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The Legal Dilemma of Climate-Change Refugees in Light of the Provisions of International Law

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Abstract

This paper addresses the legal dilemma surrounding climate-change refugees in light of the provisions of international law. The paper aims to explore and analyze the current international legal regime that consists of the rules of international refugee law and international human rights law, and examines the possibilities of climate-change refugees to receive protection under these legal frameworks. By adopting doctrinal and analytical methods, the paper starts with analyzing the definitional challenges surrounding the term «climate-change refugees», then it moves to explore the applicability of the 1951 Refugee Convention and relevant regional instruments to climate-change refugees, and then evaluates the role of international human rights law as a complementary protection framework. The paper concludes that while climate-change refugees are not legally recognized and protected by international refugee law at both international and regional levels, they also do not receive adequate protection under international human rights law. Finally, the paper calls on the international community and the UN to establish a new, comprehensive international legal framework, in a form of a new convention or an additional protocol that formally recognizes climate-change refugees as a protected category and provides them with clear, adequate, and effective protection.

Keywords: Climate change, climate-change refugee, international refugee law, international human rights law, protection

Introduction

Human migration is not a new phenomenon. It is as old as humanity itself. Throughout history, people have been on the move. The motives behind their movement could be economic, social, political, or even environmental. According to the New York Declaration for Refugees and Migrants (2016), people migrate from one place to another in seeking of jobs and better economic opportunities, or fleeing from armed conflicts, wars, food insecurity, persecution, terrorism, human rights abuses, the negative impacts of climate change, and natural disasters (UN, 2016).

Climate change has undeniably become one of the most key challenges of the 21st century. Scientific consensus confirms that greenhouse gases (GHGs) resulting from human activities, particularly the widespread use of fossil fuels, have significantly altered the Earth's climate system and intensified the scale and frequency of both slow-onset and sudden-onset disasters. According to the United Nations Framework Convention on Climate Change (UNFCCC) (1992), climate change is defined as climate alterations that can be directly or indirectly attributed to human activities that modify the global atmospheric composition and that exceed the limits of natural climate variability over time (UN, 1992).

Over the past few decades, climate change has become one of the key drivers of forced displacement worldwide. The rising sea level, extreme weather events, severe droughts, water scarcity, desertification, and other climate-related hazards affect the lives of people around the world and undermine their access to food, water, housing, health care, and livelihoods, and even pose a direct threat to their lives. As a result, millions of people have been forced to flee from their homes and seek refuge in a new place due to the adverse effects of climate change. According to the Internal Displacement Monitoring Center (IDMC), climate-related disasters have displaced more than 250 million people worldwide over the past decade. This figure is expected to increase, as the UNHCR estimates that the number of countries that are likely to encounter extreme climate hazards will rise from 3 to 65 by 2040 (UN, 2025). As the effects of climate change are expected to worsen in the coming decades, scientists' predictions indicate that by 2050, around 1.2 billion people may be displaced globally because of climate change and natural disasters (Institute for Economics & Peace, 2020).

The significance of this paper lies in its addressing one of the most significant repercussions of climate change, namely the climate-change refugee phenomenon. Despite their ever-increasing numbers and suffering around the globe, this category

has not received the same level of international attention and protection as others, such as political refugees.

Therefore, this paper focuses on analyzing the current international legal regime that consists of the rules of international refugee law (IRL) and international human rights law (IHRL), and examines whether these legal frameworks provide protection for climate-change refugees. To answer this question, the study begins by discussing the definitional dilemma surrounding the concept of climate-change refugees and highlighting the lack of consensus on how to define this category of people. Then it analyzes the term "refugee" and the conditions for refugee status under international refugee law, particularly the 1951 Refugee Convention and relevant regional instruments, and examines the possibility of extending protection to climate-change refugees under this legal framework. Then, the paper explores international human rights law as an alternative means of providing protection to climate-change refugees through complementary protection and the principle of non-refoulement. Finally, it concludes by proposing new international legal pathways capable of providing adequate and effective protection for climate-change refugees.

