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Introduction

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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

CLIMATE DISPLACEMENT AND INTERNATIONAL LAW: SRI LANKA AS A CASE STUDY FOR SINKING STATES IN THE GLOBAL SOUTH

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Abstract

This paper examines climate-induced displacement through the lens of international law, using Sri Lanka as a case study to highlight the vulnerabilities of low-lying coastal states in the Global South. Employing a mixed-methods approach, it analyses international legal frameworks alongside empirical data on Sri Lanka's climate risks, including sea-level rise projections, which threaten over half its population and infrastructure in coastal zones. The paper highlights the inadequacy of existing legal instruments, such as the 1951 Refugee Convention and the UNFCCC, which fail to recognise climate refugees or provide durable solutions, as evidenced in *Teitiota v. New Zealand*. Through qualitative legal analysis and quantitative climate vulnerability assessments, the research identifies gaps and proposes reforms, including a new multilateral treaty to address displacement, resettlement, and compensation, with accountability for high-emission states. Regional cooperation models from the Pacific Islands and Bangladesh offer viable templates for managing climate mobility. The paper argues that while human rights law provides some safeguards, a dedicated legal regime is needed to ensure climate justice for displaced populations. By integrating lessons from comparable contexts, this study contributes to policy debates on adaptive legal frameworks, emphasising the necessity of proactive international and regional mechanisms to address climate displacement crisis.

Keywords: climate displacement, climate refugees, Global South, International Law, Sea-level rise.

I. Introduction

Climate change is no longer a distant threat but an unfolding humanitarian crisis, with sea-level rise and extreme weather events forcibly displacing millions, particularly in vulnerable coastal states of the Global South.¹ International law, however, remains woefully inadequate in addressing this new reality. This legal void is more apparent in Sri Lanka, a non-SIDS (Small Island Developing State) that nonetheless exemplifies the existential dilemmas of "sinking states", accelerating coastal erosion,² economic fragility exacerbated by climate impacts, and the absence of legal protections for those displaced.³ Though rarely included in climate vulnerability indices for SIDS,⁴ Sri Lanka shares their defining characteristics such as low-lying coastal zones housing critical infrastructure and populations, high debt distress limiting adaptive capacity,⁵ and disproportionate exposure to climate impacts despite negligible historical emissions.⁶ With over half its population concentrated in coastal areas projected to experience 26-98cm of sea-level rise by 2100, Sri Lanka faces a crisis of habitability that mirrors challenges across the Global South.⁷

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¹ IOM UN Migration, 'UN Common Messages On Internal Displacement In The Context Of Disasters And Climate Change for COP28' <<https://environmentalmigration.iom.int/un-common-messages-internal-displacement-context-disasters-and-climate-change-cop28>> accessed 10 June 2025 See also, Intergovernmental Panel on Climate Change (IPCC), 'AR6 Synthesis Report: Climate Change 2023' <<https://www.ipcc.ch/report/ar6/syr/>> accessed 10 June 2025

² Anuradha Withanachchi, 'Here's How Climate Change Will Impact You' (UNDP, 22 March 2019) <<https://www.undp.org/srilanka/blog/heres-how-climate-change-will-impact-you>> accessed 10 June 2025

³ Navraj Singh-Ghaleigh and Asanga Welikala, 'Need for a Constitutional and Statutory Framework on the Environment and Climate Change in Sri Lanka' (*Daily FT*, 23 March 2021) <<https://www.ft.lk/opinion/Need-for-a-constitutional-and-statutory-framework-on-the-environment-and-climate-change-in-Sri-Lanka/14-715165>> accessed 10 June 2025 See also, SLYCAN Trust, 'Biodiversity and Climate Change in Sri Lanka: Where Does the Law Stand' (*SLYCAN Trust*, 27 July 2019) <<https://www.slycantrust.org/post/biodiversity-and-climate-change-in-sri-lanka-where-does-the-law-stand>> accessed 10 June 2025

⁴ SLYCAN Trust, 'Biodiversity and Climate Change in Sri Lanka: Where Does the Law Stand' (*SLYCAN Trust*, 27 July 2019) <<https://www.slycantrust.org/post/biodiversity-and-climate-change-in-sri-lanka-where-does-the-law-stand>> accessed 10 June 2025

⁵ SLYCAN Trust, 'The Intergovernmental Panel on Climate Change (IPCC) AR6 WGII Report 2022- Key Takeaways for Sri Lanka' (*SLYCAN Trust*, March 2022) <<https://www.slycantrust.org/post/the-ipcc-ar6-wgii-report-2022-key-takeaways-for-sri-lanka>> accessed 10 June 2025

⁶ World Bank Group, 'Building Sri Lanka's Resilience to Climate Change' (World Bank Group, 21 September 2018) <<https://www.worldbank.org/en/news/feature/2018/09/21/building-sri-lankas-resilience-to-climate-change>> accessed 10 June 2025

⁷ Gothani Chandraratha, ERIAC Kularathna, Deshani Herath and Menake Wijesinghe, 'Is Climate Change Fuelling Migration in Sri Lanka? Community Voices from Anuradhapura Trincomalee, Nuwara Eliya and Kegalle Districts.'

Yet the international legal framework offers no recourse. The 1951 Refugee Convention excludes climate-displaced persons,⁸ while the UNFCCC's Warsaw Mechanism lacks binding protections;⁹ a gap starkly exposed in the UN Landmark case for people displaced by climate change, *Teitiota v. New Zealand* (2020),¹⁰ where even imminent climate-induced habitat loss was deemed insufficient for asylum claims. This paper argues that Sri Lanka's paradox, a non-SIDS bearing SIDS-level vulnerabilities, reveals systemic failures in international law, which continues to treat climate displacement as a future hypothetical rather than a present emergency.¹¹ Through analysis of Sri Lanka's governance gaps and comparative cases from Pacific SIDS and Bangladesh, the paper demonstrates how existing frameworks perpetuate climate injustice by neglecting the Global South's unique pressures. The study culminates in proposals for reform: a new multilateral treaty recognising the non-refoulement of climate-displaced persons, regional cooperation models through the South Asian Association for Regional Cooperation (SAARC), and innovative financing mechanisms via the Loss and Damage Fund.¹² By centering Sri Lanka's crisis, this paper not only highlights the urgency of legal evolution but also challenges the rigid classifications that currently exclude vulnerable states from protections. In doing so, it contributes to broader debates on climate justice, sovereignty, and the rights of disappearing states in international law. This paper is divided into six sections. The first section introduces the paper, giving a background to the threat

(CANSA, November 2020) <https://cansouthasia.net/wp-content/uploads/2021/02/Climate-Induced-Migration_Sri-lanka_18_12_2020.pdf> accessed 10 June 2025

⁸ UNHCR, 'The 1951 Refugee Convention' (The UN Refugee Agency) <<https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>> accessed 10 June 2025

⁹ UNFCCC, 'Warsaw International Mechanism (WIM) for Loss and Damage Associated with Climate Change Impacts', (UNFCCC) <<https://unfccc.int/topics/adaptation-and-resilience/workstreams/loss-and-damage/warsaw-international-mechanism>> accessed 10 June 2025

¹⁰ Amnesty, 'UN Landmark Case for People Displaced by Climate Change' (Amnesty, 20 January 2020), <<https://www.amnesty.org/en/latest/news/2020/01/un-landmark-case-for-people-displaced-by-climate-change/>> accessed 10 June 2025 See also Climate Case Chart, 'UN Human Rights Committee Views Adopted on Teitiota Communication' (Climate Case Chart) <<https://climatecasechart.com/non-us-case/un-human-rights-committee-views-adopted-on-teitiota-communication/>> accessed 10 June 2025

¹¹ UNDP Climate Promise, 'Small Island Developing States are on the Frontline of Climate Change- Here's Why' (UNDP Climate Promise, 30 April 2024) <<https://climatepromise.undp.org/news-and-stories/small-island-developing-states-are-frontlines-climate-change-heres-why>> See also, Radhini Gawarammana, Kaif Sally, Subhashi Tania de Silva and Luxy Thriyanka Thangaiah, 'Shaping the Future of Climate Justice: Sri-Lanka's Perspective on the ICJ Advisory Opinion on Climate Change' (Research Society of International Law, 19 March 2025) <<https://rsilpak.org/2025/shaping-the-future-of-climate-justice-sri-lankas-perspective-on-the-icj-advisory-opinion-on-climate-change/>> accessed 10 June 2025

¹² Kees Van der Geest and Koko Warner, 'Loss and Damage in the IPCC Fifth Assessment Report (Working Group II): A Text-Mining Analysis' (2020) 20(6) Climate Policy <<https://doi.org/10.1080/14693062.2019.1704678>> accessed 10 June 2025

of rising sea levels. The second section discusses the impending climate displacement in Sri Lanka and its socioeconomic impacts. The third section discusses the different international legal frameworks and the gaps. The fourth section examines Sri Lanka's domestic and legal policy response to climate displacement, noting the absence of legal recognition of climate refugees. The fifth section draws a comparative lesson from regions in the global south facing similar challenges. In doing so, it examines initiatives in the Pacific Islands and Bangladesh, while the sixth and final section makes recommendations proposing a legal framework for climate justice and concludes by making a case for the Global South solidarity in reforming international law.

