



Legal Vacuums: The Challenge of Protection for Climate Refugees

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<p>Keywords: <i>climate, international law, legal vacuums, and refugees</i></p> <p>DOI: 10.25041/lajil.v6i2.3421</p>	<p><i>Climate change has triggered massive migrations known as climate refugees, individuals who have been forced to leave their homes due to natural disasters and deteriorating environmental conditions. However, the legal vacuum protecting climate refugees is an urgent issue. This article discusses the need to establish new conventions or protocols that specifically regulate the status and safety of refugees due to climate change. The research method is a normative juridical approach analysing applicable legal regulations and relevant case studies. The new convention should clearly define climate refugees, establish their fundamental rights, and affirm the principle of non-refoulement to protect them from deportation to dangerous areas. In addition, the state's responsibility in providing protection and funding mechanisms must also be regulated. While challenges such as disagreements between countries and a lack of awareness remain, global initiatives show progress toward better protection for climate refugees. As such, it is hoped that the new legal framework can provide legal clarity and ensure that the rights of climate refugees are recognised and protected internationally.</i></p>

A. Introduction

Climate change has become one of humanity's biggest challenges, forcing many people to leave their homes or become climate refugees. The term "climate refugees" refers to individuals who have been forced to move due to the impacts of environmental change, such as natural disasters, sea level rise, and prolonged droughts.¹ This phenomenon threatens their lives and livelihoods and raises fundamental questions about the legal protection they should receive.

¹ Brígida Brito, "Risks or Challenges of Climate Change: The Case of Climate Refugees," in *The Social Consequences of Climate Change* (Emerald Publishing Limited, 2024), 51–65, <https://doi.org/10.1108/978-1-83797-677-520241005>.

Legal gaps in the regulation of the status and safety of climate refugees at the international level pose various challenges that need to be addressed.

Many countries do not have laws or policies explicitly regulating refugees due to climate change. As a result, individuals forced to relocate often do not gain access to proper protection. In many cases, they are considered economic migrants, not refugees, thus depriving them of the rights they should have. While the 1951 Refugee Convention provides definitions and protections for refugees based on specific criteria, climate refugees do not meet those requirements.² This creates a gap between their realities and the legal protections available. In this context, exploring the challenges climate refugees face and finding solutions to address these legal gaps is essential. One of the main challenges is that many countries do not recognise the status of climate refugees in their legal systems. Without official recognition, individuals forced to leave their homes due to environmental changes often lack access to essential services such as education, health, and social protection.³

This worsens their living conditions and increases their vulnerability to exploitation and discrimination. In addition, the principle of nonrefoulement in human rights law—which prohibits the return of individuals to places where they face danger—is often not consistently applied to climate refugees. While several attempts are made to protect their rights through international mechanisms, implementing these principles is usually limited and depends on individual countries' national policies.⁴

Cases such as *Teitiota v. New Zealand* illustrate the complexity of this issue. In that case, a Kiribati citizen attempted to claim refugee status based on the threat of climate change in his country. Although the decision of the United Nations Human Rights Committee suggests that deportation can violate human rights, it does not provide formal protection for climate refugees at large.⁵ This reflects the lack of a clear legal framework to address this issue. To address this legal vacuum, new protocols or conventions that specifically regulate the status and protection of refugees due to climate change are necessary.

This will help provide legal clarity and ensure that the rights of climate refugees are recognised and protected internationally. In addition, collaboration between countries and international organisations is essential in formulating effective policies and strategies to address this issue. With the increasing impact of climate change worldwide, attention to this issue is becoming increasingly urgent so that the rights and needs of climate refugees can be adequately addressed and protected. This article aims to shed more depth on the legal gaps in protection for climate refugees as well as analyse concrete steps that can be taken to create a more inclusive and effective legal framework. More specifically, the objectives of this study include identifying legal gaps in international and national legal frameworks governing the status and protection of climate refugees, exploring the Legal Status of Climate and Examining the legal

² Seda Yıldırım, Seda H. Bostancı, and Durmuş Çağrı Yıldırım, “Parameters for the Study of Climate Refugees,” in *Global Climate Change and Environmental Refugees* (Cham: Springer International Publishing, 2023), 199–214, https://doi.org/10.1007/978-3-031-24833-7_11.

