



Faculty of Law

School of International Studies

THE RECOGNITION OF THE ENVIRONMENTALLY
DISPLACED AS REFUGEES.

CASE STUDY.

**Graduation project prior to obtaining the
Bachelor's degree in International Studies**

Author:

Tamia Isabela Ullauri Castro

Director:

Ana Maria Bustos Cordero

Cuenca - Ecuador

2023

DEDICATION

To my parents, Wilman and Francia, who have been my unconditional support throughout this arduous academic journey. Their dedication, effort and sacrifice have made it possible for me to achieve my goals.

GRATITUDE

To my tutor, Dr. Ana María Bustos, for her guidance and support during the process of this thesis. Her dedication and knowledge have been fundamental for the development of this work.

To my parents for being the pillars of my life and for accompanying me every step of the way. This thesis is a tribute to their effort, dedication and love, and I hope they will always feel proud of the achievements I have made.

To Daniela Ullauri who has accompanied me along this path being a fundamental support to achieve my goals, thank you for always being with me.

To my family and friends who have accompanied me throughout these 4 years of university life, who have always been there for me.

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Resumen:

El cambio climático nos ha traído consecuencias negativas a nivel global, pero sin duda existen personas a las cuales estas consecuencias han impactado en su vida de manera permanente. Este es el caso de las personas que han tenido que ser desplazadas del lugar donde se encontraba su domicilio a uno nuevo, debido a que las condiciones climáticas no permiten desarrollar normalmente la vida en ese lugar. La situación de las personas desplazadas es un problema al cual la comunidad internacional se enfrenta, debido a que no existe un marco jurídico mundial en el cual las personas se puedan amparar para solicitar refugio o los estados se puedan acoger para tomar decisiones. En el presente trabajo se busca justificar la necesidad de una ampliación de la normativa internacional sobre refugiados, para así poder otorgar la protección internacional a las personas que han tenido que ser desplazadas por el cambio climático.

Palabras clave: cambio climático, normativa internacional, protección internacional, refugiados, refugiados ambientales

Abstract:

Climate change has brought negative consequences at a global level, but there are people whose lives have been permanently impacted by these consequences. At present, there are people who have had to be displaced from their place of residence to a new one because the climatic conditions do not allow them to live normally in the place where their home was located. The situation of displaced persons is a problem that the international community is facing, since there is no global legal framework in which people can seek refuge or states can take refuge in order to make decisions. This paper seeks to justify the need for an extension of international refugee law in order to grant international protection to people who have been displaced by climate change.

Keywords: Climate change, environmental refugees, international protection, international regulations, refugees



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THE RECOGNITION OF THE ENVIRONMENTALLY DISPLACED AS REFUGEES.

CASE STUDY.

1. Introduction

The recognition of people displaced by climate change is an imminent need in the current context due to the growing number of people displaced for this reason. We are currently experiencing the effects produced by climate change in an intensified manner, which highlights the need to address the forced displacements that arise as a direct consequence of this phenomenon. However, there is a notable lack of specific international regulations that guarantee the protection and adequate recognition of these vulnerable people.

To understand the importance of addressing this problem, it is first necessary to identify the existing definitions of refugees, as well as to confirm that there is a relationship between climate change and the displacement of people. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol provide the definition of a refugee (UNHCR, nd). This definition, although it has been fundamental in the protection of refugees around the world, falls short when it comes to addressing current situations such as that of people who are forced to leave their homes due to climate change.

Climate change is a global phenomenon with great consequences around the world. Rising temperatures, more powerful storms, increased droughts, rising ocean levels, along with warming water, food shortages, poverty and displacement, are just some of the direct consequences of climate change (United Nations United, 2021). These factors have a significant impact on all life around us. People displaced by climate change often face a number of complex challenges, including lack of access to adequate housing, basic services, employment, and legal protection.

Despite the growing evidence of displacement caused by climate change and its impact on people's lives, there is a lack of international regulations that effectively address this issue. Existing legal frameworks do not explicitly contemplate the recognition and protection of people displaced by climate change. This gap in international regulations poses challenges to guarantee the rights and protection of these people, as well as to establish adequate assistance and accountability mechanisms on the part of the international community.

1.1 Objective

1.1.1 General Objective

Identify the elements or characteristics that will allow environmental displaced persons to be recognized as refugees

1.1.2 Specific objectives

1. Identify the existing definitions on refugees and the need to expand it for current cases.
2. Confirm the relationship between climate change and the displacement of people both within the same country and beyond its borders.
3. Analyze and discuss the information obtained from each case study and from official sources to determine the possibility that the environmentally displaced persons be recognized as refugitives.

