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The Failure to Recognize Climate Refugees: Domestic Law vs. International Reality

ABSTRACT. Climate change drives human displacement, yet international and domestic refugee law fail to recognize environmentally-led migration. Under the Refugee Act of 1980, United States (U.S.) law limits persecution to five statutory grounds, excluding climate-induced harm. The absence of legal eligibility under existing frameworks results in a protection gap, leaving displaced individuals without access to refugee status despite threats from environmental degradation. The United Nations has examined this disconnect between international reality and domestic action in cases such as *Teitiota v. New Zealand* (2020), where asylum was denied on the grounds of sea-level rise and saltwater contamination being a threat to life. This highlights the narrow interpretation of “persecution” and its failure to account for modern forms of forced migration. A recent U.S. Appellate Court decision in *Cruz Galicia v. Garland* (2024) reinforced the exclusion of climate-refugee claims from U.S. refugee frameworks. Evaluating the shortcomings of the Refugee Act of 1980 emphasizes how outdated U.S. refugee laws are concerning modern displacement factors. This paper proposes an amendment to the Refugee Act of 1980, expanding “persecution” to include climate change and environmental harm, and establishing a flexible annual refugee ceiling that allocates a percentage of admissions for climate refugees. By modernizing refugee law, the U.S. ensures protection for vulnerable populations and influences the evolution of global refugee norms.

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INTRODUCTION

The rapid acceleration of climate change worldwide has produced consequences beyond environmental degradation. Gradually, communities and nations are facing a new reality in which climate-related factors drive widespread human displacement. Somalia, a country located in Eastern Africa, is facing severe flooding, prolonged droughts, and mass malnutrition.¹ With homes destroyed and sustainable agricultural practices destabilized, thousands of people are forced to flee in search of safety.² Recurring climate-induced natural disasters have made it difficult for communities to live off sustainable farming. Between 2020 and 2023, Somalia lost 70% of its crop due to consecutive rainy seasons, with 3 million livestock dying from starvation and famine.³ Within three years, 2.9 million people in Somalia were internally displaced, and by the end of 2023, “El Niño” floods hit the region, affecting another 4.3 million people in the country.⁴ As one of the world’s most climate-vulnerable nations, Somalia’s residents represent a growing global crisis: climate-induced displacement.

Climate-vulnerable nations are highly exposed to environmental hazards with a limited capacity to adapt.⁵ This international crisis reflects global inequality and disproportionate distribution of responsibility. The United States (U.S.), a nation with a dominating global presence, has contributed approximately 25% of the cumulative global carbon dioxide (CO₂) emissions since the start of the Industrial Revolution.⁶ This makes the U.S. the largest emitter in history, with China following at approximately 12.7% of CO₂ emissions.⁷ Contrarily, countries across Africa, Latin America, and Southern Asia have produced less than 1% of the globe’s CO₂ emissions

¹ Saadaq Adan Hussein et al., *The Prolonged Devastation of Climate Change on Public Health in Somalia: A Silent Crisis*, 53 *Trop. Med. & Health* 193 (2025).

² *Id.*

³ *Id.* at 2.

⁴ Integrated Food Security Phase Classification, *Somalia: Acute Food Insecurity and Malnutrition Report* (Sept. 18, 2023),

https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Somalia_Acute_Food_Insecurity_Malnutrition_Aug_Dec2023_Report.pdf.

⁵ *Id.* at 5.

⁶ Hannah Ritchie, *Who Has Contributed Most to Global CO₂ Emissions?*, Our World in Data (Oct. 1, 2019), <https://ourworldindata.org/contributed-most-global-co2>.

⁷ *Id.*

throughout history.⁸ Despite minimal contributions, the regions most impacted by climate change are the least developed countries.

Nations around the world are facing devastation similar to that of Somalia. Yemen, Myanmar, and Haiti are a few of the countries that have become extremely vulnerable to natural disasters such as extreme flooding, heavy rains, large earthquakes, and tropical cyclones.⁹ This has led to widespread destruction of homes, displacing millions and increasing the need for humanitarian aid.¹⁰ According to the World Bank, 96% of the Haitian population is vulnerable to climate “shocks” due to their standard of living.¹¹ Yemen has 4.5 million people internally displaced because of the destruction that climate-induced disasters have had on homes.¹² Meanwhile, high-emitting industrialized nations are not facing these repercussions. This creates an imbalance as the least developed countries experience devastating climate impacts, causing vulnerable communities to face mass displacement and instability.

Despite the urgency of this global phenomenon, international and domestic frameworks fail to recognize climate-induced displacement, offering no legal pathway for affected individuals. The 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention) and the Relating to the Status of Refugees (1967 Protocol) serve as the foundation for global refugee laws. Under these treaties, a “refugee” is defined as an individual with a well-founded fear of persecution due to “race, religion, nationality, political opinion, or membership of a particular social group.”¹³ Providing clear categories for defining a refugee, the United Nations (UN) pushed countries to create their own laws regarding refugee status.

In 1980, the U.S. amended the Immigration and Nationality Act (INA) to include the Refugee Act of 1980 (Refugee Act), creating a pathway for individuals to receive

⁸ Hannah Ritchie, Pablo Rosado & Max Roser, *Per Capita, National, Historical: How Do Countries Compare on CO₂ Metrics?*, Our World in Data (Sept. 26, 2023), <https://ourworldindata.org/co2-emissions-metrics>.

⁹ United Nations High Commissioner for Refugees, *Yemen: Needs Grow for Millions Displaced amid Catastrophic Flooding and Prolonged Humanitarian Emergency* (Aug. 30, 2024), <https://www.unhcr.org> [hereinafter UNHCR]; Vibhu Mishra, *Myanmar Crisis Deepens as Military Attacks Persist and Needs Grow*, U.N. News (May 2, 2025), <https://news.un.org>; Norwegian Inst. of Int’l Affs. (NUPI) & Stockholm Int’l Peace Research Inst. (SIPRI), *Climate, Peace, Security Fact Sheet: Haiti* (June 2025), <https://www.nupi.no>.

¹⁰ UNHCR, *supra* note 9.

¹¹ Norwegian Inst. of Int’l Affs. (NUPI) & Stockholm Int’l Peace Research Inst. (SIPRI), *supra* note 9.

¹² UNHCR *supra* note 9.

¹³ Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137; 1967 Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267.

