



CLIMATE MOBILITY AND THE EMERGING LEGAL PROTECTION GAP: REASSESSING
INTERNATIONAL REFUGEE LAW THROUGH A HUMAN SECURITY LENS

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Abstract

Climate change has become one of the greatest forces of human mobility in the twenty-first century, forcing millions of people to move as a result of sudden-onset disasters and slow-onset environmental changes like sea-level rise, desertification, drought, and coastal erosion. Although the number of climate-induced migrants is increasing, they are not recognized as refugees under the existing international refugee law, including the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, which does not mention climate-induced migrants as refugees. This legal restriction has left millions of people without sufficient international legal protection. This paper critically reflects on how well the existing refugee protection framework is able to respond to climate mobility and considers the potential of the Human Security framework as an alternative refugee protection approach for climate displaced persons. The study uses a qualitative doctrinal research methodology and examines international legal instruments, UN reports, academic literature and selected case studies such as Pakistan, Bangladesh, Kiribati and Tuvalu. The results show that the current refugee framework is not sufficient to address the current trends of climate-induced displacement and that a human security approach offers a more comprehensive and people-centred understanding of protection, focusing on environmental, economic, food, health and personal security. The study calls for further strengthening of international legal instruments by improving cooperation, creating complementary protection instruments and embedding human rights principles in climate governance. It argues that a human security approach to international refugee law is needed to reflect the changing nature of climate mobility and to provide adequate legal protection for those impacted by climate change in today's rapidly changing climate.

Keywords: Climate Mobility, Climate Change, Climate-Induced Displacement, International Refugee Law, Human Security, Climate Refugees, Environmental Migration.

Article Details:

Received on 15 Oct 2025

Accepted on 12 Dec 2025

Published on 31 Dec 2025

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1. INTRODUCTION

Climate change is one of the most pressing challenges of the twenty first century, impacting on human societies, economies and ecosystems. In addition to its environmental impacts, climate change has become a significant factor in human migration, with millions of people being displaced due to climate-related events such as floods, droughts, rising sea levels, desertification, wildfires, and more. Climate mobility is defined by the International Organization for Migration (IOM) as the movement of people caused by sudden or gradual environmental changes related to climate change, temporary or permanent, voluntary or forced (IOM, 2019). Climate mobility is not the same as other types of migration, such as economic migration or migration due to political unrest, but is closely related to environmental degradation that poses risks to livelihoods, food security, access to clean water, public health and ultimately human life. The international community is confronted with a new challenge to safeguard populations affected by environmental change as the frequency and intensity of climate-related disasters are growing (IPCC, 2023).

The scientific evidence is clear: climate change is driving people around the world. According to the Intergovernmental Panel on Climate Change (IPCC, 2023), the increase in global temperatures has led to more extreme weather events, such as floods, cyclones, long-term droughts, heatwaves and sea-level rise, which disproportionately affect vulnerable populations in developing countries. Climate-induced mobility is one of the fastest-growing types of internal displacement, as weather-related disasters still cause millions of new internal displacements annually, according to the Internal Displacement Monitoring Centre (IDMC, 2024). In addition, the World Bank's Groundswell Report estimates that without adequate climate adaptation and sustainable development policies, over 216 million people may be forced to move internally as climate migrants by 2050 in six key world regions (World Bank, 2021). The alarming trends show that climate mobility is not a future issue anymore, but a present humanitarian and governance challenge that needs immediate international attention.

Although the phenomenon of climate-induced displacement has grown in scale, the current international refugee law has been unable to effectively address the phenomenon. The 1951 Convention Relating to the Status of Refugees and the 1967 Protocol on the Status of Refugees is the cornerstone of international refugee protection, and defines a refugee as a person who has crossed an international border because of a well-founded fear of persecution on the basis of race, religion, nationality, membership of a particular social group or political opinion (United Nations, 1951, 1967). The definition is a political one of the post-Second World War period, when refugee flows were linked to armed conflict, persecution, and ideological differences. As a result, those who are displaced mainly due to climate change are not covered by the Convention, even if the environmental risks they are exposed to are high (McAdam, 2012). International human rights law and regional protection mechanisms may offer some protection in some situations, but there is no specific international legal instrument that recognizes or protects climate-displaced persons (Kälin & Schrepfer, 2012).

