjoy traditional land and right to means of subsistence (Watt-Cloutier - Inuit Circumpolar Conference 2005: 76 - 78).

Inuit’s fundamental right to residence and to movement, alongside with the right to inviolability of the home, are violated as a result of climate change because the physical integrity of Inuit homes is threatened. Actually, most Inuit settlements are located in coastal areas, where storm surges, permafrost melt, and erosion are playing havoc (Ibid.: 94 - 96). Further, the rights of Inuit to the preservation of the health and to well-being, even life, are threatened by climate change. Indeed, natural sources of drinking water are disappearing and diminishing in quality (Ibid.: 89-91, 6). Further, the right to use and enjoy personal, intangible and intellectual property of Inuit is violated. Much traditional knowledge, a formerly priceless asset, has de facto become unreliable or inaccurate as a result of global warming (Ibid.: 94 - 96). The right of Inuit to traditional land is violated as well. The reason is that large tracks of Inuit traditional lands are undergoing fundamental changes, and still other areas are becoming inaccessible. Besides, summer sea ice (a critical for extension of traditional Inuit land) is disappearing and winter sea ice is getting thinner and unsafe (Ibid. 79 – 83). Devaluation of the Inuit lands together with negative impacts of climate change upon plant and animal species (their health and diversity) violate the right of Inuit to subsistence, which is inherent component of the right to property and health (Ibid.: 92 - 94).

Inuit economy is de facto a mix of old and new in which cash flow has enabled Inuit to adapt their culture to changing conditions of purchasing modern equipment that helps them to hunt more efficiently and safely (ACIA 2004: 668). The harvest in turn complements and supplements the newer cash-based aspects of the economy and provides Inuit with necessary nutrition, which they would otherwise need to purchase (Ibid.: 669). Although, many Inuit are engaged in wage employment, Inuit continue to depend heavily on the subsistence harvest food (Watt-Cloutier - Inuit Circumpolar Conference 2005: 1). For instance, in 1995 Inuit
households in Nunavik in Canada, on average, harvested over a ton of edible country food, including sea mammals, caribou, fish and berries. This food was obtained locally and used mainly for local and household consumption (Duhaime – Chabot - Frechatte 1998: 17).

After having explained how the global warming destroys the Inuit livelihood in general, we would like to mention a concrete case where the whole Inuit village had to relocate due to the Arctic environment degradation: all 320 residents of an Alaskan village of Newtok had to out-migrate to a higher site 15 km west due to the intensifying river flow and melting permafrost. The cost of the move in tens of millions of dollars was cofinanced from the US governmental funds which would have otherwise been spent on the existing village and on periodic emergency evacuations. Some non-governmental organisations say that the relocation of Netwok marked an “Arctic milestone” as it was for the first time officially recognised that there was the causality among six Alaskan Inuit settlements in urgent need of relocation. Among these Inuit settlements were for instance Shishmare with 560 inhabitants or Kivalina with 377 inhabitants (Collins 2009).

To sum up this subchapter, while livelihood methods and technology of Inuit people have changed, the need for space for the traditional knowledge and skills remains constant. The harsh impacts of global warming on physical surrounding of Inuit destroy this space. Consequently, involuntary out-migration, altogether with increasing poverty, within Inuit community gain more space, even become “the must”.
2. Involuntary Environmental Migrants Due to Global Climate Change Currently Unprotected within the International Milieu:

In the previous chapter we introduced concrete case studies where individuals, even the whole communities, are forced to flee their homes because of the gradual environmental degradation and correlated sudden natural events due to the current climate change. In this chapter, we investigate whether their existence is reflected in the international milieu; in its legal and institutional framework. Indeed we look at whether the international climate policy considers these people protection.

2.1. Involuntary Environmental Migrants and the International Law Matrix: Labels Matter

The legal status of the involuntary (or forced) migrants is very imprecise. Notably, there are shortcomings with the applicability of the 1951 United Nations Convention Relating to the Status of Refugees (hereafter Refugee Convention), together with widespread terminology confusion.

On the one hand, there are several terms which have emerged within the discussion on linkages between forced migration and environmental degradation either in general or in more specific – climate change context, such as: environmental refugees, environmental migrants, forced environmental migrants, environmentally motivated migrants, environmentally displaced persons (EDPs), disaster refugees, environmental displacees, eco-refugees, ecological displaced persons, environmental refugees-to-be (ERTBs), climate refugees or climate change refugees (Boano – Morris – Zetter 2008: 6). On the other hand, none of these terms has been, so far, accepted by the international law. Consequently, all of them are only descriptive terms not constituting a basis for international protection (Ibid..) (for more see Box 4).
Box 4: Labels’ discourse due to the lack of precise definition of environmental migrant/refugee.

“Environmental refugee” is an expression created in 1970s by Lester Brown from the World Watch Institute. The term became popularised in 1990s. Since then, the expression is increasingly used despite the absence of the agreed definition in international law. Either, it has been never formally endorsed by the UN. Consequently, it does not fit within the globally recognised labels used to define forced displacement within the international relations – “refugees” and “internally displaced persons” (Boano – Morris – Zetter 2008: 7).

In 1985 Essam El-Hinnawi defined in the aftermath of the displacements caused by the gas leak in Bhopal in India and the nuclear catastrophe in Chernobyl environmental refugees as follow: “…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 jeopardised their existence and/or seriously affected the quality of their life” (cit in El-Hinnawi 1985: 4).

El-Hinnawi further identified three categories of environmental migrants: persons displaced temporarily who can return to their original home when the environmental damage has been repaired; persons permanently displaced and resettled elsewhere; and persons migrating from their original home in search of a better quality of life when their original habitat has been degraded to such an extent that it does not meet their basic needs (Ibid.).

Another known label of “environmental refugees” is that of the British environmentalist Norman Myers: “people who can no longer gain a secure livelihood in their homelands because of drought, soil erosion, desertification, deforestation and other environmental problems, together with associated problems of population pressures and profound poverty. In their desperation, these people feel they have no alternative but to seek sanctuary elsewhere, however hazardous the attempt. Not all of them have fled their countries, many being internally displaced. But all have abandoned their homelands on a semi-permanent if not permanent basis, with little hope of a foreseeable return” (cit. in Myers 2001: 609).
In the following text we argue that today’s international law is insufficient in addressing the needs of the forced migrants seeking international assistance and protection in general. Not only has it remained strictly conservative when speaking about the causes of the human flight, but it also continues to “successfully” disregard involuntary displaced people who remain within the states. Notwithstanding these migrants are often the most vulnerable group of forced migrants (Martin et al. 2005: 20) (see also Bangladeshi and Inuit case studies).
The aim of the following text is to show why there is a need to revise the international law with regard to a particular group of the forced migrants - involuntary environmental migrants. We actually observe the hole in the system into which involuntary environmental migrants fall without any formal legal protection. At the same time, we show the gap between altruistic rhetoric, humanitarian concerns and political realism.

2.1.1. International Refugee Law and Involuntary Environmental Migrants

“Environmental refugees are legal gypsies, without a home in the Geneva Convention” (Simms 2003: 6).

To be able to critically evaluate current international refugee regime, one should know the circumstances under which the refugee law has been evolving, too.

The term “refugee” was defined in international law with the drafting of the 1951 Convention Relating to the Status of Refugees. The Refugee Convention was drawn after the Second World War in order to provide with protection and assistance war refugees. Its approach was rather narrow than assuring the entitlements of those affected en masse. The decisive influence on the final form of the Convention had the USA which was in favour of an agreement applying only to people displaced within Europe and only because of events occurring before 1January 1951 (Marfleet 2006: 146).

The term “refugee” should initially apply to any person who “[a]s a result of events occurring before 1 January 1951 and owing to a well-founded fear of being persecuted for reason 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, unwilling to avail himself of the protection of that country; or who not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it” (UNHCR 2007b).

Indeed, the Convention viewed a refugee as a person denied of civil and political, not of economic or social rights (Marfleet 2006: 146). We can agree with Loescher saying that “[it] was intended to be used by the Western states in dealing with arrivals from the East, and largely reflected the international politics of the early Cold War era” (2001: 44). In other words, the Refugee Convention presumed that refugees would come solely from the oppressive totalitarian regimes east of the “Iron Curtain”. It was not intended to deal with people fleeing the general violence or natural disasters. Moreover, it did not mention “a right
to asylum” at all (Ibid.). From the very beginning, as already mentioned, the Refugee Convention prescribed that eligibility for asylum should be assessed on the basis of “well-founded fear of being persecuted” on the base of one of the five enumerated reasons: race, religion, nationality, membership of a particular social group or political opinion.

The significant changes in the protection scope took place within the international refugee policy only in the late 1960s. Until then the international refugee system remained shaped first of all by the Cold War ideological preoccupations. In 1967 the Protocol Relating to the Status of Refugees was signed in New York giving worldwide applicability to the Refugee Convention\(^ {18} \). At the same time, the United Nations High Commissioner for Refugees (hereafter UNHCR) became a body with a world mandate (Ibid.: 150 -151) (see Box 5).


---

\(^{18}\) The Protocol was submitted to the General Assembly in 1966, signed 31 January 1967, and entered into force 4 October 1967. It omitted the formulations “as a result of events occurring before 1 January 1951” and “as a result of such events” from the Refugee Convention. (FMO 1996).
Notwithstanding the formal evolution, in the 1970s most refugees no longer provided a mean of ideological self-assertion for “the West”. Instead, refugees started to be perceived as “problem-people” (Marfleet 2006: 150). According to Marfleet, the problem emerged as the reality of the 1970s’ refugees, mainly women and children, from vulnerable “Third World’s” regions fleeing hunger, famine, economic collapse, state repression or civil conflict got far from the original idea of the Refugee Convention on who is a refugee (an “adult male political activist” whose political and civil rights are oppressed by the (Eastern) totalitarianism) (Ibid.: 150 - 154).

Consequently, the Refugee Convention lost its actuality. We believe that this is the core problem of the current refugee regime; it does not reflect real causes of the forced human movement, neither the nowadays’ circumstances under which this movement is going on. The examination of the historical development of international refugee law and policy proved that the “humanitarian concerns” have been shaped first of all by the geopolitical interests.

Tuvalu is sinking but Tuvaluans are not considered as refugees, since the sea-level rise is not one of the five recognised - precisely enumerated - causes of the “well-founded fear of being persecuted”. Similarly, Inuit and Bangladeshi leaving their homes due to the environmental disruption do not fit into the refugee category. Not only they flee the “wrong” cause but they also do not generally flee over the state borders.

In the international milieu, where the state sovereignty concept counts for one of the “basic stones”, the fact whether a migrant has crossed the borders of his state or not is of the crucial importance for his international legal status. The Refugee Convention is limited solely to the situations where forced migrants have crossed the state borders. Thus, the plight of those displaced internally falls outside its scope.

“Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border” are known as “internally displaced persons” or “IDPs”. The definition was established by the UNHCR Office in its Guiding Principles on Internal Displacement (Art.2 para.2). Nevertheless, the Office has no specific mandate in respect of IDPs and the protection of IDPs in international relations is primarily the responsibility of the national state concerned.
On the other hand, there is Article 9 of the UNHCR Statute which allows the High Commissioner to “engage in such activities … as the General Assembly may determine, within the limits of the resources placed at his disposal” (UNGA 1950). Accordingly, in the light of this article, and subsequent endorsement by the UN General Assembly, the competence of the UNHCR has been broadened so as to include the IDPs who do not fit, either individually or collectively, under the Refugee Convention auspices (Williams 2008: 510 - 511). Without being a legally binding instrument, the Principles have been recognised by the General Assembly as “an important international framework for the protection of internally displaced people” (UNGA 2005: para.132). The Principles say that the state and international actors should “prevent and avoid conditions that might lead to displacement of persons” and guarantee that “every human being shall have the right to be protected against being arbitrarily displaced” (Principles 5, 6(1)). If the authorities fail to do so, the Principles further outline the IDPs’ protection and rights during the displacement and the resettlement. The Principles are consistent with the international human rights as well as with the international humanitarian laws.

