

ROOTS & ROUTES

Navigating Climate-Induced Migration and Human Rights

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Abstract

“Roots & Routes: Navigating Climate-Induced Migration and Human Rights” examines the complex interplay between climate change, human rights, and migration. Key findings highlight the inadequacies of current legal frameworks, the importance of procedural rights, and the need for an intersectional approach to protect vulnerable populations. By integrating case studies and exploring evolving legal landscapes, this work underscores the urgent need for adaptive and inclusive strategies to address the multifaceted challenges of climate-induced migration.

Introduction

The practical component of my Capstone thesis project, a podcast, aims to introduce climate-aware listeners to the complexities of human-driven migration. Through engaging narratives and expert interviews, the podcast delves into the multifaceted impacts of climate change on migration patterns.¹ In my written research, I sought to uncover how environmental degradation, coupled with socio-economic and political factors, drives displacement. This thesis explores the intersection of climate change, human rights and migration, examining legal frameworks, procedural rights, and the evolving concept of environmental justice. By integrating case studies and theoretical perspectives, I aim to provide a comprehensive understanding of the challenges and opportunities in addressing climate-induced migration. This research underscores the urgent need for inclusive and adaptive legal mechanisms to protect vulnerable populations affected by the climate crisis.

¹ Dorina de Jonge, "Roots & Routes," podcast, accessed 16/6/24
<https://open.spotify.com/show/4Mk6fU6jgLHZovuCheRVkn>

Climate change - in context

This section examines the historical context of climate change and its broader implications for human civilization.

The impetus behind embarking on this podcast journey as my Capstone thesis, lies in the pressing issue of climate change. While it is tempting to delve into intricate details, it is essential to provide a broader perspective by juxtaposing Earth's historical climate fluctuations with the trajectory of human civilization. This comparison elucidates the significance of climate-induced displacement and underscores the urgency of addressing this multifaceted challenge.

History and climate change

The Earth's formation dates back approximately 4.6 billion years,² and since then, the planet has undergone numerous natural climate fluctuations, including ice ages and mass extinctions. These natural events have shaped the Earth's environment over geological time scales, but the emergence of *Homo sapiens* roughly 300,000 years ago marks a relatively recent development in this extensive timeline.³ The comparison between the age of the Earth and the relatively short duration of human existence highlights the brevity of our presence on this planet.

To delve deeper into the topic at hand, it is crucial to examine even smaller increments of time. Agriculture, marking a significant milestone in human development, commenced approximately 12,000 years ago. This development allowed human societies to transition

² "Age of the Earth". U.S. Geological Survey. 1997. Archived from the original on 23 December 2005. Retrieved 30/3/2024

³ Groves CP (2005). Wilson DE, Reeder DM (eds.). *Mammal Species of the World: A Taxonomic and Geographic Reference* (3rd ed.). Baltimore: Johns Hopkins University Press. ISBN 0-801-88221-4. OCLC 62265494.

from nomadic lifestyles to settled agricultural communities, setting the stage for the rise of civilizations. Furthermore, the widespread utilisation of fossil fuels, a pivotal event in human history and a primary contributor to contemporary environmental degradation, began with the onset of the Industrial Revolution around 200 to 250 years ago.⁴ Hence, we find ourselves examining a timeframe that represents merely 0.0005% of our planet's extensive history. Throughout this history, Earth has undergone numerous cycles of climate change, including ice ages and mass extinctions. As highlighted in a Vox publication from a couple of years ago, while climate change is not a novel phenomenon for the planet, the presence of human civilization is.⁵

The past 10,000 years, known as the Holocene, have been characterised by a relatively stable climate, which allowed human settlements to flourish. However, this era is now drawing to a close according to some scientists, due to the impacts of activities such as the aforementioned focus on burning fossil fuels and widespread industrialised agriculture. While the Holocene has seen human civilization thrive, the Anthropocene, the proposed current geological epoch, is marked by significant human impact on Earth's geology and ecosystems.⁶

Population growth and climate vulnerability

Another important aspect to consider is the human population on Earth, which was nearing one billion at the start of the Industrial Revolution and has since increased to almost 8

⁴ IPCC, *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, ed. S.L. Connors et al. (Cambridge: Cambridge University Press, 2021).

⁵ Vox, "What people get wrong about climate change," video, December 12, 2015, YouTube, <https://www.youtube.com/watch?v=EbjKcHPmxKQ>.

⁶ Dansgaard, W., et al. "Evidence for General Instability of Past Climate from a 250-Kyr Ice-Core Record." *Nature* 364 (1993): 218-220.

billion.⁷ This exponential growth amplifies the number of individuals at high risk of climate change impacts and exacerbates the challenges associated with the absence of a sustainable global system capable of ensuring the well-being of such a large population without exploiting natural resources. The sheer scale of the human population today places unprecedented pressure on the environment, making the impacts of climate change more severe and widespread.

Our future with climate change: a business-as-usual scenario

Without extensively exploring the details of what causes climate change, who bears responsibility for it, or the strategies to mitigate its effects, let's consider a "business as usual" scenario. In this context, "business as usual" refers to a projection that assumes current trends and practices continue without significant deviation. In this scenario, we can better understand the likelihood of individuals being compelled to leave their homes in the coming decades. Based on a recent scientific observation, if climate change persists unchecked and migration does not occur, it is projected that by 2070, approximately 3.5 billion people will reside in areas where the Mean Annual Temperature (MAT) is more than 29°C.⁸

Except that they obviously will not be. In our present climate, such conditions are primarily confined to the Sahara region, where it is well-established that large-scale human habitation is not viable due to its inhospitable nature. This is just one study, but countless others reinforce the notion that climate change will indeed trigger mass migration: According to

⁷ Hannah Ritchie, Lucas Rod s-Guirao, Edouard Mathieu, Marcel Gerber, Esteban Ortiz-Ospina, Joe Hasell, and Max Roser, "Population Growth," *Our World in Data*, July 11, 2023, <https://ourworldindata.org/population-growth>.

