

Environmental Migration in International Law

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By

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In memory of professor Yuri M. Kolosov

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CHAPTER ONE

INTRODUCTION

The issue of environmental migration attracted attention from the international community not that long ago. Environmental migration has been caused, in part, by ecological problems. In the beginning of the new century 20–25 million people were internally displaced because of natural disasters.¹ Nowadays there are still no exact and detailed statistics about the number of persons falling within that category. However, the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) and the Internal Displacement Monitoring Centre have recently published a report “Monitoring Disaster Displacement in the context of Climate Change”² which contains interesting statistical data relating to the frequency of environmentally induced displacements.

The research results regarding reasons for climate-induced migration and displacement prepared by the United Nations Inter-Agency Standing Committee are summarised in Table 1.1.³

The results of research containing the number of persons displaced and evacuated due to unexpected natural disasters in 2008 are indicated in Table 1.2.⁴

¹ Forced Migration Review #20 // United Nations Office for the Coordination of Humanitarian Affairs (OCHA). URL: <http://www.fmreview.org/FMRpdfs/FMR20/FMR2021.pdf> (accessed: 01.05.2012).

² Monitoring disaster displacement in the context of climate change // Findings of a study by the United Nations Office for the Coordination of Humanitarian Affairs and the Internal Displacement Monitoring Centre, September 2009. p.32.

³ *Ibidem.* p.12.

⁴ Monitoring disaster displacement in the context of climate change // Findings of a study by the United Nations Office for the Coordination of Humanitarian Affairs and the Internal Displacement Monitoring Centre, September 2009. p.8.

Table 1.1: Climate change induced migration

Cause of displacement	Number of people reported displaced
Hydro-meteorological extreme hazard events	20,293,413 as a result of climate-related disasters in 2008
Environmental degradation and/or slow onset extreme hazard events	Estimates for slow onset disaster related displacement for 2008 are not readily available. Further research to provide improved data on this issue will be essential. According to the database of the Centre for Research on the Epidemiology of Disasters 26,502,500 people were reportedly affected by drought in 2008, however not all of these people would have been displaced
Significant permanent losses in state territory as a result of sea level rise etc.	As of 2008, the only known permanent relocation plans concerned the forced displacement of the 2,000 inhabitants of the Tulun (Carteret) and 400 of the Takuu (Mortlock) islands in Papua New Guinea. According to current findings of the Intergovernmental Panel on Climate Change, this trend is likely to substantially accelerate in the future
Armed conflict/violence over shrinking natural resources	4.6 million people were newly internally displaced in 2008 as a result of armed conflicts around the world. In the same year 42 million were living in forced displacement due to conflict, including internally displaced persons (IDPs) and refugees. The potential consequences of climate change for water availability, food security, prevalence of disease, coastal boundaries and population distribution may aggravate existing tensions and generate new conflicts (UNEP 2009)

Table 1.2: Environmental Migration Induced by Natural Disasters

Type of disaster				All disasters	Climate change-related disasters
geo-physical	meteo-logical	hydro-logical	climate-related (except for drought)		
Number of disasters					
21	61	128	11	221	200
Reported affected					
46,789,006	15,308,823	65,896,025	79,225,502	207,219,356	160,430,350
Reported homeless					
65,915	273,373	2,572,797	3,600	2,915,685	2,849,770
Estimated displaced					
15,697,230	4,873,929	7,568,022	511,472	28,650,653	12,953,423
Estimated evacuated					
72,200	3,372,594	3,917,396	50,000	7,412,190	7,339,990

Total displaced and evacuated					
15,769,430	8,246,523	11,485,418	561,472	36,062,843	20,293,413
Percentage of affected people displaced/evacuated					
34	54	17	1	17	13

The data on environmental migration referred to above cannot be considered sufficient. As we can see, at the present moment there is no data as comprehensive as that contained, for example, in the reports of the United Nations High Commissioner for Refugees (hereinafter referred to as UNHCR). But this is only one problem to be resolved by the international community.

