

# Climate-Induced Migration as Forced Displacement: A Normative Reconstruction of State Responsibility in Indonesia and Nigeria

Aqilah Putri Andanni<sup>1</sup>, Aam Amirulhaq<sup>2</sup>, Septhian Eka Adiyatma<sup>3\*</sup>, Uche Nnawulezi<sup>4</sup>

<sup>1,2,3</sup> Notary Masters Study Program, Faculty of Law, Universitas Diponegoro, Semarang, Indonesia

<sup>4</sup> Faculty of Law, University of Lay Adventist of Kigali, Rwanda

---

## ABSTRAK

Perubahan iklim telah muncul sebagai pendorong struktural mobilitas manusia, namun kerangka hukum yang ada masih belum memadai untuk menangani migrasi yang disebabkan oleh degradasi lingkungan yang bersifat gradual dan kumulatif. Penelitian ini mengkaji kecukupan kerangka hukum internasional dan nasional dalam merespons migrasi akibat perubahan iklim melalui analisis hukum normatif komparatif terhadap Indonesia dan Nigeria. Dengan menggunakan metode penelitian hukum normatif yang mencakup pendekatan konseptual, perundang-undangan, dan komparatif, penelitian ini menelaah hukum pengungsi, hukum lingkungan internasional, hukum hak asasi manusia internasional, serta peraturan perundang-undangan nasional yang relevan. Temuan penelitian menunjukkan bahwa migrasi akibat perubahan iklim dikecualikan dari rezim perlindungan formal karena konstruksi hukum yang berbasis peristiwa dan perlindungan berbasis status. Penelitian ini berargumen bahwa perlindungan yang memadai memerlukan pendekatan berbasis kerentanan, pengakuan terhadap kerusakan lingkungan yang bersifat kumulatif, serta tanggung jawab negara yang berkelanjutan.

**Kata Kunci:** Migrasi Akibat Perubahan Iklim, Perpindahan Paksa, Tanggung Jawab Negara, Hukum Hak Asasi Manusia

## ABSTRACT

Climate change has emerged as a structural driver of human mobility, yet existing legal frameworks remain inadequate to address migration caused by gradual and cumulative environmental degradation. This study examines the adequacy of international and national legal frameworks in responding to climate change-induced migration through a comparative normative analysis of Indonesia and Nigeria. Utilizing a normative legal research method that incorporates conceptual, statutory, and comparative approaches, the study examines refugee law, international environmental law, international human rights law, and relevant national legislation. The findings show that climate-induced migration is excluded from formal protection regimes due to event-based legal constructions and status-oriented protection. This study argues that adequate protection requires vulnerability-based approaches, recognition of cumulative environmental harm, and sustained state responsibility.

**Keywords:** Climate-Induced Migration, Forced Displacement, State Responsibility, Human Rights Law.

---

## 1. INTRODUCTION

Climate change is now understood as a multidimensional phenomenon occupying a central position in modern global dynamics, as its impacts are not limited solely to damage to natural ecosystems but extend systemically into the social, economic, and political orders of societies. This change is reflected in consistent increases in average global temperatures, shifts in increasingly unpredictable hydrometeorological patterns, intensified land degradation due to prolonged environmental pressures, and progressive rises in sea levels that threaten the sustainability of coastal areas and small islands. (Le et al., 2023; Vallesi, 2025) Unlike acute and episodic natural disasters, the effects of climate change generally operate through gradual and cumulative mechanisms that, over the long term, diminish the environment's capacity to support basic human needs. These conditions manifest in reduced food security, disrupted access to clean water resources, and heightened

---

\*Corresponding author

E-mail addresses: [septhianeakaadiyatma@students.undip.ac.id](mailto:septhianeakaadiyatma@students.undip.ac.id)

vulnerability of infrastructure and livelihoods. Within this framework, population displacement is no longer merely understood as an individual choice but as a structural adaptation strategy to sustained environmental pressures, where human mobility becomes the logical consequence of a region's inability to sustain livable conditions.

Climate-induced migration exhibits a substantively distinct configuration compared to patterns of human mobility traditionally understood within the framework of conventional migration. Population movements in this context are generally not triggered by a single, sudden environmental event, but instead arise from the cumulative impact of ecological pressures that evolve gradually yet persistently. The declining quality and productivity of land, seawater intrusion into residential and agricultural areas, the diminishing availability of clean water resources, and the progressive degradation of coastal ecosystems collectively and steadily constrain the conditions necessary for sustainable livelihoods, thereby narrowing the space of viable living environments for individuals and communities. (Yang et al., 2024) Under such circumstances, migration often functions as both an adaptive mechanism and a survival strategy. Nevertheless, the decision to move is frequently made under conditions of structural compulsion, where the range of available choices becomes increasingly limited, and the freedom to remain in place can no longer be fully sustained.