⁸ C. Xu et al., "Future of the Human Climate Niche," *Proceedings of the National Academy of Sciences* 117, no. 21 (2020): 11350–11355.

Christian Aid estimates, 'unless strong preventative action is taken, between now and 2050 climate change will push the number of displaced people globally to at least 1 billion'.⁹

⁹ Christian Aid, *Human Tide: The Real Migration Crisis* (London: Christian Aid, May 2007), 22.

Climate change and human migration: an overview

Consequently, it is imperative to address the impending challenge of climate change and to examine its impact on human migration, one of the most significant effects of this global crisis. This sentiment is echoed in the 6th IPCC assessment, which states, 'Climate and weather extremes are increasingly driving displacement in Africa, Asia, North America (high confidence), and Central and South America (medium confidence), with small island states in the Caribbean and South Pacific being disproportionately affected relative to their small population size (high confidence). Through displacement and involuntary migration from extreme weather and climate events, climate change has generated and perpetuated vulnerability (medium confidence).'¹⁰ This highlights the urgent need for comprehensive strategies to address climate-induced displacement and mitigate its ongoing impact on vulnerable populations.

It's crucial to note here that experts warn of the double-edged sword of quantifying this issue. Big numbers are powerful when advocating for change, but they can cause helplessness in audiences, be the base of fear-mongering and they also dehumanise the people we're talking about. And it's also a must that we realise that migration as it is is complex. It rarely has one single cause, and in the case of climate-induced migration, most of it doesn't happen in masses - it's a slow process.¹¹

Human migration influenced by climate factors is indeed an ancient phenomenon, dating back to the earliest migrations out of Africa that led humans to populate every corner of the Earth. While human migration influenced by climate factors has occurred throughout the

¹⁰ IPCC, *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, ed. S.L. Connors et al. (Cambridge: Cambridge University Press, 2021), Chapter 12, Section 12.4.3.

¹¹ Ayesha Tandon, "In-depth Q&A: How does climate change drive human migration?," Carbon Brief, accessed June 16, 2024, <https://interactive.carbonbrief.org/climate-migration/>.

Holocene, it is expected to become increasingly significant in the Anthropocene. However, it is important to recognize that climate change will not be the sole driver of migration, particularly from a global policy perspective. Other factors will continue to play a role in shaping migration patterns.¹²

Climate changes, people move - do they migrate or are they displaced?

When discussing the movement of people due to climate change, it's important to distinguish between different terms. "Displacement" refers to situations where people are forced to leave their homes abruptly, such as in the event of a severe flood or storm. Conversely, "migration" describes a voluntary decision to move, usually in search of a better quality of life, often after experiencing years of declining living conditions. In the 2021 Groundswell Report, people's mobility due to climate change was categorised in different ways. Both within countries and across borders, three distinct categories of mobility were observed.¹³

The most significant of these, for both internal and external movement, is migration, which is described as a "longer-term change of habitual place of residence where slow-onset climate change affects the drivers of movement, on a continuum between more voluntary and more forced movement." Another type is planned relocation, where people move away permanently from environmental risk with assistance and encouragement. What differentiates this from the third category, displacement, is that planned relocation occurs before the degrading event. Displacement, on the other hand, occurs after an event has already happened, forcing people to move.¹⁴

¹² Robert M. Beyer et al., "Climatic windows for human migration out of Africa in the past 300,000 years," *Nature Communications* 12, no. 4889 (2021): 1-10, <https://doi.org/10.1038/s41467-021-24779-1>.

¹³ Groundswell. *Acting on Internal Climate Migration*. Washington, DC: The World Bank, 2021.

¹⁴ Ibid.

There is also the concept of immobility, which encompasses two distinct categories: voluntary immobility, where people choose not to move, and involuntary immobility, where people are unable to move.¹⁵ Both of these contribute to the intersectional approach to climate migration, as immobility is much more likely to affect those who are already disproportionately impacted. This highlights the need for policies and interventions that not only address the needs of those who migrate or are displaced but also those who remain behind. By considering all aspects of mobility and immobility, we can develop more comprehensive and equitable strategies to support vulnerable populations facing the multifaceted challenges of climate change.

¹⁵ The World Bank, *Groundswell*, 2021.

Human rights and climate change

It is crucial to recognize that as the impacts of climate change intensify in the coming years, incidents of human rights violations due to environmental degradation are projected to increase significantly. With this surge in human rights infringements linked to environmental issues, it becomes vital for legal frameworks and justice systems to adapt and evolve, ensuring they can effectively address the growing challenges.

Current mechanisms - an overview

Human rights intersect with climate change on multiple legal grounds, both in civil and political rights, as outlined in international, regional, and national frameworks. Under the International Covenant on Civil and Political Rights (ICCPR), key rights include the right to life (Article 6), which imposes both negative and positive obligations on states.¹⁶ This right is closely linked to health, as noted in General Comment No. 6.¹⁷ Cases like *EHP et al v. Canada* and *Vaihere Bordes and John Temeharo v. France* highlight how environmental hazards, such as radioactive waste and nuclear tests, pose threats to this right.¹⁸ Similarly, the right to privacy and family life (Article 17) is affected by environmental issues, as demonstrated in *Lopez Ostra v. Spain*, where pollution from a waste treatment facility impacted residents' well-being.¹⁹ Minority rights and the right to culture (Article 27) protect indigenous peoples and minorities from environmental degradation, illustrated by cases such as *EP et al. v. Colombia* and *Lubicon Lake Band v. Canada*, which show the harmful effects

¹⁶ International Covenant on Civil and Political Rights, December 16, 1966, United Nations.