The question of exactly which international organisation may assist these persons remains an open one. Strictly speaking, it is now on the agenda. The UNHCR ignored environmental migrants as a category for a long time and excluded them from its statistical reports. However, this approach has changed lately. For instance, in 2010 more than 2 million people displaced due to natural disasters were provided with the UNHCR's assistance.⁵

At the present moment, the international community must consider and resolve the following issues:

- the elaboration of the legal notion describing environmentally displaced persons;
- the determining of the notion of an “environmental migrant” in legal terms;
- the elaboration and adoption of a treaty relating to environmental migrants;
- the resolution of the statelessness problem, taking into account specific features of environmental migration;
- the creation of an international body which will deal with the problems of environmental migrants;
- the resolution of the issue of financial assistance for environmental migrants.

In the light of the above mentioned problems, this research is especially relevant nowadays. It aims at an analysis of the existing trends in international regulation of environmental migration. For the first time this issue has been analysed in detail in a historical context.

⁵ UNCR Global trends 2010. URL: www.unhcr.org/4dfa11499.html (accessed: 01.05.2012).

CHAPTER TWO

INTERNATIONAL REGULATION OF ENVIRONMENTAL MIGRATION IN A HISTORICAL CONTEXT

2.1 Environmental Migration at the Universal Level

In the present day, with environmental problems ever worsening, the issue of migration has become a real challenge. However, this issue is not new. Even if earlier the anthropogenic impact on nature was not as severe as it is nowadays, the human race has constantly suffered from the consequences of natural disasters.

For example, in Mesopotamia and southern Asia a serious alteration of the environment forced populations to leave these regions. Salinisation which had caused increases in the amount of soils unfit for agricultural purposes became the main environmental problem. Hence, crops died and people had to move to towns. Moreover, climate change resulted in a general increase in temperature which, in turn, caused droughts and a decrease in food production.

The Harappa civilisation in the modern Pakistan, in the area of the Indus river flood plains, was in a similar situation. Exploitation of resources and tectonic activity triggered an ecological crisis. The experts suppose that excessively intensive land use, cattle grazing, salinisation and deforestation led to the fall of this civilisation. Tectonic shifts altered the river flows which had been used by the local population.

The changes made to the environment resulted in migration from Mesopotamia and Pakistan. People had to leave their places of residence because of a decrease in supplies and because the available agricultural inputs could not provide life support.¹

Another example of environmentally induced migration is the crossing of the Bering Strait from America 13,000 years ago, which became

¹ *Peters, K. L.* Environmental refugees. California Polytechnic State University, 2011. p. 4.

possible because of the low sea level in the Ice Age. From the 18th to the 13th century B.C. the climate presumably favoured navigation via Polynesia because of the fair wind. It is also assumed that the desertification of the Sahara and the Arab Peninsula had encouraged the growth of the population living along the Nile's banks, eventually contributing to the birth of the Ancient Egyptian civilisation.

According to some sources the term “**environmental refugee**” was used in 1948 by the American ecologist William Vogt.² Environmental migration was formalised as a concept after the elaboration of the term “refugee”. The refugee problem in its classic understanding came to the fore in the 1920s, the first treaties were concluded under the authority of the League of Nations, and stipulating the official ‘refugee’ status enshrined the group or categorical approach. This approach presumed that if a person of a certain nationality stayed outside his or her country of origin, and did so without the protection of their country's government, it was sufficient for allowing that person's application for asylum. These definitions did not prescribe the reasons why the refugees may have left their countries of origin. They were defined according to the casuistic approach. The treaties were adopted only for regulation of a specific situation in respect of a specific group of a population. Such an approach has certainly become irrelevant in a contemporary context.

Afterwards, once the creation of new international organisations for dealing with the refugee problem was complete, it was recognised that it was necessary to broaden the existing definitions and the competence of these organisations. These changes were applied to the UNHCR. The General Assembly and the UN Economic and Social Council (ECOSOS), as well as the Executive Committee of the High Commissioner's Programme created in 1957 played a substantial part in the expansion of its powers. The documents adopted by the General Assembly and the ECOSOS established and underpinned the so-called “good offices”. They expressly prescribed the possibility to provide protection to certain refugee categories or to certain refugee groups. A number of resolutions of the main UN bodies contain a call for assistance to the relevant refugee groups who enjoy specific protection.

