
FROM CONVENTION TO CRISIS: RECONSTITUTING INTERNATIONAL CLIMATE REFUGEE PROTECTION

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ABSTRACT

Being Uprooted from soil that nourished one's childhood, the land that instilled nationalism in blood and the place that was called home to be thrown away to somewhere on earth and left with no hope other than mere existence, fleeing just to breath fresh air is the plight of a climate refugee, a life no one would opt for. The latest reports of Internal Displacement Monitoring Centre suggests that a total of 83.4 million refugees in which 45.8 million new disaster displacements were traced in 2024. Plethora of events laid the foundation for the legal system to look up the matter yet it has not realized that hour to formulate effective climate actions have already been reached. The essence and spirit of this paper underscore the relevance of reconstituting the international laws with regard to climate refugees' protection. The Refugee Convention of 1951 did not pay any heed in the matter of climate refugees. The gravity of matter escalated to the extent that it is estimated 216 million climate refugees could be traced just across six nations by 2050 according to World Bank Grounds Report 2021. With the future looking so bleak the hour has already come for law enforcement agencies to take the matter with its significance and to act accordingly. The question raised in this juncture is how many more people need to leave their homes on the climate displacement grounds before the existing gaps are filled with fresh hopes for a better future.

BACKGROUND

Tracing the human evolutionary footprints, we may see a major shift and decline of various civilizations across the globe as aftermath of climate crisis and the environmental hazards. Gradually this shift became rampant where African and West Asian countries started to show early signs of climate displacements. The initial usage of the term environment refugees was made in 1976 by Lester Brown, followed by Essam El- Hinnawi in 1985.¹ The 1951 refugee convention had discussed in length with regard to refugees and possible rehabilitations with no reference to climate refugees. It was the United Nations Convention on Environment and Development of 1992 that eventually became the torch bearing initiative to open the discourse on climate refugees. Plethora of events laid the foundation for the legal system to look up the matter yet it has not realized that hour to formulate effective climate actions have already been reached. The gravity of matter escalated to the extent that it is estimated 216 million climate refugees could be traced just across six nations by 2050 according to World Bank Grounds Report 2021.² The United Nations Climate Change Conference of Parties COP30 has put forward the slogan “Global Mutirão” which calls for global efforts for “climate action World Wide”. The rapid change in environment and its impact on human life has escalated to the extent that inhabitants have to opt for better survival grounds. The gravity of the situation has however led to formation of various conventions and protocols.

UNFATHOMABLE DEFINITION OF CLIMATE REFUGEE LAWS

There has been some difficulty trailing behind the word ‘climate refugee’ as the area was not specifically dealt under the 1951 convention. The concept of being a refugee solely based on the climate crisis was a major concern of legal frameworks within the international domain, which eventually added to the difficulty of giving the nomenclature. Was it lack of legal framework on the matter, political polarizations of groups on various other contemporary issues of the time or lack of social enthusiasm? The study has to be conducted on the major reason for not formally giving attention to the issue even to the extent that it was not termed for legal purposes. The discourses were however happening throughout the period that led to formation of various preferred terms such as climate migrants, environmentally displaced

¹ Richard Black, *Environmental refugees: myth or reality?*, UNHCR (Aug 27,2025, 5:00 PM), <https://www.unhcr.org/sites/default/files/legacy-pdf/3ae6a0d00.pdf>

² WORLD BANK GROUP GROUNDSWELL REPORT, <https://www.worldbank.org/en/news/press-release/2021/09/13/climate-change-could-force-216-million-people-to-migrate-within-their-own-countries-by-2050> (Aug 27,2025, 6:00 PM)

persons etc. Essam El Hinnawi³ used the term environmental refugee. History points out that the term 'climate refugee' evolved its essence or spirit from this. Outcome of not having a properly laid down definition is nothing less than the impossibility to estimate and tabulate the total mass displaced on the basis of not having proper climatic livelihood as postulated by Professor Isabel Borges in 2020⁴⁵. However, it is relevant to highlight that UNHCR and various other international institutions are not in favor of the term climate refugee which eventually became the ground for criticism against the term.

