
UNDERSTANDING THE CONTEMPORARY REALITY OF HUMAN RIGHTS IN THE LIGHT OF CLIMATE DISPLACEMENT

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ABSTRACT

Climate change is fundamentally changing human movement by forcing millions to leave their homes as rising seas, extreme weather events and environmental degradation make entire regions uninhabitable. However, those displaced are once again subjected to the issue of being neither recognised as refugees under international law nor protected by proper domestic frameworks. These problems leave some of the world's most vulnerable populations without basic rights and safety.

This paper examines the growing crisis of climate-induced displacement through both a global lens and focused case studies of nations facing the brunt of climate change such as Tuvalu and Bangladesh.

It explores gaps in existing legal frameworks, particularly the 1951 Refugee Convention's narrow definition that excludes climate migrants under the term "refugees" among other things. While international efforts through the UN Framework Convention on Climate Change and regional initiatives demonstrate growing recognition of the problem, they have yet to produce binding legal protections. Even nations like India, which have expanded constitutional rights to include protection from climate change impacts, struggle to address climate displacement effectively.

Analysing various sources of information, this paper tries to show the need for urgent legal reforms, including: formal recognition of climate displacement within domestic legal systems, expansion of refugee definitions to include environmental factors, creating planned migration frameworks, and giving equal importance to both sudden and slow-onset climate events in protection mechanisms. The paper attempts to convey that climate displacement is not merely a future threat but a present reality requiring immediate legal intervention.

INTRODUCTION

Climate change is increasingly becoming a key factor in displacement, worsening conflicts and forcing millions from their homes. In 2022, 70 percent of refugees and asylum seekers came from highly climate-vulnerable countries, a sharp rise from 56 percent in 2012. At the same time, long-lasting solutions seem to be out of reach. In 2020, only one percent of refugees were able to return home, a figure expected to reduce further as climate change continues to deteriorate living conditions in affected regions.¹ Additionally, many forcibly displaced and stateless individuals, along with their host communities, reside in the most climate-vulnerable areas, where access to sustainable resources and resilience to environmental shocks remain inadequate. Women, girls, and marginalised groups often bear disproportionate burdens due to existing social and cultural inequalities.²

Despite the increasing instances of climate-induced displacement, international legal frameworks fail to provide adequate protection. The 1951 Refugee Convention³ does not recognise climate migrants, thus leaving them in a legal vacuum without access to asylum or refugee status. Without urgent legal reform, millions will remain vulnerable to human rights violations, particularly those at risk of forced return to unsafe environments.⁴ The effects of climate change, desertification, rising sea levels, and extreme weather directly undermine fundamental human rights, including the rights to life, water and sanitation, food, health, and adequate housing. The climate displacement crisis is both a humanitarian emergency and a clear example of global inequalities. Countries that have done the least to cause climate change are suffering its effects the most. This situation underscores the urgent need for legal recognition and protective measures for those who have been displaced.⁵

This paper looks at the challenges of climate-related displacement and the shortcomings in current legal frameworks. It discusses the limits of the 1951 Refugee Convention, the weaknesses in human rights protections, and the need for legal and policy reforms. By

¹ UNHCR Refugee Data Finder (2020)

² U.N. High Comm'r for Refugees, *Climate Action: Focus Area Strategic Plan for 2024–2030* (2023), <https://reporting.unhcr.org/climate-action-focus-area-strategic-plan-2024-2030>.

³ Convention Relating to the Status of Refugees, 28 July 1951, 189 U.N.T.S. 137.

⁴ Human Rights Research Center, Climate-induced displacement: Establishing legal protections for climate refugees HRRC (2025), <https://www.humanrightsresearch.org/post/climate-induced-displacement-establishing-legal-protections-for-climate-refugees> (last visited Apr 8, 2025).

⁵ U.N. High Comm'r for Refugees, *Climate Change, Displacement and Human Rights* (Mar. 2022), <https://www.unhcr.org/sites/default/files/legacy-pdf/6242ea7c4.pdf>.

examining case studies of climate-sensitive countries like Tuvalu and Bangladesh, and reviewing India's legal stance on refugee protection, this study aims to show the urgent need for both international and domestic legal actions. It uses reports from the UN and UNFCCC, refugee conventions, and recent case law on climate justice to argue for broader definitions of refugees, the introduction of climate visas, and the creation of binding international agreements. As climate displacement increases, swift legal action is vital to protect the rights, dignity, and safety of those forced to escape their disappearing homelands.

CLIMATE CHANGE AND FORCED DISPLACEMENT

Causes for Displacement

Climate change has led to an increase in natural disasters, including flooding, hurricanes, typhoons, cyclones, and mudslides, with African and Asian being among the most affected regions. These disasters not only cause large-scale displacement but also result in significant economic losses. However, the extent of displacement depends largely on recovery efforts, and in many cases, return remains a possible durable solution. It is also important to acknowledge that while climate change has intensified the frequency and severity of such disasters, many hydro-meteorological events occur independently of climate change, just as other natural disasters, such as volcanic eruptions and earthquakes, have no direct link to it. However, displaced people from events of this nature should not be differentiated from people displaced due to climate-related disasters.

Besides outright disasters, slow-onset environmental degradation is also a significant cause of the process of displacement. Deteriorating water resources, desertification, episodic flooding, sinking coastlines, and increasing land and groundwater salinisation are some of the drivers that result in a slow reduction in economic opportunities and living standards. While these environmental stresses do not always result in forced displacement in a technical legal sense, they have a natural tendency to compel people to move towards better economic opportunities and living standards.

However, when entire regions become uninhabitable, whether through complete desertification or coastal submersion, the resulting population movements constitute forced displacement, often of a permanent nature.

One of the greatest effects of climate change is the flooding of small island states by sea level rise. The loss of habitable land on the islands creates a new type of humanitarian and legal crisis. When the lands become uninhabitable, and in the worst possible scenario, when an entire country becomes extinct, the affected groups are faced with permanent relocation to other countries. In such scenarios, the inability to return renders these individuals stateless and in urgent need of international protection.⁶

In addition to the direct impacts of climate-related disasters, governments may increasingly be required to designate high-risk zones that are too dangerous for human habitation. Increasing dangers such as increased flooding, landslides, and thawing permafrost in mountainous regions may cause forced resettlement and evacuation of people. In this, the displaced individuals not only have to leave their homes but are also prohibited from returning, thereby making their displacement permanent except by means of durable solutions. Unlike other displacements caused by disasters, where eventual return is an option, this form of displacement causes permanent or long-term resettlement.

Further, climate change-triggered scarcity of resources, and more particularly for essential resources such as water and food, may trigger conflict and armed violence. This is particularly so where reduced water supply, in addition to economic constraints, limits adaptation strategies towards new environmental circumstances. The probability of conflict increases where poverty limits choices to other livelihoods and, therefore, competition for the resources becomes a main cause of violence. Such conflicts will remain dominant as long as the issue of resource scarcity is not resolved, thereby constraining peace agreements and perpetuating long-term displacement. Uneven distribution of resource scarcity triggers such conflicts, with accompanying displacement and further aggravation of humanitarian crises.⁷⁸

As outlined in a 2024 UN technical brief dealing with the rise in sea levels⁹; coastal hazards

⁶ Giovanni Prete, Tuvalu: Why is the small island nation sinking? Earth.Org (2024), <https://earth.org/tuvalu-sinking-reality-how-climate-change-is-threatening-a-small-island-nation/> (last visited Apr 8, 2025).

⁷ Kristy Siegfried, *Climate Change and Displacement: The Myths and the Facts*, U.N. High Comm'r for Refugees (Nov. 15, 2023), <https://www.unhcr.org/in/news/stories/climate-change-and-displacement-myths-and-facts>.

⁸ Esther Lee Rosen, Elaine Kamarck & Marcela Escobari, Displacement caused by the effects of climate change: Who will be affected and what are the gaps in the normative framework for their protection? Brookings (2017), <https://www.brookings.edu/articles/displacement-caused-by-the-effects-of-climate-change-who-will-be-affected-and-what-are-the-gaps-in-the-normative-framework-for-their-protection/> (last visited Apr 8, 2025).

⁹ U.N. Dep't of Econ. & Soc. Affs., *Surging Seas in a Warming World: The Latest Science on Present-Day Impacts and Future Projections of Sea-Level Rise* (Aug. 26, 2024), https://www.un.org/sites/un2.un.org/files/slr_technical_brief_26_aug_2024.pdf.

and risks driven by climate change stem not only from rising sea levels but also from the intensification of storm surges, tides, and waves. The severity of coastal flooding and associated risks is further exacerbated by local land subsidence, which is often a consequence of human activities such as dam construction, groundwater extraction, and fossil fuel exploitation.¹⁰ The cumulative effects of these factors contribute to significant infrastructure damage due to coastal flooding, saltwater intrusion into groundwater and river systems, shoreline erosion, and the degradation or loss of coastal ecosystems and economic sectors. These impacts are already affecting, or are expected to pose, substantial risks to livelihoods, human settlements, public health and well-being, as well as food and water security.¹¹

Moreover, the repercussions of climate-induced displacement extend beyond coastal communities. Forced migration from coastal regions due to environmental degradation will likely lead to large-scale displacement to interior areas. Furthermore, interference with economic activities such as fisheries and agriculture, as well as destruction of port infrastructure, can significantly affect global food supply chains, the shipping business, and general economic stability. These would subsequently cause geopolitical, economic, and security issues at regional and global levels.¹²

Although it is not the main cause of migration, climate change is becoming a significant contributing factor. Even in areas where climate change is having a considerable impact, economic factors usually take precedence over environmental concerns when deciding where to migrate. For example, in El Salvador, Guatemala, and Honduras, only 6 percent of migrant-sending households cited climate and environment-related reasons for migration, as reported by the World Food Program, Migration Policy Institute, and Massachusetts Institute of Technology in 2021.¹³ Furthermore, a survey conducted by the Mixed Migration Centre in 2022 found that only 5% of Central African migrants relocated because of environmental issues. However, when asked if environmental factors played a role in their overall decision,

¹⁰ IPCC AR6 WGI Chapter 9, 2021; Shirzaei et al., 2021; Tay et al., 2022.

