



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL **TEAM**

Raju Narayana Swamy (IAS) Indian Administrative Service **officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru

and a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CLIMATE MIGRATION AND LEGAL FRAMEWORKS: ADDRESSING DISPLACEMENT CHALLENGES

AUTHORED BY - ADV. ALTHAF MASOODU

ABSTRACT

Climate migration is when people move because of things like rising sea levels, extreme weather, and environmental problems caused by climate change. They might move within their country or across borders, either by choice or because they have to leave due to these changing conditions. Displacement caused by climate change presents legal challenges related to defining the status of climate migrants, determining their rights, and establishing responsibilities for their protection and assistance under existing international and national legal frameworks. Additionally, there's a need to address issues like compensation, access to resources, and the recognition of climate-induced displacement as a valid reason for seeking asylum or refuge. Efforts to mitigate climate change and its impacts can play a significant role in reducing the scale and severity of climate migration. By taking measures to limit global warming and promote sustainable development, the drivers of environmental displacement can be mitigated, potentially reducing the need for large-scale climate-induced migration. This article deals with the legal complexities surrounding the movement of people due to climate change impacts. It examines issues such as the recognition of climate refugees, the legal definition of displaced persons, and the obligations of governments and the international community to provide protection and assistance. Through a comparative analysis of existing legal frameworks, regional agreements, and case studies, the article explores the gaps and challenges in addressing climate migration. It also discusses the potential for creating a new category of legal status for climate migrants and highlights the need for collaboration among countries to ensure the rights and dignity of those affected by climate-related displacement.

Keywords: Climate migration, Climate Change, Climate refugees, Legal frameworks, Displacement challenges

1. INTRODUCTION

Climate change (CC) stands as one of the most significant challenges humanity has ever confronted in modern history. Human-caused carbon dioxide emissions have initiated alterations in global climate patterns and local environments across most regions worldwide, with these changes expected to escalate in the coming decades¹. A wealth of climatic research indicates that the impacts of CC encompass not only elevated temperatures and rising sea levels, but also an increased occurrence of severe weather events and natural catastrophes². The repercussions of CC are likely to adversely affect people's well-being through diverse pathways, including labour efficiency, living and working conditions, food security, access to water and natural resources, electricity consumption, health outcomes, asset destruction, crime rates, and social and political stability, as observed in studies by Dell, Jones, and Olken in 2014, and Carleton and Hsiang in 2016.³

Climate migration, also referred to as climate-induced migration or environmental migration, is the process by which individuals or communities relocate from their homes or regions due to the adverse effects of changing climatic conditions and environmental factors. This type of migration is driven by factors such as rising sea levels, extreme weather events, droughts, desertification, and other environmental challenges resulting from global climate change. Climate migration can involve both internal movement within a country and cross-border movement between countries, either by choice or necessity, as individuals and communities seek to adapt to or escape the impacts of shifting climatic patterns and ecological disruptions. Recognizing and comprehending the legal challenges associated with climate-induced displacement is of paramount importance due to the unprecedented scale and complexity of this issue. As climate change accelerates, communities face increasing risks of being uprooted from their homes, necessitating legal frameworks that safeguard the rights, dignity, and well-being of those affected. Addressing these challenges ensures the fair treatment of climate migrants, establishes responsibilities for governments and international bodies, and paves the

¹ Molina, T. and Abadal, E. (2021) The evolution of communicating the uncertainty of climate change to policymakers: A study of IPCC synthesis reports, MDPI. Available at: <https://www.mdpi.com/2071-1050/13/5/2466/htm> (Accessed: 19 August 2023).

² Reports — IPCC (<https://www.ipcc.ch/reports>)

³ Burzyński, M. et al. (2019) Climate change, inequality, and human migration, SSRN. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3457667 (Accessed: 19 August 2023).

way for collaborative solutions to mitigate displacement's adverse impacts.⁴

2. CAUSES AND IMPACTS OF CLIMATE MIGRATION

In the records of human history, the world faces an unprecedented confluence of challenges brought forth by climate change. Beyond altering ecosystems and natural phenomena, this phenomenon has quietly emerged as a catalyst for significant human migration, reshaping landscapes and communities in its wake. As temperatures rise and extreme weather events become more frequent and severe, complicated interplay between environmental shifts and human movement is becoming increasingly evident. This section embarks on a journey through the intertwined concepts of causes and impacts in the realm of climate migration. It deals with the mechanisms through which climate change precipitates migration, unveiling the underlying factors that drive individuals and communities to seek new horizons.

As communities adapt to their new surroundings, the impacts ripple through issues of resource allocation, infrastructure management, and even political stability. In navigating this intricate terrain, we unlock a deeper understanding of the challenges that climate migration poses, and in doing so, underscore the urgent need for holistic approaches. Policies, both local and global, must bridge the gap between environmental conservation and human well-being. By illuminating the threads that weave causes and impacts together, we pave the way for informed decision-making, fostering resilience in the face of a changing world.

2.1. Explanation of climate change-related factors leading to migration

Climate change-related factors leading to migration stem from the intricate interplay between environmental alterations and their profound impact on human habitats and well-being.

