

The Legal Dilemma of the Human Right to Climate Asylum

الإشكالية القانونية لحق الإنسان في اللجوء المناخي

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المخلص:

لا يختلف اثنان في أن الكوارث الطبيعية وعلى رأسها التغيرات المناخية تعد من العوامل الأساسية التي تدفع الأفراد إلى الفرار من أوطانهم بحثاً عن الأمان، سواء من خلال اللجوء أو النزوح أو الهجرة، هرباً من المخاطر التي تهدد حياتهم، واستناداً إلى الحق الأساسي في بيئة آمنة ومستقرة، فإن الدول ملزمة قانونياً وأخلاقياً باستقبال هؤلاء الأفراد وتوفير الحماية والمساعدة اللازمة لهم، وضمان تمتعهم بحقوقهم الأساسية.

ومع ذلك لا يزال مفهوم لاجئ المناخ يواجه تحديات قانونية وعملية كبيرة تعيق الاعتراف به ضمن إطار حماية اللاجئين الدولي، وتتبع هذه التحديات أساساً من غياب تعريف قانوني متفق عليه عالمياً، ومن نقص الإرادة السياسية لدى العديد من الدول لتبني هذا المفهوم، فضلاً عن المخاوف المتعلقة بالتبعات القانونية والاقتصادية المحتملة للاعتراف الرسمي بالنزوح الناتج عن تغير المناخ، وتشكل هذه العقبات عائقاً كبيراً أمام تطوير إطار قانوني شامل لحمايتهم.

الكلمات المفتاحية: لاجئ البيئي - اللاجئ المناخ - مشروع ليموج - الحق في البيئة - حقوق الإنسان.

Abstract:

There is a general consensus that natural disasters chief among them climate change are among the primary factors compelling individuals to flee their homelands in search of safety, whether through asylum, displacement, or migration, in order to escape life-threatening risks. Based on the fundamental right to a safe and secure environment, States are legally and morally obliged to receive such individuals, provide them with necessary protection and assistance, and ensure their enjoyment of fundamental rights. However, the notion of climate refugee continues to face significant legal and practical challenges that hinder its recognition within the international refugee protection framework. These challenges stem primarily from the absence of a universally accepted legal definition, the lack of political will on the part of many States to adopt this concept, and concerns over the potential legal and economic implications of formally recognising climate-induced displacement. Such obstacles significantly impede the development of a comprehensive legal framework for their protection.

KEY WORDS: environmental refugee climate refugee, limoges project, the right to environment, human rights.

Introduction:

There is no doubt that environmental threats whether resulting from natural disasters or caused by human technological interventions are among the most significant driving forces compelling individuals to leave their homelands. These threats notably include environmental and noise pollution, floods, climate change, and other negative impacts that affect the ecosystem and the integrity of the living environment inhabited by human beings. The persistence of such risks has a direct effect on human health, and indeed on life itself, prompting individuals to seek refuge in environments that offer conditions of cleanliness, safety, and stability conditions essential to preserving human dignity and well-being, as recognised by international human rights instruments, international law, and national legislation.

Seeking asylum for environmental or climate-related reasons is considered an emerging right, derived from the broader right to a safe and healthy environment. It is a right of a humanitarian nature, one that necessitates both legal protection and formal recognition. However, the challenge lies in the fact that this right although implicitly referred to in some international human rights documents, particularly the Universal Declaration of Human Rights still lacks an explicit and direct legal foundation within the framework of the international human rights charter. Furthermore, the international community has yet to agree on a unified legal definition of individuals who are forcibly displaced due to environmental causes. This has led to a multiplicity of terms and classifications: while some refer to such individuals as environmental refugees, others label them as environmentally displaced persons, internally displaced persons, or even environmentally homeless, whereas another group prefers the term environmental migrants.

This conceptual inconsistency has resulted in the absence of clear legal status for such individuals, creating a legal vacuum at the international level. In response, states and international organisations have made scattered efforts through various initiatives to address the issue of climate-related asylum whether by attempting to unify the terminology used, or by proposing legal protection measures and recognising the fundamental rights arising from this type of displacement.

In light of the legal ambiguity surrounding the status of climate refugees, a critical question arises: to what extent can international human rights law, with its embedded positive obligations on States, provide an effective and sustainable legal framework for the protection of persons displaced by climate change? This overarching question gives rise to several subsidiary inquiries concerning the nature and scope of State obligations, the limits of sovereignty in light of humanitarian protection imperatives, and the potential for the development of judicial reasoning and international practice that is more responsive to the growing realities of climate-related displacement.