1.2 Theoretical Framework

1.2.1 Refugees

1.2.1.1 International regulations for refugee status.

In 1945, the United Nations after the Second World War established among its purposes and principles, to carry out international cooperation to solve economic, social, cultural or humanitarian problems; one of the main objectives was to find a solution for the development, promotion and respect for human rights, taking into account fundamental freedoms of all citizens such as non-discrimination based on race, sex, language or religion (United Nations Organization, 1945). To accomplish this, the Office of the United Nations High Commissioner for the Declaration of Human Rights for Refugees (hereinafter UNHCR) was created years after the end of the Second World War, to be specific on December 14, 1950. This office was created with the aim of helping people who fled Europe in search of a new home; in theory the office would operate for 3 years and then close, but due to subsequent events the Office continues to operate to this day (UN Refugee Agency, 2021)

In the following year, with the purpose of fulfilling its objective, the Convention on the Statute of Refugees and Stateless Persons was carried out in Switzerland, guaranteeing compliance with human rights towards people who have had to be displaced from their place of origin, granting them the status of “refugees”. Convention on the Status of Refugees and Stateless Persons, a refugee is one who:

1) A person has been considered a refugee by virtue of the Agreements of May 12, 1926 and June 30, 1928, or the Conventions of October 28, 1933 and February 10, 1938, of the Protocol of September 1939 or the Constitution of the International Refugee Organization

2) As a result of events that occurred before January 1, 1951 and due to well-founded fear of being persecuted for reasons of race, religion, nationality, belonging to a certain social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, lacking nationality and being, as a result of such events, outside the country where they previously had their habitual residence, cannot or, due to said fears, does not want to return to it (United Nations Organization, 1951, p. 2).

As previously mentioned, all this was done in the context of the end of the Second World War. Therefore, the definition was oriented exclusively for those people who are outside the country due to the events of the First and Second World War; therefore, due to subsequent events, the definition of refugees had to be expanded on several occasions.

To achieve this expansion, new instruments emerged, the first of which was the 1967 Protocol on the Status of Refugees, which is an independent instrument of the 1951 Convention, but is totally related to it. The Protocol eliminated the geographical and temporal restrictions included in the refugee definition of the 1951 Convention (United Nations High Commissioner for Refugees, 2001).

It's important to take into account that the Convention on the Status of Refugees and Stateless Persons, and the 1967 Protocol, as the main international instruments on refugees and which have been taken as the basis for new instruments, whether regional, national or local.

Both the Convention and the Protocol cover 3 major issues:

1. The definition of the term refugee, as well as the conditions for cessation and exclusion of refugee status.
2. The legal status of refugees in their country of asylum, their rights and obligations, including the right to be protected against expulsion or return to a territory where their life or liberty is in danger.
3. The obligations of States, including that of cooperating with UNHCR in the exercise of its functions and facilitating its task of supervising the application of the Convention (United Nations High Commissioner for Refugees & Inter-Parliamentary Union, 2001, p.10).

There are currently 149 UN member states that are party to the Convention relating to the Status of Refugees, its 1967 Protocol, or both, while another 44 members are not. It is worth mentioning that Ecuador is one of the 149 States that is part of both the Convention and its protocol. (Maja Janmyr, 2021.) However, the fact that there are countries that are not part of it does not mean that these countries do not show their support for refugees. According to the BEYOND project (“Protection without Ratification International Refugee Law beyond States Parties to the 1951 Refugee Convention”) many of the major refugee-hosting countries have not signed or ratified the Convention or Protocol (European Commission, 2022).

In 1969 the Convention of the Organization of African Unity (hereinafter OAU), which is a strictly regional instrument, therefore, this extension was applied only to the African Convention. As a result of the decolonization of Africa, massive population movements occurred, thus leading to the elaboration and approval not only of the 1967 Protocol on Refugees, but also of the 1969 OAU Convention. It is important to mention and emphasize that, today, the 1969 OAU Convention is the only legally binding regional treaty on the subject of refugees (United Nations High Commissioner for Refugees & Inter-Parliamentary Union, 2001).

In itself, the definition proposed in this Convention does not intend to modify in any way the definition already proposed previously, but as already mentioned, it seeks to expand it, in this way:

The term "refugee" shall also apply to any person who, due to foreign aggression, foreign occupation or domination, or events that seriously disturb public order in part or all of their country of origin, or of the country of her nationality, she is obliged to abandon her habitual residence to seek refuge elsewhere outside her country of origin or the country of her nationality (Organization of African Unity, 1969, p.1).

This means that people fleeing civil unrest, widespread violence and war have the right to apply for refugee status in a Convention member state, whether their fear of persecution is well founded or not. The number of member states of this Convention is 45 (United Nations High Commissioner for Refugees & Inter-Parliamentary Union, 2001).

1.2.1.2 Refugee Status Determination

For a person to be recognized as a refugee, the Refugee Status Determination (RSD) procedure must be carried out, which is a legal procedure through which governments or UNHCR determine if a person seeking international protection may or may not be recognized as a refugee. States have the responsibility to make this determination, however, in the case of States that are not part of the Convention relating to the Status of Refugees of 1951 and/or do not have a fair and efficient national asylum procedure, this determination is made by UNHCR under its mandate (The UN Refugee Agency, 2021).

In order to make this determination, both States and UNHCR must rely on the Procedural Rules for Determining Refugee Status under UNHCR's Mandate (UNHCR, 2003). This standard was published in 2003 and is under constant review to reflect legal and procedural developments (The UN Refugee Agency, 2021).

1.2.1.3 Latin American Regional Regulations for refugee status.

Without a doubt, the most important instrument regarding the recognition of refugees in Latin America is the Declaration of Cartagena made in 1984. This Declaration took place in Cartagena de Indias, Colombia.

