Environmental Migrants and International Law

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Abstract[1]

The paper examines the current state of international law in relation to the problem of environmental migrants. The existing legal categories of political refugees and economic migrants are not well suited to find the right legal response to the migrants fleeing from environmental degradation. The existing international law agreements fail to provide clear guidance to address the current problem of the displaced people who flee from ecological catastrophes. The lack of legal clarity can be rectified by adopting the view of the natural law tradition as reflected in major world religious traditions. The principles of natural law provide clear, stable, and authoritative moral principles to be applied to solve complex problems when the legitimate interests of the environmental refugees collide with the legitimate interests of the states of asylum. The aim of this paper is to demonstrate that the moral principles as articulated in the world religions can assist the decision makers to find the right balance between the interests of local population and the interests of the environmental migrants.

Keywords: International Law; Environmental migrants; natural law; ethics; religion

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ผู้อพยพด้านสิ่งแวดล้อมและกฎหมายระหว่างประเทศ

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บทคัดย่อ

บทความนี้ทบทวนสถานะของกฎหมายระหว่างประเทศในประเด็นปัญหาของผู้อพยพด้านสิ่งแวดล้อม การจำแนกผู้อพยพด้านการเมืองและเศรษฐกิจโดยกฎหมายที่ดำรงอยู่ยังไม่เหมาะสมต่อการค้นหามาตรการทางกฎหมายสำหรับผู้อพยพจากความเสื่อมโทรมทางสิ่งแวดล้อม ข้อตกลงของกฎหมายระหว่างประเทศที่ดำรงอยู่ ไม่สามารถจัดหาแนวทางที่ชัดเจนในการตอบสนองต่อประชาชนผู้โยกย้ายจากหายนะทางนิเวศน์ การขาดความชัดเจนด้านกฎหมายสามารถปรับแก้ได้ด้วยการรับมุมมองของแนวคิดกฎหมายธรรมชาติ ซึ่งปรากฏอยู่ในศาสนาหลักของโลก หลักกฎหมายธรรมชาติเสนอหลักการที่ชัดเจน มั่นคง มีอำนาจทางศีลธรรม ซึ่งสามารถนำมาแก้ไขปัญหาที่ซับซ้อน เมื่อผลประโยชน์ของผู้อพยพด้านสิ่งแวดล้อมเผชิญกับผลประโยชน์ของรัฐที่ลี้ภัย เป้าหมายของบทความนี้ต้องการอธิบายว่าหลักการทางศีลธรรม ซึ่งถูกสร้างขึ้นในมุมมองทางศาสนาสามารถช่วยผู้ทำหน้าที่ตัดสินใจค้นหาความสมดุลย์ระหว่างผลประโยชน์ของประชาชนในท้องถิ่นกับผลประโยชน์ของผู้อพยพด้านสิ่งแวดล้อม

คำสำคัญ: กฎหมายระหว่างประเทศ; ผู้อพยพด้านสิ่งแวดล้อม; กฎหมายธรรมชาติ; ศีลธรรม, ศาสนา

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Introduction

Environmental migrants are often described as environmental refugees. The concept of "environmental refugees" has been shaped comparatively recently. It is believed that an U.S. environmentalist Lester Brown used it first in 1976 (Baofu, 2013, p. 263). Since that time, the academic, political, and media discussions of the problems of environmental refugees draw an increasing attention. In 2005, it was predicted by environmental experts (BBC, 2005) that the number of environmental refugees can easily rise up to 50 million in a few years. The causes which force people to leave their homes are land degradation and desertification caused by unsustainable land use, climate change, and population growth. It is difficult to say whether the predictions made in 2005 concerning the 50 million of environmental refugees were fulfilled. However, the UN (*Resources for Speakers on Global Issues*) reported that "the Norwegian Refugee Council and the UN Office for the Coordination of Humanitarian Affairs (OCHA) have estimated that in 2008 alone, at least 36 million people were newly displaced by sudden natural disasters, including over 20 million displaced by disasters related to the climate."