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refugee status within the U.S.¹⁴ Under the Refugee Act, asylum eligibility hinges on demonstrating the same fear of persecution under the five categories created in the 1951 Refugee Convention.¹⁵ If an individual does not qualify under any of these categories, they will be denied status in the U.S. These limitations create a protection gap for individuals displaced by climate change-related factors. The Refugee Act provides no legal basis for individuals seeking asylum due to environmental catastrophes or climate-induced displacement.¹⁶

This protection gap demonstrates the structural inadequacy of the Refugee Act in addressing modern forms of forced migration. The limitations of traditional categories for persecution exclude protection to individuals displaced by climate change impacts, despite the increasing severity of climate-induced displacement. Accordingly, the Refugee Act must be amended to include climate threats within the definition of persecution.

As the leading contributor to global CO₂ emissions¹⁷, the United States has a responsibility to provide a pathway for climate-displaced communities.¹⁸ The majority of individuals affected by environmental catastrophes come from countries that minimally contribute to greenhouse gas (GHG) emissions.¹⁹ As the global refugee crisis increases, the U.S. must prioritize pathways for climate refugees to access support, status, and safety.

This paper proposes an amendment to the Refugee Act to expand the definition of “persecution” to include environmental and climate-related threats, extending refugee protection to climate-displaced individuals. As climate change disproportionately affects the least developed countries, the U.S. is obligated to help vulnerable populations by creating legal accommodations to close gaps in domestic refugee laws. Grounded in the statutory framework of the 1951 Refugee Convention and the 1967 Protocol, current laws do not address the global patterns of forced migration. This paper also proposes a flexible annual admission cap for refugees. Under the Refugee

¹⁴ 8 U.S.C. § 1101(a)(42) (2024).

¹⁵ *Id.*

¹⁶ Karla McKanders, *Climate Migration*, American Bar Association (Oct. 30, 2024), www.americanbar.org/groups/crsj/resources/human-rights/2024-october/climate-migration/.

¹⁷ CO₂ is the largest contributor to human-caused greenhouse gas emissions, and a substantial driver of climate change.

¹⁸ Rebecca Lindsey, *Climate Change: Atmospheric Carbon Dioxide*, Nat'l Oceanic & Atmospheric Admin (May 21, 2025), <https://www.climate.gov>.

¹⁹ Ruma Bhargava & Megha Bhargava, *The Climate Crisis Disproportionately Hits the Poor; How Can We Protect Them?*, World Econ. Forum (Jan. 13, 2023), <https://www.weforum.org>.

Act, the President is allowed to set an annual refugee admission ceiling for every Fiscal Year (FY), with the approval of Congress.²⁰ The new framework would create a structured allocation within the admission ceiling, with a percentage reserved for climate-displaced refugees. The allocation would change based on global displacement patterns. This would position the U.S. as an international leader in modernizing domestic refugee laws, while encouraging other nations to adopt similar reforms.

Reforms to U.S. refugee and immigration laws must align with the current political environment. The U.S. is facing a surge in anti-immigration sentiment, particularly under the Trump Administration’s “zero tolerance” policies²¹ that have resulted in mass deportations and record-low refugee admission ceilings.²² In Congress, polarization has intensified, with less bipartisan cooperation on immigration issues. In 2023, Congresswoman Nydia Velázquez and Senator Ed Markey introduced the Climate Displaced Persons Act (CDPA), a bicameral bill that would have established a new category under the INA to protect climate-displaced refugees.²³ The CDPA struggled to advance, largely because of ideological differences between parties on climate change legislation and immigration status.²⁴ The bill’s broad scope on foreign aid funding, data collection across federal agencies, and an entirely new INA category made it especially difficult to receive bipartisan support.

In contrast, this paper’s proposal takes a more tailored approach. Rather than introducing entirely new legislation, it proposes a targeted amendment to the Refugee Act, changing statutory language rather than restructuring established immigration law. This distinction is more feasible than the CPDA amid political gridlock. Strategic legal reform offers an achievable path to providing climate-displaced individuals with protection and refugee status.

The paper intends to address gaps in refugee law in four parts. Part I traces the development of international refugee law and the foundational limitations it presents for climate-induced displacement. Part II transitions to domestic law, analyzing federal refugee frameworks, particularly the Refugee Act and the statutory grounds that prevent climate-based claims from qualifying. Part III evaluates recent legal

²⁰ 8 U.S.C. § 1101(a)(42).

²¹ American Civil Liberties Union, *Trump on Immigration* (2025), <https://www.aclu.org/trump-on-immigration>.

²² Global Refugee, *Refugee Cap Finalized at Record-Low 7,500 for FY 2026* (Oct. 30, 2025), <https://www.globalrefugee.org/news/refugee-cap-finalized-at-record-low-7500-for-fy-2026/>.

²³ Climate Displaced Persons Act, H.R. 6455, 118th Cong. (2023).

²⁴ Anthony Leiserowitz, *Yale Experts Explain the Politics of Climate Change*, Yale Sustainability (2024), <https://sustainability.yale.edu/explainers/yale-experts-explain-politics-climate-change>.

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developments from the judicial and legislative branches, further establishing the limitations of climate refugee status. Part IV proposes a framework for statutory reform with Congress amending the Refugee Act to expand its protective grounds and establish a flexible allocation for climate-displaced refugees.

I. INTERNATIONAL REFUGEE STATUS

A. *The 1951 Refugee Convention*

As the Second World War came to an end in 1945, millions of individuals were displaced.²⁵ To prevent future conflicts, the United Nations (UN) was created in October 1945.²⁶ The UN aimed to create an international organization that would hold countries responsible for human rights violations. In 1951, the UN General Assembly, which is responsible for policy-making, held a Refugee Convention in Geneva, Switzerland, to address the refugee crisis that occurred after the Second World War.²⁷ With 26 states in attendance, the Refugee Convention served as a legally binding treaty for all signing parties.²⁸ The 1951 Refugee Convention set a precedent for the global definition of a “refugee.”²⁹ According to Article 1A (2), a refugee is a person “outside of their country of nationality” with “well-founded fear of persecution due to race, religion, nationality, political opinion, or membership of a particular social group.”³⁰ These five categories serve as a minimum legal standard for states to follow in their own definitions of a refugee. Countries are encouraged to expand their own interpretations of this definition, providing further protection for refugees within state lines.³¹ The 1951 Refugee Convention currently binds 149 sovereign states to its definition of rights held by refugees.³²

²⁵ Jennifer Popowycz, *The Last Million: Eastern European Displaced Persons in Postwar Germany*, Nat'l WWII Museum (Apr. 4, 2022), <https://www.nationalww2museum.org/war/articles/last-million-eastern-european-displaced-persons-postwar-germany>.

²⁶ U.N. Charter, June 26, 1945, 59 Stat. 1031, 3 Bevans 1153.