This study adopts a doctrinal and analytical approach to examine the legal dilemma surrounding the protection of climate-change refugees. It aims to address the definitional challenges surrounding the term "climate-change refugees" and to analyze the applicability of the 1951 Refugee Convention, the 1969 Organization of African Unity (OAU) Convention, the 1984 Cartagena Declaration, and international human rights law to climate-change refugees. The study relied on both primary and secondary data. By adopting this methodology, the study seeks to clarify the current legal status of climate-change refugees and identify the protection gaps. Primary data were collected from legal materials such as international conventions and treaties, regional treaties, jurisprudence of international and regional bodies, and official reports issued by United Nations organs and specialized agencies. Secondary data were collected from textbooks, academic articles, commentaries, and other relevant sources. The study is primarily based on desk research and the use of electronic and written sources.

Climate-Change Refugees and the Dilemma of the Definition

There is disagreement and contention over the term that should be used to describe people who are displaced due to the effects of climate change. Media, scholars,

activists, campaigners, and international organizations have used different terms and concepts to refer to this category of people. Some called them "environmental refugee", some called them "environmental migrant.", while others decided to call them straightforwardly as "climate refugee".

Activists, campaigners, and media, in addition to some researchers and academics, prefer to use the terms "climate refugee" or "environmental refugee" to add more momentum to the issue of climate-induced displacement, as the other terms, such as climate migrants or environmental migrants, may underestimate the seriousness of the problem that these people face. This position is supported by Behrman and Kent, who contend that labelling people displaced due to the effects of climate change as migrants could take away from them the human rights dimension (Behrman & Kent, 2018).

Lester Brown, an American environmental analyst and the founder of the World Watch Institute, was the first to introduce the concept of "Environmental refugee" in 1976 (Morrissey, 2012). However, the credit for bringing this concept to public debate goes to Professor Essam Al-Hinawi who in the 1985 UNEP report defined it as "people who have been forced to leave their habitat, temporarily or permanently, because of a marked environmental disruption, natural and/or triggered by people that jeopardize their existence and/or seriously affected the quality of their life" (El-Hinnawi, 1985).

All the definitions that emerged in subsequent years were influenced by Al-Hanawi's approach and characterized by generality. For instance, Norman Myers defined them as "Persons who can no longer gain a secure livelihood in their homelands because of drought, soil erosion, desertification, deforestation, and other environmental problems, together with the associated problems of problems of population pressures and profound poverty" (Myers, 2002). In addition, Ben Gorlick, who previously served as senior policy advisor of the UN, defined them as "people who are displaced from or who feel obliged to leave their usual place of residence, because their lives, livelihoods, and welfare, have been placed at serious risk as a result of adverse environmental, ecological, or climate processes and events" (Terminski, 2012).

It can be noted that despite the significance of these definitions in describing the environmentally-induced displacement. However, they are legally problematic because of their generality, breadth, and the lack of legal precision. They do not clearly identify the immediate cause of displacement as they conflate general

environmental degradation, climate change, and socioeconomic factors as causes or drivers of displacement. They also do not address the degree of coercion that forces people to leave, and the nature of the displacement, whether internal or cross-border. This conceptual deficiency weakens the legal value of these definitions and makes it difficult to depend on them as a basis for building a coherent legal protection system for those who are displaced by the adverse effects of climate change.

Several scholars in the legal literature and research use the terms "environmental refugee" and "climate refugee" interchangeably. However, others differentiate between these terms, arguing that these concepts are not interchangeable and preferring the term climate refugee over environmental refugee". Their approach draws a clear distinction between general environmental phenomena, such as earthquakes and volcanoes, broader forms of environmental degradation, and climate change as a primary driver of forced displacement. According to their perspective, the term climate refugee is more accurate in describing people who leave their homelands specifically as a result of climate-related factors, in this regard, Biermann and Boas define a climate refugee as:" people who have to leave their habitats because of the sudden or gradual alteration in their natural environment related to one of three impacts of climate change: sea level rise, extreme weather events, drought, and water scarcity" (Biermann & Boas, 2010).

International organizations and expert bodies, such as UNHCR, IMO, and IPCC, refuse the terms "environmental refugee" and "climate refugee". Instead, they call them" persons displaced in the context of disasters and climate change" or "environmental migrants". The International Organization for Migration (IMO) defines the term "environmental migrants" as "persons or groups of persons who, predominantly for reasons of sudden or progressive change in the environment that adversely affects their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad" (IMO, 2008). According to their perspective, refugee status has a specific legal meaning under the 1951 Convention that does not include climate change and environmental disasters as reasons for asylum, as well as the use of the term refugee could confuse the existing legal system, impose new obligations on states towards a new category of people and consequently may weaken the protection provided for traditional refugees (political refugees).