This legal exclusion has led to an emerging protection gap, as described by many scholars (Kälin & Schrepfer, 2012). Millions of people forced to flee their homes due to environmental degradation frequently lack a clear legal status, and are unable to access asylum procedures, international assistance and durable solutions. The lack of legal recognition also brings up fundamental issues of state responsibility, burden sharing,

international cooperation, and basic human rights protection. Small Island Developing States (SIDS) such as Kiribati, Tuvalu and the Maldives are at risk of being submerged by sea level rise and are facing existential threats (IPCC, 2022). Likewise, Bangladesh, Pakistan, Somalia and Sudan have frequent floods, droughts and environmental degradation, which are still displacing millions of people (IPCC, 2022). The devastating floods in Pakistan in 2022, which impacted over 33 million people and displaced millions from their homes, brought to the fore the devastating interplay of climate vulnerability, poverty, poor infrastructure and lack of legal protection for disaster-affected populations (Government of Pakistan et al., 2022). The examples show that climate mobility is not only an environmental issue, but also a humanitarian, developmental, legal and security issue.

The failure of international refugee law to provide a satisfactory response to climate-induced displacement has sparked considerable debate among scholars, policy makers and international organisations. There are calls for a broader definition of refugee to encompass those displaced by climate change, and others say that a new international legal framework would offer more clarity and protection (Biermann & Boas, 2010; McAdam, 2012). Some have warned against broadening the definition of refugee, arguing that it would undermine the current refugee protections and cause practical problems in establishing causation, especially as climate mobility can be caused by a mix of environmental, economic, social and political factors (McAdam, 2012). However, there is increasing recognition that the existing international protection framework is inadequate to respond to the complex nature of climate-induced displacement and that there is a need for significant legal and policy innovation (Kälin & Schrepfer, 2012).

To overcome these challenges, the concept of Human Security provides an alternative approach to understanding and tackling climate mobility. Human Security is a concept introduced in the United Nations Development Programme (UNDP) Human Development Report (1994) and it has moved the security discourse from the protection of the state to the protection of the individual and community. It highlights freedom from fear, freedom from want and the right to live in dignity, and that threats like climate change, environmental degradation, food insecurity, health crises and resource scarcity have a direct impact on human well-being (UNDP, 1994; United Nations, 2012). The Human Security approach is different from the traditional security paradigms which focus on territorial integrity and national sovereignty because it acknowledges that environmental threats are not confined to national boundaries and that they demand people-centred, multidimensional and cooperative responses. When applied to climate mobility, this framework helps to gain a more comprehensive view of displacement, which goes beyond the legal definition and focuses more on protecting human rights, livelihoods and resilience.

While there is an increasing body of literature on climate migration, environmental displacement, refugee law and climate governance, there are still gaps in research. The current literature is largely either on the legal constraints of the Refugee Convention or on the environmental drivers of migration, while relatively little attention is paid to the incorporation of the Human Security framework into the study of international refugee protection. Furthermore, although there are many studies that recognize the vulnerability of climate-displaced populations, there are relatively few that critically examine how Human Security can contribute to the creation of complementary legal mechanisms that can meet the protection needs of climate-induced border-crossing populations (McAdam, 2012; Mayer, 2016). This study aims to do just that by rethinking international refugee law

from a Human Security perspective and by exploring how a more holistic, rights-based perspective can help to enhance international legal protection.

This research seeks to critically assess the current international refugee protection system's capacity to address climate-induced displacement and to consider how the Human Security framework could be used as a basis for legal and policy reform. The study employs a qualitative doctrinal research approach to explore international legal instruments, United Nations reports, judicial decisions, academic literature, and selected case studies such as Pakistan, Bangladesh, Kiribati and Tuvalu. The research compares the refugee law with other laws and highlights the main gaps in the existing refugee law and assesses new international initiatives to tackle climate mobility. The study integrates perspectives from international law, human rights, environmental governance, and security studies, and is part of the emerging debate on climate mobility, offering recommendations for the creation of a more comprehensive and robust international protection framework.