The growing acknowledgment of the interconnection between climate change and human mobility reflects a broader shift in how global risks are understood as multidimensional and socially embedded phenomena. Environmental degradation, rising sea levels, extreme weather events, and the gradual loss of livelihoods increasingly operate as structural drivers that interact with economic vulnerability, political instability, and social inequality. (*What Role Does Environmental Degradation Play in Conflict?* → Question, 2025) As a result, mobility linked to climate change rarely constitutes a purely environmental response; instead, it emerges from a complex web of causality in which ecological stress amplifies pre-existing patterns of marginalization and limited adaptive capacity. This complexity challenges linear interpretations of migration and calls into question traditional distinctions between voluntary and forced movement that continue to dominate legal and policy frameworks.

Despite the growing empirical and theoretical literature, the absence of conceptual coherence remains a central obstacle. The interchangeable use of terms such as climate-induced migration, environmental displacement, climate mobility, or disaster-related movement does not merely represent semantic variation; it also reflects a broader conceptual framework. However, it signals more profound disagreements regarding causation, agency, and responsibility. Each term carries distinct normative implications: some emphasize compulsion and victimhood, while others highlight adaptability and choice. Without a shared conceptual foundation, policy responses risk becoming fragmented, selective, or overly technocratic, focusing on short-term humanitarian assistance while neglecting structural prevention, adaptation, and rights-based protection. (Adiyatma et al., 2025; *How Does Policy Fragmentation Affect Cooperation?* → Question, 2025) This conceptual ambiguity also complicates data collection and comparative research, further weakening the evidence base required for effective governance.

The lack of terminological and conceptual clarity has particularly significant consequences in the legal domain. Existing legal regimes remain largely ill-equipped to accommodate mobility driven by climate-related factors, in part because such mobility does not neatly align with established legal categories. When environmentally driven movement is framed inconsistently, it becomes difficult to determine whether affected populations should be protected under refugee law, human rights law, disaster risk frameworks, or emerging climate governance mechanisms. This fragmentation undermines legal certainty, leaving climate-affected migrants in a normative grey area and often excluding them from durable protection. (*How Does Policy Fragmentation Affect Cooperation?* → Question, 2025) Accordingly, advancing a more coherent conceptual framework is not merely an academic exercise, but a prerequisite for developing principled, predictable, and rights-oriented legal responses to human mobility in the context of climate change.

Legal frameworks governing human mobility are constructed upon certain assumptions concerning the causes of movement and the degree of compulsion involved. Migration triggered by armed conflict, persecution, or economic motives can be more readily mapped onto established legal categories. By contrast, migration due to climate change does not occur because of a single, direct cause. Climate change operates slowly and gradually, for example, through declining agricultural yields, environmental degradation, or reduced resources, which then interact with pre-existing fragile social

and economic conditions. As a result, it is difficult to determine whether someone moves solely because of climate change or due to other interconnected factors. Due to this nature, climate-related migration is challenging to categorize within existing legal frameworks, despite its profound and lasting impact on human life. In other words, a gap exists between the reality of climate change-induced migration and the way the law currently classifies and protects human mobility.

At the same time, environmental law has undergone significant development in response to growing global awareness of the ecological crisis. (Gilbert et al., 2023) Various legal instruments affirm state responsibilities to prevent environmental degradation, manage climate change risks, and protect ecosystem sustainability. However, the primary orientation of these regulations remains focused on environmental protection as an object, while social implications particularly population displacement are often treated as indirect consequences lying outside the explicit scope of legal regulation. This situation creates a normative gap between the recognition of climate change as a global problem and the protection of individuals and communities affected by it.

This gap becomes even more apparent in national-level practice. In many countries, migration triggered by environmental change is addressed through sectoral policies such as disaster management, climate change adaptation, or regional development planning. Such approaches tend to frame migration as a technical administrative issue to be managed, rather than as a legal phenomenon that carries consequences for the status, rights, and protection of individuals on the move. As a result, the legal dimension of climate-induced migration frequently remains in a grey area, lacking a clear and consistent framework of protection.

