
INTERNATIONAL LEGAL STATUS OF CLIMATE REFUGEES: GAPS, CHALLENGES, AND THE NEED FOR REFORM

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ABSTRACT

Today, climate change caused by people is happening all around the globe and is having severe effects on human life and livelihood (i.e., housing, job...) everywhere. There have been many recent efforts by different countries to combat climate change, but not one nation is able to do anything of significance to stop people from being migrated at large-scale on the actions taken to combat climate change. Millions of people will have to leave their homes due to environmental damage, rise in sea-level, and increased severity of weather events, which is leading to the creation of new classes of people called “*climate refugees*”. While climate refugees will be an increasingly important humanitarian issue, the term lacks formal recognition in international law, rendering climate-induced displacement as an complex issue. Thus, dealing with climate changes through informal, short-term approaches will not be sufficient to address climate dislocation.

This Article will address the status of *climate change refugees* under current international law. It asserts that existing international laws fail to meet the needs of climate change refugees due to their structural inadequacies. The *United Nations Framework Convention on Climate Change (UNFCCC)*¹, which is state-centric and does not provide any form of remedy for climate change refugees, and the 1951 Refugee Convention, only allows for protection against persecution, do not provide a complete solution. This Article argues the importance in creation of a separate instrument for the protection of climate refugees is necessary, although it must build on and include the existing legal frameworks. Nevertheless, despite the absence of widespread formal commitment, a limited number of States have voluntarily extended humanitarian, financial, and resettlement support to climate-displaced populations.

¹https://unfccc.int/files/adaptation/groups_committees/loss_and_damage_executive_committee/application/pdf/briefing_paper_climate_induced_displacement_and_migration.pdf

INTRODUCTION

The increasing effects of climate change have significantly influenced ecosystems, livelihoods, and human settlements across the globe. Rising sea levels, extreme weather conditions, desertification, and environmental degradation are forcing populations to relocate. While international law provides a well-structured framework for the protection of refugees, it does not adequately address those displaced solely due to climate-related factors. Refugees are individuals who flee their home country due to persecution or other serious threats to their safety. The UNHCR has recognised these people as refugees and granted them certain provisions to protect individual rights on the international level, they have certain guidelines under the 1951 convention², which states that only when refugee is someone who:

- Has a well-founded fear of persecution
- Based on race, religion, nationality, political opinion, or membership of a particular social group
- Is outside their country
- Is unable/unwilling to return

This restrictive scope of this definition creates a significant protection gap when refugees do not fall under this guidelines, this raises a major confusion related to *Climate refugees*, they are people who are forced to move out of their country not because of any particular intentional reasons or political or religious issues or not even war, but basically because of the natural disasters or discrepancies caused around the world, example people of **Kiribati** where people are migrating into New Zealand due to the rising sea levels³. The Internal Displacement Monitoring Centre (IDMC) documented that there were 32.6 million new internal displacements in 2022 due to weather-related disasters, a staggering increase that is reflecting in the escalating climate crisis. Looking into the future, experts estimate that over 1.2 billion people could be displaced by the end of 2050 due to climate-related hazards.⁴ Despite the

² <https://www.unhcr.org/what-we-do/build-better-futures/climate-change-and-displacement>

³ <https://www.unclearn.org/resources/library/kiribati-climate-change-and-migration-relationships-between-household-vulnerability-human-mobility-and-climate-change/>

⁴ <https://ijirl.com/wp-content/uploads/2025/07/CLIMATE-REFUGEES-AND-INTERNATIONAL-LAW-LEGAL-PROTECTION-IN-THE-AGE-OF-DISPLACEMENT.pdf>

urgency and scale of this issue, there is no legal status under international law to protect "climate refugees."

