

# The Legal Void in Climate-Induced Displacement: Towards a Global Protection Framework <sup>1</sup>

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## Abstract

*Climate change constitutes one of the most widespread types of natural injustice that humanity is now facing, and one of its many consequences is the forced migration of people. Those displaced by environmental disruption are referred to as climate refugees, also known as environmental or climate migrants. However, international law has not yet defined how these people integrate into the prevailing refugee legislation or other areas of migratory services. This paper begins by examining the gaps and poor administration of international refugee legislation for climate refugees, and how their lack of institutional and legal standing has been causing them great suffering. A vivid illustration of why those gaps require to be filled is later provided by the cases of Teitiota from Kiribati and various South Asian countries pertaining to climate refugees. The paper also outlines the international relations viewpoint on the global reluctance for recognising climate refugees and offers some suggested fixes. Through the lens of Realism and Constructivism, this paper identifies the nexus between legal vacuum for climate refugees and global inaction. The study comes to the conclusion that the most workable and enforceable answers to the intricate legal issues raised by climate-induced displacement may be found in the explicit revision of current conventions, a restructured institutional framework, and regional and international cooperation.*

## Key Words:

Refugee, climate, legal, framework, cooperation

## 1 Introduction

Over the evolution of mankind, a large portion of population migration has been an adaptive reaction to shifting climatic and environmental factors. However, a number of intricate and varied factors influence modern migration, such as globalisation and trade, advancements in communications and travel, multinational migrant networks, significant socioeconomic gaps, a lack of skills, changes in the population, political and economic upheavals and conflicts, shifting capital, and the pursuit of employment and educational opportunities (McMichael, 2015). In addition to creating new pressures that support the

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relocation and movement of people, families, and communities, climate change will intensify many of existing migratory causes.

El-Hinnawi (1985), in a report published by the UN Environment Program (UNEP), described environmental migrants as

"Those people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption ... that jeopardised their existence and/or seriously affected the quality of their life." (United Nations University, UNU-EHS, 2008: 5).

According to scientists, within 2050, 143 million Global South residents would be negatively impacted by continued climate change, which may exacerbate a variety of movement and mobility patterns (Almulhim et al., 2024). Millions of individuals will have to flee their towns and cities in pursuit of safety over the next decades due to climatic calamities, which will have a profound impact on their lives. Although there isn't a single, accepted definition of climate-induced human mobility, in general, it implies to movement of people motivated by precipitate or gradual modifications to the environment or weather (Overseas Development Institute, 2016). This can involve forced and voluntary movement, periodic and solitary mobility, and brief and everlasting movement. Internal and cross-border displacements are both included in the category of climate-induced displacement.

Although the former presents difficulties, the latter is especially troublesome because those escaping environmental catastrophes – often referred to as "climate refugees" – lack a status that is recognised by the law (Padonu, 2025). Some people object to the term "refugee," which has a specific meaning in international law, legislation, and individual liberties, as well as a connection to persecution, being applied to a group of people with a wide range of movement dynamics and motivations (Toussaint, 2016). Some people would rather use more specific terminology like "forced displacement," "forced migration," or "forced displacement due to climate change," or they would rather categorize individuals impacted under the heading of "forced displacement" (Gemenne, 2015).

Despite the fact that climate-related displacement is becoming a more serious worldwide concern, people who are compelled to leave their homes because of environmental reasons are still not shielded by existing worldwide legal frameworks. From the standpoint of international relations, the problem of climate refugees calls into question accepted international conventions, leading to a critical examination of state obligations, burden-sharing, and the effectiveness of multilateral institutions in addressing global human mobility. However, the fragility of climate refugees is increased by their lack of legal status, underscoring the urgent need to address human rights issues.

The purpose of this article is to highlight the main institutional and legal weaknesses that prevent climate-induced migrants from receiving adequate protection. It also looks at the effects that these migrants have had as a result of their lack of official legal status. Lastly, the study examines possible reforms to solve these difficulties and assesses international relations (IR) theories that could account for the lack of coordinated action on climate refugee issues. Finding the main institutional and legal lapses that affect climate refugees' protections and how their lives are made unpleasant by them requires the development of appropriate frameworks and changes. International collaboration and the participation of several stakeholders, such as governments, non-governmental

organizations, academia, and intergovernmental entities, will be necessary for the growth of such an alternative legal framework.

## 2 Literature Review

Gemenne (2015) asserts that the idea of “climate refugees” or “environmental refugees” has gradually been dropped since it lacks a legal foundation and wished to make the case that the phrase has valid uses. He also argued that migrants shouldn’t be seen as helpless victims who must endure the consequences of climate change, but rather as ingenious adapters of their own. Displacement brought on by climate change presents serious problems for the current international legal systems. McDonnell (2023) has shown that the demands of those affected by climate change cannot be met by the present-day refugee protection system, especially the 1951 Refugee Convention. High thresholds for refugee status and fundamental disputes worsen this protection discrepancy. Handayani and Fauziah (2020) contend that Global protection systems have issues due to migration caused by environmental factors. Although climate refugees are not specifically covered by the 1951 Refugee Convention, additional legal agreements may provide protection.

