

YVONNE SU, Should We Bring Back ‘Climate Refugees’?

The concept of the ‘climate refugee’ has been ‘progressively abandoned’ in academia and in policy. It has been replaced with the more neutral concept of the ‘climate migrant’ and other similar terms. Recently, François Gemenne has revisited the idea that we might utilize the concept of ‘climate refugees’ in order to re-politicize the reality of forced migration under environmental or climatic changes—I phrase this concept as a call to bring back ‘climate refugees’. This paper seeks to engage with the debate over the validity of the concept of ‘climate refugees’ that forms the basis of Gemenne’s statement. To test Gemenne’s argument, I examine the world’s first ‘climate refugee’ asylum claim in New Zealand, which illustrates how abandoning the concept of ‘climate refugees’ could lead to significant protection gaps. I use a historical lens to discuss the past discursive disappearance of first ‘environmental refugees’ and later ‘climate refugees’ and the replacement of both terms with more politically neutral terms such as ‘climate migrants’ on conceptual and practical levels as well as the implications of those developments. Such an examination also allows us to reconsider the continued use of the concept of the ‘climate refugee’, and how its use or abandonment might affect a rights-based approach to protection.

Introduction

In the May 2015 issue of *Forced Migration Review* François Gemenne¹² (2015: 70) highlighted that ‘[t]he concept of ‘environmental refugees’ or ‘climate refugees’¹³ has been progressively abandoned’. Gemenne now believes he was wrong to have dismissed the concept because it had no legal basis within the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention). He writes that

By forgoing the term ‘climate refugees’ we had also de-politicised the reality of these migrations. A central element in the concept of ‘refugee’ is persecution: in order to qualify as a refugee, you need to be fleeing persecution, or to fear persecution. Forgoing the term ‘climate refugee’ is also, in a way, forgoing the idea that climate change is a form of persecution against the most vulnerable and that climate-induced migration is a very political matter, rather than an environmental one (Gemenne 2015: 70).

As such, Gemenne has revisited the idea that we might utilize the concept of ‘climate refugees’ in order to re-politicize the reality of forced migration under environmental or climatic changes—what I would take as a potential call to *bring back climate refugees*. This paper seeks to engage with the debate over the validity of the concept of ‘climate refugees’ that forms the basis of Gemenne’s statement. This paper begins with a discussion on the definition of a ‘Convention refugee’ and the debate over what constitutes persecution under the 1951 Refugee Convention. Next, the paper provides a brief background on the

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¹³ In this paper, the term ‘environmental refugees’ will, after an explanation of the historical discursive shift, be subsumed under ‘climate refugees’. While the literature was initiated in the 1980s with the term ‘environmental refugees’, over the last decade as climate change has become the dominant environmental issue affecting people’s lives, the term ‘climate refugees’ has become synonymous with ‘environmental refugees’. The distinction between climate change and environmental change should also be noted. While climate change is the change in global or regional climate patterns linked mainly to the increased levels of atmospheric carbon dioxide produced by fossil fuels, environmental change often takes place on a smaller scale and are defined as disturbances of the environment such as desertification, soil erosion and natural disasters.

scholarship concerning ‘climate refugees’, arguing that academics have largely abandoned the concept due to the weak causal link between environmental / climate change and displacement, the methodological challenges behind predictions of mass displacement, and the lack of legal basis in the 1951 Refugee Convention. I argue that the abandonment of the concept of ‘climate refugees’ and its discursive replacement with the more neutral and politically accepted concept of ‘climate migrants’¹⁴ by academic and policy makers alike is a political process in itself. This process can be seen in how various multi-national organisations such as the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and the Refugee Policy Group (RPG) have reframed ‘environmental / climate refugees’ as ‘migrants’ who are ‘adaptable subjects’ to environmental degradation (Felli 2013; McNamara 2006). For Karen McNamara (2006), this reframing allows the United Nations and its various agencies to effectively shift the burden of adaptation onto refugees themselves, so ‘climate refugees’ are essentially ‘forced to adapt’, as there are no legal avenues for them to pursue protection. The discursive politics taking place at the policy level is mirrored within academia as a multitude of terms ‘such as environmental migration, climate change-induced migration, climate change migrants and environmentally-induced forced migrants’ are found throughout the literature (Dun and Gemenne 2008). Drawing on the extensive empirical research of Karen McNamara and Romain Felli, this paper critically explores this political process of discursive disappearance and replacement in order to better understand what is at stake if the concept of ‘climate refugees’ is to be truly abandoned.

