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Research Paper

Towards a Legal Framework for Climate Displacement: Expanding the Boundaries of Refugee and Humanitarian Law through a Human Security Lens

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Abstract.
This thesis explores the potential for international refugee and humanitarian law to adapt to the growing challenge of climate-induced displacement. Using a doctrinal legal research approach, it critically examines whether key legal concepts—particularly "persecution" and "non-refoulement"—can be reinterpreted to protect individuals fleeing environmental harm. The study argues that serious environmental degradation, coupled with state inaction or structural neglect, can and should be recognized as a form of persecution under international law.
Drawing on international jurisprudence, UNHCR guidelines, and emerging soft law instruments such as the Nansen Initiative and the Platform on Disaster Displacement, the research highlights a growing legal and normative space for the inclusion of climate-displaced persons within existing protection regimes. It concludes by proposing a human security–based framework for legal reform, advocating for purposive reinterpretation of current laws to address this urgent global issue. This thesis offers timely legal insight and policy direction for states, humanitarian actors, and international bodies seeking to bridge the protection gap for climate-affected populations.

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I. Introduction.

The accelerating impacts of climate change present one of the most profound humanitarian and legal challenges of the twenty-first century. Rising sea levels, intensified natural disasters, desertification, and the depletion of vital resources are displacing communities at an alarming rate. The International Organization for Migration (IOM) estimates that by 2050, up to 200 million people could be displaced as a consequence of climate-related factors (IOM, 2009). Despite the growing urgency, existing international legal frameworks offer fragmented and often inadequate protection for those uprooted by environmental degradation. Notably, the 1951 Convention Relating to the Status of Refugees does not extend its protections to individuals displaced by climate change, being limited to those fleeing persecution on grounds of race, religion, nationality, political opinion, or membership of a particular social group (UN General Assembly, 1951, Art. 1A(2)).

The inadequacy of current refugee and humanitarian law frameworks in addressing climate-induced displacement highlights the need for an expanded, more integrated legal approach. Traditional refugee law is built upon notions of persecution and intentional harm by identifiable actors, concepts that do not map easily onto the slow-onset, cumulative, and diffuse nature of environmental degradation. Similarly, international humanitarian law (IHL), concerned primarily with the conduct of hostilities during armed conflict, offers limited avenues for protection in situations of climate-induced suffering (ICRC, 2018). As a result, large numbers of displaced persons may find themselves without legal status, falling into a 'protection gap' where neither refugee law nor IHL applies.

In recent years, scholars and policymakers have increasingly turned to the concept of human security as a lens through which to reconceptualize protection for displaced persons (UNDP, 1994; Betts, 2010). Unlike state-centric notions of security, human security emphasizes the protection of individuals and communities from a broad range of threats, including environmental hazards. The United Nations has defined human security as safeguarding "the vital core of all human lives in ways that enhance human freedoms and human fulfillment" (Commission on Human Security, 2003.). Viewing climate displacement through a human security lens thus enables a broader

understanding of the complex vulnerabilities faced by affected populations—encompassing not only threats to physical survival but also to livelihoods, identity, and dignity.

This research aims to critically assess the limitations of existing refugee and humanitarian law frameworks in responding to climate-induced displacement and to propose how these boundaries might be expanded through the integration of human security principles. It will examine whether and how existing legal concepts, such as non-refoulement and complementary protection, can be interpreted more flexibly to accommodate climate-displaced persons, while also exploring the potential need for new legal instruments. Furthermore, this study will interrogate the political and practical challenges involved in operationalizing a human security-based approach within international law, considering issues of state sovereignty, migration management, and international cooperation.

While earlier contributions have highlighted the inadequacies of refugee law in addressing so-called "environmental refugees" (McAdam, 2012; Biermann & Boas, 2010), there remains limited scholarly consensus on the appropriate legal and institutional responses. Proposals for creating a separate convention for climate-displaced persons have met with political resistance and concerns about diluting existing refugee protections (UNHCR, 2009). At the same time, ad hoc solutions such as humanitarian visas and temporary protection measures lack consistency and predictability. This thesis contends that anchoring responses within the framework of human security offers a more coherent, flexible, and ethically grounded foundation for protecting displaced persons in an era of environmental transformation.

Ultimately, this research seeks to contribute to the ongoing dialogue on the future of international protection by offering a normative and practical blueprint for expanding legal boundaries in the face of climate change—a phenomenon that is reshaping the very nature of human mobility and vulnerability in the contemporary world.

Background to Study

The unprecedented scale and complexity of human displacement induced by climate change have exposed critical gaps in international protection regimes. Historically, the primary focus of international refugee law, codified in the 1951 Refugee Convention, has been to protect individuals fleeing persecution perpetrated by state or non-state actors (Goodwin-Gill & McAdam, 2007). However, this narrow construction does not encompass displacement driven by environmental degradation, where the "persecutor" is neither an actor nor necessarily deliberate, but rather a diffuse and cumulative phenomenon.

Similarly, international humanitarian law, traditionally concerned with the protection of civilians during armed conflict, provides limited application in peacetime scenarios of slow-onset or sudden-onset climate disasters. Consequently, a growing number of individuals and communities displaced by desertification, floods, cyclones, and sea-level rise fall outside the traditional legal categories of protection.

In response to these shortcomings, scholars and policymakers have increasingly invoked the concept of human security as a complementary or alternative lens for addressing the vulnerabilities associated with climate-induced displacement (UNDP, 1994; Commission on Human Security, 2003). Human security broadens the understanding of protection beyond mere survival to encompass the safeguarding of livelihoods, health, identity, and dignity—elements fundamentally threatened by the climate crisis. By integrating human security considerations into international legal responses, there is a potential to expand the existing protection landscape and create more comprehensive, humane solutions for displaced populations.

This research situates itself within this evolving discourse, aiming to bridge the gap between rigid legal frameworks and the multi-dimensional vulnerabilities arising from climate-induced displacement.

Statement of the Problem

Despite increasing recognition of the link between climate change and human displacement, international law continues to operate within restrictive parameters that fail to address the complex realities faced by climate-displaced people. The 1951 Refugee Convention's limited grounds for protection exclude the environmentally displaced, while international humanitarian law lacks provisions tailored to non-conflict-related forced migration.

This "protection gap" leaves millions at risk of statelessness, impoverishment, and insecurity without clear avenues for legal recourse or durable solutions (McAdam, 2012; UNHCR, 2009). Current ad hoc responses, such as humanitarian visas and temporary protection mechanisms, lack consistency, predictability, and binding legal force. Furthermore, the reluctance of states to broaden formal refugee definitions, or to assume new binding obligations, underscores the urgent need for alternative approaches grounded in human dignity and security.

The failure to legally recognize and adequately protect climate-displaced persons not only exacerbates humanitarian crises but also undermines global commitments to human rights, sustainable development, and international solidarity. There is a critical need to rethink international protection frameworks through the broader, people-centered paradigm of human security, thereby ensuring that emerging vulnerabilities are matched by evolving legal and institutional responses.

Research Questions

This study seeks to address the following primary and secondary research questions:

Primary Question:

- How can international refugee and humanitarian law be expanded or reinterpreted through the lens of human security to provide effective legal protection for climate-induced displaced people?

Secondary Questions:

- What are the key limitations of existing refugee and humanitarian law frameworks in responding to climate-induced displacement?
- How does the concept of human security enhance our understanding of protection needs arising from climate displacement?
- What legal and policy reforms are necessary to bridge the current protection gap for climate-displaced communities?
- What role can international, regional, and national actors play in operationalizing a human security approach to climate displacement?

Research Objectives

Considering the above research questions, this study aims to achieve the following objectives:

- To critically analyze the inadequacies of current refugee and humanitarian law in addressing climate-induced displacement.
- To explore the normative and practical dimensions of applying human security principles to the protection of displaced persons.
- To propose potential expansions or reinterpretations of existing legal instruments to better accommodate the realities of climate-driven migration.
- To assess the viability of creating new legal or policy frameworks specifically addressing climate displacement through a human security perspective.
- To recommend actionable strategies for states, international organizations, and civil society actors to enhance protection mechanisms for climate-displaced populations.

Significance of Study

This research makes several important contributions to scholarship, policy, and practice.First, it addresses an urgent and under-theorized area in international law, offering critical insights into the gaps and limitations of current protection frameworks for displaced persons. By bridging refugee law, humanitarian law, and human security theory, the study proposes an integrated legal approach that responds more effectively to emerging displacement realities.

Second, the study contributes to the evolving field of climate justice by interrogating how international law can better reflect principles of equity, responsibility, and solidarity. It supports the growing movement towards recognizing the special vulnerabilities of climate-affected communities within global migration and protection systems.

Third, the findings will be relevant for policymakers, legal practitioners, humanitarian actors, and academics working at the intersection of climate change, migration, and human rights. The study will offer practical recommendations for developing more coherent, humane, and legally sound responses to one of the defining challenges of our time.

Ultimately, by advocating for a human security-based approach to climate displacement, the research seeks to foster legal reforms that prioritize the dignity, agency, and resilience of affected populations.

Scope and Limitations of the Study

This study focuses primarily on the intersection of international refugee law, international humanitarian law, and the human security framework in addressing climate-induced displacement. The geographical focus will be predominantly on vulnerable regions such as the Pacific Islands, Sub-Saharan Africa, and South Asia, where the impacts of climate change on displacement are most evident.

While the study will consider global legal frameworks and selected regional instruments, it does not purport to provide an exhaustive analysis of all national legal responses to climate displacement. Additionally, the research will emphasize slow-onset displacement (e.g., sea-level rise, desertification) rather than exclusively sudden-onset disasters (e.g., hurricanes), although intersections between the two will be acknowledged.

Theoretical discussions on sovereignty, state responsibility for climate harm, and transboundary environmental law will be considered insofar as they inform protection mechanisms, but detailed doctrinal analysis of state liability for climate change will fall outside the primary scope of the study.

