



RESEARCH ARTICLE

Climate Displacement and International Protection: Reassessing Refugee Status, Non-Refoulement, Mobility Pathways and Planned Relocation

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ABSTRACT

Climate change is increasingly connected with floods, cyclones, droughts, sea-level rise, salinization, loss of livelihoods and other conditions that affect human movement. International law, however, does not place all people displaced in these circumstances into one legal category. This article asks whether existing refugee and human-rights law gives adequate protection to people displaced because of climate change. It uses doctrinal and comparative methods and looks at protection through five functions: refugee recognition, protection against unlawful return, lawful admission and stay, rights-based internal displacement and planned relocation, and continuity of nationality or statehood where territory becomes seriously difficult to inhabit. The comparison covers Australia, Canada, the United Kingdom, India and Pakistan, with Pacific practice used as an important example of slow-onset mobility and statehood questions. The study finds that the 1951 Refugee Convention can apply where climate-related conditions are connected with persecution, discrimination, conflict or another Convention element, but climate harm by itself will not normally satisfy Article 1A(2). Human-rights non-refoulement, especially after *Teitiotia v. New Zealand*, can provide another form of protection, although the test is highly fact-specific. Domestic humanitarian and migration mechanisms can provide additional routes. The Australia–Tuvalu Falepili Union is a useful example of a treaty-based mobility arrangement that also addresses continuing statehood. Internal displacement and planned relocation remain mainly matters of domestic law, supported by international human-rights and soft-law standards. The article therefore argues that the problem is better understood as a chain of different legal protections rather than as the absence of one special “climate refugee” status. A useful framework should keep the Refugee Convention where it applies, improve non-refoulement procedures, develop lawful mobility routes, strengthen rights during internal displacement and relocation, and consider nationality and political continuity where climate change seriously threatens territory.

1. INTRODUCTION

People displaced in the context of climate change do not come before international law through one single legal route. Some people cross an international border after persecution, conflict or discriminatory government action has been made worse by environmental stress. Others move because a flood destroys their home, drought affects their livelihood, a cyclone repeatedly damages their community, or sea-level rise slowly makes an island harder to live on. Some people do not cross a border at all and instead need evacuation, shelter, compensation, relocation or help to rebuild their lives. These situations may look similar from a humanitarian point of view, but they can involve very different legal rules.

The terminology is important. The expression “climate refugee” is common in public discussion, but it is not a general legal status under the 1951 Refugee Convention. UNHCR explains that people who cross a border only because of climate-related disasters or natural hazards will not normally fall within the Convention definition. At the same time, climate and disaster factors can be relevant to a refugee claim when they are connected with persecution or conflict.

The legal question is therefore not simply whether a new category called the “climate refugee” exists. A more useful question is whether the existing legal systems can protect a person at the different stages of climate-related movement. In this article, protection is considered through five functions: first, recognising people who meet the refugee-law requirements; second, stopping removal where return would violate human-rights obligations; third, providing a lawful route of admission and stay where refugee status is not available but protection is still needed; fourth, protecting people displaced within their own country and regulating planned relocation; and fifth, maintaining legal and political continuity where climate impacts seriously threaten territory, nationality or effective government.

This approach is important because most disaster-related displacement happens within national borders rather than across them. At the same time, some of the hardest legal questions arise when people from low-lying Pacific States need to move across borders or when climate change raises questions about the future of statehood. Internal-displacement law cannot answer all of those questions. For that reason, changing refugee law alone would solve only one part of the wider problem.

The central research question is: does existing international refugee and human-rights law adequately protect people displaced by climate change? Five related questions are considered. First, what protection can the 1951 Convention provide when climate impacts are connected with persecution or conflict? Second, how far can human-rights non-refoulement protect a person from climate-related removal? Third, what admission and complementary-protection routes are available in selected common-law systems? Fourth, how do India and Pakistan deal with mainly internal climate- and disaster-related displacement? Fifth, what can Pacific mobility arrangements teach us about planned movement, statehood and nationality?

The article makes two main contributions. First, it looks at the problem by legal function instead of asking only whether climate-displaced people are “refugees.” Second, it compares five jurisdictions to show that the protection gap is not the same everywhere. Refugee protection is strongest when persecution is present. Human-rights non-refoulement may go further, but it depends heavily on the facts and evidence. Admission is usually discretionary unless a special pathway has been created. Internal displacement is mainly governed by domestic law. Questions of statehood and nationality continuity are beginning to receive attention through Pacific treaty practice, but there is still no general rule settled across international law.

The article is organised as follows. Section 2 discusses four main debates in the literature. Section 3 explains the method and comparative framework. Section 4 explains the main terms used in the

paper. Sections 5 and 6 examine the Refugee Convention and human-rights non-refoulement. Section 7 compares Australia, Canada and the United Kingdom. Section 8 looks at India and Pakistan and then considers Pacific practice. Section 9 identifies the main legal gaps. Section 10 brings the comparison together. Section 11 proposes a layered protection framework, and Section 12 concludes.

2. LITERATURE REVIEW: FOUR DEBATES

The first debate is about the relationship between climate displacement and the 1951 Refugee Convention. Earlier scholarship, especially McAdam (2012), showed the basic mismatch between the Convention's persecution-based definition and movement caused mainly by environmental harm. More recent work has not removed that distinction, but it has shown that climate and disaster factors can become legally important when they occur together with persecution, conflict, discrimination or a failure of State protection. The 2024 Refugee Law Initiative Declaration is important in this discussion because it rejects the idea that “natural” disaster harm must always be separated from human-rights and refugee-law analysis, while still keeping the legal difference between refugee status and other forms of protection.