Such an examination also allows us to re-consider the continued use of the concept of the ‘climate refugee’, and how its use or abandonment might affect a rights-based approach to protection. Some policy makers and law makers within Western states have and continue to delegitimize ‘climate refugees’, reframing them as ‘climate migrants’, or even just ‘migrants’, to evade responsibilities to displaced populations stemming from the consequences of climate change. I argue that they are doing so in order to shift the discussion of climate change-induced displacement (CCD) from one of rights and protections to one of self-help and entrepreneurship among the displaced. As a result, I believe a re-emphasis on human rights is needed within the study of CCD.

Convention Refugees: Defining Persecution Under 1951 Refugee Convention

To understand the significance of Gemenne’s (2015) argument, one must first understand the definition of a ‘Convention refugee’. According to the 1951 Refugee Convention, a refugee is: 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 or, owing to such fear, is unwilling to avail himself of the protection of that country.

From this definition, it is apparent that protection is only given to those, who can fit within a very specific legal category. Although case law has progressively expanded the scope of the convention by, for example, including LGBTQI asylum seekers under ‘members of a particular social group’, the 1951 Refugee Convention is still biased towards the type of political persecution it was designed to address during the Cold War (Betts and Kaytaz, 2009; Chimni 2009; Gibney 2004; Haddad 2008; Hathaway 1997; Shacknove 1985; Zolberg *et al.* 1989). The threshold for ‘a well-founded’ fear is arguably extremely high and scholars have

¹⁴ In this paper ‘climate migrant’ will be used as a stand-in for a variety of less politicized and more clinical terms such as ‘climate-induced migrants’ or ‘mobility in the context of climate change’ (*Ibid.*).

therefore been discussing how the legal definition could be broadened to close existing protection gaps (Betts and Kaytaz 2009; Chimni 2009; Gibney 2004; Shacknove 1985). Thus, Gemenne's (2015) ideas are linked to a more general trend to try and expand the interpretation of what constitutes persecution. The next section will discuss the debate on 'climate refugees' and whether they belong within the 1951 Refugee Convention.

Refugees, Environmental Refugees and Climate Refugees: A Historical Overview

The foundation of CCD literature dates to 1985 when Essam El-Hinnawi first introduced the concept of 'environmental refugees'. El-Hinnawi (1985: 4) defined environmental refugees as 'those people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life'. The term environmental refugees slowly evolved into 'climate refugees' as the issue of climate change became more prevalent in the public discourse during the 1990s, beginning with the publication of the International Panel on Climate Change's (IPCC) First Assessment Report on Climate Change in 1990. This report noted that shoreline erosion, coastal flooding and agricultural degradation could potentially displace millions of people. As climate change replaced environmental degradation as the principle issue of concern, 'climate refugees' became increasingly synonymous with 'environmental refugees'.

However, once the term climate refugee supplanted environmental refugee, it continued to face several strong critiques as both a term and a concept. First, one of the strongest criticisms against conceptualizing 'climate refugees' as those who have been displaced by climate-change induced circumstances is that the link between climate change and migration is weak and indirect (Betts 2010; Black 2001; Morrissey 2009; Suhrke 1994). While there is agreement among academics that climate change and environmental stress play a role in peoples' decision-making, in regard to their mobility (Morrissey 2012), scholars that do not support the 'climate refugees' label argue that migration is not mono-causal and, thus, environmental change does not figure as a separate, causal variable (Black 2011; Suhrke 1994). If the effects of climate change cannot be separated out from other drivers of mobility, climate change cannot be argued to be the primary cause of forced displacement. However, as James Morrissey has pointed out, despite the multi-causal nature of migration, there is virtually no conceptual disagreement that environmental change impacts an individual's or household's decision to migrate. Rather, the disagreement is about how this relationship is represented (Morrissey 2012).

Second, some scholars' (Jacobson 1988; Myers 1993, 2002; Myers and Kent 1995) attempts to produce estimates of possible future displacement have emphasized the severity of environmental displacement, and critics have scrutinized their results as methodologically flawed and unscientific (Black 2001; Kniveton *et al.* 2008; Gemenne 2011). In particular, critics have called existing estimates 'artificially inflated' and 'overly alarmist' (Gemenne 2011: S41). A detailed analysis by Gemenne, for instance, showed that no consensual estimate and no commonly agreed upon methodology exist for the calculation of future numbers of 'climate refugees' in the CCD literature (Gemenne 2011).

