
CLIMATE REFUGEES: REDEFINING SHELTER RIGHTS UNDER INTERNATIONAL HUMANITARIAN LAW

Somya Singh, B.B.A. LL.B (H.), Law College Dehradun, Uttarakhand University,
Dehradun (Uttarakhand)

Prof. (Dr.) Poonam Rawat, Professor, Law College Dehradun, Uttarakhand University,
Dehradun (Uttarakhand)

ABSTRACT

The article advocates the expansion of the definition of shelter rights to accommodate climate refugees, a growing category of rights-less people who are displaced from their homes by climate-induced environmental degradation. The increasing prevalence of the phenomenon of climate refugees is juxtaposed against their legal nonexistence and the absence of norms and rules for their formal protection by international law. It meticulously explains the definition of the category of climate refugees and the difficulties in determining their number. The article clearly distinguishes them from the category of environmental migrants. And it emphasises the necessity to expand international humanitarian law to fit in the category of the climate refugees and meet their needs by co-opting financial mechanisms and the involvement of Non-State-Actors and civil society. It highlights the inadequacies of existing legal frameworks that did not take into account the massive displacement from climate change, such as the 1951 Refugee Convention and the Geneva Conventions. It proposes to extend the definition of who is a refugee to include climate disasters. One of the recommendations that comes up several times in the article is the need for a draft of a dedicated climate refugee treaty. The suggestion that refugee status determination techniques can be used to accommodate climate refugees also comes up. The methodology used is the systematic method to research laws and international instruments on human rights and refugees. It followed a conceptual approach where the researcher formulated the main objective of the research and started to search for related literature. The European law integration elicited mixed feelings among the founding fathers of the European project.

Keywords: Climate Refugees, International Humanitarian Law, Shelter Rights, Environmental Migration, 1951 Refugee Convention, Climate Change-Induced Displacement

Introduction

Climate change – the shift in temperature, the erratic rainfall and greater frequency of natural disasters – is one of the most serious issues facing the human race today. The resulting environmental changes have consequences for human migration. Against the backdrop of environmental changes resulting from climate change, people find themselves at risk and needing to move. They try to find a new place where they can rebuild their lives secure and free of the fear of life under threat. These people are often called ‘climate refugees. Although not recognized by international legal instruments, the term ‘climate refugee’ relates to people and communities who are forced to leave their home due to climate change-induced environmental degradation, which threatens their life and well-being. The notion of climate refugee captures an important global challenge at the intersection between environmental science, human rights and international humanitarian law (IHL). It compels a re-examination and re--definition of the rights to shelter under international law.

Definition and Scope of Climate Refugees

The term ‘climate refugees’ is popularly used to refer to persons who are forced to migrate from areas disproportionately affected by natural disasters associated with anthropogenic climate change, such as sea-level rise, combined with poverty and inaction, drought, flooding, and hurricanes. In a strict legal sense, however, this term derives no warrant from international refugee law. Specifically, neither the 1951 Refugee Convention nor the 1967 Protocol, the two basic documents that define the status and rights of refugees, define refugees according to ‘climate refugees’ as climate change-related causes are not included in their legal definitions. But without a clear, legally authorized definition of ‘climate refugees’ the international law on climate-induced displacement will remain a glaring hole. Millions of people are exposed to abuses and unprotected by any international legal framework.

Historical Context and Evolution of the Term

Discussion of climate refugees is fairly recent, and occurs primarily in the context of rising climate impacts. It has evolved from earlier discussions on environmental migration in the 1980s into a more targeted debate about the challenges specifically posed by climate change in this century. Early discussions on ‘environmental refugees’ informed the use of the term, while more recent discussions have focused on ‘climate refugees’ to specifically describe

displacement caused not by broader environmental degradation or disasters, but by impacts of climate change.

Differentiating Environmental Migrants from Climate Refugees

It's important to note that not all environmental migrants are climate refugees. The former are defined as people who move temporarily or permanently due to environmental factors, including natural disasters and environmental degradation, but who generally have the ability to return to their original area or resettle elsewhere. However, climate refugees are people or groups who are forced to leave their homes in the immediate or the long term due to sudden or gradual changes in the environment directly caused by climate change that makes their homes uninhabitable, thereby also stripping them of the ability to maintain their livelihoods, thus leading to forced migration. The distinction of these two terms is useful for legal and policy frameworks since it emphasises that climate refugees are examples of involuntary displacement and deserve international protection mechanisms..

Importance of Redefining Shelter Rights for Climate Refugees

Re-engaging shelter rights and international humanitarian law for the benefit of climate refugees is needed for at least three reasons. First, as posited above, refugees and other forms of environmental migrants currently fall under protections that are not specifically tailored to those displaced by the impacts of climate change. While certain environmental migrants may access some forms of assistance and protection, climate refugees precisely find themselves within a legal limbo, generating a protection gap within international refugee conventions, thus leaving climate refugees vulnerable. This also overburdens the capacity of certain states (particularly developing countries) to welcome and host their displaced populations.