CRITICAL OVERVIEW OF 1951 REFUGEE CONVENTION

The convention started off with the forward note stating the scope by requesting all the nations to allow people in their lands as refugees who approach in those grounds and to provide those people who are not expressly mentioned in the convention with the treatment, they would be proving for which the convention provides. It is comparatively vague as to what the convention has meant in terms of others as to the extent that whether a climate refugee would be included in it or not. Article

1 of the Convention has elaborated various categories of people who may be considered and recognized as a refugee which clearly does not speak about climate refugee.⁵ The convention will protect you if your ground for being a refugee is due to war, conflict, harsh circumstances under political pressures etc., And as a cherry on top UNHCR added that one may be termed as a climate refugee under extreme level of climate change that could lead to persecution⁶. However, the state was given the penultimate role in inferring and interpreting whether the person is genuinely migrating under such harsh environmental changes that could make life troublesome enough for one to migrate as a refugee. It is evident that our international legal mechanism has started to put efforts in the case of climate refugee protection irrespective of the vagueness and ignorance of convention of 1951, such an example was the resolution of UNGA IN 2018 that encourages the world nation to promote the formulation of laws for protecting the climate refugees.

³ Joanna Apap with Sami James Harju, *The concept of climate refugee towards a possible definition*, EPRS (October 5, 2023),

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI\(2021\)698753_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI(2021)698753_EN.pdf)

⁴ Elise Hartnett, *Climate Refugees Left Adrift In Legal Impasse: The Need For International Legal Recognition Of People Displaced By Climate Change*, Vol. 56:765 NYU J INT'L L&POL. 765,772 (2024).

⁵ U.N.T.S. 137 (1951)

⁶ Grahl-Madsen, *The Status of Refugees in International Law*, Vol 1 LEIDEN J. INT'L L. ,176, 188-189(1966).

EXIGENCY TO RECONSTITUTE INTERNATIONAL CLIMATE REFUGEE LAWS

The Global report on Internal Displacement 2022 has thrown some light on the depth of the gravity of issue stating that around 32.6 million disaster-based displacement has occurred in 2022.⁷ The displacement is such that it becomes nearly impossible for these people to return back to their homeland and lead a normal life. This internal displacement cannot be seen as the only ground on which there should be international interventions in this matter. The examples in the international arena with regard to why there should be an intervention in environment induced threats, possible migrations and refugee crisis are numerous. NASA has reported how West Asia would be barren under high temperatures by 2050. There are also 17% parts of Bangladesh under threat of submergence.⁸ West Asia was longing for the arrival of Suhail the Star to end the extreme summer they faced in 2025. A recent study in 2020 by Nature Communications had suggested that 267 million people are under threat of rising sea level. What is important to realize is that these refugee crises due to climate changes and related migration can affect the quality of life, availability of work, standard of living, the food sources and total income of the economy etc., thereby creating an exigency to reconstitute international climate refugee laws.

HUMAN RIGHT FRAMEWORK ON REFUGEE LAWS

Though the legal framework that explicitly addressed refugees and the actions for their protection had ignored the climate refugees, there existed various other conventions that actually took up the matter seriously. One such initial convention was the Rights of child Convention of 1989 that stressed on the need for proper healthy balanced meals, clean water for basic needs etc.⁹, on the ground of changing environmental patterns and climate disasters. This was followed by the principles laid down with regard to internally displaced people due to climate induced disasters, in 1998 by the UN. This was the basis for the Kampala Convention for the Africans. The UN in 2008 also framed the issues which would be the upcoming threat and future discourse on the matter. The initial step for the external threat and displacement in this regard was taken by Norway and Switzerland in 2012 under the initiative

⁷ IDMC, <https://www.internal-displacement.org/global-report/grid2023/#:~:text=Internal%20displacements%20in%202022,0m>, (Aug 30,2025, 4:00 PM)

⁸ The World Economic Forum, <https://www.weforum.org/agenda/2021/06/climate-refugees-the-world-s-forgottenvictims/>, (Aug 30,2025, 6:00 PM)

⁹ Frank Dejongh, *Convention on the Rights of the Child*, UNICEF.ORG (November 20, 1989), <https://www.unicef.org/child-rights-convention>

Nansen.¹⁰ The 2015 marked the Paris Agreement which is celebrated as the torch bearer of the climate-

based discussions and recognition on the subject. 2016 introduced the Project Agenda that pressurized the states to make initiatives to protect the climate refugees. There have been various Conferences of Parties popularly known as COP, the last one was the COP 29 which was hosted by Azerbaijan. Article 6 of ICCPR provides for the non-refoulment of climate refugees that if done so would be depriving them of their right to life. These were the few conventions and their outcomes that were based on the climate refugees in light of the human rights framework.

