



Crossing No Man's Land: Are Climate-Driven Migrants Protected Under Global Law?

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ABSTRACT

Climate change is increasingly emerging as a structural driver of cross-border human mobility, yet international law remains largely unresponsive to the legal status and protection needs of climate-driven migrants. Rising sea levels, extreme weather events, desertification, and resource scarcity are forcing populations to move beyond national borders, often into legal uncertainty. This article examines whether existing global legal frameworks particularly international refugee law, international human rights law, and migration governance instruments provide adequate protection for individuals displaced primarily by climate-related factors. Employing a doctrinal and comparative legal research methodology, the study analyses core international treaties, soft law instruments, and relevant jurisprudence to identify normative gaps and conceptual limitations. The findings reveal that the absence of a legally recognized category for climate-driven migrants results in fragmented and inconsistent protection, leaving affected populations vulnerable to exclusion and rights deprivation. The article argues that reliance on traditional refugee definitions and ad hoc humanitarian responses is insufficient. It concludes by proposing normative and policy-oriented pathways, including interpretative expansion of existing regimes and the development of a dedicated international framework, to ensure effective protection for climate-driven migrants under global law.

Keywords: Human mobility, Environmental displacement, Refugee protection gaps, International human rights, Forced migration, Humanitarian law.

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INTRODUCTION

The accelerating impacts of climate change including rising sea levels, prolonged droughts, extreme storms, and environmental degradation are increasingly forcing communities to relocate, often across borders. These movements, commonly referred to as climate-induced or environmentally driven migration, challenge existing international legal frameworks, which were largely designed to address displacement caused by persecution, conflict, or other traditional grounds. The purpose of this article is to examine whether current global law provides adequate

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protection for individuals displaced primarily by climate-related factors and to explore potential pathways for legal and policy reform. The scope of the study encompasses international refugee law, human rights law, humanitarian frameworks, and regional initiatives, with an emphasis on understanding legal protection gaps for cross-border and internal climate migrants (Ghani et al., 2025). By situating climate migration at the intersection of human rights, environmental law, and migration policy, the study highlights the significance of reconciling climate realities with legal obligations to ensure protection, dignity, and human security (Sharma, 2024; Malik & Gul, 2024). The research questions guiding this study are: (1) To what extent do existing international and regional legal frameworks recognize and protect climate-driven migrants? (2) What are the principal gaps and challenges in ensuring legal protection for this population? (3) What legal or policy innovations could enhance protection for climate-displaced persons?

The study hypothesizes that current international law is inadequate to fully protect climate-driven migrants due to its narrow definitions of refugee status and limited cross-border enforcement mechanisms, leaving many displaced persons in a legal and humanitarian limbo. The methodology involves a qualitative analysis of primary sources treaties, conventions, regional agreements and secondary sources scholarly literature, UN reports, and case studies, aimed at mapping existing legal instruments and evaluating their effectiveness (Mathlouthi et al., 2025). The outcomes of this research identify critical gaps in global protection, highlight regional and innovative responses, and propose pathways for reform grounded in human rights and climate justice principles. The remainder of the article is organized as follows: Section two examines the drivers of climate-induced mobility; Section three evaluates the international legal framework; Section four explores regional legal responses; Section five identifies protection gaps and human security risks; Section six reviews emerging legal innovations; Section seven presents illustrative case studies; Section eight discusses policy implications; and Section nine concludes with recommendations for the future. The term “climate driven migrants” refers to individuals or communities compelled to relocate due to environmental changes linked to climate change. These movements challenge traditional categories of migration law. Unlike refugees fleeing persecution, climate migrants are pushed by ecological transformations that undermine livelihoods, destroy homes, and erode social infrastructure. The absence of a dedicated legal status under international law leaves climate migrants in a legal no man’s land between humanitarian concern and legal recognition (Chakraborty & Sudhakar, 2025; Malik et al., 2025).