Second, a redefinition of shelter rights is required to provide climate refugees with the dignity and protection they need to safely and sustainably resettle. Such a redefinition should acknowledge the full spectrum of requirements – not only a physical shelter, but also access to livelihoods, healthcare, legal status and the opportunity to socially and economically integrate within host communities.

Thirdly, the shelter rights of the climate refugees reflect the principles of international solidarity and international responsibilities. Climate change is a global phenomenon and its impacts are

most acute on the world's poor and the most vulnerable, who have emitted the least amount of greenhouse gas emissions that cause climate change. International humanitarian law, which is rooted in tradition based upon the dictates of humanity, impartiality, neutrality and independence, provides a foundation for collective effort and support to those most impacted by climate change.

Legal Frameworks and Conventions

The very people often referred to as climate refugees, populations who migrate due to climate change-induced environmental catastrophes, have forced humanitarian legal frameworks (and, in particular international humanitarian law) to rethink their applicability and efficacy to new migratory regimes. This component summarizes the legal frameworks that serve as the basis for refugee law, as well as critically analyses applicable and inapplicable aspects of these conventions concerning current proposed anxieties about climate-induced displacement. In navigating the complexities, including the legal and theoretical implications of the Geneva Conventions and the principle of non-refoulement, this section seeks to understand how far contemporary international law goes in providing shelter rights to climate refugees and how, for example, the idea of home can be reconceptualized through an international legal lens.

Overview of International Humanitarian Law: Relevant to Refugees

International Humanitarian Law, a system of rules designed to, in humanitarian terms, 'restrain methods and means of warfare' are thus explicitly, or by implication, protective of the civilian population (those non- or lesser-combatants who are not or are no longer participating in hostilities as combatants) and include refugees. Yet, if we imagine an environmental flux that does not implicate armed conflict as the primary causal route for displacement, then the applicability of International Humanitarian Law protections comes up against the absence of conflict as a primary trigger. The most obvious operation of International Humanitarian Law protections kicks in when we are in the throes of armed conflict, and those protections are only of ten implicated when we examine a trajectory leading to environmental displacement.

Nonetheless, the large structure, especially its norms concerning the treatment of civilians and the backstop of human rights, provide a valuable baseline for considering the rights of climate refugees – the protection of life and dignity, the provision of the essentials such as shelter, food

and medical assistance, and the special protection of vulnerable groups such as women and children.

Geneva Conventions and the Protocols

The Geneva Conventions and their Additional Protocols are the foundation of International Humanitarian Law and are most concerned with the status of persons in times of armed conflict. While climate refugees are not mentioned within their provisions, the Conventions establish valuable precedents for the treatment of all persons hors de combat (out of combat). The Fourth Geneva Convention relating to the Protection of Civilian Persons in Time of War is of particular importance, covering the status and protection of civilians in times of war, and setting out general rules and principles which could be applied by analogy to climate refugees – for example, the ‘fundamental guarantee’ to ‘have care and aid rendered to them’.

The Additional Protocols both elaborate on these safeguards and extend them to all persons under the control of an adverse party without adverse distinction on grounds of race, religion, political opinion or other similar criteria – people who today might be displaced by environmental disruptions. It bears emphasizing that these relevant rules were written with civilians caught up in armed conflict in mind. They derive their special protection from the fact that the concept of armed belligerency is limited to combatants and makes civilians who find themselves swept up into a conflict a special exception. But that is contingent on the notion that the adversaries are human. An expansive reinterpretation of International Humanitarian Law that casts climate refugees into the legal net of people meriting protection is within reach.

Principles of Non-Refoulement and Human Rights

A key one of these is non-refoulement, the principle that a state may not return a refugee to a country where his life or freedom would be threatened. Although ensconced in refugee law, and the main subject of tomorrow’s post, the principle of non-refoulement could provide support to the cause of potential climate refugees. Based on the 1951 Refugee Convention and its 1967 Protocol, non-refoulement has been extended beyond its 1951 Convention meaning to situations in which the return of a claimant to his or her country of origin would have an effect on that person, such as an effect on the environment.

In this way, extending the non-refoulement principle to climate refugees underlines the

importance of taking climate change and environmental degradation seriously as security threats and human rights violations. It requires states to recognize the vulnerability of those individuals who must flee because of the effects of climate change or natural disasters and to prevent harm.