The second debate concerns human-rights non-refoulement. *Teitiota v. New Zealand* is the main international reference point. The Human Rights Committee accepted that climate change can affect the right to life and that, in some circumstances, removal may be prohibited. However, it did not find a violation on Teitiota's individual facts. Later scholarship has considered whether serious socio-economic deprivation can contribute to a non-refoulement claim and whether climate risk should be assessed through its combined and long-term effects rather than through one hazard considered in isolation.

The third debate concerns migration pathways and planned relocation. One part of the literature sees regular migration as an adaptation tool and therefore supports lawful routes, temporary protection and planned relocation. Another part points out that relocation itself can cause rights problems if people are moved without proper participation, consent, protection of livelihoods or respect for culture. Recent work on financing planned relocation therefore asks for human-rights safeguards rather than treating relocation simply as a construction or infrastructure project.

The fourth debate is about political continuity. Climate-related mobility in the Pacific has moved the discussion beyond the traditional refugee question and towards statehood, nationality and maritime rights. The Australia–Tuvalu Falepili Union is important because it expressly recognises the continuing statehood and sovereignty of Tuvalu despite climate-related sea-level rise and also creates a special mobility pathway. It is an important example of State practice, but it is a bilateral treaty and does not by itself settle the wider international-law consequences of territorial uninhabitability.

The gap addressed by this article is therefore narrower than the broad claim that climate refugees are simply unprotected. The literature has already identified several protection tools. What is less often shown in one comparative framework is how these tools divide the protection task among refugee status, non-refoulement, admission, internal displacement, planned relocation and political continuity. This distribution of legal functions is the main focus of the article.

3. METHODOLOGY AND COMPARATIVE FRAMEWORK

This is a doctrinal and comparative legal study. The main primary materials are the 1951 Convention and 1967 Protocol, the International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights (ECHR), relevant domestic laws, treaty texts, official government materials, judicial decisions and authoritative international materials. Soft-law

instruments, such as the Guiding Principles on Internal Displacement and the Global Compact for Safe, Orderly and Regular Migration, are used as interpretive and policy materials rather than as replacements for binding law. The Global Compact for Migration is expressly non-binding.

The jurisdictions were chosen because they show different legal approaches to climate mobility. Australia is a party to the Refugee Convention and has a statutory complementary-protection system as well as the Falepili mobility pathway. Canada is also a Convention State and has humanitarian-and-compassionate procedures, but the materials reviewed do not show a dedicated climate-admission category. The United Kingdom provides a useful example of the relationship between immigration law and human-rights protection, including the reported 2025 climate-related Article 8 case. India and Pakistan are not parties to the Refugee Convention, and much of their climate-mobility problem is internal displacement. Pacific practice is included because slow-onset sea-level rise raises questions that ordinary disaster-response law cannot fully answer.

The comparison is based on legal functions rather than on trying to describe each country in every possible respect. The same questions are asked in each jurisdiction: Who can obtain refugee protection? What rules prevent removal? Is there a lawful admission or complementary route? What rules deal with internal displacement? Is planned relocation covered by rights-based standards? And is there any legal approach to continuing statehood or nationality?

No original fieldwork or quantitative survey was carried out. The two figures reproduced from the earlier draft are therefore not empirical findings. They are author-created illustrations used to organise the discussion. They have been retained in the manuscript, but their numerical values should not be treated as statistics or as measurements of the actual level of legal protection.

4. CLIMATE DISPLACEMENT: CONCEPTS AND TERMINOLOGY

In this article, “climate-induced displacement” is used as a broad analytical term for movement in which harmful climate impacts are an important factor. It includes movement within a country and across borders, sudden and slow-onset movement, and temporary as well as more permanent movement. The expression is used for analysis and does not mean that there is a separate legal status called climate-induced displacement.

The difference between sudden-onset and slow-onset movement is important. Sudden events such as floods and cyclones can force people to evacuate quickly and may result in temporary displacement. Slow processes such as sea-level rise, salinization and desertification can gradually reduce the possibility of returning. A legal system that expects one clear event may have difficulty dealing with this kind of movement because there may be no single date when it becomes impossible or unsafe to return.

Displacement statistics also need to be used carefully. A recorded disaster displacement does not automatically prove that the movement was caused by anthropogenic climate change. IDMC data, for example, record movement associated with disasters. India recorded 5.4 million disaster displacements in 2024, including major movements caused by floods and storms, but this figure should not be described as 5.4 million movements proven to have been caused by climate change.

Planned relocation is different from spontaneous displacement. It normally involves an organised decision to move people from a place facing serious risk to another location, often with State involvement. Depending on the circumstances, relevant rights can include participation, non-discrimination, property and livelihood protection, access to services and cultural continuity. There is no single global treaty dealing only with climate-related planned relocation. That does not mean relocation is outside the law. Instead, different rules from human rights, land law, disaster law and development law may apply at the same time.