The legal protection gap for climate-displaced persons is a humanitarian need and an international legal obligation as climate change is driving a new era of global migration. The Human Security approach to the rethinking of international refugee law not only expands the definition of displacement but also underscores the importance of legal innovation that emphasizes human dignity, resilience, and justice in the context of global climate governance. The results of this research will be used to advance academic research, to guide policy discussions, and to inform future work to enhance international legal frameworks that can address one of the most pressing issues of the twenty-first century.

1- Literature Review

Climate mobility is a key field of research in migration, environmental governance and international law. The rise in the number of climate-related disasters and environmental degradation has raised concerns over the movement of people forced to relocate due to environmental change (IPCC, 2023). This section summarizes the key academic debates concerning climate mobility, international refugee law and the Human Security framework. It also identifies the research gap that this study seeks to address.

Climate mobility is the movement of people or communities due to climate change, including floods, droughts, sea-level rise, desertification and extreme weather events. Environmental migrants are those who migrate as a result of sudden or gradual environmental changes that negatively impact their lives or living conditions, according to the International Organization for Migration (IOM, 2019). This definition emphasizes that climate-related movement can be temporary or permanent, and can happen within or across countries.

The language used to refer to climate change-induced migrants has been a matter of debate. In the public debate, the terms climate migrants, environmental migrants, climate-displaced persons and climate refugees are used interchangeably. The term climate refugee, however, is legally problematic as environmental degradation and climate change are not grounds for refugee status under the 1951 Refugee Convention (McAdam, 2012). For this reason, many scholars opt for the term climate mobility, which does not necessarily refer to a legal status but rather to various types of mobility.

There is also a distinction between sudden onset and slow onset climate impacts in the literature. Sudden events like floods, cyclones and wildfires can result in immediate displacement. Slow onset events such as sea-level rise, desertification and long-term droughts, on the other hand, erode livelihoods over time and build up migration pressures over time. The Intergovernmental Panel on Climate Change (IPCC, 2023) acknowledges

that social, economic and political factors can also affect patterns of human mobility, which can be shaped by climate change.

Previous research has shown that climate mobility is a multi-faceted process with several drivers. Climate change can also be a threat multiplier, as it can worsen other vulnerabilities, including poverty, food insecurity, weak governance, and low adaptive capacity (Kälin 2015). This view implies that displacement is not always caused by environmental factors alone, and that migration is a result of a complex interplay of factors. The literature as a whole confirms that climate mobility is a growing global phenomenon and has implications for migration governance and international protection. But the lack of a clear legal framework for climate displaced persons is a big concern. This study contributes to the literature by exploring the potential of the Human Security framework to rethink international refugee law and the new protection gap that is being experienced by climate displaced persons.

2- Theoretical Framework

The main theory used in this study is Human Security Theory. The theory was developed by the UNDP Human Development Report (1994) and says that security is about the protection of people and not state borders. It acknowledges that the threats of today, including climate change, environmental degradation, pandemic diseases, poverty and scarcity of resources, are as serious as military threats, as they have a direct impact on human survival and dignity (UNDP, 1994). The Human Security Theory enables this study to explore the issue of displacement from a people-centred perspective. The theory is not about whether climate displaced persons meet the legal definition of refugee but whether they are facing threats to their basic rights and essential needs. Climate change is a multidimensional security threat, as environmental degradation can result in food insecurity, loss of livelihoods, health risks, water scarcity and forced migration (IPCC, 2022). The Human Security framework is especially relevant because it emphasizes the shortcomings of current refugee law and the need for more comprehensive refugee law approaches. It promotes collaboration between States, international organisations and civil society to tackle the underlying drivers of climate displacement and increase the resilience, adaptation and legal protection of those impacted (United Nations General Assembly, 2012).

3- Research Methodology

This study adopts a qualitative doctrinal legal research approach to examine how effectively international refugee law responds to climate-induced displacement. This approach is suitable because the study is primarily concerned with the interpretation and critical evaluation of existing legal rules, international instruments, judicial decisions and policy frameworks relating to climate mobility.

