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## "THE INTERSECTION OF CLIMATE CHANGE AND INTERNATIONAL REFUGEE LAW: SAFEGUARDING VULNERABLE POPULATIONS IN OUR WARMING PLANET"

### Introduction

Climate change has far-reaching consequences for the planet and its inhabitants, including rising sea levels, extreme weather events, and environmental degradation. As the number of people displaced by climate change continues to rise, it is essential to examine the intersection of international refugee law and climate change to protect the world's most vulnerable populations. The 1951 Refugee Convention does not explicitly include those forced to flee their homes due to climate change, leaving them in legal limbo with no clear protection under international law.

The main challenge in addressing the protection of climate refugees lies in defining the term 'climate refugee' itself, as displacement caused by climate change is often gradual and complex, making it difficult to determine the exact cause of displacement. Many displaced individuals and communities are rarely recognised as refugees under international law as they do not fit the definition outlined in the 1951 Convention.

Another challenge is the lack of legal frameworks specifically addressing climate-induced displacement. The international legal system is not equipped to handle the unique challenges posed by climate change, leaving climate refugees without legal protection and risking further harm and exploitation. However, some developments have been in addressing the protection of climate refugees within the international legal system, such as the Cancun Agreements in 2010, the Paris Agreement in 2016, and some countries incorporating provisions for climate refugees in their national laws.

### Who are climate change refugees?

As per the article titled "Protecting Climate Refugees Needs a Legal Definition" published in Aljazeera addresses the increasing problem of displacement brought on by climate change and the absence of legal protection for individuals impacted. The author contends that in order to alleviate the predicament of climate refugees—who are not only migrants but rather climate refugees in need of particular care and protection—a legal designation is required. They are vulnerable since there is currently no globally accepted

legal category for climate refugees. The author stresses how critical it is to acknowledge this as a global problem in need of a worldwide solution. A formal definition would guarantee that persons impacted by climate change have certain rights and safeguards, hold governments responsible for their part in accelerating climate change, and supply resources.

The other challenges in defining climate refugees are such as determining the causation of displacement and whether it is solely due to climate change. However, these challenges should not be a barrier in establishing a legal definition. The legal definition should prioritise vulnerable groups, such as indigenous communities and women, and consider the global South, where climate change impacts are most severe and often lack adequate resources to respond to displacement. (Cristina-Ioana Dragomir, *Protecting climate refugees requires a legal definition*, Al Jazeera (Mar. 2, 2024).

#### Climate change and Refugee Law

Climate refugees are individuals and communities forced to flee their homes and countries due to the consequences of climate change, such as natural disasters, rising sea levels, and land degradation. The term 'climate refugee' has gained traction in recent years as the number of people displaced by environmental factors has risen. Between 2008 and 2013, an average of 22.5 million people per year were forced to leave their homes due to climate-related disasters.

However, there is no specific legal protection for climate refugees under international law, leaving their situation uncertain and their rights often neglected. The UNHCR defines climate refugees as those who are forced to leave their homes and communities because of sudden or gradual changes in the environment that adversely affect their lives or living conditions. This broad definition encompasses various scenarios, from those displaced due to extreme weather events like hurricanes and floods, to those forced to migrate due to long-term environmental degradation, such as desertification and sea-level rise.

The lack of recognition of climate refugees as a specific category also poses challenges at the national level. Many countries do not have laws and policies in place to address the specific needs of climate refugees, which can lead to violations of their human rights. Additionally, the absence of a legal status makes it difficult for climate refugees to access support and resources, such as financial aid and resettlement.

The main challenge for addressing climate refugees within international law is the lack of a clear legal framework and the unwillingness of some countries to include this issue on the international agenda. Climate change is a complex and multi-faceted problem, and attributing displacement and migration solely to environmental factors can be difficult. This makes it challenging to develop legally sound and enforceable mechanisms for the protection of climate refugees.

There are opportunities for addressing climate refugees within international law. One way is by recognizing the links between climate change and human rights. The UN Human Rights Council has acknowledged that climate change poses a threat to the enjoyment of human rights and that human rights protections should be considered in the development of climate change policies. Another crucial step is for the international community to work towards a comprehensive and legally binding agreement on climate change, including measures to reduce greenhouse gas emissions and provide support for affected communities, including climate refugees.

