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THE ROLE OF INTERNATIONAL LAW IN ADDRESSING CLIMATE-INDUCED MIGRATION

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Abstract

Climate change has emerged as one of the most serious challenges to humanity in the twenty-first century. It affects livelihoods, displaces populations, and creates a new form of migration known as “climate-induced migration.” However, the international legal system does not yet have a clear framework to deal with people displaced by environmental disasters. This paper explores how international law, especially human rights law, environmental law, and refugee law, can play a meaningful role in addressing the protection gap faced by such migrants. The study further highlights the need for an international legal mechanism that recognizes climate migrants and ensures their dignity and protection.

Introduction

Climate change is no longer a distant concern; it is a present reality affecting every corner of the globe. Floods, droughts, hurricanes, rising sea levels, and desertification have forced millions of people to leave their homes in search of safety and survival. These displaced

individuals, often called climate migrants or environmentally displaced persons, do not fit neatly into the current categories of international law. Unlike political refugees, they are not fleeing persecution by a state but environmental disasters often beyond human control.

According to the ¹International Organization for Migration (IOM), more than 21 million people are displaced annually due to climate-related disasters. Yet, there is no international treaty or definition that specifically recognizes climate migrants. ²The 1951 Refugee Convention does not cover them because they are not persecuted “for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”

This research aims to examine the role of international law in addressing this growing humanitarian issue. It analyzes existing legal instruments, identifies their limitations, and explores possible reforms or new frameworks that can ensure protection for climate-induced migrants.

Concept of Climate-Induced Migration

Climate-induced migration refers to the movement of people due to sudden or progressive changes in the environment that affect their living conditions. It includes both forced displacement due to disasters like floods and voluntary migration caused by gradual degradation, such as rising sea levels or desertification.

³The United Nations Environment Programme (UNEP) first used the term “environmental refugees” in 1985 to describe people forced to leave their homes due to environmental disruption. However, this term has been controversial because “refugee” has a specific legal meaning under international law. Therefore, terms like climate migrant or environmentally displaced person are now preferred.

Climate-induced migration is a complex phenomenon involving both environmental and socio-economic factors. Poor and developing nations, especially small island states, are the most vulnerable. Regions such as the Pacific Islands, Sub-Saharan Africa, and South Asia face severe displacement risks due to sea-level rise and extreme weather events.

¹ International Organization for Migration (IOM), About Migration, available at <https://www.iom.int>

² Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137

³ United Nations Environment Programme (UNEP), Environmental Refugees: An Overview (1985)

International Legal Framework

At present, there is no single international treaty that provides legal protection to climate-induced migrants. However, several existing instruments can be interpreted or adapted to provide partial coverage:

(a) The 1951 Refugee Convention and its 1967 Protocol

This Convention defines a refugee and outlines rights such as non-refoulement, access to justice, and non-discrimination. However, climate migrants are not covered under this definition because environmental factors are not considered grounds for refugee status.

(b) International Human Rights Law

Human rights treaties, including the ⁴Universal Declaration of Human Rights (UDHR), the ⁵International Covenant on Civil and Political Rights (ICCPR), and the ⁶International Covenant on Economic, Social and Cultural Rights (ICESCR), guarantee basic rights like the right to life, food, housing, and health. These rights are threatened when people are displaced by climate events.

(c) Environmental Law

Instruments such as the ⁷United Nations Framework Convention on Climate Change (UNFCCC) and the ⁸Paris Agreement (2015) recognize climate change as a global problem and call for adaptation measures. ⁹The Warsaw International Mechanism for Loss and Damage (2013) also acknowledges migration as a form of adaptation.

(d) Regional Agreements

Some regional frameworks have begun to address displacement caused by disasters. ¹⁰The Kampala Convention (2009) in Africa covers internally displaced persons, including those displaced by natural disasters. Similarly, the ¹¹Cartagena Declaration (1984) in Latin America broadens the definition of refugees to include those fleeing natural disasters.

⁴ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (Dec. 10, 1948)

⁵ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171

⁶ International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3

⁷ United Nations Framework Convention on Climate Change, May 9, 1992, 1771 U.N.T.S. 107

⁸ Paris Agreement, Dec. 12, 2015, T.I.A.S. No. 16-1104

⁹ Warsaw International Mechanism for Loss and Damage, COP Decision 2/CP.19 (2013)

¹⁰ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), Oct. 23, 2009

¹¹ Cartagena Declaration on Refugees, Nov. 22, 1984

Legal Gaps and Challenges

Despite these developments, climate migrants fall into a legal void. International refugee law does not recognize them, and environmental law focuses more on prevention and adaptation than individual rights.