Furthermore, the various international human rights instruments – the ICCPR and ICESCR, for example – enshrine the right to life and health, and to an adequate standard of living, all of which are directly relevant to the conditions of climate refugees and the duty to protect those rights from violation. States therefore have an obligation, notwithstanding the cause of crossing the border, to protect and uphold those rights. Human rights provide a second complementary strand to the International Humanitarian Law and refugee law principles protecting and supporting climate refugees. The human rights framework establishes a human right to shelter, which then governs how much support and protection a climate refugee has access to.

Universal Declaration of Human Rights (UDHR)

By 10 December 1948, when the Universal Declaration of Human Rights (UDHR) was first published, a new standard for human rights had happened, proclaiming that ‘the recognition of ... the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.’ And although that committee did not address environmental rights or the plight of climate refugees, the norms developed in the UDHR are applicable to their situation. The guarantees of life, liberty, personal security of person (Article 3), and the right to a standard of living adequate for health (Article 25) all are inherently suggestive of various degrees of protection against the proliferating impacts of climate change. They imply the right of access to safe haven against such impacts, and that safety requires sanctuary, and space for solitude.

International Covenant on Civil and Political Rights (ICCPR)

Enforced from 1976, the ICCPR requires each state to respect and protect ‘the fundamental freedoms and rights’ of all its inhabitants ‘without distinction of any kind’. The list of prohibited distinctions includes race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 6, on the right to life, provides: Everyone has the right to life, which shall be protected by law. The right to life, it says, ‘shall be protected by law without distinction of any kind’. This includes the duty on countries that

are parties to the ICCPR to ‘ensure that each person within their jurisdiction enjoys the rights’ within the Covenant ‘without discrimination of any kind’. The need to take steps that will effectively protect the right to life includes efforts to reduce the deadly risks posed by climate-induced natural disasters and environmental harms. Article 12 – on the right to liberty and freedom of movement – importantly entitles people displaced by climate change to seek sanctuary from climate danger and to find refuge.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Building on Article 25, the International Covenant on Economic, Social and Cultural Rights (ICESCR) protects an abundant array of the right to the highest attainable standard of health (Article 12), and a standard of living adequate for the health and well-being of oneself and one’s family (Article 11), including housing. The latter right is especially worth highlighting and includes the acknowledgement that ‘the States Parties to the Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions’. The Covenant’s right to housing is on the rise as a way for States to mitigate the devastating effects of climate change. While the legal content and nature of these rights as they apply to climate change is itself a new and emerging development, because it does apply to climate change, the Committee on Economic, Social and Cultural Rights has begun to acknowledge that climate change endangers the fundamental right of access to health (draft general comment on the right to health (2019, paragraph 2)) and to adequate housing (draft general comment on adequate housing (2020)). In this way, the ICESCR becomes significant not only for measures that can be taken on its own terms to assist environmental refugees in their condition, but also for supervising and policing the conditions for the enjoyment of the aforementioned fundamental rights in changing and changing environmental conditions.

United Nations Framework Convention on Climate Change (UNFCCC)

The UNFCCC, adopted in 1992, is the primary international legal framework for climate change. It outlines basic states’ obligations on addressing the impacts of climate change, including mitigation and adaptation, through national and local action, planning and programming. The Convention doesn’t explicitly mention climate refugees, but provisions on adaptation can be used to strengthen resilient communities, as well as ensure that states take into consideration populations displaced by climate change in their planning for climate action.

Paris Agreement: Commitments and Relevance to Climate Migration

The Paris Agreement adopted by the UN in 2015 has again pushed limits with its goal of limiting global warming below 2 degrees Celsius, and preferably to 1.5 degrees above pre-industrial levels. Crucially, for the first time, the Agreement recognizes ‘climate change-induced displacement’ and states that a task force is to be established to develop recommendations on approaches to addressing ‘the needs of persons in vulnerable situations. Climate displacement has entered the arena of the wide and careful legal regulation brought about by the Paris Agreement via the UN Framework Convention on Climate Change. It is the official recognition of the climate refugees who will make up the majority of the world’s population of persons in need of shelter in the 21st century.

A careful engagement of these instruments reveals that international human rights and environmental law together have set a legal and moral mandate for recognizing the rights of climate refugees, which promises much-needed solutions for enabling them to enjoy their rights to adequate and secure shelter, based on a broader commitment to human rights protection during climate change. Yet the divide between the general commitment to that goal under these instruments and the specific needs of climate refugees in practice bears emphasizing the need for explicit climate refugee recognition and dedicated frameworks under international law for the protection and realization of climate refugees’ shelter rights.