II. Climate Displacement in Sri Lanka: A Looming Crisis

Sri Lanka, despite not being classified as a Small Island Developing State (SIDS), faces SIDS-level climate vulnerabilities, including accelerating coastal erosion, rising sea levels, and extreme weather events, all of which are driving forced displacement. Sri Lanka risks losing 6,110 hectares of land by 2025 and 25,000 hectares by 2100 due to sea level rise, with hotspots like Kalpitiya, Trincomalee, and Hikkaduwa eroding at 1-10 meters per year.¹³ These hotspots are not just geographical markers- they are stories of loss. For example, in Kalpitiya, fishermen who once moored their boats on sandy shores now wade through waterlogged streets. Also, in Trincomalee, families are being forced to relocate as their homes are swallowed by the sea. And in the south, where tourism thrives, businesses are struggling with the dual threat of eroding beaches and decreasing visitor numbers.¹⁴ Also, Saltwater intrusion has contaminated 59% of wells in Jaffna, rendering water unfit for drinking or farming.¹⁵ The 2017 floods, triggered by cyclone Mora, displaced 600,000 people, destroyed 2,093 homes and cost them about 1.3% of GDP.¹⁶ There are also recurrent floods and droughts like the 2024 monsoon, which exacerbate displacement,

¹³ Daily Mirror, 'Rising Sea Levels Threaten Sri Lanka: 6,110 Hectares to Vanish by 2025' (Daily Mirror, 14 October, 2023) <<https://www.dailymirror.lk/breaking-news/Rising-sea-levels-threaten-Sri-Lanka-6-110-hectares-to-vanish-by-2025/108-269174>> accessed 13 June, 2025.

¹⁴ Rashmithda Diwayanjalee, 'Sri Lanka's Disappearing Shores: How Climate Change is Accelerating Coastal Erosion' (*Climate Fact Checks*, 9 March 2025) <<https://climatefactchecks.org/sri-lankas-disappearing-shores-how-climate-change-is-accelerating-coastal-erosion/>> accessed 13 June 2025

¹⁵ Sahan David Menon, 'Sri Lanka, Communities Left Gaping for Climate Mitigation Support' (*MONGABAY*, March, 2025) <<https://news.mongabay.com/2025/03/sri-lanka-communities-left-gaping-for-climate-mitigation-support/>> accessed 13 June 2025

¹⁶ The Guardian, 'Floods and Landslides in Sri Lanka Kill At Least 150 People' (*The Guardian*, 28 May, 2017) <<https://www.theguardian.com/world/2017/may/28/floods-and-landslides-and-in-sri-lanka-kill-at-least-150-people>> accessed 13 June 2025

affecting mostly the western and southern provinces. The 2023 drought, on the other hand, left 150,000 people without drinking water, with Jaffna, Ampara, and Batticaloa being the hardest hit. The cultivation of about 50,000 farmers was also affected due to a lack of irrigation water in reservoirs, prompting heavy reliance on thermal power generation and fuel importation due to reduced hydropower generation.¹⁷ According to FAO, these occurrences could reduce rice yields by 20% by 2050, pushing rural farmers into poverty¹⁸

There were also cases of displacement within the coastal communities, such as the Jaffna Peninsula, which suffered from erosion and salinisation. The rising sea levels swallowed the ancestral land, forcing families to abandon their homes. A 2020 study reveals that 43% of paddy fields are now abandoned due to salinisation.¹⁹ The study also found that rising salinity has rendered 59% of wells unfit for farming and drinking. Experts attribute the accelerating salinisation to unsustainable groundwater extraction and inadequate coastal protections, which allow seawater to progressively infiltrate freshwater aquifers. In addition to the illegal extraction, there are financial constraints limiting the implementation of disaster mitigation projects. It was reported that of the 325 million Sri Lankan rupees (LKR, or approximately \$ 1.1 million), they have not received any allocation yet. In 2024, 127 million Sri Lankan rupees (\$423,000) but received only 8 million LKR (\$27,000). The inability to secure sufficient funds makes long-term mitigation difficult.²⁰

Sri Lanka's Central Highlands, home to vital tea plantations and biodiverse montane forest, face a dual climate crisis: prolonged droughts devastate tea yields while deforestation and erratic rainfall

¹⁷ ReliefWeb, 'Sri Lanka: Drought' (*ERCC- Emergency Response Coordination Centre*, 9 August 2023) <<https://reliefweb.int/report/sri-lanka/sri-lanka-drought-dg-echo-partners-dmc-ndrsc-media-echo-daily-flash-09-august-2023>> accessed 13 June 2025 See also Food and Agriculture Organisation of the United Nations, 'Drought Portal- Knowledge Resources on Integrated Drought Management' (*FAO*) <<https://www.fao.org/in-action/drought-portal/preparedness/vulnerability-and-impact-assessment/national-case-studies/sri-lanka/en>> accessed 13 June 2025

¹⁸ Food and Agriculture Organisation of the United Nations, 'Drought Portal- Knowledge Resources on Integrated Drought Management' (*FAO*) <<https://www.fao.org/in-action/drought-portal/preparedness/vulnerability-and-impact-assessment/national-case-studies/sri-lanka/en>> accessed 13 June 2025

¹⁹ Sahana David Menon, 'Sri Lanka Communities Left Gasping for Climate Mitigation Support' (*Mongabay*, 18 March, 2025) <<https://news.mongabay.com/2025/03/sri-lanka-communities-left-gasping-for-climate-mitigation-support/>> accessed 13 June 2025

²⁰ *ibid*

trigger landslides, human-wildlife conflicts, and funding gaps for mitigation, leaving communities like Nawalapitiya and Matale economically stranded and ecologically vulnerable.²¹

A 2020 study on Colombo's urban heat island effects found that Colombo's temperature became 5°C hotter than rural areas due to urbanisation, loss of green cover, and heat-absorbing infrastructure, disproportionately impacting outdoor workers and straining livelihoods.²² Proposed solutions like green infrastructure (e.g., shaded parking lots) lag behind implementation, reflecting systemic neglect of climate adaptation in urban planning.²³ Overcrowding strains water and sanitation systems, with 87% of rural migrants lacking safe drinking water. Sri Lanka struggles to access climate funds due to weak data systems, institutional gaps, and poor governance, while delayed NDC submissions and brain drain further hinder progress.²⁴ Experts stress the need for multi-stakeholder engagement and Article 6 strategies to unlock carbon markets and direct funding to vulnerable communities.

The implication of these occurrences is widespread if not properly mitigated, ranging from Loss of Livelihoods, i.e. Coastal erosion and coral bleaching, which threaten 50% of jobs in fishing communities, to Cultural Heritage at Risk i.e. Mannar's fishing traditions and Jaffna's agrarian culture are eroding with land loss. Sacred sites like Nallur Temple face inundation and Urban Migration Pressures, i.e. Colombo's extreme heat could reduce productivity for outdoor workers, resource scarcity resulting from overcrowding.²⁵ Sri Lanka's displacement crisis mirrors SIDS' existential threats but remains invisible in global climate frameworks. Without urgent action on

²¹Daily Mirror, 'Against Destructive Development Projects in Mannar' (*Daily Mirror*, 11 June 2025), <<https://www.dailymirror.lk/caption-story/Against-destructive-development-projects-in-Mannar/110-311286>> accessed 13 June 2025

²²Anoka Primrose Abeyrathne, 'Scorched Island: Unpacking SL's Rising Heat Crisis' (*The Morning*, 9 May 2025), <<https://www.themorning.lk/articles/VfbPflrHF6rud8hsAfee>> accessed 13 June 2025

²³Shifana Simath, Rohinton Emmanuel and Eeva Aarvevaara, 'Sustainable Urban Heat Risk Resilience: Lessons on Opportunities and Barriers to Action from Colombo, Sri Lanka' (2024) 16(21) *Sustainability* <<https://doi.org/10.3390/su16219488>> accessed 13 June 2025

²⁴Sahana David Menon, 'Sri Lanka Communities Left Gasping for Climate Mitigation Support' (*Mongabay*, 18 March, 2025) <<https://news.mongabay.com/2025/03/sri-lanka-communities-left-gasping-for-climate-mitigation-support/>> accessed 13 June 2025; IISD, 'Bonn Climate Change Conference – June 2025' (*IISD*) <<https://enb.iisd.org/bonn-climate-change-conference-sb62-sbi62-sbsta62>> accessed 13 June 2025

²⁵Food and Agriculture Organisation of the United Nations, 'Drought Portal- Knowledge Resources on Integrated Drought Management' (*FAO*) <<https://www.fao.org/in-action/drought-portal/preparedness/vulnerability-and-impact-assessment/national-case-studies/sri-lanka/en>> accessed 13 June 2025

ecosystem restoration, climate finance reform, and legal protections for displaced communities, the country faces a future of mass statelessness and economic collapse.²⁶

III. Gaps in International Frameworks and the Climate Displacement Crisis in Sri Lanka

The escalating impacts of extreme climate change require that significant efforts be made in terms of policies and legal frameworks aimed to mitigate the burden of climate displacement on the lives and livelihood of inhabitants of Sri Lanka. Nonetheless, a wide gap remains in present international laws addressing the concerns of climate displaced refugees. Internationally, there are four areas through which climate displacement complications, particularly as it concerns the vulnerable Global South, can be addressed - Refugee Law, Human Rights Law, Climate Agreements and Soft law mechanisms.