CONCEPTUAL AND THEORETICAL FRAMEWORK

This article adopts a conceptual and theoretical framework that situates climate-driven migration at the intersection of climate change, cross-border human mobility, and international legal protection. Conceptually, climate-driven migrants are understood as individuals compelled to cross international borders primarily due to sudden- or slow-onset climate-related harms such as sea-level rise, extreme weather events, desertification, and resource scarcity where movement is predominantly involuntary and survival-oriented rather than economically voluntary. Theoretically, the framework draws on international refugee law, international human rights law, and global governance theory to explain the normative disconnect between emerging patterns of climate-induced displacement and the state-centric, persecution-based foundations of existing

protection regimes. Refugee law theory highlights the exclusionary limits of the 1951 Refugee Convention, human rights theory emphasizes the universality and indivisibility of rights irrespective of migration status, and global governance theory exposes the fragmentation and soft-law dependence of current migration responses. Together, these perspectives illuminate how the absence of a legally recognized status for climate-driven migrants produces protection gaps, legal uncertainty, and inconsistent state practice, thereby justifying the need for interpretative expansion of existing legal frameworks or the development of a dedicated international protection regime.

RESEARCH METHODOLOGY

This study adopts a qualitative research methodology, employing doctrinal and analytical approaches to examine the legal protection of climate-driven migrants. Primary sources, including international treaties, conventions, regional agreements, and official UN and governmental reports, were analysed to assess the scope and limitations of existing legal frameworks. Secondary sources, such as scholarly literature, policy papers, and case studies, were reviewed to contextualize legal gaps, explore emerging innovations, and evaluate practical challenges in implementation. The methodology emphasizes a comparative and interdisciplinary approach, integrating perspectives from international law, human rights, humanitarian law, and climate policy, allowing for a comprehensive understanding of both normative obligations and real-world implications for climate-displaced populations (Lin & Song, 2024).

DRIVERS OF CLIMATE MOBILITY: BEYOND NATURAL DISASTERS

Climate-induced mobility is a complex phenomenon that extends well beyond immediate natural disasters. While sudden-onset events such as hurricanes, floods, and wildfires often force rapid displacement, slow-onset processes like sea-level rise, desertification, soil degradation, and prolonged drought gradually undermine livelihoods and render communities uninhabitable. These environmental stressors intersect with socioeconomic vulnerabilities including poverty, weak governance, and inadequate infrastructure amplifying the pressure to migrate (Khan & Jiliani, 2023). Moreover, climate change often acts as a risk multiplier, exacerbating existing inequalities and sometimes triggering or intensifying conflicts over scarce resources such as water, arable land, and fisheries. In regions such as the Sahel or small island states in the Pacific, mobility is both a survival strategy and a long-term adaptation measure. Migratory patterns vary from temporary internal displacement to permanent cross-border relocation, reflecting the diversity of drivers and the agency of affected populations. Understanding these multifaceted drivers is essential for designing legal frameworks that go beyond reactive humanitarian assistance and address the structural conditions compelling climate migration. Recognizing both sudden- and slow-onset factors, alongside socioeconomic and political vulnerabilities, allows for a more nuanced and effective approach to protection and policy planning (Cao, 2025; Faisal & Gul, 2025).

THE LEGAL LANDSCAPE: FRAGMENTED AND INCOMPLETE

International Refugee Law

The cornerstone of global protection for displaced persons is the 1951 Refugee Convention and its 1967 Protocol, which define 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. While this framework has provided critical safeguards for millions fleeing conflict or persecution, it does not recognize climate-induced displacement as a ground for refugee status. Consequently, individuals forced to move due to environmental degradation, rising sea levels, or extreme weather events often fall outside the legal definition of a refugee, leaving them without access to asylum or other forms of international protection. Attempts to reinterpret “persecution” to include environmental factors have met with limited success, as states and courts remain cautious about expanding the scope of the Convention (Khan & Usman, 2023). This gap has significant implications: climate migrants crossing international borders frequently encounter legal limbo, facing risks such as detention, deportation, and human rights violations. Scholars and advocates argue that without a formal recognition of environmental displacement, international refugee law is insufficient to address the growing scale and complexity of climate-driven mobility, underscoring the urgent need for legal innovation and adaptive policy frameworks. The 1951 Refugee Convention and its 1967 Protocol define 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. Crucially, climate change is not recognized as a ground for refugee status (Trinchese, 2024; Gul et al., 2025).