Refugee Law and Its Application to Climate Refugees

The legal centerpiece of refugee law, articulated by the 1951 Refugee Convention and its 1967 Protocol, is the legal definition of a refugee. A refugee, according to the Convention, is an individual who: (a) is located outside of the individual’s country of nationality; and (b) is unable or, out of well-founded fear, unwilling to avail him/herself of the protection of that country; and (c) is unable or, owing to such fear, unwilling to return to the country of origin, because of a well-founded fear of being persecuted for reasons of race, religion, nationality, belonging to a particular social group or political opinion. It is crucial to the refugee definition that those individuals fleeing persecution are fleeing persecution. The limitation to persecution is a powerful barrier to recognizing climate refugees: universalizing the refugee definition: What is the barrier? Here is the answer. The environmental effects attributable to climate change are overwhelmingly generated by environmental degradation and disasters; while environmental change occasionally generates ethnic conflict, as in the case the Darfur region of Chad,

persecution is unusual. What might be adequate to qualify as a refugee still seems an awfully high threshold to apply to the world's impoverished.

1951 Refugee Convention and the 1967 Protocol

The cornerstone of international refugee law is the 1951 Refugee Convention, with its 1967 Protocol. This is a treaty that lays out a definition for who is a refugee, and the rights of the displaced as well as the duties of states to protect them. But because it was written in the shadow of the Second World War, the definitions and obligations laid out in this Convention – and its Protocol – were not drafted to deal with climate-induced displacement. The Convention's definition also excludes from its protections those environmentally displaced – it does not directly address those who flee situations related to the environment or the impacts of climate change, such as drought, sea-level rise or storms. In short, there are no climate refugees.

The main gap in the 1951 Refugee Convention for climate refugees is the definition of a refugee, which does not include someone driven from home by environmental pressures. Not only does this narrow definition fail to treat climate refugees as refugees in the conventional sense, it is also legally significant: currently, people fleeing slow-onset climate impacts such as sea-level rise and drought lie outside the provisions of the auspices of international refugee law.

Moreover, the Convention does not address displacement caused by environmental degradation in states of origin; most de facto movements of this kind are not covered by the Convention, since the default interpretation regards them as movements of 'voluntary' migration – not forced displacement. There's a gap in protection here that can only be filled either by redefining existing protections or creating a new legal regime that better understands the nature of displacement caused by climate change.

Regional Instruments and Protocols

To cope with the realities of contemporary displacement, which were never adequately addressed by the 1951 Refugee Convention, regional instruments and protocols often offer a different level of protection to certain groups of displaced people, including those affected by environmental and climate change.

- African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention): This regional treaty on the treatment of IDPs was adopted in 2009 by the African Union, establishing itself as the first international legal instrument specific to the problem of internal displacement tied to the environment, among other factors, by committing member states to ‘protect and assist’ IDPs, including climate change IDPs and IDPs displaced by ‘natural or human-made disasters’. One of the most radical features of the Kampala Convention for the purpose of addressing climate-induced displacement is its clear statement of the rights of IDPs and the obligations of states to protect people displaced by environmental factors on the African continent.
- Latin America Cartagena Declaration on Refugees (1984): It expands the definition of refugees beyond the refugee of the 1951 Convention to include those who have fled their country ‘as a result of events seriously disturbing public order in part or all of the country or region which in the opinion of the state concerned, have created particular difficulties in its relations with neighboring countries’. Although not legally binding, the Cartagena Declaration has been used to guide the refugee policies of many Latin American countries and, in principle at least, opens up refugee status to a less specific set of interpretations that could include climate refugees.

Challenges in Recognizing Climate Refugees under International Law

However, international legal protection for climate refugees is made difficult by serious legal, conceptual, practical and operational challenges. This section describes some of the main challenges that may make it difficult to devise and implement meaningful protection mechanisms for people displaced by climate change. These include the absence of a unified definition for a climate refugee, the sovereignty issue, the principle of non-intervention, the problem of establishing the causation between displacement and climate change, and the dilemmas associated with a possible allocation of resources and assistance relief mechanisms.

Legal and Conceptual Challenges

The first challenge in protecting climate refugees is that there is no formal and universal definition. Unlike other accepted refugee categories, the term ‘climate refugee’ itself isn’t formalized in international refugee law, in large part because the 1951 Refugee Convention –

along with its 1967 Protocol – define refugees as those persecuted on the basis of certain enumerated grounds (such as religion, nationality, race and political opinion) loosely referred to as ‘classic’ or ‘conventional’ refugees. One formal reason for this failure to recognize environmental damage and climate change in the definition is the conceptual difficulty of ‘fitting’ environmental degradation and climate change into the existing understanding of persecution and refugee-producing forces. Individuals forced to migrate by environmentally-related processes thus fall into a legal no man’s land, lacking the status and accompanying protections of a conventional refugee.