Despite the increasing scholarly and policy attention devoted to climate-induced displacement, a significant and persistent gap remains within international law regarding the legal status of individuals forced to leave their places of residence as a result of climate

change impacts, particularly in terms of the scope of their protection and the mechanisms for its effective implementation. Existing legal frameworks—whether under refugee law, international human rights law, or international environmental law—continue to suffer from a high degree of fragmentation and normative inconsistency, which significantly limits their capacity to provide a comprehensive and effective response to this complex and multifaceted phenomenon. This legal fragmentation further undermines the clarity of international obligations and weakens the protection afforded to individuals most affected by environmental degradation and climate change.

Methodologically, the study adopts legal analysis of relevant international legal instruments, including treaties, conventions, and principles of customary international law, combined with a critical examination of international institutional practice, particularly those emerging from United Nations bodies and human rights treaty-monitoring mechanisms. It further engages with emerging normative developments in contemporary international law in order to assess the coherence, limitations, and potential evolution of existing legal responses to climate-induced human mobility, with a view to identifying prospects for a more integrated and rights-based protection framework.

In order to address the general framework of this subject, the descriptive method has been employed to identify and analyse the factors hindering the development of the concept of climate asylum, as well as to review international initiatives aimed at establishing legal foundations for this form of displacement. Additionally, the analytical method has been adopted to interpret relevant legal texts and to conceptualise climate asylum within the broader system of environmental rights that require international legal protection, as an emerging human right in the face of contemporary environmental challenges.

1- The Contested Legal Status of Climate Refugees in International Law

The recognition of a specific legal status for climate refugees remains a subject of significant controversy within the international community, due to divergent positions and conflicting perspectives regarding the nature and legal character of such a status. To date, no international consensus has been reached to establish a unified legal framework that clearly defines the rights afforded to this category of refugees and the obligations incumbent upon them. As a result of this divergence, there exists no binding legal norm dedicated to their protection. Despite numerous efforts and initiatives at both regional and international levels, most of these endeavours have remained within the realm of theoretical proposals and non-binding suggestions, thereby rendering them ineffective in practice and legally unenforceable.

1.1- First Subtitle: The Inadequacy of the International Legal Framework in Recognising Climate Refugees

The absence of a clear legal framework for climate refugees is primarily attributable to two fundamental factors. The first concerns the conceptual ambiguity surrounding the term itself, as the notion of the climate refugee continues to be the subject of doctrinal and legal debate regarding its definition, scope, and parameters of applicability. This has hindered the incorporation of such persons into the traditional legal classifications of refugees. The second factor lies in the normative void and insufficiency of legislative texts both at the international

and regional levels that are concerned with regulating or protecting individuals affected by coercive climatic phenomena.

First: The Lack of Consensus on a Unified Definition of the Climate Refugee

One of the principal obstacles to the formulation of a comprehensive and effective legal framework ensuring the protection of climate refugees lies in the absence of international agreement on a precise and standardised definition of the term climate refugee or environmental refugee. This conceptual challenge stems from the multiplicity of terms employed and the divergent views within legal and political scholarship regarding the characteristics of these individuals, the causes of their forced displacement, and even the nature of the threats justifying their inclusion within the category of persons entitled to international protection. Within this context, three main categories may be identified, each reflecting a different aspect of this conceptual divergence:

1- The Traditional Refugee:

According to the definition provided in Article 1 of the 1951 Convention Relating to the Status of Refugees, as amended by the 1967 Protocol, a refugee is any person 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 their nationality and is unable or unwilling to avail themselves of the protection of that country. Notably, this definition neither explicitly nor implicitly includes individuals compelled to flee due to environmental disasters or climate change. As a result, climate refugees fall outside the protective scope of the Convention.

2- The Environmental Migrant:

This term is often used to describe individuals who migrate voluntarily or at times involuntarily due to environmental or economic conditions. However, some scholars argue that characterising climate-displaced persons as migrants undermines their legal status and strips them of the legal protections afforded to political refugees. Others criticise the term as overly broad and imprecise, contending that it lacks the legal clarity necessary to form the basis of a coherent framework for international environmental protection.

3- The Environmentally Displaced Internal Migrant:

The 1992 Report of the United Nations General Assembly on Internally Displaced Persons defines internally displaced persons (IDPs) as individuals or groups forced to leave their homes suddenly or unexpectedly in large numbers as a result of armed conflict, famine, systematic human rights violations, or natural or man-made disasters, while remaining within the borders of their own country. Although this definition implicitly acknowledges the phenomenon of internal displacement caused by environmental disasters, many states and, in particular, governmental organisations, refuse to recognise such individuals as refugees. They argue that international refugee law only protects persons fleeing persecution on political, religious, or racial grounds, and does not extend to those affected by environmental threats.