Most people, identified as "environmental migrants" are not likely leave their own countries. They move to cities or to other areas within their states. There are, however, some who are unable to find a better life in their own land, and prefer to emigrate. Recent studies estimate that 200 million people may be forced to flee their country (Barnes, 2013). This number includes those who flee as the result of

natural disasters caused by the climate change. The massive environmental exodus may or may not occur in the nearest future. However, it is vital to have a reliable legal mechanism which is able to address such situations.

The paper examines the current state of the international law in relation to the problem of environmental refugees. It will be demonstrated that the existing legal categories of political refugees and economic migrants are not well suited to find the right legal response to the migrants fleeing from environmental degradation. The existing international law agreements fail to provide clear guidance to address the current problem of the displaced people who flee from ecological catastrophes. It will be further argued that the lack of legal clarity can be rectified by adopting the view of the natural law tradition as reflected in major world religious traditions. The principles of natural law provide clear, stable, and authoritative moral principles to be applied to solve complex problems when the legitimate interests of the environmental refugees collide with the legitimate interests of the states of asylum. The aim of this paper is to demonstrate that the principles of natural law as articulated in the world religions can assist the decision makers to find the right balance between the interests of local population and the interests of the environmental migrants.

Defining environmental migrants

Environmental migrants can be described as refugees fleeing from environmental degradation. The English word *refugee* comes from the Latin word: *refugium* meaning "taking refuge" or "a place to flee back to." The refugees are those who are fleeing to find a place of safety. In English language, this concept was first applied to Huguenots, the French Protestants who were fleeing from the Roman Catholic persecutors at the time of the Reformation or immediately after that. Thus, for many centuries, this word was largely applied to the people being persecuted because of their beliefs or ethnic identity. The motive of their emigration was the fear of oppression from the government or from another part of the society.

In this context, the environmental refugees are different. They are not persecuted by the government or a social group because of their beliefs or ethnicity. However, they emigrate because of fear or even more often because of facing directly an environmental catastrophe or disaster. An environmental disaster can appear in many forms. Unlike a political or religious persecution, it may have a longer lasting effect. The rise of the sea level, desertification, and a radioactive pollution are examples of a long term effect. The floods, earthquakes, famines, epidemics, etc. even though being potentially very destructive, may only last for a limited period of time. The Bible contains one of the most ancient records of natural disasters. One example is the immigration of the Israelites to Egypt. The Israelites afflicted by famine had to seek for refuge in Egypt assisted by Joseph

who had found a favour in the eyes of pharaoh (*Genesis*, Chapter 40, 41). The descendants of the same Israelites had again to flee away as refugees from Egypt after facing persecution on ethnic and religious grounds. The motives for their second migration was different from the first migration. However, there were similarities. The migration in both cases were dictated by the necessity of survival.

Environmental refugees who decide to cross national borders are normally classified as economic immigrants and distinguished from those who flee war or political persecution (political refugees) (Urban, 2008, p. 63). The separating line between the environmental refugees and the political refugees is not so easy to draw in practice. The ongoing refugee crisis in Europe can serve as a good illustration of the problem. Most refugees are fleeing the war conflicts in Syria, Iraq, and Afghanistan. At the same time, these countries experience a significant environmental degradation (Cohen, 2003, p. 355). Many refugees from those countries should be considered as economic migrants. Their main motive to leave their homeland is not the war but the economic condition made worse by the ongoing military conflict. It is also difficult to assess how much of the economic migration from those countries is directly caused by the environmental problems. It is clear, however, that many immigrants from the African countries, arriving mostly to Italy by the sea (UNHRC, 2015) can be classified among environmental refugees. There are a number of studies which indicate that migration from African countries is caused largely by the environmental problems (Afifi & Jäger, 2010).

Thus, the environmental migrants have some similarities and close associations with those who flee from the political, religious, and ethnic persecution, as well as the military conflicts. What unites them together is the reason for the migration: the necessity for survival. The international law, however, lacks this comprehensive concept of refugees as it can be seen from the major international agreement.