Finally, critics argue that the term 'refugee' is incorrectly applied in reference to the 1951 Refugee Convention definition (Black 2001; Kniveton *et al.* 2008; Lonergan 1998; Suhrke 1995). Between 2007 and 2009, there was a significant amount of advocacy supporting the legal recognition and protection of 'climate refugees' by various institutional structures, such as UNHCR and the United Nations Framework Convention on Climate Change

(UNFCCC).¹⁵ These efforts were effectively halted when UNHCR announced that it ‘has serious reservations with respect to the terminology and notion of environmental refugees or climate refugees. These terms have no basis in international refugee law’ (UNHCR 2009). At the time of this announcement, UNHCR was under a great deal of pressure by various stakeholders, including nation states, academics and special interest groups, to delegitimize ‘climate refugees’ as a protected group because they did not fall within the legal definition of ‘refugee’ under the UN Refugee Convention (Hall 2013). Instead, the UNHCR and IOM have reframed ‘climate refugees’ as ‘migrants’ who are “adaptable subjects” to environmental degradation, thus allowing the UNHCR to effectively shift the burden of adaptation onto refugees themselves rather than take any legal responsibility for the well-being and protection of these persons. Such a discursive shift also allows UNHCR and IOM to not recognize those affected by climate change as people in need of international protection (Felli 2013; McNamara 2006).

These criticisms of the ‘climate refugee’, and the general opposition to expanding the legal definition of a ‘Convention refugee’ for fear of weakening the protection system (Black 2001; Kniveton *et al.* 2008; Lonergan 1998; Suhrke 1995), contribute to what Audrey Macklin (2005) describes as the broader discursive disappearance of the refugee. Macklin (2005: 365) defines this disappearance as ‘an erosion of the idea that people who seek asylum may actually be refugees’. Macklin (2005) argues that this discursive disappearance is taking place due to growing concerns around national security and the rise of restrictive asylum policies in the West. Restrictive policies and characterisations of refugees as ‘illegal migrants’ or ‘bogus refugees’ can be successful at making it more difficult for asylum-seekers to be awarded refugee status through formal processes, forcing migrants to cross borders by illegal means. As Macklin (2005: 369) articulates, ‘Refugees do not cease to enter, but they decreasingly enter as refugees’.

The Reframing and Discursive Replacement of ‘Climate Refugees’

The implications of a shift in discourse from ‘climate refugees’ to ‘climate migrants’, on both the policy and academic level, lie in the specific meanings ascribed to these concepts. The concept of ‘climate refugees’ may better evoke victims of climate change-induced displacement that should be entitled to international protection, while ‘climate migrants’ may instead signify self-maximizing entrepreneurs migrating out of difficult environments as a way to adapt to the changing climate (Felli 2013). The two labels and the individuals they describe bring along with it different ideas of what rights and protections each group should receive. This section of the paper discusses three ways in which the climate refugee has proven conceptually, legally, and politically problematic, each of which highlights how more politically neutral terms and concepts such as ‘climate migrants’ took root.

Conceptions of Moral Responsibility for the ‘Climate Refugee’

¹⁵ See Frank Biermann and Ingrid Boas, “Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees,” *Global Environmental Politics* 60, (2007); Angela Williams, “Turning the Tide: Recognizing Climate Change Refugees,” *Law & Policy*, 30, no.4 (2008): 502-529; Bonnie Docherty and Tyler Giannini, “Confronting a Rising Tide: A Proposal for a Convention on Climate Change Refugees,” *Harvard Environmental Law Review*, 33, (2009): 349-373; Environmental Justice Foundation, “No Place Like Home: Where Next for Climate Refugees,” prepared on behalf of the Environmental Justice Foundation (London, 2008); Friends of the Earth Australia, “A Citizen’s Guide to Climate Refugees,” prepared on behalf of the Friends of the Earth (Melbourne: 2007).

To understand why the reframing and discursive replacement of ‘climate refugees’ with ‘climate migrants’ is significant, it is important to examine the vital connection between concepts and potential political conflict. As Stone articulates,

Ideas are the very stuff of politics. Political conflict is never simply over material conditions and choices, but over what is legitimate. The passion in politics comes from a conflicting sense of fairness, justice, rightness and goodness. (Stone 2002: 34)

Built into the concept of the ‘climate refugee’ are not only ideas regarding protection but also those of causation (Adger, Paavola and Huq 2006; Gemenne 2015). It is well established that the burning of fossil fuels and deforestation during the industrialization of Western states has contributed significantly to anthropogenic climate change.¹⁶ As a result, it is appropriate to ask whether Western states have the moral responsibility to protect or, at the very least, to compensate those harmed by the consequences of climate change (Adger, Paavola and Huq 2006; Birnie and Boyle 2002; Caney 2005; McNamara and Cook 2008). Scholars have observed the concerns around acknowledging or accepting responsibility for ‘climate refugees’ that could connect to subsequent arguments for compensation by industrialized states for those people’s displacement (McNamara and Cook 2008; Morrissey 2012).

