

Environmental Refugees in International Law: A Critical Assessment of Legal Status and Protection Deficits

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ABSTRACT

This study examines the emerging significance of climate change in relation to human displacement around the various corners of the world. The Convention Relating to the Status of Refugees, 1951, and its 1967 Protocol, do not explicitly define, protect, or provide any mechanisms for individuals displaced solely by environmental factors. This study examines the legal status of environmental refugees and their exclusion from the existing international legal framework and examine state responsibility. The study employs doctrinal methodology. It argues that the present international refugee law is inadequate to recognize and protect environmental refugees. The study concludes with an emphasis on the international cooperation, creation of internationally recognized international framework, and the clarification on role of states through international practice.

Keywords: Environmental refugees; International refugee law; Environmental migration; Human displacement.

INTRODUCTION

Climate change has emerged one the major component associated to human displacements around the world. It has affected millions of people to forcibly migrate from one place or country to another (Marchena, 2021). Environmental degradation has demonstrated significant consequences with regard to compelled displacements of populations, groups, and indigenous communities from their permanent habitats to alternative places of residence (Berchin et al., 2017). The individuals who unwarrantedly migrate in result of climate imbalance are, by numerous scholars, policymakers, concerned think tanks, and organizations, categorized as “environmental refugees” or “climate refugees” (Singh et al., 2023). The primary reasons of their migration are extreme weather conditions, coastal erosion, rising sea levels, famines, and draughts (Rechkemmer et al., 2016). These environmental conditions influence environmental refugees to reluctantly abandon their livelihoods, communities, and socio-economic activities in search of safer and more sustainable living conditions (Karagöz, 2021). Environmental migration encompasses both internal and cross-border movements; particular legal concerns arise when environmentally displaced persons cross international borders and seek refuge in another state (Cristani et al., 2020). In most cases, environmental displacement occurs within the borders of the affected state. However, it is not only limited to internal displacements. There are numerous instances where environmental refugees have crossed international borders, such as migration

from Bangladesh to India, Tuvalu to New Zealand, Kiribati to New Zealand and Fiji, and Somalia to Kenya and Ethiopia (Obokata et al., 2014; Chen & Mueller, 2019). Despite the growing significance of cross-border environmental migrations, international law, particularly the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol do not explicitly recognize and protect environmental refugees. Under the 1951 Convention, they do not generally qualify as refugees. (McAdam, 2012). Consequently, environmental refugees left without formal recognition, legal status, or guaranteed protection in the countries to which they migrate (Williams, 2008). This gap raises grave concerns regarding their legal status and the protection of their human rights. These kinds of instances also question the responsibility of the state and challenge the adequacy of existing international legal instruments in addressing the challenges confronted by environmental refugees. This study examines the adequacy of the current international legal framework relevant to refugees, particularly the Convention Relating to the Status of Refugees, 1951, and its 1967 Protocol. It further examines the legal status of environmental refugees and assesses the extent of state responsibility towards persons displaced by environmental and climate-related factors.

Research Questions

This study endeavors to answer following questions:

1. To what extent does the existing international legal framework, particularly the 1951 Refugee Convention and its 1967 Protocol, provide protection to persons displaced due to environmental and climate-related factors?
2. What are the legal responsibilities of states towards individuals displaced by environmental degradation and climate change under international law?
3. Are existing international legal mechanisms adequate to address the protection needs of environmental refugees, or is there a need for a separate legal framework?

RESEARCH METHODOLOGY

This research employs a doctrinal legal methodology to examine the position of environmental refugees within the existing framework of international law. The study relies on the analysis of international legal instruments, judicial decisions, and established legal principles, supported by relevant academic literature and institutional materials. It critically evaluates how existing legal rules address environmental displacement and examines the responsibilities of states toward affected persons. Through interpretation and analysis of legal sources, the research identifies existing gaps and challenges in the protection of environmental refugees.