The White House report of Yayboke et al. (2025) emphasises the necessity of allocating the resources required to lessen the humanitarian impact on displaced people. The research examines the geopolitical ramifications of climate migration and the primary role of international cooperation in response, in addition to emphasising the necessity of proactive foreign assistance and the protection of impacted individuals. Al Banna (2024) analyses the legal void around the position of environmental refugees, who are not granted legal status and, as a result, are not protected by international law. According to this article, there is no legal definition of environmental refugee identity; therefore, public international law must create legally protective tools by ratifying the applicable agreements.

Due to the lack of legal recognition, the victims of climatic hazards are likely to be impacted a lot. Chu and Micheal (2019) show that urban climate justice in Indian cities is intricately linked to the recognition and inclusion of migrants, who often face environmental marginality and economic precariousness. These vulnerable populations experience heightened exposure to climate risks and are frequently invisible to official state apparatuses. According to Fauziah (2022) the legal status of climate refugees is still unclear according to global law, as demonstrated by the Ioane Teitiota case.

The UN Human Rights Committee’s suggestion recognises the impact of climate change as a potential factor for asylum-seeking, which triggers the non-refoulement concept, even though the 1951 Refugee Convention does not specifically address climate refugees. Beena (2024) asserts that- due to this legal loophole, present refugee law does not provide international protection for climate refugees. The rights and advantages usually granted to traditional refugees, like the right to asylum, protection from being compelled to go back to their countries of origin, and access to welfare services, are not available to them. She further adds that the governance problem is made worse by states’ unwillingness to broaden the definition of a refugee to include people who have been displaced by climate change. Sahinkuye (2019) outlines that despite the increasing number of persons evacuated by environmental concerns, the term “environmental refugees” does not have a legally recognised connotation or legal status in international

law. It tackles issues about the presence, characteristics, universality, rationale, and legal standing of environmental refugees through a multidisciplinary strategy.

Gibb & Ford (2012) talk about how international law, especially the United Nations Framework Convention on Climate Change (UNFCCC), requires the identification and protection of climate migrants. The UNFCCC should acknowledge climate migrants, according to Gibb & Ford, with an emphasis on the most vulnerable groups. There is a remarkable dearth of study on the real scenario of effects due to this lack of legal standing, despite the fact that the available literature examines the legal loopholes and protection of climate refugees in great detail. Furthermore, little is known about the IR viewpoint on the world's inactivity on climate refugees.

### 3 Theoretical Framework

Due to the potential for local and international dispute over land, water, and various other materials, climate change has emerged as a concern that might shake up nations' political and economic systems (Meadowcroft, 2009). The logics behind the global inaction and policy gaps can be understood through the lens of IR theories like realism or constructivism.

Prior to and soon following World War I, international relations became a recognized academic field, mostly in response to realist balance of power politics (Donnelly, 2000). The state is a single and rational actor, according to the tenet of the realism theory of international relations (Herz, 1951). The state can detect interests and aims and assess their relative value as a single actor. The state can choose the best course of action for accomplishing its objectives by doing a cost-benefit analysis. Realists hold that there are conflicts inside the international system. Stated differently, friction and disputes are hallmarks of world politics (Usiemure & Gbigbidje, 2018). Realists and rational choice theorists believe that moral principles, ethics, and justice are "oxymoronic expressions" that have no place in international politics (Khan, 2016). There is no global government or authority to police or supervise the safety of migrants caused by climate change, according to realist theory. There isn't a single international organisation that is solely in charge of resettling or protecting those who have been displaced by climate change. The "high politics" of realists have never given much thought to climate change since they were not particularly interested in tackling its underlying causes (Unny, 2020). Realists believe that rather than being a scientific or economic issue, climate change is a political one (Giddens, 2009). Realists think there is little chance of reaching an international consensus and contend that addressing this issue domestically will be more beneficial than attempting in vain to solve it on a global scale (Unny, 2020). When viewed through a realist lens, the absence of a central government or authority to authorise climate refugee issues, states' unwillingness to prioritise humanitarian crises over national security or concern, etc., serve as the rationale for a dearth of legal status or safeguarding for climate refugees.

Constructivism is an IR theory that recognises the significance of the worldwide system's normative aspects as well as its material components (Muni, 2020). It is obtained through an intellectually stimulating and meaning-making process in which people come to a realisation and form meanings in their thoughts using their own comprehension of the event (Nazir et al., 2024). Constructivists view the identity and goals of states as a highly malleable product of unique historical processes, as opposed to taking the state for

granted and asserting that its sole goal is to survive (International Affairs Forum, 2025). International relations are significantly shaped by social structures like identity and customs. They influence how players react to opportunities and challenges and offer a framework for comprehending and interpreting events. Constructivists contend that because norms offer a framework for defining what conduct is acceptable and undesirable, they are essential in influencing international behaviour. For example, by creating the principle of non-interference in the internal affairs of other states, the norm of sovereignty has influenced international relations (Lee, 2025). The Refugee Convention primarily addresses issues of violence, persecution, and political targeting but currently does not encompass individuals displaced solely by environmental factors, including climate change (Sachs, 2025). As of right now, there isn't a legally accepted definition of climate refugees. The Refugee Convention itself has a number of strict clauses and does not specifically include persecution brought on by climate change in the definition of refugees. As a result, it leaves a legal void that makes it extremely difficult to provide protection (Fauziyah, 2022). Constructivism describes how this debate over discourse influences the actions or inactions of nations.