In contrast to this restrictive view, the International Organization for Migration (IOM) has adopted a broader and more inclusive approach. It defines climate-displaced persons as

individuals who have been forced to leave their habitual place of residence because their lives or livelihoods have been threatened by adverse effects stemming from climate change, including environmental and climatic disasters.

The absence of a unified and legally binding definition of the climate refugee results in a legal vacuum that hinders the establishment of international rules governing the status of such individuals and ensuring their protection. This definitional gap is further exacerbated by political reluctance on the part of many states, which prefer to disregard this category of displacement in order to avoid the legal and financial obligations that formal recognition might entail. In addition, the limited engagement of the United Nations High Commissioner for Refugees (UNHCR) with environmental displacement issues failing to treat them with the seriousness they deserve within its strategic agenda has contributed to the continued marginalisation of this group, despite the growing environmental threats that increasingly drive forced displacement.

Second: The Legal Deficiency in Regulating the Concept of Climate Refugee Status

The international legal framework concerned with refugee protection reveals a clear shortcoming in addressing the legal status of individuals displaced by climate change. This has given rise to increasingly complex theoretical and practical challenges. The absence of an explicit recognition of the concept of climate-induced displacement has led to conflicting legal and doctrinal positions regarding the eligibility of this group for international protection.

This deficiency is evident, firstly, in the scarcity of legal provisions addressing the situation of individuals affected by environmental disasters whether prior to, during, or after their occurrence and secondly, in the growing scale of the phenomenon on the ground, which has not been matched by adequate legal regulation. Jurisprudential approaches to this issue have diverged into two primary schools of thought: the first adopts a radical position, asserting that climate change constitutes the sole and direct cause of displacement; whereas the second, reformist approach contends that climate change is merely one contributing factor among a complex set of causes that lead to forced migration, and not necessarily the exclusive one.

In addition, the 1951 Geneva Convention Relating to the Status of Refugees contains no reference to environmental disasters or environmental degradation among the grounds that confer eligibility for legal protection. Consequently, climate refugees remain outside the scope of the Convention, thereby exacerbating the existing legal void in this field.¹

While the gravity of the challenges posed by climate change is widely acknowledged, the continued absence of a precise legal framework governing climate-induced displacement is likely to lead to escalating humanitarian crises that may ultimately threaten international peace and security. In the absence of clear rules under general international law explicitly recognising or protecting this category, and given that current interventions are limited to temporary humanitarian aid, there is an urgent need to adopt a dedicated international legal instrument that formally establishes the legal status of climate refugees, defines their rights, and sets out the obligations of states toward them thus ensuring comprehensive and effective legal protection for this vulnerable group.

Conceptual ambiguity constitutes one of the most significant structural obstacles to the effective legal regulation of climate-induced displacement within contemporary international law. The widespread use of the term “climate refugee” in academic, policy, and media discourse reflects the urgency and scale of climate-related mobility; however, it remains legally inaccurate under the current international refugee regime. The 1951 Convention Relating to the Status of Refugees, as amended by the 1967 Protocol, adopts a strictly delimited definition of a refugee as a person who is outside their country of nationality and is unable or unwilling to return owing to a well-founded fear of persecution based on enumerated grounds, including race, religion, nationality, membership of a particular social group, or political opinion. Within this framework, environmental degradation and climate change do not constitute “persecution” in the legal sense, thereby excluding climate-displaced individuals from the protective scope of refugee law.

By contrast, the concept of an environmental migrant is generally employed as a broad, descriptive category referring to individuals who move, either temporarily or permanently, in response to sudden or slow-onset environmental changes that adversely affect their living conditions. However, this notion remains primarily analytical rather than normative, as it does not, in itself, generate a defined legal status or enforceable rights under international law. A more comprehensive formulation is that of environmentally displaced persons, which captures both cross-border and internal movements triggered by environmental stressors such as sea-level rise, desertification, extreme weather events, and ecosystem degradation.

Within this conceptual taxonomy, internally displaced persons (IDPs) occupy a distinct legal position. They are defined as individuals who are forced to flee their habitual residence but remain within the territorial jurisdiction of their own state. Although excluded from the scope of international refugee law, IDPs benefit from protection under the UN Guiding Principles on Internal Displacement, which, despite their non-binding character, derive normative authority from international human rights law, international humanitarian law, and analogous principles of refugee protection.