5. THE 1951 REFUGEE CONVENTION: REACH AND LIMITS

5.1 The Convention Definition

Article 1A(2) of the 1951 Convention defines a refugee as a person who has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, and who is outside the country of nationality and unable or unwilling, because of that fear, to obtain that country's protection. Environmental harm is not listed as an independent Convention ground.

This does not make climate conditions legally irrelevant. UNHCR's position is that climate and disaster factors can be part of a refugee claim when they are connected with persecution or conflict. For example, a government might discriminate against a particular group in disaster relief, deliberately withhold assistance, or use climate-related scarcity as a means of targeting a particular population. In such a case, the legal basis of the refugee claim is still persecution connected with a Convention ground, while climate harm forms part of the facts of the case.

5.2 Limits of a Pure Climate Claim

A person who is displaced only because a cyclone destroyed a home does not automatically become a Convention refugee. Internal displacement also does not meet the Convention's requirement that the person be outside the country of nationality. These limits come from the wording and structure of the Convention. They should not be avoided by treating all people living in climate-vulnerable places as a "particular social group."

Regional refugee instruments show that wider protection is legally possible. The 1969 OAU Convention and the Cartagena Declaration use broader formulations that can cover people fleeing events that seriously disturb public order. Their importance for this discussion is comparative: they show that States can expand protection through treaty wording. They do not mean that the universal 1951 Convention already contains the same broader rule.

5.3 Exclusion, Cessation and the Climate Problem

Exclusion and cessation are not the main climate-mobility problem. The more basic issue is whether a person can enter a protection system in the first place. If a climate-displaced person does not satisfy the Refugee Convention definition, the person will normally have to rely on the admission and non-refoulement rules that apply in the receiving State.

6. HUMAN-RIGHTS NON-REFOULEMENT: TEITIOTA AND BEYOND

6.1 Teitiota v. New Zealand

The Human Rights Committee's Views in *Ioane Teitiota v. New Zealand* are the main international reference point for this issue. The Committee considered whether returning Teitiota to Kiribati could violate Article 6 of the ICCPR because of climate-related threats to life. It accepted that environmental degradation, climate change and unsustainable development can threaten the enjoyment of the right to life and that climate conditions can, in principle, engage non-refoulement obligations.

The Committee nevertheless found no violation on Teitiota's particular facts. The importance of the case is therefore both the principle and the high threshold. Climate change can matter legally when deciding whether a person may be removed, but a general statement that a country is vulnerable to climate change is not enough. The assessment must be based on the individual circumstances and the evidence available at the time.

Teitiota should therefore not be described as creating a judicial category of “climate refugee.” It is more accurate to describe the decision as recognising that, in exceptional circumstances, human-rights law may prevent removal because of climate-related risk. This distinction is important for the wider argument of this paper: a person may receive protection against return without receiving the full legal status and rights normally attached to refugee recognition.

6.2 Regional Human-Rights Law

The ECHR can provide additional protection through rights such as Articles 2, 3 and 8, but the cases need to be understood within their existing legal limits. Much of the Strasbourg climate litigation has concerned positive State obligations and environmental harm rather than creating a general immigration route for climate-displaced people. A removal case still depends on whether the required Convention threshold is met on the facts of that individual case.

The reported 2025 United Kingdom First-tier Tribunal case involving a Filipino national is useful because it shows how Article 8 may become relevant when climate-related hardship forms part of the facts. Secondary sources identify the case as *FA v Secretary of State for the Home Department* and report that the appeal was allowed on Article 8 grounds after the tribunal considered climate-related livelihood loss, mental health and difficulties with reintegration. The case did not create a new climate-refugee category and did not establish climate change as a Convention ground.

6.3 The Limits of Non-Refoulement

Non-refoulement can provide important protection, but it does not solve every problem. A decision not to remove someone does not necessarily give that person a long-term visa, a right to work, family reunification or permanent residence. A person may therefore be protected from removal but still remain in an uncertain legal position. This is another reason why climate protection should be examined through several legal functions instead of only asking whether return is prohibited.

7. COMPARATIVE COMMON-LAW APPROACHES

7.1 Australia

Australia's protection system is mainly statutory. Section 36 of the Migration Act 1958 contains protection-visa criteria for refugees and for people who face a real risk of significant harm if they are removed. Australian Home Affairs explains complementary protection in terms of Australia's international obligations, including obligations under the ICCPR and the Convention against Torture. The statutory system therefore provides a route beyond the Refugee Convention definition, although the requirements remain detailed and include questions about the type of harm, the individual risk and possible internal relocation.

Australia's most distinctive climate-mobility development is outside ordinary refugee determination. Australia and Tuvalu signed the Falepili Union on 9 November 2023, and it entered into force on 28 August 2024. Article 2 recognises that Tuvalu's statehood and sovereignty will continue despite climate-related sea-level rise. Article 3 creates a special mobility pathway through which eligible Tuvaluan citizens can live, work and study in Australia.

The Australian Government describes this as a permanent-residence visa pathway. The first ballot opened on 16 June 2025 for up to 280 places, with the annual number to be agreed between Australia and Tuvalu. It is therefore better described as an agreed annual allocation rather than an unconditional fixed entitlement.

Falepili matters for two separate reasons. First, it shows that climate mobility can be dealt with through a migration treaty instead of through refugee status. Second, it connects the mobility

arrangement with an express commitment concerning continuing statehood. At the same time, its limits are clear: it is bilateral, it applies to a defined population, and it does not create a general rule for other Pacific or non-Pacific communities.