## 4 Methodology

The majority of the study's data comes from secondary sources. Relevant data and information have been gathered from newspapers, policy documents, reports, published journals, and current literature. The study analyses the worldwide legal and political circumstances involving climate refugees using a critical theoretical and qualitative case study approach. The inquiry has been conducted using two theoretical lenses: constructivism and realism. Constructivism examines the legal loopholes, whereas realism examines institutional and global passivity. In order to achieve the specified research goals, the study employs a descriptive and analytical methodology. Data is combined using legal and political interpretation.

Two complimentary qualitative case studies are used in the study to empirically support the setbacks that the theoretical framework projected. This study's drawback is that it only used secondary sources that were already in existence; primary data collection methods like surveys and interviews were not used. The study's emphasis on interpreting well-established legal doctrines and global policy positions – the best evidence found in published international reports and legal scholarship – helps to mitigate this constraint.

## 5 Key Legal and Institutional Gaps for Climate Refugees

According to the literature currently available, the number of people affected by the climate refugee crisis will exceed that of all previous refugee crises, even though the precise numbers are unknown and differ from evaluation to assessment based on underlying methods, scenarios, time frames, and assumptions (Biermann & Boas, 2012). The climate refugee crisis is further intensified by the lack of legal and instructional gaps. Key legal and institutional gaps in the national and international system are discussed below-

### 5.1. Insufficient Clarity in Concepts and Definitions

There is much debate in the fields of refugee and human rights studies over what constitutes climate-induced human movement. The lack of a definition in international legal frameworks is what drives this discussion. The terms "climate refugee" and "climate

displacement” are not interchangeable, but neither have been agreed upon by refugee-law specialists nor are they formally defined by international refugee law (McDonnell, 2023). The phrase “climate refugee” is frequently used as an apocalyptic tactic to further state political goals, despite its intended strengthening of global justice for climate displaced people and increased accountability of industrialized nations for their role in contributing to climate consequences (Mayer, 2018; Veronis et al., 2018; Himiide, 2023). “Refugees” from climate change have been portrayed as threats or sufferers whose cross-border travels must be controlled (Johnson, 2018; Himiide, 2023). A more constrictive definition based on a dread of “being overwhelmed by an influx of displaced people” is represented by this dehumanization (Atapattu, 2018; Montgomery, 2018; Mwandimwe, Kita, & Raleigh, 2018). Such a political focus on securitizing state sovereignty may undermine the legal safeguards afforded to climate affected people and run counter to the moral objectives of the Refugee Convention. Since the term “climate refugee” is not used in international refugee law, its use only contributes to solidify the legal uncertainty surrounding environmentally-forced human migration, resulting in neither legal status nor certainty conferred by the term “climate refugee” (McDonnell, 2023).

The 1951 UN Refugee Convention does not apply to climate-induced migrants or climate change, according to the UNHCR, the main international organisation that protects refugees, internally displaced people, and those compelled to flee persecution (Formale & Doebller). The 1952 Convention relating to the Status of Refugees and its Statute, which both include particular specifications of a refugee, serve as the main foundation for UNHCR's mandate. Even when someone crosses an international boundary, these definitions don't seem to apply to them (Formale & Doebller).

Because conflict-induced and disaster-induced relocation have different origins and solutions, it would be “confusing” to encompass both in the description of internally displaced people (IDPs), according to a 2005 expert study to the UK government (Cohen & Bradley, 2010). Many nations are still hesitant to acknowledge the status of climate refugees in their legal systems, despite this issue's growing gravity. Despite the fact that millions of people are displaced by climate change, no norm has been there in international law that this displacement should give rise to refugee rights. There is no strong entrepreneur pushing for a legally defined definition, despite the fact that several UN agencies and NGOs advocate for protection. States claim that people who are fleeing or seeking asylum because of climate change are not being openly persecuted or restricted safeguarding in their countries of origin, so their fear is not “well-founded,” in order to escape accountability for granting asylum under the non-refoulement principle (Spadotto, 2018).

Because of this, people are unsure of the rights and safeguards they are entitled to. Indonesia has yet to ratify the 1951 Convention and the 1967 Protocol, in spite of Presidential Regulation No. 125 of 2016 on the Handling of Refugees from Abroad, which is leading to the legal standing of climate refugees in Indonesia in ambiguity as well as contingent upon relevant state policy (Sabirin et al., 2024). In the meantime, other ASEAN nations deal with refugees in a similar way as a result of climate change. For instance, while being a popular destination for asylum seekers, nations like Malaysia and Thailand lack explicit legislative frameworks to safeguard climate refugees (Weber, 2014). Government representatives in the US agreed on all potential classifications of people displaced by Hurricane Katrina, with the exception of internally displaced people, following

the belief that IDPs were mostly persons who had been displaced by fighting “overseas,” they referred to them as “refugees,” “evacuees,” and, lastly, “disaster victims” (Cohen & Bradley, 2010).

