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INTERNATIONAL STATUS OF ENVIRONMENTAL MIGRANTS

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In the light of the current migration crisis, there is an increasing need for examining main causes of migrations. This paper contains a conceptual analysis of the notion "environmental migrants", a newly established category of persons being in a need of specific international protection. Following the elaboration on two empirical examples supporting the fact that this is indeed an ongoing and contemporary problem at international scene, the author considers whether proposed terms are able to appropriately address the group in question, thus putting forward a definition of the concept, as these are regarded as initial steps towards creating a distinct legal framework and an adequate protection of such particularly vulnerable group. Additionally, the second part of the paper is revealing some of the present-day international legal mechanisms which might serve as a solution to this problem, as well as several proposals de lege ferenda. Ultimately, it can be concluded that there is a need for special protection of those who migrate due to environmental factors, as well as that it is the common interest of the entire international community to tackle this problem before it is too late.

Key words: *International Law. – Environmental migrants. – Environmental refugees. – Human Rights. – Environmental Law.*

1. HISTORIA MAGISTRA VITAE EST

1.1. An Example from the Past

A large-scale earthquake, with a magnitude of 7 Mw had struck the island state of Haiti in 2010, causing an immense devastation to the country's infrastructure (especially in the capital city and southern part of the state) but also to houses, hospitals, public institutions and police stations.[1] A severe damage was caused to houses of Presidency,

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[1] UN Environment Programme, "UNEP in Haiti-2010 Year in Review", 2011, 10.

Parliament and Supreme Court.[2] According to some estimations, the final outcome of the earthquake, that Haiti had not seen on its territory in more than 200 years, was 222.000 lost lives, more than 300.000 severely wounded, 2.3 million displaced and 1.5 million put in temporary shelters.[3] The ability of Haiti to cope with such disasters was seriously shaken by the fact that Haiti at the time lost many important political figures and public officials, which altogether had weakened governing bodies of the state.[4]

Even though the images of ruined areas and other tragic consequences of the earthquake went viral and the world had an opportunity to see them, unfortunately it was not the only catastrophe that struck Haiti. The October same year was marked by the outbreaks of cholera which took more than 4 000 lives, while 150.000 people got infected until the end of the year.[5] In November, fatal floods occurred as Hurricane Thomas swept over Haiti and leashed already devastated country, causing more than 12.200 evacuations.[6]

Moreover, in 2012 tropical storm Isaac and Hurricane Sandy had brought some new troubles to the cities already destroyed by earthquakes.[7] A great damage was suffered by agriculturists and farmers as a result of landslides and floods.[8] Along with that, around 2 million people were urgently evacuated.[9]

The specific circumstances of the Haiti example reflect onto the fact that natural disasters had caused a mass displacement of people – both internal and external (cross-border). Furthermore, residents of Haiti tried to reach Brazil as the ultimate destination via Dominican Republic, Panama, Ecuador, Peru or Bolivia.[10] The response of transit countries, namely Ecuador, Peru, Bolivia, was the adoption of various

[2] *Ibid.*

[3] *Ibid.*

[4] *Ibid.*

[5] *Ibid.*, 13.

[6] *Ibid.*

[7] UN Office for the Coordination of Humanitarian Affairs, Emergency revision of the Consolidated Appeal 2012: Needs Arising from Impact of Hurricane Sandy, 2012, 2–14.

[8] *Ibid.*

[9] *Ibid.*

[10] A. P. Pacifico, E. P. Ramos, "Humanitarian Asylum for Forced Migrants: The Case of Haitians' Arrival in Brazil", *Exploring the Boundaries of Refugee Law* (*International Refugee Law Series)*, vol. 3, 2015, 228.

measures for the purpose of limiting the entry or passage of migrants from Haiti through their territories.[11]

As a large number of migrants were arriving to Brazil and even greater number expressing their intention to move there, Brazil was faced with the greatest, yet unresolved legal dilemma of our era – what is the exact status of these migrants fleeing natural disasters and destruction in their countries of origin. The question was primarily considered by the National Committee for Refugees in Brazil, which found that asylum seekers coming from Haiti were not to be recognized as refugees, since the 1951 UN Convention on the Status of Refugees[12] and 1967 Protocol[13] did not list environmental factors as causes of persecution.[14]

Unfolding the complexity of the issue, a solution was proposed by National Immigration Council of Brazil in the form of legal recognition of permanent residence for humanitarian reasons, having in mind the fact that deportation of migrants to their countries of origin would result in greater damage to the protection of their fundamental human rights.[15] As early as 2012, the National Immigration Council adopted Resolution 97/2012 establishing the criteria and quotas for obtaining residence permit for 5 years and it was supposed to issue 100 visas per month.[16] Nevertheless, it turned out that 1.200 permits per year was not sufficient number that would respond to the needs of such population. According to data collected by the Migration and Human Rights Institute, a non-governmental organization from Brazil, 5500 migrants from Haiti were granted permanent residence, during the period from April 2011 to November 2012.[17]

Additionally, this was the first time that Brazil has applied the system of complementary humanitarian protection to the whole national group (in the form of recognition of "permanent residence for humanitarian reasons"), though it had been implemented for individual cases before.[18] However, such protection turned out not to be

11 *Ibid.*
12 United Nations, *Treaty Series*, vol. 189, 137.
13 United Nations, *Treaty Series*, vol. 606, 267.
14 A. P. Pacifico, E. P. Ramos, 229.
15 *Ibid.*
16 *Ibid.*, 230.
17 *Ibid.*
18 *Ibid.*, 232.

a sustainable, long-run mechanism for any of the damaged countries. The country of origin, Haiti, was faced with some difficult and long-lasting processes of reconstruction and renewal, while the receiving country Brazil was presumed to be ready to provide help and oversee the needs of endangered categories with the aim of preventing illegal migration and other criminal activities.[19] All of the disadvantages lying behind the protection provided by Brazil have actually appeared as a result of this urgent need for unraveling the issue.[20] Concurrently, another cause was the fear of Brazilian authorities not to create such a precedent that would subsequently be (mis)used by migrants in similar situations (for that purpose, Brazilian officials expressly stated that it should be referred to as an "exceptional measure").[21] As a consequence of this approach, the entire position of migrants in Brazil remained unclear as the protection of their human rights and the issue of their integration into society were not adequately addressed. Furthermore, due to high unemployment rate and harsh living conditions, migrants from Haiti are still struggling to move from Brazil to the United States or Canada.[22]

Whatsoever, there is no denying that this case is essential to the topic that will be further, since it reveals the existence of a new category of migrants whose status has still not been fully settled by positive international law, even though they are in a need of special protection, which is much wider than guaranteed by general institutes of international human rights law.

