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## THE IMPACT OF ENVIRONMENTAL CHANGES ON THE THESAURUS OF INTERNATIONAL LAW

**Summary.** The article analyzes a challenging issue of the international law concerning the displacement of persons for environmental reasons. The special attention is devoted to a discussion around a framework of categories and concepts, in particular, to the definition of a notion «climate refugees» and «migrants». The lack of consensus in the international community concerning a status of persons, forced to leave their permanent habitat due to the climate changes, does not allow effectively to meet the international challenges of the XXI century. The recommendations for a solution of this problem were formulated in the article.

**Keywords:** climatic refugees, migrants, environment, international law.

The environmental changes have become one of the most essential modern challenges in a global world which are not going unnoticed for the international law. The environmentally induced displacement has become a topical issue on the international level. In 1990, the Intergovernmental Panel on Climate Change declared that the greatest consequence of climate change could be migration with millions of people displaced due to the shoreline erosion, coastal flooding and severe drought [1]. According to the opinion of UN High Commission for the Refugees «the reasons for human displacement become more and more complicated: more people are forced to be displaced because of environmental degradation and climate changes» [2]. This issue becomes more challenging taking into consideration the latest statistics. In 1995 such people totaled at least 25 million people, compared with 27 million traditional refugees and according to the research conducted by the American Association for the Advancement of Science this figure could be doubled by 2020 [3].

The population displacement due to the environmental problems represents a significant challenge for the modern international law and requires its adaptation to the new realities.

A term «environmental refugee» is widely used concerning the climate change issue. However, up to date it has not been proved completely to what degree the climate change contributes to the human migration. Moreover, it is not clear whether the individuals faced the environmental challenges and forced to leave their homes may be referred as «refugees».

Under the United Nations Convention Relating to the Status of Refugees of 1951, a refugee is defined (in Article 1A) as a person who «owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country» [4]. While the concept of a refugee was expanded by the Convention's 1967 Protocol and by regional conventions in Africa and Latin America to include persons who had fled war or other violence in their home country, in its present state the convention does not provide long-term legal protection to persons displaced due to environmental change [5].

Initially the term «environmental refugee» was brought into public debate by the United National Environmental Programme Researcher Essam El-Hinnawi. In 1985 he published a report defining environmental refugees as people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life. By «environmental disruption» in this definition is meant any physical, chemical, and/or biological changes in the

ecosystem (or resource base) that render it, temporarily or permanently, unsuitable to support human life [6].

The above mentioned definition emphasizes mainly the reasons which may cause the population flows. However El-Hinnawi's definition does not make any difference between the internally displaced environmental refugees and those who were forced to cross the border. Moreover, it doesn't specify any distinction between different types of environmental refugees.

Jodi L. Jacobson made an attempt to detail the definition suggested by El-Hinnawi. He divided the environmental refugees into three main categories: those, who were displaced temporarily because of a local disruption such as an avalanche or earthquake; those who migrate because environmental degradation has undermined their livelihood or poses unacceptable risks to health; and those who resettle because land degradation has resulted in desertification or because of other permanent and untenable changes in their habitat [7].

This definition demonstrates the tendency to connect the duration of population movement with its causes. J. Jacobson offered the comprehensive view on «environmental refugees» issue. However, his definition addresses mainly the internally displaced persons failing to analyze the consequences for the external displacement.

British environmentalists Norman Myers and Jennifer Kent conceptualize environmental refugees as persons who can no longer gain a secure livelihood in their traditional homelands because of environmental factors of unusual scope, notably drought, desertification, deforestation, soil erosion, water shortages and climate change, also natural disasters such as cyclones, storm surges and floods. In face of these environmental threats, people feel they have no alternative but to seek sustenance elsewhere, whether within their own countries or beyond and whether on a semipermanent or permanent basis [8].