¹⁷ UN Human Rights Committee, General Comment No. 6: Article 6 (Right to Life), April 30, 1982.

¹⁸ In *EHP et al. v. Canada*, the Human Rights Committee held that the disposal of radioactive waste posed a serious threat to the right to life under Article 6 of the ICCPR (Communication No. 67/1980, UN Doc. CCPR/C/OP/1 at 20 (1984)). Similarly, in *Vaihere Bordes and John Temeharo v. France*, the Committee found that nuclear tests conducted by France violated the right to life and the right to health due to exposure to harmful radiation (Communication No. 645/1995, UN Doc. CCPR/C/57/D/645/1995 (1996)).

¹⁹ European Court of Human Rights, *Lopez Ostra v. Spain*, Application no. 16798/90, Judgment of 9 December 1994.

of government policies and development activities on traditional lands and cultural practices.²⁰

Under the International Covenant on Economic, Social and Cultural Rights (ICESCR), the right to health, adequate food, water, and an adequate standard of living are critical.²¹ The work of Special Rapporteurs on safe drinking water, food, health, adequate housing, and the rights of indigenous peoples and migrants underscores the importance of these rights in the context of environmental sustainability.²² The right to health is further emphasised in the Inuit case against the United States, where climate change impacts on health were significant.²³ The right to food and water is articulated in Article 11 of the ICESCR, with General Comment No. 15 specifically addressing the right to water.²⁴

Regionally, the American Convention on Human Rights includes the right to use and enjoy property. The landmark case of *Mayagna (Sumo) Indigenous Community of Awas Tingni v. Nicaragua* recognized collective indigenous property rights, highlighting the concept of property as communal rather than individual.²⁵ Additionally, the right to a healthy environment is enshrined in Article 24 of the African Charter on Human and Peoples' Rights. The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. *Nigeria* (the Ogoniland case) exemplifies how environmental damage caused by

²⁰ United Nations Human Rights Committee, *Lubicon Lake Band v. Canada*, Communication No. 167/1984, U.N. Doc. Supp. No. 40 (A/45/40) at 1 (1990)

²¹ International Covenant on Economic, Social and Cultural Rights, December 16, 1966, United Nations.

²² Special Rapporteurs on safe drinking water, food, health, adequate housing, and the rights of indigenous peoples and migrants (various reports and documents, United Nations).

²³ *Sheila Watt-Cloutier, et al. v. United States*, Petition to the Inter-American Commission on Human Rights, 2005.

²⁴ UN Committee on Economic, Social and Cultural Rights, General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant), January 20, 2003.

²⁵ *Inter-American Court of Human Rights, Mayagna (Sumo) Indigenous Community of Awas Tingni v. Nicaragua*, Judgment of August 31, 2001, Series C No. 79.

corporate activities and state actions can violate human rights, affecting the health and livelihoods of local communities.²⁶

Connecting human rights frameworks to climate-induced migration

These mechanisms are directly relevant to climate-induced migration, as they highlight the intersection of human rights and environmental sustainability in the context of climate change. The right to life under the ICCPR, which imposes obligations on states to protect individuals from environmental hazards, is crucial when considering the life-threatening conditions caused by climate change, such as extreme weather events and rising sea levels, that force people to migrate. Similarly, the right to privacy and family life is impacted by environmental degradation, as seen in *Lopez Ostra v. Spain*; climate-induced displacement often disrupts familial and community structures, exacerbating the loss of privacy and stability.

The protection of minority rights and the right to culture under Article 27 is particularly significant for indigenous populations, who are disproportionately affected by climate change. Cases like *EP et al. v. Colombia* illustrate how environmental degradation threatens traditional lands and cultural practices, forcing indigenous peoples to migrate in search of safer environments.

The ICESCR underscores the right to health, adequate food, water, and an adequate standard of living, all of which are compromised by climate change. The Inuit case against the United States emphasises the health impacts of climate change, which can compel communities to relocate to maintain their health and well-being. The right to water, as detailed in General

²⁶ African Commission on Human and Peoples' Rights, *The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria*, Communication No. 155/96 (2001).

Comment No. 15, is particularly relevant, as climate change affects water availability, driving migration in search of essential resources.

Regionally, the recognition of collective indigenous property rights in the Awas Tingni case highlights the communal nature of land use among indigenous peoples, which is threatened by climate change. The right to a healthy environment, enshrined in the African Charter and exemplified by the Ogoniland case, demonstrates how environmental damage violates human rights, prompting communities to migrate to protect their health and livelihoods. These human rights frameworks provide a critical foundation for addressing the complex issue of climate-induced migration, ensuring that the rights of affected populations are protected and upheld.

Progress and stagnation: how is the law advancing?

Sumudu Attapattu and Andrea Schapper's "Human Rights and the Environment," a natural progression in human rights law is detailed. They propose a three-fold transformation to integrate environmental justice into human rights systems. The three aspects are as follows: firstly, linking emerging environmental issues to existing human rights mechanisms, referred to as "greening" human rights; secondly, utilising procedural rights established in human rights law to secure effective remedies; and finally, recognizing the right to a healthy environment as a fundamental right. Looking ahead to the future of environmental justice and human rights, all three of these methods are expected to be employed in the coming decades to effectively address the emerging challenges.²⁷ In my final take-home exam for the course Environmental Justice & Human Rights at Central European University, I examined specific examples that illustrate the three-fold advancement in the fields of environmental justice and

²⁷ Sumudu Attapattu and Andrea Schapper, *Human Rights and the Environment* (Routledge, 2019), 37.

human rights.²⁸ In this chapter, I reintroduce this argument with a particular focus on migration. The following section will make specific references to migration, highlighting the relevance of these legal advancements to this issue.