Some countries have taken steps to fill the legal gap for climate refugees at the national level, such as Tuvalu, which has created a legal framework for addressing climate displacement. In conclusion, the concept of climate refugees raises important legal questions that need to be addressed urgently. ([www.fmreview.org/sites/default/files/FMRdownloads/en/climatechange-disasters/www.fmreview.org/sites/default/files/FMRdownloads/en/climatechange-disasters/fernandez.pdf](http://www.fmreview.org/sites/default/files/FMRdownloads/en/climatechange-disasters/www.fmreview.org/sites/default/files/FMRdownloads/en/climatechange-disasters/fernandez.pdf).)

#### The Issue of Climate Change and Its Impact on International Protection

An urgent call to action to address this grave issue was made in a note published by the United Nations High Commissioner for Refugees (UNHCR) on the confluence of climate change and international protection. Rising sea levels, intense weather, and excessive heat are expected to render many locations untenable in the next decades, forcing millions of people to relocate as a result of climate change. Being a humanitarian and human rights crisis, climate change affects not only the environment but also people who are most at risk of displacement—those who have contributed the least to the problem.

The message demands a thorough response from the international community as well as a deeper comprehension of the connection between displacement and climate change. It highlights the need to interpret and apply the 1951 Refugee Convention and its 1967 Protocol in a way that is compatible with the changing nature of displacement brought on by climate change. It also acknowledges that the term of refugee may potentially include those who are compelled to leave their homes as a result of the negative consequences of climate change.

The statement also emphasises the necessity of fortifying collaborations between UNHCR and other pertinent entities, including governments, the commercial sector, and civil society, in order to effectively tackle the complex issues brought about by forced displacement and climate change. This entails strengthening the ability of nations to accept and safeguard displaced people in addition to offering assistance to communities and people who may be displaced.

In addition to acting quickly to lessen the consequences of climate change, UNHCR emphasises the significance of tackling the underlying causes of displacement. This necessitates a well-coordinated and all-encompassing strategy incorporating mitigation and adaptation tactics to increase resilience and reduce the likelihood of relocation. UNHCR is dedicated to collaborating with all relevant parties to guarantee that those compelled to abandon their homes because of environmental circumstances receive essential assistance and security, as it is the world leader in refugee protection.

*(Legal Considerations Regarding Claims for International Protection Made in the context of the Adverse Effects of Climate Change and Disasters, 33 INT'L J. REFUGEE L. 151, XXXX (2021),*

Legal protection for climate migrant

With increasing sea levels, harsh weather, and natural catastrophes causing migration and displacement, climate change poses a serious threat to the entire world. Due to the unfavourable consequences of climate change, such as droughts, floods, hurricanes, or other natural catastrophes, people or communities are forced to migrate, which is a serious worry. According to World Bank projections, climate change might force up to 140 million people to migrate by 2050, with the bulk of those affected being tiny island nations and low-lying coastal areas.

The United Nations High Commissioner for Refugees (UNHCR) characterises climate refugees as "persons who are outside their country of origin because their lives, safety, or freedom have been threatened by environmental factors of a serious and extraordinary nature." The UNHCR acknowledges that climate change is a major cause of displacement. Climate migrants are left in a vulnerable and dangerous situation with minimal legal safeguards, however, as there is presently no international legal framework expressly addressing climate-induced migration.

Because of the interdependence of political, economic, and social variables, climate migrants represent a diverse group of people who confront particular problems. The majority of nations are in legal limbo because they lack laws or policies addressing climate migration. Climate migrants' unique requirements and difficulties are not sufficiently addressed by the present legal framework for refugees and migrants. Disaster risk management that is people-centred and gender-sensitive is emphasised in both the Global Compact for Safe, Orderly, and Regular Migration and the Sendai Framework for Disaster Risk Reduction. By establishing a legislative framework that particularly addresses the needs of climate migrants, upholding their fundamental human rights, and granting them access to necessary resources, the international community must address how migration is fueled by climate change. (*Climate Change Is Fueling Migration. Do Climate Migrants Have Legal Protections?*, COUNCIL ON FOREIGN RELATIONS, <https://www.cfr.org/in-brief/climate-change-fueling-migration-do-climate-migrants-have-legal-protections>).