This study situates two jurisdictions in the Global South, namely Indonesia and Nigeria, as comparative case studies to examine how international and national legal frameworks respond to, or fail to respond to, climate-induced human mobility. The selection of these two countries is not incidental, but grounded in structural considerations. Indonesia, as an archipelagic state with an extensive coastline and a substantial coastal population, faces escalating threats from sea level rise, saltwater intrusion, and the gradual loss of coastal territories, all of which directly undermine the livelihoods and survival of coastal communities and Indigenous peoples. (Adiyatma et al., 2025) Nigeria, by contrast, particularly in the Niger Delta region, exhibits patterns of population movement linked to chronic ecological degradation resulting from oil pollution, gas flaring, and weak regulatory enforcement over extractive industries. (Adiyatma et al., 2025) These conditions have led to the erosion of traditional livelihoods and have compelled the long-term relocation of local communities. Despite differences in ecological drivers, both cases reveal a similar structural pattern, namely the exclusion of affected populations from formal protection regimes, resulting in significant normative gaps. Empirical findings and analytical insights from recent literature substantiate this pattern.

From the perspective of international law, the traditional construction of refugee status remains anchored in the requirement of persecution based on race, religion, nationality, membership of a particular social group, or political opinion. This framework technically forecloses recognition of individuals or communities displaced by environmental conditions that do not involve hostile intent or discriminatory conduct by a specific human actor. In response to these limitations, the international community, through initiatives such as the Nansen Initiative and the Platform on Disaster Displacement, has sought to formulate more context-sensitive protective approaches for mobility associated with disasters and climate change. (McAdam, 2017) These efforts include policy recommendations and non-binding frameworks addressing cross-border protection and internal displacement. Nevertheless, such initiatives remain normative and advocative in nature, and have not resulted in binding international legal instruments that explicitly recognize climate-induced migrants as subjects of protection with rights equivalent to those afforded to conventional refugees. The distinction between advocacy-based normative approaches and binding legal obligations, therefore, constitutes a critical focal point in normative legal analysis of climate-related migration.

## 2. METHOD

This study employs a normative legal research method designed to examine, interpret, and critically assess the legal norms governing climate change-induced migration within international law and selected national legal systems. The research is doctrinal in nature, focusing on law as a normative system rather than as an object of empirical measurement, and aims to identify structural gaps,

conceptual limitations, and inconsistencies in existing legal frameworks. The approach adopted is a combination of conceptual, statutory, and comparative approaches. The conceptual approach is employed to analyze key legal notions, including compulsion, vulnerability, protection, and state responsibility, particularly in relation to climate-induced human mobility. The statutory approach examines relevant international legal instruments, including refugee law, international environmental law, international human rights law, and soft law initiatives, as well as national legislation in Indonesia and Nigeria, covering environmental protection, disaster management, human rights, and migration. The comparative approach is employed to identify convergences and divergences in how Indonesia and Nigeria construct legal responses to climate-induced migration, with a particular focus on the interaction between environmental degradation, human mobility, and rights-based protection.

### **3. RESULT AND DISCUSSION**

#### **The Adequacy of International and National Legal Frameworks in Responding to Climate Change-Induced Migration in Indonesia and Nigeria**

International and national legal frameworks demonstrate a structural inadequacy in responding to migration induced by climate change, not due to the absence of legal norms, but rather because of legal constructions that are misaligned with the diffuse, cumulative, and long-term character of environmental threats. Normatively, law continues to associate protection with exceptional events, linear causality, and narrowly defined state responsibility. As a result, climate-induced migration is not recognized as a legal event that triggers protection obligations. The tension between the realities of environmentally driven migration and existing legal structures is reflected in normative practices across various legal regimes, both international and domestic, resulting in partial and inconsistent protection for affected populations.

At the international level, these limitations are systematically reflected in the regimes of refugee law, environmental law, and international human rights law. The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol explicitly confine protection to individuals with a well-founded fear of persecution on grounds of race, religion, nationality, membership of a particular social group, or political opinion. (Chambers, 2020; United Nations High Commissioner for Refugees, 1951) This construction normatively excludes environmentally induced compulsion, as climate change is not conceptualized as persecution and does not require the presence of an intentional human perpetrator. Consequently, migration resulting from environmental degradation and climate change falls outside the scope of international refugee protection, not due to a legal vacuum, but as a direct consequence of a normative design that was never intended to address non-political and structural threats.

Beyond the refugee regime, international environmental law establishes state obligations to prevent and control environmental harm, as reflected in the 1972 Stockholm Declaration, the 1992 Rio Declaration, the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement. Principles such as prevention, precaution, and common but differentiated responsibilities situate climate change within the domain of environmental governance and sustainable development. (Addaney, 2025) However, these instruments do not recognize human migration as a basis for individual legal protection claims. Migration is often framed as an issue of adaptation and public policy, rather than as a legal consequence that gives rise to direct protection obligations toward individuals or communities compelled to move.