Concept of Environmental Refugees

The cotemporary environmental degradation has presented a new category of displaced individuals whose movement cannot be properly accommodated within the current framework of international refugee law (Moumou & Bennamane, 2025). These individuals are commonly described as environmental refugees. The term “environmental refugee” was first coined by Lester Brown in the 1970s, but it was popularised by Essam El-Hinnawi's work in 1985. The first definition, proposed by Essam El-Hinnawi covers vast aspects of the term “environmental refugees.” It describes “those people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people that jeopardized their existence and/or seriously affected the quality of their life” (El-Hinnawi, 1985). The term “environmental refugees” is broadly used to refer those individuals who are unwarrantedly compelled to leave their homes in result of extreme environmental conditions that threaten their livelihoods and living conditions (Myers, 2002). These conditions can occur due to sudden environmental catastrophes

such as floods, cyclones, hurricanes, or from slow-onset processes including sea-level rise, desertification, droughts, and land degradation. In spite of frequent use in policy and academic debates, the term “environmental refugee” remains largely overlooked and controversial (Redelinghuys & Pelsers, 2024). The most obvious objection arises from the clear fact that the 1951 Convention, being as one of prominent international instrument relating to refugees, limits refugee status only to those persons who are fleeing persecution on listed grounds and it does not include environmental or climate-related factors as a basis for protection (Roy, 2025). Accordingly, the use of the term “refugee” in environmental context has been criticized for not having any legal accuracy and for potentially creating confusion regarding the scope of international refugee law (Omar, 2025). For this reason, some of the scholars prefer alternative expressions to describe the said individuals, those expressions include "climate migrants" or "environmentally displaced persons" (Chaturvedi, 2022). Nonetheless, the term environmental refugee continues to be used in scholarly debates and policies, which reflects a broader concern that individuals displaced by environmental causes experience much harsh conditions comparable to those experienced by the convention refugees (Lulić et al., 2023). The loss of housing, community networks and access to resources leaves such individuals in an extreme condition of insecurity.

Causes and Forms of Environmental Displacement

Environmental displacement usually occurs as a result of both sudden-onset and slow-onset environmental events (Mustak, 2022). Sudden-onset events include earthquakes, floods, cyclones, hurricanes, and other natural disasters that compel prompt evacuation and relocation. In contrast, slow-onset events include sea-level rise, coastal erosion, droughts, and long-term environmental degradation (Goodwin-Gill et al., 2021). These conditions slowly reduce access to primary resources and livelihoods, forcing affected populations to migrate. Environmental migration can occur within the borders of a state or across international borders, depending on its severity (Hermans et al., 2023). Migrations that occur within the borders of a state are commonly known as internal displacements. This type of displacement is the most common form of environmental migration, where affected individuals move to safer regions within their own country (Bríd Ní, 2021). Nonetheless, environmental conditions may also compel people to cross international boundaries when no other viable protection or livelihood opportunities are available in their home country (Boas & Wiegel, 2021). For instance, migration from a low-lying island state threatened by rising sea levels or movement from regions experiencing severe drought, food insecurity, and environmental collapse. The phenomenon of environmental displacement is predicted to increase in the coming decades as the nature and frequency of climate-related disasters increase (Cardy, 2018). This is a rising phenomenon that presents serious doctrinal and humanitarian challenges because persons displaced solely by environmental factors are not recognized by current international refugee law (Vieira, 2018).

INTERNATIONAL REFUGEE LAW AND THE PROBLEM OF ENVIRONMENTAL DISPLACEMENT

International refugee law is primarily governed by the 1951 Convention and its 1967 Protocol. These archaic instruments are considered the cornerstones of the international refugee regime (McFadyen, 2012). These instruments establish the foundational framework of international refugee protection and set out the legal criteria for an individual to qualify as a refugee (Ekram Yawar, 2025). The primary purpose of these instruments was described in the case of *Horvath v Home Secretary*, where it was held that “the general purpose of the Convention is to enable the person who no longer has the benefit of protection against persecution for a Convention reason in his own country to turn for protection to the international community” (*Horvath v Secretary of State for the Home Department*, 2000). Article 1A(2) of the 1951 Convention characterizes a refugee as a person who is outside his or her country of nationality and is unable or unwilling to return to that country because of a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion. This definition considers the