Climate change triggers various factors that drive migration. As the planet warms, polar ice melts, and oceans expand, leading to rising sea levels that threaten coastal communities with flooding and saltwater intrusion. More frequent and intense extreme weather events like hurricanes, storms, floods, and wildfires damage homes and infrastructure, spurring people to seek safer areas. Higher temperatures and changing precipitation patterns cause droughts and desertification, making once-fertile lands infertile and prompting migration in search of

⁴ van der Geest, K. et al. (2023b) Editorial: Climate migration research and policy connections: Progress since the foresight report, *Frontiers*. Available at: <https://www.frontiersin.org/articles/10.3389/fclim.2023.1231679/full> (Accessed: 19 August 2023).

sustenance. Unprecedented heatwaves render areas without cooling mechanisms unbearable, driving residents to relocate to milder climates. The shift in ecosystems disrupts traditional livelihoods, while diminishing resources like clean water and fertile soil lead to migration to areas with more sustainability. Climate-induced health risks and infrastructure vulnerability also contribute to migration decisions.

2.2. Examples of environmental challenges causing displacement

The Maldives, an archipelago in the Indian Ocean, is vulnerable to rising sea levels due to climate change. With an average elevation of only 1.5 meters, the nation's existence is threatened. Rising sea levels erode shores, intrude on freshwater sources, and intensify storm surges. The Maldives' residents face an agonizing choice: stay on a disappearing land or migrate for safety. This raises debates about sovereignty, cultural identity, and the right to a stable homeland, underscoring the need for global climate action. The Maldives exemplifies how climate migration intertwines with complex issues, emphasizing the connection between people, place, and our planet's balance.⁵

In Sub-Saharan Africa, drought and desertification have triggered significant migration, both within and across borders. These environmental challenges lead to harsh living conditions and limited resources. Communities, facing agricultural failures and economic instability, migrate to areas with better prospects. This migration strains urban infrastructure, triggers resource competition, and can lead to conflicts. It underscores the urgent need to address climate change's complex impacts on both the environment and human societies.⁶

The Caribbean region is highly susceptible to the devastating impacts of powerful hurricanes due to its geographical location and climatic conditions. This vulnerability has led to a recurring cycle of destruction and displacement, as communities face the need to migrate to safer areas in the aftermath of these catastrophic events. Hurricanes, fuelled by warm ocean waters, can unleash ferocious winds, torrential rainfall, and storm surges that inundate coastal areas. The Caribbean's proximity to hurricane-prone regions makes it a frequent target for these natural disasters. When hurricanes strike, they often leave a trail of destruction in their wake, causing

⁵ Environmental refugee, Education. Available at: <https://education.nationalgeographic.org/resource/environmental-refugee/> (Accessed: 19 August 2023).

⁶ Nwankpa, A. et al. (2022) Climate migration-deepening our solutions, Brookings. Available at: <https://www.brookings.edu/articles/climate-migration-deepening-our-solutions/> (Accessed: 19 August 2023).

widespread damage to infrastructure, homes, and livelihoods. The aftermath of a hurricane can result in displacement on various levels. Immediate impacts include families being forced to evacuate due to flooding, wind damage, and lack of basic services. Prolonged displacement may occur if homes and communities are destroyed beyond immediate repair, compelling individuals to seek refuge in more stable and secure locations.⁷ Migration in response to hurricane vulnerability is complex. Displaced individuals and families may move within their own countries or across borders, seeking regions less prone to these extreme weather events. Some may migrate temporarily, returning when conditions improve, while others may permanently relocate to avoid recurring hazards. The consequences of hurricane-induced displacement are multi-faceted. Host communities may face resource strain due to an influx of displaced individuals, leading to competition for shelter, jobs, and services. Displaced individuals often experience disruptions in their social networks, livelihoods, and cultural ties, as well as psychological stress resulting from the trauma of displacement and loss.⁸

Not only this much incidents, there are lot more than we can imagine. In the Arctic, the melting of sea ice due to warmer temperatures has affected indigenous communities that rely on ice for hunting and transportation. The loss of this traditional way of life is driving some individuals to migrate to urban centres.⁹ Small island nations like Tuvalu and Kiribati in the Pacific are facing the imminent threat of rising sea levels. As their land becomes increasingly inundated and saline, residents are being forced to consider relocating to other countries.¹⁰ In Bangladesh, frequent flooding due to sea-level rise and monsoons displaces millions of people each year, pushing them to migrate to other places.¹¹ Understanding these real-world examples highlights the urgency of addressing climate change to mitigate its effects and provides insight into the challenges that climate migrants face.

⁷ Children uprooted in the Caribbean (2019) UNICEF. Available at: <https://www.unicef.org/child-alert/children-uprooted-caribbean> (Accessed: 19 August 2023).

⁸ McLeman, R.A. and Hunter, L.M. (2010) 'Migration in the context of vulnerability and adaptation to climate change: Insights from analogues', *Wiley Interdisciplinary Reviews: Climate Change*, 1(3), pp. 450–461. doi:10.1002/wcc.51.

⁹ Gabriela Nagle Alverio, J.S., Cheng Li, X.Z. and Pavel K. Baev, J.B. (2016) A complex constellation: Displacement, climate change and Arctic peoples, *Brookings*. Available at: <https://www.brookings.edu/articles/a-complex-constellation-displacement-climate-change-and-arctic-peoples/> (Accessed: 19 August 2023).