Actually, it appears that the framework the Principles constitute for IDPs may offer environmental migrants greater value in terms of rights recognition and protection than the more conservative and up-to-down regime designed by the Refugee Convention. Most important, the IDP regime, on contrary to the refugee regime, takes into account people displaced due to the natural and human-made disasters, which are categories the forced environmental migrants are clearly intended to fit. The weakness of the scenario of the IDP regime application in response to the involuntary environmental migration, however, comes from its nonbinding legal status and the fact that no transborder displacement is considered under the regime (Williams 2008: 512 - 513).

Although the UNHCR has acknowledged that people displaced by the environmental change do exist and that their number is about to increase, and although the agency has already demonstrated some limited involvement in the issue, it strictly maintains that there are fundamental differences between the traditional – “real” refugees accorded the status under the Refugee Convention and those referred as to “environmental refugees” (UNHCR 2005). Indeed, avoiding the term “refugees” in connection with the involuntary environmental migration, the UNHCR has cautiously moved towards a definition of “environmentally displaced persons”: “[persons] 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” (Gorlick 2007).

Further, the UNHCR argues that even environmentally displaced people crossing international borders do not meet the criteria for refugee classification as: “[r]efugees are distinguished by the fact that they lack the protection of their state and therefore look to the international community to provide them with security. Environmentally displaced people, on the other hand, can usually count upon the protection of their state, even if it is limited in its capacity to provide them with emergency relief or longer-term reconstruction assistance” (UNHCR 1997). In fact, this attitude reflects the position of the current refugee law that the displacement for the environmental reasons does not constitute a state action purposely targeted at particular individuals or groups of people. In other words, even though people affected by environmental problems – whether gradual or sudden - may be fearful, they cannot be said to be affected by persecution for one of the specific reasons listed in the Refugee Convention. Consequently, they are not considered as refugees under the international law (Falstrom 2001: 13). Interesting is yet the way the UNHCR clarifies that there is an exception to this rule. According to the agency, the exception may be found in situations where acts of environmental destruction are methods purposefully used to persecute, intimidate or displace a particular population. According to the Commissioner, the intimidation must still rise to the level of persecution on one of the five grounds mentioned in the Refugee Convention (Ibid.: 14).

It is true that there are also arguments that state which does nothing to prevent environmental degradation causing forced migration from occurring is somehow persecuting affected people on account of their membership in a particular social group (Cooper 1998: 501). Nevertheless, these arguments do not count for valid under the current international refugee law. Firstly, even if the government, for instance, did not prevent the soil erosion as consequence of the floods from occurring, according to the international law, this is not an action that rises to the level of persecution – it is not a specific act targeted at specific individuals or groups for specific reasons. For such a type of environmental inaction or policy by government to rise to the level of persecution, the government would have to state, for example, that it is going to do nothing about the floods’ consequences because it hopes the soil erosion occurs and kills the people living in the concrete area. Only if such an explicit

---

19 Such a persecution by state is also known as “ecological genocide” or ecocide. For instance, Marsh Arabs in southern Iraq became the victims of an ecocide (Wood 2001: 46).
causal connection would appear, people leaving the affected area would be considered as
refugees under the existing refugee regime conditions (Falstrom 2001: 14). Secondly,
organizing people in a social group by virtue of the fact that they have been affected by the
same environmental problem does not suit the international legal definition of “membership
in a particular social group”. Neither the argument that the environmentally displaced persons
could form a social group for protection under the Refugee Convention because they are a
group of the politically powerless to prevent the environmental degradation is legally valid
(Ibid.).

Finally, among the attempts which have emerged in try to encompass the
environmentally-displaced persons into the traditional refugee definition two regional
instruments are important: the Convention Governing the Specific Aspects of Refugee
Problems in Africa adopted in 1969 by Organization of African States (hereafter OAU) and
the Cartagena Declaration on Refugees adopted by Organisation of American States
(hereafter OAS) in 1984.

Although no one of them was originally designed with the forced environmental
migration in mind, both include victims of environmental disruption in the UNHCR’s
mandate since such event is seriously disturbing the public order (Cooper 1998: 499). On the
other hand, in both cases, it concerns only temporary UNHCR’s protection recognition and
no “refugee” status is attributed to the victims of the “natural disasters” (Lopez 2007: 390).
Thus, it reaffirms that the standards for achieving protection under the Refugee Convention,
and the individual domestic laws implementing the Convention, are very high. Indeed, it
shows that states tend to implement such migratory and asylum legislation, though slightly
modified, which correspond first of all with their national interests. The criterion is far from
being people-centred. (Yet, there is constant political pressure seeking the most restrictive
possible interpretations of the Convention’s provisions.)

2.1.2. Human Rights and Involuntary Environmental Migrants

In 1939, just after Great Britain’s entry into the Second World War, Winston Churchill
declared that the war was being fought “to establish, on impregnable rocks, the rights of the
As human rights expert Manfred Nowak puts it, the development of human rights very impressively illustrates the tensions between national sovereignty concept and international human rights ideology (Nowak 2003: 33).

Until Hitler’s atrocities were revealed in the second half of the twentieth century, sovereign privilege overrode any conception of natural, “higher” law in modern international relations. The modern international system, born in Westphalia in 1648, was based on the absolute principle of the state sovereignty and the principle of non-interference in national matters. No state had the right to intervene into the internal affairs of another state. Even though the international system has remained anarchic, Nazi crimes heightened awareness that there should be a set of standards beyond sovereign states which would hold them accountable for respecting and protecting humans as individuals. These standards became known as “human rights”\(^{20}\). Indeed, human rights should help democratic states to “lock” the postwar world in democratic governance against future opponents (Moravcsik 2000).

The first major international treaty including the notion of “human rights” was the United Nations Charter in 1945. The peoples of the United Nations declared there “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small…” (UN 1945: Preamble). Nevertheless, the Charter remained silent on both, the substantive content of “human rights” and on their philosophical origins (Allison - Power (eds.) 2006: xviii). Furthermore, in its article 2(7), it reaffirmed the importance of the principle of the non-interference in national affairs (UN 1945: Art.2(7)).

Human rights were spelled out in more concrete way three years later, in the United Nations Universal Declaration of Human Rights (hereafter \textit{UDHR}). Although UDHR was not recognised as legally binding under the international law, it became an authoritative interpretation of the human rights notion in the international relations. It is considered as a constituting part of the international treaty law by some legal scholars (Nowak 2003: 76). The majority of human rights enumerated in the UN Charter\(^{21}\) were recognised as legally binding measures in 1966 when two International Covenants on human rights were adopted – \textit{International Covenant on Civil and Political Rights} (hereafter \textit{ICCPR}) and \textit{International Covenant on Economic, Social and Cultural Rights} (hereafter \textit{ICESCR}) (both entered into

\(^{20}\) For more see for instance, Allison - Power (eds.) 2006 or Nowak 2003.

\(^{21}\) UDHR included following rights: security of the person, freedom from slavery, freedom from arbitrary arrest or interference in private life, freedom of association, religion and opinion, right to choose a form of education, right to marry and to own property, and the right to seek and to enjoy asylum (Marfleet 2006: 145).
force only in 1977). The rights from the UDHR which remain non-codified in the two subsequent Covenants are the right to property and the right of asylum (Nowak 2003: 76).

Making promises legally enforceable is always very sensitive in world politics as governments are not willing to ratify treaties establishing the norms by which conditions in their countries might be judged morally deficient one day. Moreover, the process of decolonisation and consequent new states proliferation within the international system was another reason why legally binding covenants ratification delayed. At the same time, bipolarised “Cold War” world with its fundamental ideological conflict emerged. “Western” states promoted civil and political rights whereas “the East” identified itself with social and economic rights. Thus, what originally had been intended as a single covenant ended up as two separated documents. The split, the UDHR had cautiously avoided, continues to trouble the international human rights, mainly the system of their implementation, until today (Henkin 2006: 13 - 14).

In 1993 international community (171 states) agreed upon Vienna Declaration stating that “all human rights are universal, indivisible and interdependent and interrelated” (Art.5) and that “the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis” (Art. 5). Nevertheless, some political and academic commentators (still) affirm that economic, social and cultural rights are not individual and enforceable, and therefore, states cannot possibly violate these rights (Nowak 2003: 81). We do not agree with such a position. On the contrary, we think that the realisation of the economic and social rights, referred by some authors also as to “subsistence” or “welfare” rights (Sen 2004: 316), should be of the same importance as the realization of the civil and political rights.

We agree that the obligation “individually and through international assistance and co-operation, especially economic and technical” in the Art.2(1) of the ICESCR means that “international co-operation and assistance must be directed towards the establishment of a social and international order in which the rights and freedoms set forth in Covenant can be

22 For more see Commission of Jurists the Faculty of Law of the University of Limburg and the Urban Morgan Institute for Human Rights University of Cincinnati (1986): Limburg Principles.
23 “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures” (UNGA 1966: Art. 2(1) [emphasis added]).
fully realized” (*Limburg Principles*: Principle 30). Indeed, we are in favour of recent approve of the Optional Protocol to the ICESCR by the Human Rights Council in June 2008 setting a precedent to claim violations of economic, cultural and social rights (HRC 2008).

Nevertheless, so far, the above mentioned Optional Protocol is not in force. Thus, looking back on our case studies, a question arises about a formal basis on which the protection of Inuit, Tuvaluan or Bangladeshi forced environmental migrants could be demanded. We see that the physical and social well-being of people particularly exposed to the climate change is at stake. Legally speaking, the fulfilment of the rights defined in the ICESCR, such as right to adequate housing (Art.11(1)), right to adequate food (Art.11(1)(2)), right to work (Arts.(6)(7)(8)) and right to health (Art.12(a)), is threatened in the described situations.

As Inuit so Tuvaluans, have already undertaken the “fight” for their rights. Inuit have claimed that their fundamental rights have been violated by the USA as they did not join the global action against current climate change tough they are one of the most responsible for the phenomenon. Tuvaluans have appealed upon the international community to recognise that there would be the whole nation of to-be-migrants due to the ongoing climate change whose rights should be guaranteed. None of them, however, have been, so far, successful with the claim.

We have already demonstrated that in international relations, the environmental degradation is not recognised as a reason for somebody to flee and to be provided with the specific protection under the refugee regime. Still, in our opinion, forced environmental migrants are guaranteed with international protection. They are protected within the international milieu thanks to the human rights regime. This is because in the human rights regime one has not to be recognised as a “refugee” to be entitled to life-sustaining means of livelihood. Under the human rights regime it is the involuntary nature of the movement and the vulnerability to the plight which are stressed, not the ideas of political (state-led) persecution and state borders primacy, on which the traditional definition of refugeehood is based. Indeed, the ban of ill-treatment and the non-refoulement principle are human rights instruments which we consider to be key for refugee regime reconceptualisation (for more see the last chapter).

Moreover, we think that humans involuntarily undertaking the movement because of the environmental degradation, either within or over the state borders, have the very same right to the legal protection as those officially recognised as “refugees”. The reason for this is simply by virtue of their human status, rather than by virtue of specific qualifications such as
nationality and other political or legal entitlements. We also believe that current, rather legalistic approach to the issue of involuntary environmental migrants should shift towards the human security approach based on the humanitarian and the human rights standards\(^2\) (see Box 6) (for more see the last chapter).

Finally, two instruments in international human rights law use the direct language regarding assistance and protection of environmentally displaced people. The first one is the African Charter on the Rights and Welfare of the Child. It refers to the state’s positive obligation to take “all appropriate measures” to ensure that refugee children and ”mutatis mutandis extends to internally displaced children whether through natural disaster, internal armed conflicts, civil strife, breakdown of economic and social order or howsoever caused” receive “appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties” (OAU 1990: Art.23 [emphasis added]). The other is the UN Convention on the Rights of Persons with Disabilities. This Convention states that states should take “all necessary measures to ensure protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of the natural disasters” (2006: Art.11 [emphasis added]).