In 1984 a colloquium of government representatives, Latin American jurists, together with UNHCR, met to discuss the situation of refugees in Latin America. At that meeting, the document we know today as the Cartagena Declaration was approved. As in the 1969 Convention of the Organization of African Unity, the Cartagena Declaration proposes an application to the definition of the 1951 Convention on refugees (United Nations High Commissioner for Refugees & Inter-Parliamentary Union, 2001).

The Cartagena Declaration proposes that the definition of refugee used throughout the Latin American region, in addition to taking the elements of the definition of the 1951 Convention, also take people who have fled their countries, leaving the definition as follows:

People who have fled their countries "because their life, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances that have seriously disturbed public order" (Colloquium of Cartagena & ACNUR, 1984, p.3).

Unlike the 1969 Convention of the Organization of African Unity, the Cartagena Declaration is not legally binding on States, however, many of them apply it and some have incorporated it into their national legislation when defining a the refugees. The Declaration was supported by the Organization of American States, the General Assembly of the United Nations and the Executive Committee of UNHCR. (United Nations High Commissioner for Refugees & Inter-Parliamentary Union, 2001).

As previously mentioned, the Declaration is the most important instrument in Latin American in terms of refugees; it constitutes a great contribution to the progressive development of International Refugee Law. Also, it is worth noting that many of the advances in the field of refugee protection in Latin America are inspired and are based on the principles established in the Declaration (UNHCR, 2004).

After celebrating 20 years of the Cartagena Declaration on November 16, 2004, Latin American governments met in Mexico City to carry out the "Declaration and Plan of Action of Mexico to Strengthen the International Protection of Refugees in Latin America". This document established a series of measures that would be used to identify solutions that are durable over time and innovative to help refugees in the region (The UN Refugee Agency, 2021). The Declaration and Plan of Action of Mexico proposed 3 lasting solutions over time, all aimed at helping refugees in the region. The first is the Program for Self-sufficiency and Local Integration "Ciudades Solidarias", This program is aimed at solving the lack of employment in urban cities since refugees generally settle in them and their socioeconomic integration is a challenge for States and civil society, especially taking into account economic difficulties. that the countries of asylum themselves face (UNHCR, 2004). The second is: Comprehensive Program "Fronteras Solidarias" The program seeks to address the challenges and difficulties faced by refugees and migrants in border areas, such as lack of access to basic services, discrimination and violence (UNHCR, 2004).

Revitalize the execution of the "solidarity borders", "solidarity cities" and "solidarity resettlement" programs of the 2004 Mexico Action Plan to Strengthen the International Protection of Refugees in Latin America and recommend the application of the Mexico Action Plan as a regional approach to respond to the new challenges related to the identification and protection of refugees in the context of mixed migratory movements (Brasilia Declaration on the Protection of Refugees and Stateless Persons in the American Continent, 2010, p.3).

1.2.1.4 National regulations for refugee status.

Ecuador is one of the countries that has ratified the 1951 Geneva Convention on the Status of Refugees, and in turn also the 1967 Protocol on the Status of Refugees. In 1955 and 1969, respectively (Acnur, 2011). Consequently, Ecuador, having ratified this Convention and its Protocol, automatically complied with international provisions on International Refugee Law (UNHCR, 2021). In the same way, Ecuador is part of the Cartagena Declaration of 1984 and the Declaration and Plan of Action of Mexico of 2004, and finally, it is also part of the Brasilia Declaration on the Protection of Refugees and Stateless Persons in the American Continent carried out in 2010.

The authority granting or denying the recognition of refugee status in Ecuador, is the Government of Ecuador through the "Commission to Determine Refugee Status in Ecuador". This Commission is the body of the Ecuadorian Government in charge of evaluating and deciding whether or not to accept the refugee application. This body is made up of two representatives of the Ministry of Foreign Affairs and a representative of the Ministry of Government. UNHCR representatives also participate in these meetings only as observers, with voice but no vote (UNHCR, 2021).

1.2.2 Climate Change

1.2.2.1 What is climate change?

The United Nations Framework Convention on Climate Change defines climate change as "a change in climate attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over periods comparable periods of time" (United Nations, 1992, p. 6).

For Miller, (2007), global climate change refers to changes in any aspect of the planet's climate, such as temperature, precipitation and intensity and storm routes.

On the other hand, for the Manos Unidas Organization "climate change is an environmental phenomenon with profound economic and social consequences that mainly affects the countries of the South, located in areas less structurally prepared to withstand such natural phenomena" (Manos Unidas, 2020, p.1).

1.2.2.2 Causas del Cambio Climático

There are different factors that cause climate change, these factors according to the reports of the Intergovernmental Group of Experts on Climate Change (hereinafter IPCC) are of natural and anthropogenic origin (IPCC, 2007). This is how we can define that the evolution of the climate throughout certain periods depends on the effects of the sum of natural factors and those derived from human activity, or anthropogenic, and especially those called greenhouse gasses (Luis & Fernández, 2012).

For the United Nations, the causes of climate change are the following:

1.2.2.2.1 Power generation

The production of electricity and heat from fossil fuels contributes to significant global emissions. Most electricity is still produced by burning coal or natural gas, which produces carbon dioxide and nitrogen oxides, powerful greenhouse gasses that blanket the Earth and trap heat from the sun (United Nations, 2021). Worldwide, more than a quarter of electricity is generated from renewable wind and solar energy, which, unlike fossil fuels, emits little or no gasses or pollutants into the air (United Nations, 2021).