¹¹ Magnan, A.K., Oppenheimer, M., Garschagen, M. *et al.* Sea level rise risks and societal adaptation benefits in low-lying coastal areas. *Sci Rep* 12, 10677 (2022).

¹² IPCC AR6 WGII Cross-Chapter Paper 2: Cities and Settlements by the Sea, 2022.

¹³ Peter Dizikes, Report: Economics drives migration from Central America to the U.S. MIT News | Massachusetts Institute of Technology (2021), <https://news.mit.edu/2021/central-america-migration-economics-1123> (last visited Apr 8, 2025).

50 percent of the respondents said that they did.¹⁴

The difficulty of measuring migration brought on by climate change is highlighted by this complexity. Without a doubt, environmental factors have an impact, but these factors are frequently entangled with political, social, and economic factors. Since not all disasters, like earthquakes, are caused by climate change, the impact of climate change is not always evident in situations where displacement is directly caused by disasters. Furthermore, the way that displacement patterns are shaped is greatly influenced by government policies. For example, extended droughts in Syria have been associated with internal displacement. But, studies show that government policies, including the stopping of rural subsidies, decreased income security, and water access restrictions, were a bigger reason in causing migration and escalating instability.

Globally, natural disasters displace more people than armed conflicts, yet such displacement is generally short-term. By the end of 2022, of the 71.1 million internally displaced persons (IDPs) worldwide, only 8.7 million (12 percent) had been displaced by disasters.¹⁵ Generally, most individuals displaced by natural disasters eventually return to their homes or places of origin, unlike conflict-induced displacement, which often stops people due to fears of conflict persisting. Between 2019 and 2022, more than 20 million displacements occurred annually due to natural disasters; however, fewer than 9 million remained internally displaced at the end of each year.

Migration brought on by slow-onset climate change may prove to be more permanent and widespread than displacement brought on by disasters, which is typically temporary. Extreme temperature changes, land degradation, coastal erosion, and sea level rise are some of the phenomena that threaten rural livelihoods, make entire regions uninhabitable, and increase competition for limited resources.

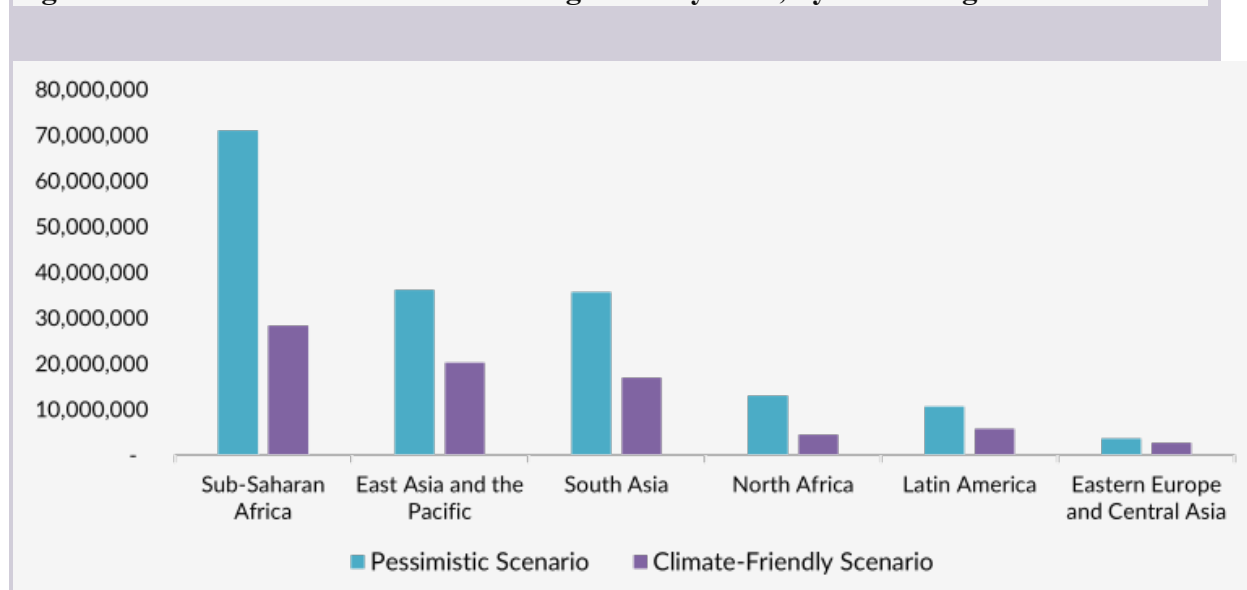
Moreover, gradual environmental degradation can amplify the effects of sudden disasters—for instance, when intensified rainy seasons or rising sea levels exacerbate the damage caused by

¹⁴ Climate-related events and environmental stressors' roles ..., https://mixedmigration.org/wp-content/uploads/2022/03/Climate-related_events_and_environmental_stressors_roles_in_driving_migration_in_West_and_North_Africa.pdf (last visited Apr 8, 2025).

¹⁵ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2023* (2023), <https://www.internal-displacement.org/global-report/grid2023/>.

floods and storms. According to the World Bank's worst-case scenario, as many as 216 million people could be internally displaced by 2050 due to worsening water scarcity and declining agricultural productivity. However, effective climate mitigation and adaptation measures could reduce this projection by 80 percent, bringing the estimated number of displaced persons down to 44 million.

Figure 1. Estimated Internal Climate Migration by 2050, by Select Region and Scenario



Note: Figure shows average number of internal climate migrants predicted under the different scenarios.

Source: Viviane Clement et al, *Groundswell Part 2: Acting on Internal Climate Migration*, (Washington, DC: World Bank, 2021), available online.

Typically, natural disasters result in large-scale but localised displacement, with most people returning home. Slow-onset climate change, on the other hand, encourages long-term migration, including international migration. However, as disasters become more common and severe and as slow-onset events take place along with sudden-onset events, it is becoming harder to differentiate between them.

The 2022 floods in Pakistan, which displaced about 8 million people and caused an estimated \$30 billion in damages, showed a clear example of this connection. Initially, displacement was internal, with people moving to higher ground. However, the disaster compounded pre-existing economic instability, inflation, and financial distress, prompting thousands of Pakistanis to migrate irregularly to Europe. This surge in migration was highlighted when a boat carrying

approximately 350 Pakistanis, along with hundreds of other migrants, capsized off the coast of Greece. Pakistan rose to fifth place in the first half of 2023, despite not being one of the top ten nationalities entering Europe illegally in 2022.¹⁶ Even though many migrants were driven primarily by economic considerations, the floods' effects surely exacerbated the situation and encouraged more people to migrate abroad.¹⁷

Thus, the scale of displacement seems to be of concern, though limited for now to mostly Internal Displacement. However, the projections by various reports signify that the situation is well set to take a turn for the worse, resulting in alarming consequences in the near future.

Understanding through Individual Case Studies

1. Tuvalu

With a total land area of merely 26 km² and an elevation that does not exceed five meters, Tuvalu's population of approximately 11,000 faces one of the highest risks of permanent displacement due to rising sea levels and increasing global temperatures. Given its extreme vulnerability, Tuvalu has consistently advocated for robust international climate action since joining the United Nations in September 2000. Given that not only is Tuvalu's entire territory at risk, but also its rich and distinctive cultural heritage, it is imperative that effective, workable, and sustainable solutions to climate-induced displacement be developed.

Regarding engineering-based adaptation strategies, Melton Tauito, the National Climate Change Coordinator, has estimated that constructing a seawall around Fongafale, the principal islet of Funafuti, where nearly half of Tuvalu's population resides, would require an investment of \$30 million. Although this initiative represents the most expensive climate-related infrastructure project in Tuvalu to date and would necessitate ongoing maintenance, assessing the feasibility of such micro-level solutions remains a crucial endeavour.

If eventual displacement from Tuvalu becomes inevitable, the government would not be engaging in an unfamiliar course of action. As noted, inter-island migration has been a

¹⁶ Int'l Org. for Migration, *Perilous Journeys: Unravelling Irregular Migration from Pakistan* (2024), https://pakistan.iom.int/sites/g/files/tmzbd11121/files/documents/2024-06/perilous-journeys-unravelling-irregular-migration-from-pakistan_0.pdf.

¹⁷ Lawrence Huang, Climate migration 101: An explainer migrationpolicy.org (2024), <https://www.migrationpolicy.org/article/climate-migration-101-explainer> (last visited Apr 8, 2025).

longstanding practice within the Pacific region and Tuvalu itself, with a significant number of Tuvaluans having permanently resettled in New Zealand over the years. Historically, Tuvaluans have also engaged in labour migration, working on plantations in Samoa and Queensland, Australia, as well as in phosphate mines on Banaba Island (Kiribati) and Nauru. Additionally, internal migration from the outer islands to Funafuti has been substantial since the late 1990s and continues to this day, alongside temporary migration of students to Fiji for higher education at the University of the South Pacific.