2.1.3. International Environmental Law, Sustainable Development and Involuntary Environmental Migrants

“In terms of international law [...] there is no doubt that human rights are higher than trading or environmental rights; they require that other advantages should be set aside if their realization would be put the weak at an even worse disadvantage” (Sachs 2003: 34).

The body of the international environmental law aims at preventing, reducing and remediing the environmental degradation (Lopez 2007: 367). The environment can be defined here as the “totality of the surrounding conditions” (cit. WordNet in Kolmannskog (ed.) 2008: 8). Among its fundamental principles, it states the integration of environment protection in the development process and regulates environmental impact assessment (Cotula – Vidar 2002: 14). Although the international environmental law is still in the early stages of its development, it represents highly dynamic and progressive area of the international law (Birnie – Boyle 1992: 8).
In 1997 the International Court of Justice (hereafter *ICJ*) commented in *Gabcikovo-Nagymaros* upon this law development: “Throughout the ages, mankind has, for economic and other reasons, constantly interfered with nature. In the past, this was often done without consideration of the effects upon the environment. Owing to new scientific insight and to a growing awareness of the risks for mankind – for present and future generations – of pursuit of such interventions at an unconsidered and unabated pace, new norms and standards have been developed, set forth in a great number of instruments during the last two decades. Such new norms have to be taken into consideration, and such new standards give proper weight, not only when states contemplate new activities but also when continuing activities begun in the past. This need to reconcile economic development with protection of the environment is aptly expressed in the concept of the sustainable development” (ICJ: *Case Concerning the Gabcikovo-Nagymaros Project*: para.140 [emphasis added]).

In fact, the *ICJ* is referring in its notion to the generally recognised World Commission on Environment and Development’s (hereafter *WCED*) definition of the sustainable development - “[the] development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs” (*WCED*1987: chapter 2 [emphasis added]).

In the context of the sustainable development, we think about “the needs” in human rights terms, in particular in economic and social rights terms. Such a (human) rights based approach goes beyond the legalistic and “lawbook-bound” work on the right to development (*Alston – Robinson (eds.) 2005: Section VI*). Indeed, it offers more creative attitude towards one’s fundamental needs assessment and their fulfilment25. Consequently, for us, the sustainable development concept accenting human needs represents an international environmental law component which is highly relevant for the discussion on the forced environmental migration within the international relations.

Sustainable development is actually based upon two concepts – social and ecological. Social dimension requires that basic human needs for food, health, housing, and work are met. Humans can meet these needs through some form of action on and in ecosystems. Ecological dimension demands that the essential life-support functions of the natural environment are preserved so that the dynamics symbiotic relationships among all interdependent species may continue. The failure to achieve ecological sustainability necessarily results into ecosystem disorganization that ultimately undermines the capacity of nature to support the living species

25 For more on the human needs and the human rights concepts see e.g. Gasper 2007.
that comprise it, including humans. The failure to achieve social sustainability, on the other hand, results into the inability of humans to meet their basic needs (Redclift 1987: 62). The case studies in this work have shown that the broken balance between social and ecological dimensions can result also into the human displacement.

The concrete treaties addressing the causal relation between environmental integrity and social-well-being are (among others): so-called Stockholm Declaration (UN 1972), Rio Declaration on Environment (UN 1992a) and Development and Johannesburg Declaration on Sustainable Development (UN 2002). These instruments establish rights and state obligations to protect individuals affected by a deteriorating environment.

Last but not least, there is another important principle alongside the sustainable development within the environmental law which can have far more implications for state policy towards people living in particularly vulnerable environments. It is the precautionary principle 27. In Bergen Ministerial Declaration’s wording: “In order to achieve sustainable development, policies must be based on the precautionary principle. Environmental measures must anticipate, prevent and attack the causes of environmental degradation. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation” (1990: para.7).

Finally, the international environmental law clearly reaches the involuntary environmental migration issue via the sustainable development principles and norms, including the precautionary principle. These concepts have also emerged in the document framing the current climate policy, namely, in the United Nations Framework Convention on Climate Change.

---

26 In the Declaration we can also read that “[t]he protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world; it is the urgent desire of the peoples of the whole world and the duty of all Governments” (UN 1972 [emphasis and brackets added]).

27 For more see e.g. Brunée 1996.
2.2. Does Current International Institutional Framework Reflect the Reality?

“Environmental migration governance, like global migration governance more broadly, suffers from significant fragmentation, both vertically – with actors at the international, regional and local levels – and horizontally – with the phenomenon addressed in part or, more rarely, as a whole under the auspices of a range of other “policy categories” and associated institutions” (McAdam 2009: 1).

In the previous part, we analysed current situation regarding involuntary environmental migrants’ protection within the international legal framework. Our finding is that there is a grave “legal vacuum” concerning this particular issue although there is a potential in the existing international law to cover the problem and to settle an appropriate protection framework for forced environmental migrants. To be more specific, we believe that it is via refugee regime reconceptualisation in line with human rights law that an appropriate protection for forced environmental migrants can be guaranteed. (We deal with this reconceptualisation further in the last chapter.)

In following part, we examine institutional and political incoherencies when dealing with involuntary environmental migration. We underline correlation between above mentioned normative lacuna and institutional malfunctioning.

2.2.1. UNHCR’s job?

In the international relations, the primary responsibility for promoting security, welfare and liberty of populations (including populations on move) remains with states. Nevertheless, there are further essential actors who act (or do not) in concert with national governments when dealing with forced migration in general, or with forced environmental migration in particular. Namely, international organisations, regional organisations, non-governmental organisations and finally forced migrants themselves. Naturally, not all involuntary environmental migrants are of concern of international community. In many cases, national governments are willing and able to assist and protect those displaced. In other cases, however, governments are overwhelmed and demand international help. In still further cases, the international community becomes concerned because of the state is unwilling to provide
its population with aid or its own policies are instrumental in causing the harm through the environmental degradation (Martin 2000).

Speaking concretely about climate change-induced displacement, four traditional “spheres of governance” and their institutions engage there:

- **migration/asylum**
  - UNHCR, IOM, the (former) UN Global Commission on International Migration, the Office of the High Commissioner for Human Rights (OHCHR) – Global Migration Group, OHCHR – Special Rapporteur of the Commission on Human Rights on the human rights of migrants, ILO – MIGRANT, The Hague Process on Refugees and migration, UN Population Fund (UNFPA), Internal Displacement Monitoring Centre (IDMC);
- **environment**
  - UN Framework Convention on Climate Change (UNFCCC), UN Environment Programme (UNEP), IPCC, International Institute for Sustainable Development (IISD);
- **development**
  - UN Development Programme (UNDP), UNFPA, IISD, ILO;
- **human rights/ humanitarian aid agencies**
  - OHCHR-Special Rapporteur of the Commission on Human Rights on the human rights of migrants, Office for the Coordination of Humanitarian Assistance, the Inter-Agency Standing Committee, the International Committee of the Red Cross, UNFPA (McAdam 2009: 23).

Although we have seen that the UNHCR does not formally classify for the international institution covering forced migrants’ protection, according to some scholars, it is still an agency with the most explicit mandate for their protection (Martin 2005: 81).

On the one hand, we agree that the UNHCR could possibly become a leading agency on the environmentally-induced migration as the UNHCR is the institution with the greatest experience within the field of displaced people protection and assistance (McAdam 2009: 25). Even though, this would demand an important revision of its mandate.

On the other hand, however, the Commissioner is already responsible for over 20 million people (including alongside refugees and asylum seekers also returnees, stateless and
IDPs)\textsuperscript{28} and as an institution fully dependent on donations and goodwill of states it has experienced significant budgetary crises over the years (Ahamed – Simms 2002: 18). It is therefore improbable that it would be able to carry additional costs related with protection of a new group of concern until an appropriate revision of the funding mechanism takes place (UNHCR 2007a: 4 - 5).

Further, at least from the 1970s, the UNHCR has aided persons who are internally displaced (Martin 2005: 85). This means that there are some IDPs of concern to the UNHCR. Nevertheless, its work with respect to the IDPs remains limited to those displaced by conflict, persecution, situations of general violence, or massive violations of human rights. In other words, the group of IDPs the UNHCR is dealing with is significantly narrower than the operational definition of the IDPs in the Guiding Principles on Internal Displacement, where natural disasters are included as well. Thus, it shows that the UNHCR still does not consider the environmental degradation to be a legitimate cause of the forced human displacement.

At the same time, the root causes for environmental displacement can be very different from the situations the UNHCR is mandated to deal with (McAdam 2009: 25). For example, the impacts of a long-term environmental degradation such as climate change may ultimately necessitate the relocation of the whole population (see Tuvalu case). Under such circumstances, the planned, long-term relocation must be negotiated with particular states or the whole international community. Indeed, an international burden-sharing agreement of such a displacement seems to be indispensable. By contrast, a spontaneous, solely reactive humanitarian disaster relief and temporary assistance provided by the UNHCR must not be a sufficient response (Ibid.: 10 - 11).

Finally, the UNHCR is generally perceived as an authority dealing with the migration governance within the international relations. So far, however, it has de facto resigned on the pioneering approach towards involuntary environmental migrants and their protection: “UNHCR, with its clearly defined mandate to help victims of persecution, is bound by guidance from its governing body and the UN General Assembly. Both bodies are comprised of member states of the UN. […] UNHCR has to focus its priorities upon those clearly within the international refugee definition” (Ahamed – Simms 2002: 18). Indeed, other agencies which could potentially provide people fleeing the environmental disruption consequences

\textsuperscript{28} In 2003 UNHCR estimated that about 20.6 million people fell under its mandate; about 14 million refugees and asylum seekers, 2.4 million returnees, almost one million stateless and almost 6 million IDPs (Martin 2005: 86).
with adequate protection, such as IOM, have stayed conformist vis-à-vis the UNHCR\textsuperscript{29}. Nevertheless, taking into account currently valid norms and policies governing their mandates, the institutions do not have much room to act differently.

2.2.2. UNFCCC’s fair and sustainable “microworld”?

“Socially, climate change raises profound questions of justice and equity: between generations, between the developing and developed worlds; between rich and poor within each country. The challenge is to find an equitable distribution of responsibilities and rights” (Miliband 2006).

Despite the growing evidence about migration due to climate change-induced effects, we have just seen that no international organisation has any mandate to cope with involuntary environmental migrants. Therefore we ask in this subchapter whether the United Nations Framework Convention on Climate Change (hereafter UNFCCC), which has nearly universal membership, provides the common international framework with the potential to address the climate change-induced forced migrants.

The UNFCCC is actually a treaty constituting basic framework for international climate policy. Its ultimate objective is twofold – the mitigation and the adaptation. The first one means “to achieve [...] stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate change” (UN 1992b: Art.2). The latter one aims to strengthen the capacity of societies and ecosystems to cope with and to adapt to climate change risks (Chowdhury – Shamsuddoha 2009: 8) (see Box 7). Although the accomplishment of both (interdependent) targets is relevant for the forced migration governance, we focus here on the adaptation. The reason is that forced migration actually represents a sort of adaptation to climate change.

In the UNFCCC, “developed” countries have \textit{de facto} and \textit{de iure} recognised that they are responsible for anthropogenic global warming by “[n]oting that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries” (UN 1992b: Preamble). In view of that, the “developed countries” (defined as Annex I countries) should be the first to act on the basis of “common but shared

\textsuperscript{29} For more on the different humanitarian international and regional agencies’ mandates and positions towards forced migrants in general see Martin 2005: 88-95).
The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof” (UN 1992b: Art.3(1) [emphasis added]). We think that articulation of this primary responsibility was an indispensable step to do. However, in our opinion, it is the time for the Parties to UNFCCC to overcome the “Kyoto Berlin wall” and the “endless” debate on who is the culprit of a given climate change. As there is a collective – global commitment needed now to meet the challenges of the mitigation and the adaptation to the global warming.