historical background of the drafting of the Convention, that is, the primary need to protect people displaced by persecution, conflict, and political instability (Omar, 2025). However, the rise of climate change and environmentally induced displacement has revealed consequential limitations within this legal framework. Environmental refugees are commonly displaced as a consequence of environmental factors, and when these individuals are compared with those who are protected by the Convention, their displacement does not generally occur due to persecution on any of the grounds enumerated under Article 1A(2) (Sahinkuye, 2019). As a result, people who are forced to cross international boundaries because of environmental factors are excluded from recognition and protection under existing international refugee law (Vasianovych, 2020). The exclusion of environmental refugees has generated enormous academic and policy debate regarding the adequacy of current refugee law. The 1951 Convention's persecution-based model has been widely perceived as ill-suited to contemporary patterns of forced migration driven by environmental factors such as climate change (Al Banna, 2024). The main legal problem is the absence of an association between environmental harm and the enlisted grounds of persecution under the 1951 Convention. Environmental degradation can constitute a serious threat to life and health; however, such threats are not normally sufficient to fulfil the legal requirements for granting refugee status (Touahria, 2024). The inadequacy of the contemporary legal framework becomes clearly visible in situations where environmental degradation makes entire regions unlivable. Rising sea levels threaten low-lying island states, prolonged droughts intensify food insecurity, and recurrent climate-related disasters lead to the collapse of local livelihoods (Rajshree et al., 2025). This protection gap is further compounded by the absence of a universally agreed-upon legal definition of environmental refugees. The terms "environmental refugee," "climate refugee," and "climate migrant" are frequently used in academic discourse and policymaking; however, none has been formally recognized under international law. International organizations, including the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), are generally reluctant to legally describe environmentally displaced persons as refugees (Moumou & Bennamane, 2025). This is largely due to the definitional limitations of the 1951 Convention on Refugees. Despite these limitations, developments in international human rights law have sparked wider debates about the protection of environmentally displaced persons (Ragheboom, 2017). The relationship between environmental degradation and the enjoyment of fundamental human rights, including the right to life, health, food, and an adequate standard of living, has attracted increasing attention in recent years (Cubie, 2018). These developments also suggest that environmental displacement is not an issue that can only be understood through the lens of refugee law but can also be viewed within the wider framework of international protection obligations (Khaskheli et al., 2020). The lack of a comprehensive and binding legal regime specifically addressing cross-border environmental displacement remains one of the most pressing challenges for contemporary international law. The growing phenomenon of environmental displacement demands a critical reassessment of the adequacy of existing international legal instruments (Mcdonnell, 2024). The lack of protection mechanisms has led to calls for robust legal reform in the international refugee regime, either through the extension of existing protection mechanisms, the development of a specific international instrument, or complementary approaches drawing on international human rights law and state responsibility (Torres & Campello, 2017).

LEGAL STATUS OF ENVIRONMENTAL REFUGEES UNDER INTERNATIONAL LAW

The present framework of international refugee law does not provide a conclusive or explicit position for determining the legal status of environmental refugees. International law remains ambiguous and uncertain in this respect. Environmental degradation is an important driver of human displacement (Sahinkuye, 2019). However, there is no specifically designated legal category under international law for persons forced to migrate across international borders because of environmental factors such as climate change. Environmental refugees find themselves in a complex position within the international legal framework, suffering from the inadequacy of contemporary international refugee law (Al Banna, 2024). The key issue is that this category of individuals lacks an internationally accepted definition, which is a central problem in determining their legal status in the country of entry. This ambiguity is more pertinent when environmental displacement is