Climate Refugees are not considered as Refugees under international law rather they are considered as Internally displaced persons (IDPs) inside the country and are considered unclassified migrants on international borders, they are not recognised under the UNHCR or protected under the International Legal convention of 1951.⁵

The exclusion of climate-displaced persons from the refugee protection highlights a structural limitation within international law. This paper argues that the existing persecution-based framework in the International convention is inadequate to address climate-induced displacement and a distinct, rights-based international legal instrument is necessary to ensure comprehensive protection and individual rights. It further examines the evolution of refugee law, its limitations of persecution requirement, the role of international human rights law, and the feasibility of developing a specialized framework for climate refugees under International Law.

NATURE OF CLIMATE CRISIS

The current climate crisis has been deemed one of the most significant and destabilizing global challenges in the 21st century. Climate change is different than other localized environmental degradation; it is systemic, cumulative, and transboundary in scope. The impact of humans on the climate system is no longer a matter of scientific debate. Today, the world has warmed at least 1.2°C since the start of the industrial revolution due to human-induced (anthropogenic) greenhouse gas emissions from fossil fuel combustion, deforestation, and industrialization⁶. Projections estimate that by the end of this century, global temperatures will rise by 2.7 to 3.1°C if current trends of greenhouse gas emissions continue.⁷ The warming climate could reach a point of no return by triggering irreversible tipping points within both the major ecosystems on the planet and the larger climate system.

The climate crisis is manifested in two primary formats: sudden-onset disasters and slow-onset environmental processes. Sudden-onset disasters occur as a result of cyclones, floods,

⁵ <https://www.unhcr.org/what-we-do/build-better-futures/climate-change-and-displacement>

⁶ See *Secretary-General Calls Latest IPCC Climate Report 'Code Red for Humanity', Stressing 'Irrefutable' Evidence of Human Influence*, U.N. (Aug. 9, 2021), <https://perma.cc/Q857-PXKD>.

⁷ See *Temperatures*, Climate Action Tracker, <https://perma.cc/DNE7-ST5F>.

heatwaves, wildfires, and other similar disasters, each of which cause immediate damage and displacement of those individuals affected by them. One of the most dramatic examples of this occurred in 2022 during the floods in Pakistan, which caused one-third of the country to be submerged and displaced millions of people⁸. Beyond creating immediate humanitarian crises, the many impacts of natural disasters can erode long-term resilience due to damage to infrastructure, agriculture and livelihood from these unfortunate events.

Climate change contributes to growing socio-economic instability in addition to causing environmental degradation. Higher temperatures correlate with a rise in poverty, food insecurity, and inequitable distribution of wealth. Disproportionate impacts will be felt by vulnerable groups including Indigenous peoples, women, the elderly, and other marginalised populations. In addition, scarcity of resources could lead to increased political instability, conflict, and further refugee displacement.

Sea level rise represents a potential legal quagmire of enormous proportions for low-lying island nations such as Tuvalu and the Maldives, which may not be able to survive the ocean encroachment⁹. If a country's land becomes entirely submerged, it challenges the foundational principles of international law, such as defined borders, a permanent population, and the right to sovereignty.

Climate change is not simply an environmental issue it is also a humanitarian issue, an economic issue, and an issue of law in the most fundamental sense. The effects of climate change reach far beyond the environmental realm alone, impacting individuals and communities living in a state of permanent displacement and at risk of becoming stateless, and also affecting the geopolitical stability of our world. As long as the rate of environmental degradation continues to accelerate, the phenomenon of migration will increasingly represent a means of survival rather than a choice on the part of the migrant. Thus, understanding the scope and scale of the climate change crisis is essential to assessing its impact on international refugee law and the global protection system.

IMPACT OF CLIMATE CHANGE ON MIGRATION

Climate change is increasingly becoming a structural driver of migration, causing both internal

⁸ <https://www.climate-refugees.org/spotlight/2022/9/8/pakistan-floods>

⁹ <https://www.thehindu.com/sci-tech/energy-and-environment/as-oceans-rise-are-some-nations-doomed-to-vanish/article65991818.ece>

displacement and cross-border migration¹⁰. Migration has always been shaped by political, economic and social factors; however, climate change has the effect of being a ‘threat multiplier’ for people increasing their exposure to vulnerabilities and reducing their options for livelihoods. There are two types of climate change-induced migration – migration from sudden-onset disasters and migration from slow-onset environmental degradation.

