

Caught in the Climate Crisis: Pakistan's Urgent Need for a Legal Response to Climate Refugees

ABSTRACT:

Climate refugees refer to individuals who had to migrate from their birth origin as a result of floods, drought, rising sea levels or farms which were endowed with excessively salty soil to support crop production. Climate change has been forcing people to be climate refugees. This paper makes an effort to define climate refugees and emphasise their importance. In fulfilling the aim of this article, the doctrinal method helps to incorporate the important subject of climate refugees in Pakistan. This paper focuses on the possible displacement due to climate change in Pakistan, as discussed in the article. Notably, it seeks to focus on the fact that there is no specific legal provision in Pakistan that can address the issue of climate refugees. Furthermore, there are other judicial cases that the article recognizes did not give proper attention to this problem. It describes the difficulties that refugees in Pakistan experience caused by climate change. In order to address these challenges, the article calls for the immediate formation of a substantial legal reaction that will address the phenomenon of climate refugees. It outlines major parts of a possible law and emphasizes the importance of global solidarity and assistance in fighting this new-nascent problem. Lastly, it focuses on preventive legal undertaking and coordination to protect climate refugees in Pakistan.

KEYWORDS:

Climate Refugees, Legal Framework in Pakistan, Challenges, Solutions, Environmental Law

Sardar Ali Shah ¹

Saba Karim ²

Amir Latif Bhatti ³

Ramesh Kumar ⁴

¹ Assistant Professor, Institute of Law, University of Sindh, Jamshoro, Sindh, Pakistan.

Email: sardar.shah@usindh.edu.pk

² LLM Scholar, Institute of Law, University of Sindh, Jamshoro, Sindh, Pakistan.

Email: karimsaba12345@gmail.com

³ Assistant Sessions Judge, Karachi-South, Sindh, Pakistan.

Email: judge.aamir@gmail.com

⁴ Investigation Officer, FIA Cybercrimes Wing, Hyderabad, Sindh, Pakistan.

Email: peaceloving2015@gmail.com

Corresponding Author: Sardar Ali Shah

✉ sardar.shah@usindh.edu.pk

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Background

Climate refugees, as well as the necessity of recognising the people affected by it and offering the proper rights, has been looked at internationally. Climate change-displaced persons are people who have been forced to abandon their homes or countries due to severe climatic disasters (Berchin et al., [2017](#)). In general, the refugees are not always physically displaced, but they may suffer hardships due to changes in the environment or the disappearance/relocation of resources (Hollifield et al., [2011](#)). Lister ([2014](#)) criticizes the present definition of refugees and deals with the viability of expanding the refugee convention to the climate change displaced. Usually, a legal approach is preferred when dealing with refugees because it addresses an important aspect of what states owe to refugees due to international law (McAdam, [2008](#)). It is necessary to understand and respond to the pain of climate refugees.

The focus is on refugees from climate change in any case. Saha ([2012](#)) is keen on pointing out that even climate refugees can affect the national security of a country and for such reasons, the displaced become history's bloodiest justified conflict. In his paper, Berchin ([2017](#)) reports the need to assign people who have been forced to flee their homes due to severe climatic events as climate refugees. The concept of climate refugees is discussed. Such people may not be physically displaced, but they can certainly suffer through psychological torture because of losing resources controlled by their environment (Hollifield et al., [2011](#)). Environmental refugees, according to the above causes, can be categorized by different types, such as agricultural disturbance, coastal floods, and coastline erosion. These papers prove that further discussion on climatic change-related relocations is very crucial.

That is why it also asserts that Pakistan has no laws for refugees who result from climate change. The lack of proper legislation to protect the rights of the victim of climate change leaves much to be desired, especially concerning their safety and welfare, as continues to be pointed out by Osóbka ([2018](#)). According to Pourhashemi ([2011](#)), present international treaties deprived climate refugees of their fundamental human rights. Mirza ([2020](#)) covered Pakistan's environmental protection and climate justice, as well as the judiciary's journey to expound fundamental rights under the context of climate change. There is no comprehensive legislation in Pakistan that addresses climate refugees at all or provides a blueprint.