Programs for migration aimed at helping Tuvaluans could take many different forms. The largest programs are currently being carried out by New Zealand, which admits 75 Tuvaluan migrants per year under the Pacific Access Category (PAC). In addition, Tuvaluans are allowed to work in the agricultural industry for six to nine months under New Zealand's seasonal migration program. These initiatives, however, are still insufficient to adequately meet Tuvaluans' needs because the annual quota is rarely reached and the strict PAC eligibility requirements present considerable difficulties.¹⁸

Australia and Tuvalu signed the historic Falepili Union cooperation agreement on November 9, 2023.¹⁹ Through this historic agreement, 280 Tuvaluans will have the chance to become permanent residents of Australia each year. The three main pillars of the agreement are security, mobility, and climate cooperation. Australia has committed to helping Tuvalu adapt to climate change as part of its climate commitments, including contributing AU\$11 million (US\$7.2 million) to the Tuvalu Coastal Adaptation Project.

The mobility clause provides a particular migration pathway via which Tuvaluans are permitted to live, work, and study in Australia on a permanent basis. In addition, the security component provides arrangements for assistance following a natural disaster. Not only does the treaty provide a template for addressing the challenge of countries impacted by climate change, but it also emphasises the need for additional international legal instruments to assist with

¹⁸ U.N. Framework Convention on Climate Change, *Finding Land Solutions to Climate Displacement* (Task Force on Displacement, 2021), https://unfccc.int/files/adaptation/groups_committees/loss_and_damage_executive_committee/application/pdf/ds-report-finding-land-solutions-to-climate-displacement.pdf.

¹⁹ Treaty Between the Government of Australia and the Government of Tuvalu Concerning the Australia–Tuvalu Falepili Union, Nov. 9, 2023, <https://www.dfat.gov.au/sites/default/files/australia-tuvalu-falepili-union-treaty.pdf>.

relocation schemes and make equitable and sustainable arrangements for the impacted populations.²⁰

Tuvalu, being highly vulnerable to the issues of climate change, requires strong legal frameworks to deal with the displacement of its citizens. While adaptation measures offer short-term mitigation, sustainable long-term solutions need greater international commitments and contributions. The Falepili Union is a step in the right direction, but wider legal protection is needed to deliver equitable and sustainable solutions for those displaced by climatic conditions.

2. Bangladesh

While small island nations dominate media coverage and global discussions on climate displacement, Bangladesh is likely to be the most affected in absolute numbers. As one of the world's most densely populated countries, with a population exceeding 170 million, Bangladesh already faces severe land scarcity, overcrowding, and rapidly expanding slums, which grow by two million dwellers annually. With half of its population residing in areas less than five meters above sea level, climate-induced displacement is already occurring along much of the country's coastline.

According to one analysis, under a severe climate change scenario, sea level rise presents an existential threat that could submerge 18% of Bangladesh's total land, directly impacting 11% of the population. Moreover, with saltwater seeping into low-lying agricultural plains, along with other climate hazards, there could be a 40% reduction in food grain production, further creating a situation of forced migration to urban slums.²¹ Projections suggest that a 1 to 2-degree temperature increase could physically displace 20 to 35 million people, with long-term modelling indicating that by 2050, one in every seven Bangladeshis may be uprooted due to climate change.²²

The Bangladesh government has acknowledged the widespread issue and scale of the climate displacement but has not tried to develop any comprehensive plans, programs, policies, or

²⁰ Giovanni Prete, Tuvalu: Why is the small island nation sinking? Earth.Org (2024), <https://earth.org/tuvalu-sinking-reality-how-climate-change-is-threatening-a-small-island-nation/> (last visited Apr 8, 2025).

²¹ Md Shamsuddoha and Rezaul Karim Chowdhury, Climate Refugee: requires dignified recognition under a new Protocol, Equity and Justice Working Group Bangladesh, pp. 3-4, April 2009

²² These are commonly cited figures, though a recent report gives substantially higher estimates of 95 million displaced persons by 2040. See: <http://www.defence.pk/forums/bangladesh-defence/221847-95-72-million-may-climate-displaced-2040-a.html>.

institutional frameworks to address it in a sustainable and human rights-based manner. While many within the government recognise how bad the situation is, the political will, financial resources, and technical capacity needed to implement effective, rights-based adaptation measures remain absent.²³

Rather than designing and implementing national solutions, the government has strongly advocated for recognition of environmental “refugees” and tried to push for international intervention and for their acceptance into global migration programs. As a result, most of those displaced by natural hazards and climate change have received little to no formal support, and there are currently no government programs to assist them in securing new homes or lands to replace what was lost to climate change-related issues.

This lack of assistance from their home state has forced many displaced persons to relocate independently, often moving to overcrowded urban slums in Dhaka or the Chittagong Hill Tracts, despite its unsuitability for large-scale resettlement. For the vast majority already displaced, the possibility of returning to their former lands remains distant, leaving them in highly precarious conditions with no viable long-term solutions.

The Chittagong Hill Tracts (CHT), located in the eastern part of Bangladesh along the borders of Myanmar and India, is the country's largest highland region with mountainous terrain. Some have proposed that the high ground of the CHT could serve as a relocation site for lowland and coastal populations displaced by climate change.²⁴ In fact, some community leaders from southeastern Bangladesh have already relocated independently to the CHT, establishing small settlements without government support.

But thorough studies have established that resettlement of climate-displaced individuals from the lowlands to the CHT would be detrimental to the environmental balance of the region and its original dwellers. The CHT remains one of the poorest and most underprivileged regions of Bangladesh, with low rates of income, employment, poverty, health, water, sanitation,

²³ Dulal Chandra Roy, Vulnerability and population displacements due to climate-induced disasters in coastal Bangladesh, Centre for Geoinformatics (Z_GIS), University of Salzburg, Austria.

²⁴ Mohammad Shahid Ullah, Md Shamsuddoha & Mohammad Shahjahan, ‘The Viability of the Chittagong Hill Tracts as a destination for Climate Displaced Communities in Bangladesh’ in Land Solutions to Climate Displacement (Scott Leckie, ed), Earthscan from Routledge, 2014.

education, and women's employment, and with perennial problems regarding infrastructure development and intercommunity relations.

In addition to this, government resettlement policies hitherto encouraging Bengali settlement in non-Bengali areas of the CHT have already caused irreversible changes to the land and the people. The CHT's delicate ecosystem is already overpopulated and cannot sustain the population it has, let alone an influx of large numbers of climate migrants.

Given these constraints, the CHT is not a viable destination for climate-displaced communities, and alternative land options must be identified to ensure that the 20–35 million displaced individuals can have their housing, land, and property (HLP) rights secured in the future.^{25 26}

Bangladesh is facing one of the world's most severe climate-induced displacement crises, which risks displacing millions forcibly. While recommendations have been made to resettle displaced persons to the Chittagong Hill Tracts (CHT), earlier studies have shown that such recommendations are not ecologically and socially sustainable. With the vulnerability of the CHT as well as of its indigenous people, there is an imperative to identify alternative resettlement options that uphold and safeguard the housing, land, and property (HLP) rights of climate-displaced persons.

The Bangladesh and Tuvalu case studies highlight the need for comprehensive legal and policy frameworks to counter climate-induced displacement. Tuvalu's high territorial vulnerability has led to international agreements like the Falepili Union, offering permanent residency options as anticipatory migration. These short-term endeavours do not provide enduring solutions to national sovereignty and cultural protection.

Bangladesh, however, is threatened by a mass displacement crisis from sea level rise and weather-related crises, with millions already at risk. Although the government has acknowledged the extent of the problem, it does not have rights-based adaptation measures or

²⁵ *Supra* note

²⁶ U.N. Framework Convention on Climate Change, *Finding Land Solutions to Climate Displacement: A Policy Brief by the UNFCCC's Task Force on Displacement* (2021), https://unfccc.int/files/adaptation/groups_committees/loss_and_damage_executive_committee/application/pdf/ds-report-finding-land-solutions-to-climate-displacement.pdf.

effective policies, and therefore, many are forced to migrate irregularly to slums in urban areas or inappropriate places such as the Chittagong Hill Tracts.

Both these cases underscore the lack of international and domestic legal protection for climate-displaced persons, and the need for legally binding agreements, such as the expansion of refugee definitions, climate visas, and sustainable resettlement programs, to ensure their fundamental rights and dignity.

LEGAL GAPS IN PROTECTING PEOPLE DISPLACED BY CLIMATE CHANGE: “CLIMATE REFUGEES”

The 1951 Refugee Convention

1. The Concept of “Climate Refugees”

Climate refugees are regarded as persons who are displaced within their own country of habitual residence or who have crossed an international border and for whom environmental degradation, deterioration or destruction is a major cause of their migration.²⁷

According to the 1961 protocol read with the 1951 convention Relating to the Status of Refugees, a “refugee” is defined as a person who has crossed an international border “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.”²⁸

The provision does not explicitly include those displaced due to natural disasters and/or factors induced by climate change, generally referred to as ‘climate refugees’.

However, the United Nations High Commissioner for Refugees (UNHCR) recognises climate change and disasters, in a broader sense, can exert substantial adverse impacts on the foundations of states and societies, as well as individual well-being and the ability to enjoy fundamental human rights and says that it is crucial to acknowledge the multifaceted nature of

²⁷ United Nations High Commissioner on Refugees, ‘Climate change, natural disasters and human displacement: a UNHCR Perspective,’ (Oct. 23, 2008), <https://www.unhcr.org/what-we-do/build-better-futures/environment-disasters-and-climate-change/climate-change-and#:~:text=It%20recognizes%20that%20%E2%80%9Cclimate%2C%20environmental,strike%20is%20not%20an%20option.%E2%80%9D>.