An example of slow-onset climate change migration can be found in Bangladesh. About 80% of the country is made up of low-lying floodplains; thus, it is extremely vulnerable to flooding, sea level rise, coastal erosion and salinisation of agricultural land. Due to rising sea levels and more intense cyclones, the coastal zones of Bangladesh will become increasingly uninhabitable. The Government of Bangladesh projects that by 2050, almost 17% of Bangladesh’s territory will be submerged, potentially displacing as many as 20 million people¹¹. Therefore, migration in this case is generally a process that first takes place internally; people affected will migrate to urban centres (Dhaka) in search of opportunities. However, as urban areas become crowded and economically pressured, the likelihood of cross-border migration will increase¹². This demonstrates the concept of “stepwise migration,” whereby an individual initially migrates locally and then undertakes a riskier, long-distance migration.

On the other hand, climate disasters that occur suddenly create an immediate necessity for people to leave their current location. For example, in 2020 the consecutive occurrences of Hurricanes Eta and Iota led to large-scale devastation across Honduras, Guatemala and Nicaragua. Millions were affected by the two storms - houses and crops were lost and food insecurity increased in many already vulnerable economies where political instability exists.

The cumulative environmental damage caused by the hurricanes exacerbated pre-existing poverty and instability. This phenomenon has led to increased numbers of individuals fleeing those countries in search of a better life in the USA. In this aspect, climate change and

¹⁰ *ee* IPCC 1.5°C Report, *supra* note 8, at 39. For the purposes of this Essay, the term “migration” encompasses the forced or voluntary movement of people for any reason, either domestically or across international borders, and either permanently or for a set period of time. *Migration*, Council of Eur. (2022), <https://perma.cc/DN3T-A4R5>.

¹¹ *See* The World Bank, Groundswell: Preparing for Internal Climate Migration 110 (2018), <https://perma.cc/PBR6-6MK7>.

¹² *ee id.*; *see also* Rep. of the H.R.C., ¶ 78, U.N. Doc. A/H.R.C./37/CRP.4 (2018); *Statement at the Conclusion of the Country Visit to Bangladesh by the Special Rapporteur on the Promotion and Protection of Human Rights to Human Rights in the Context of Climate Change*, Mr. Ian Fry, UNHRSP (Sept. 15, 2022), <https://perma.cc/SK88-4QDE>.

environmental degradation have worked in conjunction with socio-economic and governance failings to create an unparalleled level of displaced persons.

Many researchers agree that this found through empirical evidence. During the period of 2008 - 2020 there was an average of 24.5 million people displaced due to climate disasters around the world each year. Even if emissions of greenhouse gases ceased, atmospheric climatic changes from existing greenhouse gases will still lead to a continued increase in displaced persons for years ahead. There are also positive, statistically significant relationships between changing global temperature and migration from agricultural dependent communities. As crop yields decrease and availability of water decreases, the rate that people will migrate is influenced less by choice, but become a necessity for survival.

The climate migration phenomenon is also blurring the line between voluntary migration and forced migration. Many people would like to remain in their home communities where they have lived, but as the environment deteriorates over time, they start to experience less viable options and will eventually have to leave their country when coping strategies of their local and regional governments fail them.¹³

A significant legal decision made to close this gap is *Teitiota v. New Zealand*¹⁴ (also known as *Teitiota Petition*) - a case decided by the United Nations Human Rights Committee in 2020. The Committee stated that climate change could create non-refoulement obligations under the right to life (i.e. the prohibition on returning an individual to a country where they are likely to face persecution). Although the claimant's application was unsuccessful, the decision represents an essential recognition that environmental degradation may be a basis for seeking international human rights protection.