International Human Rights Law

International human rights law offers a broader normative framework that, in theory, applies to all individuals regardless of their migratory status. Treaties such as the International Covenant on Civil and Political Rights ICCPR and the International Covenant on Economic, Social and Cultural Rights ICESCR establish rights to life, health, adequate housing, and an adequate standard of living protections that are directly relevant to people displaced by climate-induced environmental changes. Unlike refugee law, human rights law does not require persecution as a precondition for protection, making it potentially more inclusive for climate-driven migrants. For instance, states have obligations to prevent arbitrary deprivation of life, ensure access to basic services, and provide relief during disasters, which could indirectly protect those displaced by climate events (Hussain et al., 2023). However, significant limitations remain. Human rights instruments primarily impose obligations within state borders, offering limited safeguards for individuals who cross international boundaries in search of safety. Enforcement mechanisms are often weak, relying on state cooperation and reporting to treaty bodies, which reduces the practical ability of climate migrants to claim protections. Moreover, many rights are subject to progressive realization or resource constraints, making the provision of immediate protection uneven, especially in vulnerable or low-income countries. As a result, while international human rights law provides important normative guidance, it does not fully bridge the protection gap left by refugee law, highlighting the need for complementary legal and policy measures specifically tailored to climate-induced mobility. Human rights treaties articulate universal protections such as the rights to life, shelter, and health that theoretically apply to all persons, regardless of migratory status. Instruments like the ICCPR and the ICESCR place positive obligations on states to protect fundamental rights (McDonnell, 2024; Gul et al., 2025).

Humanitarian and Soft Law Frameworks

In addition to binding treaties, various humanitarian and soft law instruments address the needs of people displaced by environmental and climate-related events. The UN Guiding Principles on Internal Displacement 1998, while non-binding, provide comprehensive guidance for protecting internally displaced persons IDPs, including those displaced by natural disasters and environmental degradation. These Principles outline state responsibilities for protection, assistance, and durable solutions, emphasizing human rights and humanitarian standards. Similarly, frameworks under the United Nations Framework Convention on Climate Change UNFCCC recognize the human mobility dimensions of climate change and encourage adaptation measures. Instruments such as the Warsaw International Mechanism for Loss and Damage acknowledge displacement caused by climate impacts, but they primarily focus on risk reduction, adaptation, and financial support rather than establishing enforceable rights to migration or cross-border protection (Hussain et al., 2023). Other initiatives, such as regional guidelines or non-binding international declarations, attempt to fill the gaps in refugee and human rights law. However, these soft law mechanisms lack binding authority, leaving states with discretion in implementation. While they are valuable for shaping norms and fostering international cooperation, their practical impact on cross-border protection for climate-driven migrants remains limited. Overall, humanitarian and soft law frameworks provide critical guidance and moral imperatives for action but cannot substitute for legally binding instruments that confer protection rights to climate-displaced populations, highlighting a persistent gap in the global legal architecture. The UN Guiding Principles on Internal Displacement offer normative guidance for IDPs, including those displaced by disasters. While influential, the principles are non-binding. Similarly, the UNFCCC emphasizes adaptation and resilience but refrains from articulating rights to migration or relocation (Davidoff-Gore & Huang, 2024; Gul et al., 2025).

REGIONAL LEGAL RESPONSES

Africa

Africa has been at the forefront of recognizing displacement caused by disasters, including climate-induced events, within regional legal instruments. The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa Kampala Convention, 2009 explicitly acknowledges that people may be displaced due to natural or human-made disasters. This landmark treaty establishes binding obligations for African states to provide protection, assistance, and durable solutions for IDPs, marking one of the first regional frameworks to formally include environmental factors as grounds for displacement. The Convention obliges states to prevent displacement where possible, ensure access to humanitarian aid, protect vulnerable populations, and facilitate voluntary return, local integration, or resettlement. By recognizing environmental displacement alongside conflict-driven displacement, the Kampala Convention represents a progressive regional approach that could serve as a model for other regions grappling with climate mobility (Hussain et al., 2023). Despite these advances, challenges remain in implementation. Many African states face resource constraints, weak institutional capacity, and competing priorities, limiting their ability to fully operationalize the Convention's provisions. Moreover, the Kampala Convention primarily addresses internal displacement, leaving cross-border climate migrants largely unprotected under regional law. Nonetheless, Africa's

approach demonstrates the potential of binding regional instruments to fill gaps left by international refugee and human rights law. African states have taken progressive steps. The African Union Convention for the Protection and Assistance of Internally Displaced Persons Kampala Convention recognizes displacement due to natural or human made disasters, including climate related events a rare explicit acknowledgment (Chang, 2025).