CONTEMPORARY INTERNATIONAL LAW AND EXISTING GAPS

The Refugee Convention of 1951 and 1967 Protocol forms the backbone of the international refugee law . However the definition under Article 1A(2), a refugee does not include people migrated by climate change and is limited in scope.¹¹ This definition is narrow and excludes climate induced migrants from the scope of legal protection.

This limitation was further evident in the case *Teitiota v. New Zealand*¹², where it was argued by the applicant of Kiribati that rising sea levels made his home unsafe. While the refugee status was denied, this case highlighted the existing gaps in the international law for the protection of refugee.

Regional frameworks have so far begun to address existing gaps in the international refugee law.

The 1969 Organization of African Unity (OAU)¹³ and the 1984 Cartagena Declaration¹⁶ in Latin America provides protection to refugees beyond the classic defining refugee, these regional instruments offer a potential model for adapting international refugee law to the

¹⁰ IOM UN MIGRATION, <https://environmentalmigration.iom.int/nansen-initiative> (October 2, 2025,3:00 PM)

¹¹ Convention Relating to the Status of Refugees art. 1(A)(2), July 28, 1951, 189 U.N.T.S. 137.

¹² *Teitiota v. New Zealand*, Communication No. 2728/2016, U.N. oum. Rts. Comm. (2019).

¹³ Convention Governing the Specific Aspects of Refugee Problems in Africa, Sept. 10, 1969, 1001 U.N.T.S. 45.

¹⁶ Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico, and Panama (Nov. 22, 1984).

challenges posed by climate change.

Despite the efforts made by regional agreements, a global framework for climate refugee is absent.

Due to the lack of recognition at the international level in The Refugee Convention of 1951 and 1967 Protocol, this gap leaves millions of vulnerable displacements without any legal protection. The existing gaps in international law for climate refugees highlights the urgent need to adapt refugee law to address 21st century humanitarian crises.

CASE ANALYSIS

The case of *Teitiota V. New Zealand* emphasizes the challenges faced by people displaced due to climate change. Ione Teitiota, a resident of Kiribati, pursued protection in New Zealand, due to rising sea levels and the uninhabitability of his homeland. He claimed that New Zealand obliged under 1951 Convention to protect his interests¹⁴. However his claim was rejected on the basis of non inclusion and restrictive definition of refugee under refugee law¹⁵.

Despite the lack of protection under international law, UN Human Rights Committee later illustrated that while climate change does not create a refugee status itself, states still have duties to protect individual under the human Rights law, particularly Article 6 of ICCPR, to protect and prevent harm that threatens fundamental rights¹⁶.

The Teitiota case therefore highlights the existing gap in the traditional refugee protection and climate induced migrations. It also underscores the need for the protection of the people displaced by environmental hazards.

CURRENT DEVELOPMENTS AND INITIATIVES

The first step towards the recognition of cross border displacement due to climate change was the **Nansen Initiative**, launched in 2012 in Norway and Switzerland. This state led regulation sought to provide and address the existing gap in the international refugee laws. This

¹⁴ Convention Relating to the Status of Refugees art. 1(A)(2), July 28, 1951, 189 U.N.T.S. 137.

¹⁵ *Teitiota v. New Zealand*, Communication No. 2728/2016, U.N. Hum. Rts. Comm. (2019).

¹⁶ International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171.

protection agenda was adopted in 2015 by 109 states¹⁷.

In 2016, the **Platform on Disaster Displacement** was launched in humanitarian summit in Istanbul, offering tools for the protection of climate refugees and to increase state responsibilities for the same¹⁸.

