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**Refugee Law and Climate Migration in South Asia:  
Legal Challenges and Policy Gaps**

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The displacement caused due to climate change and statelessness is considered a humanitarian crisis basically, which is driven by extreme weather events, sea-level rise, and environmental degradation in Asia. This study will analyze the legal challenges and solutions related to climate change-induced displacement and statelessness in Asia, specifically focusing on nations such as Bangladesh, the Maldives, and Myanmar among the most affected by climate change. The study's objective is to identify the gaps in existing legal frameworks which cannot protect climate-displaced persons. While this research paper discusses the protection of climate-induced displaced persons under international and domestic legal regimes, under existing legal frameworks-which include the 1951 Refugee Convention and national immigration laws-such persons are not classified as refugees and therefore enjoy no special protections, and they continue to be vulnerable to statelessness, human rights violations, and exploitation. This qualitative research design shall apply a doctrinal legal analysis, complemented with case studies and in-depth interviews with professionals in the legal field, policymakers, and victims of statelessness. Drawing from the primary data that relates to international treaties, national laws, and judicial decisions, it undertakes a critical analysis of the existing legal landscape. Cases from Bangladesh, India, Pakistan and Nepal are discussed, along with examples of what actually happens in real life because of the legal gaps that need to be reformed. The study proposes a wide array of legal solutions, from the expansion of existing refugee and statelessness definitions through the inclusion of climate-displaced persons to the creation of a new international legal instrument for climate-induced displacement, with integration of human rights-based approaches at the national and regional policies. This brings into focus a need for greater regional cooperation among Asian countries in setting common standards and legal regimes that address peculiar challenges of climate displacement and statelessness. This study, therefore, tries to contribute to the emergent discourse on climate justice by bringing the urgent need for comprehensive legal reforms that guarantee the protection of the rights of persons who have been displaced on account of climate factors in Asia.

**Keywords:** *Climate migration, Statelessness, Climate change-induced displacement, Legal framework gaps, International legal instruments, Cross-border climate-induced migration, Climate justice.*

## 1. Introduction

With continued growth in climate change, unprecedented challenges arise to human societies, especially in the world's most vulnerable regions, like South Asia. The region is inhabited by more than a billion people and, because of its diverse geographical features, is hugely efficient to the impacts brought forth by climate change, which includes rising sea levels, erratic weather patterns, and extreme natural disasters. The Intergovernmental Panel on Climate Change (IPCC) identified that South Asia is expected to experience significant enhancement in the frequency of devastating weather events such as floods and droughts that cause to the displacement of millions of people (Joeri Rogelj (Austria, 2018). In this context, climate migration defined as the movement of individuals forced to leave their homes due to the change of environment which has marked as a pressing issue that governmental and non-governmental entities must urgently address. (R.McLeman, 2006)

The major issue reflected in the paper is that the present legal frameworks cannot safeguard the climate migrants of South Asia. Though the international community has realized that climate-induced displacements need a holistic approach, yet the existing laws and policies lack offering specific protection for people who get displaced due to environmental factors, rendering them without defined legal rights. Events of persons fleeing due to climate change are not encompassed within the ambit of the 1951 Refugee Convention and its 1967 Protocol, hence creating major protection gaps. No international body is specifically dedicated to address climate migration and there are no legal instruments which is directly applicable to this issue. While the Cancun Adaptation Framework encourages countries to take measures related to displacement, migration, and planned relocation, either the United Nations Framework Convention on Climate Change (UNFCCC) or the Kyoto Protocol didn't include specific provisions for assisting those impacted by climate change-induced migration. In many cases, the causes of such migration are not directly linked to state actions. (Foundation, 2016, pp. 6,7). Additionally, South Asian countries often lack coordinated national strategies to handle the complexities of climate migration, further intensifying the vulnerabilities of affected people.

This paper aims to examine the legal challenges and policy gaps regarding climate migration in South Asia. It offers a critical analysis of current refugee laws, evaluates the difficulties faced by climate migrants, and identifies possible ways for policy reform. By investigating these aspects, the paper wants to contribute to ongoing discussions on creating stronger frameworks to better protect individuals displaced by climate change, while considering the broader impacts of climate change in the region.

## Methodology

The methodology applied in this paper follows qualitative research through a doctrinal legal analysis in combination with case studies and in-depth interviews. In doctrinal analysis, the researcher will have regard to the existing legal texts, treaties, laws, and judicial decisions pertaining to refugee and climate migration law. It shall identify the gaps of such frameworks, failing to provide solutions to the protection needs of climate-displaced persons.

