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## LACK OF LEGAL PROTECTION FOR ENVIRONMENTAL REFUGEES IN INTERNATIONAL LAW

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### ABSTRACT

*The concept of “Environmental Refugees”, developed in the 20th century, has arisen due to escalated environmental degradation, mainly caused by industrialization, technology and a rising population. Environmental Refugees are displaced by extreme factors such as rise in sea levels, desertification, deforestation, drought and natural disasters. However, the International Laws do not identify these people, and the 1951 Refugee Convention does not accept environmental causes as legal grounds for being considered refugees. Most environmental-related displaced people remain within their countries and do not come under the legal definition of a refugee, which includes cross-country migration. The problem in counting the number of environmental refugees is also associated with the lack of definition of this term. Many organizations prefer the term “disaster displacement” to avoid the legal connotations of ‘refugee’. While climate change is being cited as a major cause for the majority displacements, the term “climate refugee” has no official status either. The real-life illustrations for Environmental Refugees include the environmental displacements in Amazon and Australian bushfires, rural migration in Pakistan and droughts in Africa. Over one billion people might face displacement by environmental disasters alone by the year 2050. The general public is increasingly aware, but International Law does not recognize any rights for the environmental refugees, nor does it enhance disaster management mechanisms presently.*

### INTRODUCTION

The 20<sup>th</sup> century saw the emergence of Environmental Law as a result of increased public awareness of the problems that technology, industrialization and the growth in population were causing to the natural world and, consequently, to human interests.<sup>2</sup> People forced to flee their homes and communities, due to various environmental changes such as sea level rise, deforestation, drought, desertification, volcanic eruptions and human activity like burning fossil fuels and clearing forests, are known as Environmental Refugees. The phrase gained popularity, holding a significant position in public and political discourse. Additionally, it implies that the concept encompasses those who relocate for environmental causes, unrelated to climate change, such as erosion or volcanic eruptions.<sup>3</sup>

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<sup>2</sup> PAUL MARTIN, THE SEARCH FOR ENVIRONMENTAL JUSTICE, (Edward Edgar Publishing Ltd. 2015).

<sup>3</sup> Alex Randall, *Environmental refugees: who are they, definition and numbers*, CLIMATE AND MIGRATION COALITION, <https://climatemigration.org.uk/environmental-refugees-definition-numbers/>

Furthermore, the majority of people who relocate because of environmental changes typically do so within their own country rather than across international borders. The fact that someone has left their own country is a crucial component in the definition of a refugee. It is also exceedingly difficult to estimate the number of Environmental Refugees who exist or will exist, due to the difficulties in defining someone qualifies as such. The media frequently cites numbers that are estimated to be of “Climate Refugees” rather than “Environmental Refugees.” Climate refugees are considered to be a portion of environmental refugees who have been displaced by the consequences of global warming and climate change. The majority of organizations that assist those who may qualify as “Environmental refugees” refer to them as “disaster displacement.” This is done in part to prevent implying that individuals who escape natural disasters could be considered as refugees under the law.

### CASE STUDIES

In 2020, the Institute for Economics and Peace (IEP) predicted that the combined threats of civil unrest and climate change might result in the displacement of more than a billion people by 2050. Fires in the **Amazon rainforest**, which is essential to the planet's environment, have significantly increased, increasing by 84% in 2019 over 2018.<sup>4</sup> Farmers are mostly to blame for these fires, which have drawn criticism from throughout the world. Concerned about deforestation, Brazil's government responded by sending out the army and temporarily outlawing land-clearing fires. At least 24 people and over a billion animals have been killed by Australia's bushfires, which are among the worst in history and have destroyed over 6 million hectares. Canberra's air quality peaked at 792 micrograms per cubic meter, which is dangerously high. More than 80,000 people were displaced by the fires, which also seriously damaged the environment and natural species.

**Rural Pakistan's** environmental shortages, particularly its declining agriculture and water supplies, have pushed people to migrate to cities, where they reside in flood-prone areas, lacking infrastructure. Pakistan has also taken in more than 3 million Afghan refugees since 1979. The identification of 14 migrant types is made more difficult by the persistence of new refugee waves despite repatriation following the withdrawal of Soviet troops.<sup>5</sup> The droughts and desertification—the conversion of fertile land to desert—are brought on by rising temperatures. The worst drought to hit the Horn of Africa in forty years is currently sweeping the region. Millions of people are experiencing forced relocation as a result of these environmental disasters, and their cultural legacy and quality of life are being lost.