According to Article 14 of the Universal Declaration of Human Rights, anybody escaping persecution, torture, or molestation has the right to seek asylum in another nation (Pourhashemi et al., 2012). Unfortunately, even though this global declaration formally recognises refugee rights, it is unable to address the violations of those rights who are compelled to flee their country of origin and seek safety in other nations due to environmental factors and the effects of climate change because it does not specify the reasons for immigration.

The 1951 Geneva Convention is regarded as the primary international legal source pertaining to refugees (Pourhashemi et al., 2012). It has been decided that cosignatory nations will not punish immigrants who have fled their place of origin owing to dangers and have unlawfully entered the host nation without their consent, in accordance with Article 31 of this treaty concerning refugees who live there illegally (Pourhashemi et al., 2012). This is only if they present themselves to the appropriate authorities right away and give compelling justification for their entry or unlawful presence. Other than those necessary for these immigrants to travel back and forth, the relevant government will likewise have no restrictions. These restrictions will only apply until the refugee’s status in the host nation is ascertained or they have not been granted authorisation to enter another nation.

After considering the aforementioned points, it is determined that refugee rights apply to those who are in danger or under threat, while the cosignatory country is tasked with determining whether or not to accept this category of people. Since refugees are defined for grounds apart from environmental concerns, it is therefore difficult to generalise the legislation governing this group of refugees to environmental refugees. The condition may make them more susceptible to prejudice and abuse. In this regard, it is imperative to support the creation of new legal frameworks that particularly govern the protection and status of refugees as a result of climate change.

## **5.2. Limited Legal Protection**

Limited legal protection and the issue of definitional clarity are strongly related. Because the international legal status of climate refugees is unclear, the global community is still yet to come to an agreement and the issue of climate refugees brought on by climate change cannot be resolved. It is challenging for climate refugees to obtain additional protection from the UNHCR due to the ambiguity surrounding their global status, an absence of legal recognition as traditional refugees, and their distinction from environmental refugees. Even though international organisations like the International Committee of the Red Cross (ICRC) and the International Organisation for Migration (IOM) provide aid to climate refugees, this aid is purely humanitarian in nature and cannot be sustained over the long run due to the uncertainty surrounding the refugees’ international status (Leng et al., 2022). The present legal tools for protecting refugees

“don’t conveniently adapt themselves to shielding people who have been uprooted by the adverse effects of climate change, especially those that address migration across borders,”

according to a White House assessment released in November 2021 (Yayboke et al., 2022). The Global Compact for Safe, Orderly, and Regular Migration, which was ratified by 164 nations (except from the U.S.) at Marrakech in December 2018, urged nations to prepare to stop climate-related migration and assist individuals who are compelled to transfer (Narayanan et al., 2023).

However, these frameworks are not sufficiently developed to support climate migrants, nor are they legally obligatory. The hazard migrants experience makes the absence of protections evident: according to a UN assessment, 50,000 people died while migrating from 2014 to 2022 (OHCHR, 2023). The non-refoulement principle becomes crucial to comprehending the rights and safeguards that climate refugees ought to get. The current international legal framework is unable to meet the requirements of climate refugees, creating a legal void in their safeguarding. People who are compelled to relocate because of environmental changes are not covered by the 1951 Refugee Convention or the 1967 Protocol, hence they are not granted legal refugee status (Sabirin, 2024). However, according to Ragheboom (2017), climate refugees might potentially be included under the rule of non-refoulement that stems from international human rights law (Handayani & Fauziah, 2020). The 2005 Hyogo Framework for Action and other human rights-related guidelines for victims of natural disasters are examples of soft laws that do not have legal force behind them. For example, most nations still do not incorporate catastrophe risk considerations and climate migration issues into their plans for future growth, even though the 2005 Hyogo Framework for Action focusses on building disaster preparedness systems in many nations (United Nations Office for Disaster Risk Reduction, 2005). Similarly, host states are not required by law to award temporary or permanent refugee status to those climate migrants, as the UN High Commissioner for Refugees has the authority to handle climate migration cases (Zhang et al., 2021). The present Temporary Protected Status is quite limited and does not apply to international climate migration cases. Long-term droughts might not be as important as abrupt natural disasters that immediately attract public attention, but like those impacted by rapid-onset catastrophes; many victims of slow-onset drought crises also look for safety and work opportunities outside of the drought-affected region. However, numerous governments only provide a few basic essentials, such as food and shelter, to climate migrants rather than job possibilities (Zhang et al., 2021).

Moreover, a few of institutions address the issue in part, but none do it thoroughly. The 1951 Convention governs how the UNHCR (United Nations High Commissioner for Refugees) handles refugees; however, climate refugees are not covered by that term (Streeter & Cloward, 2022). The International Organisation for Migration (IOM) assists in managing migration generally, but primarily deals with planned displacement or voluntary movement rather than official refugee status. The United Nations Framework Convention on Climate Change (UNFCCC) focusses on adaptation and mitigation of climate change rather than providing legal protection for displaced persons (Gieseken, 2017). Generally speaking, hosting states have more authority over what and how to handle those refugees. When national interests are the only thing on one's mind, one may worry that this could interfere with national security and eventually force states to spend more money on foreigners than they could on their own citizens. Because establishing new standards entails legal obligations and resource commitments, states are reluctant to do so.

