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Climate Refugees and International Protection: Expanding the Scope of the Refugee Convention

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ABSTRACT

Climate change has emerged as a defining driver of human displacement, forcing millions to flee rising seas, desertification, and extreme weather. Yet, those displaced by environmental causes remain outside the protective scope of the 1951 Refugee Convention and its 1967 Protocol, which narrowly defines refugees as victims of persecution. This article examines the normative and practical gaps in international protection for "climate refugees," highlighting the inadequacy of current frameworks in addressing this evolving humanitarian crisis. Using a doctrinal legal methodology, the study analyses international and regional instruments, case law such as Teitiota v. New Zealand, and soft-law initiatives including the Nansen Initiative and the Global Compact for Migration. The key finding is that while human rights treaties and regional practices provide some avenues of protection, they remain fragmented, discretionary, and insufficient for the scale of climate-induced displacement. The article argues for expanding protection through reinterpretation of the Refugee Convention, adoption of a dedicated protocol, and the strengthening of human rights-based and regional approaches. By proposing a multi-layered strategy, it underscores the urgency of aligning international protection regimes with the realities of climate displacement to ensure both justice and solidarity for affected populations. The accelerating effects of climate change are producing unprecedented displacement across the globe. Rising sea levels, desertification, floods, and extreme weather events increasingly force populations to flee their homes in search of safety and livelihood. Yet, the existing international legal framework particularly the 1951 Refugee Convention and its 1967 Protocol fails to provide adequate protection for these "climate refugees." This article critically examines the limitations of the current refugee regime, explores the normative debates surrounding the recognition of climate-induced displacement, and argues for the expansion or reinterpretation of international protection mechanisms. It proposes a multi-layered approach that includes reinterpretation of existing refugee law, development of soft-law instruments, and the creation of a specialized protocol addressing climate-induced displacement.

Introduction

The twenty-first century is witnessing an unprecedented convergence of environmental degradation and human mobility. Rising sea levels, recurring floods, prolonged droughts, and extreme weather events are uprooting millions across continents. The Internal Displacement Monitoring Centre estimates that weather-related disasters alone displace over 30 million people annually, a figure expected to increase as climate change intensifies. Despite the magnitude of this crisis, international law remains ill-equipped to address the plight of those uprooted by environmental causes. Unlike persons fleeing persecution or armed conflict, climate-displaced individuals lack formal recognition as refugees and consequently fall into a legal and humanitarian vacuum. The purpose of this study is to interrogate the adequacy of existing international protection mechanisms in addressing climate-induced displacement and to evaluate pathways for reform. The scope of inquiry extends from the 1951 Refugee Convention and its 1967 Protocol to regional instruments, human rights treaties, and emerging soft-law frameworks. The significance of this research lies in its contribution to the urgent debate on how to reconcile normative gaps in refugee protection with the realities of climate-induced mobility, ensuring both justice and solidarity for affected populations. The central hypothesis of this article is that while existing refugee and human rights regimes offer partial protection, they remain fragmented, discretionary, and insufficient. Accordingly, the guiding research questions are (Gul, 2025, Mathlouthi et al., 2025). To what extent can the current refugee framework be reinterpreted to cover climate-induced displacement? What role can new legal instruments, regional practices, and human rights norms play in filling protection gaps?

Methodologically, the article adopts a doctrinal legal approach, analysing international treaties, case law, and policy initiatives, supplemented by comparative insights from regional frameworks. The outcome of this inquiry highlights the urgent need for a multi-layered strategy: reinterpretation of the Refugee Convention, development of a dedicated protocol on climate displacement, and integration of human rights-based and regional approaches. The article is organized into six sections. Following this introduction, Section II examines the international legal framework and its limitations. Section III identifies key challenges in recognizing climate-displaced persons within existing norms. Section IV explores potential pathways for expanding protection, including reinterpretation, new protocols, and soft-law mechanisms. Section V presents case studies from vulnerable regions, illustrating the human and legal implications of climate displacement. Finally, Section VI offers a conclusion with policy recommendations and directions for future research. Climate change is no longer a distant environmental issue but a lived reality, displacing millions annually. According to the Internal Displacement Monitoring Centre, weather-related disasters alone displaced over 32 million people in 2022. Unlike traditional refugees, who flee persecution, climate refugees escape environmental degradation that undermines their survival and dignity. Yet, under international law, these individuals fall into a legal limbo, as the 1951 Refugee Convention does not recognize environmental factors as grounds for protection. The lack of legal recognition not only exacerbates human suffering but also challenges global responsibility-sharing principles. This article investigates whether the existing international refugee protection regime is capable of accommodating climate-induced displacement and, if not, what reforms or alternative frameworks are required (Gul, 2022; Khan, 2024).