“Greening” human rights

With the first aspect of this three-way process, an anticipated area of expansion for ‘greening human rights’ in relevance to our discussion is the issue of climate refugees. Despite the established recognition of international displacement caused by the climate crisis, current human rights frameworks do not adequately address this issue.

The 1951 Geneva Convention, which defines the term 'refugee' and outlines the rights of refugees as well as the legal obligations of states to protect them, is primarily focused on those fleeing persecution due to race, religion, nationality, membership in a particular social group, or political opinion.²⁹ The EU’s Qualification Directive aims to harmonise the criteria for granting international protection across EU member states and defines who qualifies for refugee status or subsidiary protection.³⁰

Both the Geneva Convention and relevant regional laws, such as the Qualification Directive, are complex and difficult for individuals to navigate, however the basic requirement for

²⁸ Dorina de Jonge, How you see the future of environmental justice and human rights, taking into account the potential and limitations of the human rights framework. Final take home exam, *Environmental Justice & Human Rights*, Central European University, 2024

²⁹ United Nations, Convention Relating to the Status of Refugees, July 28, 1951.

³⁰ European Union, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), December 13, 2011.

refugee recognition remains relatively straightforward and does not include those who are fleeing worsening climate conditions or escaping climate catastrophes.³¹

The strong link between refugee rights and human-induced conflicts is clear. Currently, it appears improbable that the existing framework will be expanded to include individuals seeking refuge due to climate-related issues. Dina Ionesco, head of the Migration Environment and Climate Change (MECC) Division at the International Organization for Migration (IOM), has raised concerns about recognizing climate migrants as refugees. She contends that such recognition could undermine the existing convention and pose significant challenges in proving a direct link between forced displacement and climate factors.³²

Nevertheless, legal precedents are evolving. A pivotal moment occurred when the UN Human Rights Committee ruled in favour of the claimant in *Ioane Teitiota v New Zealand*.³³ Although Teitiota was ultimately sent back, the case marked a significant milestone by acknowledging the existence of climate refugees. The HRC's decision established that deporting someone to a place where they may face life-threatening dangers due to the adverse impacts of climate change could be considered a violation of the right to life.³⁴

While the Human Rights Committee lacks the authority to grant refugee status or legally enforce its decisions, cases like these set important precedents for future legal advancements. This aligns with the concept discussed by Attapattu and Schapper of "greening" human rights

³¹ Convention Relating to the Status of Refugees.

³² European Parliament, "The Concept of 'Climate Refugee': Towards a Possible Definition," EPRS | European Parliamentary Research Service, authored by Joanna Apap with Sami James Harju; graphics by Stéphanie Pradier and Samy Chahri, Members' Research Service, PE 698.753, October 2023.

³³ *Ioane Teitiota v. New Zealand*, Communication No. 2728/2016, UN Doc. CCPR/C/127/D/2728/2016 (2020). In this case, Ioane Teitiota, a citizen of Kiribati, claimed that New Zealand's decision to deport him violated his right to life under Article 6 of the International Covenant on Civil and Political Rights (ICCPR), due to the life-threatening effects of climate change in Kiribati. The Committee recognized the potential for serious climate change impacts to violate the right to life, setting a precedent for acknowledging climate refugees. Although Teitiota was ultimately deported, the decision established that deporting someone to a place where they may face life-threatening dangers due to the adverse impacts of climate change could be considered a violation of the right to life.

³⁴ *Ibid.*

law, which opens avenues for development that could eventually lead to the creation of new treaties.³⁵

Procedural rights

The second component of the three-part approach involves procedural rights, also referred to as "access rights." These include the right to access information, participate in decision-making processes, and seek remedies.³⁶

The evolution of procedural rights—including access to information, public participation, and access to justice—is pivotal in shaping the future of environmental justice and human rights. Strengthening these rights empowers individuals and communities, enhances transparency, and facilitates informed decision-making, thereby minimising conflicts during environmental planning. Recognized as a right in environmental treaties, public participation ensures that community voices are included in crucial decisions. Expanded access to justice, backed by international agreements, allows individuals to address human rights violations in environmental contexts. This comprehensive strategy aligns with the "greening" of human rights law, fostering a more inclusive framework to tackle emerging challenges and advance environmental justice. Looking ahead, the critical role of civil society is evident. Grassroots movements are already mobilising community power, underscoring the vital role of local communities in steering environmental initiatives toward a more equitable and rights-centred approach.³⁷

For climate migrants, grassroots mobilisation and community advocacy play key roles in ensuring their rights and needs are addressed in both origin and destination regions.

³⁵ Dorina de Jonge, "Future of Environmental Justice and Human Rights: Potential and Limitations," Final Exam, Environmental Justice & Human Rights, Central European University, 2024.

³⁶ Sumudu Attapattu and Andrea Schapper, *Human Rights and the Environment* (Routledge, 2019), 141.

³⁷ Dorina de Jonge, "Future of Environmental Justice and Human Rights: Potential and Limitations," Final Exam, Environmental Justice & Human Rights, Central European University, 2024.