This will involve a critical analysis of refugee laws, human rights laws, and environmental policies in terms of their applicability or non-applicability to climate-induced migration. This doctrinal approach is then complemented by case studies that offer real-world examples, allowing the practical evaluation of legal gaps and impacts on displaced populations. The information used in the argument will most probably be based on secondary data from legal texts, international agreements, policy documents, and related scholarly articles. Synthesizing the information from these sources provides insight into the policy and legal reforms necessary in safeguarding the rights of climate-displaced persons within the South Asian context

## Literature Review

However, climate-induced displacement currently hits it big in scholarly attention, especially on legal and policy frameworks. The article "Refugee Law and Climate Migration in South Asia: Legal Challenges and Policy Gaps" critically analyzes the legal inadequacy of climate migration within the South Asian region. This literature review contextualizes earlier research to offer a critical review of the article on gaps in the legal framework for climate migrants.

Different literature underlines the basic vulnerability of South Asia due to climate change and the urgency it feels for a framework that would address the consequent migration. (Smith, 2020) draws on the socio-economic and geographical vulnerability of the region, further compounding the adverse effects of environmental displacement. (R.McLeman, 2006) in this regard, places migration as one potential adaptation option to environmental risks; a statement that has further been supported through numerous other works. The IPCC, 2019, also projects severe environmental changes, such as the rise in sea-level; this is very likely to dislocate large populations, particularly in the coastal and riverine areas of Bangladesh and India.

Existing legal frameworks, including the 1951 Refugee Convention, remain insufficient to address climate migration. (Bhattacharya, 2022) underlines how inadequate this convention remains in defining "refugees" in narrow terms and leaving out climate migrants. This definitional barrier, rooted in traditional persecution criteria, acts as a formidable obstacle to the realization of legal rights and protection for climate-displaced persons. That said, (ZAMAN, 2021) has described the other way around: formal protections under the Refugee Convention are missing as a cornerstone; similarly, to

Mayer's contention that climate-induced displacement needs to be brought within an enlarged international rule of law.

The case studies, specifically the ones related to Bangladesh, India, Pakistan, and Nepal, bring out the glaring legal and policy deficits of the region. (Bose, 2021) and (Chowdhury, 2017) observe that the erratic monsoon pattern and salinity intrusion in South Asia displace the rural populace into urban metropolitan areas, increasing congestion and further straining resources. In fact, such patterns of migration are reflected on a larger scale in the Asian Development Bank 2012, giving a focused backdrop of complex vulnerabilities for the populations that have been displaced.

Contending with these legal vacuums, the paper discusses possible remedies in relation to the now famous call for the expansion of the refugee definition to cover climate migrants. This position is taken by (Singh, 2024) who urges revisiting the Refugee Convention for a new definition of its mandate to cover contemporary drivers of displacement. However, it may be more functional to create a new legal tool specifically addressing climate-induced displacement, according to the Nansen Initiative, 2015 - a governmental- to-governmental process aimed at consolidating the views on climate migration into national and regional policies. This human rights approach that the article uses seems to resonate with issues raised by (Mehta, 2019) concerning those populations that are more vulnerable to climate migration, such as women and children. This will ensure better protection for the displaced population on account of their refugee status. As a matter of fact, the recognition by the UN Human Rights Committee of climate change as a threat to life itself, in cases like *Teitiota v. New Zealand*, indicates an evolving human right conception in relation to environmental degradation (ZAMAN, 2021).

In short, existing legal regimes are insufficient to protect climate migrants of South Asia from the disastrous impact of climate change. There is unanimous agreement among scholars that there is a pressing need for an expansion of either the definition of refugees or a specific legal instrument on climate refugees. In fact, legal alteration propositions along with a human rights approach in this article identified the gaps in providing comprehensive response with useful insights in the discourse on climate justice and migration.

## **Climate-Induced Displacement in South Asia: Overview and Vulnerabilities**

South Asia is currently a fragile region from the point of view of different socio-economic and environmental parameters, which is now turning increasingly vulnerable to the negative implications of climate change. Climate change-induced displacement refers to forced migration of people due to ecological changes, which have now become a matter of great concern for the region. The relationship between environmental degradation and displacement in South Asia is rather complex, as

it is viewed with factors such as rising sea levels, escalating temperatures, flooding, and various other climate-related risks (Smith, 2020). Such climate-induced pressures are increasing the susceptibilities of already marginalized populations in countries like Bangladesh, India, and Pakistan.