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

these challenges and their potential far-reaching effects.²⁹ By taking a narrow view on the effects of climate change and disasters, there is a risk that decision-makers may decide that refugee law is inapplicable and deny access to refugee status determination even when they are eligible for it.³⁰

The fact that the Convention refuses the status of a ‘refugee’ to a person facing genuinely life-threatening circumstances as a result of a natural disaster reflects a “misplaced set of priorities.”³¹

Moreover, the threshold for those seeking refuge due to the adverse effects of climate change was explained by the Human Rights Committee in its recent decision³² providing that climate change-induced harm can occur through sudden-onset events and slow-onset processes, which can propel cross-border movement of individuals seeking protection from climate change-related harm, exposing individuals to a violation of their right to life, thereby triggering the non-refoulement obligations of sending states.³³

2. Expansion of Existing Framework

The International Red Cross estimates that there are more people displaced due to the adverse effects of climate change than political refugees fleeing from wars and other conflicts.³⁴ According to the UN’s Intergovernmental Panel on Climate Change, currently there are around 25 million climate refugees, while there could be as many as 150 million by 2050.³⁵

These individuals should be granted refugee status due to the extreme danger they face if they were to return to their home countries, leaving them with no choice but to seek sanctuary elsewhere.³⁶

²⁹ *Supra* note 28.

³⁰ Int’l Law Comm’n, Rep on the Work of its Sixty-Eighth Session, (2016).

³¹ See Joseph Carens, *The Ethics of Immigration* (2013).

³² *Ioane Teitiota v. New Zealand*, CCPR/C/127/D/2728/2016, UN Human Rights Committee (HRC), 7 January 2020.

³³ *Ioane Teitiota v. New Zealand*, CCPR/C/127/D/2728/2016, UN Human Rights Committee (HRC), 7 January 2020, para 9.11.

³⁴ Displacement in a changing climate: IFRC IFRC, <https://www.ifrc.org/document/displacement-in-a-changing-climate#:text=Millions%20of%20people%20around%20the,%2D%20and%20slow%20hazards>. (last visited Sep 24, 2023)

³⁵ Pinaki Roy, *Climate Refugees of the Future*, International Institute of Environment, available at <http://www.iied.org/climate-refugees-future> (last updated on 30 April 2009).

³⁶ “refugees” and “migrants” – frequently asked questions (faqs) UNHCR, <https://www.unhcr.org/news/stories/refugees-and-migrants-frequently-asked-questions->

In this context, it is required to expand existing frameworks and definitions to address this issue. As seen in the case of the 1951 Convention, it was more or less limited to protecting European refugees in the aftermath of World War II, but the 1967 Protocol amended the Convention and expanded its scope as the problem of displacement spread around the world, bringing international protection to people who “are forced to move for a complex range of reasons including persecution, widespread human rights abuses, armed conflict and generalized violence.”³⁷

In much the same way that the 1951 Convention’s definition was broadened to encompass international protection and other considerations, a pressing and unignorable need has emerged in the form of climate change and its devastating consequences, driving people to seek refuge.

Therefore, the time has come for us to formally acknowledge climate refugees as a separate category within the international framework. Just as the 1967 protocol was tweaked to adapt and address evolving challenges, we must now take proactive steps to recognise and address this urgent issue in our changing world.

3. Eligibility for Refugee Status Under 1951 Convention and 1967 Protocol Relating to the Status of Refugees

Climate change-induced harm and natural disasters can manifest as either sudden or gradual events. In both the immediate and extended periods, populations impacted by these phenomena may face a real threat of human rights violations that meet the criteria for persecution as defined by the 1951 Convention.³⁸

Individuals can legitimately seek refugee status when the negative impacts of climate change or disasters intersect with conflict and violence. Such adverse effects can intensify violence or be exacerbated by it, leading to a situation where the government is unable to safeguard those affected from violence. This, in turn, creates a well-founded fear of persecution based on one or more grounds defined by the Convention.

faqs#:~:text=They%20are%20so%20recognized%20precisely,asylum%20has%20potentially%20deadly%20consequences. (last visited Sep 21, 2023).

³⁷ Partnership: An operations management handbook for UNHCR’s partners (UNHCR) (2003).

³⁸ UN High Commissioner for Refugees (UNHCR), *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, April 2019, HCR/1P/4/ENG/REV. 4.

The legal concept encapsulated by “events [circumstances] seriously disturbing public order” holds particular significance in refugee claims pertaining to the adverse consequences of climate change and disasters. The United Nations has delineated a disaster as :

“[a] severe disruption of the normal functioning of a community or society at any scale due to hazardous events interacting with conditions of exposure, vulnerability, and capacity, resulting in one or more of the following: human, material, economic, and environmental losses and impacts.” Moreover, it also asserts that “[t]he impact of the disaster can be immediate and localised, yet often extends widely and endures over an extended period. It may strain or surpass a community or society’s ability to manage using its own resources, potentially necessitating assistance from external sources, which could encompass neighbouring regions or entities at the national or international levels.”³⁹

The current circumstances in affected countries can and have adversely affected their social fabric, leading to civil unrest and conflict as various communities vie for increasingly scarce resources. Furthermore, they grapple with widespread violence, hunger, and illness. As a result, there has been a significant loss of life as well.

The Principle of Non-Refoulement

The principle of non-refoulement forbids the state from returning a person to a country where they would suffer irreparable harm or torture.⁴⁰ The principle of non-refoulement constitutes one of the most basic principles of International Refugee Law⁴¹ and is equally applicable to refugees, asylum seekers and aliens who require refuge.⁴² The principle is codified in Article 33 of the Convention Relating to the Status of Refugees, 1951, hereinafter referred to as the 1951 Convention and also forms a part of International Customary law.

³⁹ See: UNDRR, *online glossary*, www.undrr.org/terminology/disaster (UNDRR Terminology). Disasters can be linked to sudden or slow onset natural hazards, including but not limited to those related to climate change impacts; See: UNHCR, *Key Concepts on Climate Change and Disaster Displacement*, www.unhcr.org/protection/environment/5943aea97/key-concepts-climate-change-disaster-displacement.html.

⁴⁰ *Technical note: The principle of non-refoulement under International Human Rights Law* (2018), OHCHR, <https://www.ohchr.org/en/documents/tools-and-resources/technical-note-principle-non-refoulement-under-international-human> (last visited Sep 24, 2023).

⁴¹ Hathaway, J.C. Preface -Symposium on the Human Rights of Refugees. *Journal of Refugee Studies*.1994; 17:79; Executive Committee, 31st Session (1981), Resolution No. 17 on Problems of Extradition Affecting Refugees.

⁴² UN High Commissioner for Refugees (UNHCR), UNHCR Note on the Principle of Non-Refoulement, November 1997.

Article 33 of the 1951 Convention protects those who are classified as refugees under the definition given in Article 1 of the Convention from refoulement.⁴³ The provision prevents any contracting state from deporting or returning a refugee to any country where his life or freedom is threatened.⁴⁴ Moreover, Article 42 of the Convention, which allows states to make reservations to the Articles of the Convention, specifically mentions that no state can make reservations to Article 33, thereby ensuring the non-derogability of the principle.⁴⁵ Countries which have already signed and ratified the 1951 Convention are bound to follow the principles embodied in it, particularly the principle of non-refoulement.

Therefore, since these refugees are incorporated under the definition of ‘refugees’ in Article 1 of the 1951 Convention, countries are duty-bound to grant them protection against non-refoulement.

Additionally, the principle of non-refoulement also forms a part of Customary International law.⁴⁶ Further, the observations of the International Court of Justice in the case of *Nicaragua v. United States of America* state that to evaluate the existence of customary rules, the general conduct of the states is to be examined. Specifically, when a State acts in a way prima facie inconsistent with a recognised rule and defends such action through the ‘*exceptions or justifications of the rule*’, the significance of the rule is further reiterated instead of weakening the same.⁴⁷ Thus, states adopting justifications stating that it is against their public policy or laws would stand to be violating the principle of non-refoulement and thereby, customary international law as well.

INTERNATIONAL EFFORTS AND POLICY RESPONSES

United Nations Initiatives

To address the growing challenges caused by climate-induced displacement, the United Nations and its agencies have taken major steps towards integrating human mobility into global

⁴³ *Supra* note 29, at Art. 33(1).

⁴⁴ *Id.*

⁴⁵ *Supra* note 29, at Art. 42.

⁴⁶ UN High Commissioner for Refugees (UNHCR), *The Principle of Non-Refoulement as a Norm of Customary International Law. Response to the Questions Posed to UNHCR by the Federal Constitutional Court of the Federal Republic of Germany in Cases 2 BvR 1938/93, 2 BvR 1953/93, 2 BvR 1954/93*, 31 January 1994, <https://www.refworld.org/docid/437b6db64.html>.

⁴⁷ *Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.)*, Judgment, 1986 I.C.J. Rep.14, (June 27, 1986).

action on climate. Through guidelines, task forces, and joint partnerships, these organisations are trying to strengthen protection, foster resilience, and assist vulnerable populations by dealing with the root causes and consequences of climate displacement.

