

The University of Chicago

**Climate Change, Migration and International  
Law:  
The Impacts of Climate-induced Migration and  
Displacement on Women and Girls**

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June 2022

A paper submitted in partial fulfillment of the requirements for the Master of Arts degree in the  
Master of Arts Program in the Committee on International Relations

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## ACKNOWLEDGMENTS

I would like to express my gratitude to my advisor, Dr. Kathleen Cavanaugh, who guided me throughout this project. Her enthusiasm, knowledge, and dedication to studying International Law allowed me to thoroughly research a niche topic and develop a deeper appreciation for the international legal system.

I would also like to thank my preceptor, Dr. Burcu Pinar Alakoc, whose patience and support allowed me to complete my thesis on time.

I wish to extend my special thanks to Dr. Marchéta Wright for imparting her knowledge and expertise on the subject matter while encouraging me to grow as a researcher and scholar.

Last but not least, to my mother and sister, who proofread my thesis and provided words of encouragement, thank you for everything.

## **Abstract**

Research has shown that women and girls are among the most vulnerable to climate change. Their mobility is primarily linked to gendered and societal norms, which leads to various forms of marginalization. This research paper aims to determine the connections between climate change, migration, and international law to examine how climate-induced migration and displacement affect women and girls. Then, it seeks to identify and examine laws and policies that address climate-induced migration and its adverse effects on women. In doing so, the practicality of developing gender-responsive policies to reduce various forms of marginalization against women and girls is advanced.

*Keywords:* climate-induced migration, international law, climate change,

## Introduction

The United Nations High Commissioner for Refugees (UNHCR) estimated that roughly 33.4 million people were internally displaced due to conflict and natural disasters in 2019 (UNHCR 2020). That number is expected to increase to over 200 million by 2050 (UNHCR 2020). Climate change and its resulting extreme climatic disasters represent a direct threat to the future of humanity (Hulme, 2016). And although studies on the gendered impacts of climate-induced displacement are scarce, one common theme is the social gender divide and how that serves to marginalize women and girls (Sawas and Bose 2021). Climate-induced displacement deepens existing gender inequalities. Resulting from the effects of climate change on population movement, vulnerable population groups (especially women and girls) are adversely and disproportionately affected (CIDA 2002; Hunter and David, 2009).

Gender inequalities and disparities directly affect an individual's ability to adapt and respond to the effects of climate-induced displacement. Women and girls displaced by adverse climatic events have a greater risk of gender-based violence, decreased economic stability, and reduced access to education and healthcare services (Sawas and Bose 2021). Societal norms are rarely considered when implementing policies to curb the effects of forced displacement (Nightingale 2017; Rothe 2017). Climate change complicates matters when it leads to migration and displacement. It disrupts traditional livelihoods, forcing people to develop adaptive strategies primarily based on income, education, health, and natural resources (Chindarkar 2012). These strategies have gendered dimensions that influence the quality of life one has after being displaced (Alston and Akhter 2016; Chindarkar 2012). For example, in certain countries, women and girls tend to be poorer and less educated, which directly correlates to inequitable gender relations and access to resources and essential services; therefore, they are more vulnerable to

climate change than men and are less likely to adapt and cope with changes caused by climate change (Masika 2002). Despite the disproportionate effects of climate change and the enormous potential of women and girls to be agents of positive change in the global transition towards sustainability, women and girls remain obscured in research, policy, and media narrative on climate-induced migration (Sawas and Bose 2021). Nonetheless, gender-responsive public services and policies are critical for diminishing the barriers that exclude and marginalize women and girls while protecting their human rights.

To that end, the Guiding Principles on Internal Displacement, the 1951 Refugees Convention, and human rights law offer critical insight into what is currently being done to protect environmental migrants affected by climate-induced migration. As will be discussed, scholars debate the relevance of each framework to the plight of those displaced due to climatic events. However, gender-specific solutions are less forthcoming in these frameworks. The debate on how to rectify that issue is also addressed in tandem with the literature on state responsibility under international law or a specific legal framework. Last, using existing norms and customs as the foundation for future policies and laws is now the focus of scholars and advocates. It offers insight into what the future holds for those affected by climate change and the possibility of gender-responsive policies that include and recognize the differences between men and women in responding to migration and displacement caused by climate change and its adverse effects. This is a critical theme in the literature.