- **Lack of Legal Definition**

There is no uniform definition of “climate migrant.” Without clear legal status, affected people often lack protection, assistance, and a basis to claim asylum

- **State Sovereignty and Responsibility**

States are reluctant to accept binding obligations to host climate migrants. International law respects national sovereignty, so migration remains primarily within the domestic jurisdiction of states.

- **Burden-Sharing**

Developing countries, though least responsible for global emissions, face the highest burden of climate displacement. Wealthier nations are often reluctant to share this burden or provide resettlement opportunities.

- **Proof of Causation**

It is difficult to establish that migration occurred solely due to climate change. Economic and political factors often overlap, complicating eligibility for international protection.

- **Inadequate National Frameworks**

Many countries lack domestic laws to address climate migration. Without national recognition, displaced persons often fall outside the scope of humanitarian assistance.

Case Studies and Judicial Developments

The case of ¹²Ioane Teitiota v. New Zealand (2020) before the United Nations Human Rights Committee marked a milestone. Teitiota, from Kiribati, claimed asylum in New Zealand, arguing that rising sea levels made his homeland uninhabitable. Although his asylum request was denied, the Committee recognized that environmental degradation could violate the right to life under ¹³Article 6 of the ICCPR.

This case signals that climate change can be a valid ground for international human rights

¹² Ioane Teitiota v. New Zealand, U.N. Human Rights Committee, Communication No. 2728/2016 (Jan. 7, 2020)

¹³ International Covenant on Civil and Political Rights, art. 6

protection, even if it does not fit traditional refugee law.

Another example is the Pacific Islands Forum, which has repeatedly urged the international community to create legal pathways for relocation due to climate impacts. Similarly, Bangladesh has integrated climate migration into its national adaptation plan, showing domestic efforts to fill the protection gap.

The Role of International Law

International law plays a crucial role in setting norms, responsibilities, and cooperation frameworks among states. It can help protect climate-induced migrants through the following approaches:

(a) Expanding Interpretation of Refugee Law

The definition of “refugee” could be interpreted more broadly to include those fleeing environmental disasters. Although politically sensitive, it aligns with the humanitarian spirit of the Refugee Convention.

(b) Strengthening Human Rights Mechanisms

Human rights bodies, such as the ¹⁴UN Human Rights Committee and regional courts, can develop jurisprudence recognizing climate-related displacement as a violation of the right to life, housing, and dignity.

(c) Developing a New Legal Instrument

Some scholars advocate for a new treaty, such as a “Climate Migrant Convention.” It could define who qualifies as a climate migrant, outline state obligations, and establish mechanisms for international cooperation.

(d) Promoting Global Solidarity and Burden-Sharing

Wealthy nations that contribute most to global emissions have a moral and legal responsibility to assist vulnerable states. International cooperation and financial mechanisms like the Green Climate Fund can support adaptation and relocation.

¹⁴ U.N. Human Rights Committee, General Comment No. 36 on the Right to Life, CCPR/C/GC/36 (2018)

National and Regional Responses

While a global treaty is still absent, some national and regional efforts are noteworthy:

The Nordic countries have included environmental factors in humanitarian protection policies.

Fiji and New Zealand have explored regional agreements for climate relocation.

India, though not a party to the ¹⁵Refugee Convention, has shown humanitarian concern for displaced persons and may develop frameworks within its climate adaptation policies.

These regional actions, though limited, reflect growing recognition that climate-induced migration demands structured legal solutions.

Humanitarian Obligations and Refugee Protection under International Law

In recent decades, the intersection between international law and immigration law has become most visible in the treatment of refugees and asylum seekers. International law recognises that every individual has the right to seek asylum from persecution, and this principle is enshrined in ¹⁶Article 14 of the Universal Declaration of Human Rights (UDHR). Furthermore, the ¹⁷1951 Refugee Convention and its 1967 Protocol impose binding obligations on signatory States to protect refugees from being returned to countries where their lives or freedoms may be threatened — a principle known as non-refoulement.

However, in practice, States often struggle to balance their sovereign right to control borders with their international humanitarian commitments. Many nations have adopted restrictive visa and detention policies to limit irregular migration, raising questions about compliance with international refugee standards. For instance, the use of offshore processing centres and border walls by developed nations demonstrates a shift towards securitisation rather than humanitarian protection.

Regional frameworks have also emerged to address refugee crises. The European Union's Common European Asylum System, the African Union's Kampala Convention, and the Asian regional dialogues on migration are efforts to harmonise responses while sharing responsibility among States. Yet, unequal burden-sharing continues to be a challenge, particularly for developing nations that host large refugee populations with limited resources.