1. United Nations Framework Convention on Climate Change (UNFCCC)

Since the 13th Conference of the Parties (COP13) to the United Nations Framework Convention on Climate Change (UNFCCC), held in Bali, Indonesia, in December 2007, with the adoption of the Bali Action Plan and the establishment of the Ad Hoc Working Group on Long-Term Cooperative Action (AWG-LCA), there has been a growing recognition of the interrelation between human mobility and climate change within international climate negotiations. Building on the submissions of Parties and observer organisations to the AWG-LCA during the preceding year, the issue of human mobility was explicitly referenced in the assembly text prepared by the AWG-LCA at COP14 in Poznań, Poland, in December 2008. This text served as a foundation for subsequent negotiation efforts. Additionally, COP14 marked the hosting of the first official side event focused specifically on the nexus of human mobility and climate change.

Subsequent COP decisions, especially those that were taken at COP16, COP18, COP21, and COP23, have officially recognised displacement, migration, and relocation caused by climate change. The rising awareness and willingness of states to embrace human mobility in the international climate change debate have been made possible by the continued and coordinated involvement of different stakeholders. These include members of the Climate Change, Environment and Migration Alliance (CCEMA)—comprising the International Organization for Migration (IOM), Munich Re Foundation (MRF), Stockholm Environment Institute (SEI), United Nations Environment Programme (UNEP), United Nations Office for the Coordination of Humanitarian Affairs (OCHA), United Nations University – Institute for Environment and Human Security (UNU-EHS), and the University of Sussex (Development Research Centre on Migration, Globalisation and Poverty), and the Advisory Group on Climate Change and Human Mobility. The latter group includes IOM, the United Nations High Commissioner for Refugees (UNHCR), UNU-EHS, United Nations Development Programme (UNDP), Norwegian Refugee Council (NRC), Internal Displacement Monitoring Centre (IDMC), Refugees International (RI), Sciences Po – Centre de recherches internationales (CERI), the Arab Network for Environment and Development (RAED), and the Representative of the Secretary-

General on the Human Rights of Internally Displaced Persons.

Moreover, the Task Force on Displacement (TFD)⁴⁸, consisting of 13 members, was established in March 2017. Its first in-person meeting was held on 18–19 May 2017 in Bonn, Germany. During this meeting, the TFD outlined a series of activities necessary for fulfilling its mandate. Based on the discussions at this meeting, the Task Force's Work Plan was developed and subsequently adopted inter-sessionally by the Executive Committee of the Warsaw International Mechanism for Loss and Damage (WIM Excom) in 2017.⁴⁹

Currently, the activities undertaken under the UNFCCC by the WIM Excom represent the most detailed example of a global policy framework that incorporates climate change and human mobility aspects, rivalled only by the Global Compact for Safe, Orderly and Regular Migration (GCM). The topic of human mobility is strongly rooted in the Paris Agreement and has been further operationalised through the activities of the WIM Excom. The issue is a recurring one in climate talks, and the fact that it is included in the WIM Excom's five-year rolling work plan assures ongoing focus at least through the next five years. This represents a significant progression, considering that until recently, human mobility was largely absent from the global climate agenda.

The institutionalisation of the intersection between human mobility and climate change has now created both policy-level and operational opportunities to support states confronting the challenges of climate-induced migration and displacement, as well as the individuals and communities affected by these phenomena.⁵⁰

2. Global Compact on Refugees

The United Nations General Assembly passed the Global Compact on Refugees (GCR) on 17 December 2018, a milestone in the global community's acknowledgement of the increasing overlap between displacement, disasters, environmental degradation, and climate change. The United Nations High Commissioner for Refugees (UNHCR) has recognised that the GCR

⁴⁸ U.N. Framework Convention on Climate Change, *Task Force on Displacement* (2018), <https://unfccc.int/node/285#eq-2>.

⁴⁹ UNFCCC (2018), Migration, displacement and human mobility, available from <https://unfccc.int/process/bodies/constitutedbodies/executive-committee-of-the-warsaw-international-mechanism-for-loss-and-damage-wim-excom/areas-of-work/migration--displacement-and-human-mobility>.

⁵⁰ U.N. Framework Convention on Climate Change, *Task Force on Displacement: Thematic Area II.2 – Mapping Human Mobility (Migration, Displacement and Planned Relocation)* (2018), <https://unfccc.int/sites/default/files/resource/WIM%20TFD%20II.2%20Output.pdf>.

accurately captures the rising displacement caused by these factors and offers a complete framework for taking measures to tackle ensuing complicated challenges.

The most significant contribution of the GCR is that it recognises the application of burden- and responsibility-sharing mechanisms to states that are affected by displacement caused by natural disasters and environmental degradation. Paragraph 12 specifically recognises that “external forced displacement may result from sudden-onset natural disasters and environmental degradation,” confirming that States so affected “may seek support from the international community to address” these issues.⁵¹ The terminology is chosen specifically so that the Compact is not reserved for classic refugee circumstances only, but also covers nations facing the wider effects of environmental disasters.

Moreover, the Compact’s Paragraph 8 points out that while climate change, environmental degradation, and natural disasters are not drivers of refugee movements per se, they “increasingly interact with the drivers of refugee movements.”⁵² The language used here captures the growing complexities of displacement contexts, where environmental stress contributes to pre-existing problems.

The Compact also emphasises the mitigation of disaster risks (Paragraph 9)⁵³, and the implementation of preparedness measures (Paragraphs 52–53) in terms of global, regional, and national early warning and early action systems.⁵⁴ It calls for enhanced evidence-based forecasting of imminent displacement and emergencies, including forced internal displacement. Notably, Paragraph 79 also encourages the integration of refugees into disaster risk reduction strategies, highlighting the importance of their protection in vulnerable environments.⁵⁵

In addition, Paragraph 63 calls upon actors who have the mandate and competence in relation thereto to provide guidance and assistance for resolving wider protection and humanitarian

⁵¹ Global Compact on Refugees, ¶ 12, U.N. Doc. A/73/12 (Part II) (Dec. 17, 2018), https://www.unhcr.org/gcr/GCR_English.pdf.

⁵² Global Compact on Refugees, ¶ 8, U.N. Doc. A/73/12 (Part II) (Dec. 17, 2018), https://www.unhcr.org/gcr/GCR_English.pdf.

⁵³ Global Compact on Refugees, ¶ 9, U.N. Doc. A/73/12 (Part II) (Dec. 17, 2018), https://www.unhcr.org/gcr/GCR_English.pdf.

⁵⁴ Global Compact on Refugees, ¶ 52-53, U.N. Doc. A/73/12 (Part II) (Dec. 17, 2018), https://www.unhcr.org/gcr/GCR_English.pdf.

⁵⁵ Global Compact on Refugees, ¶ 79, U.N. Doc. A/73/12 (Part II) (Dec. 17, 2018), https://www.unhcr.org/gcr/GCR_English.pdf.

issues. This entails taking steps to benefit persons forcibly displaced by natural disasters, in accordance with domestic law, regional instruments, and settled practices like temporary protection and arrangements for humanitarian stay. Such tools are particularly important in filling legal and operational gaps where international protection systems are lacking.⁵⁶

Importantly, the GCR also envisages the formation of a “global academic network on refugee, other forced displacement, and statelessness issues,” as outlined in Paragraph 43.⁵⁷ This endeavour includes working together among universities, academic networks, research institutes, UNHCR, and other stakeholders concerned, with a mandate to facilitate research, training, and scholarship projects compatible with the goals of the Compact.

It places a strong focus on guaranteeing regional representation and multidisciplinary competencies. The academic community possesses significant potential to bridge long-standing knowledge and data gaps, especially in the field of international protection in cross-border disaster displacement cases. It also provides the platform for examining challenging nexus situations where conflict or violence combines with environmental degradation or the effects of climate change.⁵⁸

In essence, the Global Compact on Refugees reflects a visionary and people-centred response to displacement in the age of environmental crisis. By recognising the multidimensional drivers of displacement and enabling concerted responses at both policy and operational levels, it enhances the global system for dealing with one of the most urgent humanitarian issues of our time.

3. UNHRC Stance

The United Nations High Commissioner for Refugees (UNHCR) has increasingly recognised the significant role of climate change in displacement trends globally. With the increased overlap between environmental deterioration, climatic disasters, and forced migration, UNHCR has set out a holistic position that positions climate change as both driver and multiplier of displacement. Its strategy focuses on the safeguarding of rights and dignity of

⁵⁶ Global Compact on Refugees, ¶ 63, U.N. Doc. A/73/12 (Part II) (Dec. 17, 2018), https://www.unhcr.org/gcr/GCR_English.pdf.

⁵⁷ Global Compact on Refugees, ¶ 43, U.N. Doc. A/73/12 (Part II) (Dec. 17, 2018), https://www.unhcr.org/gcr/GCR_English.pdf.

⁵⁸ U.N. High Comm’r for Refugees, *Climate Change and Disaster Displacement in the Global Compact on Refugees* (2019), <http://unhcr.org/au/sites/en-au/files/legacy-pdf/5c9e13297.pdf>.

climate crisis-affected displaced and stateless persons and on building resilience, sustainability, and long-term solutions together with governments, humanitarian actors, and the private sector.

It also goes on to report that a significant proportion of the world's forcibly displaced individuals, individuals fleeing persecution, war, and violence, reside in highly exposed nations to climate change and are poorly equipped to manage its adverse effects. Displaced individuals often find themselves residing in remote, densely populated camps or informal settlements with no access to essential infrastructure and basic services. This exposure worsens their susceptibility and vulnerability to climate hazards such as floods, droughts, storms, and heatwaves.