## ***Overview of Climate-induced Migration and Displacement effects on Women and Girls***

According to the International Organization for Migration (IOM), “environmental migrants are persons or groups of persons who, predominantly for reasons of sudden or progressive change in the environment that adversely affects their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad” (IOM 2007:33). The linkages between climate change, migration, and conflict highlight a causal relationship where climate change has been understood as a "threat multiplier" rather than a direct cause of migration owing to the complex interactions among different social, political, economic, demographic and environmental conditions (Warner et al. 2009). Scholars have argued that exact numbers are needed to understand the extent to which climate-induced migration occurs to raise awareness of the issue and develop pragmatic solutions. However, it is exceedingly difficult for scholars to determine suitable time scales for measuring these effects, especially for slow-onset changes (Burkett 2012). This dilemma is evident among those who believe environmental change is a major cause of migration and displacement (maximalists) and those who argue that migration is multi-causal (minimalists) and that environmental factors are not the only things driving migration (Naik 2009).

Following the argument that climate change is a threat multiplier rather than a significant driver of migration and displacement, it is evident that women and girls face the increased threat of being further marginalized and ignored at local, regional, and national levels (Sawas and Bose 2021). Further, the multifaceted nature of the migrant movement is best explained in ways that recognize differences among vulnerable populations and the factors that greatly influence their decisions to move from one place to another (Boncour and Burson 2009). While climate change

is undoubtedly causing migrant movement, it alone cannot sufficiently explain why an individual chooses to leave at a particular time (Boncour 2009; Lama et al. 2020). This becomes clearer when one recognizes how gender inequalities lead to the marginalization of women and girls and make them less responsive and able to adapt to climate change (Mitchell et al. 2007). Therefore, discursive language on climate-induced migration should offer a holistic appraisal of the issue that integrates the everyday realities of vulnerable communities and specific groups within those communities who are double-victimized, in this case, women and girls, to make clear the current impacts and what ought to be done to limit its future possibilities.

Moreover, migration is only one in a plethora of potential responses to climate change and is linked to other political and socioeconomic factors (Arnall and Kothari 2015). There exist sufficient evidence that migration is not always possible, and when it is, women and girls are not prioritized, with many choosing to stay in unsafe communities (Masika 2002; Dementriades and Esplen 2010; Hanson 2010). Furthermore, studies have shown that sexual assault, kidnapping, and the trafficking of women and girls increase exponentially during floods and other adverse climatic events as the possibility of migration and displacement is high (Memon 2020; Brown 2008). Violence against women and girls increases during times of natural disasters. It reduces women's resilience and is a significant barrier to their participation in climate change policy-making. Second, climate change and its adverse effects contribute to spikes in all forms of domestic violence, thereby violating the rights of women and girls and depleting their already limited resilience (Camey et al. 2020).

As previously stated, women are at higher risk of sexual harassment, sexual assault, and human trafficking during extreme climatic events. Whenever climate-induced migration and displacement lead to women and girls being placed in shelters, it is difficult for them to use

public restrooms as it is inappropriate for them to be seen by men without a veil or in wet clothes (Memon 2020). Temporary accommodations in the form of camps and shelters usually lack hygiene facilities adequately equipped for the needs of women and girls. Further, separate bathroom facilities for men and women are uncommon, thus increasing the risk of sexual harassment and violence (Memon 2020). Pregnant and breastfeeding women face additional challenges due to the lack of personal space to care for themselves and their children (Memon 2020).

In addition to climate change and natural disasters, environmental degradation and reduced access to natural resources also impact women's and girls' ability to migrate (Chindarkar 2012). In the wake of natural disasters, women are more likely to evacuate. Owing to socially constructed gender roles such as women being homemakers and caregivers and greater risk exposure due to their low socioeconomic status and special medical needs (in the case of pregnant women), migration seems to be the best-case scenario (Bateman and Edwards 2002). However, this is not the norm in developing countries as women's mobility is highly restricted. They are less likely to migrate where many die due to natural disasters or in the aftermath where living conditions are less conducive to a decent quality of life (Fothergill 1996). Henceforth, climate-induced migration and displacement correlate to social norms and gendered roles. Also, women are more susceptible to the psychosocial impacts of natural disasters than men. The added burden of caring for family members, even when they are struggling themselves, leaves many women in a state of anxiety and post-traumatic stress (Mitchell et al. 2007). Moreover, breaking societal norms and the separation of the family have also had a heavy impact on women and girls. For example, in cases where the male head of the household is absent, women must



take over, but rules regarding land ownership, education, and access to financial resources make this a difficult task (Mitchell et al. 2007; Spring 2007; Brown 2008).