From a doctrinal perspective, clarifying these distinctions is essential for the development of a coherent and operational legal framework addressing climate-related human mobility. Without such conceptual precision, there is a significant risk of normative distortion, particularly through the overextension of refugee law beyond its treaty-based foundations, thereby undermining its internal coherence and legal certainty. A more viable and legally sound approach lies in strengthening complementary protection regimes and advancing tailored normative instruments capable of responding to the multifaceted and evolving nature of climate-induced displacement.

1.2- Second Subtitle: International Efforts Towards Establishing a Legal Framework for the Protection of Climate Refugees

Despite the persistent legal and political challenges that continue to obstruct the full recognition of climate refugees as a distinct category under international law, a number of international initiatives have emerged with the aim of laying the foundations for a legal regime capable of providing effective protection to individuals affected by environmental

disasters and climate change. These initiatives have constituted the initial building blocks in the process of constructing a comprehensive legal framework that recognises climate refugees, accords them a defined legal status, and establishes mechanisms for their protection at both the national and international levels, what follows is an overview of the most prominent of these initiatives:

First: The Limoges Conference Project (2005)

The international conference held in Limoges, France, in 2005 on the subject of environmentally displaced persons marked a significant milestone in the trajectory towards establishing a comprehensive international convention dedicated to environmental refugees.² The conference culminated in the adoption of a legal document entitled the Draft Limoges Convention on the International Status of Environmentally Displaced Persons, which presented a multidimensional and legally grounded vision for the protection of this category, based on scientific evidence and field data drawn from five continents, and with reference to relevant international legal instruments.³

Notably, the conference proposed the use of the term environmentally displaced person in place of environmental refugee, in recognition of the broader scope of the former, which encompasses both internally displaced persons and cross-border migrants unlike the traditional concept of refugee, which is generally limited to those crossing international borders.

Among the most salient provisions of the draft convention was the affirmation of three fundamental rights: The right to access environmental information and participate in environmental decision-making, The right to seek redress and access environmental justice. Moreover, the right to choose whether to migrate or remain, and to enjoy the full range of rights guaranteed under international human rights law including civil, political, economic, social, and cultural rights.⁴

To ensure the implementation of the convention and give effect to its provisions, the draft proposed the establishment of specialised institutional mechanisms, including:

1- The Global Agency for Environmental Displacement:

The Global Agency for Environmental Displacement is a specialised international body with both a coordinating and executive mandate. It is responsible for determining environmental displacement status for individuals compelled to leave their original areas due to environmental disasters or climate change. The agency plays a key preventive and regulatory role by establishing early warning mechanisms to monitor potential environmental risks and mitigate their effects on populations. It is also tasked with organising the reception of environmentally displaced persons and providing humanitarian assistance while ensuring the protection of their fundamental rights in host locations. Furthermore, it oversees the creation of conditions conducive to voluntary return once the coercive environmental factors that prompted displacement are no longer present. In terms of functions and responsibilities, it may be likened to the United Nations High Commissioner for Refugees (UNHCR), albeit with a specific focus on the environmental dimension of displacement crises.⁵

2- Quasi-Judicial Institutions:

Quasi-judicial institutions for the protection of environmentally displaced persons comprise two complementary bodies functioning at the national and international levels. First, State Parties are to establish national committees specifically concerned with the affairs of environmentally displaced persons. These committees are entrusted with assessing the conditions of individuals affected by environmental disasters or climate degradation and determining their eligibility for protection under clearly defined objective criteria. They are responsible for examining individual cases and issuing preliminary decisions in accordance with legal and humanitarian standards. Second, a supreme authority functioning as an international judicial body shall adjudicate appeals filed directly against national decisions. This authority guarantees the observance of due legal process and provides independent international judicial oversight, thereby enhancing the legitimacy of the protection regime. It also reinforces the principle of shared international responsibility for safeguarding populations affected by environmental changes.

3- The International Fund for Environmentally Displaced Persons:

This fund is conceived as an innovative international financial mechanism designed to address the increasing challenges posed by climate change and environmental disasters in relation to human mobility. Its primary role is to mobilise and equitably distribute financial resources to support the reception of environmentally displaced persons and facilitate their reintegration into either their original communities or new host locations. Funding is sourced from a combination of voluntary contributions from States and institutions, alongside mandatory contributions based on the principle of common but differentiated responsibilities in environmental pollution. Industrialised countries are therefore assigned a greater share of financial responsibility. This fund represents a practical embodiment of equitable burden-sharing in both environmental and humanitarian dimensions, and reinforces international solidarity in confronting the transboundary effects of climate change.