When examining the advancement of procedural rights within human rights law in relation to climate issues, it is essential to consider strategic litigation. The future of environmental justice will be significantly influenced by landmark legal cases, which act as powerful tools for holding corporations and governments accountable. Strategic litigation plays a vital role at both national and regional levels, enabling citizens and advocacy groups to confront environmental injustices and human rights violations.³⁸

Famous cases like the Oposa case in the Philippines and the Urgenda case in the Netherlands, though not migration-related, demonstrate the potential of litigation to compel stronger climate action.³⁹

There are also climate-related strategic litigation cases specifically addressing the issue of migration. Already mentioned in this paper is the case of Teitiota v. New Zealand, where Ioane Teitiota, from Kiribati, sought asylum in New Zealand due to rising sea levels making his home uninhabitable. The UN Human Rights Committee later ruled that countries cannot deport individuals facing life-threatening conditions due to climate change, highlighting the potential for strategic litigation to protect climate migrants.⁴⁰

³⁸ Dorina de Jonge, "Future of Environmental Justice and Human Rights: Potential and Limitations," Final Exam, Environmental Justice & Human Rights, Central European University, 2024

³⁹ Oposa v. Factoran, G.R. No. 101083 (1993): In this landmark case, a group of Filipino children, represented by their parents and environmental advocates, filed a lawsuit against the Secretary of the Department of Environment and Natural Resources. They argued that the issuance of timber licences violated their constitutional right to a balanced and healthful ecology. The Supreme Court of the Philippines recognized their standing to sue on behalf of future generations, emphasising intergenerational responsibility and the need to protect the environment for future generations.

Urgenda Foundation v. The State of the Netherlands, Case C/09/456689 / HA ZA 13-1396 (2015): The Urgenda Foundation, along with 900 Dutch citizens, filed a lawsuit against the Dutch government, demanding stronger action to combat climate change. The Hague District Court ruled that the government must reduce greenhouse gas emissions by at least 25% by 2020 compared to 1990 levels, citing a duty of care to protect its citizens from the dangers of climate change. This decision was upheld by the Dutch Supreme Court in 2019, setting a significant precedent for climate litigation worldwide.

⁴⁰ *Ioane Teitiota v. New Zealand*.

Another relevant case is the Torres Strait Islanders' petition to the UN Human Rights Committee, where indigenous Australians argued that the Australian government's inaction on climate change violated their rights. This case underscores how litigation can address the specific vulnerabilities of marginalised communities.⁴¹

These cases highlight the evolving role of strategic litigation in advancing environmental justice and holding powerful entities accountable. As noted by Attapattu and Schapper, this trend aligns with the “greening” of human rights law and paves the way for the development of new legal frameworks and potentially future treaties.⁴²

The right to a clean and healthy environment

Addressing the third point in the authors' argument, Attapattu and Schapper's 2019 publication confined their analysis of the right to a clean and healthy environment to the regional context. However, a major advancement took place in 2022 when the UN General Assembly passed Resolution 76/300, officially acknowledging the right to a clean, healthy, and sustainable environment as a fundamental human right. This acknowledgment is deeply rooted in the national legal frameworks and regional human rights agreements and tribunals of the Global South.⁴³ The advancement to the level of a UN resolution highlights a significant shift in global views on environmental rights, indicating potential future progress in the legal framework surrounding this fundamental human right. This development is especially pertinent to climate-induced migration, as it provides a stronger legal foundation for safeguarding individuals and communities displaced by environmental degradation.

⁴¹ Torres Strait Islanders' petition to the UN Human Rights Committee, Communication No. 3624/2019, UN Doc. CCPR/C/127/D/3624/2019 (2020).

⁴² Sumudu Attapattu and Andrea Schapper, *Human Rights and the Environment* (Routledge, 2019), 101.

⁴³ Carmen G. Gonzalez, *The Right to a Healthy Environment and the Global South* (July 31, 2023). 117 *American Journal of International Law (AJIL) Unbound* 173 (2023)

While progress is being made toward incorporating environmental justice into UN frameworks, it is essential to recognize and assess the current limitations. Despite the existence of various mechanisms, treaties, and the valuable contributions of special rapporteurs, the lack of judicial enforceability raises questions about their effectiveness in achieving tangible outcomes. The expanding library of treaties is a promising trend, exemplified by the recent signing of the Global Oceans Treaty (officially called the High Seas Treaty),⁴⁴ which has significant human rights implications. Additionally, ongoing UN treaty negotiations aim to establish obligations for transnational private commercial entities, potentially introducing 'environmental rights' into international human rights instruments to address human and environmental rights in business activities. These developments indicate a positive direction, but the challenge of enforceability remains critical.⁴⁵

However, despite advancements at the UN, there also seem to be setbacks. For example, the last COP was held in the United Arab Emirates, a country with significant fossil fuel interests, and the upcoming COP is scheduled in Azerbaijan. It is vital to advocate for the development of clear criteria for selecting COP hosts. These criteria should include the host country's commitment to renewable energy targets, efforts to reduce carbon emissions, and adherence to international environmental agreements. Establishing transparent criteria will ensure that host countries align with the environmental goals of the conferences, thereby enhancing the credibility and effectiveness of COP events in driving global climate action.⁴⁶

Concluding this point, amid the uncertainties of our global future, the intersection of environmental justice and human rights provides invaluable insights for steering a more just

⁴⁴ Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, New York, 19 June 2023.

⁴⁵ Jacques Hartmann and Annalisa Savaresi, "Corporate actors, environmental harms and the Draft UN Treaty on Business and Human Rights: History in the making?" *Questions of International Law* 1 (2014) (forthcoming); 2 (2015).

⁴⁶ Dorina de Jonge, "Future of Environmental Justice and Human Rights: Potential and Limitations," Final Exam, Environmental Justice & Human Rights, Central European University, 2024.

and sustainable path forward. The exploration of climate refugees, the evolution of procedural rights, and the formal recognition of the right to a clean environment highlight the complex dynamics at play. While legal advances and international resolutions indicate progress, the ongoing challenge remains in bridging the gap between intentions and enforceability within UN frameworks. Additionally, as we face broader uncertainties such as the future direction of businesses and the evolving role of artificial intelligence, and the increasing prevalence of climate-induced migration, the principles derived from this exploration offer a nuanced guide for navigating the intricate landscape of environmental stewardship and human well-being in the years to come.