II. LITERATURE REVIEW.

GENERAL LITERATURE REVIEW.

Introduction

This chapter presents a critical review of the existing academic and policy literature on climate induced displacement and international legal protection. It begins by examining the empirical and theoretical foundations of climate mobility, then evaluates how international refugee law and humanitarian frameworks have responded to this phenomenon. It further introduces the human security paradigm as a promising conceptual framework to address the identified protection gaps. The chapter concludes by highlighting the key theoretical insights and unresolved legal challenges that justify the need for this research.

Climate-Induced Displacement: Conceptual and Empirical Foundations

The recognition that environmental factors can drive human migration dates back to early analyses by Myers (1993), who introduced the term "environmental refugees" and predicted that millions would be displaced by climatic factors. Subsequent studies have confirmed that climate change exacerbates existing vulnerabilities, with rising sea levels, desertification, and extreme weather events directly threatening livelihoods and habitability (IPCC, 2014; IOM, 2009).

While earlier projections varied considerably—with figures ranging from 50 million to 250 million displaced persons by 2050 (Myers, 2005; Christian Aid, 2007)—more recent scholarship cautions against simplistic quantification. McAdam (2012) stresses that displacement outcomes are mediated by complex socio-economic, political, and adaptive factors. Not all environmentally stressed populations will migrate; many may adapt in situ, while others will be trapped in situations of immobility (Black et al., 2011).

Furthermore, scholars have increasingly differentiated between sudden-onset displacement (e.g., hurricanes, floods) and slow-onset displacement (e.g., sea-level rise, drought), each posing distinct legal and policy challenges (Warner et al., 2010). Despite these nuances, there is a clear consensus that climate change is and will continue to be a significant driver of human displacement across various regions, especially in Small Island Developing States (SIDS) and parts of Sub-Saharan Africa and South Asia (McLeman, 2014).

The Limitations of the 1951 Refugee Convention

The 1951 Refugee Convention, formally titled *The Convention Relating to the Status of Refugees*, remains the foundational legal instrument for the protection of individuals fleeing persecution. However, this framework is increasingly being challenged by contemporary global crises such as climate change, which has emerged as a major driver of forced displacement. Despite its historical significance, the Convention reveals several critical limitations when applied to environmentally or climate-displaced populations. The Convention defines a refugee under Article 1A(2) as someone who:

"...owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality and is unable or... unwilling to avail himself of the protection of that country."

This definition is fundamentally persecution-based, limiting international protection only to those fleeing human-induced threats, particularly those rooted in identity-based or political violence. As such, it excludes persons displaced by environmental degradation, sudden-onset disasters (e.g., floods or hurricanes), or slow-onset phenomena (e.g., droughts, sea-level rise, and desertification)—unless these can be causally linked to one of the five protected grounds.

For instance, a person fleeing a sinking island due to rising sea levels is not, under the Convention, a refugee unless they can prove they are also being persecuted on racial, religious, or other protected grounds. The required nexus between environmental harm and persecutory intent is rarely present or provable, making the Convention largely inapplicable to the realities of climate-induced displacement.

Inapplicability of “Persecution” to Environmental Harm-Persecution, as understood in refugee law, entails a form of deliberate, targeted harm from state or non-state actors. Environmental degradation or climate disasters, however, are usually non-discriminatory and collective in nature. A typhoon, drought, or flood does not "persecute" in the legal sense—there is no persecutor. Consequently, even where individuals face life-threatening conditions, their circumstances do not fit the Convention’s paradigm of persecution.

That said, legal scholars like Jane McAdam (2012) and Walter Kälin (2008) have explored how secondary factors—such as discriminatory state neglect or unequal recovery assistance—could bridge the gap. For example, if a government deliberately withholds aid or evacuation services from a marginalized community

during a climate disaster, one could argue that persecution is involved. However, these cases are rare and difficult to prove, leaving most climate-displaced individuals outside the protective scope of the Convention.

Doctrinal Resistance to Expanding the Definition

Efforts to expand the definition of "refugee" under the 1951 Refugee Convention to encompass individuals displaced by environmental or climate-related factors have been met with significant doctrinal and political resistance. At the heart of this resistance lies a concern over what legal scholars James C. Hathaway, Guy S. Goodwin-Gill, and Jane McAdam have described as "normative dilution." This term reflects a deep-rooted fear within legal and policy-making circles that broadening the refugee definition could weaken the clarity, coherence, and enforceability of existing international refugee law. The current legal framework was constructed in the aftermath of World War II, primarily to address displacement caused by persecution on the basis of race, religion, nationality, membership in a particular social group, or political opinion. Including other categories—such as environmental displacement—risks making the refugee category so broad that it becomes difficult to implement and enforce effectively (Goodwin-Gill & McAdam, *The Refugee in International Law*, 2007).

States' reluctance to expand the definition is not only legal but deeply political. Many states—particularly those in the Global North—fear that formally recognizing climate-displaced persons as refugees would impose new legal obligations, including rights to non-refoulement, social support, and long-term integration. These states are already under pressure from domestic populations concerned about immigration, often influenced by nationalist rhetoric, economic anxiety, and cultural insecurities. According to the United Nations High Commissioner for Refugees (UNHCR), many governments cite the need to maintain sovereign control over their borders as a key reason for resisting legal reforms, even in the face of mounting evidence that climate change is a driver of forced displacement (UNHCR, *Climate Change and Disaster Displacement*, 2021). In particular, the 2015–2016 European refugee crisis, which saw a massive influx of Syrian and other asylum seekers, hardened public and governmental attitudes toward migration and amplified fears about future waves of environmental migrants.

Moreover, the international refugee protection regime is fundamentally rooted in a human rights-based, individualized assessment of fear and persecution, which does not easily accommodate the collective and often indirect nature of climate-induced displacement. Environmental degradation and climate disasters do not always fit neatly within the persecutory framework of the 1951 Convention, where the harm must be inflicted intentionally by a human actor or government. In contrast, climate displacement often arises from slow-onset processes (like desertification or sea-level rise) or sudden natural disasters (such as cyclones or floods), in which attribution to a specific persecutor is difficult, if not impossible. This doctrinal mismatch further justifies the resistance of both legal scholars and states to expanding the traditional refugee framework.

Compounding this problem is the absence of international consensus. While bodies such as the International Law Commission (ILC) and various regional organizations have debated the merits of creating a new legal instrument or adapting existing ones to address environmental displacement, progress has been slow. The Nansen Initiative on Disaster-Induced Cross-Border Displacement (launched in 2012) sought to fill some of the gaps by promoting non-binding guidelines and best practices, culminating in the Protection Agenda adopted in 2015. However, the Nansen Initiative emphasized soft law approaches, reflecting states' preference for non-binding commitments rather than legally enforceable obligations.

In the absence of binding international law, a legal vacuum has emerged. As noted by the International Organization for Migration (IOM), millions of people displaced by environmental disasters each year fall outside the legal definition of "refugee" and are therefore left without international protection or the right to seek asylum (IOM, *World Migration Report*, 2022). Countries such as New Zealand have explored climate-specific visa pathways (e.g., for Tuvaluan and Kiribati nationals), but these remain limited in scope and largely discretionary. Similarly, domestic courts—such as in the landmark case of Ioane Teitiota v. New Zealand—have signaled that while climate change poses a serious threat to life, it does not, under current law, meet the threshold required for refugee protection under international law (UN Human Rights Committee, 2020).

In conclusion, doctrinal resistance to expanding the refugee definition to include climate-displaced persons is rooted in a combination of legal, political, and practical concerns. While the humanitarian rationale for such expansion is compelling, the existing structure of international refugee law, coupled with the sovereign interests of states and lack of binding multilateral consensus, continues to impede reform. Until these tensions are resolved—either through a reimagining of refugee law or the creation of a new legal framework tailored to climate displacement—millions will remain trapped in a protection gap.

Ambiguity Around "Membership of a Particular Social Group

The category of "membership of a particular social group" (MPSG) remains one of the most contested and fluid grounds within the 1951 Refugee Convention's definition of a refugee. Defined neither clearly nor exhaustively, the MPSG category has historically functioned as a legal catch-all, allowing protection for individuals who do not fall under the other four enumerated grounds—race, religion, nationality, and political opinion—but who nonetheless face serious persecution. As a result of its open-textured nature, MPSG has been a site of legal experimentation, but also one of caution, especially in the context of claims involving environmentally displaced persons.

Scholars such as David Keane (2004) have explored the potential of using MPSG to extend refugee protection to individuals displaced by environmental degradation and climate change. Keane and others argue that people from specific vulnerable communities—such as the inhabitants of Small Island Developing States (SIDS) threatened by sea-level rise, pastoralists or subsistence farmers in drought-affected regions, or Indigenous peoples whose identity and survival are intrinsically linked to their ancestral lands—could be seen as belonging to a "particular social group." The underlying rationale is that their shared characteristic (e.g., geographical origin, land-based cultural identity, or socio-economic status) is immutable or fundamental to their identity, and that they face persecution (through neglect, exclusion, or dispossession) due to these characteristics in the context of environmental collapse.

This interpretation draws upon the 1985 UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status*, which described a particular social group as one "of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society." The UNHCR later reaffirmed this in its *Guidelines on International Protection No. 2* (2002), which elaborated that an MPSG must consist of members who either share an immutable characteristic or a fundamental aspect of identity, conscience, or human dignity.

However, while the theory is intellectually compelling and normatively attractive, it has seen limited traction in international jurisprudence. National courts and asylum adjudicators have largely refrained from interpreting MPSG in ways that include climate-displaced individuals, largely due to concerns about definitional overreach. For instance, in *Applicant A v. Minister for Immigration and Ethnic Affairs* (1997) in Australia, the High Court emphasized that the group must be defined by more than common vulnerability or exposure to generalized harm, rejecting overly broad interpretations that would include large swathes of affected populations. Similarly, in *K. v. Secretary of State for the Home Department* [2006] in the UK, the courts have demonstrated a pattern of restraint, reinforcing that environmental harms, unless tied to discriminatory persecution by an identifiable actor, do not meet the refugee threshold.