In fact, the term "environmental refugee" is relatively broad and encompasses climate refugees (Biermann & Boas, 2010). Therefore, this paper will use the term

"climate-change refugee" to refer to people who are forced to cross international borders because their homelands have become uninhabitable due to the adverse impacts of climate change, whether they are rapid or slow-onset effects, including sea level rise, extreme weather events, rising temperature, severe drought, and desertification.

The Possibility of Providing Protection to Climate-Change Refugees Under International Refugee Law

The 1951 UN Refugee Convention and the Case of Climate Change Refugee

The 1951 UN Refugee Convention, as amended by the 1967 Protocol, which removed the temporal and geographical restrictions on the Convention's application, is considered the fundamental legal instrument and the cornerstone of the international refugee protection regime under international law. It is crucial, as it provides a clear and detailed definition of the concept of a refugee, a specific status for refugees, outlines their rights and obligations towards host countries, and sets out states' obligations to provide protection for them.

Despite the fact that people who are forced to leave their homelands in the context of climate change may face similar hardships as political refugees, such as food insecurity, water scarcity, lack of healthcare, and other harms and risks related to the effects of climate change, the refugee convention precluded them from the protection provided by the convention. This exclusion stems from Article 1 of the 1951 Refugee Convention, which defines a refugee as a person who leaves his or her country of nationality due to a fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion, and is unable or unwilling to avail himself or herself of the protection of that country (UN, 1951).

It can be observed that the definition of a refugee under the Refugee Convention includes these components namely, crossing an international border and the existence of the individual outside their country of nationality, fear or being subjected to persecution based on specific grounds (race, religion, nationality membership of a particular social group or political opinion), and the inability or unwillingness to obtain protection from the country of origin.

The Grounds for seeking refugee status under International Refugee Law (IRL) are primarily fear and persecution. Fear is considered one of the most significant

reasons for forcing a person to seek asylum, as it represents a psychological state that compels a refugee to flee to a place where he/she feels safe. This element was clearly mentioned in the Refugee Convention by stating "owing to well-founded fear" of persecution. Persecution, however, does not have a single, universally accepted definition under international law. Nevertheless, some scholars tried to define it as a threat to the right to life and liberty, as well as other serious violations or deprivations of the fundamental human rights, as enshrined in the international covenants and conventions (Aleinikoff, 1991). Acts that involve killing, torture, physical violence, arbitrary detention, and imposing unlawful limitations on political and religious activities are widely recognized as a clear example of persecution. By contrast, natural disasters and climate-related events do not fall within the scope of persecution under international law (UNHCR, 2005).

Although climate-change refugees may meet the border-crossing requirement and be outside their country of nationality, they do not meet the persecution-related criteria stipulated in the convention. The convention identifies five grounds for persecution that may force an individual to flee from his or her original country, namely race, religion, nationality, membership of a particular social group, or political opinion. In the case of climate-change refugees, however, the reasons for flight are natural and environmental disasters associated with climate change, such as sea-level rise, drought, floods, and desertification, which are not among the five grounds recognized under the Convention.

In addition, the Refugee Convention assumes that there is a persecutor who carries out the persecution. Such a persecutor may be a State or non-State actor that targets an individual or a group of people based on one or more of the aforementioned grounds. With respect to climate-change refugees, however, the source of harm and danger is climate change itself and the natural disasters that result from it. Neither climate change nor natural phenomena and disasters can be considered of being a source of persecution in the traditional legal sense. Furthermore, considering the states that cause pollution or the international community in general as the persecutor raises significant legal and scientific difficulties, particularly in establishing the causal relationship between their conduct or omission and the climate change-related harm suffered in individual cases (Kälin & Schrepfer, 2012). Consequently, from a strict legal perspective, the definition of a refugee does not extend to people who flee the effects of climate change. This position has been reaffirmed by Ian Fry, the Special Rapporteur on the promotion of human rights in the context of climate change, who, in his report to the Human Rights Council, stated

that the term "climate refugee" is inconsistent with the 1951 Refugee Convention and its Additional Protocol (UNHRC,2023).