Climate change is reshaping migration patterns through both slow and rapidly worsening environmental situations and through natural disasters. From the displacement of people due to sea rise in coastal areas of Bangladesh to people migrating as a result of Hurricane Maria in Central America, environmental pressures are increasingly causing people to migrate. Despite these pressures, international law continues to be structured around models of forced migration

¹³ See *War in Cities: What is at Stake?*, Int'l Comm. of the Red Cross (Apr. 4, 2017), <https://perma.cc/6YJM-CTUM>.

¹⁴ <https://ccprcentre.org/decision/17018>

based on persecution, which places climate migrants in a very vulnerable position under international law.

LEGAL REFUGEE FRAMEWORK: 1951 CONVENTION

REFUGEES UNDER INTERNATIONAL LAW

From the 1951 Convention Relating to the Status of Refugees and from the 1967 Protocol to the Convention on the Status of Refugees, a modern regime exists to provide international protection for refugees. These are the only binding global treaties created by a group of UN member states to create rules regarding rights and legal status; the international treaties are not unilateral (only applied by one country) but improve the standard of treatment of refugees by all states.¹⁵

The Convention describes a refugee as a "person who, because he or she has a well founded fear of being persecute for reason of race, religion, nationality, membership of particular social group, or political opinion, is outside (his or her) own country and is unable (or unwilling) to go back to (his or her) country of origin, is being persecuted"¹⁶. The definition has 4 specific elements:

1. have to be outside of country of origin;
2. fear has to be found(must be a true fear);
3. fear must relate to persecution.
4. persecution must relate to 5 specific reasons.

Persecution is defined as extreme human rights violations done to an individual under the jurisdiction of their own country (including means of execution, loss of freedom and how hard it is) and normally are caused by acts of government or state failure to provide protection against individuals who are being persecuted.

¹⁵ UNHCR Factsheet on 1951 Convention and 1967 Protocol, *supra* note 32, at 2, 5. Other regional instruments and a substantial body of human rights law complement the rights enumerated in the 1951 Convention. *See id.* at 5.

¹⁶ Global Compact for Safe, Orderly, and Regular Migration, *supra* note 75, ¶¶ 18(b), 18(l), 21(b), 21(h).

The primary responsibility for finding out who qualifies for refugee status and for providing protection for those who qualify rests with states. The Convention leaves it up to states to establish their own asylum systems; it does not set out a procedure for determining whether someone qualifies as a refugee. A person becomes a refugee as soon as they meet the criteria in the definition—and recognition as a refugee is declaratory rather than constitutive. This means that a person is a refugee before they are recognized as such.

The foundational principle of the Convention is non-refoulement; that states cannot send a refugee back to any place where their life or freedom will be in danger. This is recognized as customary international law and underpins the entire refugee protection regime.

Refugees and asylum seekers should not be confused with migrants. An asylum seeker is someone who is making a claim for refugee status, but who has not yet received a determination on that claim. Refugees and asylum seekers have no effective protection from their home country and are often pursued by their own governments. Migrants, on the other hand, is a broader term that includes people who leave their home country for various reasons—whether voluntary or otherwise; they typically stay under the protection of their own government.

Notably, climate change and environmental degradation are not considered legitimate reasons for claiming refugee status under the 1951 Convention Relating to the Status of Refugees. Any harm resulting from climate change will usually not result from persecution given the five stated grounds. Therefore, those displaced because of climate change will be outside the scope of protection created by the Convention. This lack of a clear definition of climate change and environmental degradation presents a fundamental legal obstacle to extending international legal rights to climate change-displaced persons.¹⁷

WHO ARE CLIMATE REFUGEES

Climate Refugee has become a well-known term in policy-making settings but has not been given an official definition by any international law. International law does not allow someone who is being forced to leave their home because of climate change to consider them a refugee. The 1951 Refugee Convention and its 1967 Protocol do not include climate change or environmental degradation as standalone criteria for receiving refugee status. Therefore,

¹⁷ *About Migration*, Int'l Org. for Migration (2022), <https://perma.cc/6KZH-EAG4>.

whether it is from rising sea levels, desertification, extreme weather, or any other form of the climate, if someone has to leave their home, they are not legally considered a refugee.¹⁸

Simply put, a Climate Refugee is a person who has to leave their habitual home because of sudden or long-term climate-related environmental changes that negatively impact their lives or quality of life. Possible reasons for needing to leave would include inundation or flooding from rising sea levels that threaten the continued existence of coastal communities, severe droughts that damage agricultural production, salinisation of water sources, or cyclones that are predicted to increase in magnitudes and frequency, making land uninhabitable.