Further, looking once again at the above mentioned statement, we can see that the sustainable development concept30 and equity principle have been expressively set up as guidelines for the climate policy.

The sustainable development concept, contrary to the equity principle, has already been introduced in our work. The equity is very complex issue. For our needs, however, it is sufficient to shortly clarify our position towards the term. We believe that equity as “fair treatment” presupposes at the same time fair distribution and subsistence rights fulfilment. We actually understand equity as a synonym for just procedures of allocation of gains and burdens of certain phenomenon so that no one’s human dignity is undermined. At the same time, we agree that equity is not just about how societies distribute resources but also the basis for generating social capital necessary, alongside economic, natural, and intellectual capital, for sustainability (Rayner-Malone 2001: 199). Thus, we observe that both, sustainable development and equity principles concern subsistence rights fulfilment and their sustainability.

Contrary to the normative framework, in practice, so far, the UNFCCC has been rather considered as a platform for a market-based approach towards climate change. More precisely, under its auspices current Kyoto “cap-and-trade” model of mitigation has taken place (see Box 8). In general, Kyoto-based climate policy has not focused much on the adaptation issue. Thus, the migration as a particular adaptive answer to the climate change has been omitted as well. For instance, there was a space for this issue to get certain attention through the “National Adaptation Programmes of Action” as this was an UNFCCC initiative.

---

30 The sustainable development is mentioned also in the Art.3(4) UFCCC: “[t]he Parties have a right to, and should, promote sustainable development” (1992).
aimed at “Least Developed Countries” assistance with their adaptation priorities ranking. At the end, however, not one of these Programmes referred to migration or relocation as a possible policy response to the climate change.\(^{31}\)

Before closing this subchapter, we would like yet to specify that the climate change related migration is a topic of relevance first of all for the article 4 of the UNFCCC. Principally, we find appropriate commitments in the Articles 4(e) and 4(f): “The Parties […] shall: Cooperate in preparing for adaptation to the impacts of climate change […]” (UN 1992b: Art.4(e)); and “[The Parties shall] take climate change considerations into account […] and employ appropriate methods, for example impact assessments, […] with a view to minimise adverse effects on the economy, on the public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change” (UN 1992b: Art.4(f) [brackets added]).

Finally, we have seen that the UNFCCC is among the institutions which are concerned with the involuntary environmentally migration, since it reaches not only the environmental but also the social dimension of the climate change issue. Indeed, we think that the core concept of the UNFCCC is the sustainable development concept. Therefore, we believe that the environmental migrants deserve bigger attention within the post-Kyoto policy; particularly under the adaptation aimed policy. To be concrete, we are in favour of the human centred climate policy wherein human rights would help the UNFCCC principles, such as equity and sustainable development, to become operational. Moreover, useful tools might be adapted from the context of development-induced and resettlement institutions and policies (Bogardi et al. 2007: 35).

\(^{31}\)The 14 states were: Bangladesh, Bhutan, Burundi, Cambodia, Comoros, Djibouti, Haiti, Kiribati, Madagascar, Malawi, Mauritania, Niger, Samoa, and Senegal (Brown 2008: 38).
Box 7: Key jargon in the climate change policy. Source: Richards 2003: 3.

**Mitigation** refers to efforts to stabilise greenhouse gas (GHG) concentrations or prevent climate change, mainly by cutting emissions at source or offsetting them via the ‘flexible mechanisms’ open to Annex 1 industrialised countries in the Kyoto Protocol (KP): emissions trading, joint implementation (both of these between Annex 1 countries) and the Clean Development Mechanism (CDM). Through the CDM, Annex 1 countries can obtain Certified Emission Reduction (CER) credits from carbon investments or projects in non-Annex 1 countries. The CERs count towards the Annex 1 country KP emission reduction targets. ‘Meaningful participation’ refers to the participation of developing countries in climate change mitigation by accepting emission targets like Annex 1 countries.

‘**Adaptive capacity**’ refers to the ability or capacity of countries, communities or households to adjust in order to reduce vulnerability to climate variation, moderate potential damage, cope with, and recover from the consequences. ‘Adaptation’ refers to the process of adjustment, and can be anticipatory or planned (disaster preparedness), or spontaneous and reactive (disaster recovery).

‘**Vulnerability**’ is the susceptibility of people to the harmful consequences of climate variability and extremes; this largely depends on their adaptive capacity and the sensitivity of their livelihood systems to climate change.

*It should be noted that definitions of these terms are vigorously discussed in the literature and those provided here, although they try to follow IPCC definitions, are by no means definitive.*


**The Kyoto Protocol** was adopted at the third conference of parties to the UNFCCC (CoP3) that took place in 1997 in Kyoto/Japan. In this Protocol, industrialised countries that are listed in Annex I of the UNFCCC have agreed on legally binding commitments to reduce their emissions of certain GHG (such as CO₂, CH₄, N₂O) in the period from 2008 to 2012, by at least 5% on average below the level of 1990. Given this overall reduction target, countries have accepted different levels of emissions limitation targets (e.g. EU (15): -8%, USA: -7%, Japan: -6%, Russia:+/- 0%, Australia: +8%). The EU target is further differentiated among its members. The Kyoto Protocol entered into force only recently, on 16 February 2005. The developing countries do not have GHG emission...
3. Human Rights – Based Policy towards Involuntary Environmental Migrants as an Alternative

“The concept of rights can be used selfishly, but all concepts can be abused [...]” (Freeman 2002: 73).

In this closing chapter, we would like to introduce an alternative international policy regarding protection of involuntary environmental migrants. Indeed, we think about how to fill the existing gap within the international legal framework by de lege ferenda proposals.

In the first part, we summarise and analyse possible “ways out” from the status quo. Afterwards, in the climate policy context, we introduce our human rights-based approach towards involuntary environmental migration.

In fact, we believe that the mix of updating legal reforms and of adequate international climate policy modification, putting more emphasis on the human rights respect, is needed for successful facing of population shifts due to environmental disruptions.

3.1. Possible “ways out”

The fundamental challenge for the international system and its legal framework regarding the forced environmental migration is whether new mechanisms and institutions are needed or whether the current system is capable of evolving new answers within it, and thus fill the gap (Glahn 2009).

There are basically three solutions arising on how to break away from existing status quo in international law: to up-to-date the Refugee Convention interpretation, to amend the Refugee Convention by a new Protocol or to adopt a new international treaty specially designed to protect forced environmental migrants or even a specific subcategory of these involuntary migrants (such as climate change-induced forced migrants).

Before we introduce the above mentioned alternatives in more detail, we would like to note that there are also suggestions that we should firstly focus on national and regional policies options and only afterwards to look at how the current international law could be changed and adapted (Glahn 2009, McAdam 2009, Martin 2005).

Currently, Sweden and Finland recognise “environmental migrants” as a category of “persons in need of protection” and provide them with formal protective status. Whereas two
normative frameworks are alike on the paper, there is an important difference in their applicability. The Swedish Aliens Act\textsuperscript{32}, contrary to the Finish Aliens Act\textsuperscript{33}, applies in practice only to cases of sudden environmental events and it does not offer any positive protection for migrants induced by the slow-onset environmental degradation. This means that populations displaced by storms would be eligible for subsidiary Swedish protection but those displaced by drought would not. Another difference is that while Finnish Aliens Act has already been used in the context of protection for environmental migrants (though rarely), no person has ever been granted subsidiary protection in Sweden for environmental reasons. The Swedish example thus clearly illustrates how big is the challenge concerning development and following clarification of the effective national protective measures for forced environmental migrants crossing the international borders. In contrast, Finnish case shows that the individual state is able to develop such immigration and asylum policies which provide legal categories of protection for environmental migrants (induced either by sudden natural events or by long-term environmental degradation) (Glahn 2009).

Among those saying that we should be firstly looking for some intermediate answers at the national level, outside the scope of current international law, is also director of the International Refugee and Migration Law Project at the University of New South Wales in Australia, Jane McAdam. She remarks that there is a precedent for international norms evolving through regional approaches: “The current state of the international refugee regime began in an \textit{ad hoc} and regional way” (cit. McAdam in Glahn 2009).

At this place, it is worth to remain that the international community could also undertake an \textit{ad hoc} approach similar to the one taken in the case of the Guiding principles on Internal Displacement. Politicians should, however, make something different now. They should make principles for environmentally induced displacement legally binding to the

\textsuperscript{32} Swedish Aliens Act provides subsidiary protection for “a person otherwise in need of protection [who is] outside the country of origin because of an \textit{environmental disaster}” (\textit{Swedish Aliens Act}: 2005: 716 [emphasis and brackets added]).

\textsuperscript{33} Finnish Aliens Act says that aliens may be in Finland granted asylum if they are, in their home country, under “threat of death penalty, torture or other inhuman treatment or treatment violating human dignity, or if they cannot return there because of an armed conflict or \textit{environmental disaster}” (\textit{Finnish Aliens Act} 2007: 301 [emphasis added]). Moreover, according to the Finnish Immigration Service, the Act includes a specific reference to cases where the alien’s home environment has become too dangerous for human habitation either because of human actions or as a result of natural disaster (Glahn 2009).
extent they reflect the existing, binding international (human rights, humanitarian, and refugee) law (Kolmannskog (ed.) 2008: 31).

In any case, the problem regarding the terminology and definitions remains to be solved. The reason is that labelling and following categorisation determinate how, and whether at all, international community will protect people forced to flee due to environmental degradation.

3.1.1. A different Refugee Convention interpretation

Some authors suggest that all what we need to do to fill existing protection gap within the international relations with regard to forced environmental migrants is to change the way of interpreting the Refugee Convention’s text. These people actually argue that involuntary environmental migrants (often termed as “environmental refugees”34) meet the requirements of the Convention’s definition, namely the persecution requirement. Therefore, according to these authors, forced environmental migrants de facto classify for the official refugee status and deserve corresponding Convention’s protection.

Among others, it is for instance Jessica Cooper. Cooper thinks that the international community and its respective state members should recognise that the involuntary environmental migrants meet the Refugee Convention criteria and thus they deserve the very same help and protection as traditional refugees (1998: 500 - 501). Her reasoning is twofold. First, she says that involuntary environmental migrants (called also “to-be environmental refugees”) are just as persecuted by the governments as the traditional refugees are because environmental causes are inseparable from the other factors which make people fleeing. Thus, according to Cooper, the key to enable environmental migrants to obtain refugee status is to recognise that “environmentally displaced persons flee because of their governments, as well as their environments” (Ibid.: 489). Beside ecocide, Cooper demonstrates her affirmation on three other examples of environmental crises generating forced human migration – the African Sahel desertification, an industrial accident in Chernobyl and the sea level rise caused by the global warming (Ibid.: 489 – 497).

34 The definition “environmental refugees” is often used in purely sociological, not legal meaning. It rather describes the phenomenon for social scientists and the general public than serves as guidance for legal scholars and/or policy-makers in legal solutions designing (Cooper 1998: note 19).
Further, Cooper elaborates on the argument that “environmental refugees” do meet the Refugee Convention’s “for reasons of” requirement of persecution on the basis of “the membership of a social group”. For her, this “social group” basis of persecution represents the widest – the most inclusive category specially designed to protect refugees persecuted from unforeseen reasons who would otherwise not classify for the protection status (Ibid.: 487).

Andrew Simms, a policy director of the New Economics Foundation has a similar attitude to this of Cooper. He also objects the UNHCR “business-as-usual” approach towards migrants fleeing the environmental degradation where, in Suhrke’s words, formalism triumphs over the substance and tradition triumphs over the new realities (1983: 162). For him, “written law is like a photograph of endlessly moving events [which] describes a moment extracted from a constantly shifting consensus […]” (Ahamed – Simms 2002: 20 [brackets added]).