For example, according to clause 2 of Resolution 1388 (XIV) of the UN General Assembly “Report of the United Nations High Commissioner for Refugees” of 20 November 1959 the UNHCR was entitled to use good

² *McAdam, J.* Climate Change Displacement and International Law: Complementary Protection Standards. UNHCR. Legal and Protection Policy Research Series, 2011. p. 5.

offices in respect of refugees who do not come within the competence of the United Nations Organisation.³

Resolution 1959 (XVIII) of the UN General Assembly “Report of the United Nations High Commissioner for Refugees” of 12 December 1963 enshrines the necessity to continue to afford international protection to refugees and to pursue efforts on behalf of the refugees within the mandate of the UNHCR and of those to whom he extends his good offices, by giving particular attention to new refugee groups, in conformity with the relevant resolutions of the General Assembly and the directives of the Executive Committee (clause 1). The General Assembly, with Resolution 3143 (XXVIII) of 14 December 1973 also requested that the High Commissioner continue his assistance and protective activities in favour of the refugees within his mandate as well as for those to whom he extended his “good offices” or was called upon to assist in accordance with the relevant resolutions of the General Assembly (clause 2).

As far as the separate refugee categories are concerned, for those who initially could not enjoy the UNHCR’s protection, a number of UN bodies’ resolutions provided the possibility for them to receive that assistance.

Thus, according to clause 2 of the UN General Assembly Resolution 1167 (XII) “Chinese refugees in Hong Kong” of 26 November 1957, the UNHCR was authorised to provide assistance to refugees who did not meet the requirements contained in his statute, namely to Chinese refugees settled in Hong Kong.

A little later the UNHCR began to provide assistance to persons displaced within the boundaries of a country. This was confirmed, in particular, in the ECOSOS resolution of 1972, relating to an extension of the assistance granted to internally displaced persons.⁴ In the 1972 resolution on the assistance of Sudanese refugees the ECOSOS requested to render the maximum possible assistance to the Government of Sudan for the relief, rehabilitation and resettlement of Sudanese refugees coming from neighbouring countries and other displaced persons.⁵ In 1976 the

³ The resolutions of the UN General Assembly may be found on the UN web-site. [Electronic resource]. URL: <http://www.un.org/documents/resga.htm>

⁴ The ECOSOS Resolution 1655 (LII) of 1 June 1972 may be found together with other resolutions on the UN web-site. [Electronic resource]. URL: <http://www.un.org/en/ecosoc/docs/resdec.asp>.

⁵ Assistance in the relief, rehabilitation and resettlement of Sudanese refugees: UN ECOSOS Resolution 1 June 1972, 1655 (LII). [Electronic resource]. URL: <http://www.refworld.org/category,POLICY,ECOSOC,,,3ae69eeb4,0.html> (date of access: 25.04.2012).

ECOSOS adopted the resolution⁶ in which it had commended the UNHCR for his efforts on behalf of refugees and displaced persons, as well as victims of man-made disasters, requiring urgent humanitarian assistance. Furthermore, the ECOSOS requested that the High Commissioner continue his activities to assist these persons.

The contents of these documents demonstrate that the UN's attitude towards determination of refugee status is based in many ways upon a pragmatic approach. Moreover, at a certain moment the UNHCR had to put into practice a so-called **group approach**. In this case the persons were granted their refugee status as a whole group rather than as separate individuals. For instance, this approach is applied in cases of the large-scale influx or the mass exodus of refugees. Accordingly, the UNHCR's Executive Committee adopted special provisions for the "Protection of Asylum-Seekers in Situations of Large-Scale Influx"⁷ which stipulated the main rules applicable to this category of persons.

In its Conclusions "Internally Displaced Persons" the Committee recognised that "resolution 48/116, adopted by the United Nations General Assembly on 20 December 1993, which reaffirmed support for the High Commissioner's efforts, "on the basis of specific requests from the Secretary-General or the competent principal organs of the United Nations and with the consent of the concerned State, and taking into account the complementarities of mandates and expertise of other relevant organisations, in providing humanitarian assistance and protection to persons displaced within their own country in situations calling for the Office's particular expertise, especially where such efforts could contribute to the prevention or solution of refugee problems", continues to provide an appropriate framework for the involvement of the High Commissioner in situations of internal displacement."⁸

In its document "The State of the World's Refugees, 1993" the UNHCR has determined four main reasons for refugee flow: political

⁶ Report of the United Nations High Commissioner for Refugees: UN ECOSOS Resolution of 2 August 1976, 2011 (LXI). [Electronic resource]. URL: <http://www.refworld.org/docid/3ae69ef418.html> (date of access: 25.04.2012).

