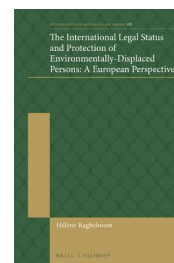


BOOK REVIEW

Title : The International Legal Status and Protection of Environmentally-Displaced Persons: A European Perspective
Author : Hélène Ragheboom
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In recent decades, various communities of scholars have done many researches about the likely impact of climate changes and environmental degradation on population movements. The phenomenon of environmentally displaced persons is a complicated reality that involves a wide range of factors. In addition, it creates different patterns of migration that lead to complex finding of connection involving climate changes, environmental disasters, and migration. The increasing number of people's displacement that is caused by climate changes and environmental degradation has shifted the discussion towards the importance of climate changes and environmentally displacement to gain international protection. Some parties suggest that the population movements that are triggered by environmental disasters are national concern because it happens mostly within the national boundaries of states. Therefore, each state is responsible for protection and well-being of its people. However, some parties also believe that, sometimes, some states are unable or unwilling to assist its displaced populations. Therefore, international protection is needed.

Hélène Ragheboom writes this book to address the debatable discussions regarding the protection of climate change and environmentally displacement from both International and European perspectives. This book aims to understand whether persons who are outside their states of origin and unable, or unwilling, to return due to severe degradation of their living environment in their states of origin could, or should, receive international protection in Europe.

Ragheboom explains clearly the urgency of international and regional laws to grant protection for climate change and environmentally displacement. She analyzes the applicability of the existing norms and practice, in both European and International laws, which are relevant to the protection of persons displaced by climate change and environment. Moreover, the book also provides several alternative solutions for the protection of environmentally displaced persons.

The book consists of three parts. On the first part, Ragheboom tries to examine the norms and the practices that are relevant to the protection of persons that are displaced by non-targeted or indiscriminate threats and seeking protection within the European Union territory. The second part discusses the applicability of the existing norms of international asylum law and international human rights law, including those

* Undergraduate student at the Faculty of Law, Universitas Padjadjaran (Padjadjaran University), Jl. Dipatiukur No. 35 Bandung, anisafzh18@gmail.com

identified in the first part, to cases of displacement triggered by environmental disasters. On the third part, Ragheboom draws on the rather pessimistic conclusion to consider developments of the law intended to protect environmentally displaced persons.

On the first part of her book, Ragheboom provides a comprehensive overview of the protection available in the European Union to persons who do not qualify for refugee status because the risk they incur is indiscriminate. The 1951 Refugee Convention, based on three criteria, defines refugees as the people who are outside their states of origin and demonstrate fear of persecution as well as a causal link between the alleged persecution and their race, religion, nationality, political opinion, or membership of a particular social group. Inherent to the identification of definitional criteria is the exclusion of others. In this matter, Ragheboom emphasizes that some persons who do not fit in the refugee definition needed international protection and deserve some forms of protection.

The first part of this book is divided into five chapter. In the **chapter one**, Ragheboom discusses European Union Member states' obligations under International Human Rights Law. She explains that in addition to the European Union law, international treaties also create obligations to the Member States in terms of asylum. Upon joining the European Union, States express their consent to be bound by obligations arising out of the Union's Treaties and resulting from the acts of its institutions. In the **chapter two**, Ragheboom analyzes the European Union laws that are relevant to asylum. She explains that the Court of Justice, followed by the European legislator, has progressively incorporated fundamental rights into the European Union legal order. Moreover, Ragheboom examines several European Union instruments that grant complementary protection for those who do not qualify the refugee definition. The first is Temporary Protection Directive. Ragheboom analyzes that this directive cannot provide an adequate level of protection because of the limited duration of the protection. The protection only provides maximum 3 years and the directive only refers to mass influx of displaced persons. The second is Qualification Directive. This directive provides a harmonized protective status to persons who do not fulfil the criteria for refugee status but who would risk be subjected to serious risk that are situational rather than individually targeted, in their states of origin. In the **next chapter**, Ragheboom discusses the relevant provisions of International Human Rights Law. They are The 1951 Refugee Convention, the general international human rights law treaties at the global level (such as the International Covenant on Civil and Political Rights and the UN Convention Against Torture), at the regional level (such as the European Convention on Human Rights), and customary international law (that regulates obligations for European Union States not to return individuals to countries where their life or freedom would be threatened, the *non-refoulement* obligations). In the **fourth chapter**, Ragheboom portrays the condition of member states' non-harmonized protection responses. Some states choose to (mis)interpret the Qualification Directive in such a way as to deny its obligation to protect. Instead, they grant national forms of protection. In the **last chapter** of this part, Ragheboom concludes that armed conflicts are one of the factors creating situations where anybody's life under threat. Other

events can arguably have similar effects. Large-scale catastrophes, either man-made (like industrial accidents), natural (such as tsunami and earthquake), or both (climate changes, infrastructure damages caused by e.g. an earthquake), can arguably affect the living conditions in a state to jeopardize the essential human rights of the population, beside the people's lives.

The second part of the book offers an interesting discussion. The applicability of existing norms of international asylum law and international human rights law to cases of displacement triggered by environmental disaster always trigger debatable issues. Ragheboom proposes that if environmentally displaced persons are not automatically excluded from the scope of asylum law or human rights law, and are sometimes considered in state practices and existing law, as it is implemented, it will fail to protect persons who displaced by environmental disasters. However, Ragheboom argues that the principle of *non-refoulement*, as derived from international human rights law, is theoretically fully applicable to cases of environmental displacements but the decision-makers prefer to have restrictive interpretations of its scope and terms.