According to the International Energy Agency (hereinafter IEA), the electricity sector is responsible for approximately 40% of global energy-related carbon dioxide (CO₂) emissions (International Energy Agency (IEA), 2020). Additional data provided by the IEA is that the burning of fossil fuels such as coal, oil and natural gas to generate electricity is responsible for around 72% of CO₂ emissions from the electricity sector (International Energy Agency (IEA), 2020).

1.2.2.2.2 Manufacturing products

Industries and factories produce emissions, mainly by burning fossil fuels to produce energy that is used to make cement, steel, electronic components, clothing, and other goods. Mining and other industrial processes, such as construction, also produce gasses. The equipment used in the manufacturing process often uses coal, oil, or natural gas, and some materials, such as plastics, are made from chemicals derived from fossil fuels. The manufacturing industry is one of the largest emitters of greenhouse gasses in the world (United Nations, 2021). According to an IPCC report, the consumption of goods and services are responsible for around 21% of global greenhouse gas emissions (IPCC, 2014).

1.2.2.2.3 The felling of the forests

Clearing forests to build farms or ranches or for other reasons contributes to emissions because cutting down trees releases stored carbon. Every year about 12 million hectares of forest are destroyed. As forests absorb carbon dioxide, their destruction also limits nature's ability to remove these emissions from the atmosphere. Around a quarter of greenhouse gas emissions come from deforestation and agriculture and other land use changes (United Nations, 2021).

1.2.2.2.3 The use of transport

Most of the transport used runs on fossil fuels. This makes transport one of the sectors that produces the most greenhouse gasses, especially in terms of carbon dioxide emissions (United Nations, 2021).

1.2.2.2.4 Food production

Food production emits methane, carbon dioxide and other greenhouse gasses in a variety of ways, including deforestation and land clearing for agriculture and grazing, cattle and sheep farming, production and use of fertilizers and compost for crops, and the use of farm machinery or fishing boats for energy. , usually from fossil fuels. All of this makes food production one of the biggest contributors to climate change. In addition, greenhouse gas emissions come from food packaging and distribution (United Nations, 2021).

In summary, we could say that we, human beings, are the main causes of climate change because we carry out daily activities that contribute to the production of greenhouse gasses, be it the energy we use, the way in which we transport ourselves the food we eat. The same applies to the consumption of goods such as clothing, electronic components and plastic products. A significant part of greenhouse gas emissions is related to private homes. Our lifestyle has a huge impact on the planet. The richest bear the greatest responsibility: the richest 1% of the world's population together produce more greenhouse gas emissions than the poorest 50% (United Nations, 2021).

1.2.2.3 Consequences of climate change

We are currently facing a great challenge that broadly speaking does not seem to have an apparent solution. The consequences of climate change affect all sectors of the population and more and more time is running out to be able to reverse the situation that At this point it may seem like an impossible mission.

According to the United Nations a series of consequences can be stated, such as:

1.2.2.3.1 Rising temperatures

As the concentration of greenhouse gas emissions increases, the temperature of the earth's surface has also increased. The last decade, from 2011 to 2020, has seen the greatest warming on record. Rising temperatures cause an increase in heat-related illnesses and make working outdoors more difficult. As the weather warms, fires are more likely to start and spread faster (United Nations, 2021).

1.2.2.3.2 Stronger storms

As temperatures rise, more water evaporates, causing flooding and extreme rainfall, leading to more destructive storms. Ocean warming also affects the frequency and intensity of tropical storms. Cyclones, hurricanes, and typhoons feed on warm water at the ocean's surface. These storms often destroy homes and entire communities, causing enormous economic losses and loss of life (United Nations, 2021).

1.2.2.3.3 Increase in droughts

Climate change is causing water scarcity in various regions, thus increasing the risk of agricultural droughts that affect crops and ecological droughts that increase the vulnerability of ecosystems. Drought can also cause devastating dust storms capable of moving billions of tons of sand from one continent to another. Many people regularly experience periods of water scarcity (United Nations, 2021).

1.2.2.3.4 Ocean level rise and water warming

The ocean absorbs most of the heat from global warming. When the ocean warms, its volume increases because the water expands. Melting ice caps and icebergs contribute to sea level rise and threaten coastal and island communities. In addition, the ocean absorbs carbon dioxide and prevents it from accumulating in the atmosphere. But higher CO₂ levels can make oceans more acidic and threaten marine species and coral reefs (United Nations, 2021).

1.2.2.3.5 Food shortages

Climate change and the increase in extreme weather events are partly responsible for the increase in malnutrition among the world's poorest people. Fishing, crops and livestock may disappear or become less productive. Ocean resources that feed billions of people are threatened by continued ocean acidification. Changes in the ice cover of the polar caps alter the food supply from agriculture, hunting and fishing. Extreme heat reduces water and pasture for livestock, reduces agricultural production, and affects livestock (United Nations, 2021).