¹⁰ LOCKE, J.T. (2009) 'Climate change-induced migration in the Pacific region: Sudden crisis and long-term developments', *Geographical Journal*, 175(3), pp. 171–180. doi:10.1111/j.1475-4959.2008.00317.x.

¹¹ Hossain, B., Sohel, Md.S. and Ryakitimbo, C.M. (2020) 'Climate change induced extreme flood disaster in Bangladesh: Implications on people's livelihoods in the Char Village and their coping mechanisms', *Progress in Disaster Science*, 6, p. 100079. doi: 10.1016/j.pdisas.2020.100079.

3. LEGAL CHALLENGES IN CLIMATE-INDUCED DISPLACEMENT

Defining the legal status of climate migrants poses intricate challenges due to the unique nature of their displacement. Unlike traditional refugees, who flee persecution or violence, climate migrants are uprooted by environmental changes. Establishing a recognized status requires navigating questions about eligibility criteria, rights, protections, and responsibilities of both host and home countries. While discussions have emerged to categorize climate migrants under existing refugee frameworks or to create a new legal classification, consensus remains elusive, leaving many climate migrants in a legal limbo without clear recognition or defined right.

Determining the rights of individuals displaced due to climate migration is a multifaceted endeavour, exemplified by various scenarios worldwide. For instance, consider a community in Bangladesh displaced by recurring floods caused by climate change. These migrants often lack access to clean water, sanitation, and adequate housing, raising questions about their basic rights to a dignified life.¹² In another example, Pacific island nations like Kiribati grapple with rising sea levels, prompting the need for resettlement. Here, the right to a safe environment clashes with the challenges of relocating to a foreign land and retaining cultural identity.¹³

Moreover, climate migrants' rights intersect with legal ambiguities. The Maldives faces the dilemma of whether its citizens have the right to migrate to countries less prone to climate impacts. Balancing their right to survival against the sovereignty of host nations raises complex legal and ethical considerations.¹⁴

The complexity is further evident in the case of "climate refugees." People displaced by climate impacts are not explicitly recognized under the 1951 Refugee Convention.¹⁵ While the UNHCR's legal guidance acknowledges the link between climate and violence, it falls short of establishing a new legal category.¹⁶

So unlike traditional migrants or refugees, climate migrants often fall outside existing legal frameworks. Identifying their rights involves considerations of access to basic needs, such as

¹² Supra at 11, Hossain, B., Sohel, Md.S. and Ryakitimbo

¹³ Supra at 10, LOCKE, J.T

¹⁴ Supra at 5, Environmental Refugee

¹⁵ Lakeman, S. (2021) 'UNHCR involvement 2008–2017', Environmental and Disaster Displacement Policy, pp. 49–83. doi:10.1007/978-3-030-84539-1_2.

¹⁶ Id.

shelter, food, and healthcare, as well as broader socio-economic and human rights. Additionally, the rights of climate migrants intersect with questions about legal status, compensation for losses, and protection against further displacement.¹⁷ Crafting comprehensive rights for climate migrants requires a collaborative approach, integrating environmental concerns with existing human rights principles and international agreements.¹⁸ The UNFCCC stipulates that developed country Parties are obligated to provide assistance to developing country Parties that face heightened vulnerability to the negative impacts of climate change.¹⁹ This assistance is aimed at helping these vulnerable nations cover the expenses associated with adapting to these adverse effects.²⁰ The responsibility to address the challenges posed by climate migration falls significantly upon both governments and the international community. On the government front, a set of crucial responsibilities emerges. Firstly, ensuring the safety and well-being of citizens confronting climate-induced displacement becomes very important. This entails providing essential services such as shelter, healthcare, and vital provisions to those compelled to relocate. Additionally, in cases where displacement becomes a long-term or permanent reality, governments are tasked with devising comprehensive strategies for resettlement and rehabilitation. By facilitating the integration of climate migrants into new communities, they help pave the way for a smoother transition and adaptation. Governments also need to establish the legal and policy frameworks required to address the rights and necessities of climate migrants. For example, enacting laws that encompass rights recognition, accessibility to essential services, and land ownership etc. Further proactive measures lie in strengthening disaster preparedness and risk reduction initiatives to mitigate the impact of climate-related events, thus minimizing the extent of displacement.

The international communities, too, hold vital responsibilities. International organizations, such as the United Nations and its agencies, are instrumental in providing essential humanitarian assistance to climate migrants, ensuring they have access to fundamental needs like sustenance, water, shelter, and healthcare. Simultaneously, efforts to establish dedicated legal frameworks that safeguard the rights and protections of climate migrants are essential,

¹⁷ Filippo Grandi, the U.H.C. for R. Climate change and disaster displacement, UNHCR. Available at: <https://www.unhcr.org/what-we-do/build-better-futures/environment-disasters-and-climate-change/climate-change-and> (Accessed: August 2023).

¹⁸ Id.

¹⁹ 'United Nations Framework Convention on Climate Change, 9 May 1992' (2004) Documents in International Environmental Law, pp. 128–152. doi:10.1017/cbo9781139171380.012.