4- Conference of the Parties:

The Conference of the Parties (COP) under the Limoges Draft Convention constitutes a central institutional mechanism. Its principal function is to evaluate the effectiveness of national policies adopted by member States in implementing the provisions of the convention in a comprehensive and effective manner. The COP is tasked with reviewing the consistency of domestic legislation with the principles and standards set out in the convention, particularly those concerning the protection of the rights of persons displaced for environmental reasons. Pursuant to Article 20(5) of the draft convention, it issues recommendations to State Parties for improving reception frameworks and enhancing rapid response mechanisms to environmental emergencies. The COP also promotes international coordination and the exchange of best practices in managing flows of environmentally displaced persons. Through these functions, it plays a pivotal role in supporting the implementation of the convention and ensuring the protection of those affected by environmental change.⁶

Despite its remarkable conceptual sophistication and institutional ambition, the Limoges

Conference Project remained largely a normative and academic initiative rather than an operational international regime. The draft convention did not evolve into a negotiated treaty nor generate sustained intergovernmental negotiations capable of transforming its proposals into binding commitments.

In practical terms, the initiative succeeded primarily in framing environmental displacement as a distinct legal category and stimulating scholarly and policy debates at the international level. However, its direct impact on state practice or international protection mechanisms remained limited. No permanent institutional body was created, and none of the proposed mechanisms entered into force. Consequently, the project's effectiveness can be characterized as normative influence without institutional implementation.

Several legal obstacles contributed to the limited implementation of the Limoges proposals. First, international refugee law remains structurally anchored in the persecution-based definition established by the 1951 Refugee Convention. Expanding protection to environmentally displaced persons would have required either a formal amendment of existing refugee law or the adoption of a new autonomous legal regime, both of which raise complex issues of legal coherence and institutional competence.

Second, the proposed determination mechanisms and quasi-judicial institutions implied the creation of new international adjudicatory authority capable of reviewing national decisions. Such institutional innovations challenge traditional principles of state sovereignty and jurisdictional autonomy, making states reluctant to accept external legal oversight over migration-related decisions.

Beyond legal considerations, political constraints played a decisive role in preventing the transformation of the Limoges Draft Convention into binding international law. Migration governance remains one of the most politically sensitive domains of international cooperation. Many states feared that recognizing environmentally displaced persons as a protected category could generate expanded admission obligations and increase migration pressures.

Additionally, the principle of common but differentiated responsibilities embedded in the proposed international fund implicitly imposed heavier financial obligations on industrialized states. This distributive dimension, while normatively justified, reduced political consensus and limited the willingness of states to engage in formal treaty negotiations.

Note: Why the Limoges Conference Project Did Not Evolve into Binding International Legal Standards?

The failure of the Limoges initiative to crystallize into binding international legal standards illustrates a broader structural dynamic within international lawmaking. Innovative normative proposals often emerge initially within academic or expert-driven processes, yet the transition from normative innovation to legal obligation depends on sustained political will and convergence of state interests. In the case of environmental displacement, the absence of a clear consensus regarding legal definitions, responsibility allocation, and migration governance prevented the emergence of treaty-based regulation. As a result, the Limoges Project contributed significantly to conceptual development but did not achieve legal institutionalization.

Second: International Community Initiatives

In addition to the Limoges Project, the past two decades have witnessed increasing efforts to integrate the issue of environmental asylum into the priorities of the international agenda. These efforts include:

- The inclusion of environmental migration in the deliberations of international forums beginning in the year 2000, alongside the emergence of non-governmental organisations such as Space Living, and initiatives like LISER, launched in 2004 to promote recognition of the environmental refugee status.
- The convening of the European Green Alliance Conference in 2008, which proposed a declaration for international recognition of the climate refugee.
- The publication of a 2008 report by the Parliamentary Assembly of the Council of Europe calling for the strengthening of legal and institutional frameworks concerning environmental migrants.⁷
- The Nansen Initiative (2011–2012), launched jointly by Norway and Switzerland, aimed at developing a cooperative framework for the protection of cross-border displaced persons resulting from environmental disasters. The initiative included the "Nansen Principles," a pivotal reference for defining state responsibilities and addressing legal gaps particularly the lack of an explicit legal definition for environmental refugees in international law. Key rights emphasised by the Nansen Initiative include the right to protection and healthcare, family reunification, access to food, shelter, and employment. It further distinguished between the rights of temporary and permanent displaced persons and advocated for flexible mechanisms for resettlement or voluntary return.⁸

Third: Judicial Developments in Climate-Related Human Rights Protection

International jurisprudence has progressively played a more prominent role in shaping the evolving legal understanding of climate-related displacement, reflecting a gradual shift from a purely environmental governance perspective toward a rights-based interpretative framework. Although international law does not yet explicitly recognize “climate-displaced persons” as a distinct legal category, judicial and quasi-judicial bodies have increasingly been called upon to interpret existing human rights norms in light of the escalating impacts of climate change.