³ Mira Lulić, Davor Muhvić, and Ivana Rešetar Čulo, ‘In Support Of The Debate On The Terminology Related To The Terms Climate Refugees, Climate Migrants, Environmentally Displaced Persons And Similar Terms’, 2023 <<https://doi.org/10.25234/ecllc/27441>>.

⁴ Sumedha Chatterjee, “Climate Refugees: Arriving at a Possible Framework,” in *Global Climate Change and Environmental Refugees* (Cham: Springer International Publishing, 2023), 185–98, https://doi.org/10.1007/978-3-031-24833-7_10.

⁵ Carina Karnicar, “Climate Change and Migration,” n.d., <https://doi.org/https://doi.org/10.25365/vlr-2023-7-1-94>.

status of climate refugees in the context of international law, including how they are distinguished from traditional refugees and economic migrants, assess the Implementation of the non-refoulment Principle: Assess the application of the non-refoulment principle in the context of climate refugees and how this affects their protection in destination countries and propose recommendations for the establishment of new legal frameworks or international protocols that can provide better protection for climate refugees.

B. Discussion

1. Legal Gaps Related to Climate Refugees in International Law

A legal vacuum, or legal vacuum, refers to the lack of a clear legal framework to protect climate refugees. The 1951 Refugee Convention does not cover individuals displaced by climate change, so their status is not officially recognised in international law. This has led to uncertainty about the rights and protections they should receive. According to data from The Intergovernmental Panel on Climate Change (IPCC), the most significant impact of climate change is the migration of people, with an estimated 25-30 million people falling into the category of climate refugees worldwide.⁶

This legal vacuum impacts the ambiguity of legal protection for climate refugees. Many countries do not have specific laws or policies to handle these cases. For example, citizens of small countries that are at risk of drowning due to rising sea levels often face significant challenges in seeking asylum in other countries. Island nations such as Tuvalu, Kiribati, and the Maldives are at high risk from climate change, with many predicted to sink in the coming decades. However, despite the growing urgency of the situation, there is no official recognition of "climate refugees" in international law, including in the 1951 UN Convention on Refugees. As a result, individuals from countries at risk of drowning often do not get adequate protection when trying to seek asylum.

They face challenges, such as a complicated and lengthy asylum application process, stigma and discrimination in destination countries, and limited resources available to these countries to support new refugees. In many cases, destination countries do not have mechanisms to grant refugees refugee status, so their fundamental rights are often overlooked. Research shows this legal vacuum is a significant concern because individuals displaced by climate change need legal recognition and protection in international law.⁷

Although there is no specific legal framework for climate refugees in the 1951 Refugee Convention, some protection mechanisms can be applied through international human rights principles. For example, the principle of non-refoulement—which prohibits the return of individuals to places where they face danger—can be used to protect climate refugees from deportation to their home countries where deteriorating environmental conditions would

⁶ Arvinder Kaur and Vikas Sharma, "Nexus between Climate Change and Mitigation Approaches for Sustainable Development: A Bibliometric Review," *Global Knowledge, Memory and Communication*, May 6, 2024, <https://doi.org/10.1108/GKMC-11-2023-0418>.