Climate-induced migration in South Asia is not only an emerging but also a growing challenge. Indeed, the Intergovernmental Panel on Climate Change has warned that many people who live in coastal and riverine areas of India and Bangladesh are likely to be displaced due to high sea levels and incessant flooding (Special Report on Climate Change and Land, 2019 (Special Report on Climate Change and Land, 2019)). For instance, Bangladesh is one of the countries that are most vulnerable and imperiled to climate change due to its distinctive geographical position, brittle socioeconomic settings, expanding populace, high poverty, and low degree of financial and technological capabilities (Shamsuddin Shahid, 2008). In India, erratic monsoon patterns and prolonged droughts are forcing rural populations to migrate to urban areas in search of livelihoods, exacerbating urban congestion and resource shortages (Bose, 2021). Pakistan also faces similar challenges, with recurrent flooding in Sindh and Punjab displacing large segments of its population (Khan, 2024).

Many megacities in South Asia, such as Dhaka in Bangladesh and Kolkata, Mumbai, and Chennai in India, are under severe threat from rising sea levels and prolonged cyclonic activity and increased saltwater intrusion. This is going to affect a large population considering the high population density and improper urban planning. The advancement of salinity due to the rise in sea levels is becoming a very crucial climatic event in some parts of Bangladesh (Bank, 2012).

## **Vulnerabilities**

The crisis the climate-displaced population of South Asia faces is multidimensional. Most of them fall into the category of settlers who are deprived of even the fundamental resources such as food, clean water, and health, which further worsens the living conditions in the region. (Chowdhury, 2017). Additionally, Moreover, due to the socio-economic standing, women, children, and ethnic minorities face disproportionate impacts as often they are unable to recover from such displacement or find other ways of livelihood. (Mehta, 2019).

Legal and policy frameworks in South Asia are ill-equipped to cope with this increasing phenomenon of climate-induced displacement. The 1951 Refugee Convention does not recognize either environmental or climate refugees, a factor that denies proper legal protection for the already displaced populations. It hence leaves climate migrants often caught in some kind of legal vacuum where they cannot claim asylum or access the protection extended to refugees. (Bhattacharya, 2022).

## **Analyzing The Existing Legal Framework**

The analysis above highlights an urgent need for international, regional, and national frameworks to secure the rights of displaced or migrant populations. Currently, beyond the absence of a precise definition, there is no single legal or normative framework that sufficiently addresses protection issues for cross-border climate-induced displacement and migration (CID/M) at the global level. For cross-border CID/M, this protection gap leaves room for international and national authorities to overlook or deny the rights of CID/M migrants. Therefore, this section aims to examine existing legal gaps in international, regional, and national frameworks, demonstrating why and how cross-border CID/M protection mechanisms remain absent from established protection regimes. Addressing this gap could lead to developing new approaches or mechanisms to secure the rights of CID/M migrants

### **1. Legal Gaps in the International Legal Framework**

At the global level, the governing regimes that are most relevant for CID/M are climate change, refugee, statelessness, migration, and human rights law. The discussion below evaluates why and how the protection mechanism for cross-border CID/M remains entirely missing in each regime.

#### **1.1 Refugee Law: Definitional Barrier:**

International refugee law, under the protection of the 1951 Geneva Convention, only protects refugees, stateless people, asylum seekers, and returnees. Meanwhile, there has been a long debate considering cross-border, climate-induced displacement as a category of refugee status to get legal protection under the 1951 Convention. A person must satisfy him/herself with the categorization set by the 1951 Geneva Convention to be considered a refugee.

The Refugee Convention of 1951 as modified by the 1967 Protocol defined a refugee as any person 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, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it" (Assembly, 1967).

The definition of refugee status under the 1951 Refugee Convention is narrow in scope, applying only to those individuals who have a "well-founded fear of being persecuted" based on race, religion, nationality, membership in a particular social group, or political opinion. This Convention limits persecution by an individual government official or a non-state actor that the government cannot or chooses not to control. But climate-induced displacement is at a disadvantage in that its root cause is often environmental degradation from climate change, and that doesn't fit the paradigm of a

"persecutor." Whereas rising sea levels, loss of land, and extreme weather may pose life threats, these reasons do not meet Convention criteria for persecution. Also, it is unlikely that governments will persecute people who are threatened purely by climate factors; hence, persecution on the basis of governmental intent will also be hard to prove.