7.2 Canada

Canada's Immigration and Refugee Protection Act incorporates the Convention refugee framework and also provides a humanitarian-and-compassionate mechanism under section 25. The Minister can consider individual circumstances and, where the statutory requirements are met, grant permanent residence or an exemption.

This mechanism should not be described as a special climate-protection category. The Canadian materials reviewed for this paper do not establish a dedicated climate-displacement admission class. Canada does have refugee and humanitarian pathways, and the 2026–2028 Immigration Levels Plan separately includes humanitarian-and-compassionate admissions.

The Canadian example therefore shows that a legal system can have some discretionary tools that may respond to climate vulnerability without creating a predictable climate-mobility route. That difference matters. Having a general humanitarian power is not the same thing as having a clearly defined legal pathway for people displaced by climate change.

7.3 United Kingdom

The United Kingdom deals with refugee protection through domestic immigration legislation and the Immigration Rules. Human-rights claims may also rely on the Human Rights Act 1998 and the ECHR. The Nationality, Immigration and Asylum Act 2002 remains an important part of this system and continues to be amended.

The reported FA case is useful because it shows that climate-related facts can become relevant in an Article 8 assessment even when they do not establish a Convention ground. Its importance should remain limited to its facts. It is evidence of a possible human-rights route, not evidence of a new legal status for climate-displaced people.

The three receiving States therefore do not provide the same legal model. Australia has a statutory complementary-protection system and a treaty-based pathway for Tuvalu. Canada has humanitarian-and-compassionate discretion but no dedicated climate class in the materials reviewed. The United Kingdom has human-rights routes that can, in particular cases, take climate-related hardship into account.

Table 1

Four legal tools and what each can and cannot do for climate-displaced persons.

Issue	1951 Convention	ICCPR / ECHR non-refoulement	Migration visas & treaties	IDP / disaster law
Who is covered	Person with well-founded fear of persecution on five grounds	Anyone facing real risk to life or of inhuman treatment on return	Nationals selected by receiving State	Persons displaced inside their own State
Climate as such	Not a Convention ground	Can trigger duty if risk is personal, real and imminent enough	Yes, if a special pathway exists	Often covered as disaster displacement
Slow-onset harm	Usually fails without a persecutor	High threshold after Teitiotia	Best fit if designed for mobility with dignity	Planned relocation still under-regulated
Cross-border flight	Yes, if definition met	Yes, if threshold met	Yes	No (internal by definition)
Statehood loss	Does not address sinking States	Does not preserve nationality	Falepili-style treaties can	Irrelevant if the State disappears

Issue	1951 Convention	ICCPR / ECHR non-refoulement	Migration visas & treaties	IDP / disaster law
Remedy	Refugee status / non-refoulement	Non-removal; not always status	Residence, work, study	Shelter, return, resettlement at home

Source and limitation: table reproduced unchanged from the original draft at the author's instruction. The cells are analytical shorthand rather than a substitute for the detailed jurisdiction-specific analysis in Sections 5–8.

8. SOUTH ASIAN AND PACIFIC PERSPECTIVES

8.1 India

India is not a party to the 1951 Refugee Convention or the 1967 Protocol and does not have a comprehensive national refugee statute comparable to those of Convention States. UNHCR materials confirm this position.

India also faces a large internal-displacement problem. IDMC reported 5.4 million disaster displacement movements in 2024, the highest number in the cited dataset since 2012, with floods and storms making up major parts of the figure. This should be described as disaster displacement rather than as a measurement of displacement proven to have been caused by anthropogenic climate change.

The Disaster Management Act 2005 remains an important part of India's disaster-management system. The earlier draft stated that amendments in 2024 had widened the National Disaster Management Authority's climate-risk role. That statement was inaccurate. Official Indian legislative material identifies the Disaster Management (Amendment) Act 2025 as the relevant amending Act.

A private member's Climate Migrants (Protection and Rehabilitation) Bill, 2022 was introduced in the Lok Sabha and proposed a policy framework for people internally displaced by climate change. It did not become a national climate-migrant statute.

India therefore shows the difference between constitutional environmental and life-right case law, disaster-management powers and a dedicated climate-mobility statute. The absence of a specific climate-migrant law does not mean that displaced people have no legal rights. It means that those rights and administrative powers are spread across different legal frameworks.

8.2 Pakistan

Pakistan is not a party to the 1951 Refugee Convention or the 1967 Protocol. According to UNHCR, Pakistan has not enacted a national refugee-protection statute or established a national refugee-status determination procedure. People seeking international protection are generally dealt with under the Foreigners Act 1946, while UNHCR conducts refugee-status determination under its mandate in cooperation with the Government.

Pakistan nevertheless has several domestic laws and institutions that are relevant to climate displacement. The National Disaster Management Act 2010 establishes the national disaster-management system, including a National Plan. The Pakistan Climate Change Act 2017 provides an institutional structure for climate policy, adaptation and mitigation. The Ministry of Climate Change also identifies the National Adaptation Plan as an active policy adopted in 2023.

The 2025 floods show the scale of disaster displacement in Pakistan. OCHA reported that by 19 September 2025 around 6.9 million people had been affected and about 3.0 million had been evacuated. Later humanitarian reporting put temporary displacement at more than 3.5 million at the peak. These are figures for a particular disaster event and should not be presented as measurements of the proportion caused by climate change.