²⁷ 1967 Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S 267 [hereinafter 1976 Protocol].

²⁸ *Id.* at 6.

²⁹ Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137, art. 1.

³⁰ *Id.*

³¹ *Id.* at 140, 141.

³² *Id.* at 143.

The 1951 Refugee Convention also incorporated “non-refoulement”, a protection for individuals that halts states from returning a refugee to a country where their life has been or will be threatened.³³ Article 33(1) explicitly states that “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”³⁴ This state restriction is a core principle of the 1951 Refugee Convention, deriving from instances when individuals fled their countries during Nazi persecution and were turned away.³⁵ While signatories are obligated to comply with the 1951 Refugee Convention, the UN does not have strong enforcement power. If a state violates any part of an international treaty, oversight can only be effective as long as that state chooses to comply.

The 1951 Refugee Convention does not offer individuals protective status for cases involving climate displacement. If a person does not fall within one of the five protective grounds, they cannot receive refugee status at the international level. The Refugee Convention fails to protect refugees displaced by environmental disasters.

B. The 1967 Protocol

The U.S. did not participate in drafting the 1951 Refugee Convention and was not a signatory until the 1967 Protocol.³⁶ The 1967 Protocol was the only amendment to the 1951 Refugee Convention, using the same definition of a refugee, but removing the time frame and geographic restrictions.³⁷ The General Assembly Resolution 2198 (XXI) states, “...equal status should be enjoyed by all refugees covered by the definition in the Convention, irrespective of the deadline of 1 January 1951.”³⁸ In recognizing the Protocol, the U.S. adopted the refugee definition under the 1951 Refugee Convention.

³³ Convention Relating to the Status of Refugees, art. 1A(2).

³⁴ *Id.*

³⁵ Ctr. for Gender & Refugee Studs., *70 Years Later, 1951 Refugee Convention Is More Necessary Than Ever* (July 28, 2021),

<https://cgrs.uclawsf.edu/en/news/70-years-later-1951-refugee-convention-more-necessary-ever>.

³⁶ U.S. Comm. for Refugees & Immigrants, *Defining “Refugees”—An Exclusionary Legacy* (May 20, 2025), <https://refugees.org/defining-refugees-an-exclusionary-legacy/>.

³⁷ 1967 Protocol.

³⁸ G.A. Res. 2198 (XXI), Protocol Relating to the Status of Refugees, U.N. GAOR, 21st Sess. (1966).

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Although the 1967 Protocol is not universally binding, it serves as the primary legal doctrine for refugee status in international law.³⁹

Originally, the 1951 Refugee Convention only applied to individuals who met the refugee definition due to events occurring before 1951.⁴⁰ The 1951 Refugee Convention also had geographic limitations, restricting status to cases that took place in Europe.⁴¹ As patterns of displacement evolved post-World War II, the United Nations recognized that refugee protection should not be limited to historical contexts.⁴² The 1967 Protocol removed both of these restrictions, extending the 1951 Refugee Convention's protection to any individual who met the refugee definition, no matter the origins of their displacement.⁴³

The 1967 Protocol serves as a legal extension of the 1951 Refugee Convention by requiring adopting states to apply its provisions. Article 1 of the 1967 Protocol required state parties to “undertake to apply articles 2 to 34” of the Convention to all refugees.⁴⁴ Even if the U.S. did not sign the original 1951 Refugee Convention, they are bound to its core principles under the 1967 Protocol. This expansion highlights the requirement for international frameworks to evolve with emerging crises, a challenge that is evident in the context of climate-induced displacement.

C. *Teitiota v. New Zealand (2020)*

In February of 2015, a man named Ioane Teitiota was deported from New Zealand back to his home country of Kiribati, a small island in the middle of the Pacific Ocean.⁴⁵ This was after Teitiota was denied asylum by New Zealand's Immigration and Protection Tribunal. Teitota arrived in New Zealand with his wife in 2007 and applied for asylum in 2010 after their visa ended.⁴⁶ After being denied by the Immigration Tribunal, Teitiota appealed to the High Courts of New Zealand, claiming that asylum should be granted because of his inability to return to Kiribati due to the threat of

³⁹ Guy S. Goodwin-Gill, *Introduction, Protocol Relating to the Status of Refugees*, Audiovisual Library of Int'l Law Comm'n (Aug. 2008), <https://legal.un.org/avl/ha/prsr/prsr.html>.

⁴⁰ 1967 Protocol.

⁴¹ *Id.*

⁴² *Displaced Persons and Postwar America*, Experiencing History, <https://perspectives.ushmm.org/collection/displaced-persons-and-postwar-america>.

⁴³ 1967 Protocol.

⁴⁴ *Id.*

⁴⁵ *Teitiota v. New Zealand*, Commc'n No. 2728/2016, 2.1, U.N. (HCR 2020).

⁴⁶ *Id.* at 2.

climate change.⁴⁷ The court upheld the Immigration Tribunal's decision, finding it lawful, and dismissed Teitiota's case.

After being deported to Kiribati, Teitiota brought his case to the UN Human Rights Committee. Article 6 of the International Covenant on Civil and Political Rights (ICCPR) stipulates, "Every human being has the inherent right to life. This right shall be protected by law."⁴⁸ Teitiota claimed that New Zealand violated his right to life by deporting him back to his home country.⁴⁹

The Human Rights Committee (HRC) found that New Zealand did not violate Teitiota's rights under Article 6 of the ICCPR, as Teitiota did not rightfully demonstrate that New Zealand committed a legal error with its deportation process.⁵⁰ The HRC also found that Teitiota's case did not meet the life-threatening circumstances criterion.⁵¹ Although Teitiota's deportation was not unlawful, the HRC found that states could not remove individuals to countries that faced intense effects from climate change, as it would be considered a violation of the right to life.⁵² The HRC recognized that seeking asylum from climate change should be acceptable under states' refugee systems, with the intent of protecting individuals from persecution arising from environmental shifts.⁵³ In this case, the HRC found that Teitiota did not provide enough evidence of his family's vulnerability to the effects of climate change in Kiribati.⁵⁴

This case set the stage for a global precedent.⁵⁵ With a lack of pathways for climate refugees to be granted legal protective status, *Teitiota* demonstrated the need for change on domestic and international levels. This case brought recognition to the effects of the climate crisis on individuals forced to flee their homes.

The rise in sea level poses an immediate threat to the Pacific Islands and their sovereign survival. In this case, Teitiota was harmed by land disputes over the struggle to cultivate crops on the island due to saltwater intrusion.⁵⁶ After being deported back

⁴⁷ *Teitiota*, Commc'n No. 2728/2016 at 6.