For a claim of persecution, it is also challenging to establish a causal link with governmental intent (*mens rea*) in cases of climate-induced migration. Furthermore, the Convention stipulates that persecution must be connected to one of the five grounds specified, but environmental or climate-related displacement is not recognized as a reason. In *Ioane Teitiota v. Chief Executive of the Ministry of Business Innovation and Employment*, the court in New Zealand denied the application of Teitiota for refugee status based on climate displacement. It explained that environmental migrants fell outside the ambit of the Refugee Convention; protection would be provided to individuals who suffered at the hands of direct or indirect action by their government on one of the five grounds. The decision underlined that the concept of "refugee" as stated in the 1951 Convention does not include climate-induced displacement and that it hence restricts the protective scope of the Convention.

The United Nations Human Rights Committee has acknowledged that sudden or gradual climate-related events could endanger the right to life, potentially invoking the principle of non-refoulement, which prohibits returning people to places where they face life-threatening conditions. Nonetheless, the restrictive refugee definition in the 1951 Convention remains a central barrier to including climate-induced displacement within the framework of international refugee protections. (ZAMAN, 2021)

### **1.2. Insufficiency of Statelessness**

Some climate migrants may be impacted, but it is far from certain, by the international legal regime that governs the protection of stateless persons and aims to prevent statelessness. A key complicating factor lies in what constitutes a state; namely, that it must possess three basic elements: a defined territory, a permanent population, and a government. It is much less obvious whether all such elements must be retained over time for a state to remain a state. If any of these elements were to permanently disappear, the maintenance of statehood would likely be unsustainable.

Questions also arise regarding whether the territory requirement for statehood remains satisfied when land is submerged. According to the United Nations Convention on the Law of the Sea, territorial waters are extensions of land and are only acknowledged for inhabited, natural islands. These provisions assume no significant sea-level rise, making them potentially inadequate in light of modern environmental realities. Scholars Yamamoto and Esteban have suggested a potential

solution through the concept of a “deterritorialized state,” which could allow island nations to maintain a form of international recognition even if their land disappears. For instance, while the Maldives and other Pacific islands are unlikely to be fully submerged until late in the century, they may become uninhabitable much sooner. Thus, the loss of population could challenge statehood well before the loss of territory. Ultimately, the persistence of these island nations depends not on fixed international standards but on the political recognition granted by other states.

In this context, being stateless may turn out to be a safer status than holding citizenship in an uninhabitable country. Nevertheless, international law grants very few rights to stateless persons, most specifically not a right to enter or stay in a territory. While the Convention on the Status of Stateless Persons rules out the expulsion of stateless persons except on grounds of national security or public order and has been ratified by sixty-six countries, it does so only for individuals who are lawfully in its territory. In contrast, the Refugee Convention rules out any penalization of refugees for illegal entry. However, the objective of the reduction of statelessness can provide an argument for the naturalization of stateless climate migrants. Preambular language in the Convention on the Reduction of Statelessness provides that the reduction of statelessness is “desirable,” though such language carries little legal weight. Likewise, Article 15 of the Universal Declaration of Human Rights provides a universal right to nationality, yet the legal enforceability of this right is uncertain. (Mayer, 2011).

### **1.3. The Lack of Global Safeguards for Migrants' Rights**

Crossing international borders and obtaining entry into new territory are, therefore, critical issues associated with state sovereignty. Immigration policies and regulations are, accordingly, normally susceptible to national migration legislation that lays down the eligibility criteria for entry and admission. In this way, they define the legal status of migrants, the duration of their stay, gainful employment, and other related issues. Yet, some international legal frameworks do exist for the protection of rights of cross-border migrants. For example, the United Nations, in 1990, adopted the Migrant Workers Convention, which defined a migrant as a person who is involved in remunerated work in a state of which he or she is not a citizen. The latter broad definition, which technically encompasses climate migrants working in a host country, although the Convention as a whole does not grant them any rights to cross borders.