Language and terminology

This written component serves as a pivotal introduction to the pressing topic of climate crisis-induced migration. Through the lens of real-life narratives, it aims to shed light on the profound impact experienced by individuals directly affected by or knowledgeable about this phenomenon. As evidenced in the literature, articulating a precise terminology to encapsulate those affected by this paramount issue proves challenging.

From a layperson's perspective, the term "environmental refugee" may appear to be the most fitting descriptor. However, this issue is considerably more nuanced. The inquiry extends beyond mere linguistic and semantic considerations; it pertains fundamentally to the frameworks and mechanisms of protection. Debating the terminology used to identify individuals in vulnerable states serves little purpose unless such language contributes substantially to their progress. Therefore, the subsequent discussion transcends mere linguistic analysis to encompass the examination of pertinent circumstances and rights that may or may not be applicable.

The term "refugee" traces its origins to 17th-century France, where it initially conveyed a straightforward connotation: an individual seeking refuge or sanctuary.⁴⁷ This definition remains applicable whether one is fleeing from the ravages of war or conflict, or from the perils of environmental degradation.

However, such a romantic and metaphorical interpretation belies the legal precision that the term has acquired over time. In reality, the term "refugee" has been solidified within the realm of international law, notably since the adoption of the 1951 Geneva Convention. As I

⁴⁷ According to Google Dictionary (which is supported by Oxford Languages), the original meaning referred to a Protestant who fled France to seek refuge elsewhere from religious persecution (from *refuge* + *-ee*, influenced by French *réfugié* 'gone in search of refuge', past participle of (*se*) *réfugier*, from *refuge*)

mentioned in an earlier section, according to this seminal treaty, a refugee is officially defined as an individual "who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion."⁴⁸

The term "environmental refugee" gained prominence following its introduction by the UN Environment Programme (UNEP) in a report issued in 1985.⁴⁹ Since its introduction, the term "environmental refugee" has been widely adopted and employed in academic and policy discourse. Myers and Kent, in a publication slightly over two decades ago, provided a comprehensive delineation of this concept, defining an environmental refugee as an individual "who can no longer secure a sustainable livelihood in their traditional homelands due to a broad array of environmental factors, including but not limited to drought, desertification, deforestation, soil erosion, water shortages, climate change, as well as natural disasters such as cyclones, storm surges, and floods."⁵⁰ A more recent proposal for a conceptual framework, put forth by Biermann and Boas in 2010, advocates for limiting the classification of climate refugees to individuals affected specifically by sea-level rise, extreme weather events, and drought and water scarcity.⁵¹

Whether one adheres to the broader UNEP definition or opts for the more restrictive criteria outlined by Biermann and Boas, it is evident that the term "environmental refugees" remains a legally nebulous category. In the subsequent discussion, alternative terminology will be introduced, highlighting the ongoing absence of comprehensive legal frameworks designed to

⁴⁸ United Nations, Convention Relating to the Status of Refugees, July 28, 1951.

⁴⁹ Essam El-Hinnawi, *Environmental Refugees* (Nairobi: United Nations Environment Programme, 1985).

⁵⁰ Norman Myers and Jennifer Kent, *Environmental Exodus: An Emergent Crisis in the Global Arena* (Washington, DC: Climate Institute, 1995).

⁵¹ Biermann, Frank, and Ingrid Boas. "Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees." *Global Environmental Politics* 10, no. 1 (2010): 60-88.

safeguard the rights of these vulnerable populations. Consequently, the drafting and exploration of potential frameworks represent imperative endeavours.

Within the current legal frameworks, the term "environmental refugees" falls short. This is primarily because it is highly unlikely, if not entirely implausible, that the refugee convention will be expanded to encompass individuals who cross borders as a consequence of environmental degradation. At this juncture, the term becomes little more than a romanticised notion, offering expressive value but lacking substantive legal efficacy in a world governed by laws rather than mere terminology.

Another frequently cited term is "environmental migrants," as formulated by the International Organization for Migration (IOM). According to their definition, environmental migrants are individuals or groups who, primarily due to abrupt or gradual changes in the environment adversely impacting their lives or living conditions, are compelled to depart from their customary residences, either temporarily or permanently, either by choice or necessity, and relocate either within their country or internationally.⁵² While criticised for its perceived breadth, this definition notably encompasses internal displacement,⁵³ which constitutes the majority of individuals displaced due to climate-related factors or disasters.

From a legal standpoint, a notably precise definition is presented in a recent EuroMed Rights paper, which characterises the term as "people displaced in the context of disasters, climate change, and environmental degradation."⁵⁴

⁵² Perruchoud, Richard, and Jillyanne Redpath-Cross, eds. *Glossary on Migration*. International Organization for Migration, 2011, p. 33.

⁵³ Internally Displaced Persons: Persons or group of persons who have been forced 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, armed conflict, internal strife, systematic violations of human rights, or natural or man-made disasters, and who have not crossed an internationally recognized State border (OCHA 2004). Source: compiled by A. de Sherbinin

⁵⁴ EuroMed Rights, "Human Mobility in the Context of Disasters, Climate Change and Environmental Degradation in the Euro-Mediterranean Region: Challenges and Insights.", <https://www.preventionweb.net/media/93797/download?startDownload=true>

The absence of a definitive conclusion regarding terminology persists. This lack of linguistic consensus is indicative of the broader deficiency in legislative frameworks specifically tailored to address the multifaceted challenges posed by climate-induced displacement. This gap in terminology not only reflects the complexities inherent in defining and categorising displacement scenarios but also underscores the broader inadequacies in legal mechanisms designed to protect the rights and well-being of those affected.