¹⁵ Convention Relating to the Status of Refugees, *supra* note 2

¹⁶ Universal Declaration of Human Rights, art. 14

¹⁷ Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267

From a legal standpoint, courts worldwide have played an important role in shaping refugee law. Judicial interventions in cases involving detention conditions, asylum procedures, and family reunification have reaffirmed the necessity of treating refugees with dignity. In India, while the country is not a signatory to the Refugee Convention, the Supreme Court has relied on constitutional guarantees — especially ¹⁸Articles 14 and 21 — to protect refugees from arbitrary deportation, thereby internalising international humanitarian principles through judicial interpretation.

The modern global refugee crisis demands cooperative action. States must recognise that refugee protection is not merely a moral responsibility but a binding international legal duty. Strengthening legal frameworks, enhancing coordination among international organisations, and ensuring fair resettlement mechanisms are essential to uphold the spirit of international law.

Future Prospects and Global Responsibility

The coming decades will test the strength and adaptability of international law. If global temperatures continue to rise, climate migration could affect hundreds of millions of people. International law must evolve to meet this challenge through flexibility, cooperation, and fairness.

International institutions such as the UNHCR, IOM, and UNEP should coordinate to develop a comprehensive global framework that includes prevention, relocation, and protection.

Education, awareness, and funding are equally vital. The inclusion of climate-induced migration in the Global Compact for Safe, Orderly and ¹⁹Regular Migration (2018) is a step forward, but it is non-binding.

Therefore, the international community must move from soft law commitments to binding obligations. Equity and the principle of common but differentiated responsibilities (CBDR) should guide this approach. Developed countries should not only reduce emissions but also help vulnerable nations adapt and resettle displaced populations.

¹⁸ National Human Rights Commission v. State of Arunachal Pradesh, (1996) 1 SCC 742 (India)

¹⁹ Global Compact for Safe, Orderly and Regular Migration, Dec. 19, 2018

Ultimately, protecting climate migrants is not merely a matter of law—it is a matter of human dignity and global justice.

Role of International Courts and Tribunals

International courts and tribunals have started recognizing environmental harm as a matter of human rights and international responsibility. Although no international case has yet granted refugee status solely on the basis of climate displacement, judicial reasoning is slowly evolving.

²⁰The International Court of Justice (ICJ) has dealt with several cases concerning environmental obligations between states, such as the Pulp Mills on the River Uruguay (2010) and ²¹Advisory Opinion on Climate Change (2023 draft), where it emphasized the duty of states to prevent significant environmental damage. While these cases do not directly involve migration, they help establish that environmental degradation can create legal responsibility under international law.

Similarly, the ²²Inter-American Court of Human Rights (IACHR) has recognized the “right to a healthy environment” as an autonomous human right. In its ²³Advisory Opinion OC-23/17, the Court affirmed that environmental damage can violate multiple rights, including life and personal integrity. This development indirectly supports the idea that climate migrants deserve protection when environmental harm forces them to move.

The jurisprudence of such courts builds the foundation for future recognition of climate-induced displacement as a rights-based issue. As global awareness grows, it is likely that international courts will expand their interpretations to include climate migration within the broader framework of environmental justice and human rights protection.

Responsibilities of Developed Nations

Another major aspect of the debate on climate migration concerns the unequal contribution of nations to climate change. Industrialized countries are historically responsible for the majority of greenhouse gas emissions, while developing nations bear the brunt of the consequences.

²⁰ International Court of Justice (ICJ), Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, 2010 I.C.J. 14 (Apr. 20)

²¹ International Law Commission, Draft Articles on Climate Change, 2023

²² Inter-American Court of Human Rights (2017)

²³ Advisory Opinion OC-23/17

Under the principle of Common but Differentiated Responsibilities (CBDR) — established in the ²⁴Rio Declaration (1992) and reaffirmed in ²⁵the Paris Agreement (2015) — developed nations have both a moral and legal obligation to assist vulnerable countries. This includes financial support for adaptation measures, relocation, and sustainable development.

Developed nations can fulfill these obligations by:

- Increasing contributions to the Green Climate Fund (GCF) to support adaptation projects.
- Facilitating humanitarian visas or special migration pathways for climate-displaced persons.
- Promoting technology transfer to help vulnerable nations adapt to changing environments.
- Supporting regional resettlement programs, especially for small island states that risk total submersion.

