

CLIMATE REFUGEES AND STATELESSNESS: THE GAPS IN INTERNATIONAL HUMANITARIAN LAW

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The problem of climate change has turned into a significant contributor to human displacement, as the rising sea level, severe weather patterns, drought, and environmental degradation dislocate millions of people. The international legal framework however is ill placed to safeguard individuals who are escaping the environmental damage. The people who have been displaced by the effects of climate change are not covered by the 1951 Refugee Convention and the current humanitarian and human rights frameworks do not provide dependable intercountry protection and solutions to climate-induced statelessness. This paper will be looking at how mobility is becoming a threat to legal identity, especially the Small Island Developing States that are being affected by climate change in terms of losing habitable land. It reveals huge normative and institutional loopholes, such as the lack of an understanding of what a climate refugee is, and the confusion of statehood that lacks territory, through case studies in Bangladesh, Tuvalu, the Torres Strait Islands, Vanuatu and Louisiana. It demands specific policies like climate mobility convention, expansionary definition of refugees, acknowledgement of statehood that is deterritorialised and global governance.

Introduction

Climate change has become a significant force that is dictating global mobility as rising seas, fierce cyclones, forest fires, droughts, floods, and ecological crashes are leading to unprecedented scale of displacement. In 2022, the Internal Displacement Monitoring Centre (IDMC) documented over 32 million disaster related displacements, which, by comparison, has always exceeded conflict induced movement¹. In the case of communities in low lying deltas and Small Island Developing States (SIDS), the effects of climate pose a threat to not just the lives and livelihoods but also the very identity, legal position and even to the survival of the state itself. Although the international legal system continues to develop, it has failed to adapt to this new type of mobility. Individuals displaced due to climate

change do not qualify under the 1951 Refugee Convention and its Protocol of 1967 because both demand persecution by human agency. As a result, there is no treaty that ensures admission, protection, and long-term solutions, which leaves those displaced because of the stress caused by the environment legally invisible. This legislative gap is even worse when the States whose lands can become inhabitable or submerged, because of rising sea level and drastic climatic conditions cause statelessness of the aboriginals. This paper examines how climate change is upsetting fundamental aspects of nationhood and statehood, the key failures in international law, and highlights global case studies that demonstrate how much, and how urgently, reforms are needed.

Drivers and Patterns of Climate Mobility

Major Environmental Forces: Climate displacement is caused by gradual changes in the environment and abrupt catastrophes. Rising sea levels are endangering countries like Kiribati, Tuvalu, and the Maldives, or the

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populated coastal belt of Bangladesh². The desertification process is still growing in the Sahel and parts of South and Central Asia, displacing pastoral and agricultural societies³. The occurrence of sudden-onset disasters (cyclones in Mozambique and the Philippines, unparalleled floods in Pakistan, and disastrous fires in Australia and the western United States) creates repetitive and long-lasting displacement⁴. Growing mobility in places like the Indian Sundarbans, the Middle East, Sub-Saharan Africa, and other in-between spaces is a product of water insecurity due to decreasing aquifers and unpredictable rainfall⁵. These processes indicate that the mobility of climate is not even or limited in a specific geographic location.

Global Illustrative Cases: Bangladesh experiences frequent internal displacement where cyclones and riverbank erosion are forcing whole communities toward Dhaka without any proper documentation. The Kiribati and Tuvalu face existential threats due to gradual loss of territory, and solutions include Kiribati buying land in Fiji and Tuvalu seeking to maintain governmental identity in digital form as a digital nation. The UN Human Rights Committee held Australia accountable in the Torres Strait Islands in regard to lacking protection of Indigenous islanders but the ruling did not establish legally binding mobility corridors. The Indigenous people in Alaska such as Shishmaref and Newtok are moving as a result of erosion, yet none of the federal legal systems consider relocation rights uniquely to climate change. Nationally Pacific states such as Fiji and Vanuatu have already initiated village relocation, but these operations are not supported by the international law. Equally, the movement of Biloxi-Chitimacha-Choctaw tribe in Isle de Jean Charles in Louisiana, raises questions of lapses in the long-term protection of federal authorities on climate-impacted communities. In India, the diminishing landmass in the Ghoramara Island shows that climate displacement is impacting coastal areas that are far beyond the Pacific. In India, the diminishing landmass in the Ghoramara Island shows that climate displacement is impacting coastal areas that are far beyond the Pacific. When taken as a whole, these cases highlight the inadequacies of the current legislative remedies and demonstrate the variety of climate-mobility scenarios.