Lack of money eventually robs the refugees of their fundamental human dignity as well as their capacity to live freely in new, safe regions. The home nations of climate refugees are given primary responsibility, which runs counter to international accountability for climate change victims. Furthermore, the UN High Commissioner for Refugees can only handle a small portion of the additional number of climate refugees that several studies estimate would arrive by 2050 (Biermann & Boas, 2012). These governing structures are unlikely to be able to handle the impending climate refugee problem. Because each nation has different interests, collaboration on the climate change issue is challenging, thus leading them advocating for domestic and internal policies than international accords (Grieco, 1988). Furthermore, agreement within global climate change conferences would be challenging due to the different viewpoints and mistrust that exist among countries (Sofer, 2015). According to realism, states are less inclined to welcome refugees because each one acts for its own benefit. According to this viewpoint, refugees are viewed less as an asset and more like a drain on the wealth and services of the host nation (LA, 2022).

Both local and international law should guarantee the protection of groups of people deemed particularly susceptible to climate change from the standpoint of human rights. However, climate refugees are not specifically protected by international law or any of its branches (Leighton, 2010). Nonetheless, victims of ecological disasters are not covered by international humanitarian law, which is solely intended for “victims of armed conflicts” (Al Banna, 2024). As a result, large-scale climate migrants who cross international borders are not given the same treatment as internally relocated migrants under the majority of countries’ migration management regimes. They risk criminal charges, discrimination, or repatriation under unknown circumstances if they pass an international border but do not get accepted as refugees.

### **5.3. National and Institutional Arrangement Gaps**

Insufficient institutional frameworks for preserving the human rights of environmentally affected people are frequently a reflection of the lack of legal and definitional clarity for these groups. In fact, there are very few national laws, legislation, and execution tools that include human rights considerations into disaster response. Zarsky demonstrates that the worst effects of climate change, including drought and an upsurge in natural disasters, are expected to occur in the Tropics and if every coastal nation is equally concerned about rising sea levels, the Tropics are more vulnerable due to three factors: high demographic tension, challenging settlement conditions, and limited financial capability (Mayer, 2011). Although there are difficulties for all coastal nations; “poorer countries are under-equipped to support widespread adaptation” (Warner et al., 2009). The consequences may be fatal. Transport preparations for the impoverished without personal automobiles or for inmates or hospitalised individuals were not part of the Federal Emergency Management Agency’s (FEMA) relief and evacuation strategies implemented along the Gulf Coast in the United States, leading to accusations of “racism and classism” as the majority were African-American (Cohen & Bradley, 2010). These disparities were brought to light by the UN Human Rights Committee, which keeps an eye on states’ adherence to the International Covenant on Civil and Political Rights (Cohen & Bradley, 2010).

The rights pertaining to the effects of climate change aren’t clear or recognized at international law, despite appeals to individuals who are displaced, migrated, or resettled. Despite the fact that protecting rights is frequently an urgent problem, there are not enough specialized safeguards for less urgent situations, such as when individuals face

the possibility of long-term, forced displacement due to the effects of climate change (Baker-Jones & Baker, 2015). Insufficient camps and settlements infrastructure came about from inadequate planning and strategy in many places to handle the large influx of refugees in some areas and accommodate the quick extension of camps. For instance, in Jordan, it has been claimed that refugee families' dwellings in the Al Baqa'a, Zaatari, and Azraq camps lacked thermal insulation, as well as high energy expenditures in relation to income frequently make air conditioning or heating unavailable (Fransen et al., 2023). Moreover, inadequate drainage systems and sanitation services near water sources may lead to public health crises after extreme events. According to research, India's existing urban administrations are ill-equipped to handle environmental migration waves, which frequently leads to insufficient infrastructure and public services (Chu & Michael, 2019). The fact that social safety nets and welfare programs are occasionally linked to citizenship rights that are limited by jurisdictions further jeopardizes the basic needs of migrants. For instance, immigrants from one state may no longer be able to take advantage of public distribution networks and health programs offered by other states.

The second major framework for discussing the obligation of the humanitarian community to climate change refugees is that of human rights. In recent years, humanitarian organizations have adopted a human rights agenda in their mission to alleviate suffering; that is, violations of human rights command humanitarian action (Sood, 2017). Human rights legislation provides legal recognition and protection for migrants displaced by the effects of climate change, but no real mechanisms are being created or implemented globally (Duong, 2010). People who are most impacted by climate change are more likely to reside in low-income nations with inadequate mitigation and adaptation measures (Albrecht & Plewa, 2014). Despite being one of the nations' most vulnerable to the effects of climate change, Bangladesh lacks adequate national and institutional arrangements for protecting refugees from the phenomenon who enter the country through its borders (Jolly & Ahmad, 2019). Although Bangladesh has been a member of the UNHCR's EXCOM since 1995 and is familiar with the 1998 United Nations Guiding Principles on Internal Displacement, the government of Bangladesh regrettably lacks proper arrangements to safeguard the climate refugees (Jolly & Ahmad, 2019).