A particularly significant milestone in this regard is the decision of the United Nations Human Rights Committee in *Ioane Teitiota v. New Zealand* 2020. In this case, the Committee acknowledged that the adverse effects of climate change and environmental degradation may, under certain conditions, expose individuals to a real risk of irreparable harm upon return to their country of origin, particularly in relation to the right to life under Article 6 of the International Covenant on Civil and Political Rights. The Committee further emphasized that such risks are not purely hypothetical or remote, but may become foreseeable and imminent where states fail to take adequate adaptive or protective measures.

Although the individual communication was ultimately dismissed on evidentiary grounds specifically due to the lack of sufficient proof that the applicant faced an immediate risk at the time of removal the reasoning adopted by the Committee is of considerable doctrinal importance. It signals an interpretative openness toward extending the scope of non-refoulement obligations beyond traditional persecution-based grounds, potentially encompassing environmental harm and climate-induced existential threats.

This jurisprudence thus constitutes a pivotal normative development in international human rights law. It suggests that, in exceptional circumstances, states may incur non-refoulement obligations where climate change creates life-threatening conditions incompatible with the minimum threshold of human dignity and survival. More broadly, *Teitiotia* represents an incremental yet meaningful step toward integrating climate-induced displacement into the protective ambit of international human rights law, thereby contributing to the gradual formation of an emerging protective legal framework at the intersection of climate change, mobility, and human rights.⁹

The 2nd decision in *Daniel Billy and Others v. Australia* 2022 represents an important development in the intersection between international human rights law and climate change, albeit of a gradual and non-definitive nature. Although the Committee did not establish a violation of the right to life under Article 6 of the ICCPR, it nevertheless recognized that the impacts of climate change may give rise to violations of other fundamental rights. These rights include, in particular, the right to private and family life and to the home under Article 17, as well as the right to enjoy one's culture under Article 27. This approach reflects an expanded interpretation of human rights to encompass the environmental, social, and cultural dimensions of climate-related harm.

The decision further highlights that state inaction in adopting adequate adaptation measures may constitute a basis for international responsibility. In this regard, it reinforces the emerging due diligence obligations of states within the framework of climate governance under human rights standards. While the Committee remained cautious in affirming a violation of the right to life, it adopted a progressively interpretative and flexible reasoning. This suggests a potential future expansion in the admissibility of climate-related claims where a causal link between state inaction and harm can be sufficiently demonstrated.

Accordingly, the decision marks a significant step toward integrating environmental protection within the international human rights regime. It also confirms that cultural integrity and environmental stability are becoming essential components of human rights protection in the era of climate change.¹⁰

Fourth: UNHCR Strategic Framework for Climate Action 2022–2025

This framework represents the most recent systematic attempt to address displacement caused by climate change. It encompasses the UNHCR's operational strategy for climate adaptation and environmental sustainability, aiming to:

- Strengthen the resilience of refugees, stateless persons, and host communities in the face of climate-related risks.
- Preserve the natural environment in displacement settings.

- Reinforce preventive and responsive mechanisms in cases of environmental disasters.
- Improve the environmental performance of the UNHCR and reduce its carbon footprint.

This strategy constitutes the first phase of a multi-year initiative to integrate the environmental dimension into the UNHCR's operational mandate ranging from preparedness to protection and sustainable solutions.¹¹

2- The Protection Accorded to Climate Refugees

The protection granted to climate refugees is closely linked to the rights guaranteed to them under international law. The international community, in light of its legal and moral obligations, must ensure effective protection for this category of persons affected by climate change whether through the recognition of their rights under international human rights law or within the provisions of international environmental law.

2.1- First Subtitle: The Obligation of the International Community to Establish Legal Protection for Climate Refugees:

The international community has sought to implement its legal commitments toward climate refugees by adopting various legal frameworks and mechanisms aimed at strengthening international protection for those fleeing environmental disasters. These efforts are reflected in the integration of climate change issues into global human rights discourse and in attempts to broaden the definition of a refugee to include individuals forced to leave their homelands due to environmental degradation. In addition, international relief programmes and cooperative mechanisms have been established to address the human rights implications of climate-related disasters. These initiatives represent some of the most prominent attempts by the international community to overcome the legal vacuum in this field.

