



Environmental Migration: Finding Solutions for the 21st Century

*The rain
Exposes the drenched streets,
the cheating contractor,
and the failed state.
It washes everything,
bird wings
and cats' fur.
Reminds the poor
of their fragile roofs
and ragged clothes.
It awakens the valleys,
shakes off their yawning dust
and dry crusts.
The rain
a sign of goodness,
a promise of help,
an alarm bell.*

— “The Rain” by Mustafa al-Trabelsi,
a victim of the 2023 mass-casualty floods in Libya¹

Around the world, environmental shocks are threatening people’s lives and livelihoods. Extreme weather and geophysical hazards have long posed a danger to humankind. But the breadth and depth of their destruction today — plus the effects of slower-onset trends like sea level rise and desertification — suggest that now and into the future, people will increasingly experience weather- and climate-related suffering.

July 2023 set a new global high for the hottest month on record, during a summer that brought hundreds of heat-related illnesses and deaths.² Wildfires ravaging Canada gave way to unsafe air quality across the United States earlier this year, turning New York City’s sky a hazy, dystopian orange and confining many Americans indoors.³ Then, in

¹ Patrick Wintour, “An Alarm Bell’: Libyan Poet Warned of Flood Risk in Derna before Dying in Storms,” The Guardian, September 14, 2023, <https://www.theguardian.com/world/2023/sep/14/libyan-poet-the-rain-floods-mustafa-al-trabelsi>.

² Claire O’Shea, “NASA clocks July 2023 as hottest month on record ever since 1880,” August 14, 2023, <https://www.nasa.gov/press-release/nasa-clocks-july-2023-as-hottest-month-on-record-ever-since-1880>.

³ Shirin Ali, “The Unbelievable Orange Sky Northeasterners Are Staring at Today,” Slate Magazine, June 7, 2023, <https://slate.com/news-and-politics/2023/06/northeast-photos-of-the-ominous-haze-over->

September, floods made worse by planet-warming pollution killed thousands in Libya.⁴ These are only a few examples of the most recent, visible signs that natural disasters and climate-related events are raising serious obstacles for humanity's wellbeing and survival.

Although environmental tragedies affect much of the planet, they often take a disproportionate toll on regions and demographics that are uniquely exposed. Lower income nations have been and likely will continue to be heavily impacted by climate-related shifts, and Small Island Developing States (SIDS) like the Dominican Republic and Jamaica face particularly acute challenges from hurricanes, sea level rise, and other threats.⁵ Individuals and communities who are already marginalized — including people who have been displaced previously, women, children, the elderly, and those living in poverty — also tend to experience heightened insecurity.⁶

Amid environmental degradation and natural disasters that are oftentimes made worse by poor governance, climate change, or both, people around the world have turned to migration as a survival mechanism. Some leave their communities short-term. Others relocate permanently. Regardless, movement has become one way to endure.

“When migration presents as the preferable form of adaptation, or in situations when people are forced to flee the impacts of climate change, the United States has a compelling national interest in strengthening global protection for these displaced individuals and groups,” a 2021 White House report found. “Those protections are rooted in humanitarian objectives and inextricably linked to U.S. interests in safe,

new-york.html; Annette Choi and Krystina Shveda, “Wildfires in Canada Led to Dangerous Air Quality in New Parts of the US This Year. See the Most Affected Areas,” CNN, September 17, 2023, <https://www.cnn.com/2023/09/17/us/air-quality-wildfire-pollution-allergy-dg/index.html>.

⁴ Laura Paddison, “Horrible Libya Flooding Made up to 50 Times More Likely by Planet-Warming Pollution, Scientists Find,” CNN, September 19, 2023, <https://www.cnn.com/2023/09/19/world/libya-floods-climate-change-impact/index.html>.

⁵ Saleemul Huq and Mohamed Adow, “Climate Change Is Devastating the Global South,” Al Jazeera, May 13, 2022, <https://www.aljazeera.com/opinions/2022/5/11/climate-change-is-devastating-the-global-south>; “About Small Island Developing States,” accessed September 21, 2023, <https://www.un.org/ohrrls/content/about-small-island-developing-states>; “List of SIDS,” United Nations, accessed September 25, 2023, <https://www.un.org/ohrrls/content/list-sids>; Lawrence Huang, “Climate Migration 101: An Explainer,” migrationpolicy.org, November 16, 2023, <https://www.migrationpolicy.org/article/climate-migration-101-explainer#origins>.

⁶ “COP27 Must Act on Human Mobility,” Platform on Disaster Displacement, accessed September 21, 2023, <https://disasterdisplacement.org/portfolio-item/cop27-must-act-on-human-mobility/>, 1; Amelia Midgley et al., “Groundswell: Preparing for Internal Climate Migration,” World Bank, 2018, <https://www.worldbank.org/en/news/infographic/2018/03/19/groundswell---preparing-for-internal-climate-migration>, 35.

orderly, and humane migration management, regional stability, and sustainable economic growth and development.”⁷

This paper explores environmental migration as a potential method of adaptation. First, it will analyze environmental migration as a phenomenon, focused on some of the nuances that make weather- and climate-related forces complicated yet influential factors in the decision to move. Then, it will consider existing international mechanisms and U.S. laws that could potentially relate to environmental migration. It will briefly discuss how immigrant and diasporic communities are especially vulnerable to environmental harms, even after they have already migrated. Finally, it will conclude with policy recommendations on how the U.S. (and other countries) could effectively respond to environmental migration in the 21st century.