According to the United Nations High Commissioner for Refugees (UNHCR), food shortages and forced displacement have gotten worse as about 200,000 people from **South Sudan** and Somalia have fled to drought-stricken refugee camps in Kenya and Ethiopia. More than 2 million people were displaced by drought in 2022, and livelihoods—particularly pastoralism—were negatively disrupted. In 2022, more than 5 million **internally displaced people (IDPs)** lived in drought-affected areas.<sup>6</sup> A Nature 2021<sup>7</sup> research states that 267 million people reside

<sup>4</sup> *Amazon fires increase by 84% in one year - space agency*, BBC (2019).

<sup>5</sup> L. Hens, *Environmentally Displaced People*, 2 AFRICA (REGIONAL SUSTAINABLE DEVELOPMENT REV.).

<sup>6</sup> Amali Tower and Ryan Plano, *Case Study: Non-Economic Loss and Damage in Kenya*, CLIMATE REFUGEES (2023).

<sup>7</sup> Daniel Khojasteh, *The evolving landscape of sea-level rise science from 1990 to 2021*, 4 Commun Earth Environ, (2023), <https://www.nature.com/articles/s43247-023-00920-4#citeas>

in regions where sea level rise poses a concern. For example, Bangladesh's low-lying areas are under risk; in 1995, Bhola Island partially flooded, forcing 500,000 inhabitants to relocate.<sup>8</sup>

These case studies demonstrate and emphasize on the importance of developing regionally specific solutions, to address the needs of the most vulnerable people of impacted communities, including women and children, Indigenous Peoples and other marginalized groups. A one-size-fits-all approach will, at most, contribute to maintaining existing inequalities.

## LEGAL HISTORY

Prior to the 1960s, there were very few separate international environmental regulatory measures and a lack of environmental consciousness. Nearly thirty years have passed since environmental issues were brought to the attention of the world at the UN Stockholm Conference in 1972, where it was stated that “man bears a solemn responsibility to protect and improve the environment for present and future generations” and that “he has a fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.” The United Nations Environment Programme (UNEP) was established as a consequence of the 1972 Conference.<sup>9</sup>

The 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol<sup>10</sup> serve as the main sources of influence for international refugee law. According to the 1951 Convention, a person who is outside their country of nationality and has a legitimate fear of being persecuted because of their race, religion, nationality, membership in a social group, or political beliefs is considered a refugee. It describes the rights and safeguards to which refugees are entitled as well as their responsibilities to the host nation.

However, those who are escaping because of environmental changes typically don't fit the Convention's definition of refugees. The 1951 Convention does not recognize such people as refugees, despite the fact that they may lose their whole nation. The 1969 OAU Convention<sup>11</sup>, a regional African accord, and the 1984 Cartagena Declaration<sup>12</sup> attempt to broaden refugee protections by including persons fleeing generalized violence and disturbances to public order, which could encompass disaster displacement. However, the OAU Convention is regional, and the Cartagena Declaration is non-binding, limiting their scope and effectiveness. Millions of displaced individuals are still without protection in the absence of a legally binding international agreement to identify environmental refugees. Non-binding agreements leave a protection vacuum since they permit states to ignore their obligations. To guarantee that environmental refugees obtain the legal status and protections they require and to hold nations responsible for upholding their commitments under international law, a new, legally binding international convention is required. When the environment suffers, people suffer. The most destitute and most vulnerable will suffer first, and possibly most, but eventually the crisis will affect all of us. The global ecology movement has spread to every continent, with thousands of organizations forming to protect the environment almost fifty years after Greenpeace was

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<sup>8</sup> *Environmental Refugee*, NATIONAL GEOGRAPHIC (2024).

<sup>9</sup> ICELANDIC HUMAN RIGHTS CENTRE, Human Rights and the Environment, <https://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/human-rights-in-relation-to-other-topics/human-rights-and-the-environment>

<sup>10</sup> The 1951 UN Refugee Convention, 1951 (US).

<sup>11</sup> The 1969 OAU Convention, 1969, (African Union).