Simms actually declares that the UNHCR can (already) be considered as an international agency with the mandate to deal with the people fleeing environmental degradation. According to him, it is unacceptable that the UNHCR sacrifices a human fleeing the environmental cause for the sake of a conventional refugee (Ibid.: 21). He says that we cannot excuse this by referring to the current international law interpretation: “it has nothing to do with the natural justice or the real world as people live it” (Ibid.: 20).

A policy director of the New Economics Foundation further believes, likewise Cooper does, that the environment (in the concrete political and socioeconomic context) can be used as a tool to harm people, and that this should be considered as “persecution”. Simms illustrates his point on the example of the climate change-induced involuntary migrants. In his opinion, to be forced, deliberately or due to wrongdoings of omission, to live in worsening poverty in the flooding areas or the areas changing into the dust is a form a persecution (Ibid.: 20 - 21).

Finally, Simms stresses that the burden of forced environmental migrants (in his wording “environmental refugees”) will fall unfairly on poorer states, therefore the international community needs to explicitly acknowledge the status of the “environmental refugees” which would guarantee victims of environmental degradation necessary international protection and support on their move. In another case, Simms warns that we will condemn environmental to-be-refugees “to a national economic and geographical lottery and to the patchwork availability of resources and the application of immigration policies” (Ibid.: 20). However, national immigration policies are nowadays generally far from being able to successfully deal with the potential environmental refugees.
Cooper’s and Simms’ arguments on why the 1951 Refugee Convention does not require any textual modification to provide forced environmental migrants with appropriate protection certainly have some academic relevance, but in our point of view they are highly speculative. In fact, we agree with those authors who say that even if we would adopt the most liberal approach towards the Convention interpretation, we would not discover any space for “environmental refugees” there, given the very narrow applicability of the agreement and purposes of those who had written it (Williams 2008: 27). Nevertheless, the ecocide is a very specific situation where some people do meet the persecution threshold and do classify for “refugees”.

Finally, there is another reason why we are not in favour of the position that the forced environmental migrants fall under the Refugee Convention. The reason is that the majority of the involuntary migrants due to the environmental degradation is, and will be internally displaced, but the Convention does not provide the IDPs with necessary protection.

### 3.1.2. Refugee Convention amending

Another way how to address the protection gap of forced environmental migrants is to incorporate into the Refugee Convention an explicit wording that fleeing for environmental reasons constitutes a reason for being considered as a refugee. This could be done via an additional protocol to the Convention. In this context, we would like to underline that speaking about the Refugee Convention amending *de facto* means speaking about the change of the international refugee law.

The key term in the Convention, as already mentioned in the previous subchapter, is the persecution. Consequently, a new protocol would have to change the Convention reading so that it would explicitly say that environmental disasters constitute persecution. This would need expansion of the refugee definition.

According to Cooper, the expanded definition could seem as follows: “any person who owing (1) to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, or (2) to degraded environmental conditions threatening his life, health, means of subsistence, or use of natural resources, 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” (Cooper 1998: 495). On the one hand, it is true that such an expansion would happen in line with human rights law. On the
other hand, however, Cooper gives an example of very narrow expansion in line with human rights, focused solely on a particular group of the environmental forced migrants. Thus, it is obvious that the core problem of the exclusive rather than inclusive character of the refugee regime would persist under such textual modification of the Convention. Indeed, we think that although the refugee status must not be blurry, it should be more inclusive. In other words, the real expansion in line with human rights is not via simple adding of another enumerated category but via move towards a descriptive, broader definition of the persecution based on the involuntariness and vulnerability criteria (for more see chapter 3.2.).

Further possibility Cooper refers to, when speaking about how to expand the conventional refugee definition, is by means of regional agreements. Two concrete examples of such definitional expansion can be found – in the 1969 Organization of African Unity Convention Governing the Aspects of Refugee Problems in Africa and in the 1984 Cartagena Declaration on Refugees (Ibid.: 496). Both agreements address people who have been forced to move because of the circumstances/events “seriously disturbing the public order”. (OAS 1984: III (3), OAU 1969: Art.1). According to some authors, it is precisely this definition of “a situation of seriously disturbed public order” which could lead to the establishment of internationally recognised protective status for those who had to leave their country of origin because of the environmental factors (cit. Jambor in Bogardi et al. 2007: 12). Although none of the two treaties has drawn attention to environmental issues specifically, they clearly show that 1951 refugee definition is insufficient when addressing the reasons of the forced displacement. Moreover, they also illustrate that regional instruments can change the status quo: “The offering of temporary protection to the beneficiaries of the expanded refugee definition under the OAU Convention and the Cartagena Declaration … signifies an important attitude change on the part of the territorial states toward humanitarian refugees, including the international treatment of refugees” (Miranda 1989/1990 : 324).

In addition, some authors argue that the refugee law should encompass “environmental refugees” category because of the Convention’s traditional predisposition to incorporate political considerations into refugee policy discourse (Williams 2008: 509).

Finally, we would like to present some critical voices on the alternative of the Refugee Convention amendment. Opponents of adding the adjective “environmental” to the refugee definition generally raise objection that it is not any helpful solution to include “environmental refugees” into the Convention, as we can rarely separate environmental “push factors” from those political and/or socioeconomic (Ibid.). Among others, it is for example Living Space for Environmental Refugees (hereafter LiSER) initiative which believes that the
crises of environmental refugees cannot be successfully solved by simply new category adding to the Refugee Convention. People from this initiative are in favour of such a new Convention which would address both crises – this of environmental refugees\textsuperscript{35} and this of environmental degradation (LiSER).

Falstrom and Lopez make part of the supporters of more complex approach towards the problematic too. Falstrom’s proposal is introduced in more detail in following subchapter. Lopez thinks that the international community must not neglect the root causes which are behind the forced environmental migration: “[…] proposition to broaden the refugee definition does not address the root causes of the problem, and thereby neglects an important aspect to remedy comprehensively the issue. Although it is not the purpose of the Refugee convention to make any judgement on the political, economic and social attributes of foreign countries when receiving nationals of those countries, in the particular case of the mass displacement because of the environmental reasons, to address the root causes is paramount. [Because] [w]orking on projects of sustainable use of the environment may prevent the multiplication of further […] mass displacement” (Lopez 2007: 408).

In addition, critics of the Refugee Convention amendment point to the risk of further weakening of already weak protection which refugees are provided with in practice within the international milieu (Kolamnnskog (ed.) 2008: 31).

Last but not least, there is strong opposition against the expansion of the refugee definition from the part of (mainly “developed”) governments and international organizations. The reason is that they are afraid that such move would open the “refugee floodgates” (Williams 2008: 14).

3.1.3. New Treaty

In this part we focus mainly on Dana Zartner Falstrom’s proposal of a new “Convention on the Protection of Environmentally Displaced Persons” which would be an agreement based on the “Convention against torture and other cruel, inhuman or degrading treatment or punishment” (hereafter \textit{CAT}) model (Falstrom 2001: 9 - 11).

\textsuperscript{35} LiSER defines environmental refugees as “persons displaced by impacts on the environment, which include, but are not limited to, climate change, force majeure, pollution, and conditions that are forced upon the environment by state, commercial enterprises or a combination of state and commercial entities” (LiSER).
The reason why we pay such an attention to Falstrom’s proposal is that she belongs among authors who have overcome the debate on definitions and have elaborated a concrete framework on how to deal with the forced environmental migrants. Moreover, an important point for us in her approach is that she accentuates the affirmative obligations of state actors towards preventing environmental displacement: “the Convention […] should incorporate extensive provisions outlining State responsibility to find, correct, and prevent occurrences of the environmental degradation and destruction that force people to migrate” (Ibid.: 25).

Indeed, she says that only such a new convention which would provide environmentally displaced persons with both, assistance and protection, and which would create affirmative obligations for states to prevent environmental degradation that forces people to migrate could effectively solve the problem (Ibid.: 10).

Firstly, Falstrom is aware that a new convention needs to be really specific when stating its purpose and guidelines as without this it would be only another drafted but not ratified and not implemented international treaty. Therefore, Falstrom comes up with a very concrete definition of “environmentally displaced persons” and proposes to precisely define the types of “environmental destruction” that would constitute a basis for classification under the Convention on the protection of environmentally displaced persons (Ibid.: 23 - 24).

Secondly, Falstrom suggests that, similarly to the CAT, environmentally displaced persons would be granted some kind of an extra but temporary protection in the receiving country (Ibid.: 20). In the case of the CAT, the extra protection means that there is not an affirmative requirement that a person searching for the protection have a well-founded fear of torture on account of one of the five-enumerated grounds necessary for refugees (UNGA 1984: Art.3).

---

36 As we have noted earlier, we are aware of the importance of the “labels” and categorisation of migrants within the international relations. Nevertheless, we agree with McAdam that “[w]hile the absence of a formal legal definition may perpetuate uncertainty about the parameters of the phenomenon, and complicate questions of State and institutional responsibility for the displaced, it does not necessarily preclude international responses.” Indeed McAdam illustrates the situation with an example of “terrorism” which “remains without a uniform legal meaning in international law, yet that has not prevented UN Security Council resolutions and countless treaties from dealing with it” (McAdam 2009: 7).

37 In her paper Falstrom offers following definition of environmentally displaced person: “an individual forced to leave his or her home due to environmental reasons” (Falstrom 2001: 24).

38 Falstrom’s proposal is: “Environmental reasons may include water shortages due to pollution, food shortages due to desertification or pollution, a sudden disaster such as hurricane, flood, fire, tornado, etc., or inhabitability of an area due to pollution, toxicity, or a sudden disaster such as a nuclear explosion“ (Ibid.).
According to Falstrom, interim protection, giving the receiving states the possibility of re-examination of the individual cases and of return of received persons once the basis for the protection has ended, is for states more acceptable than a permanent resettlement solution. Consequently, for Falstrom, it is more realistic and effective solution than that of proponents of including the forced environmental migrants into the current refugee regime. At the same time, the temporary character of the protection should not undermine its significance as the Convention text would explicitly read as follows: “No State Party shall expel, return or extradite an environmentally displaced person to any State where there are substantial grounds for believing that he or she would be in danger due to one of the environmental problems listed in this Convention” (Falstrom 2001: 24).

Further, Falstrom is aware of the fact that the Convention cannot be successful without the support from customary international law and the law of nations. In fact, she argues that the concept of protecting environmentally displaced people can already be found in the existing treaty and customary international law. Indeed, she believes that an increasing number of international documents and actions which not only aim at the human rights and environment protections but which also recognise that these two concepts are interconnected means that generally, there is goodwill in the international relations to such an agreement as Convention on the Protection of Environmentally Displaced Persons (Ibid.: 23 - 26). In this context, Falstrom also points to the reality that in nowadays’ international relations the state sovereignty concept does not constitute anymore absolute principle: “[t]here are certain rights of individuals and obligations of states that are of concern to the international community as a whole […] all of which are potentially affected by environmental degradation and displacement” (Ibid.: 27)\(^{39}\).

In addition, when speaking about the international customary law support for a new convention, Falstrom, despite the acknowledgement that both – human rights and environmental international laws\(^{40}\) matter, gives more emphasis to the human rights law. The

\(^{39}\) Compare with McAdam saying that the principle of state sovereignty precludes international responses (McAdam, - Saul 2008: 17, 20).

\(^{40}\) There are also authors, as Tracey King, suggesting that environmental forced migrants represent first of all an environmental problem. They focus rather on the protection of the environment which they believe to be an appropriate remedy to the forced movement due to the environmental degradation. Concretely King comes up with an International Coordinating Mechanism for Environmental Displacement and the plan of prevention-preparedness-mitigation-rehabilitation-resettlement (King 2006: 551-554). Other scholars who are in favour of
reason is that in her eyes, human rights law represents more developed, cohesive and accepted framework than this of international environmental law (Ibid.: 28).