First: The 2006 International Convention on the Rights of Persons with Disabilities

Article 11 of the Convention states that the State Parties undertake to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including armed conflict, humanitarian emergencies, and natural disasters. Although this article offers partial protection for climate refugees, its scope remains limited in two respects: first, in terms of the targeted category persons with disabilities only; and second, with respect to the required conditions, such as the existence of a state of emergency, armed conflict, or natural disaster. As such, the protection it offers remains conditional and does not extend comprehensively to all categories of climate-induced displacement.¹²

Second: The Principle of International Solidarity and Humanitarian Assistance

International solidarity constitutes one of the core pillars of the global system for protecting victims of disasters, and serves as an effective tool to confront the impacts of

climate change through the provision of humanitarian support to affected regions. In this regard, the United Nations launched the International Strategy for Disaster Reduction (ISDR) in December 1999, aimed at strengthening capacities to anticipate natural disasters and mitigate their effects. This strategy was expanded in 2001 to become a UN coordination center for information-sharing, expertise dissemination, and support tools, such as the Prevention Web, Country Reports, and the Global Assessment Report on Disaster Risk Reduction (GAR). These instruments constitute an indirect but crucial means of protection for climate refugees, whether in their countries of origin or in displacement settings.¹³

Third: The Protection Agenda for Cross-Border Displacement in the Context of Disasters and Climate Change:

This framework aims to provide temporary protection for individuals compelled to cross international borders as a result of climate-induced disasters. It recognizes various protective measures, including the issuance of entry visas, visa requirement waivers, expedited admission procedures, and temporary protection mechanisms particularly for cases in which displaced persons lack official documentation. The agenda also advocates for the regularization of individuals who were abroad at the time of the disaster by extending residence permits or suspending deportation orders, thereby preventing the risks of forced return. It further emphasizes the need for bilateral agreements to facilitate safe and voluntary return once the grounds for displacement have ceased, or to extend stay permits where such causes persist, including the possibility of granting refugee status under applicable legal conditions.¹⁴

Fourth: The Nansen Principles on Internal Displacement Caused by Climate Change (2013)

These principles were developed by the Displacement Solutions project in cooperation with a group of international legal experts, the United Nations High Commissioner for Refugees (UNHCR),¹⁵ and academic entities affiliated with the United Nations. Although these principles are non-binding in nature, they serve as an important normative reference that provides a legal basis for the protection of internally displaced persons (IDPs) due to environmental reasons. The principles affirm the necessity of preventing displacement, ensuring protection during displacement, and securing voluntary return in safe and dignified conditions. They also place obligations upon states to assist affected populations and to empower them to adapt in their original locations before resorting to displacement as a last resort.¹⁶

2.2- Second Subtitle: The Rights Guaranteed to Climate Refugees under International Law

The climate refugee is, from a humanitarian standpoint, a natural person who falls within the category of individuals forcibly and involuntarily displaced from their homelands due to severe environmental threats that endanger their right to life and physical safety. Accordingly, they are entitled to enjoy all the fundamental rights and freedoms guaranteed to

human beings, whether in times of peace or during armed conflict, without any form of discrimination.

These rights are rooted in the corpus of international human rights law, particularly as enshrined in key instruments such as the Universal Declaration of Human Rights (UDHR) and the two International Covenants of 1966. They are also affirmed in the principles of international environmental law, which recognize protection from serious environmental harm as an integral part of human dignity and the right to live in a safe and healthy environment. Therefore, the enjoyment of such rights is not contingent upon the legal definition of refugee status but stems from general humanitarian considerations acknowledged by international instruments and mandated by contemporary international law.

First: Rights of Climate Refugees within the Framework of the International Human Rights Charter

Climate refugees fall under the general protection afforded by the international human rights system, given that they are, ultimately, human beings who have been forced to flee their countries of origin due to natural disasters posing a direct threat to their lives and physical integrity. This reality necessitates granting them the same rights and freedoms conferred upon all individuals, without discrimination, whether during peacetime or armed conflict.

This approach is founded on the principles enshrined in the Universal Declaration of Human Rights, whose preamble upholds the concept of human dignity as the cornerstone of all rights. Article 1 of the Declaration states that all human beings are born free and equal in dignity and rights.¹⁷ In the same vein, Article 13 recognizes everyone's right to freedom of movement, including the right to leave any country, including their own, and to return to it. Consequently,¹⁸ climate-induced displacement falls within the scope of the rights protected by this article, especially since its underlying aim is to safeguard the right to life and the physical and moral integrity of the individual a right also affirmed in Article 3 of the Declaration.