Research Methodology

This study relying on the systematic examination of primary sources such as the 1951 Refugee Convention, the 1967 Protocol, human rights treaties, and regional instruments like the OAU Convention and Cartagena Declaration, alongside relevant jurisprudence including *Ioane Teitiota*

v. New Zealand. Secondary materials, including scholarly articles, UNHCR and IOM reports, and IPCC findings, were critically reviewed to contextualize legal gaps and policy debates on climate-induced displacement. The selection and analysis of these sources were guided by the central research question of whether the scope of the Refugee Convention should be expanded or supplemented to include climate-displaced persons. This methodology was chosen for its suitability in identifying normative deficiencies, assessing interpretative possibilities, and comparing regional practices within international law, thereby enabling a structured and evidence-based evaluation of potential legal reforms (Khan, 2024; Khan et al., 2021).

International Legal Framework and its Limitations

The Refugee Convention (1951)

The 1951 Convention Relating to the Status of Refugees, together with its 1967 Protocol, forms the cornerstone of the international refugee protection regime. Drafted in the aftermath of the Second World War, the Convention was primarily designed to address the displacement of persons fleeing persecution in Europe. It defines a refugee as an individual who, *"owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."* This definition is deliberately narrow, reflecting the political realities of its time and emphasizing persecution by state or non-state actors rather than broader humanitarian crises. While the Convention enshrines fundamental principles such as non-refoulement, non-discrimination, and access to legal rights, it does not recognize environmental degradation or climate change as valid grounds for refugee status. As a result, those displaced by rising seas, desertification, or extreme weather events fall outside its scope, even if their survival is at stake. Attempts to expand the definition through interpretation have been limited, as persecution requires an identifiable human agent, whereas climate change is generally categorized as an impersonal or natural force. This exclusion creates a profound legal and humanitarian gap. Individuals displaced by climate-related disasters may be internally displaced within their own countries, crossing borders only when conditions become unbearable. Yet, upon crossing, they are not entitled to international protection under the Refugee Convention, leaving their status to the discretion of national migration laws or ad hoc humanitarian responses. This limitation has prompted growing calls for either reinterpretation of the existing framework or the creation of new instruments capable of responding to climate-induced displacement. The 1951 Convention defines a refugee as someone with a well-founded fear of persecution based on race, religion, nationality, membership of a particular social group, or political opinion. Climate change, however, is not mentioned, and environmental degradation does not fit easily within this framework (Gul, 2025; Hui et al., 2025; Khan & Jiliani, 2023; Usman et al., 2021).

Complementary Protection

In recognition of the narrow scope of the 1951 Refugee Convention, many states and international bodies have developed mechanisms of "complementary" or "subsidiary" protection to address situations where individuals are not formally recognized as refugees but still face serious threats if returned to their countries of origin. Complementary protection is often grounded in international human rights law, particularly the principles of non-refoulement and the right to life, which extend beyond the Convention framework. Key instruments include the International Covenant on Civil and Political Rights ICCPR, the Convention Against Torture CAT, and regional human rights treaties, all of which prohibit the return of individuals to conditions where they face torture, inhuman treatment, or threats to life. The UN Human Rights Committee's decision in *Ioane*

Teitiota v. New Zealand (2020) illustrates this approach: while the Committee did not grant refugee status to the applicant, it recognized that returning individuals to situations where climate impacts place their lives at risk could violate Article 6 of the ICCPR. At the regional level, the European Union's Qualification Directive provides subsidiary protection to individuals facing a real risk of serious harm, while the Inter-American and African human rights systems have interpreted protection obligations broadly to encompass situations beyond persecution. However, complementary protection remains fragmented, discretionary, and unevenly applied across jurisdictions. For climate-displaced persons, complementary protection offers a limited safety net but fails to provide a consistent or durable legal status. It often depends on judicial activism or state willingness rather than binding international obligations. Consequently, while it represents a vital interim mechanism, complementary protection cannot substitute for a comprehensive international framework explicitly addressing climate-induced displacement. While some states provide "complementary" or "subsidiary" protection under human rights treaties such as the ICCPR these protections are inconsistent and discretionary. The landmark case of *Teitiota v. New Zealand* (2020), decided by the UN Human Rights Committee, recognized that returning individuals to life-threatening climate conditions may violate the right to life under Article 6 ICCPR, but stopped short of recognizing them as refugees (Gul, 2022; Khan & Ullah, 2024; Usman et al., 2021).