Meanwhile, international human rights law, as embodied in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, guarantees the rights to life, health, housing, and an adequate standard of living. Although these norms are universal and independent of legal status, this study demonstrates that human rights protection in the context of climate change remains general in nature and lacks mechanisms for status recognition or specific procedures for climate-induced migrants. As a result, human rights law functions primarily as an evaluative standard for state policies rather than as a systematic mechanism of direct protection.

These conceptual limitations at the international level are subsequently reproduced within Indonesia's national legal framework. The 1945 Constitution of the Republic of Indonesia guarantees the right to a decent life, a good and healthy environment, and recognition of indigenous peoples. However, these constitutional guarantees have not been translated into sectoral regulations that explicitly recognize climate-induced migration as a form of structural compulsion. Law No. 24 of 2007

on Disaster Management frames relocation as an emergency response to disasters that are temporary and exceptional in nature, rendering it incapable of addressing long-term environmental pressures such as coastal erosion, sea level rise, and ecosystem degradation.

Law No. 32 of 2009 on Environmental Protection and Management establishes state obligations and liability for environmental pollution and damage, while affirming the right to a good and healthy environment. Nevertheless, this law does not link environmental degradation to rights related to mobility, dignified relocation, or sustainable livelihoods for affected populations. Protection is confined to environmental restoration and compensation, without a framework for long-term social protection for individuals and communities forced to migrate due to climate change.

Within the national human rights framework, Law No. 39 of 1999 on Human Rights guarantees the rights to life, welfare, housing, and special protection for indigenous peoples. However, there is no explicit recognition that climate-induced migration constitutes a threat to the realization of human rights. Human rights protection remains reactive and individualistic, making it ill-suited to address the collective and gradual risks experienced by coastal and indigenous communities. Jurisdictional fragmentation under Law No. 23 of 2014 on Regional Government further weakens protection, as environmental, disaster-related, and social issues are dispersed across unintegrated sectoral regimes.

A similar pattern of inadequacy is evident within Nigeria's national legal framework. The 1999 Constitution of the Federal Republic of Nigeria guarantees the rights to life and human dignity and imposes an obligation on the state to protect and improve the environment. However, environmental protection provisions are located within the chapter on Fundamental Objectives and Directive Principles of State Policy, which are non-justiciable, thereby precluding their use as direct legal claims by citizens. As a result, the normative linkage between environmental degradation and human rights protection remains weak.

Environmental regulations, such as the National Environmental Standards and Regulations Enforcement Agency Act 2007 and the Environmental Impact Assessment Act 1992, emphasize administrative compliance and pollution prevention, but do not systematically link environmental harm to social protection or the forced migration of affected communities. In the oil and gas sector, the Petroleum Act 1969 and its subsidiary regulations prioritize national economic and energy interests, rendering environmental damage, particularly in the Niger Delta, a perceived consequence of development. Migration resulting from the loss of livelihoods and ecosystem degradation is not recognized as a legal event triggering state protection obligations.

A comparative analysis of Indonesia and Nigeria reveals a consistent structural pattern despite differing ecological, political, and legal contexts. Both states possess environmental and human rights norms, but fail to integrate them into a comprehensive framework for protecting climate-induced migrants. Migration is treated as a collateral effect of environmental or development issues rather than as an autonomous legal protection concern. This underscores that legal adequacy cannot be assessed merely by the existence of norms, but by the capacity of law to respond to forms of vulnerability that are structural and long-term in nature.

As long as the law fails to reconstruct the relationship between environmental degradation, human mobility, and rights-based protection, climate-induced migration will remain outside the sphere of formal legal protection. These findings provide a robust normative foundation for further discussion on legal exclusion, state responsibility, and the need to reconstruct legal paradigms to address human mobility in the era of climate change.

Accordingly, a paradigmatic shift is required to address the structural inadequacies of existing legal frameworks. First, the law must disengage from its reliance on linear causality and acute events as prerequisites for protection. (Sciaccaluga, 2015) Climate-induced migration demonstrates that compulsion does not necessarily arise from a single extraordinary event, but from the accumulation of structural conditions that progressively erode the capacity of individuals and communities to sustain a dignified life. Normatively, compulsion must therefore be understood as a process rather than an event. This shift requires the law to recognize cumulative risks and gradual degradation as sufficient grounds for activating protection obligations, without requiring an intentional perpetrator or a clearly identifiable moment of crisis.