Intersectionality, human rights and migration: a complex interplay

Intersectionality - conflict, migration and environment

A significant objective of my research is to unwrap the intersectional dimensions of climate-induced displacement. One crucial aspect that I aim to uncover pertains to the realm of language, semantics, and terminology, as previously outlined. However, before delving into this exploration, it is imperative to elucidate the concept of intersectionality.

The concept of "intersectionality" was introduced by Kimberlé Crenshaw in 1989. Crenshaw explained how overlapping systems of power converge to influence the experiences of the most marginalised individuals in society. Intersectionality functions as a sociological framework designed to understand how the social and political identities of individuals and groups intersect, leading to distinct patterns of discrimination and privilege. Based on critical race theory and feminist studies, as gender, race, class, age, disability, and sexual orientation intersect each other to drive and exacerbate privilege, discrimination, and oppression.⁵⁵

In examining climate-induced displacement through an intersectional framework, this inquiry aims to shed light on the intricate impacts of gender, race, class, sexuality, and disability on the opportunities, discriminations, and privileges experienced by climate migrants. But before delving into this, central to this analysis is an exploration of how multiple external forces intersect, particularly the convergence of environmental degradation and armed conflict, in shaping individuals' vulnerabilities. This approach underscores the interconnected nature of various systems of oppression.

⁵⁵ Kimberlé Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics," *University of Chicago Legal Forum* (1989): 139-167.

The discussion turns to the recurring term "refugee" in the context of its relevance to situations where environmental degradation emerges as a consequence of armed conflict. A study conducted in 2009 revealed a notable trend: a majority of major armed conflicts occurred within biodiversity hotspots, regions rich in native species but facing imminent threats.⁵⁶

Examples that demonstrate the connection between environmental disasters and conflict further clarify this intricate relationship. A significant case is the Mocoa landslide in Colombia. Mocoa had become a refuge for thousands escaping armed conflict within the country, leading internally displaced persons to settle in economically unstable and dangerous areas. As a result, when a catastrophic landslide occurred in April 2017, these individuals were disproportionately impacted. Remarkably, data shows that 80% of the landslide's victims had previously been displaced by conflict, highlighting the deep interconnection between warfare and climatic events in intensifying vulnerabilities.⁵⁷

The breach of the Khakovha dam in Southern Ukraine during the summer of 2023 stands as another poignant example. Suspected to have been intentionally breached by Russian troops,⁵⁸ this catastrophic event resulted in extensive flooding, claiming the lives of hundreds of individuals and millions of animals. The repercussions extended far beyond immediate casualties, encompassing the devastation of farmland, wildlife habitats, and human settlements, with consequences projected to reverberate for decades.⁵⁹ Similarly to the

⁵⁶ Hanson T, Brooks TM, Da Fonseca GA, Hoffmann M, Lamoreux JF, Machlis G, Mittermeier CG, Mittermeier RA, Pilgrim JD. *Warfare in biodiversity hotspots*. Conserv Biol. 2009 Jun;23(3):578-87. doi: 10.1111/j.1523-1739.2009.01166.x. Epub 2009 Feb 19. PMID: 19236450.

⁵⁷ Katie Peters, "When Disasters and Conflict Collide," *Explainer*, Overseas Development Institute, accessed June 16, 2024, <https://odi.org/en/insights/multimedia/video-when-disasters-and-conflict-collide/>.

⁵⁸ Glanz, James; Santora, Marc; Pérez-Peña, Richard (6 June 2023). "Internal blast probably breached Ukraine dam, experts say (cautiously)". *The New York Times*. ISSN 0362-4331. Archived from the original on 7 June 2023. Retrieved 7 June 2023.

⁵⁹ United Nations Environment Programme (2023). Rapid Environmental Assessment of Kakhovka Dam Breach Ukraine, 2023. <https://wedocs.unep.org/20.500.11822/43696>.

victims of the Mocoa landslide, individuals affected by the breach of the Khakovha dam find themselves in a precarious situation. They are essentially refugees of war, or more accurately, would qualify as such if they were to seek refuge under the conditions outlined by the Geneva Convention and if they were to leave the country. However, their already vulnerable state is further exacerbated by environmental displacement, compounding the challenges they face and underscoring the urgent need for comprehensive support mechanisms and legal protections.

To further elaborate on this argument, the destruction of the Khakovha dam can likely be viewed as a catalyst for one of the domino effects of climate change. It is significant to note that what the Russians have destroyed was a hydroelectric power plant—a source of renewable energy. As highlighted in the relevant section of this paper, there exists a scientific consensus affirming that the burning of fossil fuels constitutes one of the primary drivers behind the transition from the Holocene to an uncertain climate era. In this context, the utilisation of renewable energy sources emerges as a pivotal component in humanity's quest for survival.

Hence, the destruction of the Khakovha dam not only yields immediate consequences for climate-induced migration but also engenders long-term effects. It contributes to a multiplicity of factors precipitating such displacement, further underscoring the interconnectedness of environmental degradation, geopolitical conflicts, and the broader climate crisis.

The examples of the Mocoa landslide in Colombia and the breach of the Khakovha dam in Southern Ukraine illustrate the interplay between armed conflict, environmental disasters, and displacement. They emphasise the urgent need for support mechanisms and legal protections.