Climate, gender, and migration are often linked to argue that women are more vulnerable to the adverse effects of migration and displacement (Djoudi and Brockhaus 2011). However, Lama et al (2020) posit that looking at gender from the perspective of women and limiting the causality of vulnerability and its consequences on physical resources risks leading to simple causal explanations that focus on counting environmental migrants and presenting the resulting impacts as a sex-disaggregated statistic that focuses solely on the physical significance of movement as a means of establishing and supporting the link between climate, gender, and migration (Lama et al. 2020). Although this perspective ignores the root causes of migration on the whole and focuses on a binary system where the vulnerabilities of other gender are ignored, there is value in examining the effects of climate-induced migration on women and girls, especially since most countries follow a binary system and the international legal system, in its aim to be unbiased and ambiguous sometimes avoid the gender issue altogether. Nonetheless, focusing on how the effects of climate change are indicative of social norms rather than whether climate change causes human mobility will reveal how and why women and girls are marginalized and that displacement and migration patterns are reflective of society (Boas and Rothe 2016).

### ***The importance of focusing on Women's and Girl's Lives***

As previously stated, gender inequalities significantly affect women's social, economic, and political advancement. Their economic options are limited compared to men, and women, especially those living in poverty, spend more time in unpaid care work than men (Brown 2008;

Memon 2020). Women and girls spend countless hours collecting water for household usage and caring for children and the elderly while performing agricultural work they qualify for (Bhatta et al. 2015). Numerous studies conducted on the coping mechanisms of households and families in South Asia affected by climate change and its adverse effects revealed that women and girls are ‘societal shock absorbers’ (Sawas and Bose 2021). This is one of the first coping mechanisms, and it is reflective of societal norms where women and girls are marginalized regardless of the situation. Here are a few examples that explain and support this phenomenon.

- In countries where women and girls' socioeconomic status is below men and boys, they are more likely to be killed by adverse climatic events (Neumayer and Plumper 2007).
- When food security is impacted by floods, droughts, tsunamis, and other adverse climatic events, feeding men and boys is prioritized while women and girls receive the lowest priority. The effects on women and girls are hunger and malnutrition (Ayeb- Karlsson 2020; Sorensen et al. 2018; Nombo et al. 2015)).
- More specifically, in countries with patriarchal institutions and norms, it is normal for girls to be pulled from school if they are needed in the household in the wake of adverse climatic events. Also, economic uncertainty in times of natural disasters often leads to prioritizing men's education as it is believed to be more beneficial to the family in the long run (Jordan 2019).
- In Pakistan, studies revealed that women and girls experienced higher levels of domestic violence as they were expected to maintain the household even though clean water and food are often inaccessible during and after floods and droughts (Dimitrov 2019; Jordan 2019).

Based on the examples listed above, examining the effects of women and girls displaced by climate change is important. First, displacement reinforces pre-existing socioeconomic inequalities and discrimination in all forms. Without adequate financial support, most people cannot move across cities or international borders; therefore, poor, landless, and economically disadvantaged people are prevented from moving entirely (Mimura et al. 2007). Second, climate change is a threat multiplier, thus exacerbating the adverse effects of war and armed conflict in terms of economic instability, limited access to health services, and the physical destruction of vulnerable communities. Third, despite the disproportionate effects of climate-induced displacement on women and girls, practical steps can be undertaken to rectify the issue and make women more visible in academic research and policy development related to climate-induced migration (Norgaard and York 2005; Nugent and Shandra 2009).

It has been established that climate-induced migration and displacement are problematic. The effects on women and girls highlight a need for robust laws and policies to acknowledge the effects of climate change and limit the forms of migration and displacement that it amplifies. To that end, it is necessary to discuss existing policies and norms within international law, the responsibilities of states, and the appropriate means of addressing the gendered aspect of migration and displacement.

### ***The Guiding Principles on Internal Displacement***

Most climate-induced migration and displacement occur within countries (Farbotko and Lazrus 2012; Warner et al. 2009); therefore, the Guiding Principles on Internal Displacement is a valuable protection framework. According to the Guiding Principles, internally displaced persons (IDPs) are "persons or groups of persons who have been forced or obliged to flee or to leave

their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of natural or human-made disasters and who have not crossed an internationally recognized State border" (UN, 1998). The Guiding Principles include environmental triggers such as extreme climatic events (Human Rights Council, 2009). However, the Guiding Principles on Internal Displacement are non-binding and unenforceable. Most governments have yet to incorporate the principles into their domestic law, which means its application is inconsistent among vulnerable populations (Leighton et al., 2011, p. 20). This is most evident in countries where war and armed conflict have led to the displacement of millions of people, and environmental triggers compound the problem.