⁷ Najla Nur Fauziyah, "The Legal Status And Legal Protection Towards Climate Refugees Under International Law: A Study Of Ioane Teitiota Case," *Belli Ac Pacis* 8, No. 1 (November 5, 2022): 71, <https://doi.org/10.20961/Belli.V8i1.68785>.

threaten them. However, applying this principle is still limited and often depends on the national policies of each country.⁸⁹

One of the international legal experts who proposed the need to establish a new protocol or international convention to regulate the status and protection of refugees due to climate change is Yanuarda Yudo Persian. In his research, he discusses the legal gaps in climate refugee protection. He emphasises the importance of legal recognition and protection for individuals forced to move due to the impact of environmental change. He pointed out that the status and rights of these refugees have not been adequately recognised in the current framework of international law, which has the potential to pose serious problems for those affected by climate change.¹⁰

In the context of legal protection, the status of climate refugees must be recognised as equivalent to the status of other refugees. This means that they should be entitled to the same rights by the provisions of the 1951 Refugee Convention and other international human rights instruments, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).¹¹

In addition, the state's responsibility to provide legal protection for climate refugees can be based on International Environmental Law, considering that the population's movement is due to climate changes that cause people to migrate. The legal vacuum in protecting climate refugees is a serious challenge that requires global attention. With the increasing impacts of climate change worldwide, it is essential to develop a legal framework to protect those forced to leave their homes for safety. Collaborative efforts between countries and international organisations are needed to create effective and sustainable solutions for climate refugees worldwide. The international community must take immediate action to address these legal gaps so that the rights and needs of climate refugees receive the attention they deserve in today's global context. With awareness and joint efforts, it is hoped that climate refugees' status and legal protection can be strengthened so that they are no longer marginalised in the international legal system.

2. Legal Status of Climate Refugees

Climate refugees are individuals who have been forced to flee their homes due to the impacts of climate change, such as natural disasters, sea level rise, and deteriorating environmental conditions. However, their legal status in international law is still very ambiguous. Climate refugees do not meet the criteria set out in the 1951 Refugee Convention, which only recognises individuals fleeing persecution based on specific race, religion, nationality, or social group.¹² Therefore, they often do not get proper legal protection. Research

⁸ Matthew Scott, "Finding Agency in Adversity: Applying the Refugee Convention in the Context of Disasters and Climate Change," *Refugee Survey Quarterly* 35, no. 4 (December 1, 2016): 26–57, <https://doi.org/10.1093/rsq/hdw018>.

⁹ Mai Wardeh and Rui Cunha Marques, "Sustainability in Refugee Camps: A Systematic Review and Meta-Analysis," *Sustainability* 13, no. 14 (July 9, 2021): 7686, <https://doi.org/10.3390/su13147686>.

¹⁰ Yanuarda Yudo Persian, "Pengaturan Dalam Hukum Internasional Mengenai Pengungsi Akibat Perubahan Iklim Yang Melintasi Batas Internasional (Environmental Refugee)" (Brawijaya University, 2010).

¹¹ Sonja Fransen et al., "Climate Risks for Displaced Populations: A Scoping Review and Research Agenda," *Journal of Refugee Studies*, October 27, 2024, <https://doi.org/10.1093/jrs/feae074>.

¹² Neeraj Kumar Singh and Himangana Gupta, "Climate-Conflict-Migration Nexus: An Assessment of Research Trends Based on a Bibliometric Analysis," in *The Climate-Conflict-Displacement Nexus from a Human Security Perspective* (Cham: Springer International Publishing, 2022), 13–28, https://doi.org/10.1007/978-3-030-94144-4_2.

shows that even if they experience life-threatening conditions, their legal status remains unclear in the context of international law. One of the main reasons climate refugees are not recognised in international legal frameworks is the definition of refugees themselves. The 1951 Refugee Convention defines a refugee as someone "outside the country of his or her nationality and is unable or unwilling to return to that country due to a reasonable fear of persecution."¹³

In this case, the well-founded fear of persecution is essential for obtaining refugee status. However, climate refugees do not always face direct threats from specific governments or groups. On the contrary, they are more often forced to move due to environmental conditions that deteriorate due to climate change. This leads to their inability to meet the criteria set by the Convention. For example, data from the United Nations (UN) shows that by 2024, more than 120 million people worldwide will be forced to be displaced due to extreme weather events and natural disasters related to climate change.¹⁴