Environmental migrants and international law

The existing international law does not have a clear definition of environmental refugees. Most official documents prefer to describe them as "environmental migrants" or "displaced persons". The reason for that is that the term "refugee" is rather narrowly described in the existing international agreements. The status of refugees implies the right to seek asylum in another country. This right is guaranteed by the 1951 *Convention related to the Status of Refugees*. Most countries of the world, for the exception of few countries such as Thailand, have ratified the Convention or the 1967 Protocol to the Convention. Article 1 of the Convention, as amended by the 1967 Protocol, defines a refugee as: "A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the

country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

This definition obviously excludes environmental migrants from the scope of the Convention. It excludes even those who flee from the war affected areas. The limitations of the Convention have been recognized. In the EU, the Council Directive 2004/83/EC of 29 April 2004 (Article 15) extends the protection given to the refugees to those who face "serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict." However, the right to seek asylum is not granted by the existing international instruments to those who face the same threat by reason of an ecological catastrophe.

All international environmental agreements, including the *UN Framework Convention on Climate Change*, do not address the issue of environmental refugees. Thus, the concept of refugees remains very limited. The reasons for such a limitation lies in the fact that the state of asylum (i.e. the country where the displaced people seek a refuge) is obliged by the international law to provide a certain number of rights and benefits to refugees among which are the right to non-refoulement (*Convention related to the Status of Refugees*, Article 33) which means that the state of asylum is not allowed to deport the refugee back to the country from which he fled; the right to employment and self-employment (ibid, Article 17, Article 18); right to housing (ibid, Article 21): right to public education (ibid, Article 22);

right to social security(ibid, Article 24); etc. That implies the duty of the state to provide sufficient financial and economic resources to meet those rights.

The increasing number of refugees makes the fulfillment of the obligations by the states of asylum a burdensome undertaking. According to the UNHRC (2016), "an unprecedented 59.5 million people around the world have been forced from home. Among them are nearly 20 million refugees." "42,500 people are forcibly displaced every day as a result of conflict or persecution." In the European migrant crisis, it is estimated that more than a million of refugees entered the borders of the European Union in 2015, while the total asylum claims in the EU reached one million three hundred thousand (BBC, 2016). Many immigrants, however, do not apply for the status of refugees. The German authorities counted more than a million of immigrants within Germany alone (ibid), but the real number can be much higher.

The existing international law on refugees is based on the dichotomy of the political refugees and the economic migrants. In the UNHCR's *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* it is stated (1992, para 62): A migrant is a person who, for reasons other than those contained in the definition, voluntarily leaves his country in order to take up residence elsewhere. He may be moved by the desire for change or adventure, or by family or other reasons of a personal nature. If he is moved

exclusively by economic considerations, he is an economic migrant and not a refugee.

Even though the same textbook acknowledges (ibid., para 63) that in some cases economic measures can be used as a form of political persecution, its conceptual framework does not recognize the fact that the environmental migrants are forced to leave their country. This dichotomy has been challenged both in the practical application of the Refugee Convention and in the academic literature. Michelle Foster recently argued (2007, p. 21) that the interpretation of the Refugee Convention went well beyond the dichotomy of "economic migrants" and "political refugees". The author cited a number of cases in which national courts and administrative tribunals extended the status of refugees to people fleeing economic and social deprivation. Even though this conclusion can be right in some individual cases, the wording of the Refugee Convention prevents granting the refugee's rights to the masses of environmental refugees. One may conclude that the existing international law on refugees protects the interests of the states of asylum at the expense of the interests of the people escaping from the environmental catastrophes.

Balancing between the rights of environmental migrants and the interests of the states of asylum

The rights of the environmental migrants to obtain asylum in the countries of safety is based on the law of human rights. The modern vision of human rights law perceives the enjoyment of clean environment as a human right. It is particularly seen in the jurisprudence of the European Court of Human Rights which on many occasions held that serious environmental damage and accompanying health problems can amount to a violation of Article 2 (the right to life) and Article 8 (the right to respect for private and family life) as well as some other articles of the *European Convention on Human Rights* (ECHR, Factsheet, 2015).