Similarly, the 1949 Migration for Employment Convention and the 1985 Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live also lack provisions recognizing a right to cross borders or stay in another country. Instead, these frameworks address basic human rights for migrants in specific situations that notably do not include climate-driven migration. Additionally, few countries have ratified these instruments,

reflecting limited political willingness to protect or acknowledge the rights of economic migrants. As a result, international migration law currently falls short of providing the protections needed for climate migrants.

## Gaps in Legal Protections and National Practices Across South Asian Countries

While all South Asian nations are actively engaged in United Nations climate negotiations and are fulfilling their international legal obligations under various climate governance instruments, none have implemented robust legal protections for climate-induced displacement and migration (CID/M) at the national level. Many South Asian states do recognize the threats posed by cross-border CID/M to human rights, national and regional peace, and security within their national policy documents. However, there is a notable lack of national legal and policy frameworks specifically addressing cross-border CID/M. Similarly, protections for internal CID/M remain minimal and are still in their early stages (ZAMAN, 2021).

Table-1 on the following pages briefly highlights the gaps in existing legal mechanisms and state practices in South Asian states in the matter of cross border CID/M.

Table – 1

States	Policy Gaps	State Practice
Bangladesh	Bangladesh is not a party to the 1951 Refugee Convention or its 1967 Protocol, and therefore does not have any kind of formal protection mechanism for refugees, including Rohingya.	Bangladesh follows voluntary repatriation as a primary solution for refugees but lacks formal legal protections, leaving refugees vulnerable to exploitation and insecurity.
	Bangladesh has no specific framework to recognize or protect climate refugees, despite being highly vulnerable to climate-related displacement.	Bangladesh's constitution provides some protections for "foreigners," but these are limited and do not cover refugees or climate migrants.
	There is no policy in place to address climate migration, while 13.3 million climate-displaced persons are projected in Bangladesh alone for the year 2050.	In <i>Farooque v. Government of Bangladesh</i> , the right to a clean environment was proclaimed fundamental, the Environment Court Act of 2010 being the development of climate justice. (Farooque v. Government of Bangladesh, 1995)
	Data on climate litigation,	The Environment Court Act (2010)

	especially those that deal with climate refugees explicitly, is scant. This therefore shows the lacuna in legal redress for the climate-displaced.	requires complainants to verify grievances through inspection by the Department of Environment (DoE), adding a procedural barrier to accessing justice
India	India is not a signatory to the 1951 Refugee Convention (UNCSR) or its 1967 Protocol, leading to an absence of formal protections for refugees, including climate refugees.	Refugee protection in India relies on ad hoc administrative decisions under the Foreigners Act and Passport Act, with no specific legislation addressing climate refugees
	The CAA has been criticized for excluding Muslim refugees from citizenship eligibility, violating non-discrimination principles in international law and Article 14 of India's constitution.	The CAA uses the term "migrant" to limit protections available to refugees, affecting people seeking refuge from both persecution and climate impacts.
	Although the right to a clean environment is recognized as a fundamental right, no specific legislation for addressing climate displacement has been enacted.	Landmark cases like <i>Maneka Gandhi v. Union of India</i> have recognized the right to a clean environment, while the NGT applies international environmental principles like "polluter pays." ( <i>Maneka Gandhi v. Union of India</i> , 1978)
	Climate-induced displacement is not formally addressed in India's policies, limiting support for those displaced by climate impacts within India and the region.	The case <i>Ridhima Pandey v. Union of India</i> raised the issue of climate refugees, advocating for collaborative global strategies, though it was dismissed as climate issues were seen as covered in existing policies. ( <i>Ridhima Pandey v. Union of India</i> , 2017)
Pakistan	Pakistan is not a party to the 1951 Refugee Convention or the 1967 Protocol, leaving Afghan refugees and climate migrants without formal legal status or protections within the country.	The judiciary has interpreted the right to life under Articles 9 and 14 of the Constitution to include environmental protections, thus indirectly supporting the right to an unpolluted and safe environment.
	Although the principle of non-refoulement is respected under international norms, there is no domestic law codifying this principle, which impacts legal consistency and enforcement	In this landmark case <i>Asghar Leghari v. Federation of Pakistan</i> , the court recognized the government's duty to address climate change, setting a precedent for state responsibility in environmental issues
	Pakistan follows the UNHCR's 'Solutions Strategy for Afghan	In the case of <i>Sheikh Asim Farooq v. Federation of Pakistan</i> , the court