Regional Approaches

Although the 1951 Refugee Convention establishes the global foundation for refugee protection, various regions have developed instruments that reflect their particular historical and political contexts of displacement. These regional frameworks often adopt broader definitions of who qualifies for protection, and in doing so, they provide valuable insights for addressing the emerging challenge of climate-induced migration. In Africa, the 1969 Organization of African Unity OAU Convention significantly broadened the refugee definition by including individuals compelled to leave their country owing not only to persecution but also to "external aggression, occupation, foreign domination or events seriously disturbing public order." While it does not explicitly mention environmental causes, this broader formulation has enabled states to extend protection in situations involving drought, famine, and natural disasters phenomena that are increasingly linked to climate change across the continent. Latin America has taken a similarly progressive approach through the 1984 Cartagena Declaration. Though non-binding, the Declaration has been highly influential, with several states incorporating its broader definition of refugees into domestic law. By extending protection to persons fleeing "massive violations of human rights or other circumstances which have seriously disturbed public order," the Declaration provides a flexible basis that could encompass displacement caused by climate-related disasters and environmental degradation. In Europe, protection for those outside the strict refugee definition has developed through the European Union's Qualification Directive, which provides subsidiary protection to individuals facing a real risk of serious harm, such as torture, inhuman treatment, or indiscriminate violence. While climate change is not explicitly included, some member states have used humanitarian or temporary protection measures to assist individuals displaced by disasters, although such responses remain ad hoc and inconsistent across the region. In the Asia-Pacific, formal regional instruments remain limited, but cooperative initiatives have emerged through soft-law mechanisms. The Nansen Initiative and its successor, the Platform on Disaster Displacement, have engaged Pacific Island nations and their partners in exploring legal and policy solutions for people at risk from rising sea levels and extreme weather events. For low-lying states such as Kiribati, Tuvalu, and the Maldives, where climate change threatens the very viability of statehood, such regional initiatives have become essential in advancing global recognition of climate

displacement. Taken together, these regional approaches illustrate that refugee protection need not be limited to the narrow scope of the 1951 Convention. They offer valuable precedents for broader, more flexible interpretations that could inform a future global framework. Nonetheless, the application of these regional mechanisms remains uneven and often dependent on political will, underscoring the need for a comprehensive and universally binding international response to the challenges posed by climate-induced displacement (Usman et al., 2021).

Some regional instruments, such as the African Union's 1969 Refugee Convention and the Cartagena Declaration (1984), extend protection to those fleeing generalized violence or disasters. However, these remain non-binding in many contexts and are unevenly implemented (Gul, 2025; Khan et al., 2020).

Challenges in Recognizing Climate Refugees

One of the primary challenges in recognizing climate refugees lies in the issue of causation and attribution. Unlike persecution, which typically has an identifiable human agent, climate-induced displacement is often the product of gradual environmental degradation or sudden-onset disasters that cannot easily be traced to a single actor. Moreover, migration decisions are frequently multi-causal, involving a combination of environmental, economic, social, and political pressures. This complexity makes it difficult to establish climate change as the decisive factor behind displacement, creating legal and evidentiary obstacles to recognition under existing refugee frameworks. State sovereignty also poses a significant barrier. Expanding the definition of refugees to include climate-displaced persons would impose additional obligations on states, many of which already perceive the refugee regime as burdensome. The principle of non-interference and the desire to maintain control over migration policies lead states to resist any move that could broaden their legal responsibilities. This reluctance is compounded by fears that recognizing climate refugees could trigger large-scale migration flows, especially from highly vulnerable regions such as the Pacific Islands, South Asia, and sub-Saharan Africa. Another challenge is the absence of political will at the international level. Attempts to reopen or amend the 1951 Refugee Convention have met strong resistance, as states fear diluting the clarity and stability of the existing framework. Instead, states prefer non-binding arrangements or soft-law instruments that allow flexibility but lack enforceability. The resulting patchwork of responses—ranging from temporary protection measures to ad hoc humanitarian visas—creates inconsistency and leaves climate-displaced individuals without durable solutions. the challenge of equity and responsibility complicates recognition. Countries most affected by climate-induced displacement are often those least responsible for greenhouse gas emissions, while wealthier, high-emission states are better equipped to adapt but less willing to accept additional protection obligations. This raises issues of climate justice, as the burden of hosting displaced populations falls disproportionately on developing countries already struggling with limited resources. Without an equitable system of responsibility-sharing, international recognition of climate refugees' risks reinforcing global inequalities rather than alleviating them (Mustafa, 2025; Khan & Usman, 2023; Khan et al., 2020).