The United Nations Framework Convention on Climate Change (UNFCCC) Conferences of Parties (COPs) have recognized the connection between climate change related migration. At COP21 in Paris (2015), the Paris Agreement preamble acknowledged climate change as a serious concern and a trigger for human mobility, calling for obligations toward climate refugees and establishing a task force on displacement under the Warsaw International Mechanism.¹⁹ COP23 (2017, Bonn) created the InsuResilience Global Partnership, which supports vulnerable populations through financial instruments, insurance, and resilience programs.²⁰ COP24 (2018, Katowice) further strengthened coordination and discussions on internal and cross-border .

migration due to climate change. Subsequently,²¹ COP26 (2021, Glasgow) emphasized preventive frameworks, including early warning systems and resilient infrastructure, to mitigate climate-induced migration. At COP27²² (2022, Sharm el-Sheikh), a new “loss and damage” fund was established for countries prone to climate disasters, formally recognizing forced displacement as a form of loss. However these initiatives are non-binding, they demonstrate merging international recognition of climate-induced displacement as a pressing humanitarian and legal challenge. By providing frameworks, tools, and guidance for state action, they represent important steps toward addressing the protection gaps for climate-displaced persons globally.

CALL INTO QUESTION: CHALLENGES FACED BY CLIMATE REFUGEES

One of the important challenges confronting climate refugees lies in the restrictive definition

¹⁷ Nansen Initiative, Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change (Oct. 2015), <https://www.nanseninitiative.org>.

¹⁸ Platform on Disaster Displacement, About Us, <https://disasterdisplacement.org/the-platform>.

¹⁹ Paris Agreement pmbl., Dec. 12, 2015, T.I.A.S. No. 16-1104.

²⁰ InsuResilience Global Partnership, About, <https://www.insuresilience.org>.

²¹ U.N. Framework Convention on Climate Change, Report of the Conference of the Parties on Its Twenty-Fourth Session, Held in Katowice from 2 to 15 December 2018, U.N. Doc. FCCC/CP/2018/10 (2019).

²² U.N. Framework Convention on Climate Change, Glasgow Climate Pact, U.N. Doc. FCCC/PA/CMA/2021/10/Add.1 (2021).

of “refugee” under the **1951 Refugee Convention** and its **1967 Protocol**. The Convention limits protection to individuals fleeing persecution on grounds of race, religion, nationality, political opinion, or membership in a social group, leaving no room for persons displaced solely by environmental or climate-related causes²³. As illustrated in *Teitiota v. New Zealand*, where a Kiribati national sought protection due to rising sea levels, claims based solely on environmental degradation rarely succeed under current refugee law²⁴.

A second challenge is the difficulty of establishing link between climate change and displacement induced beachside of it. Environmental factors often pairs with poverty, poor governance, or conflict, making it nearly impossible to demonstrate that climate change is the primary driver. Moreover, there is no binding international framework for climate refugees. Existing mechanisms such as the **Nansen Initiative** and the **Paris Agreement** only provide soft-law guidance, leaving displaced persons dependent on inconsistent state practices.²⁵ Small island states like Tuvalu and Kiribati face existential threats, but the burden of relocation is unevenly shared, with larger states often reluctant to assume responsibility.

Humanitarian and policy concerns further complicate the picture. Recognizing climate refugees implicates sovereignty concerns, as states fear opening the door to mass migration. Yet, the **UN Human Rights Committee** has affirmed that under the principle of non-refoulement, individuals cannot be returned where climate change threatens their right to life and dignity.²⁶ Despite growing recognition in international discourse, climate refugees remain in a legal and humanitarian limbo.

10. RECOMMENDATIONS

The limitations of the current laws for refugee protection displays a clear need to reduce existing gaps. One recommendation is the reformation of existing legal framework under the **1951 Refugee Convention** and its **1967 Protocol** by either widening the scope of the definition of “refugee” or developing a supplementary protocol that specifically recognizes

²³ Convention Relating to the Status of Refugees art. 1(A)(2), July 28, 1951, 189 U.N.T.S. 137; Protocol Relating to the Status of Refugees art. I(2), Jan. 31, 1967, 606 U.N.T.S. 267.