1.2.2.3.6 More health risks

Climate change is the greatest threat to human health. In fact, climate change is already damaging health through pollution, disease, extreme weather, forced displacement, mental health stress, and increased hunger and malnutrition because people cannot produce or find enough food. Environmental factors kill about 13 million people each year. Climate change trends are spreading disease, extreme weather is killing more people and weakening the ability of health systems to withstand stress (United Nations, 2021).

1.2.2.3.7 Poverty and displacement

Climate change increases the factors that push people into poverty. Floods can wash away slums and destroy homes and communities. The heat makes it difficult to work outdoors. Lack of water can affect crops. Over the last decade (2010-2019), weather-related events have displaced an average of 23.1 million people a year, increasing their chances of falling into poverty. Many refugees come from countries that are more vulnerable and less prepared to adapt to the effects of climate change (United Nations, 2021).

All these consequences affect the entire population on a daily basis. Currently, these consequences are reflected in terms of the economy, public health, food security and national security. According to the IPCC Special Report on Climate Change and Land, published in 2019, climate change causes an increase in poverty, inequality and social exclusion. Furthermore, climate change increases the frequency and intensity of extreme weather events, such as droughts, floods and storms, which can have a devastating impact on local communities and economies (IPCC, 2019).

In terms of economics, climate change can have a significant impact on the global economy, including disrupting supply chains, increasing insurance costs, and decreasing agricultural and fisheries productivity (National Academy of Sciences of the United States, 2016).

1.2.2.4 Adaptation and Mitigation

Adaptation and mitigation are measures that States can take to combat climate change and thus reduce its effects.

1.2.2.4.1 Adaptation

The IPCC defines adaptation as “The process of adjusting to the real climate and its effects. In human systems, adaptation tries to moderate damage or take advantage of beneficial opportunities. In some natural systems, human intervention may facilitate adjustment to projected climate and its effects” (IPCC, 2007b).

According to the 2007 IPCC report, there may be 3 types of adaptation.

- The first is anticipatory adaptation, which occurs before the effects of climate change are visible, it is also known as proactive adaptation (Parry & Intergovernmental Group of Experts on Climate Change Working Group I., 2007).
- Secondly, we have autonomous adaptation, this adaptation is not a conscious response to climate change, but is triggered by ecological changes in natural systems or by changes in the market or the well-being of human systems. It is also known as spontaneous adaptation (Parry & Intergovernmental Group of Experts on Climate Change Working Group I., 2007).
- Finally, there is the planned adaptation, which occurs as a product of an express decision in a policy framework. This adaptation is based on recognizing that conditions have changed or are about to change, so it is necessary to adopt measures to return to a desired state, to maintain it or to achieve it (Parry & Intergovernmental Group of Experts on Climate Change Working Group I., 2007).

1.2.2.4.2 Mitigation

The IPCC defines mitigation as an anthropogenic intervention, that is, the intervention of humans to reduce the anthropogenic forcing of the climate system. It comprises various strategies that aim to reduce the sources and emissions of greenhouse gases and enhance their sinks (Parry & Intergovernmental Group of Experts on Climate Change Working Group I., 2007).

When proposing mitigation strategies, it must be taken into account to propose programs that include climate change measures. These programs target economic activity to promote activities that are cleaner or do not produce significant greenhouse gas emissions. These include policies and investment plans that cover all sectors, but mainly energy production and use, transport, buildings, industry, land use and waste management (International Center for Research on the Phenomenon of The Child, 2022).

1.2.2.5 Legal Instruments for Climate Change

In 1972 in the Stockholm Declaration which was called "The first Earth Summit", the United Nations began to formulate actions to somehow reduce the damage to the environment that had been generated .

1.2.2.5.1 United Nations Framework Convention on Climate Change

This Convention was given in the year 1992 during the Earth Summit of that year, this Convention is taken as the first step to face the problem of climate change (United Nations, 2022). The United Nations Framework Convention on Climate Change (hereinafter UNFCCC) set out as an objective:

The stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. That level should be achieved in a timeframe sufficient to allow ecosystems to naturally adapt to climate change, ensure that food production is not threatened, and allow economic development to continue in a sustainable manner (United Nations Framework Convention on Climate Change Climate, 1992).

All the countries that have ratified the Convention undertake to carry out actions that contribute to meeting the objective, although in this case the greatest responsibility falls on the developed countries, since they are the ones that produce the greatest amount of greenhouse gas emissions. they should be the ones that do the most to reduce emissions in their territory (United Nations, 2020).

1.2.2.5.2 Kyoto protocol

In 1997 the Kyoto protocol was approved, this as one more response to climate change. However, it was not until 2005 that it entered into force due to a complex ratification process. Currently there are 192 countries that are part of this protocol (United Nations, 2020).

The Kyoto Protocol puts into operation the United Nations Framework Convention on Climate Change Committing industrialized countries to reduce their carbon emissions. It only binds developed countries by imposing a heavier burden under the principle of "common but differentiated responsibility and respective capacities", because it recognizes that they are the main responsible for greenhouse gasses (United Nations, 2020).

The protocol established certain mechanisms to help meet the objectives of the countries. In theory, countries should meet their targets through national measures, but if this is not the case, countries "may participate in emissions trading operations for the purpose of meeting their commitments under Article 3" (Protocol of Kyoto, 1997).