The absence of robust international funding organisations and methods is a direct consequence of the anarchic nature of the international system. The fragmentation is seen at the national level results from states' self-serving refusal to establish a central body that could compel burden-sharing or compliance. States at the national level and other dispersed organisations at the international level exhibit less extensive arrangements when it comes to protecting the climate refugees because there is no global authority to oversee and track their welfare. This is how climate affected people are being victims due to lack of proper national and institutional arrangements.

## **6 The Teitiota Precedent and South Asia: Climate Refugees in a Legal Vacuum**

Although research on migration linked to climate change is growing, little is known about how environmental refugees face their "vulnerabilities" and strengthen their individual and communal capacity to deal with issues related to livelihood, health, and climate in their "new" socioeconomic and political environments (Das & Basu, 2023). Every part of our globe is steadily changing due to the global phenomena known as climate change.

Climate migration is a major humanitarian impact of the numerous environmental consequences. Given the likelihood of additional environmental deterioration, this section examines the contemporary circumstances of those affected by the lack of legal definition and status, especially in South Asia. This includes a case study on Ioane Teitiota from Kiribati.

### 6.1. The Teitiota vs. New Zealand Case

The “Teitiota vs. New Zealand” case is among the most representative examples of the dire effects of climate crisis and lack of legal status of climate refugees (Dalla Costa & Copi, 2023). Because the UN Human Rights Committee (HRC) for the first time recognized that deporting someone to an area where their life is in danger due to the negative impacts of the climate crisis could constitute a breach of their right to life, this case drew international attention. It highlights several of the uncertainties around the reasons, language, and needs for safeguarding when relating to the nexus between climate change, forced migration, and human rights. The Ioane Teitiota vs. New Zealand case flags the shortcomings of existing legal systems by being the first effort to designate a person displaced by climate change as a refugee under international law.

In the early 2000s, Ioane Teitiota and his spouse were struggling to make their living on substandard land that frequently flooded and overflowed during high tides (Sindhoora & Pious, 2025). But in 2007, after moving to New Zealand, he and his spouse were able to obtain work permits, and they seized the chance to relocate right away (Streeter & Cloward, 2022). But when their visas expired, they inadvertently failed to renew them in a timely manner, which led to issues. Teitiota stated that he was compelled to migrate from the island of Tarawa in Kiribati to New Zealand due to the impacts of climate change as well as rising sea levels, particularly the scarcity of drinking water on Tarawa due to congestion and saltwater poisoning (Steenmans & Cooper, 2020). Teitiota consequently applied for refuge in New Zealand, but the Immigration and Protection Tribunal denied his request.

Teitiota and his family were logically deported back to Kiribati after they were unable to agree on their legal status in New Zealand. With the help of his attorney, Michael J. Kidd, Ioane Teitiota presented his case to the government of New Zealand. The court recognised and considered the proof and testimony presented by Teitiota, his wife, and John Corcoran, a doctoral candidate studying climate change in Kiribati, in accordance with the 1951 Convention on Refugees and the 1966 International Covenant on Civil and Political Rights (Sindhoora & Pious, 2025). But the tribunal ruled that, “There was no evidence establishing that his situation in the Republic of Kiribati would be so precarious that his or his family’s life would be in danger”, finding that the evidence still fell short of what was needed to give Teitiota a strong basis for his claim (Streeter & Cloward, 2022). The rationale of the New Zealand courts also has an implicit and profoundly twisted component. The argument goes, if communities impacted by climate change work together to deal with their circumstances and then apply for asylum under the Refugee Convention or the ICPPR, they are unlikely to succeed: there will not be any violence, unfair treatment, or legitimate claims (Behrman & Kent, 2020). They might be given admittance if, on the other side, they are victims of violence and discrimination. To put it briefly, in order to achieve human rights protection, impacted populations are required to exhibit the worst human behavior toward one another, going above and beyond the environmental harm. The importance of interpreting Article 1 A (2) of the Refugee Convention in

determining refugee status is made apparent by the interpretation of the Ioane Teitiota incident along with additional asylum applications concerning climate change, including the 2000 Refugee Appeal No. 72313 (Fauziyah, 2022). This interpretation is significant because it confirms that people displaced by climate change do not automatically qualify as refugees unless they also meet the Convention's existing grounds of persecution.

With the addition that at least one of the Teitiota family's children had become ill since returning to Kiribati, most likely as a result of drinking tainted water, the evidence before the HRC was virtually the same as that what was submitted to the courts of New Zealand. The HRC determined that the information provided about the risks in Kiribati was entirely trustworthy but the claim was rejected once more (Behrman & Kent, 2020). Although the HRC acknowledged the gravity of the issue, Teitiota was not eventually recognized as a climate refugee, as the HRC did not find the risk of his life sufficiently imminent. Consequently, in general, the case has not significantly altered the meaning of "climate refugee" as it is used today (Steenmans & Cooper, 2020). The HRC's stance is generally heavily criticized by Muhumuza, who claims that New Zealand's approach is more akin to putting a submerged individual back onto a sinking vessel, with the "justification" that there are actually other passengers on board (International Covenant on Civil and Political Rights [ICCPR], Annex 2, para. 1). Even if Kiribati is making every effort to improve the situation, people's lives and dignity are still at danger as long as this vulnerability persists (ICCPR, Annex 2, para 1). In spite of this, the HRC's handling of the Teitiota case at least advances the goal of creating legal safeguards for recognizing climate-related risks to life for those escaping the consequences of climate change.