Pakistan also shows growing legislative interest in the issue. The National Assembly records the Pakistani Climate Refugees Rights and Protection Bill, 2024 as a private member's bill introduced on 22 October 2024, and the parliamentary record shows that leave to introduce it was granted. The Bill is therefore evidence of legislative attention, not enacted law.

The main problem in Pakistan is therefore not that there are no relevant laws at all. The problem is that there is no single, integrated framework connecting disaster displacement, climate adaptation, planned relocation, documentation, property and livelihood protection and, where necessary, cross-border protection.

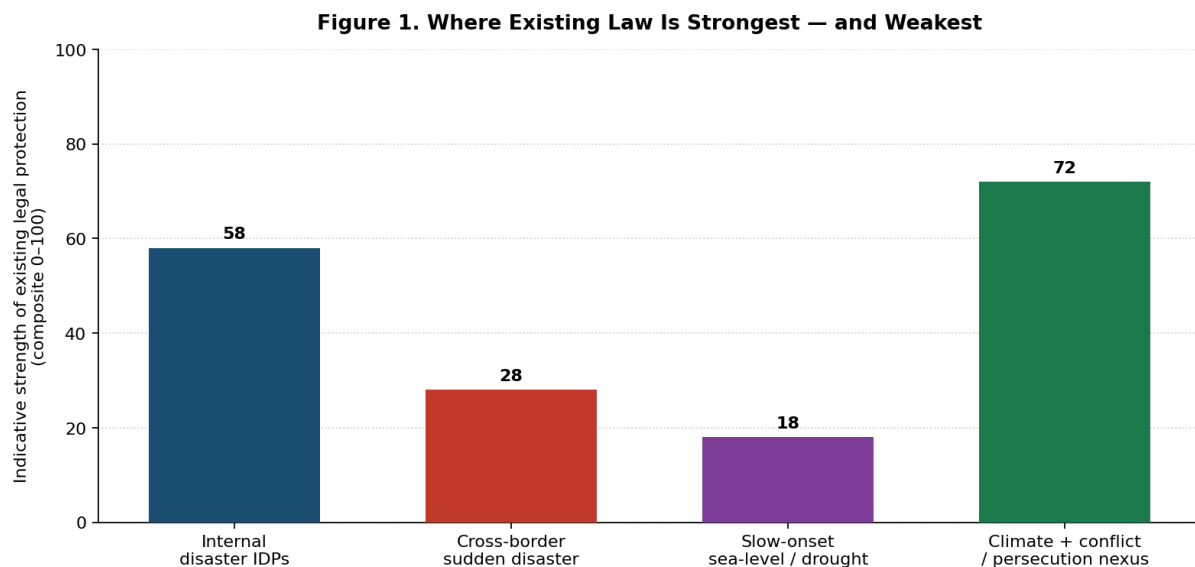
8.3 Pacific Island Displacement as a Contextual Case

Pacific island practice shows the limits of traditional refugee categories because slow-onset environmental change can threaten the habitability of territory without fitting the persecution model. Teitiota brought Kiribati into the international human-rights discussion, while Falepili has placed Tuvalu at the centre of treaty-based mobility and statehood practice.

The Falepili Union is particularly important because Australia and Tuvalu expressly agreed that Tuvalu's statehood and sovereignty will continue despite climate-related sea-level rise. This is a treaty commitment between those two States. It should not, however, be treated as a universal judicial rule saying that territory is irrelevant to statehood in every possible situation.

The Pacific example also shows the difference between planned migration and asylum. A mobility pathway can allow people to move before the extreme conditions required for a last-resort human-rights claim have developed. This timing difference is important. A complete protection system needs both last-resort protection against removal and lawful migration routes that can be used before the situation becomes catastrophic.

Figure 1. Indicative strength of existing legal protection by type of movement.



Note. Heuristic composite of treaty coverage, soft-law instruments, and successful claims. Not an official metric. See Table 1 and Sections 3-8.

The figure is reproduced unchanged from the earlier draft. It is only a heuristic organising device and not an empirical measurement. The scoring method behind the numbers is not independently reproducible from the draft.

9. LEGAL GAPS

The comparison shows several different legal gaps rather than one single gap that explains every climate-mobility problem.

9.1 Status gap

The Refugee Convention does not create a general status for people whose main reason for movement is a climate-related hazard. Where persecution or conflict is also present, however, climate conditions may form part of the legal and factual background to a Convention claim.

9.2 Non-refoulement gap

Human-rights non-refoulement can reach beyond refugee status, but Teitiota shows that the threshold is demanding. Protection depends on the nature of the risk, how foreseeable and serious the harm is, its effect on the particular person and the evidence available when removal is being considered.

9.3 Admission and durable-stay gap

A duty not to remove someone does not automatically create a visa category, work permission or permanent residence. A special mobility arrangement such as Falepili can therefore perform a function that a litigation-based non-refoulement claim cannot. Canada and the United Kingdom also show that humanitarian or human-rights mechanisms may exist without a dedicated climate-mobility route.

9.4 Internal displacement and relocation gap

Internal displacement is mainly dealt with through domestic disaster, housing, land, social-protection and planning systems, with the Guiding Principles on Internal Displacement providing an important international framework. The Principles address issues such as arbitrary displacement, humanitarian assistance and durable solutions, but they are not a universal treaty equivalent to the Refugee Convention.