considered within the paradigm of international refugee law. The 1951 Convention sets out certain legal thresholds that must be fulfilled before a person can be recognized as a refugee. Environmental factors do not ordinarily fit within the legal requirements of the 1951 Convention. However, the relationship between environmental harm and refugee status is more complex than the exclusion of protection. Discriminatory policies, unequal access to resources, exclusion from disaster relief measures, and failures of governance that affect particular communities can worsen the consequences of environmental degradation. Therefore, the legal significance of environmental factors depends on the context in which they occur and the extent to which they intersect with recognized grounds for persecution. The issue is not whether environmental conditions exist, but whether the surrounding circumstances satisfy the legal requirements for refugee recognition. The limitations of refugee law are gradually encouraging the search for alternative sources of international protection. International human rights law has become particularly relevant because it addresses the protection of fundamental rights without requiring individuals to establish their refugee status. Environmental catastrophes can impact a wide range of human rights, as recognized by international legal instruments. These rights include the right to life, health, housing, food, water, and an adequate standard of living, among others. Environmental displacement at certain times raises questions that go beyond migration governance and into the broader field of human rights. In these exceptional instances, international human rights laws are relevant. International human rights law does pay attention to the cause of harm, but it focuses on the consequences that can threaten human dignity and survival in severe environmental conditions. In particular, the right to life has become increasingly important in discussions regarding the return of individuals to territories where environmental conditions pose serious risks to human existence. Furthermore, the principle of non-refoulement has been reconceptualized outside the conventional refugee law context as a conceivable protection against the return of people facing serious environmental harm to their home countries. Judicial and quasi-judicial bodies have also made slow contributions to the development of legal thinking on environmental displacement issues. One of the notable judicial developments was accentuated in the case of *Ioane Teitiota v. New Zealand*, where the United Nations Human Rights Committee thoughtfully examined whether climate change and environmental degradation could attract non-refoulement obligations under Article 6 of the International Covenant on Civil and Political Rights (ICCPR). The main point of this case was that the committee found no violations of fact. It endorsed and upheld New Zealand's earlier decision to remove Ioane Teitiota to Kiribati. This decision stated that serious environmental conditions can, in some cases, pose a real risk of irreparable harm to the right to live. Such conditions can therefore trigger non-refoulement obligations under Article 6 of the ICCPR, where the level of risk is sufficiently high to warrant such action. However, the decision did not establish a category of "climate refugees" but it effectively confirmed that environmental factors can be relevant to international protection assessments under human rights law.

STATE RESPONSIBILITY TOWARDS ENVIRONMENTAL REFUGEES

The growing nature of environmental displacement has led to significant attention being paid to the role of states in preventing and responding to human mobility in the context of environmental degradation. Environmental refugees do not constitute a recognized category under international refugee law. Nevertheless, it questions states' responsibilities, which arise at various stages of displacement, including international cooperation and the protection of climate-induced individuals. The issue is not only about the legal status of displaced persons but also with regard to the responsibilities of states whose policies and acts have an impact on the circumstances that lead to displacement. The main responsibility for dealing with environmental risks lies with the state on whose territory risks of this sort take place. Under international law, states are expected to take reasonable steps to protect persons within their jurisdiction from foreseeable threats to their lives and well-being. These steps include disaster-risk reduction, early warning systems, and protection of vulnerable communities in the context of environmental displacement. Another intriguing dimension of the issue is the responsibilities of receiving states. Internationally law generally allows states to regulate the entry and residence of non-citizens. However, increasing trends of environmental mobility have

generated several discussions about the extent to which receiving states should contribute to the protection of environmentally displaced populations. These discussions are tended to be framed in terms of humanitarian responsibility and burden-sharing rather than strict legal obligations. The practical reality of environmental displacement requires consistent cooperation between states of origin and receiving states. Environmental catastrophes are not confined to national boundaries. Their effects have usually appeared as horrific in states that have contributed the least to global environmental harm. Due to the pressing demand to mitigate environmental displacement, various states have demonstrated their inclination towards international cooperation, disaster preparedness, and financial assistance. These measures can materially reduce displacement pressures and assist affected communities in adapting to changing environmental conditions. The question of state responsibility for environmental refugees is conceivably broader than question of mere migration management. State responsibility for environmental refugees, environmental degradation, and climate change includes the major duties of states to deal with environmental risks, safeguard vulnerable populations, and cooperate to tackle transnational issues.