⁷ Protection of Asylum-Seekers in Situations of Large-Scale Influx: Conclusions of the UNHCR Executive Committee of 1981, No. 22 (XXXII). [Electronic resource]. URL: <http://www.unhcr.org/3ae68c6e10.html> (date of access: 25.04.2012).

⁸ EXCOM Conclusions, Internally Displaced Persons No. 75 (XLV) – 1994. URL: <http://www.unhcr.org/print/3ae68c434.html> (accessed: 18.08.2014).

instability, economic instability, ethnic conflicts and degradation of environment.⁹

According to the UN documents on this subject, the states are reluctant to use the term “refugee” in respect of new categories of persons enjoying the UNHCR’s protection. Instead, depending on the situation, they use other terms such as “**displaced persons**”, “**internally displaced persons**” or “**asylum seekers**”. However, the terms were corrected and new concepts were elaborated. In 1976 the Executive Committee of the High Commissioner’s Programme adopted the term “asylum seeker”.

This is also true with regard to environmental migrants, taking into account the discords caused by deliberations over the wording “environmental migrant” or “environmental refugee” which will be considered below. The UNHCR is of a view that the term “refugee” cannot be used to describe environmentally displaced persons.

It should be noted that the problems of internally displaced persons were not covered in detail by any universal international agreements. The UNO dealt with ‘IDP’ situations in various regions of the world. In 1992 the first Representative of the Secretary-General of the UNO on IDPs was appointed. He was charged with the development and clarification of international standards relating to the displacement of population within a country.

The UNO Secretary-General on Internally Displaced Persons had used in his analytical report, which was submitted to the UN Commission on Human Rights during session XLVIII in 1992, the term “internally displaced persons” for the determination of persons “who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife, systematic violations of human rights or natural or man-made disasters; and who are within the territory of their own country” (clause 34). One of the achievements was the inclusion of environmental migrants to this definition.

The UNHCR stated that this definition was “a good starting point for consideration of the issue of internally displaced persons”. At the same time, the UNHCR noted that having a “big number” as one of the criteria “may lead to subjective evaluation which in its turn will add uncertainty”. Some organisations declared that the definition contained in the analytical report was unreasonably narrow and did not cover a number of persons or groups of persons in need of protection. The International Organisation for Migration (IOM) also argued against the exclusion of small numbers of

⁹*Flintan, F.* Environmental Refugees - A Misnomer or a Reality? // A contribution to the Wilton Park Conference Report on Environmental Security and Conflict Prevention. 2001. March 1st – 3rd. p. 1.

persons from the working definition, especially since the rights that are affected are largely those of individuals.¹⁰

In 1993, at the request of the UN Commission on Human Rights, Francis M. Deng, the UN Secretary-General Representative on the Rights of IDPs, made an analysis of the existing international rules which could apply to the situation of IDPs. Following his research he concluded that the international legal documents existing up to that date provided to the IDPs sufficiently wide protection. However, in his research he enshrined the necessity to elaborate and adopt international rules taking into account the specific legal status of the IDPs.¹¹

In particular, he concluded that the direct prohibition of the forced displacement was prescribed only by international humanitarian law and in international documents relating to indigenous peoples. On the contrary, the general provisions of international human rights documents prescribe such prohibition only implicitly, namely, in articles relating to the freedom of movement, or the prohibition of interference with a home. However, according to the Representative, these articles cannot extend to all cases of forced displacement. The lack of clear provisions on forced displacement of such persons in international human rights law caused some uncertainty about their status in international law.¹² This research underlays the

¹⁰ A comprehensive study prepared by the Representative of the Secretary-General on the human rights issues relating to internally displaced persons, pursuant to the Commission on Human Rights, resolution 1992/73. E/CN.4/1993/35. Para. 34–35. [Electronic resource]. URL: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G93/105/95/PDF/G9310595.pdf?OpenElement> (accessed: 30.12.2010).