²⁰ Id.

bridging gaps in current conventions. Supporting governments, particularly in developing nations, to enhance their capacity in managing climate migration through training, technology transfer, and financial aid is indispensable. Facilitating responsible resettlement initiatives for communities facing uninhabitable conditions offers a lifeline to those impacted by climate migration. Raising global awareness about the predicament of climate migrants and advocating for their inclusion in policy discussions are pivotal for generating empathy and momentum for meaningful action. Developing financial mechanisms to assist countries in addressing the impact of climate migration becomes crucial, providing the necessary resources for effective adaptation and mitigation endeavours. International collaborations add another layer of significance. Governments must work hand in hand with neighbouring countries and global organizations to craft holistic strategies to tackle climate migration. This collaborative exchange of best practices, experiences, and resources fosters the development of well-informed solutions that transcend national boundaries.

The recognition of climate-induced displacement for seeking asylum or refuge was a complex and evolving issue. While climate change can cause displacement, the established legal framework for recognizing it within asylum or refugee status was not well-defined. The traditional definition of a refugee under the 1951 Refugee Convention didn't explicitly include climate-related factors, and challenges existed in attributing displacement solely to climate change, defining affected individuals, achieving international consensus, determining responsibility, and exploring alternative legal approaches.²¹

4. COMPENSATION, RESOURCE ACCESS, AND MITIGATION STRATEGIES FOR CLIMATE-INDUCED DISPLACEMENT

Exploring the issue of compensation for displaced individuals and access to essential resources and services for climate migrants are essential components in addressing the multifaceted challenges of climate-induced displacement. Compensation mechanisms acknowledge the losses incurred by those uprooted due to climate impacts, providing financial assistance and support for rebuilding lives and it need to consider not only the direct material losses experienced by displaced individuals but also the broader social, economic, and psychological impacts of displacement. Determining who should be responsible for providing compensation, whether it's governments, corporations, or international entities, is a significant challenge.

²¹ Supra at 15, Lakeman, S.

Moreover, ensuring that compensation processes are fair, transparent, and culturally sensitive is essential to avoid exacerbating existing inequalities. Concurrently, ensuring access to vital resources like shelter, clean water, healthcare, and education is crucial for the well-being and successful integration of climate migrants into new communities. These interconnected issues highlight the need for comprehensive strategies that encompass both compensation and resource access, fostering resilience and human dignity in the face of climate-related displacement. Ultimately, addressing the compensation and resource access challenges for climate migrants requires a comprehensive and collaborative approach that recognizes the rights and dignity of displaced individuals, facilitates their adaptation, and contributes to the overall global response to climate change and its impacts.

Mitigating climate change can significantly reduce the need for migration by addressing the underlying factors driving displacement. By implementing measures to limit global warming and its associated impacts, communities can maintain their livelihoods and homes. For instance, promoting sustainable agricultural practices that adapt to changing climate conditions can safeguard crop yields and prevent rural-to-urban migration due to food insecurity. Similarly, investing in resilient infrastructure, such as coastal defences, prevents displacement by shielding communities from rising sea levels and extreme weather events. Transitioning to renewable energy sources reduces emissions and lowers the risk of climate-induced migration by curbing the intensity of extreme weather events. Large-scale reforestation projects and international efforts to reduce greenhouse gas emissions contribute to climate stability, minimizing the likelihood of displacement due to environmental degradation. For example, in parts of Africa, initiatives promoting drought-resistant crops and improved water management are helping farmers adapt to changing climates and avoid displacement.²² In the Pacific island nation of Tuvalu is investing in solar power to reduce its reliance on imported fossil fuels, thereby contributing to climate resilience and reducing the risk of migration due to energy insecurity.²³ The "Great Green Wall" project in Africa, which aims to create a mosaic of green and productive landscapes across the Sahel, is an example of large-scale reforestation efforts that address both climate change and migration challenges.²⁴ These examples illustrate how proactive climate mitigation strategies can alleviate the pressures that lead to climate-induced

²² Supra at 6, Nwankpa, A. et al. (2022)

²³ Supra at 10, LOCKE, J.T

²⁴ Mbow, C. (2017) 'The Great Green Wall in the sahel', Oxford Research Encyclopedia of Climate Science [Preprint]. doi:10.1093/acrefore/9780190228620.013.559.

displacement, allowing communities to remain resilient and thriving in the face of a changing climate.

Sustainable development emerges as a comprehensive and long-term solution to the drivers of displacement. It not only addresses the immediate effects of climate change but also tackles the socio-economic disparities, environmental degradation, and lack of opportunities that contribute to displacement. By promoting economic diversification, building resilience, empowering communities, protecting the environment, and fostering conflict prevention, sustainable development creates the conditions necessary to reduce the likelihood of migration. Its focus on empowerment, inclusivity, and the well-being of local populations ensures that communities can thrive in the face of challenges, diminishing the root causes that trigger displacement.

In all these issues, there's a common thread: a comprehensive approach is essential. Whether through compensation, mitigation efforts, or sustainable development, addressing climate-induced displacement requires understanding the interconnectedness of social, economic, and environmental factors. By adopting strategies that holistically address these factors, governments, organizations, and communities can work together to reduce the necessity for migration and build resilient societies capable of adapting to a changing climate.