Teitiota, his family and many others in a similar predicament have to endure in dangerous and worsening circumstances if they are not granted a legal protection status, despite the fact the HRC decision was hailed as a significant step forward. Climate refugees cannot benefit from the legal protections offered by the Refugee Convention or other international agreements if they do not have a legal status. Therefore, legal recognition of climate refugees under international law is required to address their protection needs.

## 6.2. Regional Case of South Asia

The South Asian region's geographical facts show that nations without land borders like Afghanistan, Nepal, and Bhutan are likely to be impacted by the receding of glaciers while India, Pakistan, Bangladesh, and Sri Lanka are susceptible to coastal floods and sea level rise, and the Maldives confronts a serious risk of disappearance. There is no regional pact or legal framework in South Asia to deal with migration brought on by climate change. None of the South Asian nations have enacted a particular legal framework for climate refugees, and the majority is not signatories to the 1951 Refugee Convention. Rather, they handle migratory difficulties through domestic legislation and ad hoc actions, frequently in the context of crisis management (Beena, 2024). Many oppressed groups in the area, who receive very little legal assistance in their host nations, are impacted by the absence of official acknowledgement towards the refugee regime. The Sundarbans' ecological sustainability is being compromised by intensifying catastrophes and elevated sea levels, rendering it more vulnerable. As a result, a large number of people who reside in Bangladesh and India alongside their borders are forced to migrate (Kishtwari, 2024). In these nations, migration brought on by climate change has serious societal repercussions. Due to their heavy reliance on agriculture and fishing, rural people experience frequent climate shocks, which can result in food poverty and unstable

economies (Kabir & Kamruzzaman, 2022). Massive migrations to cities like Dhaka, Kolkata, and Mumbai – which are currently grappling with overcrowding, water scarcity, and poor housing infrastructure – is a result of this (Rahman, 2020). The risks are exacerbated by the fact that many migrants are compelled to live in unauthorised areas, which are frequently found in places that are vulnerable to flooding or other disasters. The legal systems in Bangladesh and India are still unable to handle climate migration regardless of these obstacles (Piguet, 2025). Migrants frequently live and work in unstable situations since they are not officially recognised or have access to social safety programs (Gupta et al., 2023).

Pakistan is not a signatory state to the 1951 Refugee Convention and its 1967 Additional Protocol, but it has been hosting refugee populations from all corners of the world (Chowhan, 2011). Pakistan is home to 1,505,525 refugees, comprising 1.5 million officially recognised Afghan refugees, making it the second-largest refugee population in the world (Nation, 2017). An APEX committee in Pakistan has implemented a plan to repatriate over 1 million foreigners in 2023, in light of the concerning number of Afghani refugees living there; the primary target are Afghani refugees without legal status (Shekhar, 2024). In a similar vein, climate refugees in Sri Lanka receive very little assistance despite their modest numbers. Fortunately, there are minimal healthcare services available to the just over 1,000 refugees who have been documented with UNHCR, but none of them are able to access school or work (UNHCR, 2018).

The Maldives have been attempting in vain to prepare for migration and relocation due to climate change, though the destination for such relocation remains undetermined (Vlassopoulos, 2013). However, the Maldives will inevitably face climate refugees as a result of rapidly developing climate change brought on by rising sea levels, severe weather predictions, ongoing flooding, and alterations to island and marine environments brought on by rising sea and land temperatures that could end the Maldives' existence as a nation-state. Three-quarters of the Maldives land mass is only one meter above sea level, and even a minor increase in mean sea level could threaten human rights and cause a humanitarian crisis for the Maldives' continued existence (Anton & Shelton, 2011). The legal protection of refugees in the Maldives is severely lacking, refugees are not accommodated there, and no civil society organisation or NGO makes any claims to offer legal guidance or support to refugees in the Maldives (Chomette, 2010). As a result, the Maldives lack a legislative framework for protecting climate refugees.

## **7 Proposed Solutions**

There is a significant issue with the legal status and protection of environmentally displaced people on a global scale, particularly given the legal void left by the absence of protection under existing international agreements and the global community's unwillingness to adopt explicit legislation pertaining to migration and the environment. It is evident that those who are ecologically displaced are not adequately protected by the protective mechanisms now in place with regard to human rights, refugee status, and disaster law (Sahinkuye, 2019). Some reforms for the legal recognition and protection of climate refugees are proposed below:

Some supporters for the protection of climate refugees have proposed modifying the 1951 Refugee Convention since many of the individuals who have been displaced across borders do not appear to meet the criteria for being either refugees or stateless persons

(Kolmannskog & Trebbi, 2010). However, detractors, such as the UNHCR and the NRC, have noted that any attempt to change the 1951 Convention's characterisation of a refugee poses the risk of necessitating a complete renegotiation of the agreement and any revisions might completely destroy the internationally recognised refugee protection mechanism given the current political environment (Kolmannskog & Trebbi, 2010).