One of the principal fears is the so-called "floodgates" argument. Expanding the MPSG category to encompass environmental displacement could potentially blur the line between refugees—defined in international law as persons fleeing persecution—and economic migrants or individuals fleeing generalized conditions such as poverty, famine, or natural disasters. The challenge lies in attributing persecution (which requires human agency and discriminatory intent) to the consequences of climate change, which are often diffuse, global in origin, and structurally mediated. As noted by Jane McAdam (2012), while many communities suffer disproportionately from environmental degradation, this does not always equate to individualized or group-based persecution under existing refugee law frameworks.

Moreover, adjudicators have expressed concern about administrability: if climate-displaced groups were routinely accepted under MPSG, determining the boundaries of the group and establishing the nexus between group membership and persecution would become increasingly complex. In practice, few cases have succeeded under this argument. In *Teitiota v. New Zealand* (2020), the UN Human Rights Committee acknowledged the existential threat posed by climate change to inhabitants of low-lying islands like Kiribati but ultimately found that the conditions did not amount to a violation of the right to life under the ICCPR, nor did they qualify as persecution under refugee law.

In sum, while the MPSG category provides a theoretically flexible avenue for including climate-displaced persons within the ambit of international protection, it remains underutilized and contested in practice. The reluctance stems from both doctrinal conservatism and systemic concerns about the implications of expanding refugee protections to encompass environmental harm. Nonetheless, as climate change intensifies and disproportionately affects marginalized groups, the continued re-evaluation of legal categories like MPSG will be essential in addressing the evolving nature of forced displacement in the 21st century.

Territorial and Temporal Constraints

The foundational legal instrument of the international refugee protection regime, the 1951 Convention Relating to the Status of Refugees, was initially circumscribed by both temporal and territorial limitations. Adopted in the aftermath of the Second World War, the Convention was explicitly designed to address the needs of individuals displaced as a result of events occurring in Europe prior to 1 January 1951 (UN General Assembly, 1951, Art. 1A(2)). This geographical and historical restriction was a deliberate reflection of the post-war refugee

crisis that gripped the European continent, and it mirrored the political and humanitarian imperatives of that specific era.

However, the rapidly evolving nature of global displacement soon revealed the inadequacy of such restrictions. In response, the 1967 Protocol Relating to the Status of Refugees was adopted to remove both the temporal and geographic constraints, thereby expanding the Convention's applicability to refugee situations arising beyond Europe and after 1951 (UN General Assembly, 1967). Despite this formal expansion, the substantive framework and underlying philosophy of the Convention remain deeply embedded in the post-World War II context. Its core focus rests upon the persecution of individuals on grounds such as race, religion, nationality, membership in a particular social group, or political opinion—primarily by state actors or authoritarian regimes. This historical orientation means that the Convention was not designed with contemporary drivers of displacement, such as environmental degradation, climate-induced disasters, or generalized violence by non-state actors, in mind (Hathaway, 2005; McAdam, 2012).

The Convention's traditional structure, which hinges on the notion of individualized persecution and state responsibility, is ill-equipped to deal with the complex realities of the twenty-first century. Increasingly, displacement is being driven not by targeted political persecution, but by systemic environmental failures, slow-onset climate events such as desertification and sea-level rise, and sudden-onset disasters including floods and cyclones—phenomena that often result in collective, rather than individual, displacement (IOM, 2021; UNHCR, 2020). Moreover, these drivers are frequently transboundary in nature, affecting entire regions rather than isolated nation-states, and are often precipitated by non-state factors, such as multinational corporations' extractive activities or inadequate climate governance.

For instance, the case of small island developing states (SIDS) such as Tuvalu and Kiribati, whose very territorial existence is threatened by rising sea levels, underscores the mismatch between current international refugee law and emerging displacement patterns. These populations are not persecuted in the conventional sense, nor can they return to their places of origin without grave threats to life and security, yet they fall outside the scope of the refugee definition under the 1951 Convention (Burson & Bedford, 2013). Likewise, large-scale displacements triggered by prolonged drought in the Horn of Africa or flash flooding in South Asia—both linked to anthropogenic climate change—demonstrate that the prevailing international legal framework lacks the capacity to provide adequate protection to climate-displaced persons (Biermann & Boas, 2010).

The current legal void for such categories of displaced persons reveals a critical lacuna in international protection mechanisms. While soft law instruments, such as the 2010 Cancun Agreements and the 2015 Sendai Framework for Disaster Risk Reduction, recognize the link between climate change and human mobility, they do not carry binding legal obligations. Similarly, regional instruments such as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration on Refugees provide broader grounds for protection, including those fleeing events seriously disturbing public order, yet they remain regionally confined and inconsistently applied.

Therefore, despite the removal of its original temporal and territorial limitations, the 1951 Convention remains normatively and operationally shaped by the historical, geopolitical, and legal assumptions of the mid-twentieth century. This limitation inhibits its responsiveness to the multifaceted and collective dimensions of contemporary displacement, particularly that induced by climate change and environmental collapse. A reconceptualization of international protection, possibly through the development of complementary legal instruments or the reinterpretation of existing norms through a human security lens, is essential to bridge this gap.

The Role and Limitations of Humanitarian Law

International humanitarian law (IHL), also referred to as the law of armed conflict, is a specialized body of legal norms designed primarily to regulate the conduct of hostilities and to afford protection to individuals who are not, or are no longer, participating in armed conflict—such as civilians, prisoners of war, and the wounded and sick. Its foundational instruments, most notably the four Geneva Conventions of 1949 and their Additional Protocols of 1977 and 2005, provide comprehensive legal protections for individuals in situations of international and non-international armed conflict (ICRC, 2018). However, IHL's applicability is inherently limited to contexts of warfare and hostilities; it does not extend to circumstances that arise in times of peace or to displacements caused by environmental degradation or climate-related phenomena. As such, its legal framework offers little direct relevance to the growing phenomenon of climate-induced displacement that occurs outside the scope of armed conflict.

While IHL enshrines important humanitarian principles—such as humanity, neutrality, impartiality, and the protection of civilian populations—these principles function more as ethical guidelines than as enforceable legal obligations in the context of peacetime displacement. The legal regime does not obligate states to provide protection or assistance to individuals fleeing environmental disasters or slow-onset phenomena such as desertification, sea-level rise, or drought, unless such disasters occur within or in conjunction with armed conflict. This lacuna has significant consequences for the legal recognition and protection of climate-displaced persons.

As Saul and McAdam (2008) rightly emphasize, the absence of a binding international legal framework addressing environmental displacement leaves affected populations at the mercy of ad hoc and often inconsistent national responses. In many cases, the recognition and treatment of climate-displaced persons remain subject to the discretionary goodwill of states rather than grounded in legal duty, thereby creating protection gaps and contributing to the vulnerability of displaced populations.

Moreover, attempts to apply IHL analogically to climate displacement face both legal and conceptual limitations. For example, while the principle of distinction in IHL mandates the protection of civilians from the effects of hostilities, it does not extend to civilian harms caused by natural disasters or climate change, which are not considered acts of war. Similarly, the prohibition on forcible displacement under Article 49 of the Fourth Geneva Convention is specifically tied to coercive transfers in occupied territory or during armed conflict, not to relocations driven by rising sea levels or food insecurity. Thus, although IHL embodies a strong moral imperative to protect human dignity in times of crisis, its legal architecture remains ill-suited for addressing the unique and increasingly urgent challenges posed by climate-induced displacement in non-conflict settings.

Emerging Soft Law and Regional Instruments.

In the absence of a binding international treaty specifically addressing climate-induced displacement, a range of soft law instruments and regional legal frameworks have emerged to fill the normative gap. Notably, the *Guiding Principles on Internal Displacement* (1998), developed under the auspices of the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), mark a significant milestone in recognizing environmental and climate-related causes of displacement. Although not legally binding, these principles have achieved broad normative acceptance and have been instrumental in shaping domestic and regional policies on internal displacement. Principle 15 of the Guiding Principles emphasizes the protection of internally displaced persons (IDPs) regardless of the cause of their displacement, and Principle 5 specifically identifies natural or human-made disasters—including those linked to environmental degradation and climate change—as legitimate causes of forced internal migration (UN OCHA, 1998).

At the regional level, the 2009 *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa*—commonly known as the Kampala Convention—goes a step further in codifying the obligations of states to prevent and manage displacement caused by natural disasters and climate change. Article 5(4) of the Kampala Convention explicitly requires State Parties to "take measures to protect and assist persons who have been internally displaced due to natural or human-made disasters, including climate change." This makes the Kampala Convention the first legally binding regional instrument in the world to recognize climate change as a driver of displacement and impose corresponding obligations on state actors (African Union, 2009).

Despite these progressive developments, significant limitations persist. Firstly, both the Guiding Principles and the Kampala Convention are restricted in scope to internal displacement and do not confer rights or protection mechanisms for individuals who cross international borders due to climate-related factors. This is particularly problematic given the growing body of evidence predicting large-scale cross-border movements in regions vulnerable to sea level rise, desertification, and extreme weather events (IPCC, 2022; McAdam, 2012). Secondly, the normative force of these instruments remains questionable. The Guiding Principles, while influential, are not legally binding under international law and depend entirely on state goodwill for implementation. Similarly, the Kampala Convention, though legally binding for signatory African Union member states, has witnessed slow ratification and even slower implementation in domestic legislation and practice (IDMC, 2021).