<sup>12</sup> The 1984 Cartagena Declaration, 1984, (Columbia).

founded. Meanwhile, the challenges we confront get increasingly complex. The next fifty years will be a test of humanity's ability to meet the challenge.<sup>13</sup>

A more critical analysis of the details of the relationship between human rights and the environment is required, notwithstanding the claim that human rights laws can aid in protecting the environment.<sup>14</sup> Over 1.5 million Indians are thought to be internally displaced annually, mostly due to a variety of natural disasters, such as climate change. It is challenging to get accurate statistics on the number of “Environmental Refugees” because neither international conventions nor laws acknowledge the existence of this specific category of refugee.

## STATISTICS

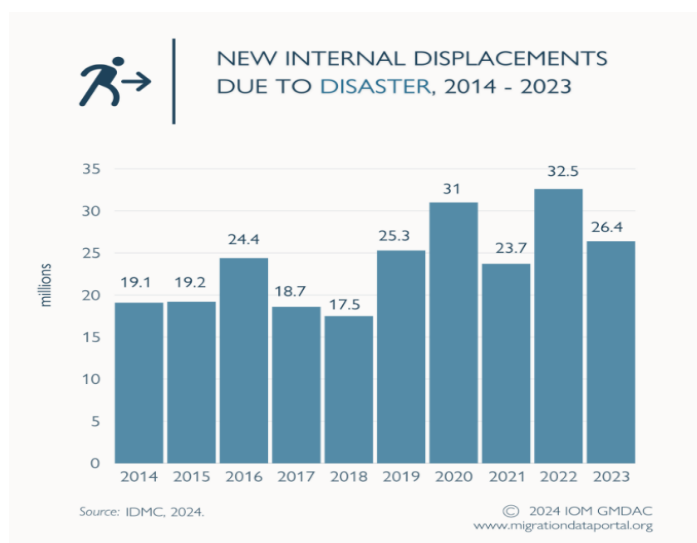


Figure 1

In 2023, disasters, including weather-related and geophysical events, accounted for 56% of the 46.9 million new internal displacements. 7.7 million people in 82 countries were still displaced by previous and present disasters by the end of the year, an 11% drop from 2022.<sup>15</sup>

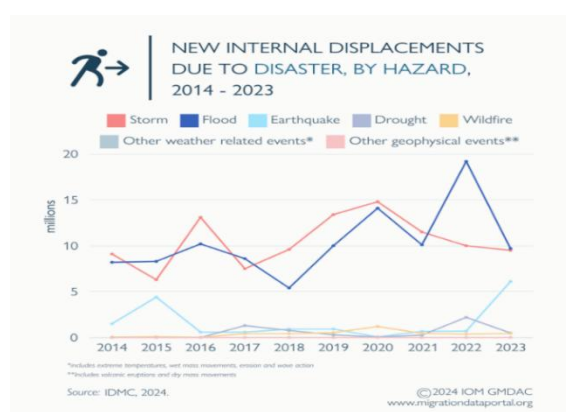


Figure 2

<sup>13</sup> Stephen J. Turner, *Introduction: A Brief History of Environmental Rights and the Development of Standards*, CAMBRIDGE UNIVERSITY PRESS, (2019).

<sup>14</sup> Dinesh Yadav, *Human Rights And Environment*, LEGAL SERVICES INDIA.

<sup>15</sup> *Environmental Migration*, MIGRATION DATA PORTAL, (June 5, 2024), [https://www.migrationdataportal.org/themes/environmental\\_migration\\_and\\_statistics\\_](https://www.migrationdataportal.org/themes/environmental_migration_and_statistics_).

China, Turkey, the Philippines, Somalia, and Bangladesh were the countries most affected by the third-highest disaster displacement in ten years in 2023, despite fewer displacements caused by weather-related causes.