Of these, three-quarters live in countries vulnerable to extreme weather events and climate disasters. Despite the growing urgency of the situation, many countries are still reluctant to recognise the status of climate refugees in their legal systems. This creates uncertainty for these individuals about the rights and protections they should receive. In Indonesia, despite Presidential Regulation No. 125 of 2016 on the Handling of Refugees from Abroad, the country has not ratified the 1951 Convention and the 1967 Protocol. As a result, the legal status of climate refugees in Indonesia remains unclear and often depends on applicable national policies. Meanwhile, other ASEAN countries face similar challenges in dealing with refugees due to climate change. For example, countries such as Malaysia and Thailand also do not have clear legal frameworks to protect climate refugees, even though they are a destination for many asylum seekers.¹⁵

Developing countries, especially those in the archipelago and Southeast Asia, face significant challenges due to climate change threatening their survival and economy. As a regional organisation, ASEAN has made great efforts to address the impacts of climate change through various initiatives, including establishing the ASEAN Climate Change Working Group (AWGCC), which aims to increase collaboration between countries in dealing with this issue.¹⁶

ASEAN member countries, such as Indonesia, Malaysia, and the Philippines, have a high level of vulnerability to natural disasters such as floods, droughts, and storms that are increasingly frequent due to climate change. Although some countries, such as Cambodia, have ratified the 1951 Convention on Refugees and issued internal regulations related to refugees, many other countries in the region still do not have a clear legal framework to protect refugees from climate change. In Indonesia, for example, Presidential Regulation No. 125 of 2016 on the Handling of Refugees from Abroad does not provide legal certainty for climate refugees because the country has not ratified the 1951 Convention. This shows that the legal status of

¹³ Brooke T. Sidney et al., "Health-Related Impacts of Climate Change and Air Pollution on Older Adult, Child, and Adolescent Immigrants and Refugees Globally: A Scoping Review," *Journal of Public Health*, October 14, 2023, <https://doi.org/10.1007/s10389-023-02103-z>.

¹⁴ Sarah M. Munoz, "Environmental Mobility in a Polarized World: Questioning the Pertinence of the 'Climate Refugee' Label for Pacific Islanders," *Journal of International Migration and Integration* 22, no. 4 (December 12, 2021): 1271–84, <https://doi.org/10.1007/s12134-020-00799-6>.

¹⁵ Eberhard Weber, "Environmental Change and (Im)Mobility in the South," 2014, 119–48, https://doi.org/10.1007/978-94-017-9023-9_6.

¹⁶ Albert Triwibowo, "ASEAN's Role in Global Multilateral Forums," in *The Elgar Companion to ASEAN* (Edward Elgar Publishing, 2023), 246–64, <https://doi.org/10.4337/9781800378889.00026>.

climate refugees in developing countries and islands in ASEAN remains unclear and highly dependent on applicable national policies.

This condition can exacerbate their vulnerability to exploitation and discrimination. In this context, it is essential to encourage the establishment of new legal frameworks that specifically regulate the status and protection of refugees due to climate change. Some legal experts have proposed that the international community consider establishing new conventions or additional protocols to protect climate refugees.¹⁷ With a clear legal framework, it is hoped that the rights of climate refugees can be recognised and protected internationally. In addition, countries need to collaborate to deal with this issue effectively. Countries must work together to create long-term solutions for climate refugees through voluntary repatriation, local integration, or resettlement in third countries. This requires sufficient political commitment and resources to ensure that refugees' basic needs can be met. Overall, the legal status of climate refugees remains a complex issue in international law.