The *Universal Declaration of Human Rights*, Article 1 states: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

If an environmental migrant is forced to leave his own country, the spirit of brotherhood would require to accept him in the country of asylum. The environmental refugees are often deprived of protection of law in their own countries, in which the environmental protection rules are absent or disregarded. The *Universal Declaration of Human Rights*, Article 7 as well as the *International Covenant on Civil and Political Rights*, Article 26 affirm that all persons are equal before the law and entitled without any discrimination to the equal protection of the law. That may imply the right to seek asylum in

another country in the situation where a person cannot find protection of the environmental law in his own state.

The environmental refugees often emigrate with the whole family. The decision to flee form the environmental catastrophe is often motivated by the care for the young generation. Protection of family and home is considered to be one of the most important human rights and acknowledged in many international agreements. One can mention the *Universal Declaration of Human Rights* (UDHR), Article 16; the *International Covenant on Civil and Political Rights* (ICCPR), Article 17 and Article 23; the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), Article 10. Finally, the right to leave one's own country and the freedom of movement within it is guaranteed in the ICCPR, Article 12, and in the UDHR, Article 10. The ICESCR, Article 11 guarantees to everyone an adequate standard of living. Article 12 of the same Covenant guarantees the right of everyone to the highest attainable standard of physical and mental health. Thus, if a person cannot achieve an adequate standard of living or his health is threatened by the environmental degradation, then the right to migrate is logically followed.

The right to migrate is certainly limited. The limitations of human rights are well expressed in the UDHR, Article 29: "In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order

and the general welfare in a democratic society." In other words, the states of asylum are justified in preventing the entry of the environmental refugees in order to protect the rights and freedoms of its residents as well as to protect morality, public order, and general welfare.

The most difficult issue is to find the clear standards of finding the right balance between the rights of environmental refugees on the one hand and the rights of residents in the state of asylum on the other hand. So far, not only the task of striking the right balance between these competing claims but also the necessity to identify the specific principles applied in a particular set of circumstances are left largely to the discretion of political authorities of the states of asylum. Here, we come to the most significant problem related to the problems of the enforcement of rights of environmental refugees. In the democratic states, the political authorities are constrained by the public opinion. The public opinion, however, is not always stable. In the ideal of a democratic society, the citizens are people who are guided impartially by reason as the sole foundation of public moral choices. John Locke (1689, Sect. 163) described this ideal well as "a society of rational creatures". For Locke, the dictates of reason are absolute, easily perceived by an intelligent human being from the nature and implanted by God (ibid. Sect. 8, 11, 26).

The modern Western democracies, on the contrary, build their political morality on a "sand" of public choices rather than on the "rock" of the immutable laws of reason reaffirmed by the revelation

of God (ibid. Sect. 25, 52). The modern Western liberal theorists perceive the specific standards of international law as derived from a public discourse (Frank, 1995, p. 14). They cannot accept the idea that the international law principles are derived from the immutable principles of reason and, as it is written in a classical text of English law, "the revealed and divine law, and they are to be found only in the Holy Scriptures" (Blackstone, 1765, Introd. Para 2). Even John Rawls, with his commitment to the tradition of John Locke, has departed from its Christian roots (Rawls, 1999, p. 103-104).

The result of the refusal to acknowledge the validity of natural law principles (i.e. Christian principles) in international law is that the destiny of environmental refugees is left to the arbitrary change of public mood. The advantage of the Christian natural law tradition lies not only in its authoritativeness for the millions of people and the high standards of morality, it is also opened to the other religious traditions. Thomas Aquinas, arguably, the most prominent proponent of a Christian theory of natural law, reached a unique synthesis of Christian thought with the Greek pre-Christian philosophers such as Aristotle, the Muslim political philosophers such as Averroes, and the Jewish tradition, such as Maimonides (Burrell, 1993, p. 60). Thomas Berry, a Catholic priest and an advocate of the "Deep Ecology" movement, saw a similarity between the thought of Thomas Aquinas and Buddhism, (Chapple, 2014, p. 55) particularly in relation to the environmental ethics.