III.A. Refugee Law

The refugee law known as the Convention relating to the Status of Refugees,²⁷ July 28, 1951 is the internationally recognised law which lays out principles for the international protection of refugees²⁸. Accompanied by the 1967 Protocol relating to the Status of Refugees²⁹, it is applied to a wide range of refugee conditions and outlines the rights, obligations and treatment standards of refugees. Despite its efforts at ensuring extended protection of refugees, the 1951 refugee law has failed to acknowledge and address situations as pertains to the category of displaced persons known as ‘Climate Refugees’, which exist as a result of escalating climate change realities.

²⁶ Geoinformatics Centre (GIC), ‘Risk Profiling for the Sea Level Rise in the South-West Coast of Sri Lanka’ (Geoinformatics Centre) <<https://geoinfo.ait.ac.th/risk-profiling-for-the-sea-level-rise-in-the-south-west-coast-of-sri-lanka/>> accessed 13 June 2025

²⁷ UNHCR, ‘Convention and Protocol Relating to the Status of Refugees: Convention Relating to the Status of Refugees’ (UN Refugee Agency pp. 13-45) <<https://www.unhcr.org/sites/default/files/2025-02/1951-refugee-convention-1967-protocol.pdf>> accessed 12 June 2025

²⁸ UNHCR, Chapter 3: The Legal Framework. UNHCR and International Protection: A Protection Induction Programme’ (UN Refugee Agency) <<https://www.unhcr.org/sites/default/files/legacy-pdf/44b500902.pdf>> accessed 12 June 2025

²⁹ UNHCR, ‘Convention and Protocol Relating to the Status of Refugees: Protocol Relating to the Status of Refugees’ (UN Refugee Agency pp. 46-50) <<https://www.unhcr.org/sites/default/files/2025-02/1951-refugee-convention-1967-protocol.pdf>> accessed 12 June 2025

Climate refugees are people who have been displaced by climate change and natural disasters.³⁰ However, by virtue of the endorsed definition of refugees protected under Article 1,³¹ of the 1951 Convention and the 1967 Protocol, this group is not officially recognised under international law and thus excluded from international protection. This definition specifically addresses the issue of fear of persecution based on race, religion, nationality, social group membership or political opinion, with no mention of climate grounds. This means that only refugees directly threatened by factors of race, religion, nationality, social group membership or political opinion can claim protection under the 1951 refugee law. For this reason, climate-displaced persons are not directly identified or protected as refugees under international refugee law. However, extreme climate is known to magnify other factors like poverty and tensions which lead to conflict and displacement.³² These factors are known to mostly and unjustly affect vulnerable people who are considered to be part of the same social group based on their shared social challenges and experiences. Therefore, while climate refugees are not specifically recognized by the refugee law, there is albeit room for persons displaced due to climate related events to indirectly claim protection under the social membership status factor of the refugee status by virtue of climate change as a multiplier of the drivers of displacement.

In addition to the definition of refugees, is the condition that displaced persons be ‘outside the country of his former habitual residence’ as a result of the above declared factors.³³ This poses a challenge for climate displaced persons who based on data have been stated as mostly internally displaced and moving within their countries³⁴ with a report of 56% of 47million new internal

³⁰ Caitlan M. Sussman, ‘The Missing Refuge for “Climate Refugees” in the International Legal Framework: A Dialogue with Caitlan M. Sussman’ (*Walsh School of Foreign Service*, 21 September 2024) <<https://gja.georgetown.edu/2024/09/21/the-missing-refuge-for-climate-refugees-in-the-international-legal-framework-a-dialogue-with-caitlan-m-sussman>> accessed 12 June 2025

³¹ UNHCR, ‘Convention and Protocol Relating to the Status of Refugees’ (*UN Refugee Agency pp 14 and 46*) <<https://www.unhcr.org/sites/default/files/2025-02/1951-refugee-convention-1967-protocol.pdf>> accessed 12 June 2025

³² Kristy Siegfried, ‘Climate Change and Displacement: The Myths and The Facts’ (*UNHCR*, 15 November 2023) <<https://www.unhcr.org/news/stories/climate-change-and-displacement-myths-and-facts>> accessed 12 June 2025

³³ UNHCR, ‘Convention and Protocol Relating to the Status of Refugees’ Article 1 (A) (2) (*UN Refugee Agency pp 14*) <<https://www.unhcr.org/sites/default/files/2025-02/1951-refugee-convention-1967-protocol.pdf>> accessed 12 June 2025

³⁴ Kristy Siegfried, ‘Climate Change and Displacement: The Myths and The Facts’ (*UNHCR*, 15 November 2023) <<https://www.unhcr.org/news/stories/climate-change-and-displacement-myths-and-facts>> accessed 12 June 2025

displacements being triggered by disasters in 2023.³⁵ Based these reports, climate-displaced persons are more likely to be within their country borders rather than cross borders outside the country. This denotes that internally displaced persons do not qualify for protection under the international refugee law by virtue of remaining within the borders of the country. Also, the 1951 refugee law implies that refugees who engage in cross-border movement are officially recognized under international laws as being solely driven more likely by non-climate factors.

For Sri Lanka, a country vulnerable to climate hazards due to its geographical locations, size and socio-economic conditions³⁶, the exclusion of climate change as a direct factor for refugee status under international law poses a legal challenge for its inhabitants who do not qualify to receive international refugee protection based on their fleeing mainly from repeated extreme climate related issues. In situations where inhabitants could qualify under ‘social group membership’ based on the exacerbating threats of climate change on their socio-economic experiences and challenges, they could be excluded from cross-border protection if they remain within Sri Lanka’s borders. Finally, when the inhabitants are forced to migrate outside Sri Lanka’s borders, the absence of climate-related factors in the 1951 definition of refugees denies them protection under Article 33- the Prohibition of Expulsion or Return (“refoulement”)³⁷ of the 1951 international refugee law.

III.B. Human Rights Law

Where international refugee law fails to adequately recognise and protect climate-affected Internally Displaced Persons (IDPs), international human rights law provides such specific legal protection. International human rights law is a body of international law which states the responsibilities of governments to promote and protect human rights, fundamental freedoms of individuals or groups by acting in certain ways or refraining from certain acts.³⁸ Therefore, United

³⁵ IDMC, ‘Climate and Environmental Migration’ (IDMC, 2024) <<https://www.migrationdataportal.org/themes/environmental-migration>> accessed 12 June 2025

³⁶ WGRSL Samaraweera, RAPIS Dharmadasa, PHT Kumara, ASGS Bandara, ‘Evidence of Climate Change Impacts in Sri Lanka- A review of Literature’ (2024) 11(2) Sri Lanka Journal of Economic Research 69, 94, <<https://doi.org/10.4038/sljer.v11i2.205>> accessed 12 June 2025

³⁷ UNHCR, ‘Convention and Protocol Relating to the Status of Refugees’ Article 33, (UN Refugee Agency pg 30) <<https://www.unhcr.org/sites/default/files/2025-02/1951-refugee-convention-1967-protocol.pdf>> accessed 12 June 2025

³⁸ United Nations, ‘Global Issues: Human Rights’ (United Nations) <<https://www.un.org/en/global-issues/human-rights>> accessed 12 June 2025

Nations High Commissioner for Refugees (UNHCR) bases its protection guidelines on recognised standards of international human rights law. An example of such protection guidelines aimed at protecting human rights and freedom of displaced groups is the 1998 United Nations Guiding Principles on Internal Displacement (UN GPID).

The UN GPID which reflect international humanitarian law and human rights law through 30 protection standards were established due to an identified need to protect internally displaced persons.³⁹ Unlike the international refugee law, the UN GPID recognises the impact of climate-related disasters on human displacement with particular protection of individuals who migrate within their country borders without crossing internationally recognised state borders.⁴⁰ It defines IDPs as ‘persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.’⁴¹ However, its non-binding nature weakens its ability to hold governments accountable for protecting citizens during displacement crises. This is reflected in the ongoing rise in global displacement particularly due to extreme weather events and the limited integration of the principles into national laws⁴² While the UN GPID covers all phases of displacement (prevention, protection during crisis, humanitarian aid, and durable solutions), it fails to clearly define governments’ responsibilities at each stage. As a result, many states implement the guidelines selectively, worsening vulnerability to displacement.⁴³

³⁹ IDMC, ‘Guiding Principles on Internal Displacement’ (*Internal Displacement Monitoring Centre*) <<https://www.internal-displacement.org/internal-displacement/guiding-principles-on-internal-displacement/>> accessed 12 June 2025

⁴⁰ United Nations, ‘OCHA: Guiding Principles on Internally Displaced Persons’ (*United Nations*) <<https://api.internal-displacement.org/sites/default/files/publications/documents/199808-training-OCHA-guiding-principles-Eng2.pdf>> accessed 12 June 2025.

⁴¹ *ibid*

⁴² Solutions Champions, ‘Marking 27years of the Guiding Principles on Internal Displacement’ (*Joint Statement by the Solutions Champions, 17 April 2025*) <<https://www.undp.org/news/marking-27-years-guiding-principles-internal-displacement>> accessed 12 June 2025. See also Ileana Nicolau and Anais Pagot, ‘Laws and Policies on Internal Displacement: Global Adoption and Gaps.’ (*Forced Migration Review, 2025*) <<https://www.fmreview.org/guidingprinciples20/nicolau-pagot/>> accessed 12 June 2025.