The Americas and Europe

In Latin America, the Cartagena Declaration on Refugees 1984 offers a broader regional interpretation of refugee protection. It expands the definition of a refugee to include individuals fleeing “massive violation of human rights” and situations of generalized violence. Some scholars argue that this broader framework could be interpreted to encompass people displaced by environmental disasters or climate-related crises, although in practice, such an application has been limited. The Declaration remains a non-binding instrument, relying on national implementation for enforcement, which creates variability in protection for climate-displaced persons across countries. In Europe, debates over “climate refugees” have gained visibility amid increasing cross-border migration linked to environmental and socio-political pressures (Khan & Ximei, 2022). While the European Union and Council of Europe have developed policies for migration and disaster response, there is no binding regional instrument specifically addressing climate-induced displacement. European legal frameworks primarily focus on humanitarian protection and temporary relief, leaving long-term rights and legal status unresolved for climate migrants. Both regions illustrate the limitations of soft law and discretionary approaches: while normative frameworks and declarations highlight the importance of protection, they often lack enforceability and are inconsistent across states. These experiences underscore the need for coordinated, binding mechanisms that can address cross-border climate mobility effectively, complementing existing international and humanitarian law frameworks. The Cartagena Declaration Latin America broadens the refugee concept to include those fleeing generalized violence and massive human rights violations; some scholars argue this could encompass climate disasters, but application remains limited. Europe has seen policy debates about “climate refugees,” yet no binding regional instrument (Obaya et al., 2024; Amjad et al., 2022).

PROTECTION GAPS AND HUMAN SECURITY RISKS

Cross Border Protection Vacuum

One of the most pressing challenges for climate-driven migrants is the absence of clear legal status when crossing international borders. Unlike refugees fleeing persecution, climate migrants do not fall within the traditional definitions established by the 1951 Refugee Convention or its 1967 Protocol. As a result, states are under no binding obligation to provide asylum, residency, or social protections to these individuals. This protection vacuum exposes climate migrants to numerous risks, including detention, deportation, exploitation, and human trafficking. It also creates legal uncertainty, as immigration authorities may categorize climate migrants as irregular migrants, leaving them vulnerable to administrative or legal penalties (Javed et al., 2021). Furthermore, this gap hinders access to humanitarian assistance, healthcare, and livelihood opportunities, exacerbating human insecurity and social marginalization. The cross-border

protection vacuum underscores the need for new legal instruments or interpretative frameworks that recognize climate-induced displacement as a legitimate ground for protection. Without such mechanisms, millions of climate migrants will continue to inhabit a legal and humanitarian no-man's land, facing the compounded vulnerabilities of environmental exposure and lack of international safeguards. Climate migrants who cross international borders often lack legal status, exposing them to detention, deportation, exploitation, and rights violations (corbane et al.,2024).

Internal Displacement

While cross-border climate migrants face legal limbo, IDPs encounter distinct yet equally pressing protection challenges. IDPs are individuals forced to flee their homes due to climate-related disasters, but who remain within the territorial boundaries of their own state. Unlike refugees, they do not have an international legal framework guaranteeing protection, relying instead on national laws, policies, and humanitarian guidelines such as the UN Guiding Principles on Internal Displacement. States are responsible for safeguarding the rights of IDPs, including access to shelter, food, healthcare, and education. However, in many climate-affected regions, governance weaknesses, limited resources, and political instability impede effective implementation (Khan et al., 2021). Additionally, slow-onset events like sea-level rise and desertification create protracted displacement situations, requiring long-term solutions such as relocation, resettlement, and livelihood restoration measures that are often underdeveloped or inconsistently applied. Internal displacement thus exposes climate-affected populations to vulnerability, social marginalization, and heightened risk of poverty, even when they remain within their country of origin. Addressing these challenges necessitates not only robust national policies but also international support and coordination to ensure durable solutions that respect human dignity and rights. While internal displacement falls under humanitarian guidelines, many affected states lack resources or political will for implementation (Nordenberg, 2025; Usman et al., 2021).