In addition, the climate crisis weakens displaced individuals' capacity to start anew, as it disturbs livelihoods and degrades self-sufficiency. It may also worsen competition for precious resources such as water, cultivable land, and fuel, threatening peaceful coexistence with host populations and among displaced communities. Most refugees and internally displaced people come from climate-exposed areas, where intensifying weather shocks and worsening environmental degradation are overlaying existing instability and frustrating efforts at sustainable peace or voluntary, safe return.

Without specific assistance to enable them to prepare for, cope with, and recover from climate-related stress, these groups are at greater risk of secondary displacement. It is thus crucial to address climate change as a driver of displacement in an effort to disrupt this cycle and promote durable solutions.

UNHCR's Response to the Climate Crisis

UNHCR has shown its commitment through its *Strategic Framework for Climate Action*⁵⁹, and it goes into further detail in the *Strategic Plan for Climate Action 2024–2030*⁶⁰. This global roadmap outlines primary actions to be taken with the help of collaborations with governments and a diverse range of partners. Its overarching goal is that by 2030, an increasing number of forcibly displaced and stateless persons—either displaced by climate-fueled crises or residing

⁵⁹ U.N. High Comm'r for Refugees, *Strategic Framework for Climate Action* (2021), <https://www.unhcr.org/media/strategic-framework-climate-action>.

⁶⁰ U.N. High Comm'r for Refugees, *Strategic Plan for Climate Action 2024–2030* (2024), <https://reporting.unhcr.org/climate-action-focus-area-strategic-plan-2024-2030>.

in climate-vulnerable states—will be protected, resilient to climate impacts, and empowered to lead self-reliant lives.

UNHCR emphasises that this vision cannot be realised in isolation. In support of host governments, it seeks to work alongside humanitarian and development organisations and the private sector to pursue four central objectives by 2030:

- I. Ensure protection for those fleeing persecution, violence, and human rights violations related to climate change and disasters.

UNHCR is enhancing understanding of the international protection entitlements applicable to individuals displaced in the context of climate change and disasters. It is also working to strengthen the technical capacities of state institutions and partner organisations to assess and respond to asylum claims arising from such contexts. Additionally, UNHCR assists states in safeguarding and supporting their citizens during internal displacement linked to climate change, including through the development of relevant laws and policies.

- II. Facilitate access to services that promote the sustainable use of natural resources and a clean, healthy environment

UNHCR collaborates with displaced communities to protect and restore the environment, adopt renewable energy solutions, and improve access to climate-smart water and sanitation services.

- III. Support displaced and stateless people, along with host communities, in building resilience to climate impacts

UNHCR partners with national and local authorities to bolster social protection mechanisms for displaced persons facing climate-related shocks and disasters. The agency also provides climate-resilient and sustainable shelter solutions and cash-based assistance to mitigate immediate risks. Moreover, it engages in strengthening climate-resilient livelihoods, early warning systems, preparedness initiatives, and social protection programmes tailored to displacement settings.

IV. Minimise UNHCR's environmental footprint

In line with its perception as well as role as a global leader in sustainability, UNHCR is actively lowering its greenhouse gas emissions, transitioning to renewable energy, and improving the sustainability of its supply chain activities.

In conclusion, the UNHCR sees climate change as an important factor which drives displacement of people and is determined to tackle it through a multi-directional and collective response. By responding to both the causes and effects of climate-induced displacement, and providing protection and resilience to displaced persons, the agency aims to create channels towards durable stability and dignity for the world's most vulnerable people.⁶¹

Regional Measures and Agreements

Regional measures and agreements have become critical tools in tackling the worrying trend of displacement driven by climate change, especially taking into consideration the lack of binding international legal instruments. These regional responses capture the specific geographic, socio-political, and environmental vulnerabilities of various regions and seek to promote cooperation, ease mobility, and provide protection for displaced individuals within and across borders.

1. Efforts by the EU

The European Union (EU) has a complex role in responding to climate displacement through humanitarian aid, development programming, and major investment in data, research, and the production of knowledge. The policy response of the EU seeks to address climate and environmental issues in tandem while making a strong case for incorporating climate displacement thinking across all policy areas.

In recent years, the EU has amplified its interest in the matter by issuing a new policy paper. *The Commission Staff Working Document*⁶², released in order to coincide with the start of the EU's Presidency of the *Platform on Disaster Displacement (PDD)*, was jointly drafted by the

⁶¹ <https://www.unhcr.org/what-we-do/build-better-futures/climate-change-and-displacement>

⁶² Commission Staff Working Document, *Addressing Displacement and Migration Related to Disasters, Climate Change and Environmental Degradation*, SWD (2022) 681 final (Oct. 10, 2022), https://ec.europa.eu/commission/presscorner/detail/en/ip_22_6087.

Directorate-General for European Civil Protection and Humanitarian Aid Operations (DG ECHO) and the Directorate-General for International Partnerships (DG INTPA). This paper aims to promote prompt and effective assistance to people who are vulnerable to, or already suffering from, displacement and the development of resilient communities based on sustainable methods.⁶³

In addition, the EU has a strong partnership with the *Internal Displacement Monitoring Centre (IDMC)*, collaborating on data collection, analysis, and research. Through these joint efforts, the risks and impacts of disaster- and climate-driven displacement are to be reduced through developmental interventions in pilot countries and areas chosen.

The Platform on Disaster Displacement (PDD) mentioned above is a State initiative that aims to strengthen the protection of persons displaced across borders by disasters and climate change. As Chair of the PDD from 31 July 2022 to December 2023, the EU has prioritised:

- Supporting the integrated implementation of global policy frameworks related to human mobility, disaster risk reduction, and climate action,
- Advancing policy and legal developments to fill protection gaps for persons at risk or already displaced across borders, and
- Promoting knowledge exchange and building national and regional capacities to adopt effective measures for preventing and addressing disaster displacement.⁶⁴

In addition, the *Commission Communication on the European Green Deal*⁶⁵ reaffirms the EU's commitment to working with global partners to strengthen climate and environmental resilience. This initiative aims to prevent displacement, forced migration, food insecurity, and conflict, while ensuring a just transition worldwide. The 2021 *EU Strategy on Adaptation to*

⁶³ Forced Displacement [https://international-partnerships.ec.europa.eu/policies/migration-and-forced-displacement/forced-displacement_en#:~:text=through%20developmental%20actions,-,The%20Platform%20for%20Disaster%20Displacement%20\(PDD\),July%202022%20until%20December%202023.](https://international-partnerships.ec.europa.eu/policies/migration-and-forced-displacement/forced-displacement_en#:~:text=through%20developmental%20actions,-,The%20Platform%20for%20Disaster%20Displacement%20(PDD),July%202022%20until%20December%202023.)

⁶⁴ *Ibid.*

⁶⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: COM/2019/640 final.

Climate Change, titled “*Forging a Climate-Resilient Europe*”⁶⁶, highlights the need to scale up international climate resilience and preparedness, mobilize finance for climate adaptation, and promote global cooperation. It stresses that adaptation initiatives must be designed with conflict sensitivity to prevent exacerbating existing tensions, reduce displacement risks, and better understand the nexus between climate change, security, and mobility.

Lastly, among other measures, in the *European Consensus on Development (2017)*, titled “*Our World, Our Dignity, Our Future*”⁶⁷ The EU and its Member States have collectively pledged to address the root causes of migration and forced displacement, including environmental degradation and climate change.⁶⁸

2. Efforts by the African Union

The African Union (AU) has demonstrated a proactive approach in trying to deal with the issue of climate displacement through alignment with international and regional frameworks. The *Sendai Framework for Disaster Risk Reduction 2015–2030*⁶⁹ identifies four critical priorities: understanding disaster risk; strengthening disaster risk governance to manage such risks; investing in disaster risk reduction for resilience; and enhancing disaster preparedness for effective response, including the goal to “Build Back Better” during recovery, rehabilitation, and reconstruction phases. Consistent with these priorities, the Heads of State and Government of the African Union adopted a *Programme of Action (PoA)* for the implementation of the Sendai Framework in Africa (2015–2030).⁷⁰ The AU continues to play a pivotal role in coordinating, monitoring, and guiding the implementation of this framework across Regional Economic Communities (RECs) and Member States.

In line with the *Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa*⁷¹, Member States are obliged to provide internally displaced persons with

⁶⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: COM(2021)82 final.

⁶⁷ Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission: 2017/C210/01.

⁶⁸ *Supra*, note 63.

⁶⁹ U.N. Office for Disaster Risk Reduction, *Sendai Framework for Disaster Risk Reduction 2015–2030* (2015), <https://www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030>.

⁷⁰ African Union, *Programme of Action for the Implementation of the Sendai Framework for Disaster Risk Reduction 2015–2030 in Africa* (2017), <https://au.int/en/documents/20170911/programme-action-implementation-sendai-framework-disaster-risk-reduction>.

⁷¹ African Union, *Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (2009), <https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa>.

adequate humanitarian assistance as promptly and practicably as possible. This assistance encompasses food, water, shelter, medical care and other health services, sanitation, education, and any other essential social services, along with protection. Moreover, where appropriate, such assistance should also be extended to local and host communities. However, persistent funding gaps have posed significant challenges. The financial burden has largely fallen upon host countries, thereby impacting the overall humanitarian response for both internally displaced persons (IDPs) and refugees.