1.2. An Example from the Future

Some of the earliest initiatives for the adoption of a binding international climate change treaty came from small island states, gathered around the table at the Maldives meeting in 1989, with the aim of raising the awareness on international scale about its own susceptible position in relation to the rise in sea levels.[23]

19 *Ibid.*

20 *Ibid*, 230.

21 *Ibid.*

22 K. G. Hall, "Brazil, once a haven, now a dead end for many Haitians", *Miami Herald*, 2016.

23 J. H. Knox, "Linking Human Rights and Climate Change at the United Nations", *Harvard Environmental Law Review*, vol. 33, 2009, 481.

Moreover, new negotiation initiative was launched in 2007, with the adoption of Male' Declaration on the Human Dimension of Global Climate Change.[24] The Declaration contained a proposal for the OHCHR to prepare a "detailed study" of the effects of climate change on human rights, which was formally accepted as early as of 2008.[25]

In spite of the fact that the report admitted the existence of negative effects of climate change on human rights, it declined to conclude that climate change violates human rights law.[26]

However, the report made a positive effect to the overall view on climate change challenges meaning that it revolves around accepting the great impact that climate change has on today's human migrations.[27] Likewise, equally significant is a reminder on states' international obligation to cooperate and provide help to all endangered countries so that they can more easily adapt to inevitable climate change.[28]

All of the above-mentioned illustrates the long-lasting and so far not overly successful fight of small island states to calmly raise their voice and warn the entire international community of the vital problem that they are facing, and all that without judicial or quasi-judicial mechanisms. In this struggle, the most active are the Maldives, composed of around 200 inhabited and 1000 uninhabited islands, with an average height of only 1.5 m above the sea level.[29] More importantly, it was estimated that with the rise in sea levels of 0.5m, 15% of the capital Male would be flooded by 2025, and ½ by 2100.[30] A longstanding expectation is that the entire territory of the Maldives will be swamped.[31]

The population of this state will face a series of dangers that might put into question their survival, even before climate change induces a complete loss of territory. Although global warming is threatening all coastal regions, small island states are particularly vulnerable as their en-

24 *Ibid.*, 477.

25 *Ibid.*

26 Human Rights Council, "Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights", 2009, par. 69.

27 *Ibid.*, par. 55.

28 *Ibid.*, par. 99.

29 Submission of the Maldives to the OHCHR under Human Rights Council Resolution 7/23, 2008, 15.

30 *Ibid.*, 19.

31 *Ibid.*, 21.

tire infrastructure is located nearby water.[32] Thus, the smallest rise in sea levels threatens to flood houses, hospitals, roads, airports and government buildings. Eventually, it would directly expose the socio-economic well-being of island communities and states to an immense risk.[33]

In addition, by putting into focus the Maldives example it can be seen that besides human death and destruction of property, floods could have destroyed or polluted already limited sources of drinking water; salinization could have made agricultural land completely infertile; and erosion could have ruined the beaches attracting a large number of tourists which would negatively affect the overall country's economy.[34] Besides the tourism, the economy of the Maldives is highly dependent on fishing, which could have also been disenabled.[35]

Bearing in mind that the Maldives are a low-density country, small groups of people are residing on islands far away from the capital. It follows that in case of devastating weather and floods, these people would be prevented from receiving help and rescue, as well as all communication lines with the rest of the state.[36]

Wherefore, rising sea levels will make the Maldives islands uninhabitable, even before it inundates them completely.[37] This example comes from the future by virtue of the fact that the international community has never before been faced with the problem of disappearance of an entire country as a result of severe environmental change, hence it is quite unpredictable how this matter will be addressed.

2. ENVIRONMENTAL REFUGEES

2.1. "Making of" the notion

Decades before the catastrophe in Haiti the legal doctrine had started to deliberate about the new category of migrants and the need for creating protection mechanisms for them.

[32] Intergovernmental Panel on Climate Change, *Climate Change – Impacts, Adaptation and Vulnerability*, 2007, 57.

[33] *Ibid.*

[34] Submission of the Maldives to the OHCHR under Human Rights Council Resolution 7/23, 2008, 22–23.

[35] *Ibid.*, 15.

[36] *Ibid.*

[37] *Ibid.*, 20.

Lester Brown, the founder of *Worldwatch Institute*, was the first to breathe life into the term "environmental refugees" in 1970.[38] Shortly after, in 1985 Essam El-Hinnawi proposed the definition and thereby created a starting point for the further development of the notion.[39]

The presentation of the term "environmental refugees" was followed by estimation of their current number, as well as their potential number in the future. The purpose of such data was to set a justification for the introduction of a new concept and to ensure its further legitimacy in legal doctrine.

Moreover, Jacobson was the first to provide such assessment in 1988, claiming that there were around 10 million of such refugees at the time.[40] She made such calculations based on the number of persons displaced due to drought in the African Sahel.[41] In addition to this assessment, her contribution is reflected in the recognition of climate change effects on human migration, which enabled academics, charities and media to refer to environmental refugees as an existing rather than hypothetical category.

Norman Myers, probably the most prolific author on this topic, had come up with a controversial estimation of number of environmental refugees stating that there were around 25 million of them in 1995, and that this number would double up until 2010.[42] According to his thoughts, climate change would produce a shocking number of 200 million of environmental refugees.[43] This author has decisively influenced the further progression of the concept, since his work has always been an inspiration to professional public, thus firing up legal debates and discussions. Some were criticizing his work, while others were prone to accept his assessments and claims *a priori*. For instance, international non-governmental organization *Christian Aid* estimated that by the year of 2050, there would be as many as 1 billion of dis-

[38] J. Morrissey, "Rethinking the 'debate on environmental refugees' from 'maximalists and minimalists' to 'proponents and critics'", *Journal of Political Ecology,* University of Oxford, Oxford, vol. 19, 2012, 41.

[39] E. El-Hinnawi, "Environmental Refugees", *United Nations Environmental Programme*, 1985, 4.

[40] S. Neuteleers, "Environmental Refugees: A Misleading Notion for a Genuine Problem", *Ethical Perspectives*, 2011, 230.

[41] *Ibid.*

[42] N. Myers, "Environmental refugees: a growing phenomenon of the 21st century", *The Royal Society*, vol. 357, 2002, 609.

