CLIMATE REFUGEES AND INTERNATIONAL REFUGEE LAW

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1. INTRODUCTION

The recent forced displacement of millions in the draught-stricken Horn of Africa is yet another manifest evidence of causality between climate change and involuntary migration, which triggered the UN Security Council debate over its potential threat to international peace and security.1 It is now widely recognised that large scale cross-border environmental degeneracy seriously impacts on both living organisms (human, animal, and plant) and non-living natural resources on the planet Earth.2 Anthropogenic greenhouse gas emission causes global warming and climate change. Its tangible effects are found in severe draughts and heatwaves, torrent of floods and hurricanes, increasing desertification, sea level rise submerging low-lying coastal areas, and frequent extreme weather conditions. The First Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) foresaw this eventuality in 1990 and warned about the gravest impacts of climate change on forced human migration.3 Many experts and intergovernmental agencies unanimously confirm about the future flood of climate-displaced persons and their sheer number is likely to surpass all known refugee crises.4

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4 IPCC, Climate Change 2007: Impacts, Adaptation and Vulnerability (New York: Cambridge University Press, 2008); Nicholas Stern, The Economics of Climate Change:
International political and normative responses to climate-induced involuntary displacement, particularly the so-called cross-border “climate refugees”, and their relocation and protection remain ambivalent at best and dismissive at worst. The political urgency of addressing the issue is often lost in the North-South conflict of economic interests and strategic political expediencies of developed countries apprehensive of greater influx of asylum seekers into their territories under the guise of “climate refugees”.

This chapter critically examines the existing international protection paradigms of (a) refugee under the 1951 Refugee Convention, 1967 Protocol on the Status of Refugees, and Office of the UN High Commission for Refugees (UNHCR), and (b) human rights with a view to seeking legal status and protection for “climate refugees”. Both paradigms predate the emergence of the “climate refugee” problem and as such provide no overt coverage to modern climate change exodus and their predicaments. Affording protection to “climate refugees” through interpretative expansion or reformist pursuit stretching the ambit of “refugee” under the Convention encounters its congenitally structural limitations and a lack of global consensus. But the need for this protection is too pressing to be trivialised or submerged in technical horse-trading and arguments. Technical differences between conventional and climate refugees may not be gainsaid but they are surmountable. The marginalised plight of “climate refugees” solicits a humane approach to their vulnerability and quest for survival, bringing human rights perspective as an integral part of this protection. The novelty of the task warrants a searching reappraisal and reorientation of these two paradigms or a particularised new one based on pragmatic reference to the real life experience of climate displacement and legal reasoning devoid of any antiquated or preconceived notion of refugees and their protection.