Introduction

From the above analysis, it is quite evident that Pakistan is hugely exposed to Climate change effects. Pretty much the same as with other factors, Pakistan's socioeconomic conditions and geographic location make it vulnerable to natural disasters (Ullah, [2016](#)). While highlighting the climate risks to farmers – such as extreme heat and water stress, and agriculture vulnerability – Abid et al. ([2016](#)). According to Fahad & Wang ([2019](#)) explore the effects of climate change on Pakistani rural agriculture, water, soil, and human health. Rasul et al. ([2012](#)) highlight that Indus Delta is most threatened by sea level rise, storm surges, and climate or uneven precipitation. These papers stress the role of institutions and modifications to minimize Pakistan's climate change threat.

It is crucial to know how climate change influences displacement as a whole. In Couldrey & Herson ([2008](#)), the question of how migration might be a coping and survival strategy in the face of environmental change is explored. Displacing natural norms and questioning the notion, linked to migration, Askland et al. ([2022](#)) raises the criticality and inequalities of displacing it. Based on the facts described above, Heslin and his colleagues ([2018](#)) surveyed several scenarios where climate change leads to human migration, including sea level rise, cyclones, and desertification. As Mathur ([2015](#)) stresses the need for relocation as an approach towards managing the impact of climate change, she opines that humanitarian organizations might learn something from the experiences of development organizations in resettlement. These state the difficulties of climate change-induced displacement and the importance of understanding the impacts the problem has with regard to individuals and societies.

The two articles emphasize the fact that climate refugees require global cooperation in order to be addressed. It acknowledges not only opportunities for sustaining and adapting development but also challenges of defining and supporting climate refugees. According to Carper ([2019](#)), there is no clear way to determine those who are called climate refugees and the necessity of global policies. The author concurs with Steffens ([2019](#)) that without a massive governmental response, private climate-governance efforts could offer some protection to climate refugees. As understood from the general nature of climate change and displacement, the authors Docherty & Giannini ([2009](#)) call for the formation of a convention with special reference to climate refugees. Thus, Williams ([2008](#)) proposed to finally fill the gaps in refugee protection from the consequences of climate change with a regionally based atmosphere within the UN Climate Change Framework. While there has been no provision for climate refugees in the current laws and statutes.

Current Legal Framework Lacking Provisions for Climate Refugees

Climate change remains a major threat to countries in the world and, in various ways, affects nations. German Watch's Global Climate Risk Index of 2017 placed Pakistan among the 10 most vulnerable countries to climate change between 1995 and 2015. For this period, climate change calamities caused the country an economic loss of 3.8 million dollars (Kreft, Eckstein, & Melchior, [2017](#)). The legislative development in relation to environmental matters in Pakistan is not new or static. The environmental legislation at the initial stage was in a passive stage or even non-existent, but the Stockholm Declaration of 1972 signified the beginning of laying the groundwork for the environmental legislation's start. Soon after, the Pakistan Environmental Protection Act of 1987 introduced the general appreciation of environmental regulation in the country (Pakistan Environmental Protection Act, [1997](#)).

To address climate change issues, Pakistan has joined significant global conventions such as Kyoto Protocol and Paris Agreement. The goals of the Paris Agreement are to prevent global temperature change to below 2°C and below 1.5°C as desired (Bodansky, [2016](#)). In line with these agreements, the speaker presented the country Pakistan, which came with its INDC and goals for climate change. Pakistan joined the ranks of the few countries that had specific legislation against climate change and adopted the Climate Change Act in 2017. It has been formulated to facilitate Pakistan's compliance with climate change and its impacts on the international level. According to it, climate change is a major shift in the climate system caused by increases in greenhouse gas concentrations. The act focuses on risk reduction and even preparedness measures (Climate Change Act, [2017](#)).