⁴⁸ International Covenant on Civil and Political Rights, art. 6, Dec. 16, 1966, 999 U.N.T.S. 171.

⁴⁹ *Teitiota*, Commc'n No. 2728/2016 at 8.

⁵⁰ *Id.*

⁵¹ Ivanka Bergova, *Environmental Migration and Asylum: Ioane Teitiota v. New Zealand*, 42 Just. Sys. J. 222, 223-24 (2021).

⁵² *Id.*

⁵³ *Id.* at 224.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

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to Kiribati, Teitiota and his family continue to face sustainability issues due to underproductive crops.⁵⁷ Many other regions face similar issues due to droughts and saltwater intrusion. Teitiota highlighted the impending threat of rising sea levels, predicting that others living on Kiribati would be forced to flee in 10 to 15 years. Other islands like Tuvalu, Fiji, Niue, and Nauru face the same effects due to climate change.⁵⁸ The decision in *Teitiota* marks a significant step towards establishing an international legal basis that provides protection for climate-induced displacement.

D. The International Court of Justice Advisory Opinion of 23 July 2025

The International Court of Justice (ICJ), often referred to as the ‘World Court,’ is the primary judicial body of the UN.⁵⁹ The ICJ consists of 15 judges who come from countries all over the world, serving 9-year terms.⁶⁰ Established in 1945 after the end of World War II, the ICJ adjudicates legal disputes among states and delivers ‘advisory opinions.’⁶¹ Although advisory opinions are non-binding, they carry international influence and serve as preventive diplomacy.⁶² ICJ decisions shape how states apply and interpret international laws.

There are two paths cases take to reach the ICJ: (1) the UN requests an advisory opinion on a legal international issue, or (2) disputes between states create a ‘contentious case’ that forces the ICJ to make a binding decision.⁶³ Advisory opinions influence nations and international organizations in developing international laws, prioritizing peace between states.

The ICJ issued an advisory opinion in 2025 after receiving pressure from the UN to address each nation’s responsibility for the effects of climate change.⁶⁴ The UN General Assembly asked the court, “What are the obligations of States under international law to ensure the protection of the climate system and other parts of the

⁵⁷ Tim McDonald, *The Man Who Would Be the First Climate Change Refugee*, BBC News, Nov. 5, 2015, www.bbc.com/news/world-asia-34674374.

⁵⁸ Jane Lee & Andrew Wang, *NASA Analysis Shows Irreversible Sea Level Rise for Pacific Islands*, NASA Jet Propulsion Laboratory (Sept. 25, 2024), <https://www.jpl.nasa.gov/news/nasa-analysis-shows-irreversible-sea-level-rise-for-pacific-islands/>.

⁵⁹ Int’l Ct. Just., *The Court*, <https://www.icj-cij.org/court>.

⁶⁰ Int’l Ct. Just., *Members of the Court* (2025), <https://www.icj-cij.org/members>.

⁶¹ Int’l Ct. Just., *supra* note 46.

⁶² Int’l Ct. Just., *Advisory Jurisdiction* (2017), <https://www.icj-cij.org/advisory-jurisdiction>.

⁶³ Int’l Ct. Just., *How the Court Works* (2017), <https://www.icj-cij.org/how-the-court-works>.

⁶⁴ *Obligations of States in Relation to Climate Change, Advisory Opinion*, 2025 I.C.J. 113 (July 23).

environment from anthropogenic emissions of greenhouse gases for States and for present and future generations?”⁶⁵

In response, the Court upheld international treaties and conventions, referring to the United Nations Framework Convention on Climate Change (UNFCCC), the Paris Agreement, and the Kyoto Protocol.⁶⁶ Under these doctrines, states are obligated to lower greenhouse gas emissions while working towards mitigation targets.⁶⁷ The Court also concluded that “degradation of the climate” and “other parts of the environment” damage the enjoyment of rights protected by the law under Article 3 of the Universal Declaration on Human Rights and Article 6 of the ICCPR.⁶⁸ States have an obligation to protect the climate to ensure the continued enjoyment of human rights.

While the first question pertained to state obligations in preventing climate change, the second question referred to the obligations that states have to “other parts of the environment”. The UN General Assembly questions the obligation that states have to “small island developing states”, current populations, and future generations that are vulnerable to the effects of climate change.⁶⁹ The ICJ upheld its opinion on how states should approach small states and individuals being affected by climate change, offering mitigation strategies to the effects of increased GHG emissions.⁷⁰ Further upholding the 1951 Refugee Convention “non-refoulement” principle, the ICJ reminded states of their binding obligation not to return climate migrants to nations where their livelihoods were threatened.⁷¹

Although the advisory opinion delivered by the ICJ is not legally binding, it sheds light on the challenges faced by climate refugees. The issue of climate-induced displacement has not been formally incorporated into human rights frameworks by leading nations. International organizations and the UN have worked towards elevating awareness of climate migration, and the ICJ’s findings advance these efforts.

II. REFUGEE STATUS IN THE U.S.

⁶⁵ *Teitiota*, Commc’n No. 2728/2016 at 13.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Obligations of States in Relation to Climate Change*, Advisory Opinion, 2025 I.C.J. 113 (July 23).

⁶⁹ *Id.* at 16.

⁷⁰ *Id.* at 27.

⁷¹ *Id.* at 378.

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A. The Immigration and Nationality Act

Before the Immigration and Nationality Act (INA), the U.S. had inconsistent policies for determining immigration status and entry. In the early 1900s, most immigration acts exclusively protected certain ethnicities, only allowing entry to immigrants from regions such as Western and Northern Europe, and banning incoming migration from continents like Asia.⁷² These legal pathways reflected the country's anti-immigrant sentiment during WWI and WWII.⁷³ Congress eventually updated these legal frameworks by introducing the Immigration Act of 1921, which created a national-origins quota system.⁷⁴ This limited immigration to foreign-born populations settled in the U.S., creating a framework for future quota systems.⁷⁵ The Immigration Act of 1924 created a 2% annual cap on each nationality residing in the U.S. during the 1890 census.⁷⁶ The decision to base the cap on a 30-year-old census was a deliberate choice by the government to maintain a selective approach to immigration.⁷⁷

The 1890 census recorded a larger percentage of immigrants from Western and Northern Europe and a smaller proportion of migrants from regions like Asia, South and Eastern Europe.⁷⁸ When Congress enacted the Immigration Act of 1924, the nation's immigration system became entrenched in regional preferences and exclusions towards certain migrants, particularly those arriving from Asia.⁷⁹ In the years following World War II, the quota system was modified to expand inclusion of European refugees in an effort to provide humanitarian aid.⁸⁰ These events set the stage for the nullification of the national-origins quota system and the development of current U.S. statutory frameworks with the Immigration and Nationality Act of 1952.⁸¹ Integrating

⁷² Muzaffar Chishti & Julia Gelatt, *A Century Later, Restrictive 1924 U.S. Immigration Law Has Reverberations*, Migration Pol'y Inst. (May 13, 2024), www.migrationpolicy.org/article/1924-us-immigration-act-history?utm.