Nonetheless, the Guiding Principles on Internal Displacement is a valuable protective framework for the rights of marginalized women dealing with climate-induced migration and displacement. According to Cohen and Deng 2008:

In disaster-prone countries, the Guiding Principles should be used to build closer partnerships between governments, aid providers and civil society, as part of the disaster prevention framework. On the onset of a disaster, the Guiding Principles should be used as a checklist to develop a response strategy to ensure proper planning and response (Cohen and Deng 2008)

Also,

Political dialogue, including peace negotiations, needs to ensure that IDP's voices are represented and heard on all issues which affect them. Experience shows that early and sustained dialogue on issues relating to access to land, housing and property is essential to the identification of durable solutions. (Cohen and Deng 2008)

These perspectives are well supported in the literature, with previous studies on gender and vulnerability to climate change-induced migration highlighting the multi-dimensional nature of the vulnerability, taking into account the fact that women and girls are likely to be the most vulnerable population groups (Brenkert and Malone 2005; Brooks et al. 2005). Also, the issue of

gender-based violence and limited access to education and health services further highlights the benefits of the Guiding Principles on International Displacement in terms of encouraging states to recognize the multifaceted nature of internal displacement and work to resolve it comprehensively through a gender-responsive approach (Brown 2008; Brody et al. 2008). However, some scholars still believe it is an inadequate framework, and according to Droege (2008)

While there have been enormous advances since the process of drafting the Principles began in 1996, some of the gaps or weaknesses – such as the fact that non-state actors are not, traditionally, bound by human rights, and the option of derogation from human rights – that were identified then are still apparent. But much more importantly, the real challenge remains respect for, rather than development of, the law. (Droege 2008)

Although most climate-induced displacement and migration occur internally, and it is the responsibility of states to care for their citizens, many states are slow to respond to the needs of citizens. For those who have no codified laws aimed at dealing with climate-induced displacement and migration specifically, the Guiding Principles on Internal Displacement is a valuable framework. However, as previously stated, the challenge is respect for and implementation of the law rather than its development.

Moreover, Guiding Principle 29(2) states that:

Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation. (UN 1998)

Again, most climate-induced displacement and migration occur internally; therefore, restitution in the form of property and possessions is most relevant. For women and girls, this offers an opportunity for economic advancement and control over their affairs. However, in many

developing countries such as Afghanistan, Sri Lanka, and Pakistan, landlessness, inequitable property distribution, and societal norms regarding who can own lands make it unlikely that IDPs' needs (specifically women and girls) will be met equitably (Bradley 2008; Williams 2008).

### *The 1951 Refugee Convention*

While most climate-induced displacement and migration occur internally, external displacement and migration are happening. As the threat of climate change increases, so does the need for research into its effects and ways of limiting the threat of displacement and migration. Further, increased academic interest in the topic and alarming figures on the number of people displaced by climatic events highlight the topic's importance. To that end, it is now commonplace for scholars and advocates alike to refer to people displaced by climate-related events as "climate refugees."

According to Article 1 A(2) of the Convention Relating to the Status of Refugees:

As a result of events occurring before 1 January 1951 and 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. (UN 1951)

The continued usage of the term "climate refugee" by the media, NGOs, and some scholars is problematic as its application has no legal basis. It may lead to confusion among possible migrants who view it as a means of achieving refugee status, as defined by the Refugee Convention when they simply do not qualify under international refugee law (Farbotko and Lazrus 2012; McAdam 2012). Moreover, "climate refugee" definitions are based on the assumption that the term applies to all climate-vulnerable populations worldwide (Farbotko and

Lazrus 2012). For example, Berchin et al. (2017) define a climate change refugee as “any person who has been forced to leave their home or their country, due to the effects of severe climate events, being forced to rebuild their lives in other places, despite the conditions to which they are subjected” (Berchin et al. 2017). This and similar definitions undermine the complex nature of climate change and its impact on vulnerable populations (Farbotko and Lazrus 2012). Climate-induced migration is influenced by multiple factors such as war, armed conflict, economic hardship, and environmental degradation. Therefore, it is disingenuous to ignore these factors and refer to climate change vulnerable populations as “climate refugees,” completely overlooking the multifaceted nature of the problem and why such a classification is problematic when climate change is not the only persecuting agent. Again climate change has been understood as a threat multiplier rather than a main driver of displacement and migration. Attaching the “refugee” connotation to environmental migrants implies that migration and displacement are forced (Penz 2010). That is not always true, as there are cases where people can remain in their communities after natural disasters. Also, internal displacement is more commonplace than external migration, thereby disproving the “climate refugee” terminology.

Some environmental migrants can achieve refugee status if and when “the adverse effects of climate change interacts with armed conflicts and violence” (UNHCR 2021). However, as these are unique situations, the burden of proof requires an individual to cross an international border “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” (Art.1, 1951 Convention relating to the Status of Refugees). Further, the term “climate refugee” is not endorsed by the United Nations Refugee Agency (UNHCR), and the organization believes “persons displaced in the context of disasters and change” is a more accurate term (UNHCR 2021). Though the scope of

the 1951 Refugee Convention has expanded since its inception, there is a difference between what is currently recognized and what is desired by “climate refugee” advocates (Burkett 2012). Specifically, the element of state-sponsored persecution owing to one’s membership in a particular group (Burkett 2012).