Definitions

For the purposes of this paper, “climate change” can be understood simply as “a change in the state of the climate identifiable by long-term changes in the mean and/or variability of its properties.”⁸ According to the United Nations High Commissioner for Refugees (UNHCR), “climate change can clearly be seen in the increasing intensity and frequency of extreme weather events, such as abnormally heavy rainfall, prolonged drought, heatwaves and cyclones.”⁹

Meanwhile, I will defer to the International Organization for Migration’s (IOM) working definition of a broader swathe of “environmental migrants” as “persons or groups of persons who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad.”¹⁰

Similarly, following the Center for Global Development, I will use the phrase “climate-affected migration” to describe the multifaceted realities influencing a narrower if

⁷ “Report on the Impact of Climate Change on Migration,” October 2021, <https://www.whitehouse.gov/wp-content/uploads/2021/10/Report-on-the-Impact-of-Climate-Change-on-Migration.pdf>, 5.

⁸ Robert Beyer and Andrea Milan, “Climate Change and Human Mobility: Quantitative Evidence on Global Historical Trends and Future Projections,” Migration Data Portal, 2023, https://www.migrationdataportal.org/sites/g/files/tmzbd1251/files/2023-06/Final5_2023%20Climate%20Change%20and%20Human%20Mobility.pdf, 5.

⁹ “Strategic Framework for Climate Action,” UNHCR, accessed September 19, 2023, <https://www.unhcr.org/media/strategic-framework-climate-action>, 4.

¹⁰ “Discussion Note: Migration and the Environment,” November 1, 2007, https://www.iom.int/sites/g/files/tmzbd1486/files/jahia/webdav/shared/shared/mainsite/about_iom/en/council/94/MC_INF_288.pdf, 1-2.

overlapping subset of people, whose movement “is undertaken for a host of simultaneous reasons, but... is also *migration affected by climate change*.”¹¹

A Human Toll

In 2022, natural disasters led to roughly 32.6 million internal displacements around the globe, forcing people to relocate elsewhere within their own national borders because of weather-related and geophysical hazards. A single country — Pakistan — experienced a quarter of these forced movements because of the devastating consequences from monsoon flooding, while around the world, floods were responsible for over 19 million displacements, storms accounted for nearly 10 million, and droughts explained over 2.2 million. Even in a year defined by Russia's unprovoked invasion of Ukraine, when millions suddenly fled their homes because of war, the number of internal displacements triggered by natural disasters eclipsed those from conflict and violence by several million.¹²

Two primary takeaways emerge from these data: 1) Environmental factors are exerting profound and complicated influences over migration patterns, and 2) much of the global migration based on natural disasters and climate-related events is and likely will remain internal instead of cross-border, challenging concepts of an international, climate-affected diaspora en masse.¹³

Migration due to natural disasters is not a new phenomenon, especially during sudden-onset events like flooding, storms, and cyclones.¹⁴ In fact, natural disasters regularly outrank violence and conflict as a top motivator for internal displacements globally.¹⁵ However, what has shifted in recent years is “the intensity and size of climate change-related environmental impacts on human communities and ecosystems,” not only through extreme and immediate hazards, but also through comparatively slow-onset

¹¹ Sam Huckstep and Michael Clemens, “Climate Change and Migration: An Omnibus Overview for Policymakers and Development Practitioners,” Center for Global Development, May 2023, <https://www.cgdev.org/sites/default/files/climate-change-migration-overview-brief.pdf>, 35.

¹² “2023 Global Report on Internal Displacement,” IDMC - Internal Displacement Monitoring Centre, May 1, 2023, <https://www.internal-displacement.org/publications/2023-global-report-on-internal-displacement>, 9-10.

¹³ Midgley et al., “Groundswell,” 2; Pablo Escribano, “Five Key Considerations to Address Environmental Mobility from a Human Rights Perspective,” Environmental Migration Portal, June 5, 2023, <https://environmentalmigration.iom.int/blogs/five-key-considerations-address-environmental-mobility-human-rights-perspective>; Beyer and Milan, “Climate Change and Human Mobility,” 11; Huckstep and Clemens, “Climate Change and Migration,” 10.

¹⁴ Midgley et al., “Groundswell,” 4-6; “People on the Move in a Changing Climate – Linking Policy, Evidence and Action,” IOM Publications Platform, October 20, 2022, <https://publications.iom.int/books/people-move-changing-climate-linking-policy-evidence-and-action>, 5.

¹⁵ Huckstep and Clemens, “Climate Change and Migration,” 30.

developments such as desertification, sea level rise, and erosion.¹⁶ As these events increasingly threaten lives and livelihoods, they have garnered ever-growing significance within the matrix of reasons why people move.

A number of complexities make environmental and climate-affected migration more nuanced than they may first appear. For one, environmental migrants exist on a spectrum somewhere between voluntary mobility and forced displacement, depending on their individual circumstances. And so, under less visible or explosive scenarios, people affected by climate change run the risk of being wrongly dismissed as “economic migrants” in search of job opportunities, especially if they left their homes at least partly due to environmental factors that undermined or destroyed their income sources.¹⁷

For instance, some Central American farmers are reportedly coming to the U.S. because extreme weather, increasing temperatures, and other environmental obstacles have prevented them from supporting themselves and their families by growing crops.¹⁸ As droughts, hurricanes, and floods have left people in the region grappling with food insecurity, many have made plans to leave their homes and escape such exigent conditions.¹⁹ No doubt, their decisions to migrate are financially motivated – they need work and income to provide for their loved ones. Yet it would be difficult to classify their movement as strictly “voluntary” or “economic” when the changing climate is likely a primary external factor that prevents them from successfully harvesting much of their land or subsisting on farming-related work.