[43] *Ibid.*

placed persons, out of which 50 million would be displaced due to natural disasters; 654 million as a result of development projects, such as building up large dams and mines; 250 million due to phenomena caused by climate change such as floods, droughts, hunger, and hurricanes.[44] This last group of 250 million was directly taken from his work.[45] Also, Myers's assessment was accepted by UNEP, a United Nations agency specialized in coordination of environmental activities, which later fenced off from this position, emphasizing that this did not represent an official attitude of the agency.[46] Nevertheless, the criticism of his assessments is based on several arguments. The ambiguity was clearly visible, even the usage of inadequate methodology in his research.[47] The most common objections are related to the fact that the UN High Commissioner for Refugees (UNHCR) officially reported that the number of forcibly displaced persons for 2009 in the world was 43,3 million[48], which was obviously incompatible with the approximation relating to environmental refugees.

At this point it should be recalled that international law does not recognize the special status of such persons, therefore registration, identification and counting them is a very demanding process, even close to impossible.[49]

2.2. Are They Refugees?

As the first proposals for the introduction of the new concept had been emerging, the polarization in literature occurred, thus stimulating a debate about all aspects of the new idea, starting from whether firstly proposed term was adequate enough, to trying to find the proper justification for placing it into a separate category.

Thus, two schools of thoughts had come to light; "maximalists" who believe that the connection between climate change and migra-

[44] Christian Aid, Human Tide: The Real Migration Crisis, 2007, 5–6.

[45] S. Neuteleers, 231.

[46] A. Bojanowski, "UN Embarrassed by Forecast on Climate Refugees", *Spiegel Online*, 2011. The above-mentioned assessments cannot anymore be found on the official web-site of the organization.

[47] R. Black, "Environmental refugees: myth or reality?", Working Paper no. 34, *United Nations High Commissioner for Refugees,* 2001, 9.

[48] United Nations High Commissioner for Refugees, *2009 Global Trends*, 2010, 2.

[49] Black makes the same point, by stating that without a precise definition there is no way of knowing whether this category is increasing, R. Black, 14.

tion is simple and linear and "minimalists" who perceive this relationship as vague and complicated one.[50]

The most common critic of "maximalists" refers to the use of the term "refugees" for all persons displaced due to environmental reasons. Lester's "environmental refugees" suffered the most criticism, which is definitely not ungrounded. Regardless of how strong "minimalistic" arguments were, the "maximalist" were consistently advocating the thesis about adequacy and necessity of the use of this term, persistently trying to find a justification for it. While promoting recognition of the status of "environmental refugees", a prominent "maximalist" Islam emphasized that there is a difference between individuals forced to leave their habitat due to well-grounded fear of death occurring as a result of destruction of the environment and on the other hand, those individuals who migrate in search for a better life.[51] The former are referred to as "refugees" while the latter are "migrants".[52] Ramlogan also considers that the answer to the question of who is an environmental refugee is at the heart of a decision making process relating to migration, so he distinguishes compulsory to voluntary migration and therefore "refugees" from "migrants".[53]

What is more, while looking for an explanation for the difference between willing and forced migrations, Bates brought forth the concept of "anticipated refugees" for all those people fleeing the severe environmental threats that might appear as causes of their forced leave (for that reason they usually choose a peaceful relocation in advance).[54]

Nevertheless, the term "refugee" has a precisely defined meaning and obviously differs from the term "migrant".

Accordingly, migrants are people who move from a country of their permanent residence (or origin) to another country.[55] So the

[50] A. Suhrke, "Environmental degradation and population flows", *Journal of International Affairs*, vol. 47, no. 2, 1994, 473.

[51] M. Islam, "Natural Calamities and Environmental Refugees in Bangladesh", *Refuge: Canada's journal on refugees,* vol. 12, no. 1, 1992, 6.

[52] *Ibid.*

[53] R. Ramlogan, "Environmental Refugees: a review", *Environmental Conversation*, Cambridge University Press, vol. 23, no. 1, 1996, 81–88.

[54] D. Bates, "Environmental Refugees? Classifying Human Migrations Caused by Environmental Change", *Population and Environment*, vol. 23, no. 5, 2002, 467.

[55] United Nations, Refugees and Migrants, Definitions, *https://refugeesmigrants.un.org/definitions*, visited 18.02.2018. It should be mentioned that there are several different definitions of migrants, so for example some authors insist on the voluntary element in the decision as a criteria for distinction, so according to them

reason for moving from one country to another is not a constituent element of the term in question, as it could be about any other reason – national economy, war, natural disasters, the fear of persecution, violation of human rights etc.[56] In other words, a migrant is a *genus proximum* for all persons who are moving from a country of origin or residence to any other country. Hence, their rights are regulated and guaranteed by general institutes and conventions from the sphere of international human rights law.

On the other hand, the refugee is a term defined in Article 1A(2) of the UN Convention on Status of Refugees 1951 stating that it is "a person who, due to 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 or, owing to such fear, is unwilling to avail himself of the protection of that country".[57] The rights of refugees as well as their legal standing are regulated by the Convention and its 1967 Protocol, given especially that particularly vulnerable groups of people are subjects to protection, their international status is highly specific.

Accordingly, the Convention on Status of Refugees 1951 lists *numerus clausus* grounds for persecution allowing a person to qualify as a refugee. As environmental factors are not among them, it should be clear that the use of the term in this context is completely wrong. This was also emphasized by the UN High Commissioner for Refugees, who rejected any possibility of using the term as such.[58]

The "minimalist" Black went a step further in criticizing the use of the term "environmental refugees" and placed an accent at the possibility of causing a danger to existing mechanisms for the protection guaranteed by the 1951 Convention, as well as the role of the latter in strengthening anti-immigration policies.[59] This author feared that the emergence of a large number of environmental refugees would stimulate receiving states to start avoiding their contractual obligations.[60]

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migrants are people who freely decide to relocate, while refugees are forced to leave their country of origin, International Organisation for Migration, *Glossary on Migration*, 2004, 40.

56 *Ibid.*

57 Article 1A(2) of the UN Convention on Status of Refugees 1951.

58 United Nations High Commissioner for Refugees, *Climate change, Natural Disasters and Human Displacement: A UNHCR Perspective,* 2008, 8–9.

59 R. Black, 11.

60 *Ibid.*

In particular, there is a danger that countries would reject demands of asylum seekers as unfounded on the grounds that they are fleeing the environmental factors, and not for example, political persecution which is undoubtedly covered by the Convention.[61]

It is clear from the above-mentioned that the legal regime of "refugees" differs from the legal regime of "migrants". To the best of the author's knowledge, this can be identified as the *ratio* behind "maximalist" approach to the term "refugees". Thus, they wanted to show that the new category of persons are not just "migrants" but deserve a very distinct treatment instead.