Second, protection frameworks must move from a status-based approach toward a vulnerability-based approach. As long as legal protection depends on formal status recognition, such as refugee or disaster victim status, climate-induced migrants will remain excluded due to their

incompatibility with existing categories. A vulnerability-based approach allows law to respond to the factual conditions of individuals and communities facing serious threats to life, livelihood, and human dignity, regardless of whether compulsion arises from conflict, persecution, or environmental degradation. Protection is thus determined not by the singular cause of migration, but by the degree of threat to the fulfillment of human rights.(Sugow, 2025)

Third, the law must integrate climate-induced migration into a framework of preventive and sustained state responsibility. State responsibility under environmental and disaster law has traditionally been reactive and limited to post-damage remediation.(Schmalenbach, 2022) The findings of this study demonstrate that such an approach is inadequate for addressing human mobility driven by long-term environmental degradation. Normatively, state obligations should encompass early identification of migration risks, protection of vulnerable groups prior to displacement, and guarantees of livelihood sustainability and social recovery for those compelled to relocate. This approach frames migration not as a policy failure, but as a social reality requiring rights-based governance.(Dewanto & Krustiyati, 2024)

Fourth, the fragmentation among legal regimes that currently places climate-induced migration in a normative limbo must be addressed through legal integration. Refugee law, environmental law, and human rights law cannot continue to operate in isolation when confronting threats that are cross-sectoral and temporal in nature.(Kabot, 2025; Lengkong, 2024) Integration need not take the form of an entirely new legal regime, but may be achieved through the strengthening of cross-cutting principles, such as environmental risk-based non-refoulement, the precautionary principle in the context of human mobility, and recognition of the right to dignified movement when environmental conditions no longer permit a viable life.(Precious Oluwaseun Okedele et al., 2024)

Fifth, at the national level, this study's normative analysis points to the need to transform relocation from an administrative instrument into a rights-based legal protection mechanism. In both Indonesia and Nigeria, relocation has been primarily treated as a technical solution to mitigate physical risk or facilitate development, without recognition of the social, cultural, and identity dimensions of the affected communities.(Akanni et al., 2025; Lengkong, 2024) Normatively, relocation should be understood as a legal intervention carrying consequences for the realization of rights to housing, livelihood, culture, and participation. This requires recognition of a legal status for individuals and communities compelled to move due to climate change, not to criminalize mobility, but to ensure access to long-term protection and recovery.

Climate-induced migration, therefore, cannot be addressed through a logic of exceptionality. It must instead be grounded in recognition that human mobility constitutes an inherent dimension of climate change impacts. Legal frameworks that remain anchored in outdated paradigms will continue to reproduce gaps in exclusion and protection. Conversely, a law that reconstructs concepts of compulsion, vulnerability, and state responsibility progressively will be better equipped to respond to the realities of human mobility in the era of climate change. This analysis also opens space for further inquiry into the normative and institutional designs required to build a more inclusive and just legal protection framework.

### **Structural Exclusion of Climate Migration within the Modern Legal Paradigm**

Climate induced migration cannot be understood as an anomaly that exists outside the legal system but rather as a direct product of the structure of modern law itself. The exclusion of climate migrants is not primarily caused by the absence of legal norms but by the way law constructs social reality through particular assumptions about risk causality and the subject of protection. Within the framework of critical legal theory law is not understood merely as a set of positive rules but as a system of knowledge that determines what is recognized as a legal problem and who is considered worthy of protection. Legal realism and critical legal studies emphasize that law always reflects normative choices and power relations. In this context climate migration becomes legally invisible because it does not fit the dominant conceptual framework that requires extraordinary events linear causality and the presence of an identifiable actor.

Normatively the design of international law was constructed to respond to disruptions that are discrete and temporally identifiable. The Convention Relating to the Status of Refugees requires the existence of a well founded fear of persecution which implicitly presupposes intentional human conduct motivated by discrimination. As emphasized by Jane McAdam climate change is not constructed as a

form of persecution because it does not involve malicious intent by a particular actor even though its impact on human life may be equal to or even more destructive. As a result individuals and communities who move due to long term and systemic environmental degradation are excluded from the refugee protection regime not because their suffering is less serious but because it fails to satisfy the standardized normative requirements. (McAdam, 2012)

This exclusion is further reinforced by the politics of legal categorization. Through the lens of governmentality developed by Michel Foucault law and public policy can be understood as mechanisms for classifying populations for the purpose of governance. (Joseph, 2009; Urošević, 2024) Categories such as refugees disaster victims or economic migrants are not neutral descriptions but instruments of power that determine access to rights and resources. Climate migrants fail to be classified because their experiences do not meet normative thresholds such as the existence of an event threshold or a sudden crisis. Consequently the absence of legal status for climate migrants is not a passive normative gap but the outcome of a categorization process that actively excludes forms of vulnerability that are gradual cumulative and structural.