The Regional Refugees Legal Instruments and the Case of Climate-Change Refugee

The limited scope of the refugee definition under the refugee convention, which was based primarily on individual persecution, was inadequate for addressing the political, economic, and social context of African and Latin American countries, which witnessed mass displacement resulting from armed conflicts, widespread violence, and the breakdown of public order in those regions. In this regard, the 1969 OAU Convention expanded the definition of the refugee by introducing additional categories of persons in Article 1(2). These categories include, in addition to the definition contained in 1951 Convention 'every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality' (OAU, 1969). Similarly, The Cartagena Declaration on Refugees recommends that the definition of a refugee adopted by Latin American States should include, in addition to the definition contained in 1951 Convention, persons "who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order" (Cartagena Colloquium, 1984).

If we examine the definitions of a refugee in the context of the OAU Convention and Cartagena Declaration, we find that they include people fleeing their countries due to events that constitute a serious disturbance or breach of public order. Neither the OAU Convention nor the Cartagena Declaration defines or restricts the concept of events and circumstances that may disturb public order. This raises a significant question of whether the adverse effects of climate change and climate-related disasters, such as widespread floods, severe droughts, and sea level rise, can be considered serious events that disrupt public order according to these instruments.

There is no universal and agreed-upon definition of public order in international law. However, it can be understood as the stability, tranquility, and security of the state and society (Stocchi, 2025). Thus, it is possible to establish a link between events and circumstances that may disrupt public order and the adverse effects of

climate change, including sudden or slow-onset effects of climate change or natural disasters such as environmental degradation, desertification, and sea-level rise, as floods, hurricanes, wildfires, and other forms of natural disasters. According to the United Nations, a disaster can be understood as" a serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic and environmental losses and impacts" (UNDRR, 2017).

In this regard, some scholars argue that the adverse effects of climate change and natural disasters may cause disturbances to public order if they cause mass displacement, social instability, or breakdown of the essential state functions. (Kälin & Schrepfer, 2012). Thus, the OAU Convention and Cartagena Declaration can cover the cases of displacement resulting from climate change and natural disasters. However, this view has been contested. Some scholars oppose this interpretation, warning that the expanded interpretation of the definition of a refugee under these instruments' risks exceeding their meaning and may contradict the intention of their drafters, not to include climate change and disaster-induced displacement. Moreover, even if the OAU Convention could be interpreted to include climate-induced displacement and natural disasters, the absence of *opinio juris* among the African nations prevents such an interpretation from being considered as a legal obligation under the convention (McAdam,2009). Similarly, the scope of the Cartagena Declaration has not been understood in state practice to include displacement resulting from climate change and natural disasters (Kolmannskog, 2009).

The only legal instrument that explicitly addresses cross-border forced displacement resulting from natural disasters, including those caused by the adverse effects of climate change, is the Arab Convention on the Regulation of the Status of Refugees, which was adopted by the Arab League in 1994. This convention expanded the definition of refugee more comprehensively than the OAU Convention and Cartagena Declaration by including, in addition to the definition set out by the 1951 Refugee Convention, every person who is forcibly displaced to a country other than his country of origin due to aggression, occupation, natural disaster, or serious events that lead to major disruption of public order (League of Arab States, 1994).

As we see in the aforementioned definition, natural disasters, inter alia, are regarded as a direct driver of displacement, which, within the framework of this convention, allows the inclusion of people who leave their countries as a result of the

effects of climate change within the definition of refugee. Despite the importance of the provisions of this convention, it had no real impact on the ground due to a Limited number of Arab states that ratified it, and even those that did, they did not incorporate its provisions into their national laws. Consequently, the Convention has remained largely ineffective in practice.

In summary, whatever level of protection that regional instruments may provide to the climate-change refugees or to any individual who is compelled to flee from climate and other natural disasters, the protection is limited to their territorial scope, and outside these regions, such individuals remain subject to the narrower refugee definition under the 1951 Refugee Convention.

The New York Declaration for Refugees and Migrants and the Case of Climate Change Refugee

Adopted by the UN General Assembly Resolution 71/1 in September 2016. This declaration reaffirms the centrality and significance of the international refugee regime, which consists of the 1951 Refugee Convention and its 1967 Additional Protocol. It also represents a moral and ethical commitment by member states aimed at reinforcing and improving mechanism for protecting people during their movement, assist refugees and migrants irrespective of their legal status, emphasizing the need to respect their human rights, as well as it calls upon the international community to support countries that host a large number of refugees and migrants (UN, 2016).