In addressing the complex intersection of environmental degradation and armed conflict, it is crucial to recognize the multifaceted nature of vulnerability, particularly for marginalised communities. Traditional climate adaptation strategies often fail to consider the compounded vulnerabilities arising from intersecting social inequalities, such as race, gender, and socioeconomic status. As highlighted by Amorim-Maia et al. (2022), an intersectional approach to climate justice demands that adaptation planning not only address environmental impacts but also the underlying social and economic reinforcers of inequality. This involves rethinking urban planning from a care perspective, prioritising the needs of historically marginalised groups, and fostering community resilience through participatory processes. For example, the "Climate Shelters in Schools" project in Barcelona demonstrates how place-based, community-led interventions can create inclusive, adaptive spaces that cater to the specific vulnerabilities of local populations. By integrating local knowledge and emphasising the importance of caring relations, such initiatives can enhance social cohesion and build adaptive capacity, ultimately contributing to more equitable and sustainable urban environments.⁶⁰

Intersectionality in the context of climate justice and marginalised groups

In this section, I will explore the intersectional perspectives we need to take into account when discussing environmental refugees, focusing particularly on the experiences of women and LGBTQIA2S+ individuals.

LGBTQIA2S+ individuals fleeing their countries of origin often encounter victimisation, unsafe living conditions, statelessness, and violence throughout the asylum process. While in transit from their country of origin to their destination, LGBTQ+ individuals are frequently

⁶⁰ Amorim-Maia, Ana T., Isabelle Anguelovski, Eric Chu, and James Connolly. "Intersectional Climate Justice: A Conceptual Pathway for Bridging Adaptation Planning, Transformative Action, and Social Equity." *Urban Climate* 41 (2022): 101053.

subjected to violence and harassment, facing obstacles in accessing essential healthcare.

Upon reaching their destinations, LGBTQIA2S+ migrants frequently continue to experience harassment, violence, and discrimination. Transgender and gender-diverse refugees, asylum seekers, migrants, internally displaced persons, and stateless individuals face an elevated risk of physical and emotional abuse, including beatings, rape, torture, and murder. This increased vulnerability is due to the perception that their visible gender expression defies social norms in their countries or regions of origin, transit, and destination. Moreover, LGBTQIA2S+ individuals encounter significant challenges in the asylum process because of fears of persecution or the involuntary disclosure of their sexual orientation or gender identity in their home countries. The necessity to prove their identities often poses additional obstacles for asylum seekers.⁶¹

In developing countries, many aid organisations are run by churches, which can limit access to services for individuals whose identities and presentations deviate from societal norms. In countries expected to experience the most severe impacts of climate change on food insecurity—such as South Sudan, Madagascar, Pakistan, Somalia, Sudan, Chad, Niger, Burkina Faso, Honduras, El Salvador, and Guatemala—same-sex sexual activity is illegal in five of them. Even in the absence of such laws, El Salvador, Honduras, and Guatemala are among the top five countries of origin for asylum seekers citing LGBTQ+ status upon arrival in the U.S.⁶²

The intersectional vulnerabilities faced by marginalised groups, particularly women and LGBTQIA2S+ individuals, in the context of climate-induced displacement underscore the

⁶¹ Samuel Mann, Tara McKay, Gilbert Gonzales, Climate Change-Related Disasters & the Health of LGBTQ+ Populations, *The Journal of Climate Change and Health*, 2024, 100304, ISSN 2667-2782, <https://doi.org/10.1016/j.joclim.2024.100304>, (<https://www.sciencedirect.com/science/article/pii/S2667278224000075>)

⁶² Ari Shaw, Winston Luhur, Ingrid Eagly, Kerith Conron. *LGBT Asylum Claims in the United States*. The Williams Institute; 2021 [Accessed on May 2nd 2023]. Available from: <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Asylum-LGBT-Claims-Mar2021.pdf>

urgent need for inclusive and equitable climate justice frameworks. These individuals face compounded challenges that exacerbate their already precarious situations, from violence and discrimination during transit to systemic barriers in accessing asylum and support services upon arrival. Addressing these intersecting issues requires a multifaceted approach that recognizes the unique experiences and needs of these groups. By integrating intersectional perspectives into climate justice initiatives, we can work towards creating more resilient and supportive environments that ensure the safety, dignity, and well-being of all displaced persons, especially those who are most vulnerable.

Despite the separate discussions of intersectionality in the contexts of conflict and marginalised groups, specifically the LGBTQIA2S+ community within this section, it is important to recognize the intricate interplay between these factors. Intersectionality fundamentally concerns the interconnections of various forms of oppression and privilege. Consider the gendered dimensions of war: men constitute the majority of combatants and are often prohibited from leaving conflict zones, while women shoulder increased responsibilities and burdens, highlighting the complex, intersecting nature of these issues. These interplays exemplify how various factors such as gender, conflict, and climate migration are deeply interconnected, reinforcing the necessity for comprehensive approaches in addressing the multifaceted challenges faced by marginalised communities. This complex web of interrelations underscores the importance of holistic and inclusive strategies in climate justice initiatives, ensuring that all dimensions of vulnerability and resilience are addressed.

Conclusion

In this thesis, I have explored the intricate relationship between climate change, human rights, and migration. Through the practical component of my podcast and in-depth research, I aimed to elucidate the complexities surrounding climate-induced displacement.

My findings indicate that current legal frameworks, such as the 1951 Geneva Convention, do not adequately protect climate migrants. The recognition of procedural rights, including access to information, public participation, and justice, is essential for empowering communities. Case studies, such as *Teitiota v. New Zealand*, highlight the potential for strategic litigation to advance environmental justice.

The intersectional approach is crucial in addressing the compounded vulnerabilities of marginalised groups, ensuring that climate justice frameworks are inclusive and equitable.

The adoption of UN Resolution 76/300 marks a significant step forward, providing a stronger legal basis for protecting those displaced by environmental degradation.

While progress has been made, significant challenges remain in bridging the gap between legal intentions and enforceability. This research underscores the necessity of integrating community-led initiatives and continuous advocacy to develop comprehensive strategies for addressing climate-induced migration. By understanding and responding to these multifaceted impacts, we can contribute to a more sustainable and just future for all affected populations.

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