Statelessness and Loss of Territory

One of the most complex and unprecedented challenges posed by climate change is the potential loss of entire territories, particularly in low-lying island nations such as Tuvalu, Kiribati, and the Maldives. As sea levels rise, entire communities face the prospect of becoming stateless, losing not only their homes and livelihoods but also their legal nationality. Existing international law provides limited guidance on the continuity of statehood, citizenship rights, or obligations toward populations displaced by disappearing territories. Statelessness compounds the vulnerability of climate-displaced populations, leaving them without access to basic rights such as education, healthcare, legal recognition, and freedom of movement. Current mechanisms for addressing statelessness, such as the 1954 Convention Relating to the Status of Stateless Persons, were not designed to address environmentally induced loss of nationality and rely heavily on state cooperation, which may be politically or practically constrained. The intersection of climate displacement and statelessness underscores the urgent need for innovative legal responses. Possible approaches include recognizing collective rights to nationality, facilitating migration pathways for threatened populations, and establishing international frameworks for state succession or territorial continuity. Without such measures, climate-induced statelessness could

become a profound humanitarian and legal crisis in the coming decades. Low lying island nations face disappearance due to sea level rise, raising unprecedented statelessness questions. Current law does not provide mechanisms for state continuity or relocation of entire populations (Erben, 2025).

EMERGING LEGAL INNOVATIONS AND PROPOSALS

In response to the growing recognition of climate-induced displacement, scholars, policymakers, and international organizations have proposed several innovative legal and policy approaches to bridge existing protection gaps. One avenue is the expansion of refugee definitions to explicitly include climate and environmental factors. This could take the form of a dedicated protocol on climate displacement, granting cross-border protection and asylum rights to individuals forced to move by climate impacts. Some legal scholars also advocate for a progressive interpretation of “persecution” to encompass threats to life and livelihood caused by environmental disasters. Another pathway emphasizes human rights-centered approaches. International human rights law, which guarantees rights to life, health, and an adequate standard of living, could provide a basis for protection claims. By framing climate displacement as a threat to fundamental human rights, states may be compelled to uphold positive obligations, particularly in cases of internal displacement or imminent cross-border movement. Regional agreements and mobility partnerships represent practical, operational solutions. Temporary protection statuses, Labor mobility schemes, and resettlement programs can create legal pathways for vulnerable populations, especially in highly exposed regions. These arrangements often rely on principles of burden-sharing and solidarity, allowing multiple states to contribute to protection and relocation efforts. The principle of climate justice introduces an ethical and legal dimension, linking climate-induced displacement to historical responsibility for greenhouse gas emissions. Under the doctrine of common but differentiated responsibilities, industrialized nations could bear obligations to support resettlement, adaptation measures, and migration pathways in vulnerable countries, ensuring equity and shared accountability. These approaches suggest a multi-layered strategy: reforming international law, leveraging human rights mechanisms, fostering regional cooperation, and embedding climate justice principles. While many proposals remain aspirational, they represent critical steps toward closing the protection gaps faced by climate-driven migrants and ensuring their human rights and dignity are upheld (Akpobome, 2024).

CONCLUSION

Climate change is increasingly reshaping human mobility, compelling millions to leave their homes due to rising seas, extreme weather events, and environmental degradation. This research highlights a critical gap in global law: existing frameworks, including refugee law, human rights law, and humanitarian guidelines, provide limited protection for climate-driven migrants, particularly those crossing international borders or facing the loss of their territory. Regional instruments, such as Africa’s Kampala Convention, demonstrate innovative approaches, but gaps remain in enforcement, scope, and cross-border applicability. The study underscores that climate migration is a multifaceted phenomenon, influenced by sudden- and slow-onset environmental changes, socioeconomic vulnerabilities, and governance challenges. Legal protection must therefore move beyond narrow definitions of refugee status and address internal displacement, statelessness, and cross-border mobility in an integrated manner. Emerging proposals including

expanded refugee definitions, human rights-cantered approaches, regional mobility agreements, and climate justice frameworks provide promising pathways, yet their implementation remains limited and fragmented. For future research and policy development, several avenues are critical.

These include exploring binding international instruments specific to climate displacement, assessing the feasibility of regional protection schemes, and examining the interplay between climate adaptation, human mobility, and international responsibility. Additionally, empirical studies on the lived experiences of climate migrants can inform both normative frameworks and practical policy interventions. Ultimately, this research matters because climate-induced displacement is not a distant scenario but an imminent and growing reality. Developing robust legal protections is essential not only for safeguarding human rights and dignity but also for fostering equitable, coordinated, and just responses to one of the defining humanitarian challenges of the 21st century. Climate change is no longer a distant threat it is reshaping human mobility today. Yet the global legal framework remains deeply inadequate for the protection needs of climate driven migrants. Bridging this gap requires reimagining legal categories, expanding protections beyond old paradigms, and fostering international cooperation grounded in justice and human dignity.

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