The slow progress at the Conference of the Parties (COP) on Climate Change over the last 21 years is evidence of this fear of accepting responsibility by industrialized states. Since their inception in 1995, there have been 21 COP sessions, where leaders from over 190 countries have gathered to find solutions to mitigate and adapt to climate change. Despite two decades of meetings, the first-ever universal, legally binding global climate deal – the Paris Agreement – was adopted just in 2015 at COP21.

Previous to COP21, industrialized states have consistently stalled progress on addressing climate change (Schwägerl 2009; Vidal, Goldenberg and Watts 2009). Furthermore, throughout the COP process, countries such as the United States and Australia, as well as industrial lobby groups, have argued that developing countries should also be required to reduce their emissions because of their growing contribution to climate change (Bulkeley 2001). As Bulkeley (2001: 345) points out, such a move by industrialized states is ‘an attempt to shift blame from themselves for the slow progress of negotiations’. The Rio Declaration, in contrast, recognizes the concept of ‘common but differentiated responsibilities’, or the historical differences in the contribution of developed and developing states to global environmental issues such as climate change, and their different economic and technical capacities to address these problems (Centre for International Sustainable Development Law 2002). Yet, most developed countries do not uphold this principle of ‘common but differentiated responsibilities’ when it comes to the mitigation and adaptation of climate change and the protection of ‘climate refugees’.

A Fear of Further ‘Climate Refugees’: The Teitiota Case¹⁷

The Teitiota case highlights how abandoning the concept of ‘climate refugees’ could further de-politicize the experience of forced displacement under environmental/climatic stress, and render such claimants unable to receive any form of protection under current international law (Gemenne 2015). Ioana Teitiota was a subsistence fisherman who moved his family

¹⁶ The IPCC 2007 report notes, ‘since the start of the industrial era (about 1750), the overall effect of human activities on climate has been a warming influence’.

¹⁷ The full case name is *Teitiota v. The Chief Executive Ministry of Business, Innovation and Employment* [2015] NZSC 107

from the island of Kiribati to New Zealand in 2007 to escape the environmental impacts that were degrading their island (Blakkarly 2014). The lawyers representing Mr. Teitiota argued that he should qualify for refugee status because he faced ‘passive persecution’ from climate change, which is caused by greenhouse gases generated by human activity, not unlike Gemenne’s persecution argument (Blakkarly 2014). The Immigration and Protection Tribunal (IPT), however, did not agree that this definition met the 1951 Refugee Convention definition of persecution (Blakkarly 2014). Upon appeal, the High Court and the Court of Appeal upheld the IPT’s findings. In Godfery’s (2014) analysis of the case, he highlighted that

[t]he court took the orthodox position that persecution is primarily political and internal. There has to be a ‘violation’ of human rights and a ‘failure’ of protection...In essence, [Mr. Teitiota’s] claim held that the violation and failure was on the part of the international community. The persecution was external, not internal, and environmental, not political.

In Teitota’s case, the High Court of New Zealand recognized that Kiribati would become uninhabitable in the coming decades and that those affected by climate change could one day claim refugee status. However, as the island remained habitable at the time of Mr. Teitona’s claim, his request for asylum was not found to be justified at that time of the case (Upton 2013). His case was rejected largely because, if it were accepted, millions of people around the world experiencing the effects of climate change could seek refuge in New Zealand based on its premise (Upton 2013). Thus, Mr. Teitiota’s case was instead largely determined on the possible legal precedent of labeling him a ‘refugee’ than an individual assessment of whether he faced individualized persecution and a threat to his life.

The Court reasoned that it would be impossible to isolate cases where the harm caused by climate change is linked directly to actors responsible for the persecution. However, that premise does not always hold. Neuteleer (2011: 242) argues, ‘in the case of the islanders, there is a clear link between polluting actors (greenhouse gas emitters) and victims of pollution (forced migration because of rising sea-levels)’. These two elements can greatly limit the number of eligible cases from millions to hundreds of thousands, and even within that number there are many residents of small island states who have opposed resettlement (McNamara and Gibson 2008). As such, creating a clear set of criteria can mitigate the fear of large numbers of people seeking refuge as ‘climate refugees’. If Mr. Teitiota’s case had been examined without the unfounded fear of numerous ‘climate refugees,’ Mr. Teitiota and his family may have been granted access to protection by the Court.