	Refugees,' primarily focusing on voluntary repatriation, which may not be viable for climate migrants.	ordered those commitments on forest preservation be enforced. It referred to the National Climate Change Policy of 2012 as proof of increasing support from the courts on climate action. Sheikh Asim Farooq v. Federation of Pakistan, 2018. (Sheikh Asim Farooq v. Federation of Pakistan , 2018)
Nepal	Nepal is not a party to the 1951 Refugee Convention or its 1967 Protocol, and has no specific domestic law for refugees, treating them as "foreigners" under the 1992 Immigration Act.	Nepal's refugee policy is minimal and does not meet international standards, relying on ad hoc decisions that leave refugees without formal legal protections.
	Lacking a domestic refugee law, Nepal has been reported to violate non-refoulement principles, as seen in the deportation of Tibetan refugees to China in 2020.	Nepal has acceded to human rights treaties like the ICCPR, but enforcement has been inconsistent, and refugee protection standards remain below international norms
	Nepal's Environmental Protection Act of 1997 was deemed inadequate for climate challenges, showing gaps in Nepal's climate resilience framework.	In <i>Shrestha v. Office of the Prime Minister</i> , the Supreme Court ordered policy changes, leading to the introduction of the Environment Act of 2019 and Forests Act of 2019. (Shrestha v. Office of the Prime Minister, 2017)

## Proposed legal solutions

### Expanding Definition

The term "environmental refugees" was first used by Lester Brown in 1976 and then by Essam El-Hinnawi in 1985, to describe people who have to leave their homes due to environmental disasters that threaten their safety and quality of life. Since then, various terms like climate refugee, climate migrant, and environmental migrant have been used to describe people displaced by climate change. However, these terms are debated because climate migrants do not meet the legal definition of refugees, which complicates their protection under international law. The International Organization for Migration (IOM) has highlighted the need to broaden the definition of "refugee" to include those displaced by environmental factors, as they are often left without adequate relocation or support options. (Singh, 2024).

Legal protection from climate migration is one way by broadening the definition of "refugee" under the 1951 Refugee Convention and its Protocol of 1967. Currently, the Convention protects those people fleeing persecution on the following grounds: race, religion, nationality, membership in a particular social group, or political opinion UNHCR (2011). It does not protect anyone who is forced to flee because of environmental degradation or natural disasters due to climate change. Scholars say that this would grant them the international protection accorded to traditional refugees. For this to happen, however, there would have to be consensus on the widened definition among all the parties involved and amendments to earlier treaties, not always easy to achieve.

### **Developing a New International Legal Instrument for Climate-Induced Displacement**

Another is to initiate a new international legal instrument that will solely deal with climate migration. It can legally identify and protect those who have been displaced from different events attributed to climate change, which include sea-level rise, extreme weather, and desertification. The 2015 Nansen Initiative is an intergovernmental process that called for a protection agenda through the call to states to contribute to the integration of considerations of climate migration into national policies, regional frameworks, and international agreements. A new treaty could provide the uniform standards urgently needed to protect climate-displaced persons while balancing responsibilities between the countries of origin and receiving countries.

### **Human Rights Based Approach**

A human rights-based approach ought to protect basic human rights of climate migrants regardless of their legal status. In other words, this kind of approach would have the climate migrants enjoy the basic rights to adequate shelter, healthcare, education, and employment.

International human rights law, through different conventions like the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, may extend to cover the protection of the rights of climate migrants. In the most recent cases, as in *Teitiota v. New Zealand*, the UN Human Rights Committee realized that sending an individual to a location threatened by climate change might violate his or her right to life and, thus, human rights law can extend some protections.

### **Conclusion**

It is clearly seen that, at present, the international legal frameworks are not sufficient to fulfill the protection needs of the displaced climate change migrants. Refugee law itself has flaws, especially in the restricted definition of a refugee under the 1951 Convention, which does not make room for

climate change-induced displacement to be protected. In addition, statelessness laws are also less than a boon in this scenario, along with insufficient rights for cross-border migrants, which contributes to additional vulnerabilities faced by climate migrants.

While the South Asian states are negotiating at the international climate level, they do nothing to formulate strong national legal frameworks specifically to manage and protect climate-induced displacement. While the countries have acknowledged that climate change forms part of their national policies, they do not hold any formal protection or practical solutions for those who have been affected.