5. COMPARATIVE ANALYSIS OF LEGAL FRAMEWORKS

International legal frameworks relevant to climate-induced displacement are diverse, addressing various aspects of protection and adaptation. While no dedicated treaty exists for climate migrants, several frameworks offer guidance.²⁵

The International Organization for Migration (IOM), as a leading intergovernmental migration agency, has played a pivotal role in advancing the discourse on environmental migration at national, regional, and international levels. Through its Migration, Environment and Climate Change (MECC) initiatives, conducted in collaboration with its Member States, observers, and partners, IOM has significantly expanded its efforts over the past five years. To further its

²⁵ Rafael Leal-Arcas, Queen Mary University of London, 67-69 Lincoln's Inn Fields, London WC2A 3JB, United Kingdom, Climate migrants: Legal options, International Conference on Emerging Economies - Prospects and Challenges (ICEE-2012), 2011, Elsevier Ltd. Selection and/or peer-review under responsibility of Symbiosis Institute of International Business (SIIB)

commitment to this area, IOM established the dedicated "Migration, Environment and Climate Change Division" (MECC Division) to spearhead its work in this field. The MECC Division focuses on guiding IOM's endeavours concerning migration, environment, and climate change, and provides valuable insights through various IOM publications. The United Nations Framework Convention for Climate Change recognized the growing significance of human mobility with the adoption of the Cancun Adaptation Framework in 2010.²⁶ However, it was during the twenty-first Conference of Parties (COP21) in Paris, where the 2015 Paris Agreement was adopted, that climate migrants were finally acknowledged within the broader international policy context.²⁷ IOM has been actively involved in the UNFCCC process since COP14 in Poznan in 2008, advocating for the integration of migration and displacement dimensions in climate change policy discussions.²⁸ Over time, IOM has submitted more than forty official documents to the UNFCCC, and has played an active role in side events and press conferences during each Conference of the Parties.²⁹ The organization's technical advice has supported negotiators, COP presidencies, and the UNFCCC Secretariat. Collaboration with other intergovernmental bodies and civil society partners has been integral to IOM's endeavours throughout this journey.³⁰

In 2016, IOM organized a pivotal technical meeting in Casablanca, Morocco, with the UNFCCC Executive Committee (ExCom) of the Warsaw International Mechanism (WIM). The focus of the meeting was on loss and damage related to migration, displacement, and human mobility in the context of climate change. Subsequently, in 2017, IOM became a part of the Task Force on Displacement established under the WIM ExCom. Within this role, IOM leads various Task Force activities centred around policy, practical implementation, and research. Notably, IOM, in collaboration with PDD and on behalf of the WIM ExCom, organized the Task Force on Displacement Stakeholder Meeting in May 2018. This meeting focused on "Recommendations for integrated approaches to avert, minimize, and address displacement related to the adverse impacts of climate change."³¹

²⁶ Di Pietro Paolo, L. (2020) 'From the Cancun Adaptation Framework to the Paris Agreement', Springer Climate, pp. 85–94. doi:10.1007/978-3-030-41021-6_8.

²⁷ Kinley, R. (2021) 'Climate change after Paris: From turning point to transformation', Climate Policy after the 2015 Paris Climate Conference, pp. 23–29. doi:10.4324/9781003191582-3.

²⁸ Id.

²⁹ Id.

³⁰ Supra at 27, Kinley, R

³¹ Vanhala, L. and Calliari, E. (2022) 'Governing people on the move in A warming world: Framing climate change migration and the UNFCCC Task Force on displacement', Global Environmental Change, 76, p. 102578. doi: 10.1016/j.gloenvcha.2022.102578.

Comparative analysis of these frameworks reveals gaps in addressing climate migrants' specific needs. While some mechanisms offer protection indirectly, none comprehensively cover the complex challenges posed by climate-induced displacement. The evolution of legal responses is ongoing, marked by initiatives that acknowledge the interconnectedness of climate change, displacement, and human rights. Collaborative efforts between legal experts, governments, and international organizations are essential to develop a coherent and effective legal framework that adequately protects the rights and well-being of climate migrants.

The regional agreements also play a vital role in solving challenges of climate-induced migration. These agreements acknowledge the distinct circumstances of specific regions and strive to provide targeted solutions. The African Union's Kampala Convention, established in 2009, concentrates on internal displacement in Africa, offering principles of protection and assistance that can apply to those displaced by climate impacts.³² The Pacific Islands Framework for Regional Policy on Climate Change Displacement and Migration is tailored to the Pacific region, emphasizing a coordinated approach to the unique challenges of climate-induced displacement in small island nations.³³ Similarly, the Caribbean Community's Regional Framework for Development and Climate Change focuses on adaptation, mitigation, and resilience-building measures to indirectly address displacement risks in the context of climate impacts.³⁴ While not exclusive to climate migration, various agreements within the European Union and Mediterranean region also touch on migration and displacement concerns.³⁵ These regional agreements collectively showcase the proactive stance of certain regions in addressing the complexities of climate-induced displacement through tailored strategies that prioritize coordinated action, adaptive solutions, and regional cooperation. Nonetheless, it's essential to recognize that while these agreements contribute to the discourse on displacement, comprehensive legal frameworks specifically addressing climate migration

³² 'African Union Convention for the Protection and assistance of internally displaced persons in Africa (KAMPALA CONVENTION), 2009' (2018) International Human Rights Law Documents, pp. 606–620. doi:10.1017/9781316677117.072.

³³ Pacific Regional Policy Dialogue on climate mobility. Available at: <https://environmentalmigration.iom.int/sites/g/files/tmzbd11411/files/documents/PCCMHS%20Background%20Paper-Web.pdf> (Accessed: August 2023).