3. Available Legal Protections and Climate Refugee Non-Refoulement Principles

We have agreed that climate change has become one of the most significant challenges for humanity, fueling massive migrations known as climate refugees. Individuals are forced to leave their homes due to the direct impacts of climate change, such as natural disasters, sea level rise, and extreme weather changes. Despite the situation's urgency, legal protections for climate refugees are still minimal. In this context, the principle of non-refoulement becomes very relevant to understanding the rights and protections that should be granted to climate refugees. The legal vacuum in the protection of climate refugees is caused by the inability of the current international legal framework to accommodate their needs. The 1951 Refugee Convention and the 1967 Protocol do not cover individuals forced to move due to environmental changes, so they do not obtain official refugee status.¹⁸

This has led to uncertainty about the rights and protections they should receive. Data from the Internal Displacement Monitoring Centre (IDMC) shows that in 2023, nearly 26 million people will be displaced due to extreme weather events caused mainly by floods or droughts. In the global context, the United Nations reports that as many as 120 million people worldwide will be displaced, and three-quarters will live in countries highly vulnerable to extreme weather events and climate disasters. This shows that many individuals who experience life-threatening conditions due to climate change do not receive adequate legal protection. In Indonesia, although there are several laws related to environmental protection, such as Law Number 32 of 2009 concerning Environmental Protection and Management, there are no specific regulations governing climate refugees.¹⁹

These shortcomings make these individuals vulnerable to human rights abuses and loss of access to essential services such as education and healthcare. The principle of non-refoulement

¹⁷ Bhaskar Gogoi and Jayanta Krishna Sarmah, "Climate Change and Regional Cooperation in South-East Asian Countries," *India Quarterly: A Journal of International Affairs* 80, no. 2 (June 11, 2024): 252–68, <https://doi.org/10.1177/09749284241241597>.

¹⁸ Koh Kheng-Lian and Lovleen Bhullar, "ASEAN: The Singapore Declaration on Climate Change, Energy and the Environment, 2007 and Beyond," in *Regional Environmental Law* (Edward Elgar Publishing, 2015), <https://doi.org/10.4337/9781781951781.00017>.

¹⁹ Norwegian Refugee Council, "Internal Displacement Monitoring Centre-IDMC," *Global Report on Internal Displacement*. Accessed August 10 (2019): 2020.

is one of the main pillars of international refugee law. This principle states that a refugee should not be returned to a country where his life or liberty is threatened. Although this principle is set out in Article 33 of the 1951 Refugee Convention, its application to climate refugees is still debatable. Many countries are reluctant to apply this principle in the context of climate change due to the lack of official recognition of climate refugee status. The principle of non-refoulement can be used to protect climate refugees from deportation to their home countries, where they will face risks due to environmental change.²⁰

One clear example that reflects the violation of the principle of non-refoulement in the context of climate refugees is the situation faced by the island of Kiribati, an island nation in the Pacific that is in danger of drowning due to rising sea levels. Kiribati comprises 33 small islands, many of which are just a few meters above sea level. With predictions that most of its territory will be lost by 2050 due to climate change, Kiribati residents are looking for safer places to live. In this context, if a resident of Kiribati flees to another country, such as Australia or New Zealand, and then the government decides to return to Kiribati, the act can be considered a violation of the principle of non-refoulement.

This is because their deportation back to the endangered island means returning them to a place where their lives are in great danger due to environmental change. This case shows the significant challenges climate refugees face in obtaining legal protection. Although many countries have signed the 1951 Refugee Convention, they often do not officially recognise the status of climate refugees. In many cases, the governments of destination countries do not have formal mechanisms for granting refugee status to these individuals, so they cannot claim protection under the principle of non-refoulement.²¹

However, challenges arise because many countries do not have formal mechanisms to grant refugee status to these individuals. Several international organisations and government agencies have been working to improve protection for climate refugees through various initiatives. For example, the International Organization for Migration (IOM) has launched the Climate Displacement Risk Index (RICD) in Indonesia to help predict and respond to the risk of displacement due to climate change. This initiative involves collaboration between the Indonesian government, the European Union, and research institutions to build a comprehensive data model to improve the country's capacity to address this issue. Indonesia is now one of the most vulnerable countries to climate-related disasters.²²

An average of 4.5 disasters occur daily in Indonesia, with more than 3.5 million people affected and around 250,000 displaced by weather-related disasters. About 90 per cent of these disasters are related to weather and climate, including floods, droughts, extreme weather events, and wildfires.²³ As part of this effort, IOM developed the Climate Displacement Risk Index (RICD), a predictive model designed to measure the risk of future displacement in Indonesia.