Climate-related harms do not exist in isolation, and they are rarely the only rationale people give for migrating. Instead, negative environmental factors often intersect with political turmoil, bad governance, inequality, poverty, and other risks, creating a generally volatile living situation that people may feel the need to escape.²⁰ Similarly, research suggests that phenomena such as sea level rise, resource limitations, and natural disasters may in certain contexts “drive or exacerbate” conflict by destroying livelihoods, delegitimizing states amid inadequate preparation and response, and

¹⁶ Midgley et al., “Groundswell,” 6; “People on the Move,” 5.

¹⁷ “People on the Move,” 8.

¹⁸ Kirk Semple, “Central American Farmers Head to the U.S., Fleeing Climate Change,” *The New York Times*, April 13, 2019, <https://www.nytimes.com/2019/04/13/world/americas/coffee-climate-change-migration.html>.

¹⁹ Diego Pons, “Climate Extremes, Food Insecurity, and Migration in Central America: A Complicated Nexus,” *migrationpolicy.org*, February 18, 2021, <https://www.migrationpolicy.org/article/climate-food-insecurity-migration-central-america-guatemala>.

²⁰ United Nations High Commissioner for Refugees, “Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters,” *Refworld*, October 1, 2020, https://www.refworld.org/docid/5f75f2734.html?_gl=1%2Aeuxpzz%2A_rup_ga%2AMTM3MTkzNzQ2MC4xNjc3NTI0MTA0%2A_rup_ga_EVDQTJ4LMY%2AMTY4Nzc5NzQ1OS4xNC4xLjE2ODc3OTc3NDYuMC4wLjA, 2.

otherwise upending everyday life.²¹ In this way, climate change may also manifest as a “threat multiplier,” making worse the underlying divisions that spur displacement.²² In 2021, U.N. Secretary-General António Guterres said, “it is no coincidence that of the 15 countries most susceptible to climate risks, eight host a United Nations peacekeeping operation or special political mission.”²³

Yet even as negative environmental developments could encourage migration in some cases, they may counterintuitively inhibit it in others. Moving usually takes a certain level of resources and funding, which natural disasters and climate shocks tend to drain.²⁴ People who simply do not have the capacity to move will likely find themselves trapped in increasingly unlivable situations, unable to access migration as a viable option to adapt.²⁵ Meanwhile, to preserve spiritual, cultural, familial, or other ties, some individuals whose communities are affected by climate change may become voluntarily immobile — as researcher Caroline Zickgraf recently explained, “there are those who prefer to die rather than leave.”²⁶

All these complications make estimating the scale of environmental migration in an era of climate change immensely difficult. A report out of IOM’s Global Data Institute suggests that “there is overall no consensus about the quantitative effects of environmental factors on internal or international migration flows, with estimated mobility responses at times differing by orders of magnitude or even on the question whether they are positive or negative.”²⁷ That said, some researchers have tried to model climate-affected migration into the near future as a way to demonstrate the human toll of climate change, with often alarming results. For example, the World Bank found that by 2050, just the slow-onset influences of climate change could push over 143 million people to move internally in Sub-Saharan Africa, South Asia, and Latin America alone.²⁸ A follow-up report from 2021 increased that estimate to more than 216 million people

²¹ Midgley et al., “Groundswell,” 27; “People on the Move,” 10; UNHCR, “Climate Change.”

²² The UN High Commissioner for Refugees, “Climate Change and Disaster Displacement,” UNHCR, accessed June 29, 2023, <https://www.unhcr.org/what-we-do/build-better-futures/environment-disasters-and-climate-change/climate-change-and>.

²³ “Secretary-General’s Remarks at Security Council Open Debate on ‘Challenges of Maintaining Peace and Security in Fragile Contexts,’” United Nations, January 6, 2021, <https://www.un.org/sg/en/content/sg/statement/2021-01-06/secretary-generals-remarks-security-council-open-debate-%E2%80%99challenges-of-maintaining-peace-and-security-fragile-contexts%E2%80%9D-bilingual-delivered-scroll-down-for-all-english>.

²⁴ Huckstep and Clemens, “Climate Change and Migration,” 10.

²⁵ Midgley et al., “Groundswell,” xxi, 35.

²⁶ Caroline Zickgraf, “Where Are All the Climate Migrants? Explaining Immobility amid Environmental Change,” [migrationpolicy.org](https://www.migrationpolicy.org), October 4, 2023, <https://www.migrationpolicy.org/article/climate-change-trapped-populations>.

²⁷ Beyer and Milan, “Climate Change and Human Mobility,” 21.

²⁸ Midgley et al., “Groundswell,” xix-xxi.

across six regions, including roughly 17 million in Latin America, should the climate emergency not be met with fast, deliberate action.²⁹

Again, the World Bank's models focus on people migrating within their own countries, and overall, research indicates that environmental adversities usually have a greater impact on internal migration, especially from rural to urban areas.³⁰ Some of these trends are even noticeable in the U.S., where according to The Guardian, "more than 3 million Americans lost their homes to climate disasters last year," and where much of the U.S. public is painfully familiar with instances of forced movement, at least temporarily, in response to hurricanes, wildfires, or other natural disasters.³¹

But for people who do feel the need to cross international borders in an attempt to evade the negative effects of climate change or other natural disasters, there are considerably few viable, orderly immigration pathways. As explained in greater detail below, environmental migrants usually do not meet the narrow eligibility for refugee or asylee status and may lack family ties or other opportunities to immigrate legally. This leaves those who are set on going abroad with little choice but to travel irregularly, using more vulnerable paths and unreliable or even criminalized networks to reach their destinations. In the absence of more lawful immigration pathways, most climate-affected international migration will likely be irregular, exposing people to more dangerous journeys and leaving many with no vehicle for lawful immigration status.³²

In the next section, this paper will consider existing international humanitarian protections, and how or whether they could meaningfully respond to environmental migration in the 21st century. Later, it will also explore potential complementary pathways that countries including the U.S. could implement to better prepare for cross-border, climate-affected migration.