The study draws on both primary and secondary sources. Primary materials include the 1951 Refugee Convention, the 1967 Protocol, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Kampala Convention, the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration. The analysis also considers the Nansen Initiative, the Platform on Disaster Displacement and the decision in *Teitiota v. New Zealand*. Secondary sources include academic books, peer-reviewed articles and reports published by organisations such as UNHCR, IOM, UNDP, IPCC and the Internal Displacement Monitoring Centre.

A comparative legal analysis is used to assess the selected instruments according to their legal status, geographical scope, binding character, eligibility requirements, coverage of internal or cross-border displacement and availability of enforceable protection. Pakistan, Bangladesh, Kiribati and Tuvalu are used as illustrative examples because they represent different forms of climate vulnerability, including floods, cyclones, river erosion, sea-level rise and the possible need for cross-border movement.

Human Security Theory guides the analysis by shifting attention from the protection of state borders to the protection of individuals, communities, livelihoods and human dignity. Its economic, food, health, environmental, personal, community and political dimensions are used to examine the wider consequences of climate-induced displacement. The study is limited to documentary and legal analysis and does not include interviews, surveys or field-based evidence. Nevertheless, this approach provides an appropriate basis for identifying weaknesses in the current legal system and considering more inclusive protection for climate-displaced persons.

4- International Refugee Law and Climate Mobility

The current international refugee protection regime has proven to be inadequate in the face of the increasing phenomenon of climate mobility. International refugee law does not explicitly provide for climate-induced displacement as a basis for refugee status, although millions of people are displaced annually as a result of climate-related disasters and environmental degradation (IDMC, 2024). This chapter explores the legal framework for refugee protection, its relevance to climate mobility, and the problems associated with the lack of specific refugee law for climate migrants. International refugee law is based on the Convention Relating to the Status of Refugees of 1951 and the Protocol of 1967, which outline the rights of refugees and the responsibilities of states. According to Article 1(A)(2) of the Convention, a refugee is a person who is outside the country of his nationality because of a well-founded fear of persecution on the basis of race, religion, nationality, membership of a particular social group, or political opinion (United Nations, 1951, 1967). The definition was formulated after the Second World War, to respond to displacement due to persecution and armed conflict, not environmental change (McAdam, 2012).

Persons displaced by climate change are not normally considered to have a Convention refugee status because climate change is not a ground of persecution. The refugee protection regime does not apply to those who are forced to cross international borders as a result of climate-related disasters, unless they can prove persecution on one of the five grounds recognized by the Convention (United Nations, 1951; UNHCR, 2020). This means that climate displaced persons are less likely to have access to asylum procedures and to the legal rights of refugees under international law. The principle of non-refoulement, which is one of the fundamental principles of international refugee law, was enshrined in Article 33 of the 1951 Convention (United Nations, 1951). This principle bars states from sending refugees back to areas where their life or freedom would be at risk. Non-refoulement is a fundamental protection for recognised refugees, but its use for climate-displaced persons is not guaranteed as they are not usually refugees under the Convention. But the international human rights law has become more and more a part of the debate. In *Teitiota v. New Zealand* (2020), the United Nations Human Rights Committee recognized that a climate change risk to the right to life is an immediate risk and that no person should be returned to a country where the risk exists. The applicant's claim was ultimately rejected, but the decision was an important step in the recognition of the potential human rights implications of climate-induced displacement (Human Rights Committee, 2020).

To meet these challenges, a number of international efforts have aimed at addressing the protection needs of climate displaced populations. The Global Compact on Refugees (2018) encourages international responsibility-sharing, but does not include climate-displaced persons as refugees (United Nations General Assembly, 2018a). Likewise, the Global Compact for Safe, Orderly and Regular Migration (2018) acknowledges climate change as a factor of migration and calls on States to enhance migration governance and disaster preparedness (United Nations General Assembly, 2018b). These instruments are important policy developments, but they are not binding and do not confer enforceable rights on affected people.