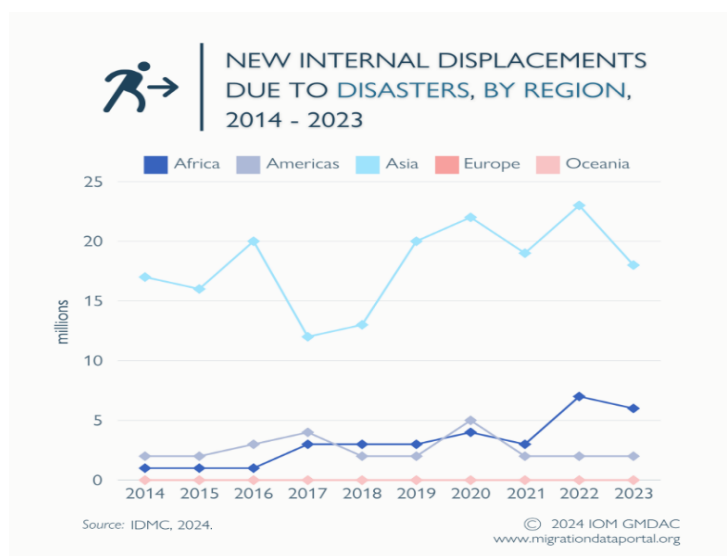


Figure 3

In 2023, weather-related disasters such as droughts, floods, and storms accounted for 77% of the 26.4 million new internal disaster displacements. 9.8 million people were displaced by floods, and 9.5 million by storms. As in the preceding seven years combined, earthquakes accounted for about a quarter of displacements, especially in Turkey, Syria, the Philippines, Afghanistan, and Morocco. Areas that already house displaced people from conflicts were impacted by several earthquakes.

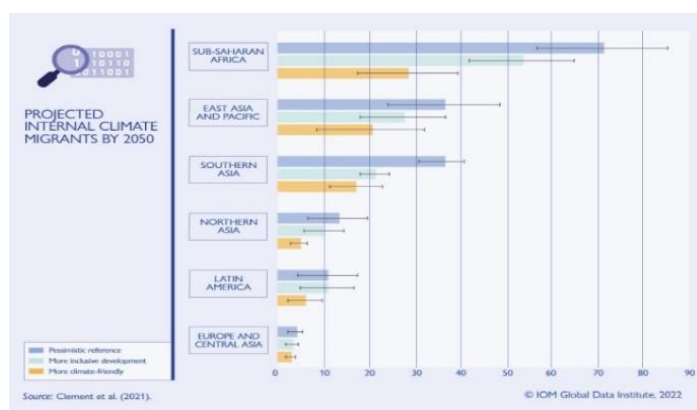


Figure 4

Internally displaced people are still affected by the COVID-19 pandemic, which exacerbates food shortages and livelihood loss. Food security is made worse by climate change, which modifies temperature and precipitation and lowers agricultural output. Migration is a result of both abrupt calamities, like floods, and gradual occurrences, like droughts. By 2050, the IPCC predicts that over a billion people would be at risk from coastal climate change, which might force millions to relocate. According to the World Bank, if immediate action is not taken to cut

emissions, up to 216 million people may be internally displaced by climate change in six different parts of the world by 2050.<sup>16</sup>

## CONCLUSION

**The rules in International Law still do not address the rehabilitation of Environmental Refugees.** Also, it is important to keep in mind, though, that the phrase “Environmental Refugees” is not officially recognized by any of the international organizations or laws or rules that assist other types of recognised refugees and migrants. The word is not enshrined in any national or international laws, despite the fact that some government officials may have used it. There are a huge number of people affected by the environmental factors across the world, and are forced to displace their settled houses and livelihood, which therefore, require protection under the International Laws. Environmental Refugees need to be recognised and protected just like other refugees by the law. The absence of data can also be linked to a lack of consensus on what constitutes refugees from environmental disasters, even among academics and decision-makers.

**In India, the state has typically done nothing to address the complete displacement that results in the loss of a home and a source of income.** The law pertaining to compensation in circumstances of government land acquisition for state development projects is the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013**.<sup>17</sup> The **Disaster Management Act, 2005**<sup>18</sup> called for the establishment of the National Disaster Management Authority (NDMA), which is the country's top disaster management authority and is led by the Prime Minister of India.

The inclusion of word “refugees” is frequently interpreted to suggest that Environmental Refugees do or may profit from the protection of the Refugee Convention. Though, this is not the truth. According to the 1951 Refugee Convention, there are a number of very specific reasons why someone might be displaced. These mentioned causes do not include environmental forces. “Environmental Refugees” do not have the same rights as regular refugees, even though the term may be evocative or helpful in communication. It also makes more sense to talk about disaster displacement as a wholly different concept, rather than trying to identify specific individuals who could or might not fall into a category like climate refugees or environmental refugees.

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<sup>16</sup> *Id.*

<sup>17</sup> Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013, No. 30, Acts of Parliament, 2013 (India).

<sup>18</sup> The Disaster Management Act, 2005, No. 53, Acts of Parliament, 2005 (India).

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