Finally, a new treaty adoption is a solution proposed, among others, also by the UNU Institute for Environment and Human Security (hereafter UNU-EHS), the New Economics Foundation or, as already mentioned, the LiSER initiative.

While we have previously shown that the New Economics Foundation’s director Andrew Simms says that we should acknowledge that the involuntary environmental migrants do already classify for the UNHCR’s protection, he also offers another way ahead from the current status quo – to adopt a new institutional convention to provide environmentally displaced persons with an explicit international protection, independent and separate from the actions of their own governments (Conisbee – Simms 2003: 33).

Now we would like to briefly introduce proposals of a new treaty which would not be addressing the forced environmental migration in general, but in the specific context of the global warming. In fact, it concerns an alternative legal framework development under the UNFCCC auspices. In comparison with the above described Falstrom’s suggestion, this approach is much narrower as it focuses solely on climate change-induced forced migrants.

Proponents of a new specific regime on the climate change-induced migrants (often named as “climate refugees”) base their policy on the UNFCCC guiding principles – equity and sustainable development principles (for more see chapter 2.2.2.). They accentuate that a new regime should be created in the line with the human rights law.

According to a Bangladeshi NGO called “Equity and Justice Working Group Bangladesh” (hereafter Equitybd), a separate, independent legal and political regime created under a new Protocol to the UNFCCC to safeguard the climate change-induced migrants must consider three basic principles: a) The legal debate over the issue of climate migrants must take into account the dignity of the concerned population as their own responsibilities for the past accumulation of GHGs are small. The people forced to be migrated due to climate change should bestow a different status and a different term and they should be given a dignified status ”Universal Natural Person” with social, cultural and economic rights; b) The climate refugees must be treated as permanent immigrants to the regions or countries that accept them; c) The climate change migrants should be tailored as entire groups of people,
such as populations of village, cities, provinces, or even entire nation, as in the case of small island states (Chowdhury – Shamsuddoha 2009: 9 – 10).

In the very same spirit as Equitybd, two researchers from the Department of Environmental Policy Analysis at the Institute for Environmental Studies at Vrije University in Amsterdam, Frank Biermann and Ingrid Boas, suggest that a specific regime on climate refugees should be created under the UNFCCC. They actually claim that only via the “Protocol on the Recognition, Protection, and Resettlement of Climate Refugees to the UNFCCC” the international community can successfully address the global process of the human displacement due to the global warming impacts. They believe that such a protocol is politically acceptable and that it would “link the climate refugees’ protection with the overall climate regime, including future advances in climate science in defining risks for people in certain regions” (Biermann – Boas 2008: 6).

The accountability issue occupies an important place in Biermann’s and Boas’ suggestion. To be concrete, proposed agreement would operate under five principles: 1) the principal objective of the Protocol would be a planned and voluntary resettlement and reintegration of affected people over periods of many years and decades as opposed to the mere emergency response and disaster relief; 2) climate refugees would be seen as permanent immigrants; 3) the climate refugee regime would respond to the needs of entire groups of people instead of to the needs of individually persecuted humans (as it is in the case of the current Refugee Convention regime); 4) the regime would be targeted less toward the protection of persons outside their states than toward the support of governments, local communities, and the national agencies to protect people within their territories (upon the affected countries’ demand of such a support, and 5) the protection of climate refugees would be addressed as a global problem and responsibility (Ibid.: 12 - 13).

The adoption of a new international treaty and consequent establishment of new international protective mechanisms aimed at a particular group of climate change-induced forced migrants has naturally its critics. For instance, Mike Hulme from School of Environmental Sciences at University of East Anglia formulates three weak points of such a

41 Frank Biermann is a professor of political science and environmental policy sciences and head of the Department of Environmental Policy Analysis at the Institute for Environmental Studies at Vrije University in Amsterdam. He is also director of the Netherlands Research School for the Socio-economic and Natural Sciences of the Environment, director of the European research consortium Global Governance Project, and chair of the Earth System Governance Project under the International Human Dimensions Programme on Global Environmental Change.
policy: “[...] the category of “climate refugees” is essentially underdetermined; it adopts a rather static view of climate-society relationship; and it is open to charges of carrying a neocolonial ideology” (2008: 50).

Regarding the critics of the new treaty approach in general, we would like to remind McAdam’s questioning whether a new international convention or a new protocol to already existing international treaty could bring a satisfactory solution whatsoever. This scholar actually points to the fact that for the moment, there is no singular response to global migration governance within the international milieu at all; that the environmentally-induced displacement is really a multifaceted phenomenon and that consequently, it is worth to address this complicated issue first of all at the regional and national levels (McAdam 2009: 33). This is a position compatible with claims that we can address forced environmental migration via such provisions as “serious disturbance of the public order” in the OAU Refugee Convention or in the Cartagena Declaration which limit, at least to a certain extent, the discretion of state parties to the Refugee Convention to send involuntary migrants back to the country they flee from.

At the end, we would like to shortly comment on the discussion whether environmentally induced migrants should be granted temporary or permanent protection in the receiving country. We believe that Falstrom’s proposal of “an extra but temporary” protection is politically feasible and thus useful^{42}. However, we agree with Walter Kälin, the UN Special Representative for the Human Rights of Internally Displaced Persons, that we should take into account “under what circumstances should persons displaced across borders [...] not be expected to go back to their country of origin and therefore remain in need of some form of surrogate international protection, […] temporary or permanent” (cit. Kälin in Glahn 2009). In other words, we think that the decision on the protection status character should be always done with regard to the concrete situation and with respect of non-refoulement principle (for

---

^{42} In this context, Glahn gives two concrete examples of temporary protection which originated in an ad hoc reaction to environmental event. The first example is the reaction of Canada, USA, Switzerland and Malaysia to the UNHCR appeal to suspend the return of failed asylum seekers to affected areas in India, Indonesia, Somalia and Sri Lanka following the Asian tsunami in 2004. The another example is when in 1999, following the Hurricane Mitch, the USA designated with temporary protective status Nicaragua’s and Honduras’ citizens. Since then the USA has extended the temporary protection to Honduras and Nicaragua seven times, because in both countries “there continues to be a substantial, but temporary, disruption of living conditions … and [they] remain unable, temporarily, to adequately handle the return of [their] nationals, as required for TPS designations based on this environmental disaster” (Glahn 2009).
further details see following subchapter). Indeed, in case where the environment might be devastated and made uninhabitable in a permanent manner, as in the potential submersion of Tuvalu, we suggest that displaced people would be automatically granted permanent protective status.

### 3.2. Human rights-based move forward

“Protecting people against forced displacement requires a comprehensive and integrated response that deals with such problems in their entirety. It is likely to begin by tackling the immediate humanitarian needs of the people affected, including the need for asylum, at least on a temporary basis. It continues with an array of actions designed to enhance respect for human rights and humanitarian law […]” (cit. former UNHCR Sadako Ogata in Suhrke – Zolberg 1999: 169).

After having analysed and summarised possible ways forward on how to fill the gap within the international relations regarding involuntary environmental migrants’ protection, we would like to focus on a human rights–based approach towards the issue now.

In fact, we believe that human rights instruments could contribute to settle an effective international regime of protection reaching also forced environmental migrants who currently do not classify for refugee status and related protection.

As we deal with the specific case study of the climate change-induced involuntary migration in this work, in the last part of the chapter, we introduce international climate policy which would be in line with human rights, and thus would have the potential to address forced environmental migrants’ needs.

### 3.2.1. Human rights-based upgrading of the refugee regime

We have seen that the current refugee regime is hardly reformable. In fact, the 1951 Refugee Convention has survived without any amendments or modifications since the 1967 Protocol. At the same time, however, it seems that the idea of creating a new global system under a new international convention which would respond to needs of all possible refugees and migrants is rather utopia. So, how to address the fact that there is a need for the international recognition of the rights of those who are refugee-like but do not fit the conventional refugee definition as they flee an environmental cause?
The aim of the following text is not to prove that the states should resign on the authority to decide at what point to cap the refugee and other migratory flows into their territories. We are of course aware that no state is able (and willing) to host ever-increasing number of refugees and involuntary migrants. Nevertheless, we want to demonstrate that the forced environmental migrants should not *a priori* be excluded from consideration for refugee status and related protection. We agree with Suhrke that it would be more meaningful to define “refugee” based on the need for protection and not limit it based on the cause of the need (Suhrke 1983: 157-162).

What we suggest herein is a general reconceptualisation of the existing refugee regime in line with human rights obligations through a protocol to the Refugee Convention. The protocol would broaden the protection scope by interpreting “persecution” in human rights terms. Consequently, the human security concept would become central to the refugee regime and its mechanisms.

We actually think that human-rights based approach would allow an evolutionary, dynamic approach towards displaced persons’ protection. For us, this is much more appropriate attitude than the static, strongly legalistic current one which fails to address the nowadays realities behind the forced human movement and rather remains “frozen” within the concept of the political (state-led) persecution.

Indeed, we suggest opening the “persecution” concept so that environmental disruption could also be considered as a reason for one’s international protection. We would like to reemphasise that we are aware that the environmental degradation or disaster cannot come in as a persecution ground. We believe, however, that they could be, under certain circumstances, considered as a form of persecution. Still, remaining question is, on which basis proposed Protocol could reconceptualise the refugee regime?

For us, decisive criteria on which the protection status of involuntary migrants should be set are: vulnerability (in human rights terms) and involuntariness (of the displacement). Therefore, we agree with Falstrom’s position that persecution upgrading within the refugee regime could be based on the ill-treatment concept. In our point of view, the key message of this human rights concept with regard to the refugee regime modification is that even a risk of one’s exposition to the ill-treatment should be seriously considered when deciding on the migrant’s status and related non/protection.

---

43 For more on how the human security and the human rights concepts are interconnected see e.g. Gasper 2007.
In the European context, Article 3 of the European Convention of Human Rights and Fundamental Freedoms (hereafter *ECHR*) prohibiting torture and inhuman or degrading treatment constitutes absolute prohibition; meaning that no derogation is possible from this article (regardless of the behaviour of the applicant) (1950: Art.3). Although the ECHR does not guarantee a right to asylum, the case law of the European Court of Human Rights actually implies that the expulsion, extradition and deportation of an alien to a country where there is a real risk of his/her torture, inhuman or degrading treatment or punishment constitutes a violation of Art.3 ECHR by the deporting state (Van Rooij 2004: 17).

We are naturally aware that this case law concerns the ban of expulsion, extradition and deportation. Nevertheless, according to us, it clearly shows that contracting state parties to the ECHR should design and apply such migratory and asylum policies which eliminate a foreseen risk of ill-treatment of an individual in another state, and thus avoid possible breach of the ban of ill-treatment in Art.3 ECHR. Indeed, it not only confirms that human rights are relevant for asylum procedure, but it also demonstrates that the national legislature should perceive human rights commitment “[n]o one shall be subjected to torture or to inhuman or degrading treatment or punishment” (CE 1950: Art.3) as superior to domestic judicial machinery and formalism (Van Rooij 2004: 40, Valeš 2007). In addition, in 1981, even the Executive Committee of the UNHCR stated, in line with our argumentation, that “asylum seekers forming part of […] large-scale influxes include persons who are refugees within the meaning of the 1951 United Nations Convention […] or who, owing to external aggression, occupation, foreign domination or *events seriously disturbing public order* in […] their country of origin or nationality are compelled to seek refugee outside that country” (Kälin 1988: 11 [emphasis added]). As seen in the OAU Refugee Convention and in the Cartagena Declaration, environmental degradation can constitute such an event *seriously disturbing public order*.