Moreover, no existing soft law or regional instrument provides an enforceable legal status equivalent to that of refugees under the 1951 Refugee Convention for individuals displaced across borders due to climate change. This legal lacuna leaves climate-displaced persons in a state of normative uncertainty and practical vulnerability, often dependent on ad hoc humanitarian responses or discretionary national policies. Consequently, while soft law and regional frameworks offer important normative guidance and reflect an emerging consensus on the need to address climate displacement, they fall short of establishing a comprehensive, coherent, and enforceable international legal regime capable of responding to the scale and complexity of climate-induced cross-border displacement.

Human Security: An Evolving Paradigm

The concept of human security represents a significant reconfiguration in security discourse, moving away from the conventional, state-centric model that prioritizes territorial integrity and national defense, toward a more people-centered, multidimensional approach. First formally articulated by the United Nations Development Programme (UNDP) in its landmark *Human Development Report* of 1994, human security was defined as "freedom from fear and freedom from want," encompassing protection from chronic threats such as hunger, disease, and repression, as well as from sudden and harmful disruptions in the patterns of daily life (UNDP, 1994).

This reorientation reflected a growing recognition that the security of individuals, rather than just that of the state, must lie at the heart of global peace and development agendas.

Human security is grounded in the understanding that threats to individual well-being often emanate from non-military sources, including environmental degradation, poverty, health pandemics, and sociopolitical instability. It encompasses seven interrelated dimensions—economic, food, health, environmental, personal, community, and political security—highlighted in the UNDP's formulation and later elaborated by the Commission on Human Security (2003). This multidimensional framework reflects the complex realities of global insecurity, particularly for marginalized populations who often face multiple, overlapping vulnerabilities.

In the context of contemporary global challenges, climate change has increasingly been framed as a profound human security threat. Scholars such as Barnett and Adger (2007) have argued that climate change poses unique and far-reaching risks to human well-being, not only through direct environmental impacts such as rising sea levels, extreme weather events, and biodiversity loss, but also through its capacity to undermine livelihoods, exacerbate resource scarcity, and displace populations. Climate-related disruptions can erode food and water security, destabilize local economies, and strain governance structures, particularly in already fragile contexts. These dynamics are not merely environmental; they are deeply socio-political, contributing to increased competition, inequality, and, in some cases, violent conflict (IPCC, 2022; Werrell & Femia, 2015).

The human security framework is particularly adept at capturing the complexity and interconnectedness of climate-induced displacement. It reframes climate change not as a distant ecological concern, but as a direct threat to the security and dignity of individuals and communities. O'Brien, St. Clair, and Kristoffersen (2010) emphasize that human security recognizes the multi-causal and layered nature of vulnerability, making it an essential lens through which to understand the compounded risks faced by populations affected by climate change. Unlike traditional security paradigms that focus on the defense of borders and sovereignty, human security privileges the protection of people, thereby necessitating a shift in legal and policy frameworks that have historically been ill-equipped to address non-traditional forms of displacement, such as those driven by environmental degradation or climate variability.

Legal instruments rooted in the 1951 Refugee Convention and its 1967 Protocol, which define a refugee as someone fleeing persecution on specific grounds, do not readily accommodate persons displaced by slow-onset environmental events or sudden natural disasters. This lacuna in international protection frameworks underscores the utility of human security as a normative guidepost for the development of more inclusive and anticipatory legal mechanisms. It encourages the rethinking of international obligations to displaced persons, suggesting that human suffering—regardless of its cause—ought to prompt protective responses rooted in humanitarian principles (McAdam, 2012; Kälin & Schrepfer, 2012).

Nevertheless, the concept of human security has not been without criticism. Paris (2001) notably contended that the term's conceptual elasticity risks undermining its analytical utility, as its broad application can render it too vague to serve as a basis for coherent policy-making. Furthermore, its operationalization often hinges on the political will and resource commitment of states, which may be uneven or absent, particularly in geopolitically sensitive contexts. Despite these critiques, human security continues to function as a vital normative and analytical framework. Its strength lies in its capacity to integrate diverse forms of insecurity into a coherent agenda focused on human dignity, agency, and resilience.

Proposals for Reform and Emerging Legal Strategies

Addressing the growing phenomenon of climate-induced displacement remains one of the most urgent challenges in international law and human mobility governance. The current international legal framework, primarily centered on the 1951 Refugee Convention and its 1967 Protocol, does not explicitly recognize individuals displaced by climate change as refugees, thereby creating a substantial protection gap. In response, various proposals and emerging legal strategies have been developed to enhance protection for climate-displaced persons. These approaches span from calls for normative expansion through new treaty law to the innovative application of existing human rights instruments, regional mechanisms, and jurisprudential evolutions.

One of the most prominent proposals in scholarly discourse is the creation of a new binding international treaty specifically designed to recognize and protect "climate refugees." Biermann and Boas (2010) argue for a *Protocol on the Recognition, Protection and Resettlement of Climate Refugees* under the auspices of the United Nations. This proposed treaty would define climate-displaced persons, delineate their rights, and clarify the obligations of states, including mechanisms for planned relocation, financial support, and legal recognition. It would fill a legal lacuna in the current international system that leaves environmentally displaced persons without specific status or protection under refugee law. However, despite its conceptual appeal, the political feasibility of such a treaty remains limited. Scott (2013) underscores the pervasive reluctance among states to embrace new legal obligations that may result in increased migratory burdens, especially within a global context marked by heightened securitization of borders, nationalist politics, and concerns about immigration control.

In light of these political constraints, a second stream of proposals advocates for the utilization of *complementary protection* frameworks grounded in existing international human rights instruments. Scholars such as McAdam (2012) have explored the potential for instruments like the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture (CAT) to serve as legal bases for protecting climate-displaced persons from *refoulement*—the forcible return of individuals to territories where they face serious threats to their life or health. The Human Rights Committee's landmark 2020 decision in *Ioane Teitiota v. New Zealand* marked a significant development in this area. Although the Committee ultimately rejected Teitiota's claim that deportation to Kiribati would violate his right to life under Article 6 of the ICCPR, it acknowledged for the first time that environmental degradation and climate change can, in principle, trigger non-refoulement obligations under international human rights law (Human Rights Committee, 2020). This decision represents a judicial opening for the recognition of climate-induced threats within existing legal frameworks, though its practical application remains limited and highly fact-dependent.

At the regional and national levels, various initiatives have emerged to address climate-related displacement through *ad hoc* or policy-based mechanisms. Planned relocation programs and bilateral migration agreements—such as those between Pacific Island states and countries like Australia and New Zealand—are designed to facilitate the orderly movement of at-risk populations before displacement becomes life-threatening. However, as Ferris (2015) notes, these arrangements are often criticized for their lack of legal clarity, consistency, and enforceable rights. Many such programs operate outside of formal refugee or migration law frameworks, offering only temporary, discretionary protection and failing to guarantee long-term integration or rights parity with citizens and other migrants. Furthermore, these programs are frequently donor-driven and tied to development assistance, raising questions about sustainability, equity, and the agency of affected communities.

In parallel, the role of judicial bodies in interpreting existing legal norms to accommodate the realities of climate displacement is increasingly significant. Courts and quasi-judicial bodies have begun to grapple with whether and how international human rights law can be extended to protect those displaced by environmental changes. Beyond *Teitiota*, national courts in countries like France and Australia have also engaged with climate displacement cases, though outcomes remain inconsistent and heavily reliant on domestic legal contexts. These cases suggest an emerging jurisprudential awareness of the complex interplay between environmental harm and human rights, but also highlight the absence of a coherent, globally accepted legal standard.

Given the limitations of singular approaches, there is growing consensus among scholars and practitioners that a *multi-layered strategy* is required. Burson and Beduschi (2016) argue for a pluralistic framework that integrates international legal reform, regional cooperation, national legislative innovation, and practical relocation programs, underpinned by strong political advocacy and normative clarification. Such an approach would not only improve legal protection for climate-displaced persons but also align with the principle of human security, which emphasizes the dignity, safety, and livelihoods of individuals over traditional notions of territorial sovereignty.

In sum, while no single legal strategy has yet emerged as a definitive solution to the protection challenges posed by climate-induced displacement, the convergence of academic, policy, and judicial efforts indicates a dynamic field in search of coherence. The urgency of the climate crisis necessitates both bold legal imagination and pragmatic political action to ensure that those displaced by environmental harms are not left without protection or recourse. As such, the future of climate displacement governance will likely depend on the capacity of the international community to harmonize these emerging legal strategies within a cohesive and human rights-based framework.

The Legal Framework: Gaps and Limitations in Protecting Climate-Induced Displacement.

International law has traditionally offered protection to individuals displaced by armed conflict, persecution, or gross violations of human rights. However, displacement driven primarily by environmental factors, particularly those linked to climate change, remains largely outside the scope of existing legal instruments. This chapter provides a critical analysis of the international legal framework as it relates to climate-induced displacement. It assesses the capacity of refugee law and humanitarian law to respond to emerging displacement patterns and identifies the normative gaps and operational shortcomings that necessitate a rethinking of protection mechanisms through a human security lens.

The 1951 Refugee Convention and Climate Induced Displacement.

The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol remain the foundational instruments of the international refugee protection regime. The Convention defines a refugee as someone who, *"owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or unwilling to avail himself of the protection of that country"* (UN General Assembly, 1951, Art. 1A(2)). This definition has served as a cornerstone in the adjudication of asylum claims globally and is incorporated into the legal frameworks

of many states. However, the Convention's applicability to climate-induced displacement has been the subject of extensive scholarly and legal debate, particularly in light of the growing impact of climate change on global migration patterns.

Fundamentally, the 1951 Convention's definition is predicated on two central criteria: (1) the presence of a well-founded fear of persecution, and (2) the persecution being inflicted for reasons tied to race, religion, nationality, membership of a particular social group, or political opinion. Moreover, the displacement must involve the crossing of an international border. These elements present significant doctrinal obstacles to the inclusion of persons displaced by environmental degradation or climate-related events within the scope of refugee protection. As Walter Kälin (2010) and Jane McAdam (2011) have argued, climate change does not constitute a persecutory agent in the conventional sense, nor does it usually involve the kind of individualized targeting necessary to meet the threshold of persecution under the Convention.