The act created important structures, including the Pakistan Climate Change Council, Pakistan Climate Change Authority, and Pakistan Climate Change Fund. The Pakistan Climate Change Authority is required to develop climate change policies and projects to pursue international objectives for change goals set in the Climate Change Act of [2017](#). More importantly, the legislation does not cater for climate-induced displacement, relocation, or adaptation measures. This paper reviews Pakistan's disaster management structure instituted under the National Disaster Management Act of [2010](#), which established the three-tier disaster management framework. The National Disaster Management Act [2010](#) classifies catastrophes in a general way as those that are natural and those that are man-induced. It may be quite broad in that it encompasses climate-related events to justify efforts to link disaster management with climate change policy (National Disaster Management Act [2010](#)).

However, the above-stated legislation has posed certain difficulties to Pakistan in facing the challenge of mainstreaming climate change issues in its developmental framework. These are low risk perception, poor civil society engagement and incorporation of disaster risk reduction into policies (National Disaster Risk Reduction Policy, [2013](#)). It is here that the two concepts of public awareness and education on threats posed by climate change are significant drivers of change (Global Attitude Project, [2010](#)).

Despite some notable progress in the recent past for the harmonization of Pakistani legislation with the climate change agreements, however, a legislative draft and framework related to climate-induced displacement and adaptive measurements are missing. Education and compliance of the public of independently functioning international organizations are critical for a concerted and appropriate approach to the climate issue. According to Bakhsh ([2018](#)), Pakistan has a poor compliance record on the application of IHL; hence, it offers inadequate protection to internally displaced people (IDPs). In particular, Mielke et al. ([2022](#)) on problematic realities Afghan refugees face in Pakistan include movement restriction and decreasing social inclusion. Challenges include low-risk awareness, insufficient community participation, and ineffective. Zubair & his colleagues ([2019](#)) examine the quality of Afghan refugees' lives in Pakistan besides arguing that the country has no proper legislation governing the issue. Ahmad and his colleagues ([2016](#)) provide the socio-economic and security implications of hosting a large number of IDPs and focus on displacement caused by military operations in FATA. Therefore, these articles stress challenges and issues in the current legal structure and policies of Pakistan for displaced people, particularly in the context of IDPs and Afghan refugees' social incorporation, movement and protection.

A literature review highlights the problems of the legal system of Pakistan, particularly in terms of its approach to climate refugees. The ones emphasized below touch upon the importance of offering legal rights and recognition to individuals who become refugees or have to move because of climate change. At present, it is accepted that the existing law, which is the Refugee Convention and the key framework for internally displaced individuals (IDPs), is insufficient and covers only a small number of issues (Williams, 2008). The papers provide the following proposal to help address the protection gap and establish regional programs for climate refugees: A regionally-focused regime within the UN Climate Change Framework (Williams, 2008). To protect persons affected by climate change and proactively facilitate the obligations of refugee loss, they also examine the interaction between refugee law, human rights law, and climate change law (Jolly & Ahmed, 2018). The articles highlight challenges and lacunae of the current international law system and emphasize the need for developing specific mechanisms for detecting and trying to protect climate change migrants (Naser, 2013).

However, the studies highlight that refugees escaping from climate change situations lack most legal safeguards, which is especially evident in Pakistan. Williams (2008) opined that for the intended displacement or climate refugee protection regime to close, the UN Climate Change Framework should consider a regional approach. Jolly & Ahmed (2018) analyze the case of South Asian republics and reach the conclusion that there is no legal protection for refugees or climate refugees in these countries. In their view, Biermann & Boas (2010) called for the establishment of a new legal order for only refugees from climate change. Ni (2015) writes on the urgency of the issue and the fact that it is a concern of most Least Developed Countries, particularly TIDSLs. The studies call for special legal provisions for the climate refugees in Pakistan and elsewhere in the world, and they also explain the failure of the existing laws.