The discussion on climate mobility has also been shaped by regional initiatives. The Nansen Initiative and its successor, the Platform on Disaster Displacement, urges states to take concrete steps to safeguard persons displaced across borders due to disaster and climate change (Nansen Initiative, 2015; Platform on Disaster Displacement, 2016). Similarly, the African Union Kampala Convention on the protection of internally displaced persons (IDPs) affords legally binding protection to IDPs, including those displaced by natural disasters (African Union, 2009). However, these regional mechanisms are geographically restricted and fail to create a global legal framework for international climate migration. The shortcomings of the current refugee law have sparked a lot of discussion among legal experts. Others have called for a broader definition of refugee to encompass climate-induced displacement, based on the humanitarian goals of the Refugee Convention. Others argue that changes to the Convention could undermine current refugee protections and lead to legal uncertainty. Another approach suggests the creation of an international agreement that is dedicated to climate mobility and is not a substitute for the refugee regime, but rather an addition to it (Biermann & Boas, 2010; Kälin & Schrepfer, 2012; McAdam, 2012).

The existing international refugee protection system is generally inadequate to respond to the realities of climate-induced displacement. While there are some forms of protection in international human rights law and new policy developments, these are not sufficient to fill the legal void created by the Refugee Convention (Kälin & Schrepfer, 2012; UNHCR, 2020). International law needs to be reformed to better address the specific vulnerabilities of climate displaced persons, while maintaining the current refugee protection framework, as climate change continues to drive human mobility. This analysis will form the foundation for the next chapter, which will discuss the new legal protection gap and its implications for international law and global governance.

5- The New Legal Protection Gap

Climate change has transformed the nature of human migration, leading to the emergence of new groups of climate migrants who are not covered by current international law. Although millions of people are forced to leave their homes each year because of climate-related disasters and environmental degradation, they often remain outside the scope of international refugee law (IDMC, 2024; UNHCR, 2020). This gap between the actual climate-induced displacement and the current legal instruments has led to the so-called legal protection gap (Kälin & Schrepfer, 2012).

The protection gap is due to the fact that the 1951 Refugee Convention does not connect refugee status with environmental harm but with persecution. Persons displaced by floods, cyclones, droughts, sea-level rise, desertification or other climate-related events are generally unable to prove the "well-founded fear of persecution" necessary under Article 1(A)(2) of the Convention (United Nations, 1951). Therefore, they are not entitled to refugee

status based on environmental issues, even if climate change poses a threat to their lives, livelihoods and basic human rights. This constraint has become more and more of an issue as climate change has increased the number and intensity of natural hazards globally (IPCC, 2022).

The other difficulty is the intricate link between climate change and migration. A single factor is not usually the cause of human mobility. Poverty, food insecurity, unemployment, political instability, conflict and weak governance are often linked to environmental degradation (Black et al., 2011). This makes it hard to distinguish between the effects of climate change and other socio-economic factors on displacement. This means that governments often consider climate migrants to be economic migrants and not people who need international protection. The legal protection gap is particularly evident in vulnerable developing countries. In 2022, Pakistan experienced devastating floods that displaced millions of people, destroyed homes, agricultural land, schools, and public infrastructure, highlighting the potential for climate-related disasters to create humanitarian crises on a massive scale (Government of Pakistan et al., 2022). Likewise, Bangladesh has been affected by recurrent river erosion and cyclones, which compel thousands of families to move from their homes annually, and small island developing states like Kiribati and Tuvalu are vulnerable to sea-level rise, which could make some areas of their islands uninhabitable in the future (IPCC, 2022). In spite of these facts, there is no internationally recognised legal status for affected populations similar to that of refugees who flee persecution (McAdam, 2012).

The problem is not completely solved by international human rights law, which offers some protection. Fundamental rights, including the right to life, the right to housing, the right to food, the right to health and the right to an adequate standard of living, are guaranteed by instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (United Nations General Assembly, 1948, 1966a, 1966b). But these treaties do not create a particular legal status for climate migrants or guarantee their entry and permanent protection in another country. As a result, protection is frequently determined by the national immigration policies, not by international obligations. These gaps have been attempted to be filled by international efforts. The Global Compact for Safe, Orderly and Regular Migration, the Global Compact on Refugees, the Nansen Initiative and the Platform on Disaster Displacement all recognize the increasing link between climate change and human mobility (Nansen Initiative, 2015; Platform on Disaster Displacement, 2016; United Nations General Assembly, 2018a, 2018b). These efforts promote international collaboration, disaster preparedness, and safeguarding of vulnerable groups. However, their recommendations are not binding and depend on voluntary implementation by states, which means they are not effective in guaranteeing uniform legal protection.