¹¹ See: Conclusions of the UN Secretary General Representative on the Rights of IDPs: Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission, questions of human rights, mass exoduses and displaced persons. Internally displaced persons: Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to the Commission on Human Rights resolution 1995/57. Compilation and analysis of legal norms. E/CN.4/1996/52/Add.2. 1995. 5 December.

¹² Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission, questions of human rights, mass exoduses and displaced persons: Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to the Commission on Human Rights resolution 1997/39. Addendum. Compilation and Analysis of Legal Norms, Part II: Legal Aspects Relating to the Protection against Arbitrary Displacement. E/CN.4/1998/53/Add.1. 1998. 11 February. URL: <http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/49dc663a776b2cc2c125661e002d5588?OpenDocument> (accessed: 14.04.2012).

Guiding Principles on Internal Displacement 1998 (hereinafter referred to as “Guiding Principles”) which stipulate natural and man-made disasters as reasons for displacement.

Other categories, including repatriates, women, children and persons seeking asylum were later recognised as persons in need of assistance.

The tendency towards the extension of the UNCHR’s mandate demonstrates that it is necessary to use more general criterion, such as a lack of protection.

Such wider competence of the UNHCR is sound for several reasons. *First of all*, the UNHCR’s activity does not preclude the States recognising the status of refugees independently. *Second*, the UNHCR provides the relevant assistance on the basis of non-binding documents. *Finally*, due to the recognition of new categories of persons in need of the UNHCR’s protection, no amendment which somehow could change the notion of the refugee was introduced into the UNHCR’s statute. Therefore, *de jure* only those persons who fall within this definition may receive the assistance of the Commissioner in full.

The impact of natural hazards on displacement was the subject of deliberations within the UNO, not only in the context of migration but also in the context of humanitarian aid. In 1988 in one of its resolutions¹³ the General Assembly expressed concerns about the suffering of the victims of natural disasters and similar emergency situations, the loss of human lives, the destruction of property and the mass displacement of populations that resulted from them. It enshrined the importance of a state’s sovereignty in situations where they had to deal with the effects of disasters. The Assembly also urged states in proximity to areas of natural disasters to participate closely with the affected countries with a view to facilitating the transit of humanitarian assistance. The Resolution did not contain any provisions about the obligation or the right of neighbouring or other states which had not been affected by the disaster to host refugees from affected areas.

The problems of migration and the environment existed for a long time in “parallel worlds” that rarely crossed. That’s why the term “**environmental migrant**” (and its different versions) emerged only fairly recently, and was first popularised by Lester Brown of the Worldwatch Institute in the

¹³ Humanitarian assistance to victims of natural disasters and similar emergency situations: Resolution of the UN General Assembly of 08.12.1988 A/RES/43/131. [Electronic resource]. URL: <http://www.un.org/documents/ga/res/43/a43r131.htm> (accessed: 14.04.2012).

1970s, although the most quoted contributions on the subject are perhaps those of El-Hinnawi (1985) and Jacobson (1988).¹⁴

Since then the problem of environmental migration has become a subject for lively discussions at various conferences and international organisations. The international community realised that some measures would be necessary in order to protect the environment in 1972. The Stockholm Conference on Environment and Development stood at the origins of the sustainable development concept which had some connection with environmental migration. Therefore, the doctrine¹⁵ supported the view that the principal international conferences on environmental issues were important for the development of the environmental migration concept. Furthermore, particular attention was drawn to the connection between the environment and migration at the international conferences on population.

Thus, in 1974 the participants of the UN World Conference on Population in Budapest recognised that it was necessary to realise at the national and international levels a complex interrelationship between the problems of population, resource consumption, the environment and development as well as the application of a new analytical approach towards research in this field and towards all relevant measures. Moreover, the problem of urban migration was tackled. Urban migration may aggravate the quality of the environment, provoke excessive consumption and cause overpopulation. The development of a mechanism contributing to a balanced and reasonable consumption of resources in order to combat this problem was suggested.¹⁶

In 1992 at the Rio de Janeiro Conference on Environment and Development, four ecosystems threatened by destruction were determined: regions subject to severe desertification or deforestation, as well as coastal zones or islands situated below the sea level in the Indian and Pacific Oceans. All these constitute potential triggers for environmental migration.