#### Relevance of International law

With 79.5 million individuals forcibly displaced worldwide—26 million refugees and 4.2 million asylum seekers—the world is presently experiencing its worst refugee crisis since World War II. These people are escaping violence, persecution, and war in their own countries in search of safety and a better life abroad. International refugee law is essential to defending these defenceless people's rights and welfare. It refers to the body of legal standards and guidelines that control how refugees, asylum seekers, stateless people, and other displaced people are treated and their rights. The increasing number of refugees and forced relocation globally highlights the need of international refugee legislation. As wars, persecution, and human rights violations increase, more individuals are being compelled to leave their homes and seek safety abroad. States can follow the framework set forth by international refugee law to guarantee the protection of these people's rights and to satisfy their legal duties towards them. (*Climate Change Is Fueling Migration. Do Climate Migrants Have Legal Protections?*, COUNCIL ON FOREIGN RELATIONS, <https://www.cfr.org/in-brief/climate-change-fueling-migration-do-climate-migrants-have-legal-protections> (last visited Apr. 15, 2024). )

The rights of refugees, including the right to apply for asylum, the prohibition against discrimination, the freedom to work and pursue an education, and the exemption from punishment for unauthorised entrance, are outlined in international refugee law. It seeks to guarantee that refugees are treated fairly and humanely. However, obstacles like a lack of political will and constrictive laws make it difficult to put into practice. States must cooperate in order to fulfil their obligations, protect refugees, treat them with respect, and guarantee that they get fair and compassionate care.

### Role of the United Nations

The world is currently facing the largest global refugee crisis since World War II, with 79.5 million forcibly displaced people worldwide, including 26 million refugees and 4.2 million asylum seekers. These individuals are fleeing conflict, persecution, and violence in their home countries, seeking protection and a better life in other nations. International refugee law plays a crucial role in protecting the rights and well-being of these vulnerable individuals. It refers to the legal principles and norms governing the treatment and rights of refugees, asylum seekers, stateless persons, and other displaced individuals.

The relevance of international refugee law is underscored by the growing number of refugees and forced displacement worldwide. The 1951 Refugee Convention and its 1967 Protocol define a refugee as someone outside their country of nationality due to a well-founded fear of persecution for reasons of race, religion, nationality, political opinion, or membership of a particular social group. International refugee law establishes the rights and obligations of states towards refugees, such as the right to seek asylum, non-discrimination, work and access to education, and non-penalization for illegal entry or presence in the state's territory.

International refugee law also regulates the procedures for determining refugee status and the obligations of states towards asylum seekers. It also governs the principle of burden-sharing among states, requiring all states to share the responsibility of protecting and assisting refugees.

Despite its critical role, international refugee law faces challenges such as lack of political will, restrictive immigration policies, and growing anti-refugee sentiment. To address these challenges, a concerted effort by all states is needed to uphold their commitments under international refugee law and ensure refugees are protected and treated with dignity.

### Promoting Protections for Displaced People from Climate Change via Law and Policy:

Climate change is a pressing global issue that has led to changes in weather patterns, increased natural disasters, and rising sea levels, causing devastating impacts on vulnerable communities, including refugees and displaced people. The United Nations High Commissioner for Refugees (UNHCR) is a global organization mandated to provide international protection to refugees and

promote solutions to their displacement. UNHCR recognizes climate change as one of the major drivers of forced displacement and requires a comprehensive and coordinated response from the international community.

UNHCR advocates for the rights and protection of those displaced by climate change, especially in countries most affected. It works to strengthen legal frameworks and policies that provide protection for those affected by climate change and displacement, collaborating with governments, international organizations, and other partners to develop and implement legal instruments that uphold the rights of refugees and internally displaced persons (IDPs). One significant achievement in this regard is the adoption of the Paris Agreement in 2015, which explicitly recognizes the importance of protecting the rights of people displaced by climate change. (*UNHCR note on climate change, international refugee law and UNHCR's mandate, Dec 2023*, UNHCR <https://www.unhcr.org/media/unhcr-note-climate-change-international-refugee-law-and-unhcrs-mandate-dec-2023>.)