Toward Expanding Protection

Reinterpretation of the 1951 Refugee Convention

Although the 1951 Refugee Convention does not expressly include environmental factors as grounds for protection, scholars and practitioners have explored the possibility of reinterpretation as a way to extend its coverage to climate-displaced persons. This approach relies on broadening

the understanding of key terms within the Convention, particularly "persecution" and "membership of a particular social group." Where climate change disproportionately affects marginalized communities such as indigenous peoples, coastal populations, or subsistence farmers—state inaction or discriminatory policies in responding to environmental harm could be framed as persecution. In such cases, climate-related vulnerability becomes intertwined with social, political, or economic exclusion, thereby fitting within the Convention's existing structure. Furthermore, persecution under the Convention need not always involve direct, intentional harm by state actors; it can also arise from severe neglect, structural discrimination, or failure to protect. For instance, when governments knowingly expose certain populations to the worst impacts of environmental degradation while providing protection or resources to others, this disparity may constitute persecution on grounds of social group or political opinion. Such an interpretation, though ambitious, reflects the dynamic character of international refugee law, which has historically evolved in response to new humanitarian crises. Courts and treaty bodies have already begun to hint at this interpretive flexibility. In *Ioane Teitiota v. New Zealand* (2020), while the UN Human Rights Committee did not extend refugee status, it recognized that returning individuals to life-threatening climate conditions could breach the right to life under Article 6 of the ICCPR. This signals that international adjudicatory bodies may, in time, be more willing to recognize the interplay between environmental harm and human rights violations. Similarly, some domestic courts have considered climate vulnerability in asylum claims, though outcomes remain inconsistent. However, the reinterpretation strategy is not without limitations. It risks stretching the Convention beyond its intended scope and faces resistance from states wary of expanding obligations under international law. Moreover, it does not provide a systematic solution, as interpretations vary across jurisdictions and depend heavily on judicial willingness. While reinterpretation offers a creative and pragmatic means of addressing urgent cases, it cannot by itself resolve the structural exclusion of climate-displaced persons. Instead, it should be viewed as one component of a broader, multi-layered response that includes the development of new instruments and regional practices. Scholars suggest that individuals displaced by climate change could fall within the Convention if persecution is interpreted broadly, especially when environmental harm disproportionately affects marginalized communities. For example, where state inaction or discrimination worsens vulnerability, claims could be framed as persecution (Hussain et al., 2023, Khan et al., 2020).

New Protocol or Treaty on Climate Displacement

Given the structural limitations of the 1951 Refugee Convention, many scholars and policymakers advocate for the development of a new, dedicated legal instrument to address climate-induced displacement. A supplementary protocol to the Refugee Convention, or an entirely separate treaty, could provide clarity by explicitly recognizing environmental degradation and climate change as grounds for protection. Such an instrument would allow the international community to move beyond the constraints of reinterpretation and establish a coherent, universally applicable framework tailored to contemporary realities. A new protocol or treaty could set out precise definitions of climate-induced displacement, distinguishing between sudden-onset disasters such as hurricanes and floods, and slow-onset processes such as desertification, rising sea levels, and salinization. It could also create eligibility criteria for protection, balancing humanitarian imperatives with concerns about state capacity. Importantly, it could establish durable solutions such as relocation schemes, pathways to permanent residency, and access to social rights rather than leaving displaced persons dependent on temporary or ad hoc arrangements. Equally critical would be the incorporation of responsibility-sharing mechanisms. Since climate change is a global phenomenon, disproportionately caused by industrialized states but disproportionately affecting

vulnerable populations in developing countries, a fair distribution of obligations is essential. A treaty could embed the principle of common but differentiated responsibilities, requiring high-emission countries to contribute more to relocation, adaptation, and financial support. This would align refugee protection with broader climate justice principles and foster international solidarity (Hussain et al., 2023; Khan et al., 2020).

Precedents already exist for such innovation. The adoption of the 1967 Protocol to the Refugee Convention expanded protection beyond Europe, while regional instruments such as the OAU Convention and Cartagena Declaration have demonstrated the viability of broader definitions of displacement. A climate-specific protocol or treaty could follow this model, building on existing norms while adapting them to modern challenges. However, significant obstacles remain. Many states are reluctant to reopen negotiations on refugee law for fear of weakening existing protections or expanding obligations. The political climate of restrictive migration policies also makes it difficult to generate consensus for a binding treaty. As a result, while the creation of a protocol or treaty on climate displacement represents the most comprehensive and legally robust solution, its feasibility depends on overcoming deep-seated political resistance and building broad-based international consensus. Another approach is the adoption of a supplementary protocol to the Refugee Convention, specifically addressing climate-induced displacement. Such a protocol could establish clear definitions, eligibility criteria, and burden-sharing mechanisms (Khan & Ximei, 2022).