It is beyond the scope of this paper to present a sufficient picture of how the moral principles of the major world religions bear on the whole variety of the issues related to the environmental refugees. It is, however, important to emphasize the need for the clear, stable, and authoritative moral principles to be applied to solve the complex dilemmas in protecting the rights of the environmental refugees, local population, economic and political security, and the public morality, particularly when the legitimate interests of the environmental refugees collide with the legitimate interests of the states of asylum.

It is true that religious principles are not considered as the source of international law at this time. "The adoption of the United Nations (UN) Charter in 1945 can be described as the climax in the formal substantive secularization and positivization of modern international law, as none of its provisions refers directly to religion as a legal or normative source of international law, except for its provisions on prohibition of non-discrimination on grounds of religion" (Baderin, 2008, p. 167). However, "[t]he reality is that religion may validly constitute a basis for the assumption of international obligations. Examples of this are abound in the context of Islamic law, particularly since it remains the source of law for the majority of Muslim countries" (Bantekas, 2007, p. 134). It is acknowledged that religions "provide a rich fund of doctrines and principles, practices and philosophical systems, many of which are recognized as binding under international law" (Thuerer, 2011, p. 238).

The application of religious principles to define the scope of human rights in general and the rights of environmental refugees in particular can be achieved under the secularized form of international law of the present times. The major reason for the secularization of the international law in the XXth century was the collapse of the world order dominated by the European countries in which the Christian religion was an official dogma which often concealed anti-Christian governmental policies. One can agree with a still revered authority on international law, Oppenheim, who taught (1912, p. 4) that international law "is in its origin essentially a product of Christian civilization," and that the states have the obligation to "apply the principles of Christian morality" (ibid. p. 34). It was, however, his misconception to describe the civilized states at the beginning of the XXth century as largely Christian (ibid. p. 10). The two World Wars dispelled this myth.

Oppenheim, indeed, affirmed that the non-Christian states can be considered civilized if they understand and apply the principles of the Law of Nations and "developed their ideas of justice in accordance with Christian ideas" (ibid., p. 31, 499). This condition can be easier achieved, if one realizes that the ideas which Oppenheim meant, are present not only in the Christian, but also in the Islamic, Buddhist, Hindu, Taoist and Confucian traditions.

In order to see the way how the religious principles may work in practice, let us consider the international law provisions affirming the duty of the states of asylum to assist the environmental refugees.

Environmental refugees and the duty of foreign state to grant assistance

From a brief discussion of human rights law, one may conclude that the states of asylum have a duty to provide relief for the people who are forced to leave their countries because of the environmental catastrophe. Moreover, even if the refugees do not cross the national borders, the states are still under the obligation to provide relief in the cases of natural disasters. The international law experts are not completely clear about the normative basis for such a relief assistance. H. Spieker wrote (2011, p. 28):

With respect to the debates on a legal obligation to offer and provide humanitarian assistance and to accept offers of assistance, it is submitted that they do amount to rights, but not to enforceable entitlements. Today, it is no longer up to the free discretion of the international community to consider humanitarian action for the benefit of a suffering civilian population, nor is a party to an armed conflict free to deny humanitarian assistance provided in the situations here in question. The fact that a "right" is neither without – legal and factual – limitations and restrictions nor enforceable as such, is known both in the areas of domestic law (e.g. the "right to a healthy environment" or the "right to environmental protection" in a number of national constitutions) and international law (e.g. the "right to education", the "right to peace", or the "right to development" as second and third generation human rights).