In Bangladesh, coastal communities have experienced chronic flooding and land erosion caused by rising sea levels and increased storm surges¹⁹. Many people have moved from the coast to urban areas, while others are looking overseas for resettlement opportunities as environmental pressures mount. Small island nations such as Tuvalu experience the same conditions, with no land to support their citizens over the long term. Displacement that occurs because of climatic changes in these examples is not related to an act of violence, but rather is the result of a slow and gradual deterioration of the minimum required for life.

The legal challenges have to do with how the legal definition for refugees and the applicable requirement for establishing refugee status under the Refugee Act is structured—specifically, the list of persecutory grounds identified within the 1951 Convention on the Status of Refugees. The Convention identifies five protected grounds of persecution that serve as a basis to claim refugee status—race, religion, nationality, political opinion, or membership in a particular social group—and therefore their associated forms of persecution; however, climate change is generally non-discriminatory in nature and lacks a specific human perpetrator; rather, the effects of climate change are felt by a broad group of people rather than any particular targeted group. As a result of this, climate-displaced people will generally not be able to demonstrate a nexus to persecution, which is a technical requirement to demonstrate refugee status.

However, there may be some limited situations where forms of environmental harm and failures associated with governance intersect. For example, if the government of a State were to purposely deny certain disaster relief to a particular ethnic or political group, the resulting displacement could possibly fall under the Convention's framework as a result of the act of

¹⁸ <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>

¹⁹ <https://www.sciencedirect.com/science/article/pii/S221209631300003X>

denial constituting a form of persecution as opposed to solely an environmental degradation. Nonetheless, these situations would be the exception as opposed to the rule as it relates to most forms of climate displacement.²⁰

A landmark case in an ongoing debate regarding climate-related migration was decided by the United Nations Human Rights Committee in 2020 and involved the applicant, Ioane Teitiota, a citizen of Kiribati, who claimed that sea level rise and environmental degradation presented a threat to his right to life. Although the Committee denied his application based on the lack of immediacy associated with the threat, they did find that climate change might, in principle, create non-refoulement obligations under international human rights law. While ultimately resulting in the refusal of refugee protection to the applicant for being a climate refugee, it represented a significant shift in legal doctrine²¹.

One additional layer of complexity within the climate migration discourse is the difference between voluntary and involuntary migration. Climate migration often occurs incrementally over time. For example, an individual might migrate domestically in search of jobs or safety and this would be interpreted as voluntary migration. However, as environmental degradation destroys the last viable economic options, one may question how "voluntary" their migration is. Yet the law continues to provide rigid categorical classifications, with no consideration for the complexities found within climate migration.

Climate refugees exist in a precarious space; they are not protected under conventional refugee law but are subject to potentially significant risk to life, dignity, and subsistence. This gap between actual environmental conditions and the lack of adequate legal recognition is the primary challenge within the current refugee protection debate.

FORGOTTEN AND UNPROTECTED REGION: CLIMATE REFUGEES

"Climate refugees" are people displaced by disasters caused by environmental changes including climate change are forgotten within the context of international migration. These individuals often experience severe or life-threatening conditions due to environmental changes and current international law does not offer any formal definitions or protections for

²⁰ See Rep. of the H.R.C., *supra* note 47, ¶ 69.