9.5 Statehood and nationality gap

International law does not currently have one global instrument that answers every question created by sea-level rise for statehood and nationality. Falepili provides one bilateral approach. Other issues, including nationality continuity, maritime zones, diplomatic representation and the citizenship of people who live elsewhere, remain matters for treaty practice, developing international law and domestic nationality rules.

9.6 Temporal gap

Refugee and removal procedures usually assess risk at a particular point in time. Climate impacts, however, can develop over many years or even decades. This creates a basic difference between last-resort protection and planned, anticipatory movement. A family might not meet a very high removal threshold today but could still have a reasonable and rights-consistent interest in moving lawfully before the situation becomes much worse.

Table 2

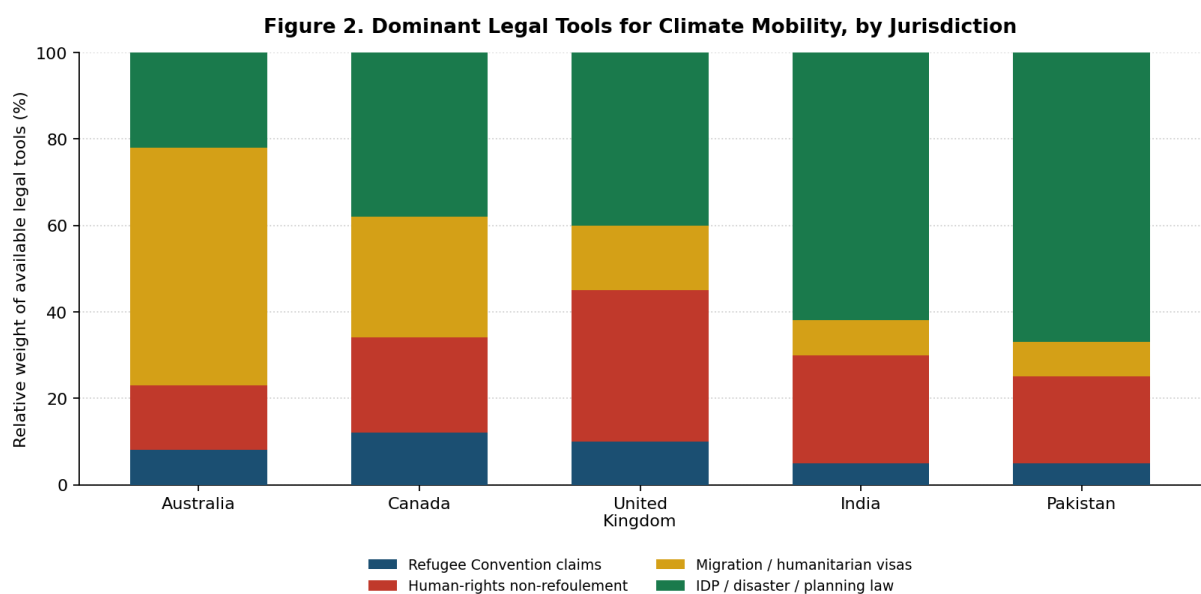
How five jurisdictions currently treat climate mobility.

Jurisdiction	Cross-border climate status	Human-rights bar on removal	Special mobility pathway	Internal displacement law
Australia	Convention claims almost never succeed on climate alone	Possible in principle after Teitiota logic; little success	Falepili Mobility Pathway for Tuvalu (280 places a year)	Disaster arrangements; no dedicated climate-IDP statute
Canada	IRPA tracks Convention; climate not a ground	IRCC has internally accepted Teitiota may constrain removals	No dedicated class; H&C and public-policy tools unused for this	Provincial emergency law; 2023 wildfires showed scale

Jurisdiction	Cross-border climate status	Human-rights bar on removal	Special mobility pathway	Internal displacement law
United Kingdom	Refugee Convention applied narrowly	Art. 3 high threshold; 2025 FTT Art. 8 climate-related grant	No climate visa; asylum being tightened and time-limited	Civil contingencies and planning; no IDP statute
India	Not a party to the 1951 Convention	Constitutional life and dignity; little removal case law of this type	None	Disaster Management Act; no climate-migrant statute
Pakistan	Not a party to the 1951 Convention	Constitutional life and dignity; Afghan hosting is political	Climate Refugee Bill tabled 2024, not enacted	NDMA / provincial R&R policies; implementation gaps

The table is reproduced unchanged from the earlier draft. Some cells are shorthand assessments and should be read together with the detailed discussion in Sections 7 and 8. In particular, the Falepili allocation is an agreed annual number rather than an unconditional fixed quota; the United Kingdom case is fact-specific and does not create refugee status; and disaster-displacement data do not by themselves prove climate causation.

Figure 2. Dominant legal tools for climate mobility, by jurisdiction.



The figure is reproduced unchanged from the earlier draft. The percentages are the author's estimates of practical weight. They are not counts of statutes, cases or claims, and the draft does not provide a reproducible weighting method.

10. COMPARATIVE FINDINGS: A FUNCTIONAL PROTECTION CHAIN

The comparison produces five main findings.

First: refugee status remains important but is not the universal climate-mobility category.