To address such gaps, the definition of refugee has to be expanded to encompass climate-induced displacement, a new international legal instrument should focus on climate migration, and a human rights approach and international law should make fundamental rights obligatory regardless of the legal status involved. These steps will enhance the framework for the protection of those displaced by climate change and provide for their rights to be respected and upheld around the world.

## References

- Assembly, U. N. (1967, January 30). Convention and Protocol Relating to the Status of Refugees. 606, 267.
- Bank, A. D. (2012). *Addressing Climate Change and Migration in Asia and the Pacific*. Philippines. Retrieved from <https://www.adb.org/sites/default/files/publication/29662/addressing-climate-change-migration.pdf>
- Bhattacharya, P. (2022). Climate change and migration: The South Asian dilemma. *Climate Policy Journal*, 18(2).
- Bose, M. (2021). Rural to urban migration in the context of climate change in India: A socio-economic analysis. *Journal of Environmental Studies*, 29, 278-290.
- Chowdhury, M. H. (2017). Impacts of Climate Change on Vulnerable Populations in South Asia: Focus on Bangladesh and India. *Climate Change Perspectives*, 15(1), 19-32.
- Farooque v. Government of Bangladesh (1995).
- Foundation, M. R. (2016, June). *Mary Robinson Foundation: Climate Justice*. Retrieved from <https://www.mrfcj.org/wp-content/uploads/2016/07/Protecting-the-Rights-of-Climate-Displaced-People-Position-Paper.pdf>
- Joeri Rogelj (Austria, B. S. (2018). *Mitigation pathways compatible with 1.5°C in the context of sustainable development*. Special Report: Global Warming of 1.5° C, IPCC. Retrieved from <https://www.ipcc.ch/sr15/chapter/chapter-2/>

- Khan, A. A. (2024, June). Retrieved from ResearchGate: [https://www.researchgate.net/publication/380291814\\_Flood\\_Pattern\\_variation\\_in\\_Pakistan\\_A\\_Comprehensive\\_Study\\_on\\_Water\\_Quantity\\_and\\_Rainfall\\_Data\\_from\\_1992\\_to\\_2022](https://www.researchgate.net/publication/380291814_Flood_Pattern_variation_in_Pakistan_A_Comprehensive_Study_on_Water_Quantity_and_Rainfall_Data_from_1992_to_2022)
- Maneka Gandhi v. Union of India (Supreme Court of India 1978).
- Mayer, B. (2011). The International Legal Challenges of Climate-Induced Migration: Proposal for an International Legal Framework. *Colorado Journal of International Environmental Law and Policy*, Vol. 22, No. 3. Retrieved from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1755622#:~:text=Benoit%20Mayer,-The%20Chinese%20University&text=An%20international%20legal%20framework%20on,funding%20and%20local%20decision%2Dmaking](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1755622#:~:text=Benoit%20Mayer,-The%20Chinese%20University&text=An%20international%20legal%20framework%20on,funding%20and%20local%20decision%2Dmaking).
- Mehta, P. (2019). Women and children in the shadow of climate migration: Addressing vulnerability in South Asia. *Gender and Development*, 7(1).
- R.McLeman, B. (2006, March 30). Migration as an Adaptation to Climate Change. *Springer Link*, 76. Retrieved from <https://link.springer.com/article/10.1007/s10584-005-9000-7>
- Ridhima Pandey v. Union of India (National Green Tribunal 2017).
- Shamsuddin Shahid, H. B. (2008). Drought risk assessment in the western part of Bangladesh. *SPRINGER LINK*, 46. Retrieved from <https://link.springer.com/article/10.1007/s11069-007-9191-5>
- Sheikh Asim Farooq v. Federation of Pakistan (Lahore High Court 2018).
- Shresta v. Office of the Prime Minister (Supreme Court of Nepal 2017).
- Singh, S. (2024). *Climate Migration and Displacement: Challenges and Responses*. New Delhi: Indian Council of World Affairs (ICWA).
- Smith, J. (2020). The growing challenge of climate migration in South Asia: An overview. *International Journal of Climate Change*, 12, 321-327.
- (2019). *Special Report on Climate Change and Land*. Intergovernmental Panel on Climate Change (IPCC). Retrieved from <https://www.ipcc.ch/srccl/>
- ZAMAN, S. T. (2021). Legal Protection for the Cross-Border Climate-Induced Population Movement in South Asia: Exploring a Durable Solution. *Journal of Environmental Law & Litigation*, 36, 206,207. Retrieved from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4573296](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4573296)