⁷³ Office of the Historian, *The Immigration Act of 1924*, <https://history.state.gov/milestones/1921-1936/immigration-act> (last visited Feb. 4, 2026).

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Chishti & Gelatt, *supra* note 72.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ H.R. 6455, 118th Cong. (2023).

⁸¹ H.R. 5678, 82d Cong. (1952).

various legal structures brought a comprehensive domestic framework for immigration classifications.

The Immigration and Nationality Act (INA) was enacted by Congress to create an organized process for individuals migrating into the U.S., prioritizing family-based and employment-based immigration.⁸² Temporary visas were introduced to regulate entry into the U.S. with categories of admission (such as tourists, students, temporary workers) and ceilings for each type of category.⁸³ The INA also created permanent visas, offering a pathway for individuals to live in the U.S. while working towards citizenship.⁸⁴

The INA modified the quota system to end racial-barring, instead enforcing preferences for skilled workers, educated professors, and relatives.⁸⁵ The INA eliminated the national origins quota system in 1965, which evolved to have annual caps according to each category.⁸⁶ Employment-based visas are limited to a minimum of 140,000 per year,⁸⁷ while family-based preferred visas are limited to a minimum of 226,000 per year.⁸⁸ Diversity-based visas, a lottery system drawing from countries with the lowest rates of immigration into the U.S., are selective, with only 50,000 annually.⁸⁹ The INA annual caps are changed each fiscal year in accordance with Congress and immigration changes.

Since 1952, Congress has amended the INA multiple times to reflect domestic and international shifts. In addition to governing immigration, the INA constructed asylum and refugee law with the amendment of the Refugee Act.⁹⁰ To qualify for asylum, an individual must demonstrate that they are “physically present in the U.S. or

⁸² 8 U.S.C. § 1153(a)–(b) (2024).

⁸³ Cong. Rsch. Serv., *Immigration: Nonimmigrant (Temporary) Admissions to the United States* (Mar. 20, 2026), <https://www.congress.gov/crs-product/R45040>.

⁸⁴ U.S. Citizenship and Immigr. Servs., *Policy Manual*, ch. 1, www.uscis.gov/policy-manual/volume-7-part-a-chapter-1 (last visited Jan. 5, 2026).

⁸⁵ Immigration and Nationality Act, Pub. L. No. 82-414, 66 Stat. 163 (1952).

⁸⁶ Immigration and Nationality Act of 1965, Pub. L. No. 89-236, 79 Stat. 911 (1965).

⁸⁷ Sarah A. Donovan, William A. Kandel & Jill H. Wilson, *Employment-Based Immigration Policy*, Cong. Rsch. Serv. (Nov. 19, 2024), <https://www.congress.gov/crs-product/R47164>.

⁸⁸ William A. Kandel, *Family-Based Immigration Policy*, Cong. Rsch. Serv. (Feb. 9, 2018), <https://www.congress.gov/crs-product/R43145>.

⁸⁹ U.S. Citizenship & Immigr. Servs., *Diversity Visa Program*, <https://www.uscis.gov/green-card/green-card-eligibility/green-card-through-the-diversity-immigrant-vis-a-program> (last visited Jan. 23, 2026).

⁹⁰ 8 U.S.C. § 1101(a)(42) (2022).

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who arrives in the U.S. (whether or not at a designated port of arrival and including an alien who is brought to the U.S. after having been interdicted in international or U.S. waters)...”⁹¹ Meanwhile, to qualify as a refugee, one must reside outside of the U.S. and be unable to return to their country of origin due to a “fear of persecution.”⁹²

B. The Refugee Act of 1980

The Refugee Act codified existing protections for refugees and standardized the legal definition.⁹³ U.S. law aligned with international UN standards on asylum determinations by amending the INA with the Refugee Act. Previously, the U.S. did not have a unified framework enabling migrants to receive refugee status.

The Refugee Act amended Section 101(a)(42) of the Immigration and Nationality Act to define a refugee as:

Any person who is outside any country of such person nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.⁹⁴

This definition structured the eligibility of refugee applications into five categories. Climate-displacement cases fall outside the statutory framework, as forced migration due to environmental factors does not fit under the existing.

Subsection (B) of the Refugee Act extends protection under “specific circumstances” to individuals who satisfy the definition but cannot flee their country of nationality.⁹⁵ However, this does not create a separate basis for asylum relief. Therefore, individuals displaced by climate change are still ineligible for status because their claims fall outside the grounds in the INA’s definition.⁹⁶ Subsection (B) does not

⁹¹ 8 U.S.C. § 1158 (2022).

⁹² *Id.* § 1101.

⁹³ *Id.*

⁹⁴ Immigration and Nationality Act, Pub. L. No. 82-414, § 101(a)(42), 66 Stat. 163 (1952).

⁹⁵ *Id.* § 1101(a)(42)(B).

⁹⁶ *Id.*

operate as an expansion of protection, but as a limitation on interpretative flexibility, restricting broader implications of the refugee definition.

Contrarily, the 1951 Refugee Convention establishes a baseline framework for countries. Article 5 of the 1951 Refugee Convention explains, “Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.”⁹⁷ This allows countries to expand their own protections for refugee status, with support from the UN.⁹⁸ The U.S. may evolve its own refugee laws to protect individuals against new forms of displacement. This distinction underscores the gap between international flexibility and domestic limitations, particularly as climate displacement becomes an increasing issue.

C. *Temporary Protective Status (TPS)*

Temporary Protected Status (TPS) is the only form of protection available to climate-displaced individuals. TPS grants temporary immigration status to individuals residing in the U.S. who fled their country of origin due to climate disasters. To qualify, the individual’s country of origin must be designated by the Department of Homeland Security (DHS) as having conditions that “temporarily prevent the country’s nationals from returning safely.”⁹⁹ There are only 15 countries listed on the designation list: Myanmar, El Salvador, Ethiopia, Haiti, Honduras, Lebanon, Nicaragua, Nepal, Somalia, South Sudan, Sudan, Syria, Ukraine, Venezuela, and Yemen.¹⁰⁰ Individuals fleeing environmental disasters from regions that are not listed by the DHS are unable to be granted TPS.