³⁴ The Regional Climate Change Strategic Framework and its Implementation Plan for Development Resilient to Climate Change, Caribbean Community Climate Change Centre (CCCCC), December 05, 2017, (<https://www.caribbeanclimate.bz/blog/2017/11/28/the-regional-climate-change-strategic-framework-and-its-implementation-plan-for-development-resilient-to-climate-change-us2800000/>)

³⁵ The concept of 'Climate refugee': Towards a possible definition: Think tank: European parliament, Think Tank | European Parliament. Available at: [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2021\)698753](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2021)698753) (Accessed: 19 August 2023).

are still evolving both at the international and regional levels.³⁶

Identifying gaps in current legal frameworks is crucial for effectively addressing the intricate challenges presented by climate-induced migration. One significant gap arises from the absence of explicit coverage for climate migrants within existing international legal instruments, such as the Refugee Convention, leaving a void in protection and support mechanisms. Furthermore, the lack of a universally agreed-upon definition for climate migrants or refugees complicates the establishment of precise legal parameters for their recognition, rights, and responsibilities. Attributing displacement solely to climate change is intricate due to the interplay of various environmental, economic, social, and political factors, making it challenging to establish a direct causal link. Moreover, while existing frameworks often address temporary displacement caused by sudden-onset events like natural disasters, they might not adequately encompass the permanent migration resulting from gradual environmental changes. Determining state responsibility for climate-induced displacement is intricate, given that climate change stems from cumulative global actions, posing difficulties in assigning legal and financial obligations to specific nations. Although international human rights treaties provide some protection, they might not comprehensively cater to the distinct needs and vulnerabilities of climate migrants, leading to gaps in their legal safeguards. Regional variations in climate impacts and migration drivers further compound the challenges, as existing international frameworks might struggle to accommodate localized solutions effectively. The complexity of cross-border climate-induced displacement challenges conventional concepts of territorial sovereignty, necessitating innovative legal mechanisms to address issues like asylum and protection across borders. Additionally, legal avenues for compensating and assisting climate migrants, especially for cross-border displacement and loss related to climate impacts, remain inadequately defined. Furthermore, while existing frameworks often focus on immediate response and humanitarian aid, there exists a gap in strategies for the long-term adaptation, integration, and resilience-building of climate migrants within host communities. Addressing these gaps requires collaborative international efforts, the adaptation of existing frameworks, the creation of novel legal instruments, and a comprehensive approach to ensure the rights and well-being of individuals affected by climate migration.

³⁶ Id.

Implementing legal solutions to address the complexities of climate-induced migration presents a range of formidable challenges. Chief among these is the necessity to coordinate and foster cooperation among a diverse array of stakeholders, including governmental bodies, international organizations, and non-governmental entities, in order to tackle the multifaceted nature of the issue effectively. Complicating matters further are the jurisdictional complexities of climate impacts and migration that often transcend national borders, demanding international collaboration, harmonization of laws, and the development of mechanisms to address cross-border concerns. Additionally, existing legal frameworks may not be suitably tailored to the unique circumstances of climate migration, necessitating the crafting of new legal norms or the adaptation of existing ones in a manner that garners international consensus. Defining and identifying climate migrants, as well as differentiating displacement primarily caused by environmental factors, pose further challenges in determining those who require protection and support. Resource allocation to address climate migration, while juggling other national and global priorities, becomes a delicate balancing act. Moreover, building the institutional capacity of vulnerable nations, particularly those disproportionately affected by climate impacts, to implement and enforce legal frameworks is crucial. The intricate nature of climate migration, encompassing both voluntary and forced movement, gradual and abrupt changes, necessitates legal solutions that can aptly address this complexity. Ensuring the protection of the rights of climate migrants, encompassing human and labour rights, demands robust legal mechanisms and effective enforcement. Crafting legal solutions that effectively account for the intertwined triggers of displacement ranging from environmental changes to economic disparities and conflicts is a daunting task. Moreover, considering the cultural and social sensitivities of climate migrants, along with their integration challenges in host communities, is imperative in developing legal frameworks that facilitate seamless transitions. Adequate data and evidence on climate impacts and migration trends are prerequisites for informed decision-making, yet gaps in data collection can hamper the formulation of effective responses. Overcoming political obstacles and securing sustained political commitment at national and international levels is pivotal in translating legal solutions into tangible actions. Furthermore, raising public awareness about climate-induced migration, its underlying causes, and potential resolutions is essential for garnering widespread support and fostering informed decision-making. Addressing these multifarious challenges mandates a comprehensive approach that encompasses legal expertise, policymaking acumen, on-the-ground implementation, community engagement, and international cooperation. Collaborative endeavours are indispensable in crafting and implementing legal solutions that adeptly address

the intricate web of climate migration, while prioritizing the rights and well-being of the displaced individuals at its core.

Lessons gleaned from successful legal approaches offer valuable insights for effectively addressing the intricate issue of climate-induced migration. Central to these lessons is the recognition of the necessity for comprehensive frameworks that integrate environmental, social, economic, and human rights dimensions. Embracing holistic solutions acknowledges the multifaceted nature of climate migration and ensures that legal strategies encompass a range of factors. Moreover, prioritizing early prevention and mitigation measures within legal frameworks emerges as a key lesson, as proactive policies like disaster risk reduction and land-use planning can significantly reduce the need for reactive responses. Successful legal approaches also emphasize the importance of inclusive stakeholder engagement, bringing together governments, local communities, non-governmental organizations, and affected individuals to foster comprehensive and contextually relevant solutions. Cross-sectoral collaboration is another vital aspect, as legal strategies that integrate climate migration considerations into existing frameworks ensure coherence and effectiveness across diverse sectors.