First, refugee status remains important, but it is not a general category for all climate-related movement. The Convention should not be abandoned, but it also should not be stretched to cover every person displaced by climate change. Its strongest application is where climate stress is connected with persecution, discriminatory government conduct, conflict or another Convention element. UNHCR's current guidance supports this more contextual approach.

Second: non-refoulement is broader than refugee status but narrower than a general right to migrate.

Second, non-refoulement is wider than refugee status but it is not the same as a general right to migrate. Teitiota establishes an important principle, but not an unlimited one. Human-rights law

may prevent removal in qualifying circumstances, but it does not automatically give everyone living in a climate-vulnerable country a right to enter another country.

Third: lawful mobility pathways fill a different legal function.

Third, lawful mobility pathways perform a different function. Falepili shows that migration law can deal with climate mobility before a person reaches the very high threshold required for a last-resort human-rights claim. It also shows that a mobility agreement can be linked to a commitment about continuing statehood.

Fourth: internal displacement requires domestic institutionalization.

Fourth, internal displacement requires domestic legal and administrative systems. India and Pakistan show that a large part of climate-related movement may happen inside national borders. In those situations, the important questions include evacuation, shelter, property, compensation, restoration of livelihoods, relocation, documentation and access to public services, not only refugee status.

Fifth: statehood continuity is a separate problem from refugee protection.

Fifth, continuing statehood is a separate issue from refugee protection. A person can remain a national of a State even when that State faces major territorial loss. On the other hand, a migration agreement does not automatically solve questions of nationality. The statehood clause in Falepili is therefore an important example of treaty practice, but it should be analysed separately from refugee law.

11. TOWARDS A LAYERED INTERNATIONAL PROTECTION FRAMEWORK

11.1 Keep and Apply the Refugee Convention Where It Fits

Status-determination authorities should treat climate and disaster conditions as part of the context of a claim instead of automatically treating them as irrelevant. Where persecution is established on a Convention ground, the Convention should continue to be applied according to its normal rules. UNHCR guidance should also form part of professional training and decision-making.

11.2 Strengthen Procedural Application of Human-Rights Non-Refoulement

States should make sure that removal decision-makers consider reliable climate-related evidence where a person argues that return would expose them to a serious risk to life or prohibited ill-treatment. Teitiota shows that this kind of protection is legally possible, but it also shows that the evidence must be assessed carefully and individually. Where domestic law allows it, complementary residence arrangements should also be available so that a person who cannot safely be removed is not left in prolonged legal uncertainty.

11.3 Build Lawful Mobility Pathways

States can use bilateral or regional migration agreements to create work, study, family and residence opportunities for people from communities facing serious climate risks. The Falepili model shows that such arrangements can include work and study rights and can also address questions of statehood. Its bilateral nature is both a practical strength and a limitation.

11.4 Legislate for Internal Climate Displacement

India and Pakistan would benefit from clearer legal rules connecting disaster management with rights for displaced people. Such rules could cover registration, temporary protection, property

and livelihood protection, safe return, local integration, relocation, participation, complaints and funding. The Guiding Principles provide a useful starting point, but domestic constitutional and administrative law would determine what rights are actually enforceable.

11.5 Make Planned Relocation a Rights-Based Process

Planned relocation should be treated as a legal and rights issue, not only as an infrastructure project. Depending on the circumstances, the process should include meaningful consultation and participation, non-discrimination, protection of housing and property, continuity of public services, restoration of livelihoods and respect for cultural ties. Where immediate movement is necessary to save lives, the procedure may need to be different, but the legal basis for that difference should be clear.

11.6 Connect Adaptation, Mobility and Finance

International cooperation should recognise that adaptation and mobility can work together. The Global Compact for Migration is not legally binding, but it encourages cooperation on migration responses to climate change and both slow- and sudden-onset disasters, including planned relocation and visa options where adaptation or return is not possible.

The 2025 ICJ Advisory Opinion also strengthens the wider legal context. It recognises the relevance of climate-treaty obligations, customary duties relating to prevention and cooperation, and human-rights obligations concerning climate protection. It does not itself create a general individual right to obtain a visa. Its importance for this article is broader: climate mobility should not be treated as a completely separate issue from the States' wider climate and human-rights duties.

11.7 Protect Political and Nationality Continuity

For States facing serious territorial risk, mobility agreements should also deal with nationality, documentation, family unity, education, employment and political representation. The recognition of continuing statehood in Falepili may be one possible model, but more international practice is needed before it can be described as a universal legal solution.

12. CONCLUSION

The answer to the main research question is therefore qualified. Existing refugee and human-rights law does protect some people displaced in the context of climate change, but it does not provide one comprehensive and predictable legal route for every form of climate-related movement.

The 1951 Refugee Convention remains important when climate conditions are connected with persecution, discrimination, conflict or another Convention element. It is not, however, a general treaty on environmental mobility. Teitiota adds an important human-rights route by recognising that climate-related conditions can, in suitable circumstances, engage the right to life and a duty not to return a person to serious risk. The threshold is high and depends on the individual facts, so this remains a limited form of protection.

The comparison also shows that admission is a separate legal function. Australia's Falepili Union provides a clear treaty-based mobility route and recognises Tuvalu's continuing statehood. Canada's humanitarian-and-compassionate system provides discretion but not a dedicated climate category. The reported United Kingdom FA case shows that Article 8 can become relevant to climate-related facts without turning climate change into a Convention ground.