Although TPS does not protect refugees, climate displacement can fall under the dire circumstances criterion.¹⁰¹ TPS does not offer a pathway for permanent status or long-term stay, leaving a protection gap within the U.S. refugee system. Additionally, in order to qualify for the TPS, individuals must experience an acute environmental disaster. This fails to consider the fact that climate change does not solely consist of

⁹⁷ Convention Relating to the Status of Refugees, art. 5.

⁹⁸ *Id.*

⁹⁹ U.S. Citizenship & Immigr. Servs., *Temporary Protected Status* (Feb. 26, 2025), <https://www.uscis.gov/humanitarian/temporary-protected-status>.

¹⁰⁰ *Id.*

¹⁰¹ Hatem Hassan, *When Climate Change Meets Immigration Law: The Legal Gap for Climate-Displaced People*, Geo. Env’t L. Rev. Blog (Jan. 20, 2026), <https://www.law.georgetown.edu/environmental-law-review/blog/when-climate-change-meets-immigration-law-the-legal-gap-for-climate-displaced-people/>.

sudden extreme events. Gradual environmental consequences do not force individuals to flee quickly, instead creating climate-induced displacement and migration. Under these circumstances, an individual would not qualify for TPS because their conditions do not meet the statutory threshold of immediate emergency. TPS does not grant protection for many individuals displaced by gradual climate change, leaving refugees at risk.

III. RECENT EFFORTS TOWARDS CLIMATE DISPLACEMENT RECOGNITION

Since the adoption of the Refugee Act, very few legal developments in the U.S. have attempted to address the growing protection gap in the framework. Both the Appellate Court and Congress have responded to the rise in climate refugee claims with a legal decision and progressive action towards amending the current Refugee Act. These developments reflect on the growing awareness towards climate migration and displacement, but also the failure to protect individuals under existing frameworks.

A. Cruz Galicia v. Garland

On July 1, 2024, the U.S. Court of Appeals for the First Circuit issued an opinion on a climate change asylum case.¹⁰² The petitioners were a family from Guatemala: Roni Cruz Galicia, his wife Heidi Hernandez Genis, and their son. The family fled to the U.S. on August 7, 2021, after struggling for two years due to storms, droughts, and effects from the COVID-19 pandemic.¹⁰³ Cruz claimed that his family would “die of malnutrition” as the government of Guatemala failed to provide aid to the country’s ongoing hunger crisis.¹⁰⁴ Since the family had no legal documents when entering the U.S., the DHS served them with a ‘Notice to Appear,’ initiating removal proceedings (under the INA).¹⁰⁵

Cruz filed for an I-589 Form, officially known as the Application for Asylum and Withholding of Removal.¹⁰⁶ Cruz also filed for protection under the Convention Against Torture (CAT), a human rights treaty that prevents a country from returning

¹⁰² *Galicia v. Garland*, No. 23-1910 (1st Cir. 2024).

¹⁰³ *Id.* at 2.

¹⁰⁴ *Id.* at 4.

¹⁰⁵ *Id.* at 2.

¹⁰⁶ U.S. Citizenship & Immigr. Servs., *Form I-589, Application for Asylum and for Withholding of Removal*, <https://www.uscis.gov/i-589> (last visited Jan. 24, 2026).

individuals to a place where they risk “torture and cruel, inhuman, or degrading treatment.”¹⁰⁷ Cruz identified his family, Hernandez, and R.O.C.H as derivative beneficiaries, granting them the same eligibility for immigration status.¹⁰⁸ Although the Immigration Judge found Cruz’s testimony credible, his asylum case was denied because he did not “experience sufficient harm in his country of Guatemala to constitute past persecution.”¹⁰⁹ The Judge also found that the term “climate refugees” was “too amorphous” and the conditions in Guatemala were not sufficient to constitute a fear of future persecution.¹¹⁰ Cruz appealed the ruling to the Board of Immigration Appeals (BIA), the highest U.S. body for interpreting immigration laws.¹¹¹ On September 29, 2023, the BIA came to the same decision as the Immigration Judge and denied the case.¹¹² As a result, Cruz petitioned his asylum claim to the Appellate Court.¹¹³

The First Circuit concluded that a “climate refugee” does not constitute a distinct “social group” in Guatemalan society,¹¹⁴ and denied Cruz’s petition to review the BIA’s denial of his asylum case.¹¹⁵ The Court supported the BIA’s claims and regulations, finding that Cruz failed to establish valid persecution and membership in the social group of “climate refugees”.¹¹⁶

The *Cruz Galicia* ruling set a precedent for individuals claiming status as climate refugees, further emphasizing the lack of protection for climate-displaced individuals in the U.S. *Cruz Galicia* established that climate refugees cannot be classified under a social group, but this case does not hold statutory precedent over the four listed groups in the Refugee Act. Future cases must be strategically framed under different statutory grounds to ensure climate cases do not continue to fail under the *Cruz Galicia* precedent.

¹⁰⁷ S. Treaty Doc. No. 100-20, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1988),

<https://www.congress.gov/treaty-document/100th-congress/20/resolution-text>.

¹⁰⁸ Justia, *How Children of Visa Applicants Legally Qualify for Derivative Status* (Oct. 2025),

<https://www.justia.com/immigration/marriage-family-based-petitions/derivative-status-for-children/>.

¹⁰⁹ *Galicia v. Garland*, No. 23-1910, 88 (1st Cir. 2024).

¹¹⁰ *Id.*

¹¹¹ U.S. Dep’t of Justice, *Board of Immigration Appeals*, (Jan. 28, 2026),

<https://www.justice.gov/eoir/board-of-immigration-appeals>.

¹¹² *Galicia v. Garland*, No. 23-1910, at 6.

¹¹³ *Id.*

¹¹⁴ *Id.* at 7

¹¹⁵ *Id.*

¹¹⁶ *Id.* part III.

B. The Climate Displaced Persons Act

In 2023, Congresswoman Nydia Velázquez (D-NY) and Senator Ed Markey (D-MA) introduced a bicameral bill aiming to amend the Immigration and Nationality Act (INA) to create a new category for climate-displaced individuals.¹¹⁷ The Climate Displaced Persons Act (CDPA) would establish a “Global Climate Change Resilience Strategy” to authorize the admission of climate-displaced individuals into the U.S. under refugee laws.¹¹⁸ The CDPA would amend Section 101(a) of the INA to include the term ‘climate-displaced person’ as an individual fleeing their home because of climate-related environmental disasters.¹¹⁹ This legislation would create a pathway for climate-displaced individuals to be admitted into the U.S. through the refugee resettlement program.¹²⁰

The CDPA required foreign aid funding to strengthen climate resilience and recovery support programs, complicating the enactment process.¹²¹ When the CDPA was referred to the Senate Committee on Foreign Affairs, it never received legislative action.¹²² Ultimately, the bill’s failure to advance is because of the congressional partisan divide that surrounds immigration.¹²³ Humanitarian proposals like the CDPA require bipartisan support to expand refugee classifications. But in a deeply polarized Congress, the CDPA faced political gridlock and opposition across party lines.