UNHCR also provides assistance and protection to refugees and IDPs, working with governments and partners to ensure access to basic necessities such as food, shelter, and healthcare. It supports local communities in developing resilience and adapting to the effects of climate change. UNHCR facilitates and promotes durable solutions for those affected by climate change and displacement, ensuring safe and voluntarily returning to their homes or facilitating local integration or resettlement in third countries for those unable to return home.

However, there is still a significant gap between the protection needs of those affected by climate change and available resources, highlighting the urgent need for increased support and action from the international community. Governments, civil society, and individuals must work together to address the impact of climate change on forced displacement and create a sustainable future for all. (*Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters*, Refworld (Oct. 1, 2020))

#### The Growing Climate Refugee Crisis: Managing International Law in the Future

Climate change is a significant global challenge, with extreme weather events, sea-level rise, and natural disasters causing widespread human suffering and destabilization. As a result, the number of people forced to flee their homes due to climate-related reasons has been increasing, leading to the phenomenon known as "climate refugees." Climate refugees are not currently recognized as a distinct category under international law, leaving them in a vulnerable and precarious position.

The current international legal framework for refugees, the 1951 Geneva Convention, does not explicitly include climate refugees in its definition, leaving them in a vulnerable and precarious position. This lack of legal recognition creates challenges for states hosting climate refugees, as they may struggle to provide adequate assistance and protection to the influx of climate refugees,



leading to social, economic, and political tensions between the local population and climate refugees.

The 2015 Paris Agreement on Climate Change called for enhanced measures to strengthen the capacity of countries to deal with displacement related to the adverse effects of climate change. However, the agreement falls short of providing concrete solutions for addressing climate refugees, and there is still a lack of consensus among states on how to address this growing crisis. Additionally, efforts to address climate refugees have been hindered by the reluctance of some powerful states to acknowledge and take responsibility for the impact of their actions on climate change, particularly in developed countries that are the biggest contributors to greenhouse gas emissions.

Despite these challenges, some positive developments in international law regarding climate refugees exist. In 2020, the UN Human Rights Committee issued a landmark ruling, recognizing the case of Ioane Teitiota, a man from the Pacific island nation of Kiribati, as a climate refugee. The committee found that the state of Kiribati, due to its limited resources and capacity, was unable to provide adequate protection to its citizens and, therefore, had violated Teitiota's right to life.

Some states have also attempted to address climate refugees at the national level, such as New Zealand's "Pacific Reset" policy, which offers residency to a limited number of individuals from Pacific island nations displaced due to climate change. However, this approach relies on a case-by-case and arbitrary approach.

There is an urgent need for the international community to take concrete action to address the plight of climate refugees, including creating a new legal framework specifically for climate refugees or amending existing international laws to include them in the definition of refugees. More support needs to be provided to developing countries, particularly in the Global South, that are most vulnerable to climate change and host most climate refugees. (Valentina Kleinsasser, *The Future of "Climate Refugees" in International Law*, Vlkerrechtsblog <https://voelkerrechtsblog.org/the-future-of-climate-refugees-in-international-law/>.)

## Conclusion

Climate change and international refugee law are interconnected issues, with climate-related displacement on the rise. International refugee law, which outlines the rights and obligations of countries towards refugees and asylum seekers, was not initially designed to address climate-induced displacement. However, the growing number of people forced to flee their homes due to climate change makes this issue crucial. The UNHCR has stated that people forced to leave their homes due to climate-related events should be considered refugees, but there is no clear legal framework to address climate-related displacement. The 1951 Refugee Convention does not include people forced to flee due to environmental factors. Some countries have developed policies

and laws to address climate-related displacement, such as New Zealand's introduction of a visa category for Pacific Islanders displaced due to climate change. Safeguarding vulnerable populations requires a comprehensive and coordinated approach, including proactive measures to mitigate and adapt to climate change impacts, reducing greenhouse gas emissions, and providing assistance to those affected. Involving affected communities in decision-making processes can ensure their needs are addressed and their voices are heard.