The ongoing legal protection gap has humanitarian and policy implications. Asylum, employment, education, health care and social protection are among the areas where climate-displaced persons may be denied access without formal legal recognition. Many continue to live in long-term situations of vulnerability and are not able to rebuild their lives or find durable solutions. Likewise, at the international level, there is no comprehensive legal framework, which also raises questions about the responsibilities of states, burden-sharing, and financial support for countries that are more vulnerable to climate change (Kälin & Schrepfer, 2012).

This protection gap needs to be overcome by going beyond the traditional understanding of refugee law. Although the reform of the 1951 Refugee Convention is politically difficult, alternative legal tools based on human rights, climate justice and international cooperation provide a good opportunity (McAdam, 2012). Regional agreements, temporary protection, disaster response mechanisms, and national adaptation strategies that include climate mobility are key measures to ensure that climate-displaced persons are protected. Finally, the new legal protection gap is a sign of the increasing disconnect between the current climate-induced displacement trends and the international refugee system, which was created in a different era. The need for legal and policy instruments that can safeguard vulnerable groups and uphold international law and human rights is more pressing than ever as climate change drives global migration. The next chapter explores how the Human Security framework can help to overcome these limitations by focusing on the protection of individuals, not states, as the core of international responses to climate mobility.

6- Climate Mobility through a Human Security Lens

The shortcomings of international refugee law in protecting climate displaced persons have led scholars and policy makers to consider other ways of protecting individuals over the traditional security of states, which has been the focus of international refugee law. The Human Security framework is one of the most influential approaches, which was first introduced by the United Nations Development Programme (UNDP) in its Human Development Report (1994) (UNDP, 1994). Human Security is not just about territorial integrity and military threats, but also about protecting people's lives, dignity and well-being, which is different from the conventional security concepts (UNDP, 1994). This people-centred approach offers a useful lens to understand climate mobility and the legal protection gap of climate displaced people. Human Security is based on the principle that security extends beyond the absence of armed conflict. UNDP defines Human Security as having seven dimensions: economic security, food security, health security, environmental security, personal security, community security, and political security (UNDP, 1994). All of these dimensions are at risk from climate change. Increased temperatures, floods, droughts, sea-level rise and extreme weather events destroy livelihoods, lower agricultural productivity, worsen food insecurity, affect public health, and disrupt social and community structures (IPCC, 2022). Climate mobility should therefore not only be considered a migration problem, but a multi-dimensional human security problem.

In terms of Human Security, displacement is not just about moving people across geographical boundaries, it is the outcome of threats that compromise the basic conditions for human survival. Climate-induced displacement can lead to the loss of one's home, job, school, and social network, and can leave people vulnerable to poverty, discrimination, exploitation, and lack of access to basic services (IPCC, 2022). The consequences show that climate change impacts on basic human rights and human dignity, and that protection mechanisms must go beyond the refugee framework. The Human Security approach also emphasizes the concept of prevention. Instead of reacting to displacement, it calls for efforts to build resilience, disaster risk reduction, climate adaptation and sustainable development to lessen vulnerabilities, both at the government and international organization levels (United Nations General Assembly, 2012). Flood protection, climate-smart agriculture, early warning systems and social protection measures can help to lower the risk of forced displacement and build community resilience to environmental shifts (IPCC, 2022). In this regard, Human Security supports the goals of the Paris Agreement (2015) and the 2030 Agenda for Sustainable Development, which both highlight the need to

safeguard vulnerable populations against climate change effects (UNFCCC, 2015; United Nations General Assembly, 2015).