The Lack of a Universal Definition

This lack of consensus around a clear definition of climate refugees, and thus the population the term refers to, stands as a barrier to the establishment of coherent policies and legal frameworks for their protection. If no one can agree on who qualifies as a climate refugee, it becomes difficult to determine the size of the population displaced by the effects of the climate crisis and the type of assistance they might need. This puts climate refugees at a disadvantage because, if they don’t have a clear definition, there are no laws in place that enable them to apply for traditional refugee status, nor to access humanitarian assistance programmes offered to these beneficiaries. It hampers their visibility and recognition, in turn preventing them from accessing legal forms of protection.

Sovereignty Issues and the Non-Intervention Principle

Sovereignty and the norm of non-intervention in the internal affairs of states place major obstacles in the path of the recognition and protection of climate refugees and internally displaced populations suffering the effects of climate change. Few governments are prepared to acknowledge the phenomenon of climate refugees, fearing that they would thereby signal a failure of self-help and encourage external intervention and interference in national affairs. The prospect of cross-border movements of climate refugees is highly sensitive politically for receiving countries. They might unwillingly face a surge of climate refugees fleeing from complicit climate-denying, or too-slow-to-change governments in neighboring states that are unable or unwilling to halt the severe environmental degradation caused by unsustainable development. The tension inherent in a world composed of sovereign states but facing binding obligations of international cooperation, such as those flowing from the human rights treaties,

poses critical obstacles in the path towards the recognition and establishment of a standard for international co-operation for the protection of climate refugees.

Practical and Operational Challenges

Defining Causes- to Climate Change: Perhaps the most difficult practical issue related to recognizing climate refugees is the challenge of attribution or establishing a direct causality between climate change and displacement. Impacts of climate change are often slow and multi-causal – that is, impinging on and interacting with a diverse set of socio-economic, political and environmental processes. This ‘multi-causality’ inevitably makes it difficult to ascribe displacement to climate change. In turn, it complicates assessments of claims for protection and assistance. Issues of attribution also lead to voicing different agendas about responsibilities of states and the international community to ‘protect and assist’ climate-impact-related displacements in ways that don’t always meet the needs of those claiming displacement.

Supporting Mechanisms: Allocating resources, both financial and logistical and human, to ensure adequate protection and assistance to climate refugees in an appropriately resourced manner exposes competing demands and donor fatigue under the constraints imposed by the global economic situation and an already over-burdened humanitarian agenda. Climate refugees require support measures that entail and demand international cooperation and solidarity but are often constrained by national interests and geopolitical considerations. The how of the response also remains an open question: how to ensure a fair allocation of responsibilities and the equitable sharing of this burden.

Case Studies and International Responses

Increasing and destructive effects of climate change make climate-induced displacement a global issue, demanding a reaction from the international community, as well as regional and sub-regional organisations. Having presented the case studies in the previous section, this section focuses on the international responses, first at the global level, looking at the work of the UN High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), and then at the regional level. The case studies focus on SIDS and Sub-Saharan Africa.

Small Island Developing States (SIDS)

Small Island Developing States are some of the most vulnerable to the impacts of climate change, such as rising sea levels, the increased frequency and intensity of natural disasters, and the degradation of coastal ecosystems, which threaten their survival. Indeed, the vulnerability of these nations is such that the Maldives and Kiribati have come to symbolize the existential threat of sea-level rise to an entire nation, with their two governments actively considering plans to resettle their populations. In light of these realities, the pressing question is when international legal remedies that protect the rights of displaced populations will catch up.

The example of SIDS highlights that the protection of environmental justice and human rights mutually reinforce one another, and that shelter rights need to be redefined in terms of international humanitarian law to also include the specific vulnerabilities of these populations. The lack of a legal category for climate refugees leaves the residents of SIDS in a legal black hole, where there is no proper legal avenue to seek asylum and assistance.

Droughts and Desertification in Sub-Saharan Africa

Climate change also fuels displacement in Sub-Saharan Africa through massive droughts and desertification. The Sahel region, for example, has suffered from a series of destructive droughts, which in turn has caused severe food insecurity, intensified competition over rapidly vanishing natural resources, and growing mass displacement. In Somalia, emigration surged, with some 928,000 individuals internally displaced by widespread drought in 2017. In Nigeria, massive flooding during the same year drove some 840,000 people from their homes. And in Sudan in 2019, 1.2 million people, 20 per cent of the population, were displaced by the impact of severe drought.

These examples illustrate how environmental degradation, and climate change in particular, is a threat multiplier: it does not cause forced displacement in and of itself, but rather it exacerbates underlying vulnerabilities and conflicts. They suggest the need for a holistic approach to shelter rights that look beyond providing immediate shelter for new displaced people to include efforts to prevent displacement through mitigation and adaptation efforts related to climate change.