Refuge from Disaster

The fact that environmental degradation and natural disasters are already spurring millions to forcibly migrate around the world has become an emerging challenge for human rights and global security. UNHCR calls climate change "the defining crisis of

²⁹ "Groundswell: Acting on Internal Climate Migration," World Bank, September 13, 2021, <https://www.worldbank.org/en/news/infographic/2021/09/13/groundswell-acting-on-internal-climate-migration>.

³⁰ Beyer and Milan, "Climate Change and Human Mobility," 11.

³¹ Jake Bittle, "The American Climate Migration Has Already Begun," The Guardian, February 23, 2023, <https://www.theguardian.com/commentisfree/2023/feb/23/us-climate-crisis-housing-migration-natural-disasters>.

³² Huckstep and Clemens, "Climate Change and Migration," 19.

our time” and displacement “one of its most devastating consequences.”³³ Yet the subset of environmental migrants who cross borders to seek international protection often confronts a more dubious future abroad than bona fide refugees and asylees who have been forced to leave their homes for other, more traditionally recognized reasons.

This heightened insecurity belies a series of larger questions: Should migrants escaping short- or long-term climate-related events qualify for refugee status? Are they entitled to some form of international protection?

In the U.S., as in much of the world, the accepted criteria for refugee status through both resettlement and asylum stem from a 1951 convention devised in the immediate aftermath of World War II. Under that treaty, someone is eligible as a refugee, in part, if they have a well-founded fear of persecution based on at least one of the following five categories – race, religion, nationality, membership of a particular social group, or political opinion.³⁴ This widely adopted definition predates the current climate emergency, and whether or under what circumstances climate-affected migrants displaced abroad could fall under the comparatively narrow umbrella of any of these five categories remains a live controversy among stakeholders in human rights and international law. That said, several recent developments have begun to open the possibility of climate-related protections under existing frameworks – at least in theory.

First, in a highly publicized decision, the UN Human Rights Committee ruled that countries could not deport people if their right to life would be violated based on climate change-induced realities.³⁵ The Committee keeps watch over states' adherence to the International Covenant on Civil and Political Rights, an agreement that is separate from the aforementioned international refugee protections but to which the U.S. is a signatory.³⁶ Its members recognized that “environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life,” while doubling down on the position that severe environmental degradation could constitute a violation of that right.³⁷ In a press release, Committee expert Yuval Shany said, “this ruling sets

³³ UNHCR, “Climate Change.”

³⁴ “Convention and Protocol Relating to the Status of Refugees,” UNHCR, accessed June 29, 2023, <https://www.unhcr.org/media/convention-and-protocol-relating-status-refugees>.

³⁵ “Historic UN Human Rights Case Opens Door to Climate Change Asylum Claims,” OHCHR, January 21, 2020, <https://www.ohchr.org/en/press-releases/2020/01/historic-un-human-rights-case-opens-door-climate-change-asylum-claims>.

³⁶ “International Covenant on Civil and Political Rights,” United Nations, accessed November 29, 2023, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en.

³⁷ “Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, Concerning Communication No. 2728/2016,” United Nations, September 23, 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/127/D/2728/2016&Lang=en, 9-10.

forth new standards that could facilitate the success of future climate change-related asylum claims.”³⁸ To some human rights groups, the decision represented a “landmark” victory that created a new “global precedent”— even if the Committee’s views are ultimately not binding judgments.³⁹

But the case’s outcome was bittersweet: the family involved was denied protection, despite the dire circumstances they had escaped. Amid environmental changes and sea level rise, Ioane Teitiota and his wife had fled the Small Island Developing State (SIDS) of Kiribati for New Zealand, where they were later denied asylum. After they and their three kids were forced to return to Kiribati, they struggled to grow crops and experienced health issues because of a lack of clean drinking water. The UN Human Rights Committee recognized that Kiribati itself would likely be rendered uninhabitable within a matter of years (though its members expressed optimism that with international aid, the nation could perhaps protect its people before time ran out, through adaptation or relocation).⁴⁰ Despite such emergent circumstances, the Committee’s experts found that Mr. Teitiota’s rights were not violated by New Zealand’s courts when he was deported, raising questions about when humanitarian relief is warranted in the midst of serious climate-related threats.

Separately, UNHCR has published its own guidance on legal considerations around claims for international protection, when the adverse effects of climate change and disasters are a factor. The document alludes to the Teitiota decision and says that “the relationship between climate change and human rights is increasingly recognized in law.” Its authors argue that “in the context of the adverse effects of climate change and disasters, a well-founded fear of being persecuted may arise especially for people who are already marginalized or vulnerable.”⁴¹

For example, journalists and advocates may have a well-founded fear of persecution — and thus a viable refugee/asylum claim — for reporting or advocating on environmental issues. In other cases, discrimination during natural disaster reduction, preparedness, and response could unduly deny certain populations — especially already differentiated or at-risk groups — access to resources, in a way that might be considered persecution. If, for instance, a government fails to appropriately preempt natural disasters that disproportionately affect specific demographics, it could be relevant to a climate-

³⁸ OHCHR, “Historic UN Human Rights Case.”