The duty of the richer states to assist environmental refugees who are internally displaced comes largely from the principles of humanitarian law broadly defined. Much of the rules of the international humanitarian relief is based on the law protecting civilians during the armed conflicts (Arnold & Quénivet, 2008). There are initiatives calling for the establishment of a general and comprehensive legal framework for humanitarian assistance outside armed conflicts. The Council of Delegates of the International Red Cross and Red Crescent Movement in 2001 put forward the idea of International Disaster Response Law Treaty. The 30th International Conference of the Red Cross and Red Crescent (ICRC) in 2007 unanimously adopted the Guidelines on the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance. (IDRL-Guidelines).

The Guidelines contain a comprehensive definition of disaster which "means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature of human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict" (ICRC, 2007, Guidelines 2.1). In other words, according to the Red Cross, all major causes for the environmental refugees to leave their countries are included into the expending ambit of the humanitarian law.

One must not forget that the Red Cross, whose importance for the international humanitarian law is difficult to overestimate,

came into existence as a Christian charitable organization, which "very quickly re-discovered the contribution of non-Christian civilizations" (Bantekas, 2007, p. 132). The scope and the mode of the humanitarian relief to the environmental refugees needs the specific guidance which the religious traditions offer.

Let us imagine a situation when a developing country experiences an environmental catastrophe prompting millions of people to be displaced. If a developed country with better environmental and economic conditions does not react swiftly and appropriately to provide a humanitarian relief to them, the eventual result will be that some of the displaced people would attempt to immigrate legally or illegally into the developed country. There will be the political forces which would equally oppose or favour open immigration policies towards them. As the result, a serious political crisis may follow, if the government lacks a clear policy to deal with the problem. Following clear religious principles in such cases may prevent or, at least, mitigate the political crisis. Confucius taught that "If a man take no thought about what is distant, he will find sorrow at hand" (Analects, 15.11).

The moral duty of the one state to assist another state in distress is not different from a duty of a human being to assist another human being in distress. Similarly to the relations between human individuals, a moral duty of the state is not always enforced by law. However, it is acknowledged in international law that the states can be bound by both legal and moral duties: In their

intercourse with one another, States do observe not only legally binding rules and such rules as have the character of usages, but also rules of politeness, convenience, and goodwill. Such rules of international conduct are not rules of law, but of comity. The Comity of Nations is certainly not a source of International Law, as it is distinctly the contrast to the Law of Nations. But there can be no doubt that many a rule which formerly was a rule of International Comity only is nowadays a rule of International Law. And it is certainly to be expected that this development will go on in future also, and that thereby many a rule of present International Comity will in future become one of International Law. Not to be confounded with the rules of Comity are the rules of morality which ought to apply to the intercourse of States as much as to the intercourse of individuals. (Oppenheim, 1912, p. 25).

Since international law is something more than a body of enforceable rules (Chambers, 2008, p. 100), it is not necessary at this point to discuss whether or not a duty to provide relief to environmental refugees is enforceable under international law. There may be no one answer to this issue. For example, in Anglo-American law there is no general duty to rescue other people even when one can do it at little risk or cost to oneself. There are, however, some exceptions (Alexander, 2002, p. 121). In some countries, notably Germany, there is a general legal duty to aid a person in danger (Dubber, Hörnle, 2014, p. 184). What matters is that there is a prima facie duty of the developed country to assist the developing country suffering

from an environmental disaster. The religious principles in this context not only reinforce the duty but are able to provide more specific guidance in terms of the scope of such assistance.

Let us briefly consider the parable of the Good Samaritan as an example of such a guidance (Gospel according to Luke, 10, 25-37): On one occasion a lawyer stood up to test Jesus. "Teacher," he asked, "what must I do to inherit eternal life?" "What is written in the Law?" he replied. "How do you read it?" He answered, "'Love the Lord your God with all your heart and with all your soul and with all your strength and with all your mind'; and, 'Love your neighbor as yourself.'" "You have answered correctly," Jesus replied. "Do this and you will live." But he wanted to justify himself, so he asked Jesus, "And who is my neighbor?" In reply Jesus said: "A man was going down from Jerusalem to Jericho, when he was attacked by robbers. They stripped him of his clothes, beat him and went away, leaving him half dead. A priest happened to be going down the same road, and when he saw the man, he passed by on the other side. So too, a Levite, when he came to the place and saw him, passed by on the other side. But a Samaritan, as he traveled, came where the man was; and when he saw him, he took pity on him. He went to him and bandaged his wounds, pouring on oil and wine. Then he put the man on his own donkey, brought him to an inn and took care of him. The next day he took out two denarii[c] and gave them to the innkeeper. 'Look after him,' he said, 'and when I return, I will reimburse you for any extra expense you may have.' "Which of these three do you think was