International and Regional Responses to Climate Refugees

United Nations High Commissioner for Refugees (UNHCR) Initiatives

The UNHCR has identified the increased pressure of climate-caused movements as one of the 'new challenges' facing the world. Yet the UN refugee agency has also been careful to point out that its protection mandate relates to people forced to cross borders due to persecution, conflict and violence. Conscious of the fact that the 1951 Refugee Convention was not fit for purpose in the age of climate refugees, the UNHCR has started to lobby for a broad 'humanitarian' admission of people displaced by climate change.

The UNHCR has produced a framework for the protection of people displaced across borders due to disasters and climate change; take part in discussions on climate change at the international level; and push for displacement issues to be part of climate negotiations and negotiations on global-development frameworks that might bring better climate-change protections to people who are displaced by the environment.

Role of the International Organization for Migration (IOM)

It works to enhance the resilience of communities at risk from climate change, integrate migration into national and regional planning on climate change, and guide states in implementing strategies for environmental migration. Based on existing studies and models, climate experts have made rough estimates as to the number of people projected to move in the coming decades. At the UN's climate-change conference in Cancún, Mexico in 2010, US Secretary of State Hillary Clinton urged countries to support the launch of a global initiative that would address the migration dimension of climate change.

The IOM's research and advocacy on climate-induced displacement helps keep the issue on the agenda of intergovernmental policymaking bodies. Until 2017, it also undertook large-scale on-the-ground projects, working directly with communities or the government of affected countries to reduce the risk of displacement and to mitigate the effects after the fact.

Redefining Shelter Rights: Proposals and Future Directions

This extreme crisis of climate-displaced peoples requires a radical rethinking and extension of current protection regimes so that the rights and protections of climate refugees can be

expressed within the terms of law. This must expand beyond an extension of the definition of 'refugee' to include refugee status by climate factors. It must also include new legal protocols, strengthen international cooperation, and involve both non-state actors and civil society in an active role. In the ensuing proposals and trajectory of future planning, the aim is to suggest ways by which the rights of shelter for human populations, within the current terminology of international humanitarian law, can be redefined such that these rights and dignities can be defended for climate refugees.

Extending the Definition of 'Refugee' to Include Climate Factors

The cornerstone of redefining shelter rights for climate refugees therefore lies in widening the legal definition of a 'refugee' to expressly include climate-displaced people and environmental refugees. This expansion will require effort at both international and national levels – whether by updating current refugee conventions, or through the drafting of new legal instruments addressing the particular demands of environmental change-driven displacement. This legal recognition will be the starting point of rights and protections for climate refugees.

Legal Amendments and New Protocols

Building on this wider conceptualization, we see the need for further legal reforms, and the development of specific legal instruments that address climate-related displacement and its intricacies. Such specific legal instruments could outline how climate refugees would be identified, protected and resettled, where and how they could be hosted, and what services they would be guaranteed, and what the right to a house would entail. We would need amendments that safeguard against statelessness in the event of disappearing land masses in light of SLR. Such changes would provide guidance, for instance, for most Small Island Developing States (SIDS).

Advocacy for a Dedicated Climate Refugee Treaty

The real importance of existing international refugee law for the protection of climate refugees is therefore still missing. Instead of a general treaty, what is required is a more specialized climate refugee treaty. Such an instrument would be specifically written to provide for the needs and rights of those affected by the impacts of climate change. States, international organisations and civil-society organisations need to be supported by civil-society groups in

urging the development and adoption of a binding climate refugee treaty. Such a development is a realistic prospect as a significant milestone of international law.

Strengthening International Cooperation and Solidarity

Climate refugees are best protected and assisted through strengthened cooperation and solidarity among States. This implies shared responsibility between countries as well as collective action in achieving the transition towards a low-carbon economy and resilient societies. Such action includes both mitigation (i.e., taking action to prevent displacement) and adaptation (i.e., taking action to support those who have already been displaced), to ensure a coherent and humanitarian response to climate-induced displacement.

Financial Mechanisms and Support for Affected States

They involve the establishment of specialized financial mechanisms such as dedicated funds to support climate refugees, or dedicated donations to support the resettlement and integration policies of countries with special climate-induced migration challenges; or foreign assistance (foreign aid) to support developing countries to increase their adaptive capacities and resilience. In this regard, international financial institutions along with donor countries could help in mobilizing resources and their fair allocation according to the climate vulnerabilities and needs of the affected states.

Enhancing Capacity Building and Resilience among Vulnerable Populations

Second, we need to invest in building the capacity and resilience of populations so they can be less exposed to climate hazards and better able to cope with their impacts. Investments can steer communities to manage and reduce disaster risks more effectively, to support sustainable development and build climate resilience, including through ‘climate-smart’ agricultural practices, to diversify livelihoods, and to adapt to a changing climate.