³⁹ “UN Landmark Climate Refugee Ruling Sets ‘Global Precedent,’” Amnesty International UK, accessed July 4, 2023, <https://www.amnesty.org.uk/press-releases/un-landmark-climate-refugee-ruling-sets-global-precedent>; Nikolaos Sitaropoulos, “States Are Bound to Consider the UN Human Rights Committee’s Views in Good Faith,” OHRH, March 11, 2015, <https://ohrh.law.ox.ac.uk/states-are-bound-to-consider-the-un-human-rights-committees-views-in-good-faith/>.

⁴⁰ United Nations, “Views Adopted,” 6-7, 12.

⁴¹ UNHCR, “Legal Considerations,” 1, 5.

affected refugee claim — particularly where the neglect reflects prejudices based on race, religion, politics, or other protected grounds.⁴²

UNHCR also makes clear that people who have been forcibly displaced could “have a valid claim for refugee status where the adverse effects of climate change or disasters interact with conflict and violence.”⁴³ For example, a drought may evolve into a famine amid existing conflict and weak government. Then, if particular groups are denied access to food during the famine because of discrimination, they could potentially meet the threshold for a well-founded fear of persecution, and thus qualify for asylum.⁴⁴

Cosmi — a 36-year-old from the indigenous community known as the Miskito — remembers how in Honduras, “everything changed” after Hurricanes Iota and Eta, which made landfall back-to-back in 2020. Amid drought, his family's land no longer produced the plentiful crops it was once known for, and Cosmi started shrimping to survive. But soon, drug cartels arrived, bringing violence with them as they filled a void left by the official Honduran government. After Cosmi's uncle was killed and he and his loved ones were targeted with threats, his family decided to escape to the U.S. and entered with an appointment via the federal government's CBP One phone app. Cosmi's real-life adversities demonstrate how the effects of climate change and natural disasters can at times connect to or even inspire other forms of violence and conflict, as the UNHCR guidance and existing research suggest. Now, lawyers are planning to argue through the experiences of people like Cosmi that climate-affected extreme weather can in fact provide fodder for an asylum claim.⁴⁵

But although the Teitiota decision and UNHCR's guidance reflect relevant interpretations of which climate-affected migrants may qualify for protection under the refugee definition or other international instruments, they are better understood as forward-leaning initial guidance than as binding law.⁴⁶ Meanwhile, regionally specific agreements with more generous definitions of a “refugee” might more comfortably accommodate climate-affected or even broader environmental migration claims.

In particular, the former Organisation of African Unity's (now the African Union) 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration on Refugees extend refugee eligibility to people escaping events

⁴² UNHCR, “Legal Considerations,” 5-6.

⁴³ UNHCR, “Legal Considerations,” 6.

⁴⁴ UNHCR, “Legal Considerations,” 6.

⁴⁵ Miriam Jordan, “They Fled Climate Chaos. Asylum Law Made Decades Ago Might Not Help,” *The New York Times*, November 28, 2023, <https://www.nytimes.com/2023/11/28/us/climate-migrants-asylum.html>.

⁴⁶ Mélissa Godin, “Climate Refugees Cannot Be Sent Home, U.N. Rules,” *Time*, January 20, 2020, <https://time.com/5768347/climate-refugees-un-ioane-teitiota/>.

that have seriously disturbed public order, establishing protections that have since been incorporated into the national laws or practices in dozens of states within Africa and Latin America.⁴⁷ Sudden- and slow-onset environmental events — if sufficiently destructive — could seriously disturb public order, opening up at least some possibility of protection for affected migrants in those regions. Other agreements, such as the Global Compact for Safe, Orderly, and Regular Migration (discussed more later) and the UN Climate Conference’s loss and damage fund, may also eventually provide for solutions and support around environmental migration.⁴⁸ Yet the ability for people migrating to effectively use existing legal instruments and resources could be significantly hindered by a “limited appetite for increased refugee hosting,” even in countries that have adopted more capacious regional refugee definitions.⁴⁹

In practice, governments in the Americas have generally avoided recognizing people fleeing natural disasters as international refugees. Instead, they have largely relied on alternative domestic immigration laws to address these types of displacements.⁵⁰ But that does not mean that all policy responses to environmental migration have been enforcement-only or restrictive — on the contrary, some of them have been novel, pioneering, and welcoming. For instance, in 2022, Argentina created a new visa for certain nationalities fleeing sudden-onset environmental disasters, with the potential to eventually access permanent residence.⁵¹

Even in the U.S., earlier legal definitions of a “refugee” included people displaced by a “natural calamity.”⁵² This broader eligibility was recognized for decades, with Congress

⁴⁷ “OAU Convention Governing the Specific Aspects of Refugee Problems in Africa,” UNHCR, September 10, 1969, <https://www.unhcr.org/media/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted-assembly-heads>, 3; “About the African Union,” accessed September 20, 2023, <https://au.int/en/overview>; “Cartagena Declaration on Refugees,” November 22, 1984, https://www.oas.org/dil/1984_cartagena_declaration_on_refugees.pdf, 3; Huckstep and Clemens, “Climate Change and Migration,” 67-68.

⁴⁸ “Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195),” International Organization for Migration, January 11, 2019, <https://www.iom.int/resources/global-compact-safe-orderly-and-regular-migration/res/73/195>; Huckstep and Clemens, “Climate Change and Migration,” 60.

⁴⁹ Huckstep and Clemens, “Climate Change and Migration,” 13.

⁵⁰ David James Cantor, “Migrants and Natural Disasters: National Law, Policy and Practice in the Americas,” Environmental Migration Portal, February 2016, <https://environmentalmigration.iom.int/resources/policy-brief-series-issue-2-vol-2-migrants-and-natural-disasters-national-law-policy-and-practice-americas>, 3.

