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ENVIRONMENTAL MIGRANTS AND INTERNATIONAL LAW: AN ANALYSIS IN THE CONTEXT OF GLOBAL CLIMATE CHANGE

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Abstract: Environmental crises caused by global climate change are making migration movements increasingly visible and unavoidable. Rising sea levels, desertification, droughts, and floods are forcing millions of people to leave their homes (Biermann & Boas, 2010). In this context, individuals referred to as “environmental migrants” or “climate refugees” remain in a definitional and legal vacuum under international law (McAdam, 2012). The 1951 Geneva Refugee Convention covers only those fleeing persecution based on “race, religion, nationality, membership of a particular social group, or political opinion,” and excludes individuals displaced for environmental reasons (UNHCR, 2020). Consequently, climate change-induced migration surpasses the limits of existing refugee law and highlights the urgent need for new normative frameworks. In recent years, international texts such as the Paris Agreement and the United Nations Framework Convention on Climate Change (UNFCCC) have begun acknowledging the impact of climate change on migration (Bodansky, 2016). However, these documents fall short of providing direct legal protection for environmental migrants. The International Organization for Migration (IOM, 2022) stresses that environmental migration must be addressed not only as a humanitarian issue but also from the perspectives of security, development, and human rights. This article examines the protection gaps faced by environmental migrants in international law, evaluates existing frameworks, and proposes potential solutions. It argues that protecting environmental migrants on the basis of human rights aligns with the principles of climate justice and global responsibility (Betts, 2013).

Keywords: Environmental migration, climate refugees, international law, human rights, climate change.

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Introduction

Environmental disasters triggered by climate change have become one of the most significant drivers of migration in the 21st century. According to a World Bank (2018) report, by 2050, nearly 143 million people in Sub-Saharan Africa, South Asia, and Latin America alone are expected to be displaced due to climate-related reasons. Such movements are often not voluntary but rather forced, large-scale, and permanent forms of mobility (IOM, 2022). Therefore, the phenomenon of environmental migration has become a critical area of debate in terms of both human security and international law. One of the greatest challenges faced by environmental migrants is the definitional gap in international law. The 1951 Geneva Refugee Convention provides protection only to individuals fleeing persecution based on “race, religion, nationality, membership of a particular social group, or political opinion,” while excluding those displaced by environmental factors (UNHCR, 2020). As a result, although terms such as “climate refugees” or “environmental migrants” are frequently used in the literature, these individuals still lack a formal legal status at the international level (McAdam, 2012). The rise of climate-induced migration brings not only humanitarian but also political and legal challenges. Some scholars link the increase in environmental migration to the international security agenda, suggesting that such

movements pose risks for border security, national sovereignty, and regional stability (Bettini, 2013). From a human rights perspective, however, protecting environmental migrants is seen as a global responsibility, directly tied to the principles of climate justice (Biermann & Boas, 2010). In recent years, the Paris Agreement (2015), the Sendai Framework for Disaster Risk Reduction (2015), and the United Nations Sustainable Development Goals have indirectly addressed the impacts of climate change on migration. Nevertheless, these instruments do not grant environmental migrants direct or binding legal status (Bodansky, 2016). This situation leaves environmental migrants in a “protection gap” under international law and underscores the urgent need for new normative frameworks. Accordingly, the aim of this article is to examine the status problem faced by environmental migrants in international law, analyze existing legal arrangements, and develop possible solutions. The study seeks to demonstrate that environmental migration must be assessed not only through a security lens but also in relation to human rights, climate justice, and global governance. One of the key reasons why environmental migration has increasingly come to the fore is that such mobility is not merely an individual or local issue but has become a matter of global governance. The borderless impacts of climate change cause displacement not only within national



boundaries but also at regional and international levels, requiring the international community to develop collective and comprehensive policies (Kälin & Schrepfer, 2012). Another critical dimension is the “invisibility” of environmental migrants. These individuals are neither granted refugee status nor considered voluntary migrants in the classical sense. For this reason, scholars frequently argue that environmental migrants constitute a group that has fallen into a “protection gap” (Docherty & Giannini, 2009). This gap represents not only a legal deficiency but also serious problems in accessing humanitarian assistance, health services, education, and shelter. Moreover, the increase in environmental migration is linked not only to climate-related factors but also to socio-economic vulnerabilities. Low-income and developing countries, being more vulnerable to climate change, are the regions most heavily affected by environmental migration. This highlights how climate change further deepens global inequalities (Adger et al., 2015). Finally, various future scenarios are being discussed regarding the long-term impacts of environmental migration. Some studies project that by 2100, rising sea levels alone could displace as many as 300 million people (Nicholls et al., 2011). Such projections strongly emphasize the urgent need for concrete legal frameworks in international law.