By sharing resources, technology, and migration opportunities, wealthier states can demonstrate real climate justice — a principle that ensures fairness between those responsible for environmental harm and those suffering its effects.

Proposed Legal Framework for Climate-Induced Migration

Given the absence of a binding treaty, scholars and policymakers have proposed several models for international cooperation:

(a) A New Global Convention

A “Climate Migrants Convention” could define climate displacement, set criteria for protection, and assign responsibilities for host and origin states. This framework should also establish a monitoring body to ensure compliance and fair treatment.

(b) Integration into Existing Treaties

Alternatively, amendments could be made to existing human rights or refugee instruments, allowing them to cover climate displacement. This would avoid the political difficulty of negotiating a new treaty while still expanding protection.

²⁴ Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/26 (Vol. I) (1992)

²⁵ Paris Agreement, *supra* note 8

(c) Regional Compacts

Regions such as South Asia, Africa, and the Pacific could establish binding regional agreements for relocation and assistance. These frameworks could function under the supervision of the United Nations or a regional body like ²⁶ASEAN or ²⁷SAARC.

(d) National Adaptation Policies

Each country must incorporate climate migration into its domestic laws. National disaster management laws, land policies, and social welfare systems should explicitly recognize internally displaced climate victims.

(e) Preventive Approach

Prevention is always better than cure. International law should focus on mitigation and adaptation to minimize forced migration. Protecting ecosystems, ensuring sustainable land use, and developing early warning systems can reduce future displacement.

This multi-layered approach — combining global, regional, and domestic measures — can create a comprehensive legal safety net for people displaced by climate change.

The Humanitarian Dimension

Climate migration is not merely a political or environmental issue; it is fundamentally a humanitarian concern. Behind every statistic are real individuals — families losing homes, farmers losing land, and children losing education. Legal frameworks must recognize the human face of displacement.

Organizations such as the Red Cross, ²⁸UNHCR, and ²⁹IOM already play key roles in humanitarian assistance. Strengthening coordination among these agencies will ensure that relief, shelter, and rehabilitation reach those in need.

Moreover, the inclusion of climate migration in global human rights discourse ensures that affected individuals are treated not as victims of charity but as holders of rights. Upholding

²⁶ Association of Southeast Asian Nations (ASEAN) and

²⁷ South Asian Association for Regional Cooperation (SAARC), Joint Declarations on Climate Change Cooperation (2010).

²⁸ United Nations High Commissioner for Refugees (UNHCR) and

²⁹ International Organization for Migration (IOM), Joint Framework on Refugee Protection and Migration Management (2021).

right to life, health, food, and housing for climate migrants must remain the moral core of international law.

Way Forward

The growing crisis of climate migration demands urgent collective action. While international law has begun to recognize environmental displacement, its response remains fragmented and slow. The next decade should focus on three key goals:

- Recognition — Formal recognition of climate-induced migrants as a protected category within international law.
- Responsibility — Ensuring that major emitters fulfill their legal and ethical obligations to support adaptation and resettlement.
- Reform — Developing clear, enforceable rules through the ³⁰UN system to ensure accountability and fairness.

The way forward lies in bridging the gap between environmental responsibility and human rights protection. Climate migrants should no longer remain invisible in legal discourse.

Conclusion

Climate-induced migration represents one of the most pressing humanitarian and legal challenges of the twenty-first century. While international law has evolved significantly in areas of refugee protection, human rights, and environmental governance, the legal status of climate migrants remains uncertain. The absence of a specific international treaty addressing this form of displacement leaves millions vulnerable to policy gaps and inconsistent state responses.

International law, however, provides guiding principles that can be strengthened to ensure dignity and protection for those displaced by climate-related disasters. Instruments such as the ³¹UN Framework Convention on Climate Change (UNFCCC), the Paris Agreement, and the Global Compact for Migration demonstrate that collective global action is possible when driven by cooperation and shared responsibility.

³⁰ U.N. System Chief Executives Board for Coordination (CEB), Coordination on Climate Action (2020)

³¹ U.N. Framework Convention on Climate Change (UNFCCC), Annual Report 2022.

To meet future challenges, States must adopt a proactive approach by recognising climate-induced displacement within their domestic laws and integrating humanitarian obligations into migration policies. Collaborative regional frameworks, judicial interpretations, and international dialogue can together transform moral concern into enforceable legal duty.

Ultimately, the future of climate-induced migrants depends on our collective willingness to view them not merely as victims of environmental change, but as individuals entitled to protection under the expanding scope of international law. Building this bridge between environmental justice and human rights will define the moral credibility and humanitarian strength of the global legal order.

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