In addition, there are frequent suggestions that the application of the 1951 Convention should be expanded by the incorporation of environmental factors. For instance, Conisbee and Simms argue that the environment can be used as a method for causing deliberate damage, if there is an awareness of the potential harmful effect.[62] In this sense, building a dam or refusing to reduce emissions of greenhouse gases could be considered as a deliberate damage, as it is causing fear and forced relocations.[63] They call it "environmental persecution" and conclude that its entry into Convention would meet the required criteria from the Convention – "persecution" and "well-founded fear".[64]

However, there is a fear among opponents of the idea of extension of the Convention that new negotiations about enhancing states' obligations could emerge, stressing out that effects would be contrapositive. Namely, in certain cases, it is not easy to make a distinction between "environmental" and "economic" migrants, since both can be fleeing the hunger or poverty.[65] Thus, they stand for an attitude that it would be unacceptable to expand the Convention simply by adding "environmental migrants", because such a move could result in narrowing down states' obligations or even withdrawal of the latter.[66]

In addition to the initial proposal, there are different possibilities for the term in question – "environmental migrants", "forced environmental migrants", "ecologically-motivated migrants" and so forth. It

61 *Ibid*.

62 M. Conisbee, A. Simms, "Environmental Refugees-The Case of Recognition", *New Economics Foundation*, 2003, 30.

63 *Ibid.*, 30–31.

64 *Ibid.*

65 S. Castles, "Environmental Change and Forces Migration: Making Sense of the Debate", *New Issues in Refugee Research*, 2002, 10.

66 *Ibid*.

is interesting to mention the term "eco-migrants" which is supposed to include people moving to some new areas for the purpose of exploitation of natural resources, which places them somewhere between the environmental and economic migrants.[67]

Also, International Organization for Migration (IOM) came up with a term "environmentally displaced persons"[68] which could be highly debatable as the structure "displaced persons" usually refers to the concept of "internally displaced persons". The former indicates that migrants do not cross the international border, which does not necessarily have to be the case with environmentally displaced persons.

Until some better terms are found, the term "environmental migrants" seems to be the most appropriate at the moment.

2.3. Are They Environmental?

Even though the debate about "environmental migrants" revolved around justification for the use of the term "refugees", the watchful eye of critics did not miss the prefix "environmental" either. Thus, critics emphasized the "maximalists" wrong presumption that it is easy to set aside environmental factors from all the others such as social, political and economic ones.[69] According to Black, it is crucial for environmental factors to represent the dominant cause of migration, in order to pass along such a term.[70]

Lonergan is an example of a "minimalist" who is slowly approaching the "maximalists" by stressing out that environmental factors play an important role in making a decision on mobility and that we have not understood the entire process yet.[71] Also, he primarily emphasized the ability of people to adapt to deteriorating living conditions and indicated that making of new coping mechanisms and strengthening the existing ones represent the initial human reaction

[67] W. Wood, "Hazardous Journeys: Ecomigrants in the 1990s", Global Change: How Vulnerable Are North and South Communities? Environmental and Development Monograph Series, 1995, 35.

[68] International Organisation for Migration, Environmentally-Induced Population, Displacements and Environmental Impacts Resulting from Mass Migration, 1996, 4.

[69] J. Morrissey, 39.

[70] R. Black, 4.

[71] S. Lonergan, "The role of environmental degradation in population displacement", *Environmental Change and Security Project Report*, vol. 4, 1998, 11.

to harmful environmental and economic effects.[72] Similar attitude is shared by McGregor, who also criticizes the term "environmental refugees" for depriving these individuals of any ability to handle the changes in physical environment.[73]

Nevertheless, Lonergan realized that continued environmental degradation and destruction of natural resources, along with increased poverty, are difficult matters to cope with.[74] Also, they are preventing further development of the mentioned coping mechanisms and causing a mass displacement of people.[75] It follows that certain groups of people are becoming significantly susceptible to different changes in environment primarily for the reasons of poverty, unequal access to natural resources along with population growth, institutional constraints and insufficient economic power.[76] Therefore, he considers that economic, social or political influences on migration are creating such a setting where it is practically impossible to divide environmental contributions.[77] According to this author, migrations are a complex phenomenon and the effects of environmental degradation on forming a decision about relocation are insufficiently clear.[78]

On the other hand, Bilsborrow explains that environmental factors are undoubtedly relevant in terms of making a decision on migration and are one of the reasons standing behind the decrease in economic standards of a certain community.[79] These factors can be manifested through lowering down the possibilities for profit as a result of, for example, decrease in fertility level of arable land.[80] The fact that environmental factors immediately come to surface in some extreme cases such as natural disasters or drought does not mean that they have not existed prior to these events and that they have not triggered the migration.[81]

72 *Ibid.*

73 J. McGregor, "Climate change and involuntary migration: Implications for food security", *Food Policy*, vol. 19, no. 2, 1994, 120–132.

74 S. Lonergan, 11.

75 *Ibid.*

76 *Ibid.*

77 *Ibid.*, 12.

78 *Ibid.*

79 R. Bilsborrow, Rural poverty, migration, and the environment in developing countries: three case studies, Background paper for World Development Report, The World Bank, 1992, 3.

80 *Ibid.*

81 *Ibid.*

Furthermore, prominent "maximalists" Westing and Myers recognize the importance of political context while stating that the problem of "environmental refugees" would be most evident in developing countries for the reason of their inability to deal with threats to their sustainable development[82] and since the adaptation costs in relation to a newly formed environment would be way too high for most of them[83].

What is more, Ramlogan perceives poverty as an important component of migration in African Sahel[84] and often refers to factors such as war, religious conflicts, intolerance, unemployment and social inequalities[85].

"Minimalists" are relying upon empirical evidence in order to show that environmental factors are giving a rise to circular short-distance relocations on a temporary basis.[86] This triggers a dilemma around the question what constitutes the "real" migrations, thus, whether it is necessary for people to cross the international border for the sake of this concept. In this sense, Myers states that "individuals will be forced to migrate but only in terms of short migration lines", and in certain cases just to the opposite side of the city.[87] Previously illustrated observation is completely accurate since not all environmental migrants would be forced to cross the border, as not all of the Haitian refugees have migrated to Brazil. This however does not mean that they will not find themselves in a need of help or assistance. A need to provide help to these countries will definitely remain, despite the fact that those people could qualify as internally displaced persons and remain within the domain of exclusive competence of their state. The question whether there is a legal basis for that kind of support will be considered throughout upcoming pages.