A forward-looking perspective, encompassing long-term planning that considers future climate scenarios, aids in proactive measures to prevent displacement and facilitate planned migration. Learning from past experiences, whether linked to natural disasters or gradual environmental shifts, informs effective legal responses and aids in avoiding recurring mistakes. In cases of transboundary climate migration, cross-border cooperation emerges as a priority, ensuring consistent protection and assistance. Supporting community resilience through livelihood diversification, education, and skills development strengthens the fabric of successful legal approaches. Finally, international solidarity plays a pivotal role, recognizing climate migration as a shared global challenge and highlighting the importance of international cooperation to support affected nations and individuals. These lessons collectively inform the development of tailored legal solutions that holistically address the intricacies of climate-induced migration while prioritizing the rights and well-being of those impacted.

6. NEW LEGAL STATUS FOR CLIMATE MIGRANTS

The Refugee Convention (1951) and its associated protocol concerning the status of refugees (1967) do not address issues pertaining to climate-induced refugees and do not acknowledge climate-related circumstances as grounds for attaining refugee status within their legal framework.³⁷ However, in the present circumstances, this notion appears obsolete.³⁸ Given the influence of climate change on human-environment dynamics and the consequent emergent hazards, the imperative to confer internationally acknowledged legal recognition upon climate refugees demands immediate attention.³⁹ This priority should revolve around granting protection to the considerable populace directly impacted by climate-induced challenges. This article offers a comprehensive exploration into the evolution of international environmental law related to climate refugees and underscores the necessity to extend appropriate safeguards to this demographic in the foreseeable times ahead.

❖ Proposal for creating a distinct legal category for climate migrants

The proposal for establishing a distinct legal category tailored specifically to address the challenges of climate migrants represents a forward-thinking approach to the complexities of climate-induced displacement. This comprehensive proposition encompasses several key components that aim to provide appropriate protection and support for those displaced by the adverse impacts of climate change. The proposed legal category's foundation lies in a clear definition and scope, encompassing individuals and communities compelled to migrate due to both gradual environmental changes like sea-level rise, desertification, and prolonged droughts, as well as sudden-onset disasters. Eligibility criteria would incorporate environmental triggers and vulnerabilities, considering factors such as environmental degradation extent, livelihood loss, and adaptive capacity limitations in affected areas.

Crucially, this legal status would guarantee specific rights and protections aligned with the unique circumstances of climate migrants. These encompass safe migration pathways, adequate living conditions, healthcare, education, and livelihood opportunities, addressing their needs both in host and origin countries. Non-discrimination principles would underscore fair and impartial treatment for climate migrants, irrespective of their displacement status. Moreover, legal pathways for migration would be established, fostering orderly and managed movement while reducing vulnerability and preventing irregular migration.

³⁷ Supra at 1, Molina, T. and Abadal, E. (2021)

³⁸ Id.

³⁹ Id.

Resettlement and relocation guidelines would ensure the dignified treatment of climate migrants, incorporating consultations, community engagement, and sustainable integration practices that also respect the interests of host communities. Assigning clear responsibilities to states for the protection and assistance of climate migrants would involve collaborative efforts and resource-sharing among nations. This proposal further emphasizes international cooperation and burden-sharing, recognizing climate migration as a shared global challenge necessitating unified action.

Mechanisms for monitoring the implementation of rights and protections would hold states accountable for their commitments, while capacity-building initiatives in vulnerable regions would bolster local resilience and diminish the necessity for migration. Advocacy efforts and awareness campaigns would aim to foster understanding and empathy among host communities and policymakers alike. Finally, adopting a long-term perspective acknowledges the evolving nature of climate change and its implications for displacement challenges. Collectively, this proposal stands to address the unique needs of climate migrants, bridging the gap in protection and support and facilitating a more equitable and sustainable response to the intricate issues of climate-induced displacement.

- Potential benefits and drawbacks of a new legal status

The proposal to establish a distinct legal category for climate migrants brings forth a spectrum of potential benefits and drawbacks that require careful evaluation. On the positive side, such a legal framework offers tailored protections and assistance measures that recognize the unique challenges faced by climate migrants. This clarity could alleviate the ambiguity surrounding their rights and entitlements, potentially reducing disputes. By formalizing legal pathways, the proposal aims to enhance human rights and decrease the vulnerability of climate migrants to exploitation and irregular migration channels. Additionally, the assignment of clear responsibilities to states might foster international collaboration, resource sharing, and community consultation during resettlement or relocation processes, ultimately promoting smoother integration. However, challenges such as complex implementation, definitional intricacies, potential burden on host countries, and resource allocation must be acknowledged. Balancing these considerations is vital to creating a legal framework that effectively safeguards climate migrants' well-being while mitigating potential challenges and unintended consequences.