The severity of the threats of climate change to the island of Kiribati is demonstrated by the government’s recent purchase of 6,000 acres of land in neighbouring Fiji to grow food and potentially resettle some of Kiribati’s 100,000 people, if the island were to become uninhabitable (Office of the President of the Republic of Kiribati 2014). While the ruling was made to protect national and international interests against large numbers of ‘climate refugees’, the effects are deeply personal and individualized; in this case, the effect for the claimant was deportation to a place in which the claimants are at risk of extreme weather, salt-water intrusion, crop failure, sea-level rise and eventually forced displacement (Upton 2013).

The Significance of Labels: Climate Refugees, Economic Migrants and Agency

One of the main questions historically found in the CCD literature is how to distinguish between climate refugees and economic migrants. This was also a question in Mr. Teitiota's case, not least of which was because the family were portrayed as economic migrants by the media (Weiss 2015). This debate dates back to the concept of the 'environmental refugee' in the 1990s, when the concept gained popularity and interest among academics and policymakers. This was a time when the Global North saw an increased number of migrants and asylum seekers from the Global South as a result of the Cold War and the fall of the Berlin Wall (Haddad 2008; Zolberg *et al.* 1989). Morrissey (2009: 9) noted, 'as a result, issues of asylum and migration in the Global North were driven to public prominence by a discourse of overwhelming numbers of foreigners, compromised sovereignty, and welfare cheats'. In this context, McGregor (1994) has argued that the anti-asylum lobby used the notion of 'environmental refugees' to advocate for more restrictive policies. Similarly, Black (2001) found that these lobby groups were using the discourse on 'environmental refugees' to strengthen the idea of 'bogus asylum seekers' who have come to the Global North with no claim to asylum under the 1951 Refugee Convention. As a result of the Western scepticism towards the legitimacy of refugee claims, the label of 'migrants' is the logical replacement of the term 'asylum seeker' or 'refugee'. Thus, the abandonment of 'climate refugees' and its replacement with 'climate migrants' is aligned with the largely negative attitude of the global refugee and asylum system by host countries in the Global North.

Re-emphasizing Rights in Scholarship and Policy on Climate Change-induced Displacement

The progressive abandonment of 'climate refugees' and the policy and academic shift from 'climate refugees' to 'climate migrants' has had several harmful consequences, most notably an evasion of responsibility by governments to protect those displaced by climate change. This 'rights versus numbers' debate, popular among scholars who argue over the position of human rights in the migration-development nexus, is centered around the premise that there is a 'trade-off' between the rights of migrants and their access to labour markets in highly-industrialized states (Ruhs 2013; Ruhs and Martin 2008). According to Ruhs, the premise of the global migration system is that countries, which offer greater rights to their migrants admit fewer migrants overall, while countries that admit a higher number of migrants offer them fewer rights (Ruhs 2013). This approach argues that migrant workers' rights may need to be 'traded-off' in order for them to access labour markets with higher wages. This approach has been criticized for treating migrant workers as commodities and accepting the violation of human rights for access to employment as the *status quo* (Wickramasekara 2008). This reductionist view can have potentially dangerous consequences for migrant workers and their families. Such a trade-off approach is even more acute for 'climate migrants', where a deteriorating environment has threatened their human security and forced them to migrate in search of a better future, only to find that such opportunities in destination countries come at the cost of their basic human rights. These trade-offs highlights Gemenne's point; abandoning the concept of 'climate refugees' can de-politicize the reality of forced migration under climatic change and reduce climate refugees to 'migrants', who can be treated simply as commodities within the global economic system rather than as persecuted persons under the 1951 Refugee Convention (Gemenne 2015).

Conclusion

This article has argued that there is value to the concept of the 'climate refugee', as it politicizes the process of displacement and recognizes the reality of those who are experiencing these movements and vulnerabilities, and argues for their protection. While the

concept has been increasingly abandoned in the literature and among policy makers, and replaced with the more neutral term of ‘climate migrants’, it is important to understand the politics at play in this decision, and the fight over ideas, which rests at the center of this discursive battle.

The concept of ‘climate refugees’ needs to be sustained because it stands as a challenge to many of the legal conventions that are currently taken for granted within the international community. For academics and policy makers alike, recognizing the power behind labels like ‘climate refugees’ and ‘climate migrants’ and their translation into the lives of those affected is significant; recognizing the difference between the rights and protection that ‘climate refugees’ are entitled to compared to ‘climate migrants’ places more emphasis on the need to re-examine the concept of ‘climate refugees’ as we move forward with the knowledge that people are being affected by climate change and that their human rights should not be overlooked. Thus, I would heed Francois Gemenne’s call to *bring back climate refugees* and ask others to further explore this topic in their research and policies.

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