²⁰ A. Edwards, "Human Rights, Refugees, and The Right 'To Enjoy' Asylum," *International Journal of Refugee Law* 17, no. 2 (April 26, 2005): 293–330, <https://doi.org/10.1093/ijrl/eei011>.

²¹ T. Clark, "Rights Based Refuge, the Potential of the 1951 Convention and the Need for Authoritative Interpretation," *International Journal of Refugee Law* 16, no. 4 (December 1, 2004): 584–608, <https://doi.org/10.1093/ijrl/16.4.584>.

²² Vincent Godana Yatani, Mohammad Safrin, and Diangsa Wagian, "Exclusion of the Principle of Non-Refoulement in Article 33 Paragraph 2 of the 1951 Refugee Convention," *Ex Aequo Et Bono Journal Of Law* 1, no. 1 (July 30, 2023), <https://doi.org/10.61511/eaebjol.v1i1.2023.108>.

²³ Facing Urban Areas, 'The Impacts Of Climate Change Upon Urban Areas'.

The RICD will use various data sources, mainly from the Indonesian government, including hazard mapping, climate modelling, population density, and socioeconomic indicators.

By combining the data, the model will provide in-depth analysis to identify sites at high risk of climate displacement. In addition, several countries have begun to develop more inclusive national policies to address the issue of displacement due to climate change. For example, New Zealand has adopted an immigration policy that allows individuals from countries affected by climate change to obtain humanitarian visas. This is a positive step towards recognising the status of climate refugees and applying the principle of non-refoulement more broadly. Nonetheless, legal protection for climate refugees still faces many challenges, especially related to the lack of a clear legal framework and the application of the principle of non-refoulement.

4. Legal Framework for the Future

As explained above, the increasingly urgent challenge of climate change has made the need to establish a new convention or protocol that explicitly regulates the status and protection of refugees due to climate change very clear. Currently, existing international legal frameworks, such as the 1951 Refugee Convention, do not cover individuals forced to move due to natural disasters or deteriorating environmental conditions.

This creates a significant legal vacuum for those forced to leave their homes due to the impacts of climate change. The definition of climate refugees needs to be clarified in this new convention. Climate refugees are individuals who have been forced to relocate due to natural disasters, such as floods, droughts, or hurricanes, caused by climate change. By providing a precise definition, the convention will assist countries in identifying and giving protection to such individuals.²⁴

According to a report from the Intergovernmental Panel on Climate Change (IPCC), it is estimated that the number of refugees due to climate change will increase significantly in the coming decades, reaching up to 200 million people by 2050 if there are no effective mitigation measures. In addition, the new convention must establish fundamental rights for climate refugees. These rights should include the right to international protection, access to essential services such as education and health, and the right to work and participate in society. Without formal recognition of these rights, climate refugees will continue to be in a vulnerable position. They will not have access to the resources needed to rebuild their lives in new places.²⁵

The principle of non-refoulement must also be affirmed in this new convention. This principle states that the state should not return individuals to a place where they would face a serious risk to their safety. In the context of climate refugees, deportation back to disaster-affected areas can be considered a violation of the principle of non-refoulement. Therefore, it is essential to ensure that countries have a legal obligation to protect climate refugees from

²⁴ S.N. Tripathy, "Climate Change, Migration, Displacement in Asia and the Pacific: Role of UNDP," *Splint International Journal of Professionals* 11, no. 2 (2024): 139–49, <https://doi.org/10.5958/2583-3561.2024.00015.9>.