In October 2020, UNHCR released its *Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters*. The document provides guidance for States and other stakeholders regarding the matter of migrant movement caused by climate change and natural disasters. The document reaffirms the fact that there are certain circumstances in which one might qualify for refugee status if there is a distinct connection between climate change and disasters and some form of violence that leads to the well-founded fear of being persecuted, as affirmed by the 1951 Refugee Conventions (Garlick and Michal 2022).

According to the *Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters*:

Climate change and disasters may affect the enjoyment of human rights because of human exposure and vulnerability to their impacts, as well as State capacity, ability, and willingness to provide protection. Climate change and disasters may limit access to and control over land, natural resources, livelihoods, individual rights, freedoms and lives, which may threaten, among others, the enjoyment of the right to life; physical integrity; an adequate standard of living; health, water and sanitation; and self-determination and development. Populations may be gradually or immediately affected or suffer longer-term diminutions in their enjoyment of human rights. Both in the short and longer-term, affected populations may be exposed to a risk of human rights violations that amount to persecution within the meaning of the 1951 Convention. (UNHCR 2020)

Further, in countries marred by armed conflict and political upheaval, adverse climatic events may exacerbate these situations and lead to "religious tensions and ethnic divisions, resulting in persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion" (Garlick and Michal 2022). War and armed conflicts



lead to the migration of millions of people yearly (UNHCR 2014). For those unable or unwilling to migrate due to armed conflicts, adverse climatic events make staying in place more challenging. Also, if states lack the ability or willingness to provide relief in times of turmoil, citizens may be compelled to flee their homelands and seek protection in another country (Weersinghe 2018; Garlick and Michal 2022).

More specific to women, the *Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters* acknowledge that:

In the context of the adverse effects of climate change and disasters, a well-founded fear of being persecuted may arise, especially for people who are already marginalized or vulnerable. Depending on local political, religious and socioeconomic circumstances, women, children, the elderly and people with disabilities, who have inherent vulnerabilities, minority groups, indigenous peoples, and persons living in rural areas relying on natural resources for their livelihoods, will be especially at risk. . . . [T]he willingness or ability of a State to prevent the adverse effects of climate change and disasters, as well as to respond adequately to them if they occur, may vary for particular groups, reflecting differences in race, ethnicity, religion, politics, gender or social groups. This may include situations where social pressures result in violence against - or trafficking of - persons with specific needs or in situations of pre-existing vulnerabilities, especially women. (UNHCR 2020)

As addressed in the previous section, gender norms and certain societal patterns often lead to women and girls being marginalized. Climate-induced migration and displacement increase how women are marginalized and made to bear the brunt of the burden of post-climatic events. While UNHCR does not include climate change and disasters as an explicit reason for granting refugee status, it acknowledges how persecution may arise for vulnerable populations due to climate change fueling existing conflicts and other pre-existing vulnerabilities. For women and girls facing gender-based violence in the aftermath of an adverse climatic event, there seems to be some recourse based on the guidance provided through the *Legal*

*considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters.*

While this paper focuses on the effects and remedies of climate-induced displacement and migration on women and girls, it is necessary to engage with literature on the “climate refugees” debate. Although scholarship on vulnerability to environmental triggers acknowledges the disproportionate effects on women and girls, this is not a critical theme in the literature on "climate refugees ." Biermann and Boas (2010) suggested five principles to address the "climate refugee" problem: (1) Planned relocation and resettlement; (2) Resettlement instead of temporary asylum; (3) Collective rights for local populations; (4) International assistance for domestic measures; and (5) international burden-sharing. These suggestions are broad and can be implemented on a case-by-case basis. Ahmed (2018) also discusses "climate refugees" needing greater legal protections but fails to mention the gendered aspect of the debates and why it is essential to acknowledge the plight of women and girls.

As previously stated, gender-responsive policies are critical for advancing the interests of women and girls and protecting their human rights. However, it is not commonplace in the literature on the “climate refugee” debate. This is not exclusive to advocates of the "climate refugee" terminology. Its objectors also neglect to highlight the need for gender-responsive policies and the disproportionate effects of climate-induced migration and displacement on women (See McAdam 2011). For example, McAdam (2020) explains the unlikelihood of expanding the 1951 Refugee Convention to include "climate refugees," and that renegotiations on the refugee definition's breadth and scope might lead to it becoming more limiting. However, in doing so, there is no mention of the disproportionate nature of migration and displacement, although one of the central claims of "climate refugees" advocates is the need for greater legal

protection for these vulnerable peoples and communities (See Docherty and Giannini 2009; Biermann and Boas 2010).

