

## Why There Cannot be Climate Refugees

Adam Reuben and Vít Novotný

Scientific consensus has [confirmed that](#) the ongoing increase in average global temperature poses manifold threats to humanity. Despite suggestions to the contrary, the effects of changes in the Earth's climate on human mobility and cross-border migration are still unclear, especially with regard to migration to Europe. Attempts to coin the term 'climate refugee' suggest the need to expand the scope of the 1951 Refugee Convention, as the existing definition of a refugee does not cover climate change. We argue that attempts to widen the scope of the Convention would end up in failure, and even if they succeeded, the inclusion of climate change would damage the international protection regime.

### Introduction

As the Intergovernmental Panel on Climate Change (IPCC) published its sixth assessment report in March 2023, global attention turned, even more strongly than before, to the effects of climate change on humanity. Over the past several decades, the possibility of mass migration has often been mentioned as a consequence of drought, floods and natural degradation stemming from climate change. Media reports, sometimes quoting charity organisations, abound with predictions of millions, perhaps billions, of people soon wanting to migrate northwards to escape the soon-to-be inhabitable parts of the "Global South".

### No credible scenarios for climate-induced migration

The warnings of mass climate migration are based on unclear assumptions. The logic seems to be as follows: since humanity's future is hanging in the balance, people are bound to migrate in huge numbers to find safer areas to live. A [report](#) recently produced for the Swedish government puts the calamitous scenarios for mass climate migration in a scientific context. Analysing data produced by the Internal Displacement Monitoring Centre, the report shows that out of the 344 million people displaced by extreme weather conditions and natural disasters between 2008 and 2021, "only 6 million people did not return to the subregion or place from which they were displaced". This is less than 2 per cent.

As for future scenarios of climate migration, the scientific community has [not identified](#) any causal pattern between climate change, conflict and migration. In contrast, existing scenarios show that climate change is likely to result in a [decline of emigration](#) of people with the lowest levels of income, because a lack of resources causes immobility. Although in 1990, the IPCC [stated](#) that 'the greatest single impact of climate change could be on human migration', the [2023 IPCC report](#) mentions the risk of climate-induced mobility only in passing and does not include any projections for international climate-induced migration.

## **The Refugee Convention and climate change**

The lack of credible scenarios for mass migration to Europe induced by environmental disasters and degradation has not stopped certain political actors from issuing calls to amend EU asylum legislation, to take into account 'climate refugees'. In 2021, the plenary of the European Parliament rejected a [report](#) from its Development Committee that proposed an expansion of the EU asylum legislation to include climate-induced migration as a legal base. Although it stopped short of calling for amending the 1951 [Convention Relating to the Status of Refugees](#), the draft resolution of the Committee included the requirement 'to provide appropriate asylum for climate refugees.' Introducing such legal grounds to the statute books seems impossible without revisiting the Convention.

But why shouldn't the Convention be revisited? One crucial reason is that a revision of the Convention is an unrealistic goal. With 146 state parties to the Convention and 147 parties to the accompanying [Protocol of 1967](#), the chances of negotiating additional grounds for Convention asylum are precisely zero. The discussions preceding the Global Compacts for Migration clearly highlighted the [unwillingness](#) by states to extend their legal obligations.

Furthermore, the term 'climate refugee' would disrupt the legal status quo, degrading the international consensus on what constitutes asylum. A climate, or environmental, refugee could fall under the social definition of '[anyone displaced from their home](#)'. But under the current legal regime, such a description would place these individuals outside the legal obligations of states and, as a result, outside international protection. This is because the contracting parties to the Convention, which includes all the EU members, are bound by a more restrictive definition which limits the scope of a refugee to a person:

- who is outside the country of his or her nationality,
- who fears being persecuted if returned to his or her country of nationality,
- whose fear of persecution is well founded,
- whose fear of persecution is because of his or her race, religion, nationality, membership of a particular social group or political opinion, and
- who is unable or unwilling to rely on the protection of the country of nationality.

The EU has incorporated the 1951 Refugee Convention in its [Qualification Directive](#), which mirrors the language of the Convention in defining a refugee.

Even if a renegotiation of the Convention succeeded, there are a number of reasons for why new 'climate change' grounds for becoming a refugee would risk weakening the existing provisions. First, the current refugee protection regime is intended for people who are unlikely to return to their homes or who can do so only in the long run. Those who advocate a widening of the legal definition of a refugee ignore the fact the majority of climate-driven migrants are displaced by disasters. This most often takes the form of an internal displacement, to which international protection is not applicable. Such displacement is almost always for short-term, as people return to their home when the imminent threat to life has passed.

Second, in order for international protection to be available, the person must fear persecution if returned. This requires establishing an actor of persecution. Expanding such status to climate change can, at best, be described as questionable. Climate change is non-discriminatory in that it affects all people, especially those in vulnerable areas, in a similar manner. It is difficult to argue that climate change targets one person more than another.