⁵¹ Samuel Huckstep and Thomas Ginn, “A Look Back at Climate Migration Policy in 2022,” Center For Global Development, January 19, 2023, <https://www.cgdev.org/blog/look-back-climate-migration-policy-2022#:~:text=Argentina's%20humanitarian%20visa&text=Nationals%20and%20residents%20of%202023,of%20displacement%20by%20environmental%20hazards>; “Disposición 891/2022,” Argentina.gov.ar, May 16, 2022, <https://www.argentina.gob.ar/normativa/nacional/disposici%C3%B3n-891-2022-364999/texto>.

⁵² Royce Bernstein Murray and Sarah Petrin Williamson, “Migration as a Tool for Disaster Recovery: A Case Study on U.S. Policy Options for Post-Earthquake Haiti,” Center for Global Development, June 2011, https://www.cgdev.org/sites/default/files/1425143_file_Murray_Williamson_disaster_recovery_FINAL

at one point expressly stating its intention “to provide relief in those cases where [noncitizens] have been forced to flee their homes as a result of serious natural disasters, such as earthquakes, volcanic eruptions, tidal waves, and in any similar natural catastrophes.”⁵³ But ultimately, the provision was never used to admit refugees.⁵⁴ And, when the 1980 Refugee Act brought domestic law in line with the federal government’s international commitments, lawmakers quietly removed the “natural calamity” language with minimal debate.⁵⁵

Currently, certain nationalities affected by an environmental hazard sometimes qualify for a U.S. deportation protection and work authorization called Temporary Protected Status (TPS). But TPS only applies to individuals who are already stateside and cannot safely return home in the short-term.⁵⁶ For most individuals and families escaping environmental degradation or disaster, there is no viable pathway to reach the U.S. — much less stay with lawful permanent residence — based solely on climate-induced harms. Thus, although TPS remains a helpful tool for the executive branch during emergencies, it is not ideal to respond to climate-affected migration, as it does little for those who are still stranded in imminent danger.⁵⁷

TPS also does not provide a clear pathway to a green card, leaving beneficiaries in legal limbo, sometimes for many years. If more people begin to flee slow-onset or repeated sudden-onset environmental events that make it more difficult to imagine returning home, the negative consequences of offering only temporary status without pathways to citizenship for environmental migrants could worsen still.

Environmental Hazards and Displaced Communities

Migrants often choose or are forced to leave home because they are actively trying to escape danger. Tragically, many of them remain exposed to the effects of environmental shocks, even after they relocate.⁵⁸

While people who have been displaced “are not necessarily more vulnerable than other vulnerable populations,” they may end up more vulnerable “in many contexts,” such as when they disproportionately settle in countries at heightened risk of climate change-

.pdf, 28-29; “Refugee Relief Act of 1953,” Gov.Info, accessed September 20, 2023, <https://www.govinfo.gov/content/pkg/STATUTE-67/pdf/STATUTE-67-Pg67.pdf>, 400.

⁵³ Murray and Williamson, “Migration as a Tool,” 29.

⁵⁴ Murray and Williamson, “Migration as a Tool,” 29.

⁵⁵ Murray and Williamson, “Migration as a Tool,” 29.

⁵⁶ “Temporary Protected Status,” USCIS, June 21, 2023, <https://www.uscis.gov/humanitarian/temporary-protected-status>.

⁵⁷ Huckstep and Clemens, “Climate Change and Migration,” 20.

⁵⁸ “COP27 Must Act,” 1.

related problems or form isolated, informal settlements.⁵⁹ Given the insecurities displaced people face and the limited number of countries willing to host them, they regularly end up in what UNHCR calls climate change “hotspots,” from which they could be forced to move again because of adverse environmental factors.⁶⁰ Disaster displacement – whether climate change-related or otherwise – also increases the risk of sexual violence and mental health issues for women in particular.⁶¹

Many who flee their homes wind up finding shelter in official or makeshift camps where resources such as energy, health care, and sustenance may be in short supply, and where environmental hazards are both common and engender greater instability.⁶² For example, at a camp just across the U.S.’s southern border in Matamoros, Mexico, a Venezuelan named Ernesto Roja – who migrated to afford therapy sessions for his 6-year-old daughter with Down Syndrome – had his pop-up tent flooded and his phone damaged during a rainstorm last May.⁶³ Without a phone to access the federal government’s appointment system and enter through an official port of entry, his ability to pursue regular, orderly migration pathways to the U.S. was undoubtedly curtailed.

On a more macro level, severe floods have forced thousands of displaced people and refugees in the Horn of Africa to relocate once again in recent weeks. The floods have destroyed homes, affected essential roads, upended people’s livelihoods, and undermined access to necessities such as potable water.⁶⁴ These conditions underscore the vulnerabilities that migrants who move internally or to nearby countries that are themselves struggling with serious environmental shocks may encounter.

Yet even when migrants, refugees, and others who have been displaced reach relatively safer destinations, they often continue to face challenges relating to climate. In the U.S., immigrant communities are more likely to live in areas prone to flooding and often have limited access to federal resources, setting them up for instability when disaster strikes. For instance, the Federal Emergency Management Agency (FEMA) cannot provide certain types of direct and financial disaster assistance to noncitizens who do not meet

⁵⁹ Huckstep and Clemens, “Climate Change and Migration,” 9; Huang, “Climate Migration 101.”

⁶⁰ UNHCR, “Climate Change and Disaster Displacement.”

⁶¹ Midgley et al., “Groundswell,” 36.