Environmental degradation and the impacts of climate change—such as rising sea levels, desertification, intensified natural disasters, and prolonged droughts—are typically slow-onset or sudden-onset phenomena that lack a persecutory intent. Unlike traditional refugee-producing situations, such as armed conflict or systemic discrimination, climate-induced displacement arises from non-anthropogenic or collective causes, often without any identifiable human actor responsible for the harm. For example, residents of small island developing states (SIDS) such as Tuvalu or Kiribati who face the prospect of permanent loss of territory due to sea level rise are not being targeted on account of a Convention-ground, but rather suffer from a global phenomenon whose causality is diffuse and indirect (Docherty & Giannini, 2009).

Additionally, climate-induced displacement is predominantly internal. The vast majority of those displaced by environmental disasters remain within the borders of their own countries and therefore fall outside the international refugee regime, which requires cross-border movement to activate protection obligations under international law (IDMC, 2022). According to the Internal Displacement Monitoring Centre (IDMC), in 2021 alone, weather-related hazards triggered 23.7 million new displacements globally, with most occurring within national boundaries. These internally displaced persons (IDPs) may benefit from national protection mechanisms or the non-binding Guiding Principles on Internal Displacement, but not from the international refugee protection framework codified in the 1951 Convention.

Even in instances where environmental degradation interacts with armed conflict or governance failures—such as in the Sahel region, where desertification exacerbates resource-based conflict—it is challenging to disaggregate the drivers of displacement in a manner that meets the evidentiary burden of establishing persecution under a Convention ground. As McAdam (2012) notes, while environmental factors may indirectly contribute to violence or instability, they rarely serve as the proximate cause of flight in a manner that satisfies the legal test for refugee status. The case of Somalia offers a pertinent illustration: while drought and famine have intensified humanitarian crises, asylum claims by Somalis are more frequently adjudicated on the basis of political persecution or generalized violence rather than environmental hardship per se.

Consequently, individuals displaced solely or primarily due to climate change do not qualify as refugees under the current legal framework of the 1951 Convention and its Protocol. This legal gap has spurred calls for normative innovation or the development of complementary protection mechanisms. Some scholars and institutions have proposed the adoption of a new legal instrument or the expansion of the Convention through interpretative means to account for the evolving nature of displacement in the Anthropocene (Biermann & Boas, 2010; UNHCR, 2020). Others advocate for the operationalization of regional instruments, such as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa or the 1984 Cartagena Declaration in Latin America, which incorporate broader grounds for refugee status, including situations of generalized violence and events seriously disturbing public order—categories that may be more amenable to environmental causes.

Nevertheless, until such legal or normative developments materialize at the international level, the 1951 Convention remains largely unresponsive to the plight of climate-displaced persons. This lacuna underscores the urgency of rethinking protection frameworks through a human security lens that transcends the traditional state-centric and persecution-based model of refugee law.

Attempts to Stretch the Definition

In response to the growing number of people displaced by the impacts of climate change, a number of legal scholars and practitioners have attempted to explore whether the existing framework of the 1951 Refugee Convention might be interpreted in a more flexible or expansive manner to offer protection to environmentally displaced persons. One such approach involves interpreting environmental displacement through the lens of the Convention's inclusion clause, particularly under the ground of "membership of a particular social group." Jane McAdam (2012), a leading authority on climate change and displacement, argues that in certain circumstances, persons adversely affected by environmental degradation who are also denied access to essential state protection—either through neglect, discrimination, or deliberate marginalization—might be construed as belonging to a social group that is persecuted. For example, if a government withholds assistance or services from a particular

marginalized group during an environmental crisis, that could arguably be framed as persecution under international refugee law.

Nevertheless, such interpretive attempts, while normatively compelling and responsive to contemporary realities, have proven to be legally tenuous and controversial. The academic proposition that the Convention can be stretched to accommodate climate-displaced persons is not widely supported in judicial practice. Courts in several jurisdictions have repeatedly demonstrated a strong reluctance to extend the Convention's scope beyond its traditionally accepted parameters.

Furthermore, Hathaway and Foster (2014) caution against legal approaches that dilute the definitional clarity of the Refugee Convention. They argue that while there may be compelling humanitarian reasons to offer protection to those displaced by environmental causes, legal manipulation of the refugee definition risks undermining the Convention's coherence and legitimacy. Courts have consistently ruled that general conditions of hardship, poverty, or natural disasters—even when severe—do not constitute persecution. In *Zain Essa v. Canada (Minister of Citizenship and Immigration)* [2003] FC 423, the Federal Court of Canada reaffirmed that generalized harm resulting from environmental degradation or economic collapse does not satisfy the criteria of individualized persecution necessary to qualify as a refugee.

As a result, while innovative interpretations of the Refugee Convention may occasionally provide relief in exceptional cases—particularly where environmental harms intersect with political or ethnic discrimination—such strategies are not viable as a comprehensive legal response to climate-induced displacement. The jurisprudence remains firmly anchored in a traditional understanding of persecution as requiring both a human agent and a nexus to one of the Convention grounds. Hence, relying solely on expansive interpretations of the Convention is unlikely to yield a consistent or durable solution for the protection of climate-displaced populations. A more coherent and systemic response would necessitate the development of new legal instruments or the modification of existing ones to explicitly address the realities of climate-related displacement.

Complementary and Subsidiary Protection Mechanisms.

The limitations of the 1951 Refugee Convention and its 1967 Protocol in responding to contemporary drivers of displacement—particularly those related to environmental degradation and climate change—have necessitated a growing reliance on complementary and subsidiary protection mechanisms rooted in international human rights law. These mechanisms offer an alternative legal basis for protection where an individual does not meet the narrow refugee definition but nonetheless faces real risks of serious harm if returned to their country of origin.

Among the most significant of these mechanisms is the principle of *non-refoulement* as articulated in broader international human rights instruments. Article 3(1) of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, 1984) provides that "[n]o State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." Similarly, Article 7 of the International Covenant on Civil and Political Rights (ICCPR, 1966) prohibits subjecting individuals to torture or to cruel, inhuman or degrading treatment or punishment. Notably, these protections apply universally, irrespective of an individual's legal status or whether their fear of harm arises from persecution in the conventional refugee sense. In this way, non-refoulement under human rights law functions as a broader safeguard against forced return.

In recent years, scholars and legal advocates have explored the potential applicability of these non-refoulement obligations to persons fleeing life-threatening environmental conditions. While international refugee law does not currently recognize climate-induced displacement as grounds for refugee status, human rights law offers a more expansive approach. The jurisprudence of the UN Human Rights Committee (UNHRC) is particularly instructive in this regard. The landmark case of *Ioane Teitiota v. New Zealand* (UNHRC, CCPR/C/127/D/2728/2016, 2020) brought this issue into sharp relief. Teitiota, a national of Kiribati, argued that returning him to his home country would violate his right to life under Article 6 of the ICCPR due to the existential threat posed by rising sea levels, saltwater intrusion, and land scarcity exacerbated by climate change.

While the Committee ultimately determined that Teitiota's removal did not constitute a violation of the ICCPR, the decision marked a critical development in international legal thinking. The Committee explicitly recognized that climate change can "expose individuals to a violation of their rights under the Covenant, thereby triggering the non-refoulement obligations of States" (UNHRC, 2020, para. 9.11). However, it also emphasized that the threshold for such a claim is high: the harm must be imminent and sufficiently serious, and the State must demonstrate a failure to mitigate or adapt to the risks posed by environmental degradation. In Teitiota's case, the Committee concluded that although his living conditions in Kiribati were precarious, they had not yet reached the necessary level of imminent threat to his right to life.

This ruling underscore both the promise and the constraints of relying on complementary protection based on human rights law. On the one hand, it signals a potential expansion of legal protections for individuals displaced by environmental factors, suggesting that under certain conditions, such persons may fall within the protective

ambit of non-refoulement obligations. On the other hand, it illustrates the evidentiary and legal challenges inherent in such claims. Establishing a direct, foreseeable, and personal risk of irreparable harm linked to environmental degradation remains difficult, particularly where the harm is gradual or systemic and not the result of deliberate action or omission by the State.

Furthermore, the interpretation of non-refoulement under human rights law requires States and adjudicatory bodies to assess complex issues of causality, foreseeability, and State responsibility, all of which can be fraught with ambiguity in the context of climate change. This has led to calls for the development of a more coherent normative framework that specifically addresses the protection needs of climate-displaced persons, rather than relying on piecemeal application of existing human rights norms (McAdam, 2012; Kälin & Schrepfer, 2012). In the absence of such a framework, complementary protection mechanisms remain the most viable, albeit limited, legal avenue for extending international protection to those displaced by environmental harm.

In summary, while the doctrine of non-refoulement under human rights law provides a crucial legal safeguard against return to life-threatening environmental conditions, its practical application remains constrained by high thresholds of proof and legal interpretation. The *Teitiota* case exemplifies the emerging, but still nascent, recognition of environmental degradation as a trigger for protection, highlighting the urgent need for legal evolution to better accommodate the realities of climate-induced displacement.

International Humanitarian Law and Climate Displacement

International humanitarian law (IHL), also known as the law of armed conflict or the law of war, is the body of international legal norms that regulate the conduct of hostilities and seek to protect individuals who are not or are no longer participating in armed conflict. Codified most comprehensively in the four Geneva Conventions of 1949 and their Additional Protocols of 1977 and 2005, IHL imposes obligations on state and non-state parties to armed conflict to safeguard the lives, dignity, and rights of civilians, prisoners of war, the wounded, and humanitarian personnel (International Committee of the Red Cross [ICRC], 2015). The fundamental principles embedded in IHL—distinction, proportionality, necessity, and humanity—are designed to minimize the suffering caused by armed conflict and ensure humanitarian assistance to affected populations. However, these protections are strictly confined to situations of armed conflict, whether international or non-international in nature (Henckaerts & Doswald-Beck, 2005).