The second part consists of four chapter. In the **chapter six**, Ragheboom analyzes whether environmentally displaced persons could be beneficiaries of international protection under Refugee Law. She explains that the 1951 Refugee Convention, the main instrument and the foundation of modern refugee law, does not refer environmental issues. The Refugee Convention suggests that environmentally-displaced persons cannot be protected as refugees under the Convention definition, which emphasizes mainly on persecution. In the **next chapter**, Ragheboom points out that, under international human rights law, environmentally displaced persons is protected with the principle of *non-refoulement*, which regulate that no person may be returned in any manner to a state where his life of the person would be at risk, regardless of his/her status or conduct. In the **chapter eight**, Ragheboom discusses state practices in response to disasters and other humanitarian crises. There are two possible ways to look at state practices according to Ragheboom. Firstly, states have not adopted (yet) any legal instruments of either regional or global levels whereby they would bind themselves to grant protection to environmentally displaced persons. Instead, they choose to act on a discretionary and *ad hoc* basis. On the other hand, a number of states do adopt measures, mostly on a temporary basis, to protect individuals fleeing dire humanitarian conditions, including in the aftermath of an environmental disaster. This is a sign that they actually recognize the seriousness of the threats of environmental degradation or the general deterioration of conditions of living in certain states. In the **chapter nine**, Ragheboom concludes that according to the existing law and practice, it is unlikely that European States grant protection to persons who were forced to leave their home and country because of a sudden or slow degradation of the environment.

On the last part of the book, Ragheboom gives readers alternatives by considering the developments of the laws intended to protect environmentally displaced persons. As concluded in part two, it is very unlikely that the existing instruments of international law can be implemented to protect persons who are forced to cross borders due to the detrimental effects of environmental disasters. On the other hand,

the reality of the phenomenon is unchallenged: environmental change always happens and causes populations to move in search of habitable places. The other certainty is that, under the influence of global warming, the environment is changing in every part of the world. For this reason, Ragheboom provides a critical overview of the different protection alternatives. The first protection option relies on existing norms of the international protection regime enshrined in refugee law and human rights law. The second protection option addresses the question whether states should play a role in devising a form of protection for environmentally displaced persons. The last protection option formulates elements of a *sui generis* regime for environmentally displaced persons.

In the **chapter ten**, Ragheboom envisages various possible interpretations of or amendments to existing norms of asylum law and human rights law to protect the environmentally displaced persons. However, the various alternatives existing for the protection of environmentally displaced persons based on an area of existing law fails to address the issue comprehensively. In the **next chapter**, because neither refugee law nor international human rights law can offer fully appropriate solutions to the problem of environmental displacement, Ragheboom turns to broader international law and analyses whether states can (and should) be responsible for environmental displacement. The question of whether States were legally responsible for climate change is one of the most complicated issues. Environmental degradation is not the only trigger of displacement, instead, the causes are multiple and interrelated. Thus, an approach that is based on State responsibility manifests itself as inappropriate to address the issue of environmental displacement effectively.

In the **chapter twelve**, Ragheboom tries to propose *sui generis* framework to address environmental displacement and migration. She explains that devising a *sui generis* framework could be a preferable alternative because the attempts made in the two previous chapters to try and to tackle the issue of environmental displacement under relevant branches of international law fail to address environmental displacement comprehensively. At the same time, each normative body is suitable to address certain specific aspects of the issue. Environmentally displaced persons do not automatically exist in the regime of international protection. However, the principle of non-refoulement is the only element of this regime to address their claims. The rules of state responsibility for environmental damage and its consequences do not account for the specificities of the root causes of environmental damage and of migration, and risk undermining efforts towards a necessary international cooperation. Nonetheless, the derived principles, such as states' obligation of due diligence can be relevant. Therefore, Ragheboom emphasizes that it is reasonable to suggest that an effective means of addressing environmental displacement comprehensively might lay in the combination of relevant rules, mechanisms, and principles borrowed from the different branches of international law. In this chapter, Ragheboom also analyses elements to import from the different areas of law to leave out of a new framework devised to protect environmentally displaced persons. Objectively, the adoption of a *sui generis* framework is ambitious. However, in the view of the reality and universality of the issue of environmental displacement, it is a necessity or even an obligation for States.

In the **last chapter**, Ragheboom concludes that various existing alternatives of protection for environmentally displaced persons based on an area of existing law fails to address the issue comprehensively because there are multiple causes, forms, and consequences. Arranging a *sui generis* framework, therefore, is a preferable alternative. However, Ragheboom explains that if there are valid reasons for states to enter such agreement, they still reluctant to have a commitment to reduce their contributions to climate change and recognize their responsibility. The increasingly restrictive approach to migration and asylum do not bode well for a protection of environmentally displaced persons in the short term. Moreover, Ragheboom concludes that before a global consensus is reached, the absolute nature of the principle of *non-refoulement* should first be reasserted and respected at all times.

Overall, this book is worth particularly in giving broader knowledge and insight about the existence of environmentally displaced persons and the urgency to protect them since cross-border displacement triggered by environmental degradation is a normative gap in the international legal protection regime. This writing is on the position to agree with Ragheboom that we cannot ignore environmental refugees just because there is no established mode of dealing with the problem. Therefore, a new framework is needed to empower the international community, all regions, states, and world populations to face the challenge of environmental displacement.