### ***International Human Rights Law and its Remedies***

Neither the Refugee Convention nor any other international treaty deals specifically with climate-induced migration and displacement. Therefore, protection at the international level is primarily linked to human rights law. Also, refugee law is not suited to handle environmental migrants as it is ultimately a state's responsibility to care for its citizens in the best way possible (Ionesco, 2019). To that end, state responsibility is two-fold: states of origin should bear the responsibility to protect the interests of their citizens in any situation. In contrast, all other states bear the responsibility to ensure that their actions do not infringe upon another state's ability to effectively protect its citizens' rights in any situation (Burson et al. 2018). This requires collaboration among all states and is perhaps the most effective mechanism available to reduce the effects of climate change. Mass migration is a problem globally, and the current global refugee crisis offers the most compelling evidence to this argument. Therefore, it is in the interest of every state to reduce the number of displaced individuals as it puts pressure on states' capacity and resources which might lead to a significant number of human rights violations (Burson et al. 2018).

Human rights law is effective because the focus is on the collective. It exists within an international legal framework focused on meeting the needs of people regardless of their status (IDPs and environmental migrants and refugees alike.). An individual's rights and responsibilities are relatively universal rather than situational, as is the case with refugee law (Rodenhauer 2019). Although there is still the matter of whether or not an individual enjoys

these rights, it stands to reason that focusing on the human rights aspect of the climate-induced migration and displacement is more fruitful and practical than relying on refugee law because the argument is centered on figuring out how best to prevent violations of one's human rights regardless of the situation (Penz 2010). More specific to women and girls, climate change and resulting climate-induced migration and displacement directly affect their ability to enjoy certain economic and social rights (UNHCR 2020). These include the right to food, health, and shelter. The Office of the High Commissioner on Human Rights (OHCHR) has prioritized safeguarding the human rights of people whose lives have been adversely affected by climate change, namely women and girls (OHCHR 2008).

However, getting to a point where women's rights are fully affirmed is difficult as there is the obstacle of understanding and acknowledging the reasons for their persecution. In the case of climate-induced migration, there exist no codified laws that deal with it comprehensively (McAdam 2012, Penz 2010). Moreover, the issue is complicated by the various ways in which women's rights are violated, from gender-based violence, limited economic opportunities, and the threat to their lives posed by climate change. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) acknowledges the complexities of developing solutions to the matter of equality for women. According to CEDAW:

Although climate change mitigation and adaptation programmes may provide new employment and livelihood opportunities in sectors such as agricultural production, sustainable urban development, and clean energy, failure to address the structural barriers faced by women in gaining access to their rights will increase gender-based inequalities and intersecting forms of discrimination. (CEDAW 2018)

As discussed above, refugee law has its limitations in responding to the matter of climate-induced migration and displacement. Human rights law, with its many charters and conventions, seems more appropriate, especially given its numerous enforcement mechanisms. But, what

provisions are there in international human rights law to provide international protection when there is a need for it? Again, most climate-induced migration and displacement occurs internally (See Farbotko and Lazrus 2012; Warner et al. 2009); therefore, protecting the rights of vulnerable populations is left mainly to the home state. However, when external migration is occurring, and refugee status is unavailable, who is responsible for protecting the rights of environmental migrants?

UNHCR's *Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters* acknowledge the need for international protection based on human rights law (UNHCR 2020; Garlick and Michal 2022). The principle of *non-refoulement* has been singled out as a valuable protection mechanism for environmental migrants (UNHCR 2020). Under international human rights law, "the principle of *non-refoulement* guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm. This principle applies to all migrants at all times, irrespective of migration status" (OHCHR 2019). The principle of non-refoulement has been interpreted and applied in various ways. For example, in the case of *Teitiota v New Zealand*, the UN Human Rights Committee acknowledged that climate change's adverse effects might pose a severe threat to the right to life. This threat may manifest itself through scarcity of inhabitable land, limited food sources due to drought and flooding, and a lack of clean water for drinking and other purposes. Although the UN Human Rights Committee did not side with Teitiota, it set a precedence for acknowledging conditions under which the adverse effects of climate change may pose a right to life, and returning an individual to those conditions would constitute a violation of their right to life.