It is true that according to some observers, climate change is man/woman--made and therefore, by law, the polluter becomes the persecutor. It is indeed an established fact that the developed countries in [the “Global North”](#) have been by far the most important polluters. Were the scope of the Convention to be expanded to take climate change into account, people coming to the North would be seeking protection with the persecutor. This would wreak havoc with the international refugee regime, or to put it more mildly, [‘turn it on its head’](#). To retain the principles of international protection, the Global North, including China and Russia, would have to be excluded as a destination for ‘climate refugees’. Instead, these individuals would need to seek refuge in those countries that, by virtue of not being major polluters, could not be classified as persecutors.

Third, even for those who, in unknown numbers, have crossed an international border, the question of whether it was by force or by choice reveals another problem with expanding the Refugee Convention. Climate change is rarely the sole cause for migration, but rather acts alongside other drivers of migration. This causal complexity would be [almost impossible](#) to reflect in a treaty definition.

The relevant international organisations have echoed some of these concerns. In 2008, the United Nations High Commissioner for Refugees (UNHCR) [argued](#) that using the term ‘refugee’ for situations characterised by structural ‘push factors of migration’, such as climate migration, risked undermining the refugee framework. In a 2020 guidance document, the UNHCR [reiterated](#) that the refugee definition requires that a person has a well-founded fear of being persecuted by their own government. Also, the International Organization for Migration (IOM) has [consistently](#) argued that the term ‘climate refugee’ is inaccurate and [that](#) ‘the current focus of the debate on establishing a climate refugee

status can lead to a narrow and biased debate and would provide only partial solutions to address the complexity of human mobility and climate change’. To the IOM, the term [‘climate migrant’](#) would be preferable.

### **Ioane Teitiota v. New Zealand**

In 2020, a ruling by the United Nations Human Rights Committee (HRC) caught the attention of environmental activists and the international press, being presented as a landmark ruling in the way governments dealt with climate migrants and their asylum applications. Articles claimed that following the decision, “climate refugees can’t be returned home”. In reality, this ruling is much less dramatic when compared to how it has been presented. The case concerned a citizen of Kiribati, an island country in the central Pacific. Kiribati suffers from saltwater intrusion, coastal erosion, and food insecurity. Ioane Teitiota sought asylum in New Zealand, claiming that he faced indirect persecution from man-made global warming. Despite his appeals lodged between 2013 and 2015, courts in New Zealand rejected his asylum claim and Teitiota was deported, along with his wife and children, to his home country. The New Zealand Supreme Court upheld the rulings of the lower courts. Teitiota subsequently brought his case before the HRC, a body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights. Contrary to suggestions by some climate activists, Teitiota lost his case at HRC, which in 2020 ruled that by deporting him to Kiribati, New Zealand did not violate his right to life. To qualify as a refugee, the individual would have to prove that his or her country of nationality were unable or unwilling to protect against the persecution. Despite the serious situation in Kiribati, both the Supreme Court of New Zealand and the HRC noted the willingness and concrete actions by the Government of Kiribati to mitigate the effects of climate change.

Abstracting from the specific case under consideration, the HRC did state in its ruling that without national and international efforts, the effects of climate change in exposed countries would trigger the prohibition against refoulement in countries receiving people affected by changes in their environment. This would be applicable if the effects of climate change reached the threshold of a human rights violation. Despite claims in the media, this was not a new revelation but rather a confirmation of an already established legal principle.

### **Conclusions**

The Teitiota case proves the opposite of what climate activists and some politicians have been maintaining. Instead of pushing countries to expand the Refugee Convention or to create a climate-specific legal status, the HRC ruling points out the need for governments to engage in building resilience against sudden environmental shocks and the progressive degradation of the environment. It highlights the need to slow down global warming to a level that will ensure a habitable Earth.

Most, if not all, countries affected by climate change are willing to adopt measures to mitigate its effects and reduce risks to local communities. Creating a narrative of impending need to permanent migration solutions may undermine adaptation measures taken by governments in the affected countries. This narrative also contradicts the UNHCR's recommendation for planned relocation in response to climate-induced vulnerability being a measure of last resort.

International climate migration may become a necessity in some situations, and it can serve as an appropriate adaptation strategy. However, the reality of migration is too complex to be reduced to a legal principle. Extending the Refugee Convention to take account of climate migration would require an entirely new

understanding of the refugee protection regime, which would effectively make the Convention obsolete. Given the issues that we have described, this would be a disservice to refugees.

**Adam Reuben is Political Advisor on migration in the Governmental Offices of Sweden.**

**Vít Novotný is Senior Research Officer at the Wilfried Martens Centre for European Studies.**

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