a neighbor to the man who fell into the hands of robbers?" The expert in the law replied, "The one who had mercy on him." Jesus told him, "Go and do likewise."

The fact that the assistance to a Jew in distress was given by a Samaritan who was considered as an enemy of the Jews is noteworthy. The developed state does not need to have friendly relations with the developing state in our case in order to undertake the duty of assistance. Nor does it need to be the neighbouring state in terms of the territorial proximity. In the parable, the closest neighbours refused to provide aid to the person in distress. The principle of Good Samaritan teachers that the assistance must be sufficient to meet the need appropriately, if the donor state has means to grant it.

The Islamic law also imposes the duty to rescue (Inqadh إنقاذ) (Esposito, 2004, p. 138). Even though this duty is not directly expressed in the Quran, it can be easily derived from the general duty to help the poor which has been referred in the Quran on several occasions. For example, it is written there: Righteousness is not that you turn your faces toward the east or the west [during a religious ceremony], but righteous is he who believes in God, the Judgement Day, the angels, the Book, and the prophets and gives wealth, for the love of Him, to relatives, orphans, the needy, the traveler, those who ask [for help], and for freeing slaves; and who establishes prayer and pays the alms (zakat); who fulfill their promise when they promise; and who are patient in poverty and hardship and during battle. Those are the ones who have been true, and it is those who are the righteous. (2:177).

The Quran does not have specific rules as to the amount and the extent of the assistance which in our case the developed country would have to give to the developing country in distress. It appears, that it is left to the discretion of the donor.

The Buddhist thought is more difficult to conceptualize in terms of the international duty of the developed country to the developing country. Buddhism presents an enormous diversity of the thought which, according to Weeramantry, made it difficult to apply to international law (2004, p. 18). The Buddhist (as well as Hindu) concepts of *Dāna*: Giving alms, *Maitrī* (Pali: *Mettā*): Benevolence, *Karuṇā*: Compassion – all warrant the moral duty to assist the country afflicted by an environmental catastrophe. One text, extremely popular in Tibet, is *Bodhisattvacaryāvatāra* by Shantideva (VII-VIII Century AD, 7:90-95). It says: Strive at first to meditate upon the sameness of yourself and others. In joy and sorrow all are equal; thus be guardian of all, as of yourself. The hand and other limbs are many and distinct, but all are one--the body to kept and guarded. Likewise, different beings, in their joys and sorrows, are, like me, all one in wanting happiness. This pain of mine does not afflict or cause discomfort to another's body, and yet this pain is hard for me to bear because I cling and take it for my own. And other beings' pain I do not feel, and yet, because I take them for myself, their suffering is mine and therefore hard to bear. And therefore I'll dispel the pain of others, for it is simply pain, just like my own. And others I will aid and benefit, for they are living beings, like my body. Since I and

other beings both, in wanting happiness, are equal and alike, what difference is there to distinguish us, that I should strive to have my bliss alone?

As other religious texts, this passage from Shantideva does not set a rigid rule which obliges one person to help another in any particular manner, rather it informs conscience of the decision makers on the reasons and motives of such an act of help. Thus, all major religious traditions affirm the moral duty of the developed country in our case to help the developing country which undergoes an environmental catastrophe. It is true that they do not provide the exact rules on how and in what extent the help to the displaced people should be given. It can be allowing them to immigrate, or providing humanitarian relief at the country of their residence. However, the importance of these religious principles is difficult to overestimate. They provide the stable basis of the moral duty to assist a country with displaced people due to environmental disasters. Even though the exact amount and the measure of the assistance is left to the discretion of the developed country, it obliges the latter to consider the interests of the developing country to be equal to its own.

