Climate mobility and the law

Institute for
Law and Policy
on Climate Mobility

There is no single legal category for people who move because of climate events. But that does not mean that no law applies.

If someone moves because of climate change, what law applies — international law or human rights law?

Several bodies of law can apply together, depending on where a person moves and why.

- Domestic immigration law covers visas, leave to remain and temporary protection. This is where most decisions are made.
- International human rights law includes the right to life and the prohibition on returning people to serious harm (non-refoulement), under the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights. It protects everyone who moves in the context of environmental change.
- Internal displacement frameworks include the UN Guiding Principles on Internal Displacement, which cover people displaced by disasters, and, in Africa, the binding Kampala Convention.
- Regional and bilateral agreements include free movement protocols and treaties such as the Falepili Union.

Which court would ultimately decide who is a legitimate "climate migrant"?

"Climate migrant" is not a recognised legal term.

A person's right to enter or stay is decided under domestic law. In the UK, the Home Office makes these decisions, subject to appeal to the immigration tribunals and higher courts, as it does now. The question for those courts is whether a person qualifies for leave to enter or remain in the UK under an existing route or form of protection, not whether they are a "climate migrant".

International bodies play a more limited role. The European Court of Human Rights hears individual cases under the European Convention on Human Rights. The views of the UN Human Rights Committee, such as in *Teitiota v New Zealand*, and the International Court of Justice's 2025 advisory opinion are influential, but they are not binding judgments in individual cases.

Does the lack of a legal category mean climate-related displacement has no legal protection?

No. Existing protections still apply, but they are uneven and were not designed with climate change in mind.

In *Teitiota v New Zealand*, the UN Human Rights Committee recognised that the effects of climate change may expose people to a real risk to their right to life, which could prevent a state from returning them. The International Court of Justice indicated in 2025 that non-refoulement obligations can apply in this context.

But the bar is high, slow onset harm is difficult to prove, and protection may come only at a very late stage. For this reason, the Institute recommends clear guidance for decision-makers, and planned routes that do not depend on people reaching a point of crisis.

What legal pathways exist for climate mobility?

More than many people think. Most were not designed for climate mobility, but they can be adapted.

- **Labour migration routes**: potentially one of the most promising tools for safe movement at scale, especially where routes deliberately include people from climate-vulnerable regions.
- **Humanitarian visas**: for example, Argentina's proposed visa for people displaced by disasters.
- **Temporary protection**: for example, US Temporary Protected Status, which has been designated after disasters such as Hurricane Mitch.
- **Free movement agreements**: for example, in the Caribbean, West Africa and East Africa, where eligibility depends on nationality, not on the reason for moving.
- **Bilateral treaties**: for example, the Australia–Tuvalu Falepili Union.

What makes a place “habitable” in law, policy and practice?

“Habitability” has no set definition in law. It is usually understood through human rights.

- **In law**: the question is whether people can enjoy the right to life with dignity, including access to water, food, housing and health. In *Teitiota*, the UN Human Rights Committee accepted that a country could become unfit to live in, and that returning people before that point could still breach their rights.
- **In policy**: governments may use risk criteria, land-use designations such as “no-build” zones, managed retreat decisions and vulnerability indices.
- **In practice**: communities often reach their own conclusions first, as they see water turn salty, harvests fail and homes flood repeatedly. Policy should take account of those signals.

Further reading

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ABOUT THE INSTITUTE

The Institute for Law and Policy on Climate Mobility brings together world-leading experts to research, inform, and advise on rights-based responses to climate mobility. We seek to mainstream climate mobility in legal and policy frameworks as the centrepiece to climate resilient governance structures.

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