To address these pressing concerns, the AU has adopted a comprehensive Climate Strategy aimed at mitigating the adverse impacts of climate change. This strategy seeks to harness Africa's collective capacities, resources, and opportunities in pursuit of the *Agenda 2063 Vision*.⁷² It offers a vital platform to consolidate and strengthen climate action efforts across the continent by harmonising diverse approaches from African stakeholders into an integrated continental framework.⁷³ In line with the resolutions of the RECs and AU Heads of State, the strategy upholds the principle that Africa should present a unified voice and collaborative front in tackling climate change and enhancing resilience while reducing vulnerability.⁷⁴

INDIA'S POSITION ON CLIMATE DISPLACEMENT AND REFUGEES

India is neither a signatory to the 1951 Refugee Convention⁷⁵ nor its 1967 Protocol⁷⁶, and it does not possess a dedicated national framework for refugee protection. Nevertheless, the country has consistently extended asylum to a substantial number of refugees, particularly from neighbouring states, and acknowledges the mandate of UNHCR with respect to other nationalities, notably individuals from Afghanistan and Myanmar. While the Government of India adopts varying approaches in its treatment of different refugee groups, it generally upholds the principle of non-refoulement in practice for individuals holding UNHCR documentation.

In recent years, India's increasing security concerns have led to a more restrictive stance to granting asylum. The presence of mixed migration flows has further complicated the process

⁷² African Union, *Agenda 2063: The Africa We Want* (2015), <https://au.int/en/agenda2063/overview>.

⁷³ Africa's Climate Change Resilient Development Strategy and Plan of Action (2022-2032).

⁷⁴ African Union Humanitarian and Pledging Conference Background Paper for Theme 1: Climate Change, Disasters, and Displacement in Africa.

⁷⁵ Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137.

⁷⁶ Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267.

of identifying and protecting refugees. In response to these challenges, UNHCR has substantially adjusted and expanded its registration activities to ensure appropriate support is extended to the Government and to maintain essential protection mechanisms for affected populations.

India's existing legal and policy framework places primary emphasis on migration resulting from economic or humanitarian crises, with little to no recognition of migration driven by environmental factors. This, without doubt, significantly causes problems for the allocation of funds necessary for the relocation and resettlement of environmentally displaced persons. In a landmark decision in 2005, the Supreme Court of India struck down the Illegal Migrants (Determination by Tribunal) Act, 1983, ruling that all pending cases under the said tribunal be transferred to those constituted under the Foreigners (Tribunals) Order, 1964.⁷⁷ Notably, the Court did not differentiate between the causes compelling migrants to enter Indian territory illegally, thereby failing to account for motivations such as environmental displacement.

Moreover, the Indian Centre for Migration (ICM), a policy research institution under the Ministry of External Affairs, exclusively focuses on economic transnational migration, without acknowledging other migration forms, including those potentially caused by environmental stressors.⁷⁸ Critics argue that India prioritises more immediate developmental challenges such as poverty alleviation, sustainable development, population growth, and urbanisation.⁷⁹ Further, the limited involvement of India on the subject of climate migration might be due to the larger global debate regarding climate migration, which has not yet taken into account India's specific situation as part of the greater sustainability landscape.⁸⁰

The National Action Plan for Climate Change (NAPCC), introduced in 2010, includes a component titled the National Mission on Strategic Knowledge for Climate Change, which aims to foster research on the socio-economic implications of climate change, including its impact on migration patterns.⁸¹ However, the report makes no specific reference to climate-induced migration or displacement, highlighting a critical oversight in national policy planning.

⁷⁷ Sarbananda Sonowal v. Union of India, 2005 5 SCC 665, ¶¶ 12-15.

⁷⁸ India Centre for Migration (ICM) <https://mea.gov.in/icm.html>.

⁷⁹ Ray C. Anderson, THE ENCYCLOPAEDIA OF SUSTAINABILITY: CHINA, INDIA AND EAST AND SOUTH-EAST ASIA: ASSESSING SUSTAINABILITY 61-64 (2012).

⁸⁰ *Ibid.*

⁸¹ India's National Action Plan on Climate Change, Government of India, available at – https://archivepmo.nic.in/drmanmohansingh/climate_change_english.pdf (last visited on Jan. 14, 2020).

India is home to an estimated 400 million internal migrants, constituting roughly one-third of the total population according to Census 2011, while the number of international migrants stands at 11.4 million as per World Bank estimates.⁸² This data becomes increasingly concerning in light of the projected intensification of climate change impacts. Slow-onset environmental events, such as desertification, soil degradation, coastal erosion, and sea-level rise, are progressively altering the landscape and threatening livelihoods. In such circumstances, the urgent need arises for comprehensive and targeted policy interventions. These should aim at enhancing both the quality and availability of adaptive options for individuals exposed to environmental stress, thereby preventing human mobility from evolving into a full-blown humanitarian crisis.⁸³

The Right to Life (Article 21 of the Indian Constitution) and Climate Justice

In a landmark development, the Supreme Court of India has brought climate justice into sharper focus through a landmark ruling delivered on March 21, 2024, in the case of *M.K. Ranjitsinh & Ors. v. Union of India & Ors.*⁸⁴ The judgment marked a significant expansion in the interpretation of the Right to Life under Article 21 and the Right to Equality under Article 14 of the Indian Constitution, encompassing protection against the adverse impacts of climate change. The Court affirmed that the detrimental consequences of environmental degradation infringe upon the fundamental rights of citizens and require proactive judicial and legislative intervention to preserve environmental integrity.

This emerged from a petition filed by wildlife conservationist M.K. Ranjitsinh, who sought protection measures for the critically endangered Great Indian Bustard, particularly from fatal collisions with overhead power lines in the states of Rajasthan and Gujarat. Addressing this concern, the Court stressed the need for balancing biodiversity conservation with climate change mitigation strategies, clarifying that development and ecological preservation are not mutually exclusive objectives. The Court proceeded to recognise that environmental degradation and climate change have far-reaching impacts not only on wildlife but also on human life and health. It categorically stated that without a stable, clean, and healthy

⁸² National Workshop on migration and global environmental change in India. UNESCO. 2014: 7.

⁸³ Koko Warner, Global environmental change and migration: governance challenges, 20(3) GLOBAL ENV'T CHANGE 402 (2010).

⁸⁴ MK Ranjitsinh et al. v. Union of India et al. 2024 INSC 280.

environment, the Right to Life and Health remains merely theoretical.⁸⁵

The Supreme Court of India ruled that the Right to Life under Article 21 of the Constitution encompasses the right to be free from the adverse impacts of climate change. This landmark pronouncement contributes to the evolving legal tradition in which the Court has progressively broadened the scope of constitutional rights to address pressing issues such as poverty, inequality, and environmental degradation. The decision aligns with a global trend wherein judicial forums are increasingly becoming pivotal battlegrounds for climate-related litigation.

The judgment was delivered in the context of the growing push for large-scale renewable energy projects across India, many of which have been exempted by the government from Environmental Impact Assessments (EIAs). These exemptions coincide with a broader policy shift towards the dilution of existing environmental and forest protections, which have been widely criticised by legal and academic circles.

The present case dealt with the direct danger caused by overground power lines from large solar parks in Rajasthan and Gujarat to the critically endangered Great Indian Bustard (GIB). With fewer than 150 individuals as of 2018, down from an 80% drop since the 1960s, the species is at a critical threat of death through collisions with high-tension transmission wires. To this, the Court, in 2021, directed undergrounding of such cables within GIB habitats wherever technologically and economically practicable, along with compulsory fitting of bird diverters. Where undergrounding was not practicable, the issue was to be dealt with by an expert committee formed by the Court.⁸⁶ In the current judgment, the Court updated this framework by tasking a new Expert Committee to decide the most suitable steps for power line installations in priority GIB sites, as it proceeded to invoke the newly upheld climate right.

This ruling arrives at a time when Indian courts are increasingly confronted with legal disputes surrounding land acquisition for solar energy projects. For instance, the Adani solar plant in Rajasthan, one of the world's largest planned solar developments, has drawn challenges from

⁸⁵ Mala Balaji, A breath of fresh air: Supreme Court's verdict propels climate justice to the forefront in India A breath of fresh air: Supreme Court's verdict propels climate justice to the forefront in India | Climate Connection, <https://climateconnection.org.in/updates/breath-fresh-air-supreme-courts-verdict-propels-climate-justice-forefront-india> (last visited Apr 8, 2025).

⁸⁶ New india powerline ruling is lifeline for critically endangered Bustard, BirdLife International (2022), <https://www.birdlife.org/news/2021/07/14/new-india-powerline-ruling-is-lifeline-for-critically-endangered-bustard/>. (last visited Apr 8, 2025).

local communities and landholders.⁸⁷ These cases represent a growing body of just transition litigation, which questions the equity and fairness when it comes to infrastructure initiatives affecting the climate.

Historically, the judiciary has mostly been in favour of major infrastructure projects considering utilitarian grounds. One such example is the 2000 Narmada Dam case⁸⁸, where the Supreme Court allowed a massive hydropower project to go ahead despite the displacement of hundreds of thousands of people and significant ecological harm. The Court rationalised its ruling partly based on the claimed role of the dam in mitigating climate change, a contention that, according to Rajagopal, had no substantial evidentiary support but had an ideological purpose of legitimising the project.

This stance taken by the judiciary has continued in more recent decisions concerning solar energy developments. In 2019, the Rajasthan High Court dismissed a challenge to a solar park, affirming that “renewable energy is the mantra of the day because it is environmentally friendly.” Another decision lauded solar initiatives in Rajasthan for elevating the state's international profile and warned against obstructing such projects through Public Interest Litigation (PIL).