In this way, emissions trading allows those countries that have emission units left over (emissions allowed, but not used) to sell them to countries that exceed their number of units (United Nations, 2020).

1.2.2.5.3 Paris Agreement

In 2015, the governments of different countries met at the Conference of the United Nations on Climate Change (COP21), in the city of Paris to discuss issues related to climate change. This agreement is a legally binding international treaty; It is a historical fact because the agreement brings together all nations for the first time, all with the same objective, which is to stop climate change; it currently has 194 parties that have signed (United Nations, 2022).

The main objective of the Paris Agreement is to strengthen the global response to the threat of climate change by not allowing global temperatures to exceed 2°C above pre-industrial levels and in turn continue efforts to further limit the temperature by reaching 1.5 °C (United Nations, 2022)..

The implementation of the Paris Agreement will require economic and social change based on the best available science. The Paris Agreement follows a five-year cycle in which countries take increasingly ambitious climate action. In 2020, countries submitted climate action plans called nationally determined investments (United Nations, 2021).

1.2.3 Environmental Refugees

As previously mentioned, climate change is responsible for a number of consequences which affect people who inhabit planet earth every day. Not all of us have been affected in the same way, in many places around the world, natural catastrophes or meteorological conditions have occurred on our planet that have caused certain areas where life used to develop normally. Today it is impossible for people to inhabit it, resulting

in millions of people having to be displaced. In 2019 alone, the weather conditions in certain areas caused around 24.9 million people are displaced in 140 countries (Internal Displacement Monitoring Centre, 2020). Research shows that without climate action and “environmental” risk reduction, these numbers could double in later years, reaching 200 million per year by 2050 (Gaynor & Ioane, 2020).

This is how people displaced by climate change emerge, also known as climate migrants or environmental refugees, according to Myers (2002). The latter was first coined by Lester Brown in his book "Plan B: Rescuing a Planet Under Stress and a Civilization in Trouble". Since then this term has been used in international discussions on the subject or academic literature.

However, this term has not been used correctly because there is no legal recognition.

For a person to be recognized as a “refugee” they have to fit the definitions provided above by either the Convention relating to the Status of Refugees and Stateless Persons, the 1969 Convention of the Organization of African Unity or the Cartagena Declaration. ; a person who has had to be displaced for climatic reasons does not fit into any of them. Climate change is a reality that we all experience, a reality that all states and international organizations seek to change or reduce, seek to reduce the consequences or fight against them, but even so, there are States and intergovernmental agencies that still do not recognize migratory displacement for reasons environmental factors as a decisive factor in granting refugee status.

As we can see, climate change and the impact it generates on the displacement of people are not isolated events. The previous chapter showed the consequences of climate change, although the displacement of people appears as a consequence, we must take into account that other consequences could have been the cause of the displacement of people.

1.2.4 Displacement due to climate change and its impact on Human Rights

The aforementioned consequences of climate change directly affect the human rights of people, since due to these consequences there is a loss of rights or they are directly affected, which will be listed below:

Right	Declaration of Human Rights	International Covenant on Economic, Social and Cultural Rights	American Convention on Human Rights (Pact of San José)
living place	Article 25	Article 11	-
Feeding	Article 25	Article 11	-
Health	Article 25	Article 12	-
Education	Article 26	Article 13	-
Life	Article 3	Article 6	Article 4

Tabla 1 Human Rights

1.2.4.1 Right to housing

At the moment in which natural disasters such as floods, extreme rains, hurricanes, typhoons, cyclones are caused, they directly affect homes because they destroy everything in their path, thus leaving people without decent housing where they can live. The United Nations Committee on Economic, Social and Cultural Rights has indicated that "climate change negatively affects the right to adequate housing" and that "people in vulnerable situations, including people living in informal settlements and people Internally displaced persons are particularly susceptible to the impacts of climate change on the right to adequate housing" (United Nations Committee on Economic, Social and Cultural Rights, 2020, p. 9).

1.2.4.2 Right to food

The United Nations Committee on Economic, Social and Cultural Rights has noted that "climate change poses a threat to the progressive realization of the right to adequate food" and that "food insecurity and malnutrition are a direct and indirect consequence of climate change, disproportionately affecting the poorest and most vulnerable people" (United Nations Committee on Economic, Social and Cultural Rights, 2019, p. 5). In addition, the report of the Intergovernmental Panel on Climate Change notes that "climate change is likely to increase global food insecurity and malnutrition in many countries, especially the poorest countries" (IPCC, 2014, p. 14).

1.2.4.3 Right to health

Climate change is already causing death and disease from more frequent extreme weather events such as heat waves, storms and floods, disruptions to food systems, and an increase in foodborne and zoonotic diseases, water and vectors and mental problems (World Health Organization., 2021).

Climate change is the greatest health threat facing humanity, and medical professionals around the world are already responding to the health damage caused by this ongoing crisis (World Health Organization, 2021).

1.2.4.4 Right to education

The impacts generated by climate change, such as environmental degradation, natural disasters, scarcity of resources and food insecurity, can increase the obstacles to access to education and reduce its quality (IPCC, 2021). Additionally, climate change may exacerbate educational inequalities by disproportionately affecting the poorest and most vulnerable communities, which in turn limits their ability to access education and improve their quality of life (Liu et al., 2018).