Thus, the focus should be on to two distinct strategies that could potentially mitigate the effects of climate change on climate refugees in the future. The first proposes creating a new convention or protocol that would explicitly address the situation of those who have been displaced by climate change. But as will be demonstrated, a number of expected drawbacks make the creation of a new convention or protocol both improbable and undesirable. Later on, the development of soft laws that could eventually result in regional hard law treaties will be examined. This strategy may play a greater role to safeguard vulnerable individuals who are internationally displaced as a result of climate change because it avoids some of the challenges associated with a new convention.

An institutional framework must be structured using a number of components. UN agencies have little discretion to engage in non-mandated activity; therefore having a defined mandate and goals is crucial (McNamara, 2007). A COP Decision should specify the UNFCCC's mandate in relation to climate migration, together with the particular goals established by an Ad Hoc Working Group on Climate Migration. The Working Group shall interact with other UN and non-UN bodies addressing pertinent issues and include current and potential victims of climate migration in the development of policies and programs. Similar to how historical and global structures have shaped environmental issues, global players must play a major role in finding long-term solutions. States are in charge of organising, forecasting, and controlling the effects of climate migration, but pledges, strategies, and institutional assignments will be decided through high-level collaboration and discussion between national governments, intergovernmental organisations, and civil society (Gibb & Ford, 2012). Creating a large but indicative working group for every stage of international level decision-making is neither appealing nor inexpensive, but involving impacted parties at crucial points, especially in the early stages of development and testing, increases the likelihood of successful policies and long-lasting outcomes, granting legitimacy, and establishing procedural justice (Grasso, 2010).

The global refugee protection system is ineffective. The majority of wealthy nations consider climate refugees as someone else's issue rather than as a global crisis that they are a part of (Dhaka et al., 2022). Prior to anything else, rather than as a national issue, all nations must consider climate change and climate refugees as a global humanitarian disaster which they must all work together to overcome. Leaders around the world must start prioritising people's lives. To the greatest extent feasible, the creation of normative frameworks to safeguard those displaced by the consequences of climate change will need to make use of both the soft and hard legal channels at its disposal. However, protection gaps are likely to continue given the enormous obstacles to taking collective action on the matter (Ferris & Bergmann, 2017). It is also clear that norms will not be sufficient on their own. The creation of a bottom-up desire for change will require the cooperation of national and international civil society organizations. People who have survived a climate-related disaster should not face life-threatening conditions during their displacement, whether while crossing borders or while residing in refugee camps. In these difficult times, national support is essential, and it will only be offered when climate

refugees are viewed as an asset, through outlining their skills and contributions to the host communities -rather than as a burden on host nations. The creation of social entrepreneurship cells may be beneficial in small-scale and urgent crises. All cell members should receive the necessary training, and those cells can serve as an immediate option for quick preventative or therapeutic support. Discussions about climate refugees should not stray from the topic of prevention. Investing in climatic and ecological remedies for the world should be the current generation's top priority in order to prevent forced migration. Naturally, some calamities are beyond our control, but those that can be avoided should be, regardless of the effort or time required.

## 8 Conclusion

Millions of people are already impacted by the growing severity of natural disasters and environmental degradation, so it is imperative to broaden the legal discussion around the necessity of emergency assistance for this susceptible group. Recent research and empirical data demonstrate that one of the primary drivers of forced human migration today is climate change-induced displacement, which disproportionately impacts vulnerable people in areas like Bangladesh, India, Sri Lanka and other South Asian regions. As environmental consequences are not included in the classic legal concept of refuge, cases like *Teitiota v. New Zealand* demonstrate that displacement brought on by climate change can directly violate the right to life. The legislative gap not only prevents these communities from having institutional visibility, but it also puts their access to basic rights like life, decent housing, dignity, and international protection at risk. Since forced relocations brought on by environmental factors are not covered by the 1951 Refugee Convention and its 1967 Protocol, one of the primary legal gaps for climate refugees is the absence of legal recourse (Dalla Costa & Copi, 2023). As a result, it is unclear how international law will treat, protect, and treat those who have been displaced due to climate change. Therefore, in order to ascertain which provisions may be relied upon to support an upright protection approach toward climate refugees, it is essential to recognize and evaluate the responsibilities that states have under international and regional refugee law, human rights law, cultural protection laws, and environmental law (McAdam, 2008). International treaties must be seen as interconnected instruments that together constitute the duties that governments have agreed to, rather than as distinct, unrelated agreements, in order to offer the highest level of protection. Millions of individuals have already relocated as a result of the effects of climate change (Devictor & Rigaud, 2023). Climate action must be taken immediately and extensively if we are to stop erratic movements that would result in immense human misery. The link between these strategies emphasizes the necessity of reinterpreting current international laws to increase the reach of humanitarian protection and guarantee the safety of individuals impacted by climate change. The development of tangible solutions to address the difficulties presented by the new environmental reality becomes imperative. Finally, finding long-term and drastic remedies that address the causes of climate change is crucial, even while laws and rules are an excellent approach to protect people from harm that is near or looming.

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