The duty to accept environmental refugees or at least to provide economic relief to the refugees who do not cross the national borders may be more than a moral and religious principle or a soft law. Under certain circumstances, this duty can and should be enforced by international law. The fact is that many environmental plights of the

poor nations are caused by the economic activities of the richer nations. The richer countries, comparing to the poorer countries, emitted more greenhouse gases into the atmosphere contributing to the climate change, released more ozone depleting substances, and through exploitation of natural resources and trade polluted the seas and the air (Tiezzi, & Martini, 2014). Further, the transnational corporations have invested tremendously into the economy of the poorer nations with the devastating impact on the environment. The economic benefits from the activity of transnational corporations were largely transferred to the place of the investors (a richer country). Much less remained in the place of the activity (a poorer country). What has often remained is the environmental degradation (Agyeman, 2003, p.136).

This has been partially acknowledge in the *Rio Declaration Principle on Environment and Development* (1992) in Principle 7: In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit to sustainable development in view of the pressures their societies place on the global environment and of the technologies a=nd financial resources they command. It is also expressed in the preamble of the UN Framework Convention on Climate Change (1992): that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low.

This responsibility of the developed countries for the greater share of environmental harm is not acknowledged in Vienna Convention for the Protection of the Ozone Layer (1985) or in the Montreal Protocol on Substances that Deplete the Ozone Layer (1990, 1999). However, the concept of common but differentiated responsibility is reflected in the provisions of these agreements as well as other environmental agreements (Ndiaye, 2007, p. 834) dealing with technical, economic, and other assistance which the developed countries should give to the developing countries

According to Matthew Hall (2013, p. 110), there were some compensation schemes available for major polluting events which received much public attention, but not for more endemic, or less publicly known acts of pollution by the transnational corporations. The religious principles put the duty of the developed countries to address the issue of environmental refugees in the developing countries on the solid ground of natural law rather than allowing this issue remain the matter of a long, uncertain, and often fruitless process of public negotiation.

Conclusion

Even though international law does not have binding agreements which contain clear rules and mechanisms addressing the issue of international refugees, it does not mean that international law as a whole lacks the relevant principles and rules. The natural law as it is reflected in the great traditions of Christianity, Islam,

Buddhism, and some other major world religions offer clear guidelines to address the problems related to environmental refugees. It is true that religious principles have left much to the discretion and policy makers to determine. However, they firmly establish as a duty of natural law that the states must assist people in distress equally without discriminating whether they are political or environmental refugees. One can conclude with the words of the former Vice-President of the International Court, Weeramantry (2004, p. 15): Given the strength in the modern world of religious traditions, such as the Buddhist, Christian, Hindu and Islamic, and that they command the allegiance of over three billion of the world's population, there cannot be any doubt that future thinking on international law can benefit deeply from the teachings contained in these traditions. It may be said by the cynic that in a world of harsh practical realities such religious teachings can find no place, but it is a reality of the geo-political scene that these religions command deep allegiance on a massive scale. Their moral authority is immense. Consequently their impact upon the world of practical politics, whether domestic or international, cannot be gainsaid. It would indeed be unrealistic to look at the practical world scene without making due allowance for the power of these religions.

From a larger perspective than it has been discussed in this paper, one perceives the threat which the mass movement of environmental refugees can potentially cause to the whole world. The principles of natural law as reflected in major world religions

provide a sufficient moral and legal basis to affirm the responsibility of each single state, whether it is developed or developing, to prevent the environmental exodus as the result of environmental catastrophe occurring within its borders and beyond. In practical terms, it means that each state has the right and the duty to demand from another state to undertake sufficient political, economic, social, and demographic measures to protect the environment so that the residents of each state are not forced to leave their homes.

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