1.2.4.5 Right to life

The right to life is the fundamental principle of human rights and an essential and inevitable condition for the enjoyment of all other rights (Campos, 2018).

Climate change may affect the right to life, as established in various international documents. The United Nations Framework Convention on Climate Change (UNFCCC) recognizes that climate change is a threat to the survival of humanity and that urgent action is needed to address this problem (UNFCCC, 1992). The Universal Declaration of Human Rights establishes that everyone has the right to life, and that this right must be protected by law (UN, 1948).

1.2.5 Need for legal recognition

Since the adoption of the Geneva Conventions as the legal framework for refugees in 1951, the situation, characteristics and origins of refugees have changed radically. Refugees are no longer just people fleeing oppressive political regimes and armed conflicts (Borràs Pentinat, 2006).

Currently, there are no studies that delve into the legality or recognition of environmental refugees, despite the fact that both the United Nations and the UNHCR have ruled on the subject, and the concern that exists around it due to the fact that the number of people displaced for climatic reasons does nothing but increase, and because each country has specific laws on migration, it becomes difficult for people to migrate to another place in search of better conditions, hence the need for international recognition for those displaced people.

The impact that natural disasters can generate depends on the severity of the natural hazard and the ability of a population to deal with it.(UNHCR, 2017). Therefore, we can deduce that the most affected by these events are the developing countries because, whether due to economic, social or political factors, these countries are much more vulnerable to a crisis of any kind than developed countries.

Developing countries are more vulnerable to climate change because their populations are climate dependent and the main impacts of climate change (deforestation, pollution, and degradation of natural systems and ecosystems) rob them of their homes, lands, traditions, and sustainable livelihoods (Trejo, 2017).

The situation of displacement is a fundamental condition for survival and life, the displacement can be within the borders of a state or it can be to a distant part of the country, which results in a future request for international refuge. (Raquel & Diaz, 2017).

The normative and narrative frameworks of the 20th century become obsolete when we want to apply them in these times of environmental crisis. It is clear that the international community must intensify its search for political solutions and clarify legal structures to address the growing phenomenon of climate refugees (Vernet, 2016).

Currently, there is no international legislation that takes into account the protection and assistance of people who have left their place of origin due to natural disasters or environmental deterioration. (Trejo, 2017). International legislation, as well as global political will, is needed to take into account people who cross borders for environmental reasons in order to provide them with some protection. There is no link between human rights and climate change in legal texts or in legal practice (Trejo, 2017). Due to the alarming number of people displaced by climate change, specialization work must be started on the regulation of international treaties and conventions, in which the rights of these people who flee for these reasons is concerned (Raquel & Díaz, 2017).

Raquel & Díaz (2017) mention that the need to carry out an international convention on this subject falls both on de facto reasons and on reasons proper to the law, seeing the increase in the rate of natural catastrophes among other consequences of climate change, the international community has to act not only under the principles of solidarity but also the urgency that exists under these events.

At the COP21 Paris Climate Change Summit, a call is made to recognize the status of climate refugees, urging to modify the agreements of the Geneva Convention to grant them the same protection and rights that refugees currently have, but the fact that they only if a call is made to carry out this recognition and there are no binding instruments that make the states recognize it, it leaves us in the same situation, it leaves us with the need for that legal recognition.

1.2.5 Analysis: Kiribati

The Republic of Kiribati is located in the Pacific Ocean, it is made up of 32 islands. The group of islands has an extension of about 3,900 km from east to west and from north to south they extend to 2,100 km. Kiribati's climate is tropical, hot and humid, moderated by trade winds (Spanish Ministry of Foreign Affairs and Cooperation).

Ilustración 1 Map of Kiribati



Fuente: Peter Hermes Furian

According to McNamara (2015), due to the rise in sea level, the long-term habitability of these low-lying islands is threatened. Kiribati does not have the option of internal migration that is sustainable in the long term, as there is no higher altitude land to which they can move and most of the islands are less than three meters above sea level (McNamara, 2015). As time passes and the sea level continues to rise, there will come a point where it is no longer possible for people to inhabit the islands. In this case, it is clear that climate change is presented to the Government of Kiribati as a threat to the lives of the people who inhabit Kiribati, so this threat must be responded to in the context of violation of Human Rights (Campos, 2018).

The situation that Kiribati is going through gave way to one of its citizens requesting international refuge. This is the case of Ioane Teitiota who, due to the effects of the change, had to emigrate from his native village of Tarawa to New Zealand with his wife, where their three children were born. When her temporary residence permit expired, Ioane Teitona applied for refugee status or protection status based on the New Zealand Immigration Act of 2009 (Altamirano, 2020). On June 23, 2013, the application was rejected by the Immigration and Protection Court, on the grounds that the Act's "refugee" status should be interpreted in the sense of the United Nations definition of Refugees in the 1951 Convention (Altamirano, 2020). In addition, the Immigration and Protection Tribunal examined the 2007 National Adaptation Action Program which was presented by the Republic of Kiribati in compliance with the United Nations Framework

Convention on Climate Change, in which it is declared that the vast majority of the population had livelihoods that were highly dependent on environmental resources (Altamirano, 2020). Teitiota later appealed this decision again but received the same response.