Some scholars have argued that the reasoning, in this case, is significant and valuable, especially in countries that have not ratified any international or regional refugee agreements but are obligated to protect their citizens through the international protection mechanisms provided by human rights law (Garlick and Michal 2022, McAdam 2020). Others have stated that it does not provide concrete international protection for environmental migrants because it requires them to cross international borders before they qualify for its protection (Behrman and Kent 2020). Also, access to resettlement or other mobility pathways remains a problem for current refugees, thus supporting the idea that environmental migrants would face similar challenges (Bemak and Chung 2021; McMichael 2020). Most importantly, the effects of climate change are current, and the limited protection granted by the principle of non-refoulement does not sufficiently address the issue but is merely indicative of a promising future for environmental migrants (Behrman and Kent 2020; Rive 2020).

The main difference between the principle of non-refoulement under refugee law and human rights law is the criteria for protection. Under refugee law, the principle protects refugees from returning to countries where they were persecuted. Under human rights law, the principle may protect anyone within the jurisdiction of a state, providing that imminent danger is present in the state to which a person will be transferred (Rodenhauser 2019). Also, under certain human rights treaties, the principle offers protection against issues that may not be covered under other areas of international law, for example, the effects of climate-induced migration and displacement on women and girls (Rodenhauser 2019).

Based on the ongoing discussion, it is evident that using international refugee and human rights law to develop solutions to climate-induced migration and displacement is complex. Adding the gendered dimension of climate-induced migration and displacement further

complicates matters and makes developing solutions less likely. One of the most critical aspects of international law is state sovereignty (Koshenniemi 2004). Therefore, there is some merit in examining domestic policies related to the issue of climate-induced migration and its effects on women and girls. Understanding what is being done nationally provides a clear picture of what is required from the international arena in terms of protecting the rights of environmental migrants, especially those who are most vulnerable, namely women and girls.

### ***Examples of Gender-responsive policies in response to climate-induced migration and displacement***

Climate change can be understood as a human rights violation, and states bear an obligation to mitigate or prevent any climate occurrences that would result in significant human rights violations (Ahmed 2017). Creating a global climate regime aimed at sharing the burden of necessary action in response to climate scenarios would help states fulfill their obligations (Biermann 2000; Biermann and Dingwerth 2004; Doherty and Giannini 2009). However, as Burkett (2012) argues, such a regime is not forthcoming as states outright refuse to enter into such an agreement or fail to fulfill their commitments under agreements with similar aims (Paris Accord, Kyoto Protocol). This dilemma indicates a tension between state sovereignty and the need for climate action and may be defended or explained as simply being a matter of sovereign prerogative. However, some countries have recognized the adverse and disproportionate effects of climate-induced migration and displacement on women and girls and have created programs to rectify the issue.

Somalia's National Adaptation Programs of Action on Climate Change (NAPA) recognizes the insecurities faced by women forced to move due to climate change. The plan

considers their increased risk of violence in crowded displacement camps and has implemented systems where women can report acts of violence and receive some recourse. It also identifies the exclusion of women from the clan systems used to deal with most natural disaster-related issues, limiting their ability to have a voice on these issues. Greater collaboration between state and non-state actors have led to women being included in conversations regarding resource allocation, working conditions, and prioritizing the health and well-being of women and girls displaced due to natural disasters (NAPA 2013).

The Bangladesh Climate Change and Gender Action Plan (ccGAP) acknowledges an increased burden on women, who assume more responsibility for agricultural production as men move to urban areas to find employment and are subsequently exposed to extreme weather events, such as tornadoes, floods, and droughts (MoEF 2013). Concurrently, the National Strategy on the Management of Climate-Induced Internal Displacement (NSMDCIID) includes specific funds for gender-sensitive evacuation shelters. It includes a framework for disaggregating data by sex, age, and other vital indicators to better identify and address the needs of vulnerable populations, such as female heads of households, the elderly, people with disabilities, and ethnic minorities (Siddiqui et al. 2015). Through its policies, Bangladesh recognizes and acknowledges the adverse challenges affecting women due to climate change and its negative impacts. These include challenges in the agricultural sector, increased workload, and discrimination based on employment opportunities and human rights, broadly speaking (Siddiqui et al. 2015; Sawas and Bose 2020).



## *Discussion*

Koshenniemi (2004) describes "international law as process of articulating political preferences into legal claims that cannot be detached from the conditions of political contestations in which they are made" (Koshenniemi 2004, 2). If a state subscribes to a particular form of international law, it cannot detract from its obligations unless it entirely removes itself. Subscription requires compliance, and if a state no longer wants to comply, it must remove itself from the particular agreement. However, what happens when subscription and compliance are insufficient to address an issue of utmost importance, in this case, climate-induced migration and displacement and its effects on women and girls?