⁴³ IDMC, ‘Guiding Principles on Internal Displacement’ (*Internal Displacement Monitoring Centre*) <<https://www.internal-displacement.org/internal-displacement/guiding-principles-on-internal-displacement/>> accessed 12 June 2025

In the context of Sri Lanka, the UN GPID, though recognised, has not been formally adopted into its national legal framework. Instead, the Sri Lankan government adopted a National Action Plan for the Protection and Promotion of Human Rights in 2011 in which it addressed the rights of IDPs and the objective of developing a broad national policy on all forms of displacement based on the UN GPID.⁴⁴ This denotes that the Sri Lankan government would be guided by settlement options identified in Principles 28 -30 of Section 5 – Principles Relating to Return, Resettlement and Reintegration, under the UN GPID towards finding durable solutions to its challenge of climate-induced internal displacements. However, the UN GPID is vague on what the durable solutions entail thereby leaving global south countries like Sri Lanka without clear guidelines on implementation and monitoring of policies aimed at achieving durable solutions. Also, Sri Lanka despite its escalating vulnerability to climate related internal displacements chose to draw on the UN GPID for implementation of the post- displacement phase for conflict-affected IDPs through its National Policy on Durable Solutions for Conflict-Affected Displacement.⁴⁵

In spite of its recognition of climate related disasters as a driver of displacement, its protection of internally displaced persons and their human rights, the UN GPID falls short in area of clear implementation mechanism and support for poor and climate vulnerable countries which due to their economic vulnerabilities often lack the resources required to carry out obligations to its inhabitants.

III.C. Climate Agreements

Climate agreements often tend to create enforcement/implementation structures among multiple countries committed to tackling the challenge of global climate change. These agreements culminate in international climate change law, which began with the coming into force of the 1994 United Nations Framework Convention on Climate Change (UNFCCC).⁴⁶ Binding 198 member

⁴⁴ United Nations General Assembly (2014), 'Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons, Chaloka Beyani: Mission to Sri Lanka' (*United Nations General Assembly A/HRC/26/33/Add.4*, 5 June 2014) <<https://docs.un.org/en/A/HRC/26/33/Add.4>> accessed 12 June 2025.

⁴⁵ Ileana Nicolau and Anais Pagot, 'Laws and Policies on Internal Displacement: Global Adoption and Gaps.' (*Forced Migration Review*, 2025) <<https://www.fmreview.org/guidingprinciples20/nicolau-pagot/>> accessed 12 June 2025

⁴⁶ United Nations Climate Change, 'What is the Convention?' (*United Nations Climate Change*) <<https://unfccc.int/process-and-meetings/what-is-the-united-nations-framework-convention-on-climate-change>> accessed 14 June 2025

states to carry out acts that prevent human-induced climate change, the UNFCCC, unlike the UN GPID, did not leave national governments with the sole responsibility of addressing climate change concerns within their borders. It ensures that developed countries, whose activities are identified as mostly responsible for climate change and its adverse effects, have more responsibilities towards other vulnerable countries like Sri Lanka, which account for less than 1% of global GHG emissions,⁴⁷ by supporting climate change activities in such countries.⁴⁸ Focused mainly on stabilising greenhouse gas concentrations, the UNFCCC does not specifically address climate-induced displacement. However, through its definition of the 'Adverse Effects of Climate Change',⁴⁹ indirectly addresses issues which can be linked to external and internal climate-induced displacement.

In continuous efforts to address the adverse effects of climate change, the UNFCCC produced the legally binding 2015 Paris Agreement, adopted at the UN Climate Change Conference by 195 parties.⁵⁰ With an implementation mechanism in place, each country under the Agreement submits national climate action plans (i.e. Nationally Determined Contribution (NDC)) aimed at monitoring the increasing commitment of all parties towards meeting the Agreement's targets and goals. As a result of its vagueness on climate-induced displacement, Sri Lanka's NDC does not specifically reflect committed efforts towards climate displacement challenges.⁵¹ Furthermore, the Agreement provides frameworks for financial, technical and capacity-building support from developed countries to poorer and climate-vulnerable countries; enhanced transparency and regulatory review of reports received in order to collectively assess and take stock of progress made towards long-term climate goals. However, the impact of these mechanisms on concerns of

⁴⁷ Anishka De Zyla, 'The Paris Agreement on Climate Change and Sri Lanka' (*Lakshman Kadirgamar Institute of International Relations and Strategic Studies*, 30 August 2017) <<https://lki.lk/publication/the-paris-agreement-on-climate-change-and-sri-lanka>> accessed 14 June 2025

⁴⁸ United Nations Climate Change, 'What is the Convention?' (*United Nations Climate Change*) <<https://unfccc.int/process-and-meetings/what-is-the-united-nations-framework-convention-on-climate-change>> accessed 14 June 2025

⁴⁹ United Nations, *United Nations Framework Convention on Climate Change* (Article 1- Definitions, 1992) pg. 7 <https://unfccc.int/files/essential_backgorund/background_publications_htmlpdf/application/pdf/conveng.pdf> accessed 14 June 2025

⁵⁰ United Nations Climate Change, 'Paris Agreement' (*United Nations Climate Change*) <<https://unfccc.int/process-and-meetings/the-paris-agreement>> accessed 14 June 2025

⁵¹ UNDP, 'Climate Promise: Sri Lanka', (*United Nations Development Programme (UNDP)*) <<https://climatepromise.undp.org/what-we-do/where-we-work/sri-lanka>> accessed 14 June 2025

displacement and displaced persons is not clear. This makes it difficult to assess and monitor formal support and protection made by developed countries, particularly towards climate-displaced persons in vulnerable countries like Sri Lanka, if any.

In line with the UNFCCC's recognition of the adverse effects of climate change, the Paris Agreement acknowledges the importance of preventing, minimising and addressing loss and damage associated with the adverse effects of climate change from extreme weather events to slow onset events.⁵² All of which can be linked to the loss and damage (to lives, welfare, rights and properties) also associated with climate-induced displacement within and outside country borders. The issue of displacement, displaced persons and the importance of protecting persons in this group is not specifically addressed under the Paris Agreement, but reference is made to the UNFCCC's Warsaw International Mechanism for Loss and Damage of 2013. The Warsaw International Mechanism (WIM), through its Task Force on Displacement (TFD), recognises the adverse displacement impact of climate change, particularly on vulnerable countries like Sri Lanka affected by slow-onset climate change events.⁵³ Established in 2015, the TFD guides the integrated implementation of WIM in assisting developing countries access available knowledge and resources (financial, technology) for averting, minimising and addressing loss and damage.⁵⁴ Recommendations made by the TFD are, however, advisory⁵⁵ therefore, they are not binding on developed countries tasked under UNFCCC with providing assistance to climate-vulnerable countries.

III.D. Soft Law

In a bid to specifically address climate displacement under international law, soft laws such as resolutions, declarations, etc. have been adopted by organs of international or intergovernmental organisations. In the international sphere, soft laws aid in giving guidance to states and other

⁵² UNFCCC, 'The Paris Agreement', (*United Nations Framework Convention on Climate Change (UNFCCC)* 2016, pg. 12) <https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf> accessed 14 June 2025

⁵³ Platform on Disaster Displacement, 'Face to Face with the Warsaw International Mechanism' (*Platform on Disaster Displacement*, 16 November 2021) <<https://disasterdisplacement.org/resource/warsaw-international-mechanism-members-and-experts/>> accessed 14 June 2025

⁵⁴ *ibid*

⁵⁵ United Nations Climate Change, 'Human Mobility, Including Migration, Displacement and Planned Relocation: Strategic Workstream on Human Mobility.' (*United Nations Climate Change*). <https://unfccc.int/process/bodies/constituted-bodies/WIMExCom/TFD#tab_home> accessed 14 June 2025

stakeholders in the absence of binding legal norms.⁵⁶ Despite the efforts to fill the gaps in international legal frameworks, implementation of these soft laws is often non-legally binding, therefore, not mandatory.⁵⁷ Examples of such soft laws addressing climate displacement concerns are the Nansen Initiative and the Global Compact on Refugees.