The normalization of environmental risk is also reflected in the development of international environmental law. Instruments such as the United Nations Framework Convention on Climate Change and the Paris Agreement place climate change within the framework of mitigation adaptation and sustainable development. Principles such as the precautionary principle and common but differentiated responsibilities affirm state obligations in managing environmental risk but do not create individual or collective rights for those who are forced to migrate. As argued by Benoît Mayer global climate law tends to view human mobility as a policy tool of adaptation rather than as a legal consequence that triggers rights based protection obligations. (Mayer, 2015, 2016) As a result climate migration is reduced to a technocratic and administrative issue while questions of justice and state responsibility are marginalized.

From a human rights perspective although the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights guarantee the rights to life housing health and an adequate standard of living these norms are general in nature and do not provide mechanisms for recognizing the legal status of climate migrants. Several General Comments do affirm state obligations to protect individuals from serious environmental risks yet such protection remains dependent on national policy choices and is not institutionalized as a regime of mobility protection. In this sense human rights law functions primarily as an evaluative standard rather than as an operational instrument of protection.

The tension between state sovereignty and human mobility further deepens this normative exclusion. Classical international legal theory places territorial control at the core of state sovereignty. In the context of climate change cross border mobility is often perceived as a threat to demographic stability and national security. This helps explain why initiatives such as the Nansen Initiative and the Platform on Disaster Displacement remain at the level of soft law. (Sugow, 2025) As noted by Alexander Betts states tend to accept non binding frameworks because they do not disrupt migration control and do not generate new international legal obligations. (Betts, 2010b, 2010a)

The roots of this exclusion also lie in the liberal individualistic paradigm that underpins modern law. Legal subjects are constructed as autonomous individuals while ecological harm caused by climate change is collective relational and intergenerational in nature. Environmental justice perspectives demonstrate that environmental degradation does not merely violate individual rights but destroys the social cultural and territorial foundations of entire communities. When law fails to recognize this collective dimension climate migration cannot be constructed as a legitimate legal claim and is instead reduced to a social consequence of environmental change.

Within this framework climate induced migration can only be adequately recognized if law abandons its reliance on an event based understanding of compulsion and replaces it with an understanding of compulsion as a structural process or compulsion by process. The loss of access to food clean water housing and livelihoods must be understood as objective indicators of compulsion even in the absence of a single crisis moment or an identifiable human perpetrator. This approach requires a shift from status based protection to vulnerability based protection as well as the development of an environmental risk based interpretation of the principle of non refoulement through a progressive reading of the Convention Against Torture.

The urgency of reconstructing this legal paradigm becomes even more evident when examined in light of national disaster designation practices in Indonesia and Nigeria. In Indonesia Law Number 24 of 2007 on Disaster Management and Government Regulation Number 21 of 2008 conceptualize disasters as extraordinary events that are acute temporal and localized. National disaster status is consistently granted to events such as earthquakes tsunamis or volcanic eruptions while chronic environmental degradation such as coastal erosion saltwater intrusion and sea level rise is not classified as a national disaster despite forcing communities to permanently abandon their living spaces. Relocation within the Indonesian disaster law regime is treated as a temporary emergency measure rather than as recognition of long term forced migration that triggers sustained protection obligations.

A similar paradox is evident in Nigeria. The legal framework based on the National Emergency Management Agency Act 1999 and the Constitution of the Federal Republic of Nigeria 1999 emphasizes responses to sudden emergencies. Although the Nigerian constitution recognizes state obligations to protect the environment these provisions are non justiciable. In the Niger Delta region chronic environmental degradation caused by oil pollution and resource extraction has resulted in systemic population displacement yet such conditions are not consistently classified as national disasters or states of emergency that generate structural protection obligations. Migration is treated as a side effect of development rather than as a legal consequence of state failure.