Theoretical Framework

Addressing environmental migrants within the context of international law requires drawing on multiple theoretical perspectives. One of the most prominent approaches in this field is the climate justice perspective. Climate justice argues that the impacts of climate change are distributed unequally among societies, with the most severe consequences being experienced in vulnerable countries that have historically contributed the least to the problem (Roberts & Parks, 2007). While industrialized countries are responsible for the majority of carbon emissions, the devastating impacts of climate change are most directly felt in underdeveloped or developing countries. From this standpoint, the protection of environmental migrants is not only a humanitarian issue but also a matter of global justice, rooted in the equitable sharing of historical responsibilities (Shue, 2014). The Pacific island states of Kiribati and Tuvalu are often cited as examples. Facing the existential threat of rising sea levels, the citizens of these countries are being forced to abandon their homelands (Farbotko & Lazarus, 2012). This reality underscores the need for developed countries to assume greater responsibility for climate-induced migration. Another significant approach is the human rights-based perspective, which argues that environmental migrants must first and foremost be protected within the framework of fundamental rights and freedoms. Individuals displaced by climate change are often deprived of the most basic human rights, such as the right to life, housing, access to healthcare, and education (Knox, 2009). A report by the UN Human Rights Council (2011) revealed that climate change poses serious direct and indirect threats to human rights. Therefore, even if environmental migrants are not granted formal refugee status, it is argued that they must nonetheless be protected under international human rights law (Docherty & Giannini, 2009). This perspective emphasizes ensuring that environmental migrants, despite their lack of a defined status under international law, are able to enjoy basic rights in a manner consistent with human dignity. The phenomenon of environmental migration is also debated through the lens of securitization theory. Securitization refers to the process by which a particular issue is framed by political actors as a matter of national or international security (Buzan, Wæver & de Wilde,

1998). From this perspective, environmental migration is often viewed by states as a threat to border security, national sovereignty, and social stability. Within the European Union's migration policies, for example, the mass movement of environmental migrants is frequently discussed in terms of irregular migration and security risks, placing migrants in the position of potential threats rather than vulnerable individuals in need of protection (Bettini, 2013; Dalby, 2014). The main critique of the securitization perspective is that it sidelines the humanitarian dimension of environmental migration while elevating state-centered security concerns. Taken together, these theoretical frameworks provide complementary perspectives for understanding how environmental migrants are situated in international law. Climate justice highlights historical responsibility, the human rights approach emphasizes the protection of basic rights, and the securitization perspective focuses on state-centered threat perceptions. Increasingly, scholars argue that environmental migration must be addressed as a multidimensional phenomenon (McAdam, 2012). Accordingly, no single theoretical approach is sufficient to fully explain the challenges faced by environmental migrants; rather, a holistic analysis requires integrating these perspectives. In recent years, some researchers have also examined environmental migration not only as a legal or security issue but as a moral challenge. From this perspective, the protection of environmental migrants serves as a test of the international community's commitment to solidarity and humanitarian values (Betts, 2013). Moreover, the rise of environmental migration is not attributable solely to climatic factors but is compounded by socio-economic vulnerabilities such as poverty, weak governance, political instability, and lack of infrastructure (Adger et al., 2015). Thus, the challenges facing environmental migrants are shaped not only by environmental pressures but also by broader structural factors.

International Legal Frameworks

One of the most pressing problems facing environmental migrants is the lack of a clearly defined legal status in international law. The existing international legal framework—particularly the 1951 Geneva Refugee Convention and the 1967 Protocol—grants refugee status only to individuals who face persecution under specific conditions. According to the Convention, refugee status applies to persons fleeing persecution on the grounds of “race, religion, nationality, membership of a particular social group, or political opinion” (UNHCR, 2020). As a result, millions of people displaced by climate change or environmental disasters fall outside the scope of its protection (McAdam, 2012). In the literature, this situation is described as a “protection gap”, emphasizing that environmental migrants cannot be safeguarded under the current boundaries of refugee law (Docherty & Giannini, 2009). Although the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement do not directly regulate environmental migration, they are important international instruments that acknowledge migration as one of the impacts of climate change. Within the Paris Agreement, Article 8 established the Warsaw International Mechanism on Loss and Damage, regarded as a key platform for addressing climate-related loss and damage (Bodansky, 2016). However, this mechanism does not provide direct legal protection for environmental migrants; rather, it serves as a political tool to encourage cooperation and solidarity among states. International organizations have also brought the issue of environmental migration onto their policy agendas. The International Organization for Migration (IOM), in its World