The Nansen Initiative (2012) is a state-led, multi-stakeholder effort to address protection gaps for cross-border disaster-displaced persons.⁵⁸ In recognition of the lapses in data collection on cross-border disaster displacement, the initiative supports the integration and compilation of effective practices to be used by states and sub-regional organisations.⁵⁹ In spite of not providing legal protection, the Nansen Initiative works towards building consensus among affected states on key principles and elements of protection in the context of disasters and adverse effects of climate change.⁶⁰

In connection with Sri-Lanka, the Nansen Initiative Protection Agenda of 2015 acknowledges persons displaced by sudden-onset disasters, persons at risk of being displaced by slow-onset disasters and the issue of non-refoulement.⁶¹ It also identifies the need for a comprehensive approach to managing disaster displacement risks in the country of origin. By so doing, addressing issues pertaining to the needs of IDPs as part of efforts to reduce the rate of cross-border disaster-displacement.⁶² The Protection Agenda acknowledges that some states, such as Sri-Lanka, do not have domestic laws to aid cross-border disaster-displaced persons and endorses improved

⁵⁶ ECNL, 'Counter-Terrorism and Human Rights: Soft law, Hard Consequences' (*European Center for Not-for-Profit Law (ECNL)*) <<https://ecnl.org/sites/default/files/files/UNSR-CT-briefer.pdf>> accessed 18 June 2025

⁵⁷ Medecins Sans Frontieres, 'The Practical Guide to Humanitarian Law: Soft Law' (*Medecins Sans Frontieres*) <<https://guide-humanitarian-law.org/content/article/3/soft-law/>> accessed 18 June 2025

⁵⁸ The Nansen Initiative: Disaster-Induced Cross-Border Displacement, 'Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change Volume 1' (*The Nansen Initiative: Disaster-Induced Cross-Border Displacement*) <https://disasterdisplacement.org/wp-content/uploads/2014/08/EN_Protection_Agenda_Volume_I_-_low_res.pdf> accessed 18 June 2025

⁵⁹ *ibid*

⁶⁰ Walter Kalin, 'The Nansen Initiative: Building Consensus on Displacement in Disaster Contexts' (*Oxford University Research Archive*, 2015) <<https://ora.ox.ac.uk/objects/uuid:b4df1465-08bc-4474-925a-7416ba1fd98e/files/mb050708b6185910e4272bc664b2ffb80>> accessed 18 June 2025

⁶¹ The Nansen Initiative: Disaster-Induced Cross-Border Displacement, 'Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change Volume 1' (*The Nansen Initiative: Disaster-Induced Cross-Border Displacement*) <https://disasterdisplacement.org/wp-content/uploads/2014/08/EN_Protection_Agenda_Volume_I_-_low_res.pdf> accessed 18 June 2025

⁶² *ibid*

accountability for protection and assistance in all states, whether or not such local laws or policies exist.⁶³

Sri-Lanka, participating in the Nansen Initiative Global Consultation Conference 2015 with official delegations supporting the Protection Agenda and advocating for flexible funding mechanisms and legal network,⁶⁴ reveals its recognition and support for the Initiative's efforts. Nevertheless, there is no evidence of Sri Lanka fully implementing the Nansen Initiative measures and Protection Agenda as its own. Likewise, the Global Compact on Refugees (GCR) is a non-legally binding instrument affirmed by the UN General Assembly in 2018 as a framework for achieving sustainable solutions for refugee situations through international cooperation and equitable responsibility sharing among UN member states.⁶⁵

The Global Compact on Refugees⁶⁶ and Global Compact for Safe, Orderly and Regular Migration (GCM)⁶⁷ acknowledge refugees, internally displaced persons and external forced displacement due to natural disasters, recommends a multi stakeholder approach, capacity development support and integration of forced displacement into disaster preparedness measures, resource contribution and technical guidance measures to prevent further forced internal and cross border displacement upon return or reintegration and provides clear durable solutions which incorporate specific needs of returnees into national development planning etc. As a country highly vulnerable to climate-induced disasters and displacements, Sri Lanka would benefit from disaster displacement provisions of the GCR and GCM if incorporated in its domestic laws and policies; however, it is

⁶³ Ademola Oladimeji Okeowo, 'The Nansen Initiative and the Development of an International Protection Norm for Cross-Border Disaster-Displaced Persons' (PhD thesis, University of British Columbia 2018) <<https://open.library.ubc.ca/media/stream/pdf/24/1.0365935/4>> accessed 18 June 2025

⁶⁴ The Nansen Initiative: Disaster-Induced Cross-Border Displacement, 'The Nansen Initiative Global Consultation Conference Report' (*The Nansen Initiative*, 12-13 October 2015) <<https://disasterdisplacement.org/wp-content/uploads/2015/02/GLOBAL-CONSULTATION-REPORT.pdf>> accessed 18 June 2025

⁶⁵ UNHCR, 'The Global Compact on Refugees' (*The UN Refugee Agency*) <<https://www.unhcr.org/about-unhcr/overview/global-compact-refugees>> accessed 18 June 2025

⁶⁶ UNHCR, 'Global Compact on Refugees- Booklet', (*United Nations*, 2018) <<https://www.unhcr.org/media/global-compact-refugees-booklet>> accessed 16 June 2025

⁶⁷ United Nations, 'Global Compact for Safe, Orderly and Regular Migration- Resolution adopted by the General Assembly on 19 December 2018' (*United Nations General Assembly*, A/RES/73/195, 2019) <<https://docs.un.org/en/A/RES/73/195>> accessed 16 June 2025

yet to explicitly address displacement as a result of climate and natural disasters in its domestic policies.

IV. Sri Lanka's Domestic Legal and Policy Response

Over the years, international frameworks have evolved in attempts to meet up with new realities associated with human mobility, climate change and its adverse impacts on displacement. Despite international efforts, there are still gaps in the protection of persons displaced by climate/disaster-related events and implementation of provisions and principles aimed at addressing and proffering durable solutions, be it in terms of non-recognition and/or non-legality or binding nature. As a result of these, there is a continuous increase in the adverse impacts of climate change on individuals in climate-vulnerable countries in the Global South, e.g. Sri Lanka, which experiences slow-onset climate change impacts like rising sea levels. Where international frameworks fall short, domestic laws and national policies become vital instruments to directly address specific climate displacement concerns and their further exacerbation.

IV.A. National Adaptation Plans (NAPs) and Disaster Management Laws

Sri Lanka has developed legal frameworks which address or could be applied to displacement, climate/ disaster related issues like the Disaster Management Act of 2005, National Climate Change Adaptation Strategy (2011-2016) National Climate Change Policy of 2012, National Adaptation Plan for Climate Change Impacts (2016–2025), National Policy on Durable Solutions for Conflict-Affected Displacement etc.

The first legal framework acknowledging the need to protect the inhabitants of Sri Lanka from the consequences of natural and man-made disasters is the Disaster Management Act (Act No. 13 of 2005). According to the Gotham Research Institute on Climate Change and the Environment, the main purpose of the Act is to protect human life and the environment of Sri Lanka from the consequences of natural disasters through the preparation of national policies and plans and the appointment of implementation committees and institutions.⁶⁸ In addition to establishing the

⁶⁸ Gotham Research Institute on Climate Change and the Environment, 'Disaster Management Act (Act No. 13 of 2005)' (*Climate Change Laws of the World*) <https://climate-laws.org/document/disaster-management-act-act-no-13-of-2005_0199> accessed 18 June 2025

National Council for Disaster Management⁶⁹ for the formulation of national policy and program on disaster management, such as the National Disaster Management Plan⁷⁰ or the National Emergency Operation Plan⁷¹, among other functions,⁷² is the establishment of a Disaster Management Centre⁷³. The Act also recognises 21 natural and man-made hazards⁷⁴, the need to implement disaster countermeasures⁷⁵ and makes provisions for disaster prevention, mitigation, early warning, disaster preparedness, disaster response and disaster recovery.⁷⁶

In response to the threat of climate change on its investments, Sri Lanka developed an adoption strategy laying out a prioritised framework for action and investment from 2011 to 2016, known as the National Climate Change Adaptation Strategy.⁷⁷ The NCCAS aimed at systematically moving Sri Lanka and its people towards a climate change resilient future with the following strategies- mainstreaming climate change adaptation into national planning and development; enabling climate resilient and healthy human settlements; minimizing climate change impacts on food security; improving climate resilience of key economic drivers, and safeguarding natural resources and biodiversity from climate change impacts.⁷⁸

Another key national initiative is the National Climate Change Policy (NCCP) of 2012, a framework developed by the Ministry of Environment and Renewable Energy to provide guidance

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⁶⁹ Sri Lanka Disaster Management Act, No. 13 of 2005, section 2

⁷⁰ Sri Lanka Disaster Management Act, No.13 of 2005, section 10

⁷¹ Sri Lanka Disaster Management Act, No.13 of 2005, section 12(c)

⁷² Sri Lanka Disaster Management Act, No.13 of 2005, section 4

⁷³ Sri Lanka Disaster Management Act, No.13 of 2005, section 8

⁷⁴ Sri Lanka Disaster Management Act, No.13 of 2005, section 25

⁷⁵ Sri Lanka Disaster Management Act, No.13 of 2005, section 14(d)

⁷⁶ IFRC, 'Sri Lanka Disaster Management Act, No. 13 of 2005' (IFRC, September 2021) <https://disasterlaw.ifrc.org/dmi/dmi_country/67> accessed 18 June 2025

⁷⁷ Climate Change Secretariat of Sri Lanka, 'National Climate Change Adaptation Strategy 2011 to 2016' (Climate Change Secretariat, Ministry of Environment Sri Lanka, 2010) <[https://www.climatechange.lk/adaptation/Files/Strategy_Booklet-Final_for_Print_Low_res\(1\).pdf](https://www.climatechange.lk/adaptation/Files/Strategy_Booklet-Final_for_Print_Low_res(1).pdf)> accessed 18 June 2025

⁷⁸ Climate Change Laws of the World, 'National Climate Change Adaptation Strategy for Sri Lanka 2011 to 2016' (Climate Change Laws of the World) <https://climate-laws.org/documents/national-climate-change-adaptation-strategy-for-sri-lanka-2011-to-2016_1a00?id=national-climate-change-adaptation-strategy-for-sri-lanka-2011-to-2016_8ff2> accessed 18 June 2025

and directions to respond to the challenges of climate change to all.⁷⁹ The policy is grounded on principles of precautionary approach, environmental soundness, social acceptability, economic viability, sustainable consumption and production, ecosystem stability, shared vision and responsibility and precautionary principles.⁸⁰ Additionally, it focuses on core areas of vulnerability, adaptation, mitigation, sustainable consumption and production, knowledge management and general implementation mechanisms.