Accordingly the experiences of Indonesia and Nigeria demonstrate that the formal designation of national disasters reinforces the limitations of a legal paradigm that continues to operate through an event based logic of disruption. Protection is activated only during periods of emergency and terminates when emergency status is lifted even though the environmental conditions forcing migration persist or worsen. This reinforces the conclusion that climate induced migration is not unrecognized due to the absence of legal instruments but because national and international legal design remains oriented toward acute crises and fails to capture vulnerabilities that are gradual cumulative and permanent. Conceptual reconstruction of law particularly in its understanding of disaster compulsion and state responsibility therefore becomes an indispensable prerequisite for the recognition of climate induced migration within a just and relevant legal framework.

#### **4. CONCLUSION**

This study departs from the recognition that climate change has transformed human mobility into a structural and cumulative phenomenon that existing legal frameworks are not conceptually designed to address, resulting in the systematic exclusion of climate-induced migrants from formal protection regimes. The core problem does not lie in the absence of legal norms at either the international or national level, but in the persistence of a modern legal paradigm that associates protection with exceptional events, linear causality, and narrowly defined forms of compulsion. Through a comparative normative analysis of Indonesia and Nigeria, this research demonstrates that refugee law, environmental law, human rights law, and national disaster and environmental regulations collectively fail to recognize gradual environmental degradation as a legal trigger for protection, thereby placing climate-affected populations in a persistent normative grey area. Migration driven by sea level rise, coastal erosion, ecosystem degradation, and long-term livelihood loss is treated as a technical or administrative issue rather than as a rights-based legal concern, reinforcing structural exclusion. Accordingly, the answer to the research problem lies in the need for a paradigmatic reconstruction of law: compulsion must be understood as a process rather than an event, protection must shift from rigid status-based categories toward vulnerability-based approaches, and state responsibility must be reconceptualized as preventive, sustained, and rights-oriented. Without such a transformation, legal systems will continue to reproduce exclusion, whereas a reoriented legal framework would enable climate-induced migration to be recognized as an inherent and protectable dimension of climate change impacts on human life.

## 5. ACKNOWLEDGE

None

## 6. REFERENCES

- Addaney, M. (2025). International Climate Law: Principles and Obligations for Adaptation. *Utrecht Journal of International and European Law*, 40(1). <https://doi.org/10.5334/ujel.653>
- Adiyatma, S. E., Silviana, A., & Thanni, D. A. (2025). Criminalizing the Guardians: Eco-Justice and Indigenous Struggles in Indonesia and Nigeria. *Indonesian Journal of Criminal Law Studies*, 10(2), 901–950. <https://doi.org/10.15294/IJCLS.V10I2.33536>
- Akanni, O., Ogunde, E., & Obienyi, O. (2025). Nigeria's IDPs and Refugee Settlement Policies: A Critical Analysis of Effectiveness and Sustainability. *Social Science and Humanities Journal*, 9(05). <https://doi.org/10.18535/sshj.v9i05.1831>
- Betts, A. (2010a). Survival migration: A new protection framework. *Global Governance*, 16(3). <https://doi.org/10.1163/19426720-01603006>
- Betts, A. (2010b). Towards a "Soft Law" Framework for the Protection of Vulnerable Irregular Migrants. *International Journal of Refugee Law*, 22(2). <https://doi.org/10.1093/ijrl/eeq018>
- Chambers, R. (2020). *What is "persecution" under the Refugee Convention?* Richmond Chambers. <https://immigrationbarrister.co.uk/what-is-persecution-under-the-refugee-convention/>
- Dewanto, W. A., & Krustiyati, J. M. A. (2024). State Responsibility for Environmental Damage from Climate Change under the No-Harm Principle. *Hang Tuah Law Journal*. <https://doi.org/10.30649/htlj.v8i1.200>
- Gilbert, J., Macpherson, E., Jones, E., & Dehm, J. (2023). The Rights of Nature as a Legal Response to the Global Environmental Crisis? A Critical Review of International Law's 'Greening' Agenda. In *Netherlands Yearbook of International Law* (Vol. 52). [https://doi.org/10.1007/978-94-6265-587-4\\_3](https://doi.org/10.1007/978-94-6265-587-4_3)
- How Does Policy Fragmentation Affect Cooperation? → Question.* (2025, March 28). Sustainability Directory. <https://climate.sustainability-directory.com/question/how-does-policy-fragmentation-affect-cooperation/>
- Joseph, J. (2009). Governmentality of what? populations, states and international organisations. *Global Society*, 23(4). <https://doi.org/10.1080/13600820903198685>
- Kabot, C. (2025, May 27). *No Status, No Safety: Climate Migrants in Legal Limbo*. Global Governance Forum. <https://globalgovernanceforum.org/legal-status-climate-migrants-gap-in-global-governance/>
- Le, P. V. V., Randerson, J. T., Willett, R., Wright, S., Smyth, P., Guilloteau, C., Mamalakis, A., & Fofoula-Georgiou, E. (2023). Climate-driven changes in the predictability of seasonal precipitation. *Nature Communications*, 14(1). <https://doi.org/10.1038/s41467-023-39463-9>
- Lengkong, C. Y. (2024, July 15). *Toward a Regional Legal Framework for Climate-Induced Migration in Southeast Asia: Lessons from Indonesia and the ASEAN Response Gap*" Spring Symposium: Connected-Vehicle Technology and the Law". Michigan State Law Review. <https://www.michiganstatelawreview.org/current-vol-20252026/2025/7/11/toward-a-regional-legal-framework-for-climate-induced-migration-in-southeast-asia-lessons-from-indonesia-and-the-asean-response-gap>
- Mayer, B. (2015). *Governing "Climate Migration."* Springer Handbook on Climate Change Adaptation. [https://www.benoitmayer.com/files/Springer\\_Handbook.pdf](https://www.benoitmayer.com/files/Springer_Handbook.pdf)
- Mayer, B. (2016). The Concept of Climate Migration. In *The Concept of Climate Migration*. <https://doi.org/10.4337/9781786431738>
- McAdam, J. (2012). Climate Change, Forced Migration, and International Law. In *Climate Change, Forced Migration, and International Law*. <https://doi.org/10.1093/acprof:oso/9780199587087.001.0001>
- McAdam, J. (2017). From the Nansen Initiative to the Platform on Disaster Displacement: Shaping International Approaches to Climate Change, Disasters and Displacement. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2901910>
- Precious Oluwaseun Okedele, Onoriode Reginald Aziza, Portia Oduro, & Akinwale Omowumi Ishola. (2024). Climate-induced migration: Global legal implications and human rights challenges. *International Journal of Science and Technology Research Archive*, 7(2). <https://doi.org/10.53771/ijstra.2024.7.2.0071>