C. H.R. 2826 (To Establish A Global Climate Change Resilience Strategy)

The Global Climate Change Resilience Strategy (GCCRS) was introduced to Congress as an effort to aid communities at the front lines of climate change through the State Department and the U.S. Agency for International Development

¹¹⁷ H.R. 6455, 118th Cong. (2023).

¹¹⁸ *Id.* § 3.

¹¹⁹ *Id.*

¹²⁰ *Id.* § 5.

¹²¹ *Id.* § 3.

¹²² *Id.*

¹²³ William A. Galston, *The Collapse of Bipartisan Immigration Reform: A Guide for the Perplexed*,

Brookings (Feb. 8, 2024),

<https://www.brookings.edu/articles/the-collapse-of-bipartisan-immigration-reform-a-guide-for-the-perplexed/>.

(USAID).¹²⁴ The bill was intended to support reconstruction in areas affected by disasters and provide humanitarian assistance to populations affected by the climate crisis. GCCRS aimed to prevent displacement before communities needed to migrate out of their home states.¹²⁵ To provide this aid, the bill required federal agencies to collect data on climate displacement, targeting the Environmental Protection Agency, the Department of Defense, the Department of State, the Department of Homeland Security, and USAID.¹²⁶

The complexity of GCCRS required multiple committees to review and finalize the bill.¹²⁷ Ultimately, GCCRS was referred to the House of Foreign Affairs and the House Judiciary Committee for review.¹²⁸ However, the bill expired at the end of the 118th Congress before making it to the House floor. Similar to the CDPa, the GCCRS struggled to gain support from both parties in Congress. This was due to the complexity of gathering data and funding from so many different agencies.¹²⁹ Large packaged bills require approval from various committees, slowing down the process of passage. In an increasingly polarized Congress, environmental protection measures face scrutiny due to political ideology.¹³⁰ As a result, GCCRS became a casualty of political division, despite its humanitarian protections.

IV. PROPOSAL

The legal framework for refugees in the U.S. does not recognize climate change or other environmental shifts as a legal basis for refugee protection. The Refugee Act categorizes a refugee as an individual outside of their country of nationality who is unable to return to their home country because of “persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular

¹²⁴ Press Release, Rep. Velázquez, Senator Markey Reintroduce Bill to Protect Migrants Displaced by Climate Change (Nov. 16, 2023), <https://velazquez.house.gov/media-center/press-releases/rep-velazquez-senator-markey-reintroduce-bill-protect-migrants>.

¹²⁵ H.R. 6455, 118th Cong. (2023).

¹²⁶ *Id.* § 4.

¹²⁷ H.R. 2826, 117th Cong., 1st Sess. (2021).

¹²⁸ *Id.*

¹²⁹ See Galston, *supra* note 123.

¹³⁰ Rachel Kleinfeld, *Polarization, Democracy, and Political Violence in the United States: What the Research Says*, Carnegie Endowment for International Peace (2023), <https://carnegieendowment.org/research/2023/09/polarization-democracy-and-political-violence-in-the-united-states-what-the-research-says>.

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social group, or political opinion.”¹³¹ This definition focuses on persecution tied to an identifiable act or specific state actor/group, a nexus to statutory grounds.¹³² Environmental changes are not recognized as persecution under the law because they cannot be attributed to a state or person. As a result, individuals displaced by environmental disasters fall outside the U.S. framework governing refugee protection status.

The UN created the statutes for refugees in response to post-World War II displacement across Europe, primarily due to political persecution.¹³³ Today, migration reflects environmental pressures like rising sea levels, desertification, and natural disasters. The 2025 Global Report on Internal Displacement reported 83.4 million people internally displaced at the end of 2024, with approximately 45.8 million displaced due to “weather-related” hazards.¹³⁴ Climate change is a leading cause in displacement, outranking “conflict and violence.”¹³⁵ While many climate-displaced individuals move internally, long-term environmental degradation results in cross-border migration. In the international case of *Teitiota*, the HRC concluded that countries should recognize climate change as an acceptable case for individuals seeking asylum.¹³⁶ Environmental shifts contribute to persecution, especially when individuals are reliant on stable climate conditions. Marginalized communities dependent on agriculture or coastal conditions face disproportionate impacts, classifying climate change as a form of persecution for vulnerable groups.

These conditions have created a protection gap in U.S. refugee statutes classifications. While international organizations push for new asylum and refugee frameworks, the U.S. has not made any commitment to update the Refugee Act. The Appellate Court decision in *Cruz* created more of a struggle for those seeking ‘climate refugee’ status and recognition.¹³⁷ The First Circuit rejected Cruz’s asylum case, where

¹³¹ 8 U.S.C. § 1101(a)(42) (2022).

¹³² *Id.*

¹³³ U.S. Holocaust Mem’l Museum, *Displaced Persons and Postwar America*, <https://perspectives.ushmm.org/collection/displaced-persons-and-postwar-america> (last visited Feb. 10, 2026).

¹³⁴ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 10* (2025).

¹³⁵ *Id.*

¹³⁶ Bergova, *supra* note 51.

¹³⁷ José G. Miranda, *First Circuit Decision on Climate Refugees*, Int’l Refugee Assistance Project (July 2024), <https://refugeerights.org/news-resources/first-circuit-decision-on-climate-refugees-should-not-discourage-advocates-for-people-displaced-by-climate-impacts-lkt>.

he claimed to be a member of the social group of ‘climate refugees.’¹³⁸ The Court denied his claim based on the lack of legal recognition of climate-displaced individuals as a social group within Guatemala.¹³⁹ Under the Refugee Act, the Court emphasized the statutory requirement that an asylum case must have one of the five listed protected grounds.¹⁴⁰ *Cruz* further demonstrated the protection gap in U.S. refugee law, where the current statutory framework does not allow for climate-displaced persons to apply for asylum.¹⁴¹ Although the Appellate Court has now created precedent for future ‘climate refugee’ cases, it only reinforces the need for legislative reform.