⁶² Huckstep and Clemens, “Climate Change and Migration,” 9.

⁶³ Mary Beth Sheridan, “Mexico Faces Humanitarian Crisis as Biden Migration Policy Kicks In,” *The Washington Post*, May 13, 2023, <https://www.washingtonpost.com/world/2023/05/13/border-mexico-migrants-title-42/>.

⁶⁴ “Severe Floods Affect Tens of Thousands of Displaced People in Horn of Africa,” UNHCR USA, November 17, 2023, <https://www.unhcr.org/us/news/briefing-notes/severe-floods-affect-tens-thousands-displaced-people-horn-africa#:~:text=Flooding%20in%20the%20Dadaab%20refugee,has%20affected%20nearly%2025%2C000%20people.&text=Thousands%20of%20displaced%20families%2C%20including,heavy%20rains%20across%20the%20region.>

specific qualifications. In this context, displaced populations may continue to struggle to escape the consequences of environmental hazards, even once they reach the U.S.

After an Arctic blast left millions in Texas without access to basics such as water and power in 2021, immigrant families had an especially difficult time recovering from home damage, wage loss, and other harms. Few of them were able to obtain federal assistance, either because they were not eligible for it or because they were afraid that accessing it could one day affect their ability to regularize their immigration statuses.⁶⁵ More recently, in Florida, a new state immigration law sowed confusion among community members concerned for immigrants, who feared that if unauthorized residents sought shelter during an imminent hurricane, they might face enforcement consequences.⁶⁶

These heightened vulnerabilities raise the need to prioritize immigrant communities and provide clear messaging during disaster reduction, preparedness, and response. But they also underscore why regular, lawful immigration pathways that allow environmental migrants to settle down and work legally — without the fear of deportation, and with access to documentation — would make a positive difference in the U.S. and beyond.

Potential Policy Solutions and Recommendations

In 2018, the Global Compact for Safe, Orderly and Regular Migration — a first-of-its-kind UN agreement providing a holistic approach to international migration — called on states “to identify, develop and strengthen solutions for migrants compelled to leave their countries of origin owing to slow-onset natural disasters, the adverse effects of climate change, and environmental degradation.”⁶⁷ The directive underscores a growing global exigency around safe, orderly pathways to accommodate environmental migrants, a need that in turn points to the insufficiency of existing humanitarian frameworks. If in turn the U.S. were to incorporate Compact goals, our government would have the opportunity to lead on smart, sustainable solutions in this increasingly important area.

⁶⁵ Alexandra Villarreal, “Undocumented Texans Are Reeling from Last Month’s Storm – and They’re Cut off from Federal Aid,” *The Guardian*, March 9, 2021, <https://www.theguardian.com/us-news/2021/mar/09/texas-storm-undocumented-federal-aid>.

⁶⁶ Nicole Acevedo, “Fears over Florida Immigration Law Surface as Residents Prepare for Hurricane Idalia,” *NBCNews.com*, August 29, 2023, <https://www.nbcnews.com/news/latino/fears-florida-immigration-law-surface-residents-prepare-hurricane-idal-rcna102399>.

⁶⁷ IOM, “Global Compact for Safe,” 13; “Global Compact for Safe, Orderly and Regular Migration (GCM),” *The Office of the High Commissioner for Human Rights*, accessed September 25, 2023, <https://www.ohchr.org/en/migration/global-compact-safe-orderly-and-regular-migration-gcm>.

According to a White House report, an adequate response to climate change-affected displacement will require the U.S. to “strengthen the application of existing protection frameworks, adjust U.S. protection mechanisms to better accommodate people fleeing the impacts of climate change, and evaluate the need for additional legal protections for those who have no alternative but to migrate.”⁶⁸ Some policymakers may be tempted to reach these goals by simply expanding eligibility for protections such as asylum and refugee status, so that marginalized members of climate-affected communities — like Cosmi and other Miskito — could more explicitly qualify. However, this approach will face major political resistance, especially in a deeply polarized legislative branch. In addition, some immigration experts have expressed concerns that efforts to alter the current “refugee” definition could open the door to parallel, potentially restrictive changes as well.

Alternatively, instead of trying to force environmental and climate-affected migration into existing categories for humanitarian relief, policymakers could create climate visas — complementary pathways that more readily address the needs of environmental migrants. These new legal avenues could be generous yet sustainable, allowing people to adapt to environmental changes through migration by giving priority status to those who are most at risk and cannot reasonably relocate within their home country. Legislation could set out a workable yet tailored definition of who qualifies for such a climate visa, focused on those who face a threat to life or their fundamental right of physical integrity because of the effects of climate change and have no adequate alternative in their country of origin.

Much like the current cap on refugee admissions each fiscal year, Congress and the executive branch could reasonably set a flexible limit on the scale of climate visas available, so that the U.S. only commits to resettling the number of climate-affected migrants that local communities can successfully accommodate. As part of this calculus, officials would need to recognize that many of those who would be eligible for a climate visa would likely represent particularly vulnerable demographics and require initial assistance with housing, jobs, education, or other resources to put them on a path toward a bright future in the U.S. Finally, to avoid similar shortcomings to current protections such as TPS, any new climate visa must also include an explicit pathway to lawful permanent residence and be available both to people already stateside and others abroad who are hoping to reach safety.

An important legislative framework along these lines in the U.S. is the Climate Displaced Persons Act, first introduced by Sen. Ed Markey (D-Massachusetts) and Rep. Nydia Velázquez (D-New York) in 2019. As reintroduced in 2023, [S.3340/](#)

⁶⁸ White House, “Report on the Impact,” 6.