Furthermore, one of the loudest "minimalists" Black has analyzed the fact that many authors seem to stress out only a single cause of migration even though there can be many of them.[88] Such reason-

82 A. Westing, "Environmental refugees: A Growing Category of Displaced Persons", *Environmental Conversation*, Cambridge University Press, vol. 19, no. 3, 1992, 205.

83 N. Myers, "Environmental refugees in a globally warmed world", *BioScience*, Oxford University Press, 1993, vol. 43, no. 11, 753.

84 R. Ramlogan, 81–88.

85 . B. R. Döös, "Can large-scale environmental migrations be predicted?", *Global Environment Change*, vol. 7, no. 1, 1997, 41.

86 *Ibid*.

87 N. Myers (1993), 757.

88 R. Black, 11–12.

ing is backed with an observation that most "maximalists", especially Myers, were not specialized in refugee and migration law but in the environmental law, thus, their primary concern was not migration as such but a potential trigger for natural disaster as a result of climate change, desertification, and deforestation.[89] In other words, the assumption was that they were trying to lead the public to a conclusion that the most appropriate states' reaction to the possibility of multiplying the number of environmental refugees would be to put forward measures regarding causes of environmental destruction.[90] Thus, he perceived migration as a widely used strategy for overcoming environmental changes rather than a new phenomenon emerging out as a consequence of exhaustion of natural resources.[91] Nonetheless, he did not go against presumption that environmental changes have a crucial role in forming the decision about migration.[92]

When it comes to environmental factors as important components for shaping the migration decision, it can be concluded that general consensus among authors (even minimalists) do exist.[93] An obvious disagreement remains with regard to the use of the term "environmental refugees", but the existence of a link between environmental changes and human migrations seems to be undisputed.

Moreover, a study conducted by the European Parliament proposed a separation of the term "environmental migrants" into three groups and this division could probably provide a clearer picture regarding the effects of various migration factors.[94] The first group (*environmental emergency migrants*) is forced to flee the natural disasters such as hurricanes, tsunamis or earthquakes in order to save lives.[95] In that case, environmental factors are the actual cause of relocation, while other factors can only play a secondary role. Similarly to the first one, the next group (*environmentally forced migrants*) is forced to leave their habitat but the pace of relocation is much slower.[96] Thus, an example could be degradation of soil quality or floods due to rise in sea lev-

89 *Ibid.*
90 *Ibid.*, 12.
91 *Ibid.*, 6.
92 *Ibid.*, 5.
93 J. Morrissey, 40.
94 A. Kraler, T. Cernei, M. Noack, Climate Refugees-Legal and policy responses to environmentally induced migration, European Parliament, 2011, 30.
95 *Ibid.*
96 *Ibid.*

els. Having in mind the latter group, socio-economic factors are much more significant than in the case of former. Consequently, their overall effect on migration could hardly be distinguished from environmental contributions. After all, environmental factors remain in dominant position here as well. Speaking of a third group (*environmentally motivated migrants*) it encompasses persons leaving their habitat to escape potentially catastrophic events as a result of uninterrupted deterioration of the environment.[97] Migration itself is not a precondition for this group, but instead it is more about socio-economic factors that can appear as an immediate cause of migration and a strategy for prevention of possible threats to human lives. However, environmental factors are laying behind all of the above-mentioned.

Therefore, with the greatest appreciation to all other aspects that can possibly affect migration, it could be stated at this point that a prefix "environmental" shall be adopted at least as long as environmental factors are provoking and stimulating resettlements, even when it is not *prima facie* obvious.

2.4. They Are Environmental, They Are Not Refugees ... But How to Define Them?

Considering the fact that every single proposal for the term is too broad, and relates to numerous situations of environmentally stimulated migrations, the criticism of relevant authors is not unreasonable, having in mind that they did not pay sufficient attention to identification of potential subjects to protection. So, a precise definition of "environmental migrants" is a first step towards establishing a special legal framework and protection.

As previously mentioned, the first definition traces back to El-Hinnawi, who considered that Lester's "environmental refugees" were people forced to leave their habitats, on a temporary or permanent bases, due to visible changes in the environment (natural or caused by human activities) threatening their survival and/or seriously impacting quality of their life.[98] Mayers has incorporated internally displaced persons into the definition as many are migrating out of environmental reasons within the same country, without crossing the border.[99]

97 *Ibid.*
98 E. El-Hinnawi, 4.
99 N. Myers (2002), 609.

International Organization for Migration (IOM) has defined them as individuals or groups who are forced to or choose to leave their habitats, temporary or permanently, and migrate within the internal borders or beyond them, for the reason of unexpected or progressive changes in environment negatively affecting their lives or living conditions.[100]

Despite the undeniable similarities between definitions, it is possible to notice a few disparities in a careful reading. Thus, El-Hinnawi's definition seems to be more restrictive, insofar as "environmental migrants" should be *forced* to leave their territories, and environmental changes should be as such as *to endanger and / or seriously affect their quality of life*. Although these expressions would be crystallized in practice, it is clear that they refer to some extraordinary phenomena. The latter definition is wider since it relates not only to forced, but also to voluntary migrations. As much as this broadness in the definition might be attractive, it can also pose a danger as it includes situations where causal link between the need for migration and environmental degradation is not so obvious. Let us analyze this through an example. Hypothetically speaking, if degradation of the environment would trigger the climate change in terms of frequent droughts destroying once fertile and arable land and leaving farmers without their jobs, could they be subject to these definitions? It depends on the level of actual vulnerability. For El Hinnawi, these persons should be as endangered as they have no other option but to migrate. In case of other definitions, it would be much easier to qualify them as "environmental migrants" since they choose to flee progressive environmental changes which are severely threatening their existence.

It is therefore indisputable that both definitions qualify people fleeing natural disasters as "environmental refugees/migrants" but the issue arises in all other situations where the influence of environmental factors is not so visible and does not provide a reasonable ground for migration at first glance. That is to say, it does not mean that such ground is non-existent but instead it points to the problem of finding a precise definition that will cover all those cases where the basis for migration appears and at the same time a definition that would leave no space for any potential abuse. Nevertheless, the fact that the defining "environmental migrants" is not an easy task, cannot serve as a

[100] International Organisation for Migration, Migration, Environment and Climate Change-Assessing The Evidence, 2009, 19.

justification for not trying hard enough to create one. Finally, the definition of "refugees" in the Convention is much broad itself, but this has not affected its successful application in practice so far.