The declaration explicitly acknowledged the link between climate change and human migration, both forced and voluntary, noting that people may move from one place to another due to the adverse effects of climate change, including climate-induced disasters and other environmental factors.

It can be noted that the New York Declaration for Refugees and Migrants does not recognize the term «climate-change refugees» as a distinct legal category nor provide them with a specific status. Rather, it deals with them within the broader framework of migration. The New York Declaration is crucial as it laid the groundwork for a subsequent global framework on refugees and migration, highlighting the necessity to address the root causes of forced migration and displacement, including environmental and climate-related factors (IMO, 2018).

Interim Conclusions on International Refugee Law and Climate-Change Refugees

From the foregoing, it can be concluded that climate-change refugees are not legally recognized under international refugee law, including the 1951 Refugee Convention and relevant regional instruments. The 1951 Refugee Convention, which is considered the cornerstone of international refugee law, stipulates that persecution must be the main criterion for granting refugee status. As a result of the fact that climate change does not fall under this criterion, individuals who are compelled to leave their countries as a result of the effects of climate change and climate-related disasters are not eligible for the legal protection that is provided to refugees in accordance with this Convention. At the same time, the regional instruments have not explicitly addressed climate-related disasters, nor have they been understood or applied in a way that provides protection for people who are forced to leave their homeland and cross international borders as a result of climate change. Consequently, climate-change refugees do not enjoy protection under international refugee law (IRL). Therefore, the possibility of providing protection for this category of persons under international human rights law (IHRL) will be discussed in the next section.

The Possibility of Providing Protection to Climate-Change Refugees Under International Human Rights Law

Climate change, with its adverse effects and the disasters resulting from it, directly and indirectly affects the full and effective enjoyment of people's basic rights necessary for living a decent life. It undermines a number of fundamental rights that everyone shall enjoy, including the rights to life, an adequate standard of living, safe drinking water and sanitation, health, housing, work, development, and self-determination (OHCHR, 2018). The Human Rights Council recognized the causal link between climate change and human rights deprivation in its 2023 resolution, which acknowledged that the adverse effects of climate change contribute to the deterioration of livelihoods, make people's lives difficult, and consequently lead them to migration and displacement (Human Rights Council, 2023).

In the absence of legal recognition of climate-change refugees as a category requiring international protection under international refugee law, particularly under the 1951 Refugee Convention and relevant regional instruments. International human rights law (IHRL) seems to be a potential option for their protection. This

position has been reflected by the United Nations High Commissioner for Human Rights (OHCHR), who noted in his 2018 report that when people affected by climate change do not qualify as refugees and lack alternative migration pathways, the protection of their human rights becomes particularly critical (OHCHR, 2018).

International Human Rights Law sets out the obligations that states shall respect, protect, and fulfil. While other legal frameworks may apply only to certain categories of people or circumstances, international human rights law applies to all people, everywhere and at all times. This encompasses not only the citizens of a state but also every individual within that state's jurisdiction. Accordingly, all individuals, irrespective of their legal status, possess the same human rights as everyone else simply by virtue of being human beings.

International human rights treaties, covenants, and conventions are widely recognized worldwide. All 193 Member States of the United Nations are parties to at least one of the nine core international human rights treaties, and around 80% of these states have ratified more than four such conventions (Friedrich-Ebert-Stiftung, 2023). These treaties, which encompass ICCPR, ICESCR, ICERD, CEDAW, CAT, CRC, ICMW, ICPPED, and CRPD, impose obligations on countries to respect, protect, and implement human rights for all people without any discrimination. In this context, as climate-change refugees fall outside the protection provided by international refugee law. They may get avail from the complementary protection provided by international human rights law. This protection is grounded in the fundamental principles of international human rights law, which grants all human beings equal rights simply by virtue of being humans, regardless of their race, religion, sex, age, ethnicity, disability, nationality, immigration status, or any other status.