Another significant aspect of the Human Security framework is its focus on international cooperation. Climate change is a transboundary problem, which requires a multi-state solution. There are concerns about equity and climate justice as countries with the lowest emissions are the ones that are most affected by climate change (IPCC, 2022). Human Security thus advocates for increased international responsibility sharing in the form of financial aid, technology transfer, capacity building and humanitarian cooperation. These measures are especially crucial for developing countries, including Pakistan, Bangladesh and SIDS, which are highly vulnerable to climate change despite their comparatively low historical emissions (IPCC, 2022). The Human Security framework also reinforces the link between climate mobility and international human rights law. It does not only consider the legal definition of a refugee, but also the protection of universal rights, such as the right to life, health, housing, food, water and an adequate standard of living (United Nations General Assembly, 1948, 1966a, 1966b). This wider perspective acknowledges that the rights of climate displaced persons are being violated, whether or not they meet the legal definition of refugee as set out in the 1951 Refugee Convention. Consequently, Human Security offers a more flexible and inclusive approach for developing complementary legal mechanisms that respond to the realities of climate-induced displacement (Kälin & Schrepfer, 2012).

The Human Security approach has its merits, but it also has its drawbacks. Some critics say that the idea is too vague and doesn't have clear legal guidelines (Newman, 2010; Paris, 2001). Human Security does not establish legally binding obligations or enforceable rights for climate-displaced persons, as does the Refugee Convention. This is therefore dependent on political will, international cooperation, and the readiness of states to integrate Human Security principles into national and international policies. However, its holistic and human-centred approach offers a valuable normative basis for future legal changes. To sum up, the Human Security approach provides a useful alternative perspective on climate mobility and the limitations of current refugee law. It moves away from the concept of state sovereignty to the protection of the individual, and acknowledges climate-induced displacement as a humanitarian, developmental and human rights issue, not just a migration issue. The inclusion of Human Security principles in international legal and policy instruments can help to better protect climate-displaced persons and foster resilience, climate justice and sustainable development. The next chapter examines the current international and regional legal frameworks to assess their effectiveness in tackling climate mobility and to identify gaps for further legal development.

7- Comparative Legal Analysis

The growing magnitude of climate-induced displacement has raised the question of whether current international and regional legal instruments can provide protection to climate-displaced persons. There are a number of international agreements and policy initiatives that include migration, refugees, disaster displacement and human rights, but none offers a comprehensive and legally binding protection regime for people displaced by climate change (Kälin & Schrepfer, 2012; McAdam, 2012). This chapter compares the main legal tools that regulate human mobility and assesses their effectiveness to tackle climate mobility.

The Convention Relating to the Status of Refugees 1951 is the main international instrument for refugee protection. Its most important features are its binding quality and

its existing rights and obligations, such as the non-refoulement principle, access to asylum procedures and protection from discrimination. It is restricted, however, to those who are fleeing persecution on the basis of race, religion, nationality, political opinion or membership of a particular social group (United Nations, 1951). Most climate displaced persons are not under the protection of the Convention because climate change is not considered a basis for persecution. While the Convention remains a key instrument for the protection of refugees, it is not sufficiently addressing the challenges of climate-induced displacement (McAdam, 2012).

The Global Compact on Refugees (2018) was agreed to enhance international cooperation and responsibility-sharing in the protection of refugees. It pushes for better refugee responses, host community support and durable solutions. The Compact acknowledges that environmental degradation and disasters may cause displacement, but does not change the definition of a refugee nor expand refugee status to climate-displaced persons (United Nations General Assembly, 2018a). Consequently, its role in climate mobility is restricted to policy coordination, and not legal protection.

Likewise, the Global Compact for Safe, Orderly and Regular Migration (2018) recognizes climate change as a key factor in migration and calls on States to create migration routes for those impacted by environmental degradation and disasters. The Compact encourages international cooperation, disaster preparedness and planned relocation as needed. But it is not a legally binding political accord, so states are not obligated to follow its recommendations (United Nations General Assembly, 2018b). Thus, the protection of climate displaced persons remains largely reliant on national immigration policies. The Kampala Convention (2009) is one of the most important pieces of legislation at the regional level on disaster-induced displacement. It is the first legally binding regional agreement to explicitly acknowledge natural disasters and climate-related events as drivers of IDPs, adopted by the African Union. The Convention calls for the prevention of displacement, protection of IDPs and durable solutions (African Union, 2009). Although it is progressive, it is only applicable to African Union member states and is mainly about internal displacement, not cross-border.