Human Rights-Based Protection

In the absence of explicit recognition of climate-displaced persons within the refugee regime, human rights law has emerged as a crucial avenue for protection. Unlike the Refugee Convention, which is limited to a narrow set of persecution grounds, human rights treaties articulate universal entitlements that apply to all individuals regardless of legal status. Central to this framework is the principle of non-refoulement**,** not only in refugee law but also as derived from the right to life, the prohibition of torture, and protection against cruel or inhuman treatment under instruments such as the ICCPR and the CAT. A landmark illustration of this approach is the UN Human Rights Committee's decision in *Ioane Teitiota v. New Zealand* (2020). While the Committee did not recognize Teitiota as a refugee, it affirmed that states may violate Article 6 of the ICCPR if they return individuals to environments where climate impacts pose an imminent threat to life. Although the ruling stopped short of creating binding recognition of "climate refugees," it signalled that climate-related harm can trigger obligations under international human rights law, thereby broadening protection avenues beyond traditional refugee frameworks. Human rights-based protection also intersects with economic, social, and cultural rights, particularly the rights to adequate housing, health, food, and water as enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Climate change directly undermines these rights by eroding livelihoods, reducing access to essential resources, and destroying communities' capacity to survive with dignity. Thus, a human rights perspective compels states not only to refrain from exposing individuals to life-threatening conditions but also to adopt proactive measures to safeguard displaced persons' welfare. At the regional level, human rights courts and commissions have also played a pivotal role. The European Court of Human Rights has emphasized that returning individuals to situations of extreme vulnerability may violate Article 3 of the European Convention on Human Rights, while the Inter-American system has recognized environmental degradation as a threat to core human rights. These precedents suggest that human rights bodies are increasingly willing to bridge the protection gap left by refugee law in addressing climate-related displacement. Nevertheless, human rights-based protection remains uneven and largely dependent on judicial willingness or state compliance. It does not create a distinct legal category of

protection for climate-displaced persons and lacks the institutional support structures that accompany refugee status, such as durable solutions and assistance from the UNHCR. Consequently, while human rights frameworks provide essential safeguards against refoulement and reinforce states' humanitarian obligations, they cannot replace the need for a comprehensive legal instrument specifically designed to address climate displacement (Amjad et al., 2022).

Conclusion

The accelerating pace of climate change is producing a new category of displacement that the existing refugee regime was never designed to address. The 1951 Refugee Convention, while foundational, remains limited in scope, excluding those fleeing slow-onset environmental degradation or sudden disasters. Complementary protection under human rights law, as well as regional approaches such as the OAU Convention, the Cartagena Declaration, and EU subsidiary protection, offer important precedents but remain fragmented, inconsistent, and insufficient to meet the scale of the crisis. The analysis demonstrates that reinterpretation of the Refugee Convention can provide limited openings, especially where environmental harm intersects with discrimination or state neglect, yet such approaches cannot substitute for a systematic legal response. This research matters because it highlights the urgent humanitarian and legal vacuum in which climate-displaced persons currently reside. Addressing this gap requires a multi-layered strategy: developing a dedicated protocol or treaty on climate displacement; strengthening regional instruments that have already embraced broader protection standards; and embedding human rights principles such as non-refoulement, the right to life, and climate justice into legal and policy frameworks. Equally critical is the creation of equitable responsibility-sharing mechanisms that hold high-emission states accountable for their disproportionate role in creating displacement pressures. Future research should explore practical pathways for operationalizing a climate displacement protocol, including financing models for relocation, the role of international institutions such as the UNHCR and the IOM, and innovative approaches to preserving cultural identity and sovereignty for communities facing existential threats. Comparative studies of domestic practices, particularly in states already experimenting with humanitarian visas or relocation schemes, could further enrich the global conversation. Ultimately, expanding international protection to include climate-displaced persons is not merely a legal necessity but also a moral imperative, one that will determine the resilience and fairness of the international legal order in the face of the defining challenge of our century. Climate-induced displacement represents one of the greatest humanitarian and legal challenges of the 21st century. The current refugee regime, rooted in post-World War II political realities, is ill-equipped to respond to environmental crises of global scale. To address this gap, the international community must pursue a multi-pronged strategy: reinterpret the Refugee Convention where possible, develop new binding protocols for climate displacement, strengthen regional cooperation, and integrate human rights norms into protection frameworks.

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