Such rulings underscore the prevailing judicial attraction to large-scale technological interventions—techno-fixes—that are often positioned as solutions to both environmental and social challenges. Sociologist Nivedita Menon has critiqued this judicial reasoning, noting a hierarchical framework wherein economic development is prioritised over environmental concerns (“development trumps environment”), and environmental concerns, in turn, are prioritised over social justice (“environment trumps people”). This worldview has backed judicial approval of slum demolitions and truncation of forest rights, usually under the justification of urban looks or conservation needs, but for sanctioning large-scale infrastructure projects regardless of their environmental and social implications.

Against this background, the Court’s decision of recognising a climate right in the present case is noteworthy. The judgment expressly acknowledges that “India's pursuit of sustainable development reflects the complex interplay between environmental conservation, social equity,

⁸⁷ Scroll Staff, Adani’s Solar Energy Project in Jaisalmer temporarily stayed by Rajasthan High Court Scroll.in (2020), <https://scroll.in/latest/972610/rajasthan-high-court-orders-temporary-stay-on-adanis-solar-energy-project-in-jaisalmer> (last visited Apr 8, 2025).

⁸⁸ Narmada Bachao Andolan vs Union of India and Ors. Writ Petition (Civil) 328 of 2002.

economic prosperity and climate change” (para 59). Crucially, the Court emphasised the need to balance “two equally crucial goals”, the conservation of the Great Indian Bustard and the broader objective of environmental protection, asserting that a “holistic approach” is required, one that does not sacrifice either aim at the expense of the other (para 60).⁸⁹

Therefore, this decision marks a significant shift in jurisprudence, showing that the Court is willing to bring climate into constitutional law and reaffirm the responsibility of the state to preserve environmental justice as part of the core rights protected in the Constitution.⁹⁰

However, there does not seem to be extensive discourse regarding the topic of climate displacement or migration taken up by the judiciary. With India already not a part of the refugee convention, the scope of recognising and providing asylum to a new category of displaced individuals becomes hard to conceive. Thus, while India has tried to keep up with its global peers and focus on the contemporary climate situations, there is yet more to be covered and worked upon at an urgent pace.

LEGAL REFORMS AND THE WAY FORWARD

As the incidence of climate-induced displacement continues to grow, it is imperative that legal and policy frameworks evolve to meet the urgent and complex needs of affected populations. A concerted response should include planned migration channels, recognition of climate displacement by the law, integration of slow-onset events, and mainstreaming climate-related issues into national asylum systems. The reforms outlined below are essential steps which can be considered:

Establish Procedures for Planned Migration, Resettlement, and Relocation—But Retain Them as Last Resort Options

The absence of formalised procedures incorporating a human rights-based approach significantly exacerbates the vulnerability of affected communities. While instances of planned migration or resettlement may, in some cases, be unavoidable, such measures should be regarded strictly as a last resort due to their inherently traumatic nature. Climate risks often

⁸⁹ *Supra*, note 85.

⁹⁰ Birsha Ohdedar, India’s new “climate right”: Boon or bane for climate justice? SLR (2024), <https://www.sociolegalreview.com/post/india-s-new-climate-right-boon-or-bane-for-climate-justice#:~:text=In%20a%20landmark%20judgement%20in,adverse%20impacts%20of%20climate%20change>. (last visited Apr 8, 2025).

intersect with, and amplify, pre-existing socio-economic vulnerabilities, creating complex displacement scenarios.

National authorities for disaster risk management and preparedness need to establish strategic processes and planning systems for enabling planned migration, resettlement, and relocation. Efforts toward this end must be made in serious consultation with the impacted communities, local authorities, and other concerned stakeholders. Insights derived from past and current experiences need to be used to inform future policy-making so that the maximum desired benefits may accrue.⁹¹ In addition, the above measures must be mainstreamed into national climate change adaptation planning and carried out with the help of national and global institutions.

Introduce Legal Recognition of Climate-Induced Displacement within Domestic Legal Systems

Official legal acknowledgement of climate-induced displacement is a key milestone toward securing rights protection for those displaced, or stranded, because of the negative effects of climate change. Enshrining such recognition in domestic laws can enable the development of legislative and administrative protections specific to the distinctive vulnerabilities of climate-displaced persons.

Currently available legal instruments and mechanisms could potentially provide effective avenues for such protection. For example, a number of governments, including that of the United States, grant immigration relief on humanitarian grounds.⁹² With increasing discussion among legal scholars and practitioners about the application of refugee and asylum law to climate-related applications, greater legal certainty is needed. Enhancing the ability of legal systems to keep pace with the changing climate environment will also enable immigration officials to decide on climate displacement claims more justly and effectively.

Reconceptualise Environmental Crises to Include Slow-Onset Events

Policy responses to climate-induced displacement must evolve to recognise that displacement

⁹¹ Planned Relocations, Disasters and Climate Change: Consolidating Good Practices and Preparing for the Future, BROOKINGS (March 14, 2014), <https://www.brookings.edu/research/planned-relocations-disasters-and-climate-changeconsolidating-good-practices-and-preparing-for-the-future/>.

⁹² The Use of Parole Under Immigration Law, AM. IMMIGR. COUNCIL (Jan. 24, 2018), <https://www.americanimmigrationcouncil.org/research/use-parole-underimmigration-law>.

can arise not only from rapid-onset events, such as floods or hurricanes, but also from slow-onset environmental changes, including drought, desertification, sea-level rise, and ecosystem degradation. These gradual phenomena are increasingly becoming primary drivers of displacement and merit equal legal and policy attention.

In the United States, the *Temporary Protected Status* (TPS) program historically provides temporary relief to individuals from countries affected by sudden crises, including environmental disasters or armed conflict.⁹³ However, TPS is limited in a number of ways. It only applies to those already in the United States when designation occurs, does not provide a route to permanent resident or citizenship status, and relies on discretionary action by the federal agencies. TPS designations are originally issued for six, twelve, or eighteen months and then require renewal through additional discretionary proceedings, placing recipients in a state of extended uncertainty. Since climate displacement will increasingly be caused by both rapid and slow-onset climate events, it is imperative that governments develop legal and policy measures recognising the urgency and specificity of slow-onset climate threats.⁹⁴

Incorporate Climate Change Displacement into Domestic Asylum Frameworks

Domestic asylum systems must begin to formally acknowledge the role of climate change as a legitimate factor in forced displacement. National governments, in partnership with non-governmental organisations and the United Nations High Commissioner for Refugees (UNHCR), should issue interpretative guidelines that consider climate change displacement within the existing asylum and refugee protection frameworks.

There is precedent for such interpretative evolution. For instance, in the US, the asylum system has promulgated guidelines for making gender-based claims by women and subsequently by children.⁹⁵ Likewise, the latest guidance from the UNHCR can provide a cornerstone resource, inasmuch as it recognises that individuals displaced due to climate change can, in some factual

⁹³ Madeline Messick & Claire Bergeron, Temporary Protected Status in the United States: A Grant of Humanitarian Relief that is Less than Permanent, *MIGRATION POL'Y INST.* (July 2, 2012), <https://www.migrationpolicy.org/article/temporary-protected-status-united-states-granthumanitarian-relief-less-permanent>; Temporary Protected Status: An Overview, *AM. IMMIGR. COUNCIL* (Feb. 8, 2021), <https://www.americanimmigrationcouncil.org/research/temporary-protected-statusoverview>

⁹⁴ *Ibid.*

⁹⁵ Memorandum from Phyllis Coven, to INS Office of Int'l Affairs, Considerations for Asylum Officer Adjudicating Asylum Claims from Women (May 26, 1995), <http://www.unhcr.org/refworld/docid/3ae6b31e7.htm>; Memorandum from Jeff Weiss, Acting Director, to INS Office of Int'l Affairs, Guidelines for Children's Asylum Claims (Dec. 10, 1998).

situations, come within the protection offered by refugee law. By utilising this guidance and issuing corresponding national directives, states can better align their asylum practices with contemporary climate realities.⁹⁶

CONCLUSION

The nexus between climate change and human displacement is among the most urgent humanitarian concerns of the era. As witnessed through cases such as Tuvalu and Bangladesh, millions are at risk of becoming climate migrants, yet remain in a concerning legal grey area. The 1951 Refugee Convention's inability to meet the challenges of climate-induced displacement leaves protection gaps, whereby vulnerable groups lack clear routes to security and dignity.

Whereas global and regional action via the UNFCCC, the Global Compact on Refugees, and regional frameworks illustrate increasing awareness of the issue, they have not yet yielded binding legal instruments safeguarding those displaced by climate change to a sufficient extent. India's constitutional model, specifically through the expansive interpretation of Article 21 of the right to life, presents a crucial example of how national legal systems can tackle climate justice, but important challenges persist.

The way forward is multifaceted: implementing planned migration processes while keeping them as last-resort measures; legally acknowledging climate displacement in the law; reimagining environmental emergencies to encompass slow-onset disasters; and carefully integrating climate change displacement into national asylum regimes. Without such reforms, tens of millions will remain outside the reach of international protection regimes.

With climate change intensifying, there is a moral obligation for the international community to close these legal loopholes before displacement becomes catastrophic. Protecting human rights in climate migration is not just a legal issue but also a test of our common commitment to justice, dignity, and shared responsibility in a globalised and climate-vulnerable world.

⁹⁶ Camila Bustos & Juliana Vélez-Echeverri, A Human Rights Approach to Climate-Induced Displacement: A Case Study in Central America and Colombia, 31 Mich. St. Int'l L. Rev. 403 (2023), <https://digitalcommons.pace.edu/lawfaculty/1258/>.