²⁵ Simon Behrman and Avidan Kent, "Climate Change and Refugees: A Challenge to Legal Frameworks," in *Research Handbook on Asylum and Refugee Policy* (Edward Elgar Publishing, 2024), 320–36, <https://doi.org/10.4337/9781802204599.00032>.

deportation to places where hazardous environmental conditions would threaten them. State responsibilities should also be included in this new convention.²⁶

Countries should have an obligation to protect climate refugees, including providing temporary shelter and access to essential services. This is especially important for developing countries that may not have enough resources to deal with the problem of displacement due to climate change. International support through funding mechanisms must also be arranged so countries can fulfil these responsibilities. The funding mechanism is a crucial aspect in handling the issue of climate refugees. Donor countries and international organisations should collaborate to provide the necessary funds to support recipient countries in addressing climate change-related displacement. This includes financial support for rehabilitation and social integration programs for climate refugees. International cooperation must also be emphasised in this new convention. Countries must collaborate to create long-term solutions for climate refugees through voluntary repatriation or local integration.²⁷

This cooperation can involve exchanging knowledge and experience between countries that have successfully addressed migration-related issues due to climate change. Several global initiatives have emerged in response to the need for protection for climate refugees. In 2018, the United Nations held a High-Level Meeting on Climate Change and Migration in Marrakech, Morocco. The meeting resulted in the "Marrakech Framework for Climate and Migration," which emphasises the importance of integrating migration issues into climate change policy. Initiatives like these show a global awareness of the importance of addressing the issue of displacement due to climate change. However, while there is an urgent need to establish a new legal framework for climate refugees, the process has not been easy. Some of the main challenges include disagreements between countries on how to deal with the issue of displacement due to climate change. Some countries may be reluctant to accept additional responsibilities or worry about the social and economic impacts of accepting refugees. Lack of awareness of migration-related issues due to climate change is also an obstacle to formulating more inclusive policies.²⁸

Many stakeholders may not fully understand the impact of climate change on migration and human rights. Limited resources in developing countries are also a significant challenge in dealing with this problem. Changes in domestic policies in different countries can affect their commitment to protection for climate refugees. Political and social dynamics often have an impact on how a country handles issues of migration and human rights protection. In the face of these challenges, the international community needs to take immediate action to address these legal gaps so that the rights and needs of climate refugees receive the attention they deserve in today's global context.²⁹

²⁶ François Gemenne, "Why the Numbers Don't Add up: A Review of Estimates and Predictions of People Displaced by Environmental Changes," *Global Environmental Change* 21 (December 2011): S41–49, <https://doi.org/10.1016/j.gloenvcha.2011.09.005>.

²⁷ Tripathy, "Climate Change, Migration, Displacement in Asia and the Pacific: Role of UNDP."

²⁸ Dellmuth Lisa Maria, Gustafsson Maria-Therese, and Kural Ece, "Global Adaptation Governance: Explaining the Governance Responses of International Organizations to New Issue Linkages," *Environmental Science & Policy* 114 (December 2020): 204–15, <https://doi.org/10.1016/j.envsci.2020.07.027>.

²⁹ Fernando de la Mora Salcedo, "Diplomatic Psychology at the United Nations," in *Psychosocial Experiences and Adjustment of Migrants* (Elsevier, 2023), 339–54, <https://doi.org/10.1016/B978-0-12-823794-6.00008-6>.