In 1993 the participants of the World Conference on Human Rights in Vienna adopted the Vienna Declaration and Programme of Actions. This document enshrines the refugee crisis and problems with other forced

¹⁴ *Black, R.* Environmental refugees: myth or reality? // New issues in refugee research. Working Paper No. 34. University of Sussex, 2011. p. 1.

¹⁵ *Gonin, P. & Lassailly-Jacob, V.* Les réfugiés de l'environnement. Une nouvelle catégorie de migrants forcés? // Revue européenne des migrations internationales. 2002. No. 2. Vol. 18. p. 142.

¹⁶ World Population Plan of Action. URL:

<http://www.un.org/popin/icpd/conference/bkg/wppa.html> (accessed: 29.04.2012).

migrants and the importance of and need for humanitarian assistance to victims of all natural and man-made disasters.¹⁷

In 1994 the International Conference on Population and Development was organised. The Programme of Actions adopted at this conference¹⁸ stipulated that the satisfaction of the basic human needs of the growing population depended on a healthy environment. It was also mentioned that environment and population influence each other: excessive consumption of resources or pollution due to anthropogenic activities may result in the degradation of the environment.

The participants of the conference also indicated problems relating to the environmental impact caused by population: growth of population, excessive consumption, lack of access to resources and public policy stimulating rural development.

They also considered sustainable resource management, especially in ecologically fragile systems, as one of the measures to be taken by the states for harmonious social development subject to sustainable development. The states were also offered a method by which to change their irrational approaches to consumption and production patterns through economic, legislative and administrative measures aimed at promoting the sustainable usage of resources and the prevention of environmental deterioration.

The experts also drew special attention to migration occurring from rural areas to towns. They referred to a balancing of the distribution of the population in order to best satisfy needs without danger to the environment. At the beginning of the 1990s half of the countries, mostly developing countries, came to a conclusion that their existing schemes of population distribution were inappropriate and should be subject to change. They were especially preoccupied by migration towards towns. Therefore these governments were recommended to create the prior conditions for the development of rural areas in order to decrease urban migration: to support the access to ownership or use of land, as well as the access to water resources and to improve rural infrastructure. The states were urged to develop a system of information and training with regard to land conservation measures, and to encourage the creation of off-farm jobs in rural areas in order to further limit the settlement of population in the

¹⁷ Vienna Declaration and Programme of Action. A/CONF.157/24 (Part I). 1993. URL: <http://www.un-documents.net/ac157-23.htm> (accessed: 29.04.2012).

¹⁸ Report of the International Conference on Population and Development. Cairo, 1994. 5–13 September. A/CONF.171/13. URL: <http://www.un.org/popin/icpd/conference/offeng/poa.html> (accessed: 29.04.2012).

areas with vulnerable ecosystems. These population distribution policies were to be implemented in accordance with international law.

High concentrations of population settling in major towns and cities represents a particular economic, social and environmental challenge for many states. These states must encourage an improvement in the qualifications of state officials in order to resolve effectively the problem of overpopulation, to avert catastrophes and to provide people with the possibility to leave the natural and anthropogenic disaster zones.

The conference's agenda also included the situation of internally displaced persons and their reasons for migration. In particular, it was emphasised that the generally recognised reasons for such displacement included, *inter alia*, the deterioration of the environment and natural disasters. The countries were recommended to eliminate the reasons for internal displacement, including the deterioration of the environment and natural disasters, and to put in place the necessary mechanisms for the protection of and assistance to IDPs, including also compensation for damages, especially for those who could not return to their usual place of residence in the near future. The states were also called upon to develop special measures to prevent natural disasters.

In order to deal with the degradation of the environment and minimise the conflicts relating to access to pastures, it is necessary to upgrade the economic cattle-breeding system, with recourse, where appropriate, to bilateral and multilateral agreements.

Furthermore, environmental degradation was recognised as one of the factors affecting international migration. The action programme of the conference contained a call for support for the resolution of food security and effective environmental protection issues.

The states were also encouraged to consider applications relating to migration from countries which are directly threatened, according to existing scientific data, by global warming and climate change.

The problems of refugees, asylum seekers and displaced persons were also covered at the conference. The action program of the conference stipulated that the states should eliminate the root causes for the displacement of such categories of persons. The prevention of environmental degradation was mentioned as one of the factors contributing to combat against forced displacement.