As such, IHL does not extend to displacement or suffering arising from causes unrelated to armed hostilities. Displacement induced by environmental degradation, climate-related disasters, or slow-onset phenomena such as desertification and sea-level rise falls outside the legal scope of IHL unless such environmental conditions directly result from or are intertwined with a situation of armed conflict. The ICRC has explicitly stated that "climate-related displacement in the absence of armed conflict is not covered under the traditional application of IHL" (ICRC, 2018). This distinction is critical: IHL is a *lex specialis*, applicable only in times of armed conflict, and does not serve as a general framework for all humanitarian emergencies.

Even though IHL recognizes the duty of parties to ensure the provision of humanitarian relief and to protect civilians from the consequences of war—including displacement resulting from military operations (e.g., under Article 49 of the Fourth Geneva Convention, which prohibits forcible transfers and deportations of civilians)—such provisions do not apply to displacement caused solely by environmental or climatic factors. In this regard, the normative limitations of IHL become evident. While it offers robust legal protections in times of war, it remains largely silent and inapplicable in peacetime scenarios or in the face of non-conflict-related disasters (Crawford & Pert, 2020).

There has been increasing academic debate and policy interest around the idea that climate change could act as a "threat multiplier," intensifying resource scarcities, weakening state institutions, and triggering or exacerbating armed conflicts—conditions under which IHL might be activated (Burrows & Kinney, 2016; Werrell & Femia, 2013). For instance, the conflict in Darfur has often been cited as an example of a complex crisis in which environmental degradation and desertification contributed to intercommunal violence and large-scale displacement (UNEP, 2007). However, while these environmental stressors may act as conflict accelerants, the causal link between climate change and conflict-induced displacement remains methodologically and legally difficult to establish with precision. From a legal standpoint, IHL does not apply to the environmental or climatic conditions themselves, but only to the conduct and responsibilities of warring parties once a conflict has begun.

Moreover, even when armed conflict is intertwined with environmental stressors, the protection of displaced persons under IHL hinges on the characterization of the situation as an armed conflict and the adherence of belligerents to IHL obligations. Climate change, as a standalone phenomenon, does not trigger the legal mechanisms or obligations embedded in IHL. Consequently, displaced populations fleeing slow-onset events such as coastal erosion, glacial melt, or increasing drought frequency—phenomena scientifically linked to anthropogenic climate change (IPCC, 2021)—remain legally unprotected under IHL unless these events occur in a theater of war.

The Nansen Initiative and Platform on Disaster Displacement.

The 2015 Nansen Initiative and its successor, the Platform on Disaster Displacement (PDD), represent significant normative developments in the evolving field of climate-related displacement and the quest for adequate protection mechanisms for persons displaced across borders due to disasters and the adverse effects of climate change. Launched by the Governments of Norway and Switzerland, the Nansen Initiative culminated in the adoption of the *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change* (commonly referred to as the Nansen Protection Agenda) in 2015. This initiative emerged from a recognition of the legal and normative gaps in the international protection regime—particularly the 1951 Refugee Convention—which does not explicitly cover persons displaced by environmental factors or slow-onset disasters such as desertification, sea-level rise, or drought (Kälin & Schrepfer, 2012).

The Nansen Protection Agenda is a non-binding, soft-law instrument designed to provide guidance to states on how to better address the protection needs of disaster-displaced persons. Rather than advocating for the creation of a new treaty regime, the Agenda emphasizes the pragmatic use of existing legal tools and mechanisms within states' domestic and regional frameworks. It encourages the use of humanitarian visas, temporary protection or stay arrangements, and regional cooperation frameworks such as those seen in Latin America under the Cartagena Declaration or in Africa under the Kampala Convention (Nansen Initiative, 2015; Kälin, 2021). For instance, several countries in Central America and the Caribbean have operationalized temporary protection mechanisms in the aftermath of disasters like the 2010 Haiti earthquake, offering critical precedents for regional response and burden-sharing (IOM, 2017).

The Agenda also strongly advocates for the development and implementation of disaster risk reduction (DRR) strategies, climate change adaptation, and community resilience-building as preventive and proactive responses to displacement risk. This approach aligns with the Sendai Framework for Disaster Risk Reduction (2015–2030), adopted in the same year, which underscores the importance of reducing exposure to disaster risks as a way of mitigating displacement (UNDRR, 2015).

However, despite its normative influence and its contribution to fostering a global consensus on addressing cross-border disaster displacement, the Nansen Initiative remains a soft law framework. It does not possess binding legal authority and lacks enforcement mechanisms, which significantly constrains its practical effectiveness. Its success depends largely on the political will, administrative capacity, and legal flexibility of states to voluntarily implement its recommendations (McAdam, 2020). This reliance on voluntarism creates significant inconsistencies in how states respond to disaster-displaced persons and leaves many affected populations without guaranteed protection.

The establishment of the Platform on Disaster Displacement in 2016 marked a continuation and institutionalization of the Nansen Initiative's efforts. Hosted by the United Nations Office for Project Services (UNOPS), the PDD functions as a state-led, multi-stakeholder initiative dedicated to implementing the Nansen Protection Agenda. It works to enhance the evidence base, foster policy coherence, and promote effective practices for managing disaster displacement, especially in vulnerable regions such as the Pacific Islands, the Horn of Africa, and South Asia (PDD, 2021).

Key Normative Gaps and Operational Challenges

The existing legal framework governing refugee and humanitarian law reveals significant normative gaps and operational challenges when addressing the emerging issue of climate-induced displacement. These gaps can be categorized into several key areas, each of which undermines the effectiveness of the current system in providing protection and solutions for climate-displaced persons.

One of the most critical normative gaps concerns the issue of *causation and attribution*. Traditional refugee and human rights frameworks, including the 1951 Refugee Convention, require a direct link between displacement and a human rights violation or persecution. This causality is relatively straightforward in the context of political persecution, armed conflict, or discrimination. However, in cases of climate-induced displacement, where environmental changes such as droughts, floods, or sea-level rise occur gradually, establishing a clear causative link between these environmental factors and an individual's displacement becomes exceedingly difficult. This ambiguity is compounded by the slow-onset nature of climate change, which challenges the current definitions and criteria for refugee status (McAdam, 2012). Scholars like Roger Zetter (2015) argue that this difficulty in attribution creates a legal vacuum, leaving climate-displaced persons in a precarious legal position with no clear access to protection under international law.

Another significant gap pertains to *status and rights*. Currently, there is no recognized legal status for individuals displaced by climate change. The 1951 Refugee Convention, as the cornerstone of international refugee protection, does not explicitly include environmental factors or climate change as grounds for refugee status. This omission results in climate-displaced persons being excluded from the protections afforded to refugees, such as the right to non-refoulement, access to asylum procedures, and the ability to reunite with family members. As a result, climate-displaced individuals are often left in legal limbo, unable to access critical rights

such as residency, education, and employment. The lack of a clear legal framework for climate-displaced persons exacerbates their vulnerability and perpetuates their marginalization in host countries, where they often face discrimination and inadequate support (Danish Refugee Council, 2015).

The issue of *durable solutions* represents another operational challenge. The existing international legal mechanisms are primarily focused on providing temporary protection, rather than addressing the long-term needs of displaced persons. The UNHCR, for example, provides temporary asylum to refugees, but its current framework does not offer comprehensive solutions for the long-term integration of displaced persons, such as relocation, resettlement, or local integration. This is particularly problematic in the context of climate-induced displacement, where the root cause of displacement—environmental degradation—may persist for decades or even centuries, necessitating permanent solutions. Yet, the prevailing international response tends to focus on short-term humanitarian assistance and emergency relief, with little emphasis on creating sustainable, durable solutions that integrate displaced populations into new environments or help them adapt to their changing circumstances (Biermann & Boas, 2008).

The fragmentation of legal and policy responses to climate displacement is another operational challenge. As climate change impacts cross national borders, the legal and policy responses to displacement are often fragmented across different regimes, each of which offers partial or non-binding protections. Climate change and migration are typically addressed under separate legal frameworks, including human rights law, environmental law, and refugee law, without adequate coordination between them. Moreover, much of the international response to climate-induced displacement relies on *soft law* instruments, which, although they may provide useful guidance, are non-binding and lack the enforcement mechanisms necessary to ensure compliance. Instruments such as the UNFCCC's Warsaw International Mechanism for Loss and Damage, or the Guiding Principles on Internal Displacement, offer important insights into the protection of climate-displaced persons but fail to create binding obligations for states (Stern, 2007). This lack of cohesive and binding legal standards leads to a piecemeal approach that is insufficient to address the scale of climate-induced displacement.

Finally, the issue of *state sovereignty and political resistance* remains a major barrier to the development of comprehensive legal protection for climate-displaced persons. Many states, particularly those in the Global North, resist the idea of binding international obligations to protect climate refugees, citing concerns about national sovereignty, migration control, and resource burdens. Such resistance is often underpinned by fears of increased migration flows and the perceived economic and social strain that accommodating climate refugees could place on host countries. The reluctance to recognize climate-displaced persons as a distinct category within refugee law is a manifestation of broader political resistance to accepting the legal and moral responsibility for climate-related displacement (Betts, 2013). This resistance is further fueled by the notion that climate-induced migration is often seen as a challenge to be managed rather than a humanitarian issue requiring international cooperation and shared responsibility.