Role of Non-State Actors and Civil Society

Together with state actors, non-state actors and civil society organisations (CSOs) are active on the same fronts. They advocate for the rights of climate refugees, raise public awareness and undertake various forms of bottom-up, localised, humanitarian intervention. These include lobbying for legal reform, research and documentation on the contours and dimensions of the

displacement caused by climate change, as well as on-the-ground assistance to persons and communities. Together, the efforts of these state as well as non-state actors bring a number of responses to the water refugee crisis.

Public Awareness Campaigns

Public awareness campaigns can be an important tool for sensitisation of the general public to the plight of climate refugees. Such a campaign could reach out to the general public across the globe to inform them about climate-induced displacement. The campaign should seek to raise common knowledge of climate-induced displacement, causes and effects of shifting climate patterns, and the promotion of a culture of empathy and understanding. Information on climate-induced displacement can be communicated through mass media, educational institutions and social media. All these mass communications can also serve the purpose of engaging State and non-State actors to generate a general demand for better rights for climate refugees.

Contributions of NGOs and INGOs in Protecting Climate Refugees

Most importantly, NGOs and INGOs – whether working on grassroots mobilization, advocacy towards international and national governments, or on direct assistance and service provision to climate refugees – fill the gap between international policy and national and local-level implementation. They play a crucial role in mobilizing attention to the issue, providing legal assistance to the vulnerable, running humanitarian operations, capacity-building for communities, and more.

Conclusion

The complex problems posed by climate-induced displacement call for a clear and thorough reform of international humanitarian law, in order to provide adequate protection for climate refugees. While there has been an increase in recognition of climate change's impact on human migration in recent years, the existing legal framework is proving inadequate to protect environmental migrants. The lack of a legally defined concept of climate refugees is detrimental to the growing number of people displaced by environmental degradation and casts a heavy shadow over the 'visibility' of their own plight, as well as access to the support they require.

In a logical sequence, the reasons why it is necessary to distinguish between climate refugees and environmental migrants; why their displacement must be involuntary; and why the international protection offered to refugees must be extended to climate refugees. The shortcomings of the existing legal instruments in this context – the 1951 Refugee Convention, the Geneva Conventions, and the numerous human rights instruments. Despite the relevance of the principle of non-refoulement and the human rights paradigm, these principles do not form an adequate basis to solve the problem of climate refugees. The proposals for expanding the right to shelter for climate refugees consist of (a) expanding the definition of the category ‘refugee’ to include those caused by climate change; (b) establishing a standalone treaty for climate refugees, and (c) reinforcing international cooperation. The role of financial mechanisms, capacity development and the role of non-State actors and civil society in finding a response to the multiplicity of challenges climate refugees are facing. It calls for a global response that recognizes the special kind of vulnerabilities climate refugees are facing, preserving the right to safety, dignity and appropriate shelter.

In short, the problem of the climate refugees must become an immediate and concerted effort to integrate them into the framework of international humanitarian law so by redefining the rights to shelter, and giving an inclusive legal definition, the international community could offer better protection and assistance to climate refugees through an increased legal definition as the foundation for an expanded international cooperation for humanitarian assistance, a dedicated climate refugee treaty, and a broader support by the international community at large. The engagement of all actors, both existing and new, international organisations, governments, civil society and the affected communities, must be combined to solve the challenges of the climate refugees, and their rights and dignities, in order to create a more effective international and human response to this present and impending global crisis.

REFERENCES

1. Ayazi, H. (2019, December). Climate Refugees: The Climate Crisis and Rights Denied. https://migracionesclimaticas.org/wp-content/uploads/2020/01/climate_refugees-diciembre-2019.pdf.
2. Addaney, M., Jegede, A. O., & Matinda, M. Z. (2019). The protection of climate refugees under the African human rights system: proposing a value-driven approach? *African Human Rights Yearbook*, 3, 242-259. <http://doi.org/10.29053/2523-1367/2019/v3a12>.
3. Apap, J. (2019). The concept of 'climate refugee': Towards a possible definition. *European Parliamentary Research Service*. PE 621.893 – February 2019. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621893/EPRS_BRI\(2018\)621893_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621893/EPRS_BRI(2018)621893_EN.pdf).
4. Basu, A., & Dutta, S. (2022). Environmental Refugees – A Quest for Justice. *Dehradun Law Review*, 14(1).
5. Bergeron, T. (2023, January 20). No Refuge for 'Climate Refugees' in International Law. Environmental, Natural Resources, & Energy Law Blog. *Lewis & Clark Law School*. <https://www.lclark.edu/live/blogs/200-no-refuge-for-climate-refugees-in-international>.
6. Bradley, M., & McAdam, J. (2012, May). Protecting Climate Migrants: A Gap in International Asylum Law. *Earth Refuge*. <https://earthrefuge.org/protecting-climate-migrants-a-gap-in-international-asylum-law/>.
7. Çelenk, B., (2021). The Impasse of International Law on Climate-Induced Migration: Recent Developments and the United Nation's January 2020 *Decision on Climate Refugees*. DOI: 10.25253/99.2021233.11.
8. Dragomir, C.-I. (2024, March 2). Protecting climate refugees requires a legal definition. Al Jazeera. <https://www.aljazeera.com/opinions/2024/3/2/protecting-climate-refugees-requires-a-legal-definition>.