Thus, on September 15, 2015, Mr. Teitona, represented by attorney Michael J. Kidd, submitted a communication to the Human Rights Committee, said communication was appealing that the deportation to the Republic of Kiribati by the State of New Zealand violated his right to life, which goes against article 6 of the International Covenant on civil and political rights since the deportation causes him to be left without his means of subsistence because the crops had been destroyed, there were frequent floods to overpopulation, violent disputes over the growing scarcity of habitable land on Tarawa, and their lack of access to potable water; and that the authorities of the State party (New Zealand) did not adequately assess the risk inherent in their deportation (Altamirano, 2020).

Although Teitiota argued that New Zealand violated his right to life by expelling him from his country and exposing him to living conditions in Kiribati, the UN Human Rights Committee determined that in the specific case of Teitiota, there was no violation of this right. law by the New Zealand courts, because after an evaluation of his testimony and the information provided it was determined that, despite the fact that there is a quite serious situation, protection measures had been adopted in Kiribati that could be sufficient (Must, 2020)

Although Teitiota's request for protection before the Human Rights Committee was initially denied on the grounds that he was not in imminent risk, the committee later determined that people fleeing due to the effects of climate change should not be returned to their country of origin if the return represents a risk to human rights (UNHCR, 2020).

This is a historical fact that opens the door for future cases to be heard, for UNHCR this event may have important repercussions for the international protection of displaced persons in the context of climate change and disasters (UNHCR, 2020). In its 2018 Annual Report, UNHCR highlighted that there is an ongoing debate about whether people displaced by climate change and environmental disasters should be recognized as refugees under international refugee law, and that a careful approach is needed. so as not to undermine the refugee protection framework established by the 1951 Convention relating to the Status of Refugees.

In order for all this to be possible, the Committee highlights the importance of making strong national and international efforts to prevent people from being exposed to human rights violations due to climate change (Human Rights Committee, 2020).

2.Methodology

The methodology that was used in this research work corresponds to a qualitative methodology. A qualitative method is one that: "uses the collection and analysis of data to refine the research questions or reveal new questions in the interpretation process" (Roberto Hernández Sampieri & Carlos Fernández Collado, 2003, p. 7). These tools were used in order to know the current status regarding the regulatory aspect and recognition of environmental refugees.

Thus, this final degree project was developed in 3 stages, the first corresponds to a bibliographical analysis. For the second stage, the qualitative research modality known as case study was used, which consists of analyzing specific cases in which population displacements occurred due to climatic reasons through the search for information provided by international entities such as the UN and UNHCR.

The case study is an investigative process that examines in detail a defined system (particular case) over time, to understand in depth a specific reality of society (Alan, Cortez, 2017). Case studies allow a clear and broad understanding of the reality under study, and may lead to the discovery of new meanings that cause a rethinking of the phenomenon (Alan, Cortez, 2017). The case study provides the opportunity to study in depth a part of a certain problem with a time that is generally limited (Bell, 2005).

This resource was very useful during the research work since it allow us to know the context in which a person requesting international protection due to climate issues is found, the current barriers that prevent these people from being recognized as refugees, but it will also be possible to analyze possible future solutions to this problem based on analyzing the case of who can be taken as the first environmental refugee.

In the third stage, semi-structured interviews were carried out. Interviews were selected through a qualitative research technique, researchers obtain information about points of view and experiences of individuals or groups (Alan, Cortez, 2017).

The interviews were carried out with people who know the subject in depth, such as officials from the Ministry of Foreign Affairs and Human Mobility to obtain information that allows us to know the situation of refugees in Ecuador, the regulations under which the application processes are carried out. of refuge and future approval; As they are people who work on issues related to the refuge in their day-to-day life, it would be important to know their opinion about the feasibility of recognizing displaced persons as refugees.

3. Resultados y Discusión

Around the world there are people who are forced to leave their homes and place of origin due to different factors, whether they are political, ideological, economic or gender persecution, armed conflicts, violence in general or other factors that do not allow their stay at home (United Nations Organization, 1951). These traumatic events force them to leave everything behind in search of safety and a better life. At the time of these forced displacements, people are left facing situations of vulnerability, these situations cause a direct impact on human rights (Jaimes Villamizar, 2014).

Due to this violation of rights, the United Nations is in charge of creating international regulations to guarantee that the human rights of displaced persons are not violated for any reason; and this is how the international regulations for refugees were born, which seeks to guarantee international protection to displaced persons (UNHCR, n/d). The basic instrument of all regulations for refugees is the Convention on the Status of Refugees and Stateless Persons of 1951 together with its protocol made in 1967. The 1951 Convention establishes who meets the requirements to be a refugee, as well as the rights and obligations both refugees and host countries, Due to the fact that the definition of refugees was limited, the need for an extension was seen, which is why the 1967 Protocol on the Status of Refugees was carried out. The 1967 Protocol removes the geographical and temporal restrictions of the original text of the 1951 Convention, expanding its scope of application. This means that regardless of when or where the displacement occurred, nations belonging to the Protocol are obliged to protect and assist all persons who meet the refugee definition (United Nations High Commissioner for Refugees, 2001).

The combination of the 1951 Convention and its 1967 Protocol provide a solid legal framework for the protection of refugees and ensure that States fulfill their obligations towards these