Complementary Protection and Climate-Change Refugees

As we discussed in section two of this paper, international protection of refugees is primarily based on the rules of international law as set out in the 1951 Refugee Convention and its 1967 Protocol, and is further complemented by relevant regional instruments such as the 1969 OAU Convention. This protection begins when a refugee reaches the host country and expresses his or her desire to receive its protection. States are the primary actor that grants refugee status and provide international protection through their own national procedures in accordance with the provisions of the 1951 Refugee Convention and its Additional Protocol.

The UNHCR plays the role of custodian or guardian of the 1951 Refugee Convention and supervises the application and respect of its provisions by the State Parties. However, in some cases and under certain circumstances, particularly if the host state is not a party to the refugee convention, or if it is a party but it is unable or unwilling to provide protection, or if it lacks national systems for protecting refugees, the UNHCR may assume the responsibility for providing protection for refugees (UNHCR, 2019).

People who do not meet the strict criteria for granting refugee status under the 1951 Refugee Convention, such as climate-change refugees, are not entitled to the international protection provided by the convention. In light of this protection gap, complementary protection under international human rights law emerges as an alternative legal framework for providing protection to climate-change refugees.

Therefore, the complementary protection can be defined as a form of protection that is derived from international human rights law, granted to individuals who do not meet the criteria for refugee status under the 1951 Refugee Convention, particularly in situations where removal would expose such individuals to real risk to their lives or expose them to inhuman or degrading treatment or other human rights violations. It is described as complementary because it complements the protection provided by international Refugee law (McAdam, 2011).

Non-Refoulement as the Legal Basis of Complementary Protection.

The legal basis of complementary protection lies in the principle of non-refoulement as established by international human rights law. However, this principle differs from that contained in Article 33 of the 1951 Refugee Convention, which is limited to cases involving persecution. As a result, the scope of non-refoulment under international human rights law is broader as it extends to cover all persons facing a serious threat to their fundamental rights, regardless of their refugee status.

The principle of non-refoulement on which the complementary protection is based, derived from the right to life (UDHR art 3; ICCPR art 6; CRC art 6; ECHR art 2) and the right to not be subjected torture or cruel or inhumane or degrading treatment (UDHR art 5; ICCPR art 7; CAT arts 2 and 3; ECHR art 3). Although these rights are not necessarily the only rights that may give rise to a protection obligation based on the principle of non-refoulement, they are widely recognized under international law and state practice that they give rise to a non-refoulement obligation (Borges, 2018). In the case Chahal v. United Kingdom (1996), the European Court of Human Rights has emphasized that Article 3 of the ECHR imposes an absolute and

non-derogable obligation on States not to send back any individual to a place where he might be subjected to torture, inhuman or degrading treatment, or punishment (Furramani & Bushati, 2022). Unlike Article 33 of the 1951 Refugee Convention, the prohibition of removal of an individual under Article 3 of the ECHR is absolute, irrespective of the personal or criminal conduct of that person.

The adverse effects of climate change, such as sea level rise, desertification, drought, scarcity of drinking water, and the increased intensity and frequency of natural disasters resulting from it, can lead to conditions that threaten human survival itself or result in unavoidable suffering and erosion of human dignity for those affected. In this context, it can be said that removal climate-change refugees to their countries of origin that are acutely affected by climate change and no longer able to provide them with the minimum necessities of life including food, clean water, healthcare, and shelter may pose a serious threat to their lives and it may also constitute inhuman or degrading treatment even in the absence of deliberate torture under international human right law.

On this basis, the principle of non-refoulement may be applied to climate-change refugees where their removal would expose them to such serious harm. This approach was reflected in *Teitiota v. New Zealand (2020),* in which the UN Human Rights Committee issued a landmark decision holding that returning individuals to their country of origin may constitute a violation of the right to life if the climate conditions there pose a real and imminent threat to their lives. The Committee also concluded that the decision sets new standards that may facilitate the success of climate change-related asylum claims in the future (United Nations Human Rights Committee (HRC), 2020).