We believe that if some environmental degradation constitutes a form of persecution due to which people loose the control over the decision on the migration and have not choice but to flee, Art.3 ECHR applies. Consequently we do not see any reason why, in the context of forced environmental migration, the international community should not undertake human rights-based approach analogical to this above mentioned applying in the case of the ban of extradition if there is a viable threat of one’s exposition to the ill-treatment. Indeed, this

---

44 For more on the relevant case law ECtHR see following judgments: ECtHR, 7 July 1989, *Soering v. United Kingdom*, Series A no.161 or ECtHR, 15 November 1996, *Chahal v. the United Kingdom*, Reports 1996-V.
position can be supported, for instance, by current UN’s Special Representative for the Human Rights of Internally Displaced Persons Walter Kälin’s stating that “it cannot be denied that we can find several traces of an emerging concept in international law which extends the principle of non-refoulement to the protection of “‘refugees of violence’” (Kälin 1988: 14)\(^45\).

Herein, the “labels” issue should be addressed as well. We propose a definition which would take into account two fundamental criteria - involuntariness and vulnerability. In our opinion, such a definition would reflect a key difference between (uncontrolled) external compulsion and (controlled) decision to migrate. In fact, we are inspired by Diane C. Bates who conceptualises decision to migrate as a continuum (Bates 2002: 468). On the one end of the continuum, designated as “involuntary”, there would be people who have absolutely no control over the displacement. They would be considered as “refugees”. On the other end, there would be people who maintain the control on every decision in the migratory process. They would represent “voluntary migrants”. Between voluntary and involuntary (in our work also called “forced”) migrants, there would be migrants who have more control over the movement than involuntary migrants (“refugees”) but who have still less control over the displacement than “voluntary migrants” (Ibid.) (compare with Table 5).

As already said at the end of the previous subchapter, in contrast to what Falstrom thinks, we are not persuaded that the acknowledged protection to forced migrants should be solely designed as temporary. In our point of view, the protection should be complementary and its temporality or permanency should depend on the specific needs of migrants and on the very concrete nature of the form of persecution they flee.

Undeniably, in human rights law, the principle of non-refoulement is an absolute and general ban on returning people to places where they risk certain ill-treatment (Kolmannskog, (ed.) 2008: 28). This human rights principle could thus protect people fleeing environmental degradation (gradual or sudden) against the return if the degradation would result into certain threshold of ill-treatment.

According to Kolmannskog from the Norwegian Refugee Council, involuntary environmental migrants can find the protection in non-refoulement if they cannot return (e.g. Tuvaluans whose island state is about to be submerged) or if they cannot reasonably be expected to return, because of livelihood or quality of life considerations (2008: 28). Actually,

\(^{45}\) “Refugees of violence” are \textit{de facto} refugees displaced due to the civil strife or massive human rights violations who are not recognized as \textit{de iure} refugees as they do not fulfil all refugee status criteria set in Art.1 A of the Convention (Kälin 1988: 3).
for example in Norway, a proposal has been already made to stop distinguishing between people with refugee status and those who cannot return due to the international obligation such as the non-refoulement. In line with the proposal, both groups should be considered and treated as refugees (Ibid.).

Table 5: Working definition of environmental refugees as continuum proposed by IOM/UNFPA 2008: 22 – 23.

<table>
<thead>
<tr>
<th>Level of distress</th>
<th>„pre-empt the worst“ leaving as environmental degradation has already impacted on livelihoods and communities</th>
<th>„avoiding the worst“ leaving due to a loss of livelihood</th>
<th>„fleeing the worst“ fleeing immediate devastation not only of livelihoods, but of lives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmentally motivated migrants</td>
<td>Environmentally forced migrants</td>
<td>Environmental refugees</td>
<td></td>
</tr>
</tbody>
</table>

Last but not least, the reconceptualised refugee system could also help providing the IDPs, an important group of forced migrants largely outnumbering the group of refugees\(^\text{46}\), with deserved, formally recognised protection and assistance.

As already mentioned several times, according to the current data and estimation for future, the majority of involuntary environmental migrants displace and will displace internally, without crossing an international border. Nevertheless, so far, the IDPs remain rather descriptive than legal category (Mooney 2005: 13). Consequently, in the international milieu, there is no mandatory institution which would provide the IDPs with appropriate protection. The human rights-based refugee regime could change the situation because it would have the necessary potential to eliminate “the protection wall” between the refugees and the IDPs which is built alongside national state borders. At the same time, we agree that the IDP status should be kept as an inclusive category rather than as a closed (sub)category, such as environmental or yet climate refugees\(^\text{47}\).

---

\(^{46}\) According to the UNHCR, the number of IDPs currently remains at 26 million (Yacoub 2009).

\(^{47}\) For more see e.g. Birkeland 2003.
3.2.2. Climate policy in line with human rights concept

Speaking about the specific environmental cause of the forced displacement – the climate change, we think it is important to make, at least brief, note on the international climate policy’s potential for providing forced environmental migrants with some assistance and support within international relations. In our opinion, this potential consists in human rights notions inside the UNFCCC.

At the very beginning, it is indispensable to say that we base this subchapter on the UNFCCC and its guiding principles which provide enough (normative) space for the respect of the human rights within the international climate policy (see chapter 2.2.2.). Thus, we do not introduce any new – human rights friendly climate policy framework treaty here.

There are four main (interconnected) issues being discussed when speaking about the climate change negotiations and/or agreement: mitigation, adaptation, technology and finance (El-Ashry 2008: 2). We focus our attention on the adaptation, or to be more specific – on the proactive (anticipatory) adaptation.

As we already know, mitigation and adaptation stand for the climate policy’s twofold objective (see chapter 2.2.2.). The reason why we emphasise the adaptation is that the forced population movement due to the global warming impacts can be seen as a form of adaptation to the environmental change. Indeed, the IOM says that “[e]ffective management of migration caused by climate change should not assume that climate-induced migration is part of the problem; it may indeed be part of the solution” (IOM 2008: 58).

Dealing with the proactive adaptation and forced migrants’ protection, we should not forget that State Parties to the UNFCCC and its Kyoto Protocol (see Box 8) are also bound by basic human rights law documents: UDHR, ICCPR and ICESCR (sometimes called “The International Bill of Human Rights”48). Although the ICESCR is not very popular in the “Northern” (previously rather “Western”) world, it constitutes just as legally binding instrument as the ICCPR.

The Art.2(1) of the ICESCR reads as follows: “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources,

48 “The International Bill of Human Rights” has been acceded by the majority of states; therefore human rights tend to be perceived as universal.
with a view to achieving progressively the full realization of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures” (1966 [emphasis added]). According to Manfred Nowak, ICESCR in its Art.2(1) actually implies some obligation on the industrialised countries to help ensure worldwide minimum economic, social and cultural rights by taking the necessary steps in development policy (Nowak 2003: 82). Thus, there is not only intersection between climate policy and human rights but also between climate policy and development. This is crucial for the rest of this chapter’s text because we think that it is via the development that the climate change agreement can address the forced environmental migrants’ situation.

First of all, we believe that the socioeconomic development should be perceived as an inherent part of the adaptation, not only as a part of the mitigation. As the case studies have shown, the most vulnerable to environmental degradation are persons and communities from the socioeconomic margin. Without sufficient adaptive capacities not only these people cannot successfully face their environment modification but often are even unable of fleeing it (Black et al. 2008) (see e.g. Bangladeshi case study). We would like to quote William Wood at this place: “The central migration issue governments must face […] is not whether people will continue moving […] but how seriously the global “environment and society” network is threatened, how that process affects current and future migration options, and, finally, how governmental policies have served to either restrict or encourage migration flows in reaction to environmental and societal pressures” (Wood 2001: 47). Wood uses in his concept a metaphor with an umbrella. He suggests that we imagine that everybody has got his own “environment and society umbrella” (Ibid.: 48). The size and the form of the personal umbrellas change according to economic, political and environmental conditions which affect us individually and collectively. Aggregate sets of umbrellas then form local and regional patterns and trends. No two umbrellas are ever the same, though they can resemble. One’s socioeconomic status is crucial: “The wealthy and privileged can create a durable, encompassing cover; the poor have little, if anything, to protect them and thus are much more susceptible to both natural and man-made disasters […] The umbrellas of white-collar workers in the first world may have a dominance of socioeconomic and technological spokes, while the third world peasant’s umbrella may have many environment-shaped spokes” (Ibid.).

49 The affirmation that the best adaptation is the mitigation is certainly true. However, we cannot afford to ignore adaptation as the most mitigation scenarios show that even with (ideal) deep emission cuts the lead-time for this to lead to GHG stabilisation is at least half a century (Richards 2003: 6).
Woods also adds that the forced migrants, contrary to the voluntary ones, have little, if any, choice about exchanging their tattered umbrella of the “here and now” for the umbrella of the “there and future” (Ibid.: 48 - 49).

We are actually in favour of such development which is people-centered, rights-based\textsuperscript{50} and sustainable. In this context, Sen’s capability approach (Sen 1999) and Nussbaum’s capabilities approach (Nussbaum 2006) are particularly inspiring. Nevertheless, so far, under the Kyoto Protocol, the development in terms of “business as usual” has been promoted. What does it mean? The Kyoto-based climate policy has been built on the liberal market rationale and the paradigm that the free market (which actually never happened to be really “free” from the political constraints within the international milieu) “is a powerful force for allocating capital and creating wealth [a]nd at time when climate change threatens the globe, it can also be a powerful force for social change” (Kurtzman 2009: 122).

Naturally, as Hugh Compston from Cardiff School of European Studies puts it, describing the politics of climate policy in terms of different theories results in different conceptual and logical pictures of the phenomenon and its possible solution(s) (2009: 659). However, Kyoto market-based mechanisms\textsuperscript{51} have already shown also in practice that they cannot reply to the “common but shared responsibilities” principle. The reason is simple and obvious. While the principle of shared responsibility aspires at justice making and tries to reflect that not all people neither all states are equally responsible for the global warming (see chapter 1), the market-based climate policy’s ultimate objective is the cost-efficiency of the climate change mitigation. Indeed, as Frank Grunding from Department of Politics and International Relations at University of Kent says: “an efficient [climate] policy is not necessarily a fair one” (2009: 761 [brackets added]). Indeed, some concrete examples of not so “magic” functioning of the Kyoto Protocol’s instruments with regard to involuntary induced human displacement follow.

First, it was only in 2002 at the CoP8 in Delhi when within the Kyoto policy the importance of adaptation was noted: “[…] mitigation of greenhouse gas emissions to combat climate change continues to have high priority under the provisions of the Convention [but], at the same time, urgent action is required to advance adaptation measures”. Besides, Declaration reaffirmed that “economic and social development and poverty eradication are the

\textsuperscript{50} For more see e.g. Alston - Robinson (eds.) 2005.

\textsuperscript{51} To meet the commitments, the Annex I countries usually seek emission reduction credits via three “flexible mechanisms” defined under the Kyoto Protocol – International Emission Trading, Joint Implementation and Clean Development Mechanism (hereafter CDM) (Barker – Huang 2009).
first and overriding priorities of developing country Parties” (CoP8 2002) and it recognised that “particularly developing countries, including the least developed countries and small island developing States, face an increased risk of the negative impacts of climate change” (Ibid.).

Further, market-based mechanisms did not succeed at clean development technology and know-how spreading into the vulnerable peripheries from where people have to move on. Initially, the investors should guarantee that their CDM projects “[are] coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty” (CoP7 2001). In practice, however, CDM initiatives have ended as good investments in carbon-rich developing countries with transition economies (such as Latin America, China, India or Brazil) rather than in really poor countries and regions which would need them (McGuigan et al. 2002)52.