Climate Change and New Dangers of Statelessness.

Erosion of Legal Identity: Statelessness, which has been defined by the 1954 Convention as lacking nationality status in the eyes of one state, takes different dimensions in the climate era. The issue of sea-level rise poses a

challenge to the physical existence of statehood of most SIDS. With the decline in the worthiness of the habitat, the criteria of the Montevideo Convention, established territory, a stable population, government and ability to engage in international relations are becoming harder and harder to meet. In the absence of these features, the survival of statehood and nationality is at stake.

Statehood Without Territory: International law offers no clear precedent for a state that has lost all of its territory. There are further issues of maritime rights: EEZs, fisheries, and resource areas are the core of the SIDS economies, but it is not clear how these rights will work after territory loss. Individuals whose countries have been submerged could be virtually stateless despite the continuity of nationality on paper.

Generational Vulnerabilities: Children born into stateless or displaced families are more likely to encounter obstacles in their pursuit of employment, healthcare, education, and documentation. These intergenerational disadvantages may worsen as climate migration increases, creating structural cycles of exclusion that go well beyond the initial environmental shock.

Structural Weaknesses in International Law

Refugee Law: The act of climate degradation is not persecution as stipulated in the 1951 Refugee Convention. Even judicial rulings such as the Teitiota case in New Zealand confirm that climate factors could not meet the need of human intentionality. In this way, climate displaced individuals are not entitled to protection in the current frameworks of refugee laws.

International Human Rights Law (IHRL): The protection of human rights is partial and indirect. Although UN Human Rights Committee has found that reinstating a person to the conditions of life endangering climates could constitute a violation of the right to life, IHRL does not place any obligations on states to admit, resettle, or grant legal status to any person who has fled the effects of the climate. It is also silent on the disintegration of statehood or the maintenance of nationality.

International Humanitarian Law (IHL): IHL restricts itself to armed conflict and has no application to climate-induced displacement, which is mainly present in times of peace. Conventions like the ENMOD Convention and Protocol I address the issue of environmental protection, but the topic of climate mobility is not addressed.

Fragmented Global Governance: The climate-mobility puzzle is addressed by a number of actors, such as

UNHCR, IOM, and UNFCCC, but there isn't a single, cohesive framework. As a result, there are inconsistent policy guidelines, overlapping mandates, fragmented governance, and no legally binding protection standards.

Major Protection Gaps

- The term "climate refugee" has no universally accepted definition.
- No legally enforceable rights to international mobility.
- Disappearing territory is not anticipated by statelessness conventions.
- There are no legal measures to stop or control state extinction.
- The uncertainty surrounding the survival of maritime rights and EEZs following submersion.
- Climate-related displacement is not covered by IHL.
- No international system of sharing responsibilities.
- No framework for long-term solutions (relocation, integration, or return).
- Institutional mandates that are disjointed and overlap.

These gaps show that the issue of unregulated displacement issue in modern international law is climate mobility.

Towards Legal and Policy Reform

Expanding Refugee Definitions: Adopting an optional protocol acknowledging serious environmental harm as a valid foundation for international protection is one option available to states.

A Global Climate Mobility Treaty: Climate displacement could be specified by a specific treaty, which should impose responsibilities, create ways of movement, and build durable-solutions schemes.

Mobility Pathways: Regional free-movement agreements, climate passports, and custom-made humanitarian visas would give a reliable and legal method of relocation.

Preserving Statehood: Sovereignty, nationality and maritime rights could be preserved by means of international recognition of models of deterritorialised, ex-situ or digitally anchored statehood.

Institutional Integration: Data, policy, and legal standards could be harmonized by a unified international mechanism, such as a UN Special Rapporteur or a high-level coordinating body.

Conclusion

Statelessness and increasing risks due to climate-induced displacement are changing humanitarian and legal realities and environments in the world. The current regimes, including refugee law, the human rights law and IHL are structurally weak to address new realities. Millions of people will be legally uncertain, lose their identities and the state will collapse without radical normative innovation. To maintain dignity, rights, and sovereignty in a fast-warming world, comprehensive reformation, such as better definitions, more stable migration routes, models of maintaining statehood, and global governance should be applied. □

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