²¹ <https://www.unhcr.org/what-we-do/build-better-futures/climate-change-and-displacement>

these people; therefore, they are "forgotten victims" of climate change that exist in a precarious legal space: between humanitarian concern and legal exclusion.²²

One of the challenges surrounding this issue is the definitions of the scenarios that people may be displaced due to climate change are not well- defined internationally, nor is there a formal international guidance or framework that identifies how to recognize or protect climate refugees. In addition, the timelines over which many people are displaced can vary, such as when a rapid disaster occurs (like hurricanes), versus when there is a long-term process of degradation (degradation occurs very slowly over decades). Both scenarios can create significant problems in providing evidence to establish a direct cause and effect relationship between climate change and migration.

The key differences between climate refugees and conventional refugees are evident in two ways. One, many climate refugees will likely be impacted by slow-onset environmental changes (e.g., climate change) over decades, rather than identifiable disasters that cause people to flee; this complicates their legal classification under persecution-based frameworks. Two, while the majority of climate refugees relocate within their own country at first, the 1951 Convention applies only to people who cross an international border; therefore, people who are displaced within their country due to the effects of climate change do not fall under the protections provided by the 1951 Convention until they begin to migrate internationally through "stepwise migration."

The regions likely to experience these legal disconnects include low-lying coastal states such as Bangladesh, and small island nations such as Tuvalu, where a rise in sea level puts long-term habitability into question, and drought-prone areas in Africa's Sahel, where recurring environmental stress has led to repeated instances of people being displaced. International estimates of climate mobility are also incomplete, which exacerbate the invisibility of the

²² *Climate Change and Disaster Displacement*, *supra* note 3. Climate migrants, "people for whom climate change was an important factor in leaving home," are also at risk of climate-driven displacement and deserving of international protection. However, because there can be an element of choice in their migration, this Essay focuses primarily on individuals who experience forced displacement due to climate change and/or natural disasters. *See* Yayboke et al., *supra* note 66, at 1–2; *see also Climate Refugees*, *supra* note 2. In addition, stateless people, who are "not considered . . . national[s] by any State under the operation of its law," for various reasons, including intentional targeting by governments, gaps in nationality laws, the emergence of new states, or the transfer of territory between states, face displacement due to climate change and natural disasters. *Ending Statelessness*, UNHCR (2022), <https://perma.cc/F5S6-VYXX>; *see Climate Change and Statelessness: An Overview*, UNHCR (May 15, 2009), <https://perma.cc/89WG-Z5ZZ>. The issue of statelessness, while pressing in its own right, is outside the scope of this Essay.

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BRIDGING THE PROPOUNDED GAP

The increasing disconnection between climate reality, refugee law and the growing impacts of environmental degradation driving displacement and the lack of binding protection mechanisms for climate displaced persons, has resulted in a large legal vacuum. This gap must be bridged using multiple layers of solutions such as reinterpretation of existing legal provisions, institutional innovations and strengthening existing human rights protections.

One option for addressing the above challenge is to expand the interpretation of the 1951 Refugee Convention through other UN mechanisms²⁴; courts and domestic asylum decision-makers could expand the definition of persecution to include environmental harm caused by a state, through a failure of the state to provide assistance, or through discriminatory actions regarding the provision of assistance to persons who are disproportionately affected by a climate disaster. In situations where states are disproportionately denying access to people

²³ <https://climateknowledgeportal.worldbank.org/country/bangladesh/sea-level-historical>

²⁴ <https://climateknowledgeportal.worldbank.org/country/bangladesh/sea-level-historical>

impacted by climate change, it could be argued that the state has committed an act of persecution. This approach to expanding the definition of persecution however is limited and will be determined on the specific facts of each situation as they arise. Therefore, overall it will provide a limited amount of protection for internationally displaced individuals as a result of environmental degradation caused by climate change.

In addition to creating an international treaty recognizing climate refugees, there are other comprehensive ways to address the issue. A second option would require creating a climate refugee category through a specific international treaty that identifies the characteristics needed for someone to be classified as a climate refugee; establishes a process to share responsibilities; creates pathways for the planned relocation of people who are going to permanently lose territory as a result of climate change; and lays out the obligations of high-emitting countries regarding the financing of adaptation and resettlement efforts related to climate refugees. Though politically fraught, a treaty on climate refugees would better bring about the consistency and clarity that are presently lacking in the other legal mechanisms.