Migration Report (2022), emphasized that environmental migration is not solely a direct consequence of climate change but also arises from the interaction of socio-economic and political vulnerabilities. Similarly, the UN High Commissioner for Refugees (UNHCR) has acknowledged the issue, noting that while it cannot grant refugee status to environmental migrants, humanitarian assistance mechanisms should still provide them with support. In this context, environmental migrants are *de facto* considered a population “in need of protection,” yet there is no binding international legal framework specifically applicable to them (UNHCR, 2020). At the regional level, several initiatives are noteworthy. The 2009 Kampala Convention of the African Union-formally known as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa-explicitly recognizes individuals displaced for environmental reasons and imposes obligations on states to protect them. However, its scope is limited to internally displaced persons (IDPs) and does not extend to cross-border environmental migrants (Ruppel, 2011). Similarly, Pacific island states, facing existential threats from rising sea levels, have pursued regional solidarity initiatives, though no binding agreements have yet emerged. Overall, existing international legal frameworks remain inadequate in protecting environmental migrants. While the 1951 Refugee Convention excludes them, instruments such as the UNFCCC and Paris Agreement treat migration only as an indirect issue. The efforts of organizations such as IOM and UNHCR, though significant, lack binding force. Consequently, environmental migrants are directly protected under neither refugee law nor environmental law, highlighting the urgent need for new normative frameworks. One proposal that has gained growing support in the literature is the drafting of a dedicated international convention for environmental migrants. Some scholars advocate the creation of a new “Climate Migrants Convention” (Biermann & Boas, 2010), while others suggest that expanding and reinterpreting existing human rights law to encompass environmental migrants may be a more realistic approach (McAdam, 2012). Additionally, New Zealand’s limited admission programs for environmental migrants from Pacific island states demonstrate that regional solutions are possible. However, scaling such initiatives globally requires strong political will and international solidarity. The vulnerability of environmental migrants under international law arises not only from the limitations of existing treaties but also from states’ persistent attachment to sovereignty. States tend to regard the authority to decide who crosses their borders as an absolute element of sovereignty, making them reluctant to adopt binding commitments for environmental migrants (Betts, 2013). This situation creates a sharp tension between the human rights principles at the core of international law and the interest-based approaches of states. Environmental migration also presents an unprecedented challenge to statehood itself. In cases such as the Pacific island states, rising sea levels pose the risk of entire nations losing their territories. This raises unprecedented legal questions: if such states are submerged, will their citizens still be recognized as nationals of a state? Will their legal personality persist in international law? And how will the international community respond? (Burkett, 2011). A further debate centers on whether protecting environmental migrants requires an entirely new treaty or could instead be achieved through a broader interpretation of existing mechanisms. Some legal scholars argue that the 1951 Refugee Convention could be interpreted expansively to include “life-threatening environmental destruction” within the meaning of persecution (Buckland, 2019). Yet such interpretations have not

gained widespread acceptance and remain non-binding. Finally, protection may also be advanced through regional cooperation and bilateral agreements. For instance, New Zealand’s special admission programs for migrants from Pacific island states and Norway’s acceptance of migrants affected by environmental disasters illustrate that alternative pathways exist. However, as these remain ad hoc and localized measures, they do not provide a comprehensive solution at the global scale (Gibb & Ford, 2012).