In conclusion, the existing legal framework for refugee protection is ill-equipped to address the specific challenges posed by climate-induced displacement. The gaps in causation and attribution, the absence of a recognized legal status for climate-displaced persons, the focus on temporary protection rather than durable solutions, the fragmentation of legal responses, and the political resistance to binding international obligations all contribute to the inability of the current system to effectively safeguard the rights and well-being of climate-displaced individuals. Addressing these gaps will require a rethinking of international refugee and humanitarian law, as well as a broader commitment to creating a more inclusive and robust framework for climate-induced displacement.

Summary.

Existing international legal frameworks are ill-equipped to address the complex realities of climate-induced displacement. Refugee law is constrained by its persecution-based definition; humanitarian law is largely irrelevant outside conflict scenarios; human rights law offers limited complementary protection; and soft law initiatives, while valuable, lack enforceability.

This regulatory vacuum leaves millions of vulnerable individuals at risk of legal invisibility. Bridging this gap requires not merely minor adjustments to existing regimes but a fundamental rethinking of the normative foundations of international protection. The next chapter will explore how the human security framework can inform such a rethinking, offering a broader, more flexible, and ethically grounded basis for protecting climate-displaced persons.

III. RESEARCH METHODOLLOGICAL FRAMEWORK:

DOCTRINAL LEGAL ANALYSIS AND THE HUMAN SECURITY LENS.

Introduction.

This chapter outlines the research design and methodological framework guiding this study. As a legal research project grounded in international law, the study adopts a doctrinal legal methodology—a structured and

rigorous approach to analyzing legal texts, instruments, and jurisprudence. However, this is not merely a descriptive endeavor. The doctrinal method is employed here to produce normative legal critique and reinterpretation, using the human security framework as both an analytical and theoretical lens. The objective is to interrogate the legal sufficiency of existing refugee, humanitarian, and human rights law instruments in addressing climate-induced displacement, and to explore possibilities for reinterpretation, adaptation, or legal innovation.

This chapter details the rationale for the doctrinal method, the types of legal materials to be examined, how thematic and interpretive analysis will be applied, and how redundancy with the literature review will be avoided. It also addresses ethical considerations relevant to legal scholarship.

Methodological Orientation: The Doctrinal Legal Research Tradition.

Doctrinal legal research, also known as "black-letter law" analysis, involves the systematic identification, interpretation, and evaluation of legal rules and principles derived from formal legal sources. It is the dominant methodology in legal scholarship, particularly for studies aimed at examining the scope, gaps, and potential evolution of existing law.

This study's doctrinal approach is not limited to cataloguing the contents of legal instruments. Instead, it undertakes:

- Interpretive analysis: asking how legal rules and definitions—such as "refugee," "persecution," or "non-refoulement"—can be understood in light of new challenges such as climate-induced displacement;
- Normative critique: evaluating whether the law, as currently structured, is adequate to achieve justice, equity, and protection for vulnerable populations;
- Propositional reasoning: advancing recommendations for legal reform based on identified gaps.

This methodology is ideal for evaluating international legal frameworks where empirical data collection is neither necessary nor appropriate, and where the focus is on the coherence, sufficiency, and adaptability of legal norms.

Legal Sources and Materials: Primary and Secondary Law.

The doctrinal method centers on the systematic engagement with primary legal sources—binding instruments, customary law, jurisprudence—and secondary legal scholarship, such as academic analyses, commentaries, and institutional guidance.

Primary Legal Sources:

- International treaties and conventions, including:
  - The 1951 Refugee Convention and its 1967 Protocol
  - The Geneva Conventions and Additional Protocols (IHL)
  - The International Covenant on Civil and Political Rights (ICCPR)
  - The Convention Against Torture (CAT)
- Regional instruments, including:
  - The 1969 OAU Convention on Refugees
  - The 1984 Cartagena Declaration
  - The Kampala Convention on IDPs
- Soft law and normative instruments, including:
  - The Nansen Initiative's Protection Agenda
  - The Platform on Disaster Displacement
  - UNHCR's legal guidance on climate change and displacement
- Jurisprudence and legal decisions:
  - Notably *Ioane Teitiota v. New Zealand* (UNHRC, 2020)
  - Relevant rulings from regional human rights bodies and national courts

Secondary Sources:

- Scholarly commentaries and doctrinal literature (e.g., McAdam, Hathaway, Goodwin-Gill)
- Reports from international organizations such as UNHCR, IOM, OHCHR, and the ICRC
- Peer-reviewed journals on refugee law, human rights, and environmental migration

Applying Doctrinal Research to Climate Displacement: A Thematic Legal Analysis

To avoid redundancy with the literature review, the doctrinal method in this study will be applied thematically, not instrument-by-instrument. Rather than repeating descriptive summaries, Chapter Four will engage legal materials through four central legal questions:

1. Recognition: Do current legal definitions (e.g., "refugee," "IDP") recognize climate-displaced persons?
2. Thresholds: What legal thresholds (e.g., imminence of harm, persecution, nexus) are used to determine eligibility—and are they appropriate?

3. Normative Adequacy: Do existing protections meet the human security needs of affected individuals?
4. Adaptability: Can these legal instruments be reasonably reinterpreted or expanded under existing doctrinal principles (e.g., dynamic interpretation, teleological reasoning)?

This approach permits the application of previously discussed content in Chapter Two to new analytical themes, transforming known facts into critical insights.
For example:

- The 1951 Refugee Convention will not be reintroduced; rather, it will be critiqued for its inability to accommodate slow-onset displacement.
- The *Teitiota* decision will not be described again, but assessed as a precedent for future litigation strategies.
- The Nansen Initiative will be examined as a normative opportunity—not simply a soft law tool.

Thus, the doctrinal method becomes a vehicle for generating new knowledge rather than repeating existing analysis.

The Role of the Human Security Framework in Legal Interpretation
While doctrinal research is often seen as positivist and formalistic, this study integrates human security as a normative framework for interpreting legal texts. This interdisciplinary perspective brings moral, social, and human development dimensions into the evaluation of legal norms.
This hybrid methodology allows the study to ask:

- Does the current legal reading of refugee status align with the lived realities of climate-displaced persons?
- Can doctrines like *non-refoulement* be stretched to include existential environmental threats?
- Is the absence of binding obligations for hosting climate-displaced persons consistent with a human security-centered approach to protection?

Thus, human security functions not just as theory, but as an interpretive filter applied to legal doctrines—a method already supported by public international law's allowance for teleological (purpose-based) and evolutionary interpretation.

Scope, Limitations, and Justification
This study is limited to the analysis of international and regional legal frameworks. It does not attempt empirical fieldwork or statistical modeling, which fall outside its doctrinal focus. However, this limitation is also its strength: by focusing deeply on the legal text and its underlying values, the study can generate precise, targeted, and theoretically informed recommendations.
It also offers a scholarly contribution by synthesizing fragmented literature, interpreting unsettled legal norms, and proposing human security-informed approaches to legal reform.

Ethical Considerations
Although the study does not involve human subjects, it upholds academic ethical standards by:

- Ensuring accurate attribution and citation of all sources
- Avoiding misrepresentation or selective interpretation of legal texts
- Respecting the diversity of legal traditions and perspectives
- Grounding legal critique in principles of justice, human dignity, and global responsibility

Moreover, by using a human security lens, the study reflects a normative commitment to protecting the rights and voices of the vulnerable—not just interpreting legal doctrine in isolation.

Summary.
This chapter has established the doctrinal legal research methodology as the foundation of this study. It has explained how legal instruments introduced in the literature review will be re-examined and critically applied using thematic, interpretive, and normative methods. The incorporation of human security theory ensures that legal analysis remains grounded in the lived realities of displacement and the moral imperatives of international protection. This approach positions the research to make meaningful contributions to both legal scholarship and policy innovation in the age of climate crisis.

IV. ANALYSIS AND PRESENTATION.

THEMATIC ANALYSIS OF INTERNATIONAL PROTECTION THROUGH A HUMAN SECURITY LENSE.
Introduction.
This chapter undertakes a thematic legal analysis of the international protection regime governing climate-induced displacement. Drawing upon the doctrinal legal methodology and the human security framework outlined in Chapter Three, this chapter does not revisit legal instruments in isolation. Instead, it applies a thematic framework

to assess how existing laws, jurisprudence, and soft law instruments address—or fail to address—the realities of climate displacement. These themes are structured around four central legal questions:

1. Do current legal definitions recognize climate-displaced persons?
2. Are the legal thresholds for protection aligned with climate realities?
3. Do the normative foundations of current law meet human security needs?
4. Can existing legal norms be reinterpreted or expanded?

By framing the analysis around these questions, the chapter transforms legal content previously discussed in Chapter Two into sites of critical engagement. Rather than restating treaty provisions, this chapter interprets them through a lens of human vulnerability, resilience, and justice—core values of the human security paradigm.

Recognition: Are Climate-Displaced Persons Legally Recognized?

The first critical issue is legal recognition. Under the current international regime, no universally binding legal instrument explicitly defines or protects individuals displaced solely or primarily by climate change. The 1951 Refugee Convention, as previously introduced, is limited to persons fleeing persecution on narrowly defined grounds. Climate change, being a non-agentive and often slow-onset phenomenon, falls outside this framework.

Legal recognition is foundational because it serves as the entry point to accessing rights, protection, and durable solutions. Without formal status, climate-displaced individuals are often treated as irregular migrants, subject to deportation, detention, or exclusion from humanitarian aid. The legal vacuum renders their displacement "invisible" in legal terms, even though their vulnerabilities are both real and growing.

From a human security perspective, this lack of recognition constitutes a denial of personhood. It ignores the lived experiences of communities whose basic needs—water, shelter, cultural integrity—are systematically undermined by environmental degradation. Legal regimes that recognize only conflict or political persecution as grounds for protection exclude millions from the possibility of dignity-preserving migration.

Therefore, this theme highlights a normative deficiency that cannot be resolved by narrow treaty interpretation alone. It necessitates legal imagination—a reconfiguration of protection categories that reflect ecological realities and uphold the humanity of the displaced.