Moreover, adaptation funds within the climate policy have not been established until the 2001 IPCC TAR has stated that impacts of the climate change are not evenly distributed – that the people who will be exposed to the worst of the impacts are the ones least able to cope with the risks (IPCC 2001a). Two funds have been based upon the UNFCCC: Special Climate Change Fund and Least Developed Countries Fund; one fund has been established under the Kyoto Protocol: Kyoto Protocol Adaptation Fund53 (see Box 9). We believe that mainly two last funds are of importance for assisting those who have to flee the abrupt environmental degradation due to the climate change. Indeed, we think that the funds deserve yet more attention if the article 4 of the UNFCCC; particularly, the Articles 4(e) and 4(f) on preparing for adaptation to the impacts of climate change and minimizing adverse effects should become successfully operational. At the same time, we believe that if we succeed to look for adequate financial sources for forced environmental migrants’ needs in relevant policy areas through the whole political spectrum, including the climate policy, the argument that the UNHCR simply cannot afford to broaden the refugee definition would lose the ground. (Although we consider the argument that the UNHCR cannot provide further - new

52 See also UNFCCC: CDM Projects Location: Interactive Map.
53 Funds were agreed in Bonn at the Sixth Conference of Parties (CoP6) in 2000 and one year later, in Marrakesh, at the Seventh Conference of the Parties (CoP7) delegates formally recognized the “specific needs and concerns” of developing countries and “the specific needs and situations” of the least developed countries in terms of adaptation (Adger et al. 2003: 332).
forced migrants with the protection because of the financial difficulties morally indefensible, as mentioned earlier, it constitutes a very real political obstacle to the refugee regime updating.)

Box 9: Adaptation funds established under the Kyoto-based climate policy. Source: Richards 2003: 7.

- The UNFCCC Special Climate Change Fund is to support adaptation activities; technology transfer; energy, transport, industry, forestry, and waste management; and assist developing country Parties diversify their economies.
- The UNFCCC Least Developed Countries (LDC) Fund is mainly to support the preparation of National Adaptation Plans of Actions (NAPAs). This involves identifying and prioritising adaptation activities, including building institutional capacity; DDP activities; and public awareness and education activities to encourage local participation in climate change activities.
- The Kyoto Protocol Adaptation Fund is also to support adaptation activities, including vulnerability assessments capacity-building, insurance, and the avoidance of deforestation, land degradation and desertification.

Finally, there should be not only greater transparency of the State Parties to the UNFCCC about the objectives when addressing the involuntary migration but also a clearly formulated aim of depolitisisation of the issue. For instance, EU is perceived as a leader in the climate negotiations trying to push the international cooperation forward (Grundig 2009: 748 - 749) but still the EU High Level Working Group focuses rather on curbing illegal migration to the EU than on addressing the causes of migration or effecting a sort of protection oriented and human rights-based migration policy (Castles – Crawley – Loughna 2003: vii). The reason is the official (Western) European hostility from the mid-1980s towards the immigrants. In fact, in the second half of the 1980s Europe has undertaken the course to the restrictive immigration legislation which has not spared the refugees either (Marfleet 2006: 154 - 158). Thus, by the 1990s refugees were above all viewed by the governments, media and by the public as menacing European society, even civilisation (Ibid.). In such unchanged societal atmosphere towards incomers into EU, where the motives of the movement do not matter, it is hardly imaginable that forced environmental migrants would receive necessary political and legal support and protection one day.
Conclusion

The work “Involuntary Environmental Migrants’ Non-protection in the International Milieu: The Case Study of the Climate Change-Induced Displacement” has aimed to prove the hypothesis that the current international system and its mechanisms omit the phenomenon of forced human displacement due to environmental degradation, and that consequently, forced environmental migrants are not provided with adequate protection within the international milieu. We have elaborated our argumentation upon the particular case studies dealing with involuntary human migration caused by specific global environmental degradation – the current anthropogenic climate change.

We have divided the study into three chapters. In the first one, we have settled a conceptual framework and examined the phenomenon of forced environmental migration induced by manmade climate change. In the second -core chapter, we have analysed whether legal and institutional mechanisms of the present international system reflect the existence of the forced environmental migrants. In this part of the work we have actually attempted to find out if our hypothesis that forced environmental migrants are neglected, and consequently left unprotected within current international milieu is valid. In the last, third chapter we have introduced a proposal on how to reform the international relations’ mechanisms so that they provide forced environmental migrants with appropriate assistance and protection.

To be able to validate our hypothesis, it was necessary firstly to prove that environmental degradation can be among the crucial “push” factors which make people flee their homes. Through the examination of the case studies on climate change-induced displacement within and from Bangladesh, from the island state Tuvalu and within the Arctic zone, we have confirmed that forced human movement can occur due to environmental disruption, either sudden or long-term. Moreover, through the case studies, we have also shown that forced environmental migrants in need of international protection do not necessarily cross state borders, and that there are certain unprecedented cases of statelessness to be about to take place in international relations because of global warming, such as the transformation of the whole nation of sinking Tuvalu into to-be-migrants. Thus, we have demonstrated that forced environmental migration is a reality which should be seriously considered in international relations.

Further, we have looked at whether the international system considers forced migration due to environmental degradation as a fact which deserves an appropriate
conceptual and definitional framework establishment. Our finding has been that the conceptualisation of the forced environmental migration issue is in its very formative stage. Indeed, there is no consent on formally recognised definitions in the international milieu. Therefore we had to work with working (descriptive) definitions. Actually, we decided to use terms “involuntary” or “forced” migrants as interchangeable throughout the thesis. Indeed, in the last chapter, inspired by D.C. Bates, we suggest to settle the definition as a continuum. In our opinion, such a definition conceptualising the decision to migrate as continuum between “involuntary” and “voluntary” ends represents an optimal way to emphasise that human rights are at stake in the forced environmental migration context. The crucial definitional criteria would be involuntariness of the undertaken movement and vulnerability of the migrant in human rights terms.

In any case, the lack of formal definitions has already been the very first indicator that forced environmental migrants and their protection do not get much attention in nowadays international relations.

As already mentioned, the key part of the study for demonstrating that our hypothesis applies has been the second chapter on legal and institutional framework of the international system. We have examined the accuracy of concerned institutions and of relevant parts of the international law with regard to forced environmental migrants’ needs of protection and assistance there. Indeed, we have focused on the refugee regime and the UNHCR.

Our conclusion has been that although the international system disposes with mechanisms designed for forced migrants’ protection and assistance, these have remained strictly conservative concerning the recognition of the causes of human involuntary displacement. Indeed, only people forced to flee across an international border because of “a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” (UNHCR 2007b: Art.1(2)) classify for formal international status of “refugees” and enjoy the status-related protection. Consequently, the international system continues to “successfully” disregard environmental forced migrants as they are fleeing “the wrong” cause and often do not cross internationally recognised state borders.

In other words, our impression is that the state sovereignty concept (still) matters more than human security not only in international relations in general, but also in such particular area as involuntary migration governance. This is evident when one looks, for instance, at the UNHCR approach towards internally displaced persons “who have been forced or obliged to flee or to leave their homes or places of habitual residence […] as a result or in order to avoid
the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border” (UNCHR 1998: Art.2 para.2 [emphasis added]).

The definition clearly shows that the IDPs undertake their journey under the very same circumstances as conventional refugees with only one, but in international relations major difference – they do not cross the state borders. Consequently, whatever their human rights situation is, the UNHCR is not mandatory to protect them as the principle of no interference into domestic affairs (politically) prevails.

At the same time, however, the UNHCR argues that even environmentally displaced persons crossing the borders do not meet the criteria to be classified as refugees, because “[…] Environmentally displaced people […] can usually count upon the protection of their state, even if it is limited in its capacity to provide them with emergency relief or longer-term reconstruction assistance” (UNHCR 1997). The only exception formulated by the UNHCR to this rule, when the UNHCR feels competent to act on the behalf of forced environmental migrants, is when an environmental degradation is purposely used to persecute a particular population. Nevertheless, even in this case of so called ecocide, the persecution must fit one of the five formally recognised grounds of persecution within the refugee regime. Thus, this further reaffirms our earlier position on the conformism of the international mechanisms designed for forced migrants’ protection.

Beside the refugee regime and the UNHCR, we have also studied the international environmental law and the current – UNFCCC-based climate policy. Herein, we have assumed that the sustainable development concept, where the basic needs concept and the precautionary principle are inherent, is highly relevant for reforming the forced environmental migration governance in line with human rights. The reason is that the sustainable development concept pays attention to the socio-ecological balance and emphasises that if this is broken, basic human needs, thus also fundamental rights, are threatened. Indeed, based on the precautionary principle, the concept stipulates that where there are threats of serious or irreversible environmental damage, the lack of the full scientific certainty should not be used as a reason for postponing measures to prevent the damage (ECE 1990: para.7). This is an important message for competent policy makers shaping the current international climate policy. The precaution is particularly significant for the articulation of adequate adaptation policies reaching also the forced environmental migrants issue.

Last, but not least, after having demonstrated that our hypothesis is valid, we have thought on how the protection of forced environmental migrants could get in current
international system. Apparently, we disagree with such a refugee regime where forced environmental migrants are \textit{a priori} excluded from considering whether they deserve international protection. For us, environmental long-term degradation or sudden disaster can constitute a form of persecution. Therefore, we appeal upon the international community and its respective members that they modify the existing international mechanisms designed to protect forced migrants. We believe that they should rather reflect the need for protection (according to involuntariness and vulnerability criteria) than the cause of the need. Further, we also suggest that states reconsider whether their national migratory and asylum policies and practice are in line with their human rights commitments. In this context, we accentuate two human rights instruments: the ban of ill-treatment and the non-refoulement principle. Indeed, we have approved that the most suitable (and politically feasible) option how to ensure that forced environmental migrants are protected in the international milieu is to reconceptualise the existing refugee regime via a protocol broadening the term of “persecution” in line with human rights.
Bibliography

- **Printed**

  **Books and Articles**


**UN Documents**


United Nations General Assembly (2005): *2005 World Summit Outcome* GA Res. 60/1, UN Doc A/RES/60/1, 24 October.


**Other Documents and Reports**


**Judgments**


ECtHR, 15 November 1996, *Chahal v. the United Kingdom*, Reports 1996-V.

International Court of Justice: *Case Concerning the Gabcikovo-Nagymaros Project (Hungary vs Slovakia)*, Judgement of 25 September 1997.

- **Electronic** (last access on 6 December 2009)

**Articles and other online texts**


Islam, R. (2006): Pre-and post-tsunami coastal planning and land-use policies and issues in Bangladesh, September, online text (http://www.fao.org/docrep/010/ag124e/AG124E05.htm).


Klaus, V. (2008): We Should Not Make Big Changes over Climate Change, March, online text (http://www.heartland.org/NewYork08/proceedings.cfm).


Yacoub, N. (2009): *Number of internally displaced people remains stable at 26 million*, 4 May, online text (http://www.unhcr.org/49ff0cc76.html).

**UN Documents**


United Nations Framework Convention Climate Change: *CDM Projects Location: Interactive Map*, online map (http://cdm.unfccc.int/Projects/MapApp/index.html).


**Other Documents and Reports**


World Health Organisation Regional Office for the Western Pacific: *Tuvalu*, online text (http://www.wpro.who.int/NR/rdonlyres/A529072C-1B87-4722-A500-FD9FC39FC5A3/0/38Tuvalu08.pdf).

**Websites**


Intergovernmental Panel on Climate Change (http://www.ipcc.ch).

Living Space for Environmental Refugees (http://www.liser.org/#Environmental_refugees).

NASA Goddard Space Flight Center (http://www.gsfc.nasa.gov/)

UNEP/GRID-Arendal Maps and Graphics Library (http://maps.grida.no)
Annexes

Annex 1
Annex 2

**Potential impact of sea-level rise on Bangladesh**

**Today**
- Total population: 112 Million
- Total land area: 134,000 km²

**1.5 m - Impact**
- Total population affected: 17 Million (15%)
- Total land area affected: 22,000 km² (16%)

*Source: UNEP/GRID Geneva; University of Deco; IFRC Munich; The World Bank; World Resources Institute, Washington D.C.*
Annex 3

Annex 4

Observed September sea-ice cover in the Arctic zone. Source: NASA Goddard Space Flight Centre.

a) Observed September sea-ice cover in the Arctic zone in the year 1979.

![Image of sea-ice cover in 1979]

b) Observed September sea-ice cover in the Arctic zone in the year 2003.

![Image of sea-ice cover in 2003]