Current Challenges

One of the most critical challenges faced by environmental migrants in international law is the lack of a definition. Although the terms “environmental migrant” and “climate refugee” are frequently used in the literature, there is no consensus on the legal category to which these individuals belong (Biermann & Boas, 2010). The refugee definition in the 1951 Geneva Convention refers only to persecution-based displacement, excluding environmental causes such as climate change or natural disasters (UNHCR, 2020). As a result, environmental migrants are unable to benefit from the international protection afforded to refugees. The absence of a clear definition renders these individuals invisible not only at a terminological level but also in practice. A second major issue is legal status uncertainty. Environmental migrants do not fully fit into either the category of classical refugees or that of voluntary migrants. This in-between position prevents them from accessing international protection mechanisms (McAdam, 2012). Many states address environmental migrants through temporary residence permits or humanitarian visa programs; however, such measures remain ad hoc, non-systematic, and non-binding (Buckland, 2019). Legal uncertainty affects not only cross-border mobility but also internal displacement. Since internally displaced persons remain dependent on national legal systems, they may remain unprotected if states are unwilling or unable to provide support. A third problem concerns the risk of human rights violations. Environmental migrants often face the loss of fundamental rights-including the rights to life, housing, healthcare, and education-during forced migration processes (Knox, 2009). For example, millions displaced in Bangladesh due to rising sea levels are forced to move to inland areas, yet inadequate infrastructure, employment opportunities, and social services in these regions expose them to new socio-economic challenges (Islam & Shamsuddoha, 2017). This illustrates that environmental migration is directly linked not only to climate change but also to poverty, inequality, and social vulnerability. From a human rights perspective, protecting environmental migrants is not merely a matter of humanitarian aid but also a requirement of global justice (Betts, 2013). Finally, another fundamental problem is the lack of international solidarity. Although documents such as the Paris Agreement and UNFCCC have indirectly addressed environmental migration, no binding mechanism of cooperation among states has been established (Bodansky, 2016). Developed countries in particular tend to avoid responsibility for hosting environmental migrants, leaving the burden primarily on sending countries. This exacerbates global inequalities resulting from climate-induced migration. What further complicates solutions is that environmental migration is often a multi-causal phenomenon. Environmental migrants are affected not only by climate change but also by economic poverty, political instability, conflict, and social vulnerabilities (Adger et al., 2015). Limiting the analysis of their situation solely to environmental causes overlooks the multidimensional nature of the problem. Moreover, the lack of legal frameworks for protecting environmental migrants often

pushes them into the category of irregular migrants, thereby exposing them to greater risks of deportation, discrimination, and exploitation (Gibb & Ford, 2012). Taken together, these challenges highlight that environmental migrants represent one of the most vulnerable groups under international law and that urgent solutions are required.

Case Study Analyses

To concretize the situation of environmental migrants and highlight the legal issues they face in international law, it is important to examine case studies from different regions. Among the most discussed examples in the literature are Bangladesh, the Pacific Island states, and the Horn of Africa. The Bangladesh case demonstrates that environmental migration can be a direct outcome of climate change. The country, particularly in the Ganges-Brahmaputra delta, faces severe land loss due to rising sea levels. According to World Bank (2018) estimates, more than 13 million people in Bangladesh may be displaced by 2050 as a result of sea-level rise. This has triggered large-scale internal migration, with rural populations moving toward urban centers, placing immense pressure on infrastructure and social services (Islam & Shamsuddoha, 2017). The Bangladesh example illustrates that environmental migration is not limited to cross-border displacement but also fuels internal migration and exacerbates socio-economic challenges. A second striking case is that of the Pacific Island states. Nations such as Kiribati, Tuvalu, and the Maldives face an existential threat due to rising sea levels. With much of their territory only a few meters above sea level, these nations risk land loss and ultimately the displacement of their entire populations (Barnett & Campbell, 2010). Anticipating this threat, the government of Kiribati purchased land in Fiji to provide future resettlement options. However, such initiatives raise novel legal challenges: if an entire state loses its territory, questions remain regarding the legal status of its citizens, the continuity of its international recognition, and the implications of potential "statelessness" at the national level (Burkett, 2011). This case shows that environmental migration poses challenges not only for humanitarian law but also for the foundations of international statehood. The third significant case is the Horn of Africa. Countries such as Somalia, Ethiopia, and Kenya have experienced large-scale environmental migration due to prolonged droughts and desertification. In Somalia, for instance, drought-driven displacement has triggered not only humanitarian crises but also political instability and violent conflict (Raleigh, 2010). Declining agricultural production and loss of livelihoods have exacerbated social unrest, fueling both conflict and migration. Thus, the Horn of Africa vividly demonstrates the strong connection between environmental migration, humanitarian crises, and political instability. These three cases reveal that environmental migration is not a uniform phenomenon but manifests differently across regions. Bangladesh exemplifies internal migration and urban stress; Pacific Island states highlight the existential threat of land loss to entire nations; and the Horn of Africa illustrates the link between environmental migration and conflict. Furthermore, these examples show that environmental migration is not solely environmentally driven but shaped by socio-economic vulnerabilities, poverty, political instability, and governance weaknesses (Adger et al., 2015). Accordingly, international legal frameworks for environmental migrants must adopt a multidimensional approach rather than a one-dimensional one.