In the same context, the International Covenant on Civil and Political Rights reinforces this protection. Article 6(1) provides that every human being has the inherent right to life, which must be protected by law, and no one shall be arbitrarily deprived of their life. This entails a legal obligation upon states to adopt the necessary legislative and executive measures to ensure that climate refugees can fully enjoy this right, particularly where it can be proven that remaining in their original environment constitutes an imminent threat to their lives.¹⁹

Furthermore, Article 12 of the same Covenant establishes the right to liberty of movement, including the freedom to choose one's residence, to leave any country, and to return to one's own. Any restriction of these rights must be in accordance with the law and justified by compelling reasons of public order. Therefore, denying a climate refugee the exercise of this right constitutes a clear violation of international standards and binding provisions of international law.²⁰

Second: The Rights of Climate Refugees under International Environmental Law

The right to a healthy environment is one of the most prominent environmental rights recognized under international law. It is a fundamental right upon which a set of other rights depends, such as the right to access environmental information, the right to participate in

environmental decision-making, and the right to access justice in environmental matters. Given that environmental degradation is the main driver of climate-induced migration, seeking refuge in such cases constitutes a means of ensuring the effective enjoyment of this essential right.

This right has been clearly affirmed in several international documents, most notably the 1972 Stockholm Declaration issued by the United Nations Conference on the Human Environment. Principle 1 of the Declaration states that: Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.²¹

This concept was reaffirmed in the 1987 report of the World Commission on Environment and Development, commonly known as *Our Common Future*, which in its first principle asserts that: All human beings have the right to a healthy and productive life in harmony with nature, and it emphasizes that states have an obligation to protect natural resources for the benefit of present and future generations.²²

The Arab regional human rights system has also recognized this right. The final declaration of the First Arab Ministerial Conference on Environmental Considerations in Development (1986) affirmed that: Living in a clean and pollution-free environment is one of the fundamental rights of the individual.²³

Based on the foregoing, the climate refugee is legally entitled to the right to live in a safe, healthy, and sustainable environment. This imposes an obligation upon the international community, as well as regional and national systems, to incorporate this right within their legal frameworks and to provide the necessary mechanisms for its protection and implementation.

Conclusion:

"Ole Brown" (Programme Director at the International Institute for Sustainable Development) has aptly noted: The distinction between the terms environmental refugee and environmental migrant is not merely semantic; the adoption of either carries significant international legal implications. This assertion reflects the depth of the legal dilemma regarding the classification of populations affected by climate change, and raises fundamental questions about their status within the framework of international law.

Based on this perspective and the findings of the present study, we can summarise the main conclusions as follows:

- Despite the growing international awareness of the severity of environmental and climate-related crises and their repercussions on population movement, the international community has yet to agree upon a unified legal definition for the affected groups be they environmental (or climate) refugees, internally displaced persons, or environmentally driven migrants. This shortcoming is largely due to a lack of political and legal consensus on the conceptual framework governing each category, which has resulted in divergent legal statuses and associated rights.
- Nevertheless, this legislative gap has not prevented the emergence of international initiatives aimed at paving the way toward establishing a specific legal framework for

climate refugees. These initiatives are manifested in the creation of institutional and quasi-judicial protection mechanisms and the enshrinement of a set of rights and principles granted to individuals forced to cross borders due to climate-related disasters.

- In analysing the potential rights of these individuals, it is essential to affirm that their entitlement to protection should not be contingent solely upon their designation or legal classification (as refugee, displaced person, or migrant). Rather, they must be guaranteed fundamental rights enshrined in both international humanitarian law and international human rights law, most notably: human dignity, the right to life, the right to leave and return to one's country, and the right to a healthy environment.

In conclusion, we put forward the following recommendations:

- The urgent need to initiate a multilateral international dialogue to unify perspectives on the concept of environmental asylum, and to draft a precise legal classification that distinguishes among environmental refugees, environmental migrants, and climate-displaced persons, each with corresponding legal provisions.
- A call for the revision of the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol, with the aim of incorporating environmental and climate-related disasters among the grounds justifying refugee status, thereby ensuring legal protection for individuals affected by such forms of displacement.
- Encouraging the United Nations High Commissioner for Refugees (UNHCR) to revise its strategic approach in a way that expands its mandate to include climate refugees, particularly those affected by floods, desertification, cyclones, and rising sea levels.
- The integration of climate asylum into the mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, established in 2022, with an expanded scope to address the conditions of environmental refugees beyond mere awareness-raising, education, and institutional coordination.
- From a future-oriented legal perspective, we propose the recognition of the right to environmental asylum as a third-generation human right, emerging in response to the evolving dynamics of contemporary international law and reflecting the need to modernise traditional legal concepts in light of accelerating climate change and its humanitarian implications.

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