H.R.6455 would let at least 100,000 climate-displaced persons be admitted to the U.S. per fiscal year and receive resettlement assistance, much like asylees or refugees.⁶⁹ The proposal would define a “climate-displaced person” as anyone who:

(A) is compelled to leave his or her habitual home, either within his or her country of nationality or in another country, due to (i) a climate-related environmental disaster; or (ii) the interaction of a climate-related environmental disaster with other factors, including resource constraints, food insecurity, discrimination, persecution, or human rights abuses; and (B) is unable to otherwise access a durable solution, such as local integration or safe and voluntary returns to his or her habitual place of residence due to a climate-related environmental disaster that (i) has rendered his or her habitual place of residence uninhabitable; or (ii) has prevented safe integration or voluntary returns, including through targeted violence, discrimination, human rights abuses, food insecurity, and other forms of harm.

Thus, the Climate Displaced Persons Act tailors eligibility for relief to a particularly vulnerable set of environmental migrants, while limiting annual admissions through a ceiling based on the U.S.’s interests and humanitarian concerns — parameters that bolster the proposal’s long-term viability. The bill would also allow climate-displaced persons to protect their spouses or children as derivative beneficiaries, and it would provide a pathway for people to remain legally in the U.S. long-term.⁷⁰

Yet given the political difficulties of advancing new humanitarian pathways in a challenging political climate, advocates for climate-affected migrants need not rely solely on framing solutions through a humanitarian lens. Work-based pathways could also serve as one effective and mutually beneficial tool within a larger toolbox. In fact, researchers from the Center for Global Development go so far as to contend that “labour pathways are the sole realistic means of providing international mobility to climate-

⁶⁹ Hannah Tyler, “Climate Migration: The State of Play on National, International, and Local Response Frameworks,” Bipartisan Policy Center, March 2022, https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2022/03/BPC_Issue-Brief_ClimateMigration_RO6448.pdf, 7; “S.1335 - A Bill to Establish a Global Climate Change Resilience Strategy, to Authorize the Admission of Climate-Displaced Persons, and for Other Purposes,” Congress.gov, April 22, 2021, <https://www.congress.gov/bill/117th-congress/senate-bill/1335/text>; “S.3340 - Climate Displaced Persons Act,” Congress.gov, November 15, 2023, <https://www.congress.gov/bill/118th-congress/senate-bill/3340/text?s=2&r=2&q=%7B%22search%22%3A%22climate+displaced+people+act%22%7D>.

⁷⁰ Yael Schacher and Jocelyn Perry, “A New Bill Could Help the U.S. Lead on Climate Change and Displacement,” Just Security, November 17, 2023, <https://www.justsecurity.org/90135/a-new-bill-could-help-the-u-s-lead-on-climate-change-and-displacement/>.

affected persons moving beyond their region or living in regions without free movement agreements.”⁷¹

For example, if the farmers in Central America who can no longer harvest their crops could easily access employment-based visas in the U.S., they would be able to leverage their existing skill sets and mitigate protracted labor shortages in the U.S.’s critical agricultural and food industries. At the same time, labor pathways would allow them to support themselves and their families through regular, orderly work.⁷²

That said, there is a potential downside to deemphasizing the humanitarian component of climate-affected migration to focus on labor pathways alone – it could box out some of the most at-risk demographics from safety. Work-based migration often privileges younger, more able-bodied applicants who are willing and able to take on grueling jobs. As a consequence, children, women, people with disabilities, and the elderly might be less likely to qualify, or even to apply for those types of visa programs. To preempt some of these concerns, policymakers could allow dependents – such as parents, spouses, and children – to join the primary applicants in the U.S. Dependent adults could also be eligible for permission to work legally once they arrived, in industries that are more suitable to their own talents.

Likewise, many labor pathways in the U.S. are short-term, with no direct vehicle to lawful permanent residence or citizenship. For those fleeing the most devastating environmental shocks – whether sudden- or slow-onset – returning home may not be an option. Accordingly, as labor pathways become a lifeline for environmental migrants, policymakers must also consider longer-term options for them.

In an ideal scenario, policymakers in the U.S. and beyond would adopt a variety of solutions that would provide for safe, orderly environmental migration – incorporating strategies rooted in humanitarian relief, leveraging work visa programs, and providing more permanent solutions for those seeking a pathway to citizenship.

Conclusion

Environmental factors have long exercised a complex yet meaningful influence over migration around the world. But in recent years, poor governance and the effects of climate change have made that influence more pronounced. Already, many millions of

⁷¹ Huckstep and Clemens, “Climate Change and Migration,” 7.

⁷² Arturo Castellanos-Canales, “America’s Worker Shortages in the Agriculture and Food Industries: Direct Impact on Food Waste and Inflation,” National Immigration Forum, November 4, 2022, <https://immigrationforum.org/article/americas-worker-shortages-in-the-agriculture-and-food-industries-direct-impact-on-food-waste-and-inflation/>.

people are being forcibly displaced because of natural disasters, most of them within their own countries. However, for environmental migrants who cross international borders in search of safety and opportunity, existing international humanitarian frameworks make for unpredictable and often inadequate instruments to seek protection.

As environmental migration becomes an increasingly urgent and topical issue, countries such as the U.S. now have an opportunity and a national interest to promote smart solutions on the global stage. Through dynamic policies, including new complementary humanitarian and labor pathways, receiving states can proactively respond to the plight of weather- and climate-affected people while also benefiting their own nations and economies. To do so effectively, lawmakers must take into account the unique vulnerabilities, skill sets, and circumstances of the people who are most affected by environmental shocks.