Judicial Cases on Climate Change

Like many nations, Pakistan faces quite a number of environmental problems and climate change challenges. Pakistan's judiciary has also proved itself as a key player in the development of environmental legal norms, particularly relating to climate change justice. Specifically, this article discusses the leading jurisprudential precedents with regard to climate justice and major legislative reforms that have supported the Pakistani climate justice movement. In the case of *Shehla Zia v. WAPDA* used legal jurisdiction since citizens of Islamabad protested against the construction of a grid station by violating their fundamental right to life and component of health. The Supreme Court of Pakistan, in its creative application of this general Constitutional provision, stressed that the right to life includes the right to proper food, shelter, and pollution-free environment. This paved the way for another similar subsequent case which brought environmentalism as part of the core principles of protected individual rights (*Shehla Zia v. WAPDA*, 1994).

In the case of *Sindh Institute of Urology and Transplantations vs. Nestle Milkpak Limited*, the court looked into the extraction of the water from the aquifers and its impact on the environment, and the court relied on the theme of public trust. The ruling analyzed Indian precedents and stressed that natural resources should be protected for the benefit of people in the present and those to come (*SIUT v. Nestle Milkpak* is a well-established new generation Company which was incorporated in the year 30th November 1993 and started its commercial operation from March 2000 which is situated at Dhaka the commercial capital of Bangladesh, (Nestle Milkpak Limited, 2005). Under *Lahore Canal Bank Road Case – Recognizing Public Trust Doctrine*, Lahore's Bambawali-Ravi-Bedian Canal and Canal Bank Road green belt has been recognized by the Pakistani Supreme Court as a public trust, which necessitates legislation for the protection of such environmental assets (*Lahore Canal Bank Road Case*, 2011).

Asghar Leghari v. The Federation of Pakistan case brought the climate issue right to the doorstep and questioned the government's ability to deal with climate change issues. The court held that: environmental preservation and climate change adaptation fit within the realm of rights and again underlined the importance of

IEPs (Asghar Leghari v. Federation of Pakistan, [2015](#)). The assertiveness of the judiciary in Pakistan, the analysis identified through the key cases, adopted innovative approaches not only to constitutional interpretation but also to climate change. The formation of the Climate Change Authority remains one of the initiatives of the judiciary in contributing to climatic change policy. However, more challenges are still being experienced, and therefore, improved collaboration between the judiciary, civil society, and government is important for combating climate change mitigation and adaptation (Jolly & Ahmad, [2018](#)).

The above-mentioned cases are *Shehla Zia v. WAPDA* ([1994](#)), *Sindh Institute of Urology and Transplantation vs. Nestle Milkpak Limited* ([2005](#)), *Lahore Canal Bank Road Case* [2011](#) and *Asghar Leghari v. Federation of Pakistan* ([2015](#)), selectively deals with matters of environmental interest and the right to environment, protection of the environment, public trust doctrine, the right to a clean environment, and sustainable development. However, none of these cases regard the problem of climate refugees or climate-induced displacement as their special concern. Consequently, this paper aims to investigate and discuss the legislation status in Pakistan regarding climate refugees and how far it has developed within the context of the mentioned cases. Both the question of climate change displacement and the rights of climate refugees are emergent and sensitive topics that have received relatively more attention in the international arena in the recent past but have not been properly addressed within the legal framework governing Pakistan.

Challenges Faced by Climate Refugees

Taken together, these studies can also offer an understanding of the problems faced by the climate refugees in Pakistan. Ajani ([2021](#)) brings attention to harm felt by respondents who experience climate change, such as loss of property and income, in addition to adverse psycho-social impacts. Sawas ([2020](#)) focuses on the implications of climate disasters on infrastructures and sustenance means among vulnerable groups. The mutual dependence on climatic dangers and the expectation that climate change would deepen the humanitarian crises and forced displacement of people (Zvarych & Brodovska, [2023](#)). Besides their possibility of being developed and useful in fostering the scope of sustainable development, Carper ([2019](#)) stresses the need to grant climate migrants immigration status. These articles give a powerful understanding of the troubles faced by climate refugees in Pakistan, including governmental provisions for their needs and their demand for relocation and loss of living.