Although the small developing countries influence global climate change and sea level rise least of all, they are the first states to be affected by such phenomena and may even become uninhabitable. Therefore they belong to the group of especially vulnerable states which need assistance on the grounds of the UN Framework Convention on Climate Change,

including the adaptation of measures and efforts for the alleviation of climate change consequences¹⁹.

The participants of the 1997 Kyoto Conference and the 2000 Hague Conference gave consideration to the risks of intensive migration induced by global warming.²⁰

At the World Conference on Sustainable Development in Johannesburg in 2002, the Plan of Implementation of the World Summit on Sustainable Development was adopted. This plan stipulated the problems of regions affected most often by natural disasters.²¹ The meeting produced a number of suggestions: to provide financial and technical support aimed at strengthening the potential of African countries, including their organisational and human capacities, in particular at the local level, to combat effectively the consequences of natural disasters, including observation and early warning systems, assessments, promptness, countermeasures and restoration; to support the African countries in order for them to be able to resolve more effectively the problems of displacement induced by natural disasters and conflicts, and to create direct action mechanisms; to assist the countries admitting refugees in order to ameliorate the infrastructure and environment including ecosystems and habitats prejudiced by such admission and settlement of refugees.

At the World Conference on Disaster Reduction in Kobe, Hyogo, Japan, the states concluded that it was necessary to take measures in order that the programmes in the interests of displaced persons, when appropriate, did not result in increased risks and vulnerability with regard to hazards.²²

Conferences of States Parties to the Framework Convention on Climate Change have become an important step in the promotion of the environmental migration concept. The main work in that direction has been commenced by the Special Working Group on Long-Term Cooperation in accordance with the Framework Convention on Climate

¹⁹ Barbados Declaration // Report of the Global Conference on the Sustainable Development of Small Island Developing States. Bridgetown, Barbados, 25 April–6 May 1994. A/CONF.167/9. p. 7.

²⁰ *Gonin, P. & Lassailly-Jacob, V.* Les réfugiés de l'environnement. Une nouvelle catégorie de migrants forcés? // *Revue européenne des migrations internationales*. 2002. No. 2. Vol. 18. p. 142.

²¹ Plan of Implementation of the World Summit on Sustainable Development. Resolution 2. A/CONF.199/20. p. 56.

²² Hyogo Framework for Action 2005-2015 // World Conference on Disaster Reduction, Kobe, Hyogo, Japan, 18–22 January 2005. A/CONF.206/6. p. 27.

Change which was created at the conference on Bali in 2007.²³ The principal objective of the Working Group has been to provide effective implementation of the Convention's provisions by way of long-term cooperation.

At the same time, the problem of environmentally induced forced migration has officially attracted close attention only since 2008–2009. In particular, it was admitted that it was necessary to resolve the problem of migration as a result of climate change. The states were called to cooperate in an exchange of experience on this issue, as well as to contribute to the implementation of the Working Program of Nairobi and the Action Plan of Bali²⁴ which had been adopted at the previous conferences of the States Parties to the Convention, and which concerned mainly the conservation of the environment.

As for the Action Plan adopted at the conference in Bali, the Special Working Group elaborated the document “Ideas and Suggestions on paragraph I of the Bali Action Plan”. The Group proposed to change positive and negative social and environmental risks including the impact on local communities, *inter alia*, indigenous peoples, due to migration; the organisations concerned were encouraged to monitor regional migration, to execute further evaluation of the environmental state and migration flows as well as to organise pilot projects for adaptive measures, paying special attention to migration induced by climate change; it enshrined the necessity to ameliorate the general awareness of migration induced by climate change and to develop and exchange data and climatological services based on more effective monitoring of climate change.²⁵

In 2008, at the summit in Poznan, the president of the Special Working Group on Long-Term Cooperative Action prepared a document with generalised information on environmental migration acquired from applied research and provided to the humanitarian organisations. After the conference in Poznan the issue of migration in an environmental context was discussed in the course of negotiations.

In June 2009, at session VI of the Special Working Group the parties made general comments on the structure and contents of the document on migration drafted by the Working Group, and then suggested amendments

²³ Bali Action Plan. Decision 1/CP.13 8th plenary meeting 14–15 December 2007 // FCCC/CP/2007/6/Add.1. p. 5.