- Schmalenbach, K. (2022). States Responsibility and Liability for Transboundary Environmental Harm. In *Corporate Liability for Transboundary Environmental Harm: an International and Transnational Perspective*. [https://doi.org/10.1007/978-3-031-13264-3\\_3](https://doi.org/10.1007/978-3-031-13264-3_3)
- Sciaccaluga, G. (2015). *Climate change-related disasters and human displacement: towards an effective management system*. Disaster Law Programme. [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2020-11/Working Paper No 4 \(Sciaccaluga\).pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2020-11/Working_Paper_No_4_(Sciaccaluga).pdf)
- Sugow, J. A. (2025). Towards a Legal Framework for Climate Displacement: Expanding the Boundaries of Refugee and Humanitarian Law through a Human Security Lens. *Journal of Research in Humanities and Social Science*, 13(6), 105–126. <https://doi.org/10.35629/9467-1306105126>
- United Nations High Commissioner for Refugees. (1951). *Convention Relating to the Status of Refugees*. United Nations High Commissioner for Refugees. <https://www.unhcr.org/sites/default/files/2025-02/1951-refugee-convention-1967-protocol.pdf>
- Urošević, M. (2024). Theory and History of Governmentality“ and Governmental Regimes in The Work of Michel Foucault. *Etnoantropološki Problemi / Issues in Ethnology and Anthropology*, 19(3). <https://doi.org/10.21301/v19i3.9>
- Vallesi, S. (2025, October 9). *Solutions for Vanishing Coastlines: Adapting to Coastal Erosion in Small Island Developing States - Global Center on Adaptation*. Global Center on Adaptation. <https://gca.org/solutions-for-vanishing-coastlines-adapting-to-coastal-erosion-in-small-island-developing-states/>
- What Role Does Environmental Degradation Play in Conflict? → Question*. (2025, December 15). Sustainability Directory. <https://pollution.sustainability-directory.com/question/what-role-does-environmental-degradation-play-in-conflict/>
- Yang, Y., Tilman, D., Jin, Z., Smith, P., Barrett, C. B., Zhu, Y. G., Burney, J., D’Odorico, P., Fantke, P., Fargione, J., Finlay, J. C., Rulli, M. C., Sloat, L., van Groenigen, K. J., West, P. C., Ziska, L., Michalak, A. M., Lobell, D. B., Clark, M., ... Zhuang, M. (2024). Climate change exacerbates the environmental impacts of agriculture. In *Science* (Vol. 385, Issue 6713). <https://doi.org/10.1126/science.adn3747>