Complementing the NCCAS and the NCCP is the National Adaptation Plan for Climate Change Impacts (2016–2025) developed using the UNFCCC guidelines for the development of national adaptation plans.⁸¹ Sri Lanka's NAP identifies two levels of adaptation- cross-cutting national needs of adaptation with interventions needed and adaptation needs of nine key sectors vulnerable to the adverse impacts of climate change, inclusive of coastal sectors and human settlements.⁸² It also proposes an institutional and coordination mechanism, along with implementation and resource mobilisation strategies for the successful implementation of the NAP.⁸³

Lastly, the National Policy on Durable Solutions for Conflict-Affected Displacement, adopted in 2016, sets out comprehensive principles and standards for the provision of protection and assistance to all persons displaced and affected by displacement.⁸⁴ The policy upholds Humanitarian Principles of Humanity, Non-Discrimination and “Do No Harm” and is informed by relevant international standards on the rights of those displaced, including the IASC Framework on Durable Solutions for internally displaced persons. In addition, it recognizes IDPs displaced

⁷⁹ Ministry of Mahaweli Development & Environment, 'Overall Summary: Sri Lanka: National Climate Change Policy of Sri Lanka' (*Ministry of Mahaweli Development & Environment*, 2012) <<https://policy.asiapacificenergy.org/node/2739>> accessed 18 June 2025

⁸⁰ Ministry of Mahaweli Development & Environment, 'The National Climate Change Policy of Sri Lanka' (*Ministry of Mahaweli Development & Environment*, 2012) <https://policy.asiapacificenergy.org/sites/default/files/Climate_Change_Policy_English.pdf> accessed 18 June 2025

⁸¹ Climate Change Secretariat of Sri Lanka, 'National Adaptation Plan for Climate Change in Sri Lanka' (*Ministry of Mahaweli Development and Environment*, 2016) <<https://unfccc.int/sites/default/files/resource/NAP-Sri-Lanka-2016.pdf>> accessed 18 June 2025

⁸² *ibid*

⁸³ *ibid*

⁸⁴ National Legislative Bodies / National Authorities, 'Sri Lanka: National Policy Framework on Durable Solutions, 2016', (*National Legislative Bodies / National Authorities*, August 2016), <<https://www.refworld.org/policy/strategy/natlegbod/2016/en/120372>> accessed 18 June 2025

as a result of natural or human-made disasters, climate change, makes provisions for rights and entitlements of displaced persons, durable solutions, institutional arrangements for effective response, monitoring and implementation mechanisms.⁸⁵

IV.B. Gaps and Limitations of National Laws and Policies

Sri Lanka's disaster management laws and national policies as related to climate change and displacement show the significant steps taken towards addressing issues that further aggravate the country's vulnerable, threatening its development. There are however notable gaps in these frameworks as pertains to legal framework explicitly catering to climate induced displacement and displaced persons. They are as follows:

- The absence of formal legal provision for protection and assistance of persons displaced either by sudden or slow onset climate events/ disasters. This is due to the non-recognition or specific definition of climate related displacement.
- Sri Lanka's National Policies and Adaptation Plan are policy/ advisory documents providing guidelines for stakeholders therefore, are not legally binding in terms of implementation and enforceable rights.
- Considering the vulnerability of Sri Lanka to increased slow onset climate events, the non-existence of provisions in national laws, plans and policies for preparing and implementing programmes/ plans explicitly for slow onset climate displacement preparedness, mitigation, prevention, relief, rehabilitation, reconstruction and coordination is a huge lacuna.
- Sri Lanka's adaptation strategy is often executed with short term ad-hoc plans which do not cater for long term relocation, relief, re-integration of climate displaced inhabitants which require proper institutional and coordinating mechanisms.
- The National Climate Change Adaptation Strategy (NCCAS) and National Adaptation Plan for Climate Change (NAPCC) in Sri Lanka recognize the displacement of people due to increased frequency of sudden and slow onset climate like floods, drought, inundation of low-lying areas. They however does not give clear operational or implementation

⁸⁵ ibid

guidelines on the adaptation need and options in terms of human settlements and infrastructure.

- The National Policy on Durable Solutions for Conflict-Affected Displacement (NPDSCAD) addresses in detail, the issue of conflict affected displacement while briefly recognizing the existence of climate related displacement. It excludes guidelines for climate affected displacement nevertheless; its structure can serve as a template to the formulation and development of a national policy on climate affected displacement in Sri Lanka.

IV.C. Judicial Responses: Potential Role of Public Interest Litigation

The lack of formal recognition and legal mechanisms of protection poses glaring threat to human life, rights and sustainable development in many Global South countries like Sri Lanka. This has resulted in the infringement of rights of displaced multitudes. In efforts to address this, Public Interest Litigation (PIL) has become a means through which rights infringed due to climate and environment issues can be addressed. As a court-centred action or intervention, PIL in practice seeks to reform legal rules, enforce existing laws and articulate public norms.⁸⁶

Over the years, there has been a rise in climate-related litigations since the creation of China's Environmental Civil Public Interest Litigation (ECPIL) and the inclusion of the Environmental Administrative Public Interest Litigation (EAPIL) in its Administrative Litigation Act.⁸⁷ ECPIL enables NGOs to sue for ecological damages, while EAPIL allows lawsuits against negligent government agencies.⁸⁸ Similarly, in the Philippines, **public interest litigations (PILs)** increased with the establishment of environmental courts, streamlined procedures under the 2009 **Rules of Procedure for Environmental Cases**, and the creation of the **Writ of Kalikasan**, a unique legal remedy for large-scale environmental harm affecting multiple regions.⁸⁹

⁸⁶ Joseph Otteh (ed), *Litigation for Justice: A Primer on Public Interest Litigation (PIL)* (Access to Justice 2012)

⁸⁷ Zhang Hui and Md Rezaull Karim, 'Pursuing Climate Justice Through Public Interest Litigation: Theories, Practices, and Prospects', (2025) 8(2) International Journal of Innovative Research and Scientific Studies (IJIRSS), <<https://ijirss.com/index.php/ijirss/article/view6385/1212>> accessed 21 June 2025

⁸⁸ *ibid*

⁸⁹ Zhang Hui and Md Rezaull Karim, 'Pursuing Climate Justice Through Public Interest Litigation: Theories, Practices, and Prospects', (2025) 8(2) International Journal of Innovative Research and Scientific Studies (IJIRSS), <<https://ijirss.com/index.php/ijirss/article/view6385/1212>> accessed 21 June 2025

In regards to climate change and displacement, PILs can arise based on climate affected/ displaced persons seeking compensation for the cost of adaptation to climate change; challenging climate change related legislations and policies or their application; requiring governments or regulators to take action to meet national or international commitments; and putting pressure on relevant corporate actors or investors.⁹⁰ In the case of Leghari v. Pakistan, a Pakistani farmer initiated a PIL that the inaction and delay of the federal and provincial governments in implementing the National Climate Change Policy and Framework violated his constitutional rights to life and dignity.⁹¹ The Pakistan court concluded that the delay did violate the fundamental rights of the citizens and, along with a series of directives, issued an order to expedite the implementation of the Framework and the fundamental rights of the people of Punjab.⁹² This reveals the Pakistani courts' recognition that existing constitutional rights, such as rights to life, human dignity, property, etc, are vital tools for addressing and monitoring the government's response to climate change.⁹³ Likewise, in Nepal, the case Khagenra Subedi et. al vs. Government of Nepal, Office of Prime Minister and Council of Ministers et. al, which was about the protection of Phewa Lake against encroachment and degradation, the court gave the mandamus orders to ensure protection against encroachment and for maintaining ecological balance, emphasising the obligation of the government to ensure inter-generational and intra-generational equity and sustainable use of natural, cultural and environmental resources.⁹⁴ It also emphasised the prioritisation of the rights of the local communities in managing and benefiting from the resources as provided in its constitution.⁹⁵

⁹⁰ Judge John Mativo, 'Climate Change Displacement Litigation in Africa: A Human Rights and Refugee Law-Based Approach' in Kim Bouwer, Uzuazo Etemire, Tracy-Lynn Field and Ademola Oluborode Jegede (eds), *Climate Litigation and Justice in Africa* (Bristol University Press 2024) <<https://uplopen.com/reader/books/pdf/10.56687/9781529228977>> accessed 21 June 2025

⁹¹ Maria L. Banda and Scotte Fulton, 'Litigating Climate Change in National Courts: Recent Trends and Developments in Global Climate Law' (2017) 47(2) *Environmental Law Reporter* <<https://www.eli.org/sites/default/files/elr/featuredarticles/47.10121.pdf>> accessed 21 June 2025

⁹² *ibid*

⁹³ *ibid*

⁹⁴ Jony Mainaly, 'Environmental Justice and the Role of Nepalese Judiciary: A Missed Opportunity' in Jonathan K. London, Jagannath Adhikari and Thomas Robertson (eds), *Environmental Justice in Nepal: Origins, Struggles, and Prospects* (Routledge 2024) <<http://taylorandfrancis.com>> accessed 21 June 2025

⁹⁵ *ibid*

In Sri Lanka's context, PIL is vital in protecting the rights or interests of climate-displaced persons who, based on the gaps in national and international legal frameworks, have been left unprotected. To effectively address the needs of climate-displaced persons and the crisis of climate displacement in Sri Lanka through PIL, there is a need to approach it based on principles of rights – human, environmental and constitutional. The present Sri Lankan Constitution, enacted in 1978, does not contain provisions guaranteeing the right to life and the right to a healthy environment.⁹⁶ Where it does make provisions relating to the promotion of the people's welfare, the realisation of an adequate standard of living for all citizens, and the protection, preservation and improvement of the environment, these provisions are non-justiciable and cannot be enforced or litigated in court.⁹⁷ However, in Sri Lanka, any case of infringement of rights must be by executive or administrative action, and the failure of the state to act constitutes state action, i.e., any state action, including state inaction, which has potential adverse impacts on communities.⁹⁸ This has led to an increase in fundamental rights actions against states by non-governmental organisations working in the field of the environment in Sri Lanka.