²⁴ Climate change and migration: impacts, vulnerability and adaptation options. 18 August 2008. 3rd session of the Ad Hoc Working Group on Long-Term Cooperative Action under the Convention (AWG-LCA 3).

²⁵ Ideas and proposals on paragraph 1 of the Bali Action Plan. FCCC/AWGLCA/2008/16/Rev.1, 2008. pp. 49, 76–77.

to it. At the opening of the plenary session the head of the American delegation expressed his concern with regard to the use of the term “climatic refugee” in the document. The Conference of States Parties to the Framework Convention on Climate Change took into account this remark, reviewed the wording and put it to agenda starting with the summits in Bangkok and Barcelona in September 2009 and with the conference in Copenhagen in December 2009.

At the last conference the Special Working Group proposed the drafting of a document on migration and use of the wording “migration and displacement” as the key element. During the working sessions some countries suggested the inclusion of a number of questions in the paragraph on migration and displacement: human rights, “environmental justice”, compensation to the vulnerable persons etc. However some participants expressed their concern that it would be difficult to agree upon the paragraph on migration because of such wording. Finally, the parties reached a compromise. They decided, in particular, to mention human rights in the preamble. The agreed wording was introduced into one of the conference documents.²⁶ This document contained a call to the states to take measures to promote mutual understanding, coordination and cooperation on the issues of displacement, migration and planned displacement due to climate change at the national, regional and international levels.

In 2010 at the conference in Cancun the results of the efforts of the Special Working Group were approved and the conclusion on the necessity to fight against migration induced by climate change was formulated. This conclusion was inserted into the Adaptation Plan agreed by the parties.²⁷

Recent years have been commemorated by the common efforts of international organisations to deal with the problems of migration and the protection of the environment, as well as the search for ways to prevent and combat the consequences of environmental migration. Thus, in April 2008 such international institutions as the UN Institute on Environment and Human Safety (University), UNEP and the IOM founded the Alliance on climate change, environment and migration. The Institute on Environment

²⁶ Work undertaken by the Conference of the Parties at its fifteenth session on the basis of the report of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention. Annex II. Enhanced action on adaptation// FCCC/CP/2010/2. p. 14.

²⁷ For details see: *Warner, K.* Climate and environmental change, human migration and displacement: Recent policy developments and research gaps. United Nations University - Institute for Environment and Human Security (UNU-EHS), 2011.

and Human Safety determined several “hot spots” in the world, in particular, in Asia, Africa and South America, which demonstrated vivid evidence of migration induced by degradation of the environment. The aim of the Alliance was to research and raise awareness regarding environmentally induced migration in order to draw the attention of international organisations to this problem.²⁸

International mechanisms to protect IDPs in situations of natural disasters are often not effective due to a lack of understanding, knowledge and the capacity to address threats arising in disaster settings. OHCHR, UNHCR and UNICEF are still struggling to develop the capacity on the ground to match their commitments to provide protection in disaster settings that they assumed during the course of the 2005 humanitarian reform initiative. In this connection, UNHCR undertook the filling of the gap in consultation with UNICEF and UNHCHR and expressed its hope that its capacities would be enhanced accordingly.²⁹

The development of international regulation of environmental migration at the global level proves that this is a relatively new problem for the international community. Therefore, it is hardly appropriate to indicate any separate stages of its development. Most probably, at the present time this subject is still in the first stage of its development. The next stage is the elaboration and adoption of an international document regulating various aspects of environmental migration.

It should be noted that this problem has been the result of the aggravation of global problems such as climate change. At the same time it constitutes a general problem requiring the accumulated efforts of all states in order to be resolved effectively. On the other hand, the position of some states depends in many ways upon the region in which they are situated. That’s why the regulation of environmental migration at the regional level shall be considered separately.

²⁸ UNU-EHS Workshop Establishes Environmental-Induced Migration Alliance // United Nations University Institute for Environment and Human Security. URL: <http://www.ehs.unu.edu/article/read/492> (accessed: 01.05.2012).

²⁹ Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin: A/HRC/13/21 of 05.01.2010. p. 15. [Electronic resource]. URL: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-21.pdf> (accessed: 15.05.2012).