Limits of International Human Rights Law Protection

Despite the significance of international human rights law on the international level, it provides only a minimum level of protection in the context of climate-change refugees. International human rights law does not confer a person the right to enter and be admitted into the territory of a foreign state, nor defines the legal status to be granted to such a person while residing in the country they entered. Moreover, it does not regulate their social and economic rights, the length of their stay, or providing permanent solutions for them (Francis, 2019). In this regard, the Office of the High Commissioner for Human Rights (OHCHR) affirmed that although persons displaced by climate change effects do not have the right to enter the territory of a foreign state, they are nevertheless entitled to fundamental

human rights guarantees there (OHCHR, 2009). It can be noted that this position highlights a clear gap in the current protection regime under IHRL, this gap lies in the fact that those who fled due to the adverse effects of climate change has no right to enter the state and seek refuge under international human rights law, however, if they were lucky to be able to enter, they may get the right to stay based on the principle of non-refoulment if their removal would expose them to a real risk of violating the right to life or subjecting to inhuman treatment. Thus, international human rights law does not guarantee a comprehensive legal protection for climate-change refugees if we compare it with the protection regime established by the 1951 Refugee Convention for those who flee from persecution.

Toward a New International Legal Framework for Climate-Change Refugees

Based on what has been analyzed in previous sections. It becomes evident to us that the existing international legal framework fails to provide a comprehensive and effective protection for climate-change refugees. Therefore, a new and comprehensive legal framework for climate-change refugees must be adopted by the United Nations and the international community. This legal framework can take the form of a new international convention on the protection of the rights of climate-change refugees or an Additional Protocol to the 1951 Convention, similar to the 1967 protocol, that expands the refugee protection under the convention to include, in addition to individuals who flee due to persecution, those who flee due to the adverse effects of climate change.

Whatever the form of this framework, it should recognize climate-change refugees as a distinct protected category that deserves protection under international law. This legal framework should also introduce a clear and unified definition of climate-change refugees, define their rights and guarantees and, set out the states' obligations towards them. These obligations and guarantees should, include but not limited to, recognizing and granting them a legal status similar to that granted for those flee from persecution, facilitating safe and lawful entry, granting a lawful stay and protection against arbitrary detention or punishment based on irregular entry, ensuring them an access to fundamental economic, social, and cultural rights, providing identity and travel documentation as well as offering durable solutions such as local integration or resettlement in a third state. The framework should further provide for establishing an international funding mechanism that

contributes to supporting the protection, adaptation, and resettlement efforts for climate-change refugees.

Conclusions

The study addressed the legal dilemma surrounding climate-change refugees in light of the provisions of international, particularly international refugee law and international human rights law. The study begins by discussing the definitional dilemma surrounding the term "climate-change refugees", indicating the absence of a universally accepted definition to describe those who cross international borders due to the impacts of climate change. The study also highlights the other different terms used by scholars, activists, and international organizations to describe this category of persons, such as «environmental refugees», «environmental migrants», and «climate refugees», differentiating between these terms and clarifying their conceptual and legal implications. For the purposes of this study, and to ensure greater accuracy in addressing the issue, the term "climate-change refugees" was adopted. The study then examined whether climate-change refugees could enjoy protection under international refugee law, including the 1951 Refugee Convention and its Additional Protocol, as well as relevant regional instruments, particularly the OAU Convention and the Cartagena Declaration. After that, the study examined international human rights law as an alternative means for providing protection to climate-change refugees through analyzing the concept of complementary protection and the principle of non-refoulement under international human rights law. Then it concludes by suggesting new international legal pathways that are able to provide effective protection for climate-change refugees.

Based on the above, the study finds that despite the growing number of climate-change refugees and the increasing urgency of their situation and suffering in light of the exacerbating effects of climate change and the increased intensity and frequency of the resulting disasters, they remain without adequate and effective protection under international law. First, they are not legally recognized or protected under international refugee law at either the international or regional level. While the 1951 refugee convention limits the protection to those who fear or suffer from persecution based on race, religion, nationality, political opinion or membership of a particular social group, and exclude the environmental and climate-change factors from its definition, the regional refugee instruments, despite they adopted a broader definition of the term refugee, they did not explicitly

address climate change effects, nor have been understood or applied in a way that provides protection for climate- change refugees. Second, they also do not receive adequate protection under international human rights law as the complementary protection it provides is limited in scope and does not give them neither a general right to enter the territory of the state nor a clear legal status, it is just limited to prevent their removal in cases where return for those entered would expose them to a real risk to life or inhuman or degrading treatment. Finally, the study recommends that the international community and the UN need to establish a comprehensive legal framework, whether in the form of a new international convention or additional protocol, such as the 1967 protocol, that formally recognizes climate refugees as a protected category, defines the states' obligations, and provides them with clear, adequate, and effective protection.

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