Examples of such PIL cases include the ongoing *Seppukulama Medawewa CA 87/2017 (Writ)* filed by Public Interest Law Foundation (PILF) with three farmers representing the *Seppukulama Govi Sanvidanaya*, a farmers' Organisation in the Court of Appeal of Sri Lanka in March 2017, compelling relevant government agencies to implement the law to protect irrigation tanks, to take appropriate measures, to ensure the protection of the *Seppukulama, Meda Wewa* and its surroundings from encroachment of tank reservations for the purposes of irrigation in the dry zone of Sri Lanka.⁹⁹ Others are *Bulankulama vs. Secretary, Ministry of Industrial Development*, 2000 3 Sri LR 243, where a petition was filed against a proposed mineral investment agreement for the exploration and mining of phosphate. The petition alleged that the agreement infringes on the fundamental rights of the petitioners, who were in danger of losing their livelihoods and restrained from free movement if the project is implemented. The infringement was established by the court

⁹⁶ Camena Guneratne, 'Using Constitutional Provisions to Advance Environmental Justice-Some Reflections on Sri Lanka' (2015) 11(2) *Law, Environmental and Development Journal*, <<http://www.lead-journal.org/content/15072.pdf>> accessed 21 June 2025

⁹⁷ *ibid*

⁹⁸ *ibid*

⁹⁹ The Public Interest Law Foundation, 'Ongoing Cases' (*The Public Interest Law Foundation*) <<https://pilfsrilanka.org/litigation/>> accessed 21 June 2025

citing principles of sustainable development, public trust and intergenerational equity.¹⁰⁰ While these cases address issues that affect the rights of persons as implied under the Sri Lankan constitution and emerging environmental protection rights, none of the PIL cases deal with climate-related displacement.

In light of the above, PILs can be used in Sri Lanka to demand government action where its laws, national policies and adaptation plans have proven inadequate in recognising and protecting the rights of climate-displaced persons. The inaction of the government of Sri Lanka on issues that have adverse impact on its climate displaced communities in terms of their welfare and standard of living can be interpreted by the courts as violations of human and environmental rights. Hence creating an opening for climate displaced persons in Sri Lanka to seek judicial remedy and protection and in the long run initiate legal reforms on enforceable rights guaranteed by the constitution.

V. Comparative Lessons from the Global South

Climate displacement, a growing consequence of environmental degradation, poses complex legal and ethical challenges, particularly for sinking states in the Global South. The existing international legal framework, primarily designed to address persecution-based displacement, inadequately protects individuals forced to migrate due to climate change.¹⁰¹ Millions of people worldwide will face displacement as climate change intensifies, exacerbating conflicts and resource scarcity, further straining already vulnerable populations.¹⁰² The intricate relationship between climate change, migration, and human rights necessitates a comprehensive re-evaluation of international law and policy.¹⁰³ Sri Lanka, an island nation highly vulnerable to climate change impacts such as sea-level rise, extreme weather events, and coastal erosion, serves as a crucial case

¹⁰⁰ *Bulankulama and Others v. Secretary, Ministry of Industrial Development and Others (Eppawela Case)* Sri Lanka Law Reports 2000, Supreme Court of Sri Lanka <<https://lpr.adb.org/sites/default/files/resource/410/sri-lanka-bulankulama-vs.-secretary-ministry-of-industrial-development.pdf.pdf>> accessed 21 June 2025

¹⁰¹ Claudia Sachs, 'A Looming Crisis: Exploring the Precarious Legal Status of 'Climate Refugees' Under International and Human Rights Law' (2025) (27) *Consilience* <<https://doi.org/10.52214/consilience.vi27.12557>> accessed 18 June 2025

¹⁰² *ibid*

¹⁰³ Dimitra Manou, Andrew Baldwin, Dug Cubie, Anja Mihr and Teresa Thorp (eds), *Climate Change, Migration and Human Rights: Law and Policy Perspectives* (1st Edition, Routledge 2017)

study for examining the legal and policy gaps surrounding climate-induced displacement within the global south. Therefore, drawing lessons from other nations in the Global South facing similar challenges can inform the development of effective strategies for addressing climate displacement in Sri Lanka and beyond.

Pacific Island nations, facing existential threats from rising sea levels, have pioneered innovative approaches to address climate displacement.¹⁰⁴ Tuvalu's "Rising Nations" initiative, for example, seeks to preserve the nation's sovereignty and cultural identity even if its territory becomes uninhabitable, while bilateral labour schemes with countries like Australia provide migration pathways for its citizens.¹⁰⁵ With this initiative, Tuvalu aims to become the world's first digital nation, preserving its sovereignty, culture, and governance virtually if physical territory is lost. This includes archiving cultural heritage and governmental functions online.¹⁰⁶ Tuvalu employs a dual approach to address climate displacement by combining physical resilience, i.e. coastal adaptation, with legal innovation such as digital sovereignty and treaty-backed migration.¹⁰⁷ It also prioritises safeguarding identity through development partnerships in education, health, telecommunications, connectivity, and economic resilience under the Falepili Union Treaty with Australia. The **Pacific Australia Labour Mobility (PALM) scheme** allows Tuvaluans to work in Australia, addressing labour shortages while providing remittances and skills transfer. The program emphasises worker rights and cultural ties.¹⁰⁸ It can be argued that Tuvalu's model offers short-term protection, but it underscores the urgency for binding international frameworks to

¹⁰⁴ Kayly Ober and Katherine Waters, 'Pacific Island Nations Seek Climate Solutions Outside of COP28' (*United States Institute of Peace*, 28 November 2023) <<https://www.usip.org/publications/2023/11/pacific-island-nations-seek-climate-solutions-outside-cop28>> accessed 18 June 2025

¹⁰⁵ David López-Carr and Jessica Marter-Kenyon, 'Human Adaptation: Manage Climate-Induced Resettlement' (2015) 517 *Nature* <<https://doi.org/10.1038/517265a>> accessed 18 June 2025 See also, Australian Government Department of Foreign Affairs and Trade, 'Development Assistance in Tuvalu: Australia's Development Partnership with Tuvalu (*Department of Foreign Affairs and Trade*)' <<https://www.dfat.gov.au/geo/tuvalu/development-assistance/development-assistance-in-tuvalu>> accessed 18 June 2025

¹⁰⁶ Global Forum on Migration and Development, 'Tuvalu: The Digital Nation State Programme' (*Global Forum on Migration and Development*, 25 March 2024) <<https://www.gfmd.org/pfp/ppd/19211>> accessed 18 June 2025

¹⁰⁷ Jane McAdam, 'Fresh Details Emerge on Australia's New Climate Migration Visa for Tuvalu Residents. An Expert Explains' (*UNDRR*, 10 April 2025) <<https://www.preventionweb.net/news/fresh-details-emerge-australias-new-climate-migration-visa-tuvalu-residents-expert-explains>> accessed 18 June 2025

¹⁰⁸ Australian Government Department of Foreign Affairs and Trade, 'Pacific Labour Mobility' (*Department of Foreign Affairs and Trade*) <<https://www.dfat.gov.au/geo/pacific/engagement/pacific-labour-mobility>> accessed 18 June 2025

address climate change. These initiatives underscore the importance of proactive planning and international cooperation in managing climate displacement.