9. Garlick, M., & Michal, I. Human mobility, rights and international protection: responding to the climate crisis. *Forced Migration Review*.
<https://www.fmreview.org/climate-crisis/garlick-michal>.
10. George, J. W., Guthrie, P., & Orr, J. J. (2022). Redefining shelter: humanitarian sheltering. DOI:10.1111/disa.12555.
11. Hiraide, L. A. (2023). Climate refugees: A useful concept? Towards an alternative vocabulary of ecological displacement. *Politics*, 43(2), 267-282.
<https://doi.org/10.1177/02633957221077257>.
12. Hussain, A. (2019, November 1). 'Status' of Climate Refugees – Need for a Revised Legal Framework. *SSRN*. <https://ssrn.com/abstract=3836551>.
13. Jaswal, P. S., & Jolly, S. (2013). Climate refugees: Challenges and opportunities for international law. *Journal of the Indian Law Institute*, 55(1), 45-58.
14. Jolly, S., & Ahmad, N. (2014-2015). Climate Refugees under International Climate Law and International Refugee Law: Towards Addressing the Protection Gaps and Exploring the Legal Alternatives for Criminal Justice. *ISIL Y.B. Int'l Human. & Refugee L.*, 14, 216-248.
15. Lysaker, O. (2023). Planetary Ethics: Rereading Seyla Benhabib in the Age of Climate Refugees. *Jus Cogens*, 5, 171–194. <https://doi.org/10.1007/s42439-022-00071-8>.
16. McAdam, J. (2011). Swimming against the Tide: Why a Climate Change Displacement Treaty is Not the Answer. *International Journal of Refugee Law*, 23(1), 2–27.
<https://doi.org/10.1093/ijrl/eeq045>.
17. McAdam, J. (2012). Introduction. In *Climate Change, Forced Migration, and International Law*. Oxford University Press.
<https://doi.org/10.1093/acprof:oso/9780199587087.003.0001>.
18. McAdam, J. (2012). The Relevance of International Refugee Law. In *Climate Change, Forced Migration, and International Law*. Oxford University Press.
<https://doi.org/10.1093/acprof:oso/9780199587087.003.0003>.

19. O'Rourke, C., & Martin, A. (2023, December). Gender, conflict, and the environment: Surfacing connections in international humanitarian law. *International Review of the Red Cross*, 924. <https://international-review.icrc.org/articles/gender-conflict-and-the-environment-924>.
20. Olsson, L. (2015). Environmental migrants in international law: An assessment of protection gaps and solutions. <https://www.diva-portal.org/smash/get/diva2:861312/FULLTEXT01.pdf>.
21. Osóbka, P. (2019, February). The Problem of "Climate Refugees" in View of International Humanitarian Law-Selected Issues. *Miscellanea VIII*(2). DOI:10.5604/01.3001.0013.0368.
22. Pant, A. K. (2011). Food security and climate change: Need for policy intervention. *Dehradun Law Review*, 3(1), 18. November 2011.
23. Podesta, J. (2019, July 25). The climate crisis, migration, and refugees. Brookings. <https://www.brookings.edu/articles/the-climate-crisis-migration-and-refugees/>.
24. RGS-IBG Managing Editor: Academic Publications. (2022, January 20). Environmental disasters are fuelling migration — here's why international law must recognize climate refugees. *Geography Directions*. <https://blog.geographydirections.com/2022/01/20/environmental-disasters-are-fuelling-migration-heres-why-international-law-must-recognize-climate-refugees/>.
25. Sjöstedt, B., & Hulme, K. Re-evaluating international humanitarian law in a triple planetary crisis: New challenges, new tools. *International Review of the Red Cross*, 924. <https://international-review.icrc.org/articles/re-evaluating-ihl-in-a-triple-planetary-crisis-924>.
26. Swayamprakash, A., & Priyadarshini, S. (2020). Redefining the term Climate Refugees. *GLS Law Journal*, 2(2).
27. Verdu Baeza, J. (2023). Climate Refugees, Human Rights and the Principle of Non-Refoulement. *Peace & Security – Paix et Sécurité Internationales*, 11.

28. Wartini, S. (2017). Regulation Urgency of Climate Change Refugees Protection in the perspective of International Law. *Jurnal Dinamika Hukum*, 17(1). <http://dx.doi.org/10.20884/1.jdh.2017.17.1.706>.