Refugees in the face of climate change experience a lot of difficulties, especially regarding finding the proper shelter for them in Pakistan. Currently, the country has been experiencing floods and heatwave conditions that lead to evacuations; therefore, many people in the country have no safe place to live. The lack of adequate shelter only amplifies the problem, and as the world struggles to implement failsafe policies and procedures to meet the needs of climate refugees. In addition, it found that climate change effects cause displacements and result in human beings losing their livelihood sources and being forced to struggle to access limited resources, as highlighted by Ahmed et al., [2016](#)).

Apart from protection, climate refugees in Pakistan are not given any kind of help they need because of their situation. Based on the study by Ajani and van der Geest ([2021](#)), refugees are without proper assistance in the community and thus feel more helpless. This underlines the need for involving an additional approach toward fulfilling the needs of the climate refugees, focusing on their vulnerable position. Furthermore, the currently marginalized groups of people are the most affected by climate change impacts, and there should be policies mainly targeting vulnerable groups (Ahmed et al., [2016](#)).

The plight of climate refugees in Pakistan shows the requisites of formulating scientific and viable measures for what they require. Ends with the development of proper strategies of displacement, proper provision of shelters and protection to the people, and supply of food, water, healthcare and other core needs (Sawas & Anjum, [2020](#)). Furthermore, climate change disadvantages most of the vulnerable groups in society, and there is a rationale to

formulate policies based on these injustices or inequalities (Ajani & van der Geest, [2021](#)). Therefore, if Pakistan changes its approach by adopting a more multinational approach toward climate refugees, it can solve many problems and create a better future.

Addressing the Challenges

Collectively, these studies have highlighted the need for legislation that provides adequate protection to climate refugees. According to Williams [2008](#), in order to address the protection concerns of climate refugees, a new category of protected persons within the UN Climate Change Framework should be introduced as a regionally based regime. In addition to that, the present immigration laws lack adequate measures for offering safe, legal remedies to climate refugees; thus, the author called for an expansion of the term refugees to embrace climate refugees. Following the heat island example mentioned above, Biermann & Boas ([2010](#)) spoke of an extensive system of global governance in addition to a completely new legal system for the climate refugees. McAdam ([2008](#)) notes the requirement of international law in responding to governments' obligations under international law to refugees from climate change.

They have to be revised while implementing the laws for the climate refugees. Necessary considerations while devising a law for climate refugees are Strong fundamentals or tenets of refugee rights in case of climate change on present global law and human rights instruments along with demanding a convention for climate change refugees. In order to address the concern in addressing the needs of climate refugees, Williams ([2008](#)) proposal for the creation of a regional one under the UN Framework on Climate Change. In a different manner, in order to overcome short-term strategy and to protect the people and communities, Mayer ([2011](#)) put forward the legal framework for regulating the resettlement at the bilateral/regional level. Regarding the argument of the authors Jolly & Ahmed, the nature of protection of climate refugees based on international refugee law, international climate change legislation and international human rights law, the writer opines that there is no protection and, as such, is advocating for regional or international legal framework for climate change affected persons.

There is a great value in coming together with other countries when it comes to relation to climate change (Fichtner et al., [2002](#)). Ruis & Zeeuv ([2010](#)) investigate mechanisms of enhancing collaboration, such as sharing the costs of R&D and bearing in mind the geographical ratios, which may be national or regional in nature. It would be pertinent here to cite Ferrari and Pagliari ([2021](#)), wherein the authors discuss the role of fiscal and monetary approaches derailing welfare—enhancing equilibria and the need for multilateralism in doing so. Feldman ([1991](#)) describes the process inherent in the progress of the learning process in an international context while stressing the timely need to seek to understand the other parties and consult with them. In the sum th,ese publications, there is an emphasis the global partnership in the effective fight against climate change.