The Nansen Initiative has also led to the creation of the Platform on Disaster Displacement (PDD) that has helped shape international debates on climate mobility. The Platform does not impose new legal requirements, but encourages concrete actions, policy-making and collaboration between states to enhance protection for persons displaced across borders due to disasters and climate change (Nansen Initiative, 2015; Platform on Disaster Displacement, 2016). Its flexible approach has encouraged policy innovation and regional dialogue; however, its voluntary nature limits its effectiveness in ensuring consistent legal protection.

These instruments are compared and progress and serious deficiencies are identified. The Refugee Convention offers robust legal protection, but climate displaced persons are not covered due to the narrow definition of persecution. Climate mobility is acknowledged in the Global Compacts, but they are not legally binding, but rather political. Regional measures like the Kampala Convention show that climate-related displacement is possible to be included in legal frameworks, but their geographical reach is still limited. In the interim, there are voluntary approaches such as the Platform on Disaster Displacement that promote cooperation but do not ensure enforceable rights.

The results show that there is currently no single legal instrument that provides full protection for climate displaced persons. Rather, the international legal framework is made

up of disjointed pieces of legislation that cover various aspects of migration, disaster response, human rights, and environmental governance. This fragmentation results in gaps in protection and for many affected persons in lack of clear legal status and access to durable solutions (Kälin & Schrepfer, 2012; McAdam, 2012).

Future legal development should take a complementary approach to a single treaty to overcome these deficiencies. There is a need to enhance the linkages between refugee law, international human rights law, climate change law and DRR mechanisms to offer more holistic protection for climate-displaced people. This would maintain the integrity of the Refugee Convention, while acknowledging that climate mobility calls for complementary legal and policy measures to the existing refugee protection framework (McAdam, 2012).

The comparative analysis shows that while there has been significant progress in recognising the link between climate change and human mobility, current legal frameworks are still inadequate to meet the protection needs of climate displaced persons. A more integrated, people-centred and collaborative legal approach is thus needed to effectively address one of the greatest humanitarian challenges of the twenty first century.

8- Conclusion

Climate change is one of the most important factors of human mobility in the twenty-first century, posing complex legal and humanitarian challenges that are not addressed by the current international refugee law. This study explored the link between climate mobility and international refugee law, with a focus on the new legal protection gap for climate displaced persons, using the lens of Human Security.

The analysis shows that the 1951 Refugee Convention and its 1967 Protocol still offer protection to those who are fleeing persecution, but are not sufficient for those who are being displaced mainly due to climate-related disasters and environmental degradation. Climate change is not considered a refugee cause, and millions of people are not covered by international refugee protection despite being at risk to their life, livelihood and human dignity.

The study also found that while international initiatives like the Global Compact on Refugees, the Global Compact for Safe, Orderly and Regular Migration, the Platform on Disaster Displacement, and regional instruments have helped in the development of policies, they have not created legally binding protection for climate-displaced persons. As a result, the existing international legal system is still fragmented and fails to adequately address the complexities of climate-induced displacement.

The study, which employed Human Security Theory as an analytical framework, contended that climate mobility is not just a migration problem but also a multi-dimensional problem that impacts environmental, economic, food, health, personal and community security. A people-centred approach extends the definition of protection beyond the refugee definition and emphasizes the need to protect basic human rights in the context of climate change.

Finally, there is a need for increased international cooperation, the incorporation of human rights principles, improved climate adaptation measures and the creation of alternative legal tools that can safeguard climate displaced people in the face of the new legal protection gap. The need to rethink international refugee law from a Human Security perspective is both legal and humanitarian. It is a legal and humanitarian imperative to rethink international refugee law from a Human Security perspective, as patterns of human mobility are changing with climate change. These reforms will not only enhance

international protection but also help to build a more equitable, resilient and sustainable world's response to one of the defining challenges of the twenty-first century.

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