Establishing a new convention or protocol is crucial to providing strong legal protection for climate refugees and ensuring that they are recognised as individuals with fundamental rights that need to be protected. As such, the new legal framework will provide legal clarity on the status and protection of climate refugees and encourage international collaboration in confronting shared challenges related to climate change and migration. In the context of climate refugees and human rights, several international legal instruments play an essential role in ensuring that individuals have the opportunity to live safely and with dignity despite facing significant challenges due to environmental change.³⁰

One of the key documents is the Universal Declaration of Human Rights (UN), adopted by the UN General Assembly in 1948. This document sets common standards for the protection of human rights around the world, including the right to life and personal security.³¹ In addition, the International Covenant on Civil and Political Rights (ICCPR) regulates civil rights that states cannot revoke. At the same time, the International Covenant on Economic, Social and Cultural Rights (ICESCR) protects economic and social rights that are essential to individuals' well-being, such as access to food, shelter, and health.³²

The Convention Against Torture (CAT) also protects those who may face violence or ill-treatment in the destination country. Although there is no official recognition of "climate refugees" in current international law, some international organisations are beginning to develop protection principles for individuals forced to move due to natural disasters or climate change. With this international legal framework, raising awareness and implementation at the national level is imperative so that all individuals, including climate refugees, can live safely and with dignity despite facing significant challenges due to environmental change.

C. Conclusion

Legal gaps related to recognising and protecting climate refugees in international law. Although migration due to climate change is increasing, the 1951 Refugee Convention does not yet cover individuals forced to move due to environmental disasters or extreme climatic conditions. The absence of a clear legal framework leads to uncertainty about climate refugees' legal status and protection rights. Island nations such as Kiribati, Tuvalu and the Maldives are in danger of drowning due to rising sea levels, demonstrating the urgency of legal recognition for this group. However, without an official definition and adequate legal protections, climate refugees are still trapped in vulnerability and discrimination in destination countries. The principle of non-refoulement, which prohibits the return of individuals to dangerous places, has the potential to be applied in the context of climate refugees, but its application is still limited. Many countries are reluctant to recognise this principle for climate refugees because they lack official recognition of their status. In addition, developing countries, such as Indonesia and other ASEAN members, face significant challenges in protecting climate refugees, mainly due to resource constraints and the unpreparedness of national laws. Efforts such as developing a

³⁰ Waleed M. Sweileh, "Research Trends on Human Trafficking: A Bibliometric Analysis Using Scopus Database," *Globalization and Health* 14, no. 1 (December 8, 2018): 106, <https://doi.org/10.1186/s12992-018-0427-9>.

³¹ Mohammed Almahfali and Helen Avery, "Human Rights from an Islamic Perspective: A Critical Review of Arabic Peer-Reviewed Articles," *Social Sciences* 12, no. 2 (February 16, 2023): 106, <https://doi.org/10.3390/socsci12020106>.

³² Celia McMichael et al., "A Review of Estimating Population Exposure to Sea-Level Rise and the Relevance for Migration," *Environmental Research Letters* 15, no. 12 (December 1, 2020): 123005, <https://doi.org/10.1088/1748-9326/abb398>.

migration risk prediction model by IOM in Indonesia show a positive first step, but broader global collaboration is still needed to provide adequate protection.

D. Suggestion

In the face of the challenges posed by climate change, the need to establish new conventions or protocols that specifically regulate the status and protection of climate refugees is urgent. The current legal vacuum in which climate refugees are not recognised within the framework of international law creates uncertainty regarding the rights and protections they should receive. Therefore, the new convention must clearly define climate refugees, establish their fundamental rights, and affirm the principle of non-refoulement to protect them from deportation to dangerous areas. The convention should also establish the responsibility of states to protect climate refugees, including the obligation to provide access to essential services. In addition, it is crucial to create funding mechanisms that support countries in addressing the problem of displacement due to climate change. International cooperation is urgently needed to develop long-term solutions for climate refugees through voluntary repatriation or local integration. Despite the challenges in establishing this new legal framework, such as disagreements between countries and a lack of awareness about migration-related issues due to climate change, global efforts such as the "Marrakech Framework for Climate and Migration" show international awareness of the importance of these issues. With concrete steps towards establishing a new legal framework, it is hoped that the rights of climate refugees can be effectively recognised and protected in the future.

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