7. THE NEED FOR COLLABORATION AMONG COUNTRIES TO ENSURE THE RIGHTS AND DIGNITY

The imperative for collaboration among countries to ensure the rights and dignity of climate migrants arises from the inherent transboundary nature of this issue. Climate migration knows no borders, demanding coordinated efforts to manage the movement of people and uphold their rights. By collaborating, nations can allocate resources more effectively, ensuring both the well-being of migrants and the stability of receiving countries. Moreover, joint action can prevent conflicts stemming from resource competition and foster the development of comprehensive policies that safeguard migrants' rights in a consistent manner. Collaborative approaches also strengthen existing international agreements and frameworks, underscoring shared responsibility. By sharing best practices, countries can pool their experiences and strategies for effectively integrating and supporting climate migrants. Furthermore, collective efforts raise global awareness about the urgent plight of climate migrants, garnering increased attention and momentum for solutions. Above all, collaboration is rooted in the humanitarian ethos of protecting the vulnerable, reflecting a commitment to uphold the dignity of those forced to migrate due to the impacts of climate change.

Several international initiatives and agreements have been established to tackle the complexities of climate migration and promote collaboration among nations. The Nansen Initiative, initiated in 2012, focuses on building consensus among governments for a coordinated, rights-based approach to cross-border displacement related to disasters and climate change.⁴⁰ The Global Compact for Safe, Orderly, and Regular Migration, adopted in 2018, acknowledges the vulnerabilities of migrants to environmental factors and commits to protecting their human rights.⁴¹ The Platform on Disaster Displacement, formed in 2016, serves as a knowledge-sharing platform for addressing displacement due to natural disasters, including those exacerbated by climate change. The Sendai Framework for Disaster Risk Reduction, adopted in 2015, also considers climate-induced displacement and urges measures to enhance resilience and reduce displacement risk. Regional initiatives like the Pacific Islands Forum advocate for the rights of climate migrants, while global frameworks like the United

⁴⁰ McAdam, J. (2016) 'From the Nansen initiative to the platform on disaster displacement: Shaping international approaches to climate change, disasters and displacement', SSRN Electronic Journal [Preprint]. doi:10.2139/ssrn.2901910.

⁴¹ Appleby, K. (2018) The Global Compact for Safe, orderly, and regular migration: The implementation phase [Preprint]. doi:10.14240/cmsesy113018.

Nations Framework Convention on Climate Change (UNFCCC) discussions incorporate considerations of climate-induced displacement and the need to support vulnerable communities.⁴² Together, these initiatives and agreements signify a growing international recognition of the importance of collaborative efforts to ensure the rights and dignity of climate migrants.

Safeguarding the well-being of individuals displaced due to climate change demands a comprehensive approach that spans legal, social, economic, and humanitarian dimensions. Establishing robust legal frameworks that recognize climate-induced displacement as a distinct category and provide rights is crucial. Upholding human rights and preventing discrimination is essential, as is promoting social integration through awareness campaigns and cultural exchange initiatives. Access to fundamental services like healthcare, education, and clean water must be ensured. Enabling livelihood opportunities through vocational training and entrepreneurship empowers displaced individuals to rebuild their lives. Addressing psychological challenges via counselling and support services is vital. Including them in decision-making processes and community initiatives restores a sense of agency. Equipping communities with disaster preparedness tools and fostering global partnerships are critical. Integrating displacement considerations into policies and raising awareness through advocacy efforts enhances societal resilience. Through this comprehensive approach, we can collectively uphold the well-being and dignity of those affected by climate-induced displacement.

8. CONCLUSION

By analysing all the facts and incidents regarding climate migration, I strongly recommend an international collaboration among countries and communities all over the world. Because people who forced to leave their birth place shows the miseries they facing. The only reason for that migration is survival instinct. Even though consider to all regulation and rules, natural law gives much priority over everything. By solidifying these protections within legal systems, nations and the international community can respond to the pressing issue of climate migration with speed, consistency, and a commitment to upholding human rights in the face of an increasingly dynamic and uncertain climate landscape. The urgency of addressing climate displacement challenges through robust legal frameworks cannot be overstated. While the

⁴² Henning, B. (2012) 'Pacific Islands Forum', Max Planck Encyclopedia of Public International Law [Preprint]. doi:10.1093/law:epil/9780199231690/e524.

multifaceted strategies proposed provide a comprehensive approach, the legal dimension stands out as a linchpin in ensuring the rights and dignity of climate migrants. Legal frameworks act as a cornerstone for addressing climate displacement by establishing clear guidelines for the treatment of displaced individuals, ensuring non-discrimination, and recognizing their rights to protection and assistance. The urgency is driven by the escalating impacts of climate change, which render more people vulnerable to displacement. Without legally binding frameworks, these individuals could fall through the gaps, lacking adequate protection, and facing barriers to access basic services and opportunities. For all these recommendation implementations, there need a separate regulatory for climate migration, their rights and dignities, and resource allocation and refugee shelters for them. And it should be regulated by the international organisations for climate change and refugee protection.

By focusing on legal frameworks, the discussion aligns with the broader global push for equitable and sustainable solutions to climate change. It underscores the vital role that governments, international bodies, and civil society play in providing a legal foundation that acknowledges the unique challenges of climate migration. By solidifying these protections within legal systems, nations and the international community can respond to the pressing issue of climate migration with speed, consistency, and a commitment to upholding human rights in the face of an increasingly dynamic and uncertain climate landscape.

WHITE BLACK
LEGAL