India and Pakistan show why refugee law alone cannot deal with the practical side of climate mobility. Much of the problem in these countries is internal displacement, so disaster management, adaptation, property, housing, social protection, planning and relocation become central. India's disaster-displacement figures and Pakistan's 2025 flood experience show the scale of the problem, but these figures should not be described as proof that every recorded movement was caused by anthropogenic climate change.

The main contribution of this article is therefore a functional way of looking at climate protection. The legal problem is not simply the absence of one category called the "climate refugee." It is a chain of different questions: recognition, non-refoulement, admission, internal displacement, planned relocation and political continuity. No single legal instrument currently performs all of these functions. A layered approach therefore fits the existing law better than either saying that the Refugee Convention already covers climate displacement generally or saying that international law provides no protection at all.

This conclusion does not necessarily require rewriting the Refugee Convention. It requires better use of the legal tools that already exist, clearer domestic procedures and carefully designed mobility arrangements for situations that refugee law was not originally created to address. The next stage of climate-mobility research should therefore focus not only on creating a new label, but on asking which institution has to provide which protection, on what legal basis, at what stage of movement and with what remedy.

REFERENCES

- Australia–Tuvalu Falepili Union Treaty. (2023, November 9). Australia–Tuvalu Falepili Union Treaty. Australian Government Department of Foreign Affairs and Trade. <https://www.dfat.gov.au/geo/tuvalu/australia-tuvalu-falepili-union-treaty>
- Balasundaram, R. (2025). Confronting climate injustice: How Canada can support displaced people. *Forced Migration Review*. <https://www.fmreview.org/climate-choices/balasundaram/>
- Canada. (2001). Immigration and Refugee Protection Act, S.C. 2001, c. 27. Justice Laws Website. <https://laws-lois.justice.gc.ca/eng/acts/I-2.5/FullText.html>
- European Convention on Human Rights. (1950, November 4). 213 U.N.T.S. 221.
- Finegold, C., & Bower, E. (2025). To fund or not to fund?: Human rights guardrails for financing planned relocations of communities facing the climate crisis. *American Journal of International Law*. <https://doi.org/10.1017/ajil.2025.39>
- Guiding Principles on Internal Displacement. (1998). U.N. Doc. E/CN.4/1998/53/Add.2.
- Human Rights Committee. (2019). *Ioane Teitiota v. New Zealand*, CCPR/C/127/D/2728/2016. Office of the United Nations High Commissioner for Human Rights. <https://juris.ohchr.org/casedetails/2798/en-US>
- International Covenant on Civil and Political Rights. (1966, December 16). 999 U.N.T.S. 171.
- International Court of Justice. (2025, July 23). Obligations of States in respect of climate change (Advisory Opinion). General List No. 187. <https://icj-web.lemman.un-icc.cloud/case/187>
- Internal Displacement Monitoring Centre. (2025). 2025 global report on internal displacement. <https://www.internal-displacement.org/global-report/grid2025/>
- Kälin, W., & Entwistle Chapuisat, H. (2024). Protection of persons displaced across borders in the context of disasters and the adverse effects of climate change (PPLA/2024/01). UNHCR.
- McAdam, J. (2012). *Climate change, forced migration, and international law*. Oxford University Press.
- Pakistan. (2010). National Disaster Management Act, 2010 (Act No. XXIV of 2010). Pakistan Code.
- Pakistan. (2017). Pakistan Climate Change Act, 2017 (Act No. X of 2017). Pakistan Code.
- Pelliconi, A. M., Basha, G., & Bej, S. (2026, April 21). Leave to remain for 'climate refugees': UK human rights appeal granted on climate change grounds. *Refugee Law Initiative Blog*. <https://rli.blogs.sas.ac.uk/2026/04/21/leave-to-remain-for-climate-refugees-uk-human-rights-appeal-granted-on-climate-change-grounds/>
- Refugee Law Initiative. (2024). Refugee Law Initiative Declaration on International Protection in the context of Disasters and Climate Change. *International Journal of Refugee Law*, 36(1–2), 169–175. <https://doi.org/10.1093/ijrl/eeae011>
- Scissa, C., Weerasinghe, S., & Wood, T. (2024). International protection, disasters and climate change. *International Journal of Refugee Law*, 36(1–2), 176–197. <https://doi.org/10.1093/ijrl/eeae012>
- United Nations. (2018). Global Compact for Safe, Orderly and Regular Migration. <https://www.un.org/en/conf/migration/global-compact-for-safe-orderly-regular-migration.shtml>
- United Nations High Commissioner for Refugees. (2020). Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters.
- United Nations High Commissioner for Refugees. (2024). No escape: On the frontlines of climate change, conflict and forced displacement.
- United Nations Treaty Collection. (1951). Convention relating to the Status of Refugees, 189 U.N.T.S. 137. https://treaties.un.org/pages/ViewDetailsII.aspx?chapter=5&mtdsg_no=V-2&src=TREATY
- Vallandro do Valle, M. F. (2024). Fleeing deprivation: Deducing non-refoulement obligations from economic, social and cultural rights. *International Journal of Refugee Law*, 36(4), 353–376. <https://doi.org/10.1093/ijrl/eeae036>

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◆ Ethical Statement

Ethical approval was not required because this study is based exclusively on publicly available legal documents, judicial decisions, treaties and published literature, and did not involve human participants, animals or confidential data.

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