Amendments proposed to broaden the Refugee Act to include climate-displaced individuals are often challenged. Critics argue that expanding the refugee definition would be difficult in U.S. courts and worsen the already strained immigration system.¹⁴² Legal changes carry the risk of judicial overreach, as evaluating the link between climate change and displacement would be determined on a case-by-case basis.¹⁴³ This further complicates the establishment of a causal nexus due to widely differing circumstances. Others argue that climate displacement would be better addressed through temporary mechanisms, such as improving TPS designations.¹⁴⁴ However, these concerns do not diminish the increasing urgency for legislative reform to protect climate refugees. The current framework under the Refugee Act fails to protect the growing population affected by climate shifts and environmental disasters. Temporary measures, like TPS, are insufficient in providing long-term solutions. Instead, clear eligibility criteria should be proposed, creating a more permanent, structured pathway for environmentally displaced individuals.

Congress should amend Section 101(42) of the INA to recognize climate change and environmental threats as a form of persecution. This amendment could be introduced in a simple clause recognizing individuals fleeing their home countries due to climate disasters that threaten their right to life and security.

¹³⁸ *Galicia*, No. 23-1910, at 6.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² Hassan, *supra* note 101.

¹⁴³ Natalie Smith, *A Path to Climate Asylum Under U.S. Law*, 124 Colum. L. Rev. 1779 (2024).

¹⁴⁴ Caitlan Sussman, *A Global Migration Framework Under Water: How Can the International Community Protect Climate Refugees?*, 2 Chi. J. Int'l L. Online 43 (2023), <https://cjl.uchicago.edu/sites/default/files/2023-04/2ChiJIntlLOnline41%20%28C.%20Sussman%29.pdf>.

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Expanding the definition of persecution would enable asylum and refugee cases to cover multiple grounds. The concept of “well-founded fear of persecution” in relation to “nationality” should be further explored.¹⁴⁵ Since countries like Somalia and Haiti are the first to be affected by the increase in natural disasters, the communities in those regions are not only in fear of persecution, but are also attacked at a faster rate than communities in more developed regions.¹⁴⁶ Although this harm is not imposed by a state or individual, it arises from an uncontrollable source: climate change. Nations in vulnerable regions to climate change are at greater risk of climate-induced migration. The governments of climate-vulnerable states often lack the resources to protect their people. This enforces the idea that persecution is targeting a nationality, as people of underdeveloped regions are the main communities experiencing mass displacement.

In addition to expanding the definition of a refugee, the amendment should reform the annual refugee admissions cap. Currently, the Refugee Act contains a ceiling statute of 50,000 annual admissions, granting the President the power to raise or lower the number based on humanitarian needs.¹⁴⁷ Congress must approve this shift, and it fluctuates under each administration. Under the Biden Administration, the admission ceiling was 125,000 for the Fiscal Years (FY) 2022 to 2024.¹⁴⁸ Under Trump’s Second Administration, the annual ceiling has reached a record low of 7,500 for FY 2026, while emphasizing priority for South Africans.¹⁴⁹ The nature of the ceiling system creates challenges for humanitarian emergencies. An amendment should require that a percentage of the annual refugee admissions ceiling be reserved for emergency environmental displacement. This would offer a more permanent framework for people enduring dire situations such as extreme hurricanes or flooding. Under this amendment, Congress could mandate 15% of the total refugee ceiling be reserved for emergency crises, offering a more permanent solution than TPS.¹⁵⁰ Since climate-induced disasters can be triggered with little warning, reserving admissions

¹⁴⁵ 8 U.S.C. § 1101(a)(42) (2022) (defining a refugee as a person with a “well-founded fear of persecution on account of nationality”).

¹⁴⁶ Susan F. Martin, *Forced Migration and Refugee Policy, in Demography of Refugee and Forced Migration* (Graeme Hugo et al. eds., 2018).

¹⁴⁷ 8 U.S.C. § 1101(a)(42) (2024).

¹⁴⁸ Diana Roy et al., *How Does the U.S. Refugee System Work?*, Council on Foreign Relations, www.cfr.org/backgrounders/how-does-us-refugee-system-work-trump-biden-afghanistan (last visited Jan. 3, 2026).

¹⁴⁹ *Id.*

¹⁵⁰ Hassan, *supra* note 101.

would enable the refugee system to adapt effectively under unpredictable circumstances.

Amending the Refugee Act to recognize climate displacement would also have a positive international impact. The U.S. is a central player in global policy work, especially in implementing the 1967 Protocol, which removed the geographic restrictions that had limited the 1951 Refugee Convention to Europe. If the U.S. incorporated climate-induced displacement into refugee law, it could reshape the perception of international refugee norms on climate migration. An expansion to the Refugee Act would close a legal protection gap while also prioritizing humanitarian principles within the modern refugee system. Climate change continues to threaten the survival of people living in vulnerable regions, and laws must continuously evolve to address these new forms of forced migration.

CONCLUSION

Currently, climate change is the most urgent challenge humanity faces.¹⁵¹ In the U.S., legal frameworks for refugees and asylum seekers have not been modified since the Refugee Act.¹⁵² Almost 50 years later, these systems are insufficient in addressing modern forced migration. No longer do political conflict and human aggressors serve as the sole factors behind “persecution.” Mass migration has new origins, with climate change and environmental disasters. The decision in *Cruz* reinforced the lack of domestic protection for climate-displaced individuals.¹⁵³ Instead of replacing existing refugee structures, the U.S. should adapt current laws to close the protection gap in the Refugee Act. This approach would extend current protections while supporting the existing framework.

Teitiota created international recognition for the impacts of environmental degradation,¹⁵⁴ as the increase of human rights violations in communities directly impacted by the climate crisis. According to the UN, 250 million people have been

¹⁵¹ UN, *The Climate Crisis—A Race We Can Win*,

<https://www.un.org/en/un75/climate-crisis-race-we-can-win> (last visited Feb. 7, 2026).

¹⁵² Refugee Act of 1979, S. 643, 96th Cong. (1979).

¹⁵³ *Galicia*, No. 23-1910.

¹⁵⁴ *Teitiota*, Commc’n No. 2728/2016.

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displaced within the past 10 years due to weather-related disasters.¹⁵⁵ As climate conditions continue to threaten the most vulnerable populations, refugee laws must increase protections. This paper proposes a solution that would not only establish a path to refugee status for individuals affected by climate change but also catalyze a broader shift in refugee protection internationally.

¹⁵⁵ UNHCR, *UNHCR Report Reveals Extreme Weather Driving Repeated Displacement among Conflict-Affected Communities* (Nov. 10, 2025), www.unhcr.org/news/press-releases/unhcr-report-reveals-extreme-weather-driving-repeated-displacement-among.