Bangladesh, highly susceptible to flooding and cyclones, has developed extensive experience in managing internal displacement, including the establishment of climate refugee camps and the development of a National Strategy on Internal Displacement. In 2018, the World Bank predicted that, if no concrete development action is taken, 13.3 million Bangladeshis would be internally displaced within the country by 2050 because of the effects of climate change.¹⁰⁹ The **Bangladesh Cyclone prepared programme** is capable of evacuating millions of people in 24 hours across 6,000 km of vulnerable coastline by utilising 76,000 volunteers from remote communities (half of whom are women) trained in disaster preparation.¹¹⁰ Additionally, Bangladesh has the fastest growing solar home system in the world, aimed at providing 100 percent electrification of the country through renewable energy.¹¹¹ To further mitigate internal climate-induced displacement—especially from communities whose livelihoods rely on rain-fed croplands—the government committed to spending 2.5 percent of GDP on delta-related interventions (both new and existing ones) such as early warning systems, mangrove restoration by the end of the century, in its Bangladesh Delta Plan 2100.¹¹²

These strategies emphasise the need for national-level policies and frameworks to guide relocation efforts and ensure positive outcomes.¹¹³ However, the challenges of funding, providing adequate shelter, resources, and protection to displaced populations in densely populated areas remain

¹⁰⁹ Ishita Shahid Sams, 'Climate Induced Migration and Social Mobility Among Migrants: Evidence from the Southwest Coastal Region of Bangladesh' (2019) 8(4) Social Sciences <<https://doi.org/10.11648/j.ss.20190804.12>> accessed 18 June 2025

¹¹⁰ Swarna Kazi and Ignacio Urrutia, 'How Bangladesh Can Protect Its Development Gains through Coastal Resilience and a Changing Climate' (*The World Bank Group*, 16 September 2022) <<https://blogs.worldbank.org/en/endpovertyinsouthasia/how-bangladesh-can-protect-its-development-gains-through-coastal-resilience>> accessed 18 June 2025

¹¹¹ World Bank Group, 'A Game-Changer In Bangladesh's Growth Story: Solar Home Systems' (*World Bank Group*, 8 April 2021) <<https://www.worldbank.org/en/news/feature/2021/04/08/a-game-changer-in-bangladesh-growth-story-solar-home-systems>> accessed 18 June 2025

¹¹² Othering & Belonging Institute at UC Berkeley, 'Climate Crisis, Displacement, and Right to State: Climate Displacement and Resilience Data Base' (*Othering & Belonging Institute*) <<https://belonging.berkeley.edu/climatedisplacement/case-studies/bangladesh>> accessed 18 June 2025

¹¹³ Annah E. Piggott-McKellar, Karen E. McNamara, Patrick D. Nunn and Seci T. Sekinini, 'Moving People in a Changing Climate: Lessons from Two Case Studies in Fiji' (2019) 8(5) Social Sciences <<https://doi.org/10.3390/socsci8050133>> accessed 18 June 2025

significant. Many people and households at risk of climate change do not migrate, especially in Least Developed Countries, Landlocked Developing Countries and Small Island Developing States.¹¹⁴ Migration is a multifaceted and intricate human phenomenon that is influenced by a myriad of interconnected factors.

The LDCs have, over time, relied on Western states for solutions to climate change, displacement, adaptation, and mitigation strategies. The experiences of Pacific Island nations and Bangladesh highlight the critical distinction between regional cooperation and reliance on Western states. Regional cooperation fosters greater autonomy and ownership in addressing climate displacement challenges, enabling culturally sensitive and context-specific solutions. Relying solely on Western states for assistance can create dependencies and may not always align with the specific needs and priorities of affected communities. However, major barriers to migration reduce the efficacy of positive outcomes to both migrants and their home communities, including high transport costs and problems in gaining access to housing, employment and government services in urban destination areas.¹¹⁵ Thus, regional cooperation can facilitate the sharing of best practices, resources, and expertise, while also promoting greater solidarity and mutual support among vulnerable nations. The crucial element of successful adaptation is understanding how adaptation solutions are implemented and when individuals view migration as a viable option in light of available adaptation options. An instance is Australia's development partnership with Tuvalu through the Falepili Union treaty. This partnership ensures climate mobility pathways e.g. permanent residency for Tuvaluan (live, work and study), security guarantees and funding for adaptation, setting a precedent for bilateral climate agreements.¹¹⁶

¹¹⁴ Adebayo O.M Makanju and Hafiz T.A Khan, 'Determinants of Healthy Aging in Internally Displaced Communities in Nigeria' (2020) 6(3) African Human Mobility Review <<https://doi.org/10.14426/ahmr.v6i3.913>> accessed 18 June 2025

¹¹⁵ Thomas Birk and Kjeld Rasmussen, 'Migration From Atolls As Climate Adaptation: Current Practices And Barriers And Options In Solomon Islands' (2014) 38(1) Natural Resource Forum <<https://doi.org/10.1111/1477-8947.12038>> accessed 18 June 2025

¹¹⁶ Sam Huckstep and Helen Dempster, 'The Australia-Tuvalu Climate Migration Agreement: Takeaways and Next Steps' (Centre for Global Development, 4 December 2023) <<https://www.cgdev.org/publication/australia-tuvalu-climate-and-migration-agreement-takeaways-and-next-steps>> accessed 18 June 2025 See also, Australian Government Department of Foreign Affairs and Trade, 'Development Assistance in Tuvalu: Australia's Development Partnership with Tuvalu (Department of Foreign Affairs and Trade)' <<https://www.dfat.gov.au/geo/tuvalu/development-assistance/development-assistance-in-tuvalu>> accessed 18 June 2025

Examining these diverse approaches offers several key takeaways for Sri Lanka, which will be discussed below.

VI. Recommendations and Conclusion: Toward a Legal Framework for Climate Justice

V.I.A. Examining these diverse approaches offers several key takeaways for Sri Lanka, the first is the reform of international legal frameworks

- Expansion of the 1951 Refugee Convention: The convention defines a refugee as someone fleeing persecution due to race, religion, nationality, political opinion, or social group membership, guaranteeing rights like non-refoulement (no forced return to danger), work, and education.¹¹⁷ However, it excludes those displaced by climate change, conflict, or economic crises, leaving major gaps in modern protection needs. In light of the spate of climate displacement, there is a need to expand the definition of refugee to include climate displaced persons. Alternatively, a parallel protocol under the UNFCCC could be established to address climate-specific displacement.
- Development of a New Multilateral Treaty: A solution to the climate migration will be to establish a binding international treaty recognising *climate refugees* under the principle of *non-refoulement*, ensuring protection for cross-border displacement due to climate impacts. The treaty should mandate high-emission states to fund resettlement and compensation.¹¹⁸ Also, there is a need to leverage the loss and damage fund to be directed towards planned relocation, livelihood restoration, and adaptive infrastructure in Sri Lanka and other vulnerable states, with transparent governance to prevent misuse¹¹⁹
- Strengthen Regional Cooperation: The study recommends that regional cooperation in this case South Asian association for regional Cooperation (SAARC) be revitalized by developing climate displacement protocol to facilitate regional labour mobility,

¹¹⁷ Refugee Convention 1951, arts 1 -33

¹¹⁸ Dr Beena, 'Climate-Induced Displacement in South Asia: The Coming Challenge' (*NatStrat*, 25 November 2024 <<https://www.natstrat.org/articledetail/publications/climate-induced-displacement-in-south-asia-the-coming-challenge-170.html>> accessed 18 June 2025

¹¹⁹ Othering & Belonging Institute at UC Berkeley, 'Climate Crisis, Displacement, and Right to State: Climate Displacement and Resilience Data Base' (*Othering & Belonging Institute*) <<https://belonging.berkeley.edu/climatedisplacement/case-studies/bangladesh>> accessed 18 June 2025

coordinated disaster response, and shared early-warning systems, drawing inspiration from Bangladesh's National Strategy on Internal Displacement, while also establishing bilateral labour agreements similar to Tuvalu's Falepili Union with Australia to create structured migration pathways for Sri Lankans that incorporate climate adaptation funding mechanisms.¹²⁰

- Domestic Legal and policy Reform: The study recommends that Sri Lanka adopt a comprehensive approach to climate displacement by: (1) drafting a National Climate Displacement Policy that integrates the UN Guiding Principles on Internal Displacement ensuring relocation, compensation and livelihood rehabilitation; (2) empowering courts through Public Interest Litigation for displacement claims based on constitutional rights, and established environmental courts; and (3) implementing climate -smart urban planning reforms that prioritize mangrove restoration, elevated housing and decentralized economic opportunities to alleviate migration pressures.¹²¹
- Data and Accountability Mechanisms: To effectively address climate displacement, Sri Lanka should establish a robust monitoring system in partnership with the Internal Displacement Monitoring Centre (IDMC) to track and disaggregate climate-induced displacement data by gender, ethnicity, and livelihood while simultaneously enforcing mandatory climate risk disclosures and ecological penalties for foreign investors in vulnerable coastal industries like tourism and fisheries.¹²²

V.I.B. Conclusion

Sri Lanka's paradox, a non-SIDS bearing SIDS-level vulnerabilities, exposes the systemic inequities of international law, which privileges geopolitical classifications over empirical realities of climate risk. As sea-level rise renders coastal communities uninhabitable, the absence of legal recognition for climate refugees perpetuates a cycle of *de facto* statelessness and economic collapse.

¹²⁰ *ibid*

¹²¹ Hugh B. Roland, 'Compelled And Constrained Migration: Restrictions To Migration Agency In The Marshall Islands' (2023) 5:1212780 *Frontiers In Climate* <<https://doi.org/10.3389/fclim.2023.1212780>> accessed 18 June 2025

¹²² *ibid*

The comparative lessons from Tuvalu and Bangladesh underscore that regional cooperation and proactive legal innovation, not reliance on Western benevolence, are the cornerstones of climate justice. Tuvalu's digital sovereignty initiatives and Bangladesh's delta-planning demonstrate that adaptation is possible, but only with binding financial and legal commitments from high-emission states.

Sri Lanka must urgently challenge rigid legal categories that exclude it from SIDS protections, demand reparative finance through the Loss and Damage Fund, and forge South-South alliances to amplify pressure for treaty reform. Rather than ad-hoc solutions, a rights-based, legally enforceable regime for climate displacement can help avert a humanitarian catastrophe.