The author, however, proposes that the definition should be kept at the level of linguistic construction *forced to migrate*, because this term can be examined on a case-by-case basis as same as for instance, *persecution* from the Convention which can manifest itself in many different ways. Perhaps by examining individual cases and all relevant factors it can be proved that farmers whose land is no longer fertile are actually forced to migrate for these reasons.

Taking into consideration all that has been observed, the question arises as to how to formulate the effects of environmental changes on subjects to definition in order for them to become "environmental migrants". The issue of broadness of the definition remains present in the second part which can be called *seriously affecting living conditions in some other way*. At this point, the author rejects El-Hinnawi's construction *quality of life* in favor of *living conditions*, due to obvious subjectivity hiding behind the term "quality". As same as with *forced* this standard shall be individually examined as well.

However, the undeniable elements of the definition are that migration can occur within the state itself or across international frontiers; it can be permanent or temporary; it can be caused by natural or anthropogenic changes in the environment.

It follows that "environmental migrants" could refer to people forced to resettle within their own country or across its borders, on a temporary or permanent basis, due to natural or anthropogenic environmental changes that can pose a threat to their survival or seriously affect their living conditions in some other way. It remains *only* that the international community recognizes them as such.

3. LEGAL POSITION OF ENVIRONMENTAL MIGRANTS – AN OVERVIEW OF EXISTING SOLUTION AND A PROPOSAL FOR THE NEW ONES

3.1. Positive International Law

The analysis of the position of environmental migrants in positive international legal order can be observed from two different standpoints. Let us consider the first situation of those who do not cross the

international border but remain within their internal borders. It may appear that there is no room for application of international legal instruments and that it falls under the exclusive competence of the state. However, it does not always have to be the case.

Firstly, the state itself can carry out a resettlement, even a large-scale one in cases of, for instance, a dam-construction project.[101] Let us imagine that within a multicultural state such as India, an entire community happens to be displaced to the opposite side of the state. Thus, it can be reasonably assumed that immigrants would be faced with a revolt and intolerance of the new hosts, especially if religious or cultural disparities exist. Furthermore, it follows logically that a country, initially responsible for resettlement, would not represent an adequate source of protection in this regard.[102]

Moreover, another potential situation where the problem of internally displaced "environmental migrants" could exceed boundaries of the country's border is the one where a country does not possess necessary resources for coping with the issue. In such cases help provided by the international community is inevitable, though it could be questionable what is the legal basis for such an aid.

Turning back to the causal link between environmental degradation and migration, it can be seen that there is a tremendous burden placed on governments of endangered countries. This is impermissible both morally and economically as there is no responsibility of the polluters themselves.[103] An excessive use of fossil fuels allows industrialized states to enjoy all the benefits of the modern era, but at the same time cause a direct harm to developing countries.[104] Thus, is it unreasonable to expect that developed countries will bear the costs of capricious use of already limited sources of fossil fuels? Many consider it is not. This idea represents a basis for one of the principles of international environmental law; the "polluter pays" principle. Principle 16 of the Rio Declaration on Environment and Development stipulates that "national authorities should endeavor to promote the internationalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the pollution costs". Accordingly, this principle provides an answer to the question of who will carry the financial consequences

101 M. Conisbee, A. Simms, 27.
102 *Ibid.*
103 *Ibid.*, 28.
104 *Ibid.*

of pollution.[105] An extensive interpretation of this principle stipulates that countries considered to be the greatest polluters need to take the responsibility for "environmental migrants", also in regards to the costs of their relocation, whether internal or cross-border.[106] The same reasoning is shared by authors who perceived the diffusion of responsibilities between countries as a possible solution, on the basis of some more abstract principle of international environmental law, Principle 7 of the Rio Declaration on Environment and Development, based on common but differentiated responsibility of states.[107] So the essence of this principle is reduced to the different contributions to environmental degradation given by developed and developing states, hence duties will be different in terms of environmental protection.[108] Despite the identical idea, the author stands for attitude that the source of responsibility shall be the principle "polluter pays" for the reason of its functionality and directness.

The division of responsibilities among states can also be based on the general principle of international law, the principle of solidarity among states.[109] Although it can be identified in different forms, the principle of solidarity often creates a context in which co-operation between states is a necessary condition for the survival of an entire international community composed of interdependent states.[110] We are witnesses of the modern era, in which no country is completely self-sustainable and does not need help or at least some kind of interaction with other countries.[111] Therefore, there is no reason for such cooperation not to be achieved in the matter of taking care of "environmental migrants". The 1951 Convention is also based on this idea, since its Preamble states that "the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the UN has recognized the international scope and nature *cannot therefore be achieved without international co-operation*".[112]

[105] B. Čučković, *Application of Rules on State Responsibility for Environmental Harm*, unpublished doctoral dissertation, Faculty of Law University of Belgrade, 2012, 377.

[106] M. Conisbee, A. Simms, 28.

[107] A. P. Pacifico, E. P. Ramos, 235.

[108] B. Čučković, 366.

[109] R. St. J. MacDonald, "Solidarity in the Practice and Discourse of Pulic International Law", *Pace International Law Review*, vol. 8, 1996, 262.

[110] *Ibid.*, 260.

[111] *Ibid.*

[112] Preamble of the 1951 Refugee Convention.

Hence, the whole part of international law, international refugee law, is based on the principle of international co-operation.

Moreover, this principle is explicitly affirmed in Charter of the United Nations[113], the UN Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the UN Charter,[114] the International Covenant on Economic, Social and Cultural Rights[115] and other relevant international instruments. In this regard, it is also interesting to stress out the way in which the International Law Commission addressed this principle in the Draft articles on the protection of persons in the event of disasters.[116]

Furthermore, the provision of Article 1 of the Draft provides for the State's obligation to protect all persons on its territory or territory under its jurisdiction or control, irrespective of their nationality or legal status, in cases of any type of accidents (whether caused by natural or anthropogenic factors).[117] Additionally, the provision of Article 7, named "Duty to cooperate", is the principle of effective international cooperation referred to as a *condicio sine qua non* for the protection of people in cases of disasters.[118] It requires cooperation not only among the states, but also between states and international and non-governmental organizations.[119] Even though the document is not able to make a legally binding rule out of this principle, it is quite encouraging that its importance is recognized in the context of countries endangered by natural disasters. The forms of cooperation are defined in Article 8, which provides for the provision of humanitarian assistance, coordination of international relief actions and communication, making available relief personnel, equipment and goods, as well as scientific, medical and technical resources.[120] Nonetheless, the Commission

[113] Article 1. par. 3. and articles 55. and 56. of UN Charter.