Policy Recommendations

The lack of protection for environmental migrants under international law underscores the urgent need for new policy and normative frameworks. One of the most frequently discussed proposals in the literature is the drafting of a binding international convention for environmental migrants. As proposed by Biermann and Boas (2010), a "Climate Migrants Convention" could grant a specific status to environmental migrants, ensuring both legal and humanitarian protection. Such a treaty could fill the existing gap in refugee law by creating mechanisms for burden-sharing among states, particularly for migrants from regions most affected by climate change. However, implementing such a framework appears challenging due to concerns over state sovereignty and the growing prevalence of restrictive migration policies (Betts, 2013). Another proposal is the broader interpretation of existing legal instruments. Some legal scholars argue that the 1951 Refugee Convention could be expansively interpreted so that forced displacement caused by environmental destruction is considered a form of persecution (Buckland, 2019). While this approach may seem more practical than drafting a new treaty, it remains limited in terms of widespread international acceptance. Therefore, the protection of environmental migrants likely requires both new legal frameworks and expanded interpretations of existing ones. At the regional level, solidarity mechanisms must be strengthened to address the impacts of environmental migration. Initiatives such as the Pacific regional cooperation frameworks and the African Union's Kampala Convention provide important precedents for protecting environmentally displaced persons (Ruppel, 2011). Likewise, New Zealand's admission programs for migrants from Pacific Island states show that bilateral agreements can provide viable solutions (Gibb & Ford, 2012). Yet these measures remain limited in scope and do not offer a comprehensive or binding global framework. A human rights-based approach is also crucial for the protection of environmental migrants. Their fundamental rights—including the rights to life, housing, health, and education—must be safeguarded under international law (Knox, 2009). Integrating the UN's Sustainable Development Goals (SDGs) with human rights law could strengthen protections for environmental migrants. Furthermore, social cohesion policies are needed to ensure the successful integration of migrants into host societies while preventing exclusion and discrimination. Another increasingly emphasized recommendation is the adoption of preventive strategies. Environmental migration should not only be managed during crises but also through policies that reduce displacement pressures. This requires strengthening climate adaptation policies, implementing disaster risk reduction strategies, and investing in sustainable livelihoods so that communities can remain in their regions rather than being forced to migrate (Adger et al., 2015). Finally, environmental migration should not be seen solely as a security threat but also as a development opportunity. The integration of environmental migrants into new societies can enhance economic productivity and cultural diversity. Therefore, policies concerning environmental migrants must not only focus on "protection" but also on participation and integration.

Conclusion

Environmental migrants constitute one of the most pressing humanitarian, legal, and political challenges of the 21st century. The growing impacts of climate change are forcing millions of people to abandon their homes, creating new challenges at both national and international levels. Yet, the existing framework of

international law remains inadequate to provide the protection these individuals require. The 1951 Geneva Refugee Convention excludes those displaced for environmental reasons, thereby creating a significant “protection gap” (McAdam, 2012). Instruments such as the UNFCCC, the Paris Agreement, and other environmental treaties consider migration only as a side effect of climate change and fail to grant environmental migrants a direct legal status (Bodansky, 2016). Consequently, environmental migrants remain legally and definitionally invisible in international law, making them one of the most vulnerable groups. The case studies of Bangladesh, the Pacific Island states, and the Horn of Africa illustrate that environmental migration manifests in different ways across regions. Bangladesh highlights the rise of internal migration and urban pressures; the Pacific Islands exemplify existential threats caused by land loss; while the Horn of Africa demonstrates how environmental migration intersects with conflict (Barnett & Campbell, 2010; Raleigh, 2010). Collectively, these cases show that environmental migration is not solely an environmental issue but a multidimensional phenomenon with economic, social, and political dimensions. In conclusion, there is an urgent need for new international legal arrangements to ensure the protection of environmental migrants. On the one hand, proposals for binding instruments-such as a dedicated Climate Migrants Convention- seek to provide a specific legal status for these groups (Biermann & Boas, 2010). On the other hand, scholars also suggest applying broader interpretations of existing refugee and human rights law to encompass environmental displacement (Buckland, 2019). Regional solidarity mechanisms, bilateral agreements, and national-level admission programs provide temporary solutions, but these remain fragmented and fall short of offering a systematic, global framework. The issue of environmental migrants represents not only a humanitarian concern but also a test of the legitimacy of international law. If the international community fails to develop effective and binding arrangements, environmental migrants will remain the “permanent victims of the protection gap,” and international law will have failed to respond to one of the greatest global crises of our time (Betts, 2013). Therefore, the protection of environmental migrants must be regarded not only as part of climate adaptation policies but also as a requirement of global justice, solidarity, and human rights. Such an approach will not only reduce the vulnerabilities of environmental migrants but also strengthen the human-centered character of international law and contribute to building a more just global order.

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