The Pacific Access Category (PAC) program put forth by the government of New Zealand allows 250 people each from Fiji and Tonga, along with 75 people each from Tuvalu and Kiribati, to emigrate per year. However, each applicant must be of "good character and health, have basic English skills, have a job offer in New Zealand, and be under 45 years of age" (Immigration New Zealand 2020). These rules will prevent many migrants from settling in New Zealand. As stated above, women and girls are marginalized based on gender, education, and economic opportunities. Therefore, it is evident how the PAC program does little to advance the rights of women and girls.

While I agree with the notion that developing solutions to the adverse effects of climate-induced migration and displacement on women and girls is complex, I disagree with the perspective that it is due to limited options within international law ( See McMichael 2020; Rive 2021; McAdam 2011). Also, I do not believe it is necessary to recognize " climate refugees" as a unique group of people in need of special protections, as advocated by some scholars and activists ( See Vong, 2017; Biermann and Boas 2010). However, I do believe it is the

responsibility of states to protect their citizens from the adverse effects of climate change (See Penz 2010; Burson et al. 2018). According to Vong (2017), “One of the distinctions— even advantages— between climate refugees and traditional refugees is that the flight of climate refugees can be predicted and planned out in advance, unlike traditional refugees, whose fates are typically chaotic and unpredictable” (Vong 2017). Climate change is inevitable, but it has some predictable elements. For example, the Atlantic hurricane season runs from June 1 to November 30, while Sri Lanka's monsoon seasons run from May to September and November to March. These seasons occur annually, and although catastrophic disasters resulting in the migration and displacement of entire communities (Hurricane Katrina and Cyclone Nargis) occur less frequently, the possibility that they *may* occur highlights the dangers of climate change for those living in disaster-prone areas.

Furthermore, floods and droughts directly affect the livelihood and welfare of many people, especially those in rural areas who depend on agriculture for income and survival (Memon 2020; Sawas and Bose 2021). Therefore, climate-induced migration and displacement should be less problematic because of the inevitability of heavy rains, flooding, and hurricanes owing to naturally occurring weather phenomena. While wars and armed conflicts can be predicted and avoided, one cannot control the environment and resulting natural disasters. Therefore, it is necessary to develop solutions that tackle the problem beforehand or directly afterward, as the effects on human life have been consistent throughout history (El-Hinnawi 1985; Warner et al. 2019).

Regarding the effects on women and girls, climate-induced migration and displacement exacerbate existing forms of marginalization. Gender-responsive policies are needed to address the matter of climate-induced migration and displacement because of the disproportionately

adverse effects that plague women and girls. Moreover, many international frameworks acknowledge gender disparities and can be used to promote gender equity in policymaking.

Some of the most notable treaties and resolutions are:

- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- UN Declaration on the Elimination of Violence against Women
- UN Security Council Resolution 1325 on Women, Peace and Security and subsequent resolutions
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

These international frameworks examine gender inequality in various ways, and all are legally binding. International human rights law and refugee law offer some protection based on gender; henceforth, women and girls have some means of protection from climate-induced migration and displacement by virtue of being marginalized in other areas such as employment, health, and education. Some might argue that it is insufficient as the gendered aspect of climate-induced migration and displacement is not addressed in international human rights law or refugee law (Sawas and Bose 2021). However, UNHCR's legal recommendations and human rights law broad application of the principle of non-refoulement show that the issue is recognized, and states must do more to protect vulnerable populations (Garlick and Michal 2022).

## Conclusion

In summary, the experiences, needs, and priorities of environmental migrants are greatly influenced by gender roles (Chindarkar 2012). These varied perspectives must be accounted for if policies are to be inclusive. States, non-state actors, the international community, and civil society have a responsibility to initiate efforts to promote education, health, agricultural literacy, and women's rights to reduce the impacts of climate-induced migration and displacement on women and girls (Sawas and Bose 2021). When considering vulnerability to climate change migration in developing countries, researchers should focus on women as one of the most vulnerable groups and do more to include their perspectives on the matters that affect them.

However, framing the argument in terms of human rights norms and protocol is meaningful and may be beneficial to the plight of many environmental migrants. In this case, it is not that the environment is inhabitable that caused external migration but rather the circumstances through which it came to be uninhabitable (war, armed conflict, environmental degradation). These factors and the threat of adverse climatic events show why migration is necessary as a human right (when viewed as freedom of movement). Climate-induced migration and displacement increase the marginalization of women and girls. Gender-based violence, limited access to education and health services, and limited economic opportunities diminish their prospects as change agents and active participants in their affairs and those of their countries (Sawas and Bose 2021). However, as shown by the governments of Somalia and Bangladesh, gender-responsive policies are possible. If international law is to respond to the gendered aspects of climate-induced migration and displacement, a gender-responsive approach should be adopted.

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