[114] Article 1. of the UN Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the UN Charter.

[115] Articles 11, 15, 22. and 23. of the International Covenant on Economic, Social and Cultural Rights.

[116] Draft articles on The Protection of Persons in The Events of Disasters, with commentaries, Yearbook of the International Law Commission, vol. 2, Part 2, 2016.

[117] *Ibid*., art. 1, par. 5.

[118] *Ibid*., art. 7, par. 1.

[119] *Ibid*., art. 7, par. 5.

[120] *Ibid*., art. 8, par. 1.

emphasizes that this list is only illustrative, thus encouraging all other forms of cooperation, primarily financial support, technology transfer, training, information-sharing, and so on.[121]

Therefore, as many have argued, the principle of solidarity has been recognized as an obligation of all countries to co-operate and provide developing countries with help, and this relates to developed states especially if their act or failure to act (to reduce emissions with greenhouse effect) have contributed to such vulnerability.

Having said that positive international law provides for the grounds of financial-burden sharing relating to internal or cross-border migration for environmental reasons, it has only been left to consider the status of these persons in case of their international border-crossing.

Since the positive international law is not providing a special status for these groups, the only available option would be to guarantee a complementary protection which states usually grant in exceptional cases when the required conditions for recognizing a refugee status are not fulfilled. However, there is no generally accepted definition of complementary protection, consequently its definition as well as the name of the term itself varies across the countries. For instance, the permanent residence that Brazil has granted to the citizens of Haiti is a complementary protection. In the European Union this is referred to as subsidiary protection according to Qualification Directive encompassing a protection of aliens who do not meet requirements for a refugee status, but who are reasonably believed to be subjected to capital punishment, torture, inhuman or degrading treatment or punishment, or serious threats resulting out of international or internal armed conflict if returned to their countries of origin.[122] It follows from this definition that states have recognized the need to provide protection to some broader group of persons than those qualifying for a refugee status. In this sense, environmental migrants could be given a temporary solution within the framework of this protection, at least until international community verifies the special status according to their position and needs. Aforementioned will be dependent on the receiving state and its legislation by all means.

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[121] *Ibid*., art. 8, par. 4.

[122] Article 2(f) and article 15. par. 1. of the Council Directive (EP) 2011/95/EU of 13 December 2011 on standards for qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, *Office Journal of the European Union*, L 337.

Nevertheless, let us take into consideration a hypothetical example of a person requesting a protection from the governing bodies of Republic of Serbia[123] due to his/her inability to have access to drinking water as a consequence of poverty and poor environmental conditions. Would the Republic of Serbia be permitted to return him/her to the country of origin or could it be in a position to afford a subsidiary protection? The answer depends on whether the circumstances in the country of origin could fall under the definition of inhuman or degrading treatment. Considering the diverse practice of the European Court of Human Rights, it seems that there is a basis for such qualification. In the case of *M.S.S. v Belgium and Greece*, the ECHR found that the applicant's return to Greece where he would be, *inter alia*, subjected to extreme poverty and living conditions, constituted a violation of Article 3 of the ECHR.[124] Also, it would be useful to examine some specific cases before the ECHR where the risk of human rights violation is not arising out of deliberate acts or omissions by public authorities or non-state actors. In case *D. v the United Kingdom*, the ECHR has identified a violation of Article 3 of the ECHR, stating that the return of a terminally ill person to his/her country of origin where he/she would be deprived of necessary medical assistance would represent an inhuman treatment, especially having in mind that the person was left with only few months of life.[125] The importance of this case lies in its revolutionary connection to the violation of Article 3 of ECHR in terms of deprivation of economic and social rights. Here it is possible to find a place for an argument that returning (*refouling*) a person to a state where there is no access to elementary supplies, such as clean and safe water, would pose a violation of Article 3 of ECHR. Anyhow, the development of ECHR case law regarding this question was not linear. In the case of *N. v the United Kingdom*, the applicant was HIV positive and claimed that return to the country of origin Uganda would have caused a great suffering and premature death and thus, inhuman or degrading treatment, considering that she is deprived of appropriate medical treat-

[123] Aricle 25 of the Law on Asylum and Temporary Protection of the Republic of Serbia provides the right to subsidiary protection, *Official Gazette*, No. 24/2018.

[124] *M.S.S. v Belgium and Greece*, Application no. 30696/09, Judgment from 21.01.2011, par. 366.

[125] *D. v the United Kingdom*, Application no. 30240/96, Judgment from 02.05.1997, par. 53.

ment in that country.[126] However, the ECHR concluded that "her condition, due to treatment in the United Kingdom, is not critical and that she is capable of travelling to her country of origin without being exposed to violation of her rights as long as she receives an adequate therapy".[127] Thus, there is no violation of Article 3 of the ECHR.[128] In its reasoning ECHR reminded of the fact that the violation of Article 3 of the ECHR because of deprivation of appropriate medical treatment has not been found ever since the judgment in case *D. v the United Kingdom*[129] where it was about extremely exceptional circumstances and binding humanitarian reasons, since the applicant was seriously ill and his country of origin St. Kitts was not able to provide him urgent hospital care and treatment.[130] Such a shading among similar cases is inherent in the jurisprudence of the ECHR and is anything but surprising. But in its reasoning, the ECHR points out that the implementation of the Convention inherently requires establishing a balance between the general interest of community on one hand, and the protection of individual human right on the other hand.[131] In this respect, the attitude of ECHR stipulates that although the quality of available treatment in high contracting party and the quality of treatment in country of origin can significantly differ from each other, the Article 3 is not placing any condition upon high contracting party in terms of providing free health protection for all foreigners who otherwise would have not enjoyed the right to reside on its territory.[132] Such a reasoning of the Court is unexpected after all and completely contrary to the absolute nature of the Article 3 of ECHR. Although typical for some articles of the Convention, the proportionality test does not apply to the absolute prohibition of torture. The fact that the Court refers to the test inevitably leads to political reasoning regarding building up a barrier to health-motivated migrations in Europe. And this reveals an argument against admission of persons who fear returning to the country of origin where inhuman conditions and fight for elementary supplies await.