The foregoing definition goes well beyond the natural disasters specifying the main causes of the human displacement. It addresses the exact circumstances under which people tend to leave their homes. Another Myers and Kent's contribution consists in the determination of different ways of human movement providing

the possibility of crossing the state borders by environmental refugees.

Three foregoing definitions show the diversity of opinions regarding the characterization of the category of environmental refugees. However there are some obvious similarities on this issue. Firstly, all the above mentioned researchers agree that the environmental degradation is the dominant factor that have contributed to the human movement and simultaneously represents the sui generis fear of being persecuted from the state of origin. Secondly, the majority of environmental refugees abandon their usual place of living either temporarily or permanently, while at the same time their movement may remain within the border of their state or cross the national boundaries. And thirdly, persons may be considered as the environmental refugees only when they face such severe damages due that there is no other alternative but to flee.

However, many researches that have appeared since the 1990s have started a debate on the question of whether the people forced to leave their homes as a consequence of environmental degradation should be regarded as environmental refugees. For instance, such prominent researcher as Joann McGregor claims that in today's globalized world, people leave their homes for a variety of reasons. Moreover, he is deeply convinced that it is impossible to isolate environmental factors from other drivers of migration, such as political and economic drivers especially taking into consideration the fact that most displaced persons are the nationals of developing or simply poor countries [9].

Such authoritative organizations as the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and UN Office for the Coordination of Humanitarian Affairs (OCHA) also express their concern that the term «environmental refugee» is problematic due to different reasons.

UNHCR thus argues that this term does not have any basis in international refugee law, while also claims that its using for situations characterized by structural push factors of migration risks undermining the refugee framework under the Geneva Convention 1951 [10].

The IOM also avoids using the term «refugee» describing the persons who, for compelling reasons of sudden or progressive changes

in the environment that adversely affect 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, as environmental migrants [11].

Despite the fact that the large-scale displacement of persons for environmental reasons has already become a reality there is no consensus on what official status should be accorded to them. Until recently, the discussion of «appropriate terminology» pointedly demonstrates the reluctance of international community in establishing clear definitions of concepts and terms related to climate change-induced displacement. Such unwillingness is heavily determined on fear of mass migration flows from developing and least developed countries to the developed ones in the guise of environmental refugees. The approach of this kind seems to be far from constructive and contributes little to the solution. The lack of unanimity is a key problem that deprives the vast number of people displaced for environmental reasons of international protection. Therefore it is necessary to formulate a universally accepted definition regarding such individuals. This is the only way to develop an adequate international legal framework and adopt appropriate institutional measures to address the problem of environmental displacement.

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#### **Дворніченко Д. Вплив кліматичних змін на тезаурус міжнародного права.**

**Анотація.** В статті проведено аналіз актуального для сучасного міжнародного права питання переміщення населення в результаті кліматичних змін. Основна увага приділена дискусії навколо категоріально-понятійного апарату, зокрема визначенню понять «кліматичні біженці» та «мігранти». Відсутність консенсусу в міжнародному співтоваристві відносно статусу осіб, вимушених покинути постійне місце проживання в результаті кліматичних змін, не дозволяє ефективно реагувати на кліматичні виклики нового ХХІ століття. Автором сформульовані рекомендації щодо вирішення даної проблеми.

**Ключові слова:** кліматичні біженці, мігранти, довілля, міжнародне право.

#### **Дворніченко Д. Влияние климатических изменений на тезаурус международного права.**

**Аннотация.** В статье проводится анализ актуальный для современного международного права проблемы перемещения населения в результате климатических изменений. Основное внимание уделено дискуссии вокруг категориально-понятийного аппарата, в частности, определению понятий «климатические беженцы» и «мигранты». Отсутствие консенсуса в международном сообществе по поводу статуса лиц, вынужденных покинуть свое постоянное место жительства в результате климатических изменений, не позволяет эффективно реагировать на климатические вызовы ХХІ столетия. Автором сформулированы рекомендации по решению данной проблемы.

**Ключевые слова:** климатические беженцы, мигранты, окружающая среда, международное право.