CRITICAL ASSESSMENT OF THE EXISTING INTERNATIONAL LEGAL FRAMEWORK

Current legal instruments do not provide an adequate framework for addressing environmental refugees. Different branches of international law provide some forms of protection that may be applicable in exceptional cases; however, they do not form a coherent legal framework for regulating the status and protection of environmental refugees in the same way. For a legal regime, it is necessary to encompass sufficient clarity to identify the beneficiaries of protection with reasonable certainty. The concerned legal framework allocates corresponding obligations among states and provides mechanisms capable of responding effectively to the circumstances that it seeks to regulate. Moreover, there is no legal category which is equivalent to environmental refugees. The lack of an internationally recognized definitional framework has presented different ways in the literature, judicial reasoning, and state practice. On a surface level, the issue of definition appears to be only a matter of terminology, but in depth, it reflects an absence of conceptual consistency, which impacts the predictability of legal outcomes and the ability of individuals to ascertain the legal basis on which protection can be sought. Legal uncertainty at the outset of protection inevitably weakens the effectiveness of a wider legal regime. Another consideration relates to the allocation of legal obligations to states. Generally, international law operates by recognizing individuals' rights and the corresponding obligations of states. These obligations are conventionally scattered across various legal frameworks and are not consolidated in the context of environmental displacement. Refugee law is mainly about persecution, human rights law is about fundamental rights, and environmental law regulates environmental protection and climate governance. Each legal framework plays a significant role in its own realm, but none establishes a comprehensive set of obligations, particularly in the context of cross-border environmental displacement. The effect of such instruments is not the lack of legal duties but the fragmentation of legal responsibility. The applicable legal framework is usually determined not by the existence of uniform legal standards designed to govern environmental displacement but by the factual circumstances of the individual case. Moreover, the existing legal frameworks significantly lack continuity of protection for those displaced due to environmental factors. There is no comparable, well-structured international framework for people displaced across international borders. Existing protection mechanisms are derived indirectly from domestic immigration policies, temporary humanitarian measures, or the application of general human rights principles. These mechanisms can provide safeguards to some extent; nevertheless, they cannot establish consistent protection across multiple jurisdictions. Another key aspect that must be taken into consideration is the relationship between environmental displacement and the changing nature of international law. Jurisprudential development in various branches of international law shows how international law can meet new challenges through the creation of new treaties and their development, interpretation by the courts, and the gradual development of customary norms. Climate-related disasters and environmental degradation are occurring frequently and are altering patterns of human mobility in ways that were not contemplated when the current refugee law was formulated. Across the world, migrations are usually caused by an interaction of economic,

social, environmental, and political factors. The problem with a legal system based on mutually exclusive classification is that it might drastically struggle with properly addressing situations where there are multiple causes at work simultaneously. The problem is not the absence of legal frameworks but their applications to present-day complex patterns of migration. Nevertheless, the existing international framework demonstrates considerable adaptability. Existing legal principles have been thoroughly interpreted by international human rights bodies in the context of contemporary environmental challenges, and states have integrated more climate-related considerations into their migration policies.

RECOMMENDATIONS

1. Create an International Framework on Environmental Displacement

States should try to develop an internationally recognized framework to clarify the legal status of persons displaced as a result of environmental and climate-related factors. A shared understanding can lessen uncertainty about the protection of environmentally displaced individuals and encourage more uniform state practice.

2. Enhance International Cooperation

Environmental displacement is a cross-border issue that must be addressed through meaningful collaboration among states. States should enhance cooperation through financial assistance, the transfer of technological instruments, and climate adaptation initiatives.

3. Clarify State Obligations Through International Practice

International organizations, treaty bodies, and states should continue to clarify how existing international law applies to environmental displacement. Greater uniformity in the practice of states and in the interpretation of the law would enhance protection and preserve the integrity of the existing international legal framework.

CONCLUSION

Environmental displacement represents one of the most difficult challenges of our time, exposing the limitations of the existing international legal instruments. The 1951 Convention and its Protocol is ill-equipped to address the complexities of environmental migration. The need for legal recognition and protection is becoming urgent as thousands of individuals are displaced and migrate across borders due to climate factors. Recognition of environmental refugees in the contemporary context is important, and their protection can only be achieved through the interpretation of existing international legal instruments or the creation of a new legal framework. The international community, states, organizations, and stakeholders must act decisively to address this issue in every possible forum and contribute their resources to fill this gap.

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