



FACULTY OF LAW
UNIVERSITY OF MACAU
MASTER DEGREE THESIS

**CLIMATE CHANGE AND PROTECTION OF
HUMAN RIGHTS: EMERGING CONCERNS AND
SOLUTIONS IN PROTECTING CLIMATE
REFUGEES UNDER INTERNATIONAL LAW**

Student Name: Zhang Shuting
Supervisor: Professor MurugaPerumalRamaswamy
Major: International Law
Student Number: M-B1-5059-3

Abstract

Prevention of climate change and the protection of human rights are significant goals of contemporary international law. They have some common characters requiring both legal obligations and political will to succeed. Climate change could bring a lot of challenges to human rights protection. There are already some international law instruments and international communities that focus on the linkage between climate change and human rights. The human rights council and the UNFCCC have shown the same viewpoint that the consequences of climate change have caused many threats to human rights with rising sea levels, droughts and so on. Human rights like right to life, right to health, right to food, right to work are threatened by climate change.

People have to migrate because of climate change in recent years because of the natural disasters related to extreme weather events. In some place of the world, such as the Horn of Africa and Tuvalu and some islands countries, to change the residence is the only way for people to survive the extreme weather conditions. We can see that developing countries are most affected; they are suffering dreadful consequences more than developed countries. The issue calls for global approach and close attention of the international organizations and national states.

For the climate change-induced displaced persons, there are two situations: (1) the first one situation is that they could find an appropriate place to start a new life in their home country and get assistance. These people are protected in the system of Internal Displaced Persons (IDPs) now and there are already some international, regional and national legal instrument recognized this; (2) the second one is that they need to cross the state border and seek assistance from the other country and the international society. For the climate change-induced displaced persons in the second situation, there are some

disputes both in theory and in practice. In this thesis, I will focus on these climate change-induced cross-border displaced persons (referred as climate refugee).

Nowadays, the international community has made a series of efforts and discussions on climate refugees. But the attempt is still not enough and at the early stage. There are still many critical discussions about the concerns of climate refugees. Some of the developed countries still refuse to accept the existence of climate refugees in order to avoid the relevant responsibilities. Indeed, it is very hard to reach an agreement on the protection of climate refugees. At the International law, there is no clear legal instrument specifically addressing this group of refugees and their rights.

Nevertheless, we cannot ignore the effective attempts in the international approach towards the climate change and human rights issue, especially the protection of climate change-induced displaced persons. This thesis examines the impact of climate change caused to human rights; the state responsibilities and the international legal protection in the climate change and human rights issues; current situation of the climate refugees. It also explores the current International legal protection of climate refugees, finds out the plight of protection of climate refugees and then identifies a feasible pathway for promoting the protection.

Key words:

climate change; human rights, climate change-induced displacement, climate refugees, international law protection.

TABLE OF CONTENTS

TABLE OF CONTENTS	I
INTERNATIONAL LEGAL INSTRUMENTS.....	1
ABBREVIATIONS	3
CHAPTER ONE -- INTRODUCTION	1
1.1 Background	1
1.2 Literature Review	9
1.3 Major Objectives.....	15
1.4 Research Questions.....	15
1.5 Methodology	16
1.6 Chapter Layout	17
CHAPTER TWO -- CLIMATE CHANGE AND HUMAN RIGHTS.....	19
2.1 Climate Change.....	19
2.2 International Legal Responsibility on Climate Change.....	20
2.2.1 Legal Responsibility on Climate Changes under International law	22
2.2.2 No-harm Rule	27
2.3 Climate Change and Human rights.....	28
2.3.1 The Impact of Climate Change on Human Rights.....	30
2.3.2 The Human Rights Approach to Climate Change	38
2.4 Actions by Human rights Council.....	40
2.4.1 Resolutions.....	40
2.4.2 The OHCHR Report on Climate Change and Human Rights	42
2.4.3 Summary	43
2.5 The Inuit Petition	44
CHAPTER THREE -- CLIMATE CHANGE AND THE FORCED DISPLACED	

PERSONS	48
3.1 Typical Challenges in Specific Cases	48
3.1.1 Climate Change in Maldives.....	48
3.1.2 Climate Change in the Horn of Africa	50
3.1.3 Summary	54
3.2 The Internal Displaced Persons	55
3.3 Cross-Border Displacement: Climate Refugee	58
3.3.1 Refugee	59
3.3.2 Definition of Climate Refugee.....	60
3.3.3 Identities of Climate Refugee	62
CHAPTER FOUR -- INTERNATIONAL PROTECTION OF THE CLIMATE REFUGEE	70
4.1 The Nansen Conference	71
4.2 Climate Refugee and International Refugee Law	73
4.2.1 Criticisms	73
4.2.2 Why Climate Refugee should be protected under the Refugee Convention	77
4.2.3 International Human Rights Law Approach of Climate Refugee.....	81
4.3 State Responsibility in Climate Refugee issues	84
4.3.1 Responsibility of Home Country	85
4.3.2 Responsibility of Host Country	89
4.4 The UNHCR and Climate Refugee.....	91
4.4.1 The UNHCR and Climate Refugee	91
4.4.2 Improving the Role of the UNHCR.....	93
4.5 Other Approaches to Improvement of International Law Protection	97
4.5.1 Establishing Relief and Compensation Fund.....	97

4.5.2 Promoting International Cooperation 99

4.5.3 Focus on the Collective Rights of Climate refugees..... 103

4.6 Summary 104

CHAPTER FIVE -- CONCLUSION 106

BIBLIOGRAPHY 110