²⁴ *Ioane Teitiota v. New Zealand*, U.N. Hum. Rts. Comm., Commc’n No. 2728/2016, U.N. Doc. CCPR/C/127/D/2728/2016 (2019).

²⁵ Nansen Initiative, Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change (Oct. 2015), <https://perma.cc/NF7F-4XJ9>; Paris Agreement, Dec. 12, 2015, UNFCCC, https://unfccc.int/sites/default/files/english_paris_agreement.pdf.

²⁶ *Ioane Teitiota v. New Zealand*, Communication No. 2728/2016, U.N. Hum. Rts. Comm. (2019).

climate-induced displacement.²⁷ An alternative approach would be the adoption of a new binding international treaty specifically dedicated to climate refugees, thereby filling the current existing gap.

In the absence of immediate treaty reform, a human rights-based approach offers an interim solution. The **International Covenant on Civil and Political Rights (ICCPR)** guarantees the right to life under Article 6, which has been interpreted by the **UN Human Rights Committee** to extend to persons endangered by climate impacts.²⁸ Strengthening the application of the **nonrefoulement principle** in such contexts would ensure that no individual is returned to conditions where their survival is threatened. Judicial interpretation on rights-based arguments, as seen in *Teitiota v. New Zealand*, should be further developed.

Policy measures are equally critical for the protection to climate refugees. Regional frameworks such as the **1969 OAU Convention** and the **1984 Cartagena Declaration** provide models for expanding protection to those displaced by events disturbing public order, which could include climate disasters.²⁹ International initiatives like the **Nansen Initiative** and the **Platform on Disaster Displacement** also displays practical pathways forward. Additionally, the establishment of the **Loss and Damage Fund** at COP27 reflects a recognition of the financial and humanitarian dimensions of climate migration.³⁰

Ultimately, the path forward requires a hybrid approach: adapting legal norms, reinforcing human rights protections, and developing cooperative policy measures to ensure that climate refugees are not left in a protection void.

11. CONCLUSION

The nation to which we belong is home to one of the world's largest populations, yet the resources and measures to ensure Article 21 is a question before the adjudicators. The fact is that India is not alone in this problem, almost all the world nations face this issue when it comes to protection of people. The plight of refugees is not different in any country. Climate

²⁷ Convention Relating to the Status of Refugees art. 1(A)(2), July 28, 1951, 189 U.N.T.S. 137; Protocol Relating to the Status of Refugees art. 1(2), Jan. 31, 1967, 606 U.N.T.S. 267.

²⁸ International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171; *Ioane Teitiota v. New Zealand*, Communication No. 2728/2016, U.N. Hum. Rts. Comm. (2019).

²⁹ Convention Governing the Specific Aspects of Refugee Problems in Africa, Sept

³⁰ U.N. Framework Convention on Climate Change (UNFCCC), Report of the Conference of the Parties on Its Twenty-Seventh Session, U.N. Doc. FCCC/CP/2022/10/Add.1 (Mar. 2023).

refugees being ignored for ages and leaving their lives stranded and undefined have only aggravated the issue. The explicit ignorance towards the climate refugees could be traced in the 1951 refugee convention that dealt with refugees, their protection, their vulnerabilities etc. The impact of climate induced migrations and the refugee crisis we see today is just the tip of the iceberg. The unsustainable pace of change in the environment is promising pandora of unfavourable events. The international legal regime has however initiated laws and conventions to include discourses on climate refugees. We definitely have a long way to go, but these small steps are sure to make big differences.

Climate-induced displacement displays significant gaps in existing international law. The 1951 Refugee Convention and its 1967 Protocol do not account for individuals facing environmental hazards leaving climate refugees in legal and humanitarian limbo. Regional frameworks such as OAU Convention and Cartagena Declaration, provide protection to some extent, while initiatives like Nansen Initiative, COP processes and the platform on growing international recognition. However these measures still remain non-binding. Comprehensive International law mechanisms are urgently needed to protect the rights of climate-displaced persons, ensure equal responsibility sharing.