Conclusion

From the above analysis of climate refugees in Pakistan, I realized how important this topic is and how much it needs legal reforms. By reviewing the idea of climate refugees striving across the world, it is important to explode the notion of compensation to those who fleeing due to climatic shocks that present legal protection. Nevertheless, particular legal provisions that address the phenomena of displacement due to climate change within Pakistan are missing. The sensibility of Pakistan toward climate change has been established by various scholars by stressing the social and economic factors correlated to the geographic vulnerability of the country toward climate change risks. This is because households, both rural and those in urban centres, are on the move as a result of climate incidents. Nevertheless, after the Climate Change Act was passed in 2017, there is no purely Pakistan legislation on the issue of climate refugees or broad information about them. This is a clear indication that those affected by climate change within the country are not very safe, well-protected or legally represented.

Through an assessment of the judicial cases, especially the environmental jurisprudence, this paper further explains how the judiciary has been more responsive in facilitating the development of the strongest environmental jurisprudence in Pakistan. However, these cases are mainly those addressing the environment, public trust doctrine, and sustainable development without any reference to climate refugees or climate-induced displacement. The judiciary has also creatively stretched several fundamental rights to apply an environmental perspective to constitutional rights. However, such centralization is still not comprehensive as the current legal regime is yet to pay much attention to climate refugees in particular. Climate refugees in Pakistan, therefore, experience loss of livelihood, shelter, non-refugee protection, forced migration and socio-psychological effects. To tackle these challenges, there is needed not only legal regulation but also stable policy, social awareness of the population and cooperation with countries. That is why it is important on the international level to develop an appropriate legal regime for climate refugees.

Efforts to identify and respond to the struggling state of climate refugees are not just part of human and moral responsibility but also legal. The failure of the current legal provisions to address this problem, therefore, requires legislative intervention. This means that issues of climate-induced displacement call for analysis within an over-arched system that can accommodate issues of international relations, human rights law, policy consistency and consciousness. It is the joint responsibility of governmental agencies and their international counterparts, development organizations and civil society, judiciary and legal organizations and human rights bodies to combat the challenge of climate change-induced displacement and protect the rights and human dignity of the climate refugees, both in Pakistan and across the world.

Recommendations

1. Develop a comprehensive legal framework: Pakistan requires an elaborate protective legal infrastructure to encapsulate the problem of climate refugees, their rights and rehabilitation.
2. Amend the Climate Change Act 2017: The Climate Change Act 2017 requires changes to allow for climate refugees and define what a 'Climate refugee' is, as well as their rights and protections.
3. Establish a national climate refugee policy: A national climate refugee policy should be developed so as to create direction as to climate refugees' re-location, rehabilitation, and protection.
4. Provide legal recognition to climate refugees: Climate refugees must be legally recognized and protected under Pakistani laws, rights to ask for asylum, food, shelter and medical facility.
5. Establish a climate refugee protection agency: A climate refugee protection agency should be provided to undertake assistance, protection and rehabilitation for climate refugees.
6. Increase international cooperation: Pakistan should enhance international partnerships to deal with the problem of climate-displaced people, including engaging herself with the help of international organizations, including UNHCR.
7. Raise awareness about climate refugees: Public consciousness should be raised regarding climate refugees, their requirements, and their legal status through media and campaigning.
8. Provide training to law enforcement agencies: Police forces which may interact with climate refugees, should be casa trained on the status, rights, and protection of climate refugees under international law.
9. Establish a climate refugee fund: There is the need to call for formation of climate refugee fund, this can enable provide for climate refugees for relocations, rehabilitation and protection.
10. Conduct research on climate refugees: Future work should be done on climate refugees and their issues such as the needs and rights and or protection that should be accorded them within existing or under the proposed legislations.

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