Thresholds: Are Legal Criteria for Protection Adequate to Climate Realities?

Beyond recognition, many international instruments impose high evidentiary and legal thresholds for individuals seeking protection. For instance, non-refoulement under the ICCPR or CAT requires proof of imminent, irreparable harm. As seen in the landmark *Teitiota v. New Zealand* decision, the UN Human Rights Committee acknowledged that climate degradation could in principle trigger non-refoulement but found the threshold unmet due to the perceived remoteness of harm.

This focus on immediacy and severity is deeply problematic for climate-displaced persons. Many face gradual but irreversible threats, salinization, drought—that erode their survival over time. Requiring proof of immediate death or torture neglects the cumulative nature of environmental harm.

Human security theory challenges these thresholds by prioritizing prevention, not just response. It asserts that insecurity can be existential without being sudden. Legal systems that wait until collapse to act are failing the most vulnerable.

This theme underscores the urgency of recalibrating protection thresholds to reflect gradual, structural, and anticipatory harm—a shift that legal systems can achieve through interpretive evolution and risk-based reasoning.

Normative Adequacy: Do Existing Laws Fulfil Human Security Obligations?

Even where climate-displaced persons meet legal definitions or thresholds, the normative content of protection is often inadequate. International law offers fragmented responses: temporary protection in disaster contexts, discretionary asylum in exceptional cases, or relocation only after humanitarian crises. These are reactive, minimalist, and largely discretionary.

Human security, by contrast, is holistic. It includes economic stability, community cohesion, access to health and education, cultural continuity, and long-term safety. It demands not just movement away from harm, but movement toward security.

Under this standard, refugee and humanitarian law fall short. They treat displacement as a temporary emergency rather than a structural transformation. There is little support for planned relocation, host community inclusion, or post-displacement recovery.

This theme therefore calls for legal instruments that are developmentally aligned, not merely crisis-driven. It suggests that protection for climate-displaced persons must be grounded in rights-based, long-term, and empowerment-focused frameworks, not stopgap humanitarian measures.

Adaptability: Can Existing Laws Be Reinterpreted or Expanded?

Despite these gaps, international law is not static. Treaties can evolve through dynamic interpretation, guided by principles such as the object and purpose of the treaty (as per the Vienna Convention on the Law of Treaties). Human rights norms, in particular, have expanded over time to address gender, sexuality, disability, and other evolving dimensions of vulnerability.

Can similar doctrinal elasticity apply to climate displacement?

There is some potential:

- The notion of "persecution" could be expanded to include state neglect or structural violence, such as the refusal to address known environmental hazards.
- "Particular social group" could include communities rendered stateless or landless by ecological collapse.
- "Cruel, inhuman, or degrading treatment" could include forced return to areas without drinkable water, food security, or viable livelihoods.

Soft law instruments like the Nansen Initiative offer fertile ground for codification into binding norms, using regional cooperation as a stepping stone.

Thus, this theme points to the possibility—not inevitability—of reform. It recognizes the plasticity of international legal principles and the role of jurisprudence, advocacy, and diplomacy in shaping law's evolution.

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Synthesis and Implications

When viewed through the combined lenses of recognition, thresholds, normative adequacy, and adaptability, the current international legal regime appears inadequate. Its failings are not merely procedural or technical, they reflect a foundational disconnect between legal design and human vulnerability.

Human security offers both a diagnostic and prescriptive tool. It reveals how law has prioritized state interests over human needs, and it guides us toward legal solutions that center dignity, participation, and justice.

The implications are clear:

- Legal recognition must expand beyond political persecution.
- Protection thresholds must reflect cumulative and anticipatory harm.
- Normative responses must extend beyond emergency relief.
- Legal norms must be reinterpreted in light of emerging threats.

Together, these form the moral and legal case for a paradigm shift in international protection—a shift this thesis seeks to advance.

Summary. .

This chapter has applied a thematic doctrinal analysis to assess how well existing legal frameworks respond to the multifaceted challenge of climate-induced displacement. Using four guiding questions—recognition, thresholds, normative adequacy, and adaptability—it demonstrated the significant limitations of current law. More importantly, it showed how human security can serve as a corrective lens, reorienting protection frameworks toward individual dignity, preventive action, and normative expansion.

The next chapter will build upon these insights to propose specific legal and policy reforms aimed at operationalizing a human security-based framework for climate displacement.

V. RECOMMENDATIONS.

LEGAL AND POLICY RECOMMENDATIONS FOR A HUMAN SECURITY BASED FRAMEWORK OF PROTECTION.

Introduction.

This chapter builds upon the findings of the previous chapters by offering concrete legal and policy recommendations to address the protection gap for climate-displaced persons. The analysis in Chapter Four revealed that international legal regimes—particularly refugee law, humanitarian law, and human rights law—remain ill-equipped to respond to the evolving realities of climate-induced displacement. While some interpretive flexibility exists within these regimes, the cumulative inadequacies in legal recognition, protection thresholds, normative scope, and institutional coherence call for both reform of existing norms and the creation of new legal mechanisms.

This chapter is structured around three tiers of action:

1. Doctrinal legal reforms that reinterpret and expand existing international norms;
2. Institutional and policy strategies that promote coherence and integration across agencies and legal frameworks;
3. Recommendations for treaty innovation, including proposals for a new legal instrument specifically dedicated to climate displacement.

These recommendations are grounded in the human security paradigm, which offers a more inclusive, ethical, and context-responsive framework for designing legal protections that prioritize the survival, dignity, and agency of individuals and communities.

Reinterpreting "Persecution" in Refugee Law.

The current refugee definition can be broadened through jurisprudential development and soft law guidance. "Persecution" should not be limited to direct, intentional harm but should also encompass systemic neglect or state failure to mitigate known environmental risks that result in severe harm to specific groups.

For example, where governments knowingly fail to protect vulnerable populations from rising sea levels, or where environmental degradation disproportionately affects indigenous groups or women, such failures could qualify as persecution under an expanded interpretive approach.

Recognizing "Climate-Affected Communities" as Social Groups

The Refugee Convention allows for protection based on membership in a "particular social group." Courts and legal scholars should advance arguments that climate-affected communities, particularly those with distinct cultural, geographic, or economic identities (e.g., island communities), constitute such a group when environmental harm threatens their existence or way of life.

This interpretation would open space for legal recognition without rewriting the Convention.

Expanding the Concept of Non-Refoulement

States should recognize that returning individuals to regions rendered uninhabitable by environmental collapse violates the non-refoulement principle under international human rights law. Courts and treaty bodies should consider:

- Unsafe drinking water, total livelihood loss, and breakdown of health systems as triggering Article 7 of the ICCPR;
- Situations of cumulative degradation as falling under "inhuman or degrading treatment" per Article 3 of the European Convention on Human Rights or the Convention Against Torture.

Legal advocacy and judicial training can promote this doctrinal shift.

Expanding the UNHCR Mandate

UNHCR's mandate is currently limited by the definition of a refugee in the 1951 Convention. However, the UN General Assembly has previously authorized the agency to assist other displaced populations. Member states and the UN should issue a resolution or amendment expanding UNHCR's formal mandate to include climate-displaced persons.

This expansion could:

- Enable UNHCR to provide legal assistance, refugee status determination (RSD) guidance, and durable solutions;
- Justify the integration of human security indicators into refugee status assessments.

Mainstreaming Climate Displacement in National Adaptation Plans (NAPs)

At the state level, national adaptation plans should be required—under the UNFCCC and Paris Agreement frameworks—to address internal and cross-border displacement risks. These plans should include:

- Legal frameworks for relocation;

- Protection protocols for displaced populations;
- Participation mechanisms for vulnerable communities.

Climate finance (e.g., from the Green Climate Fund) should prioritize displacement-sensitive adaptation planning.

Proposing a New International Legal Instrument: A Climate Displacement Convention

While reinterpretation of existing norms is crucial, it is not sufficient. The absence of a binding legal instrument specific to climate-induced displacement undermines predictability, accountability, and rights enforcement. Therefore, this thesis proposes the drafting of a new international treaty: the Climate Displacement Protection Convention (CDPC).

Core Principles of the Proposed Convention

- Recognition: Define climate-displaced persons in inclusive terms, covering both sudden- and slow-onset displacement, internal and cross-border movement.
- Protection: Guarantee the rights to non-refoulement, safe relocation, family unity, education, work, and cultural preservation.
- Cooperation: Establish burden-sharing responsibilities between states and international bodies.
- Participation: Ensure displaced persons' voices are included in policy and relocation planning.
- Monitoring: Create an oversight body to track compliance and review protection standards.

Promoting Regional Compacts and Bilateral Agreements

Where multilateral consensus is slow, states and regions should advance regional compacts to address climate displacement. Building on the Cartagena Declaration and Free Movement Protocols in ECOWAS and the Pacific Islands Forum, regions can:

- Develop climate mobility pathways (e.g., temporary protection, work visas, relocation frameworks);
- Harmonize migration and asylum procedures;
- Establish shared funding mechanisms for adaptation and resettlement.

Such agreements allow for flexible and context-sensitive solutions, while paving the way for future global harmonization.

Summary of Recommendations

1. Doctrinal Reform:
    - Expand interpretations of persecution and social group under refugee law;
    - Broaden thresholds of harm under non-refoulement;
    - Promote use of human security in judicial interpretation.
2. Institutional Coordination:
    - Expand UNHCR's climate mandate;
    - Create a UN interagency task force;
    - Mainstream displacement into climate adaptation policies.
3. New Legal Instruments:
    - Draft and negotiate a Climate Displacement Protection Convention;
    - Encourage bilateral and regional climate mobility compacts.
4. Normative Innovation:
    - Use human security as a unifying framework for international legal evolution;
    - Promote rights-based, participatory, and anticipatory protection mechanism.

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