126 *N. v the United Kingdom*, Application no. 26565/05, Judgement from 27.05.2008, paras. 25–27.
127 *Ibid*., par. 47.
128 *Ibid*., par. 53.
129 *Ibid*., par. 34.
130 *Ibid*., par. 42.
131 *Ibid*., par. 44.
132 *Ibid*

From the aspect of prevention of migrations, if the Court had not allowed for further development of the practice of reception of all those in a need of medical treatment, on what basis could we conclude that he would support receiving a person because of harsh living conditions and thus opens the door for everyone in the similar situation? Needless to say, there are many more of them fleeing from scarcity than those in need of treatment. Are high contracting parties obliged to overcome differences between their own level of development and level of development of poor countries by receiving environmental migrants? The answer contains an argument that health-motivated migrants do not possess. Thus, high contracting parties, together with all other developed countries in the world, are causing the global warming and a destruction of the environment. Climate change leads to disturbances in rainfalls and droughts which eventually leave even large countries like Pakistan[133] without natural sources of drinking water. Hence, it is not easy to provide an answer to a question of whether an obligation is posed upon high contracting parties, since it requires a statement regarding their responsibility. Whatsoever, if we accept the standing of the Court on the necessary application of the proportionality test, it could be possible to stress out that the high contracting parties have been placing the general interest before individual ones and all that by excessive emission of gases with greenhouse effects for decades so far. Now that we are able to clarify what the consequences of such practice are, it is high time to place a scale to the side of human rights. Howsoever, it will be rather interesting to see the Court's argumentation once it comes across this issue.

Even though the judgment in *D. v the United Kingdom* was the only one with the violation of Article 3 of ECHR for some time, now it does not stand alone. In December 2016, the Court rendered a judgment in *Paposhvili v. Belgium*, where it found that the return of the applicant suffering from leukemia to his country of origin with no access to a decent treatment constituted a violation of Article 3 of the ECHR.[134] Thus, there is a possibility of further development of the legal standpoint and high threshold that was set in the judgment *D. v the United Kingdom*. Besides, it is encouraging to see that the Court

[133] UNICEF, Pakistan Overview, https://www.unicef.org/pakistan/overview.html, приступљено 29.11.2017.

[134] *Paposhvili v Belgium*, Application no. 41738/10, Judgment from 13.12.2016.

has allowed for further elaboration on the possible connection between Article 3 of ECHR and social and economic rights.

3.2. *De lege ferenda* proposals

The possibility of expanding states' obligations from the Convention on Status of Refugees 1951 has already been discussed and rejected throughout this paper. Although the critique regarding Convention's obsolescence is not so far from the truth, the fact is that arguments against changing the whole system are the prevailing ones.

Most of the proposals are revolving around the establishment of a new international agreement that would be able to create a *sui generis* regime for the protection of "environmental migrants". Even though there are initiatives for a completely new convention on "environmental migrants"[135], the most appropriate proposal for the moment seems to be the adoption of a protocol to the UN Framework Convention on Climate Change, especially having in mind very high possibility of contracting parties bracing such a solution due to their political interests. Such protocol would be based on several principles. Thus, the first one refers to well-planned and controlled migration, which would significantly reduce the costs of unexpected movements and prevent numerous human rights violations usually occurring when mass influx of migrants takes place.[136] Also, a considerable significance lies in the principle of permanent resettlement instead of a temporary asylum, as environmental migrants, unlike refugees, are usually unable to return to their countries.[137] The third principle relates to the importance of constructing a collective system of protection, since collective resettlement is more inherent to "environmental migrants".[138] Finally, principles of international aid and burden sharing are closely intertwined and more thoroughly described in previous pages.

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[135] D. Hodgkison, L. Young, "In the Face of Looming Catastrophe: A Convention for Climate Change Displaced Persons", Threatened Island Nations, Cambridge University Press, New York, 2012.

[136] F. Biermann, I. Boas, "Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees", Global Environmental Politics, vol. 10, no. 1, 2010, 75.

[137] *Ibid.*

[138] *Ibid.*

4. ONE STEP FORWARD, TWO STEPS BACKWARDS

Referring back to "maximalists" from the beginning, Black had been correctly claiming that their representatives were main advocates of environmental protection, thus constantly trying to put the issues of climate change and environment degradation on the international table. The entire debate about "environmental migrants" was burning right at the time of developing the environmental movement. Unfortunately, some momentous step forward has not been achieved yet. Therefore, "environmental migrants" remained in the domain of discussion and debate, whilst international legal instruments for environmental protection are moving into the wrong direction. In other words, instead of improving and leveling up their Kyoto goals, states seem to be downgrading their position simply by rejecting to reduce greenhouse gas emissions, which could have been concluded by their adoption of the Paris Convention on Climate Change.

What is more, the lack of political will to cooperate on this issue is clearly visible in the example of Sweden. The Swedish Aliens Act of 2005 used to provide for asylum rights of persons being unable to return to their country of origin due to environmental disasters.[139] Howbeit, this possibility no longer exists.

From what has been said, it looks like the current political atmosphere is not optimistic at all in regard to "environmental migrants" and recognition of their special international status. They predominantly come from poor countries with a weak political influence and government structures. Consequently, they are faced with powerful developed countries which are usually disregarding and denying any causative connection between their large-scale industrial activities and the global environmental crisis. Their voices are congested with the smog and developed countries will probably only become aware of them once they knock on their doors.

Nonetheless, there is a way to ring up the alarm and attract more attention of the international community in this regard, before it is too late. Needless to say, world peace and stability are common goals for countries all over the globe, as they represent fundamental principles on which the United Nations were built upon. Therefore,

[139] Sweden Aliens Act (2005:716), Chapter 4, Section 2.

countries have to recall the fact that on the one hand – practice of shutting eyes to problems, and on the other – uncontrolled mass influx of migrants, pose serious threats to global as well as to their own security. If done so, they might be able to recognize "environmental migrants" as a particularly vulnerable group but also to become aware of the importance of solving this issue in a promptly manner. Furthermore, issuing nothing but continuous warnings to countries regarding challenges behind mass migration should be of primary concern to all international and local non-state actors involved. A strong supporting argument can be illustrated through the example of the latest migration crisis which showed us all the tragedies and troubles that might arise when an uncontrolled number of people who "were not expected" start to move towards developed countries. It follows that states have no other choice but to come up with a timely response this time, either in the form of creating a new international legal instrument or by adapting existing rules to emerging problems, so that they can prevent to some extent consequences of a constant ignorance in regard to the elaborated issues.