The third option would be to strengthen the protection of people seeking safety from persecution due to climate change. There is an evolving body of law from international agencies that demonstrate that a person's return to climate-related dangerous conditions could arguably violate their right to life, such as the decision in the UN Human Rights Committee case of *Teitiota v. New Zealand*. A customary law approach towards developing this recognition will help protect the rights of persons facing deportation to places that become uninhabitable due to climate change, including those without formal refugee status.

These legal gaps can be addressed through both political will and the continued development of legal principles surrounding climate change. Climate displacement is already happening, and it is a significant, structural reality for many. Proactive reform will be necessary for millions of people to be able to benefit from these well-established protection systems²⁵.

CONCLUSION

While the global community has a variety of appropriate tools for dealing with climate change-related displacement (and climate refugees do have some partial protections), there are very few robust protections in place. Indeed, governments may at least partially protect climate

²⁵ <https://www.unhcr.org/what-we-do/build-better-futures/climate-change-and-displacement>

refugees, due to evolving interpretation through recognition under the 1951 Refugee Convention. Claims are frequently stronger when climate change intersects with armed conflicts, government dysfunction, or disadvantageous discrimination against certain classes within a nation. As such, the environmental harm suffered is not a concern unto itself; rather, it is a factor that has been woven together with other factors that would meet the Convention's definition of refugee status. Examples of progressive interpretation of the definitions of refugee status abound through the regional refugee instruments and human rights body of law.

In addition, human rights law offers an avenue for seeking relief as well. Human rights tribunals have held that under the International Covenant on Civil and Political Rights, the right to life and the prohibition on cruel, inhuman, or degrading treatment may inhibit a government's ability to return a person to conditions where his or her life is threatened. The *Teitiota v. New Zealand* case before the United Nations Human Rights Committee, for example, held that climate change may potentially invoke the doctrine of non-refoulement but did not meet the required threshold of imminent harm. Nevertheless, this decision demonstrates a willingness by the legal community to expand the application of this doctrine in the future, particularly if adjudicating bodies use a structural framework to assess the causes of migration and take into account the intersection of climate change and migration.

Adjudication is not the only function of political and policy initiatives. The Nansen Initiative was jointly chaired by Switzerland and Norway and concluded with the endorsement of the 2015 Platform on Disaster Displacement by over one hundred countries indicating a common protection agenda for individuals affected by disaster-related displacement. At a domestic level, Fiji has put into practice government-led relocation programs for communities affected by sea level rise which serve as a useful example of advance adaptive measures. In 2021, the United Nations Human Rights Council created a Special Rapporteur on Human Rights in Climate Change indicating increased institutional recognition. Additionally, in 2022, a group of countries led by Vanuatu has requested an advisory opinion from the International Court of Justice on the responsibility of states regarding climate change: these developments may help to clarify international obligations in relation to both environmental and human rights law.²⁶

Despite these things, practical implementation is hampered. Developed countries have

²⁶ See Thomas Erdbrink & Jasmina Nielsen, *Former Immigration Minister in Denmark Sentenced to Prison for Separating Couples*, N.Y. Times (Dec. 13, 2021), <https://www.nytimes.com/2021/12/13/world/europe/denmark-immigration-minister-migrants-prison.html>.

generally delayed implementation of humanitarian visas, planned relocation frameworks, or binding burden-sharing agreements. Without increased cooperation at the international level, those displaced as a result of climate change will continue to suffer from normative gaps.

Climate change displacement has gone from hypothetical to a reality. It challenges the foundations of refugee law, sovereignty, and international solidarity. In order to accommodate climate-displaced persons, the international legal system must change, either through expanded interpretation, through forming new treaties or through greater enforcement of human rights²⁷.

²⁷ *climate Crisis: International Court Should Play Key Role in Delivering Climate Justice*, Amnesty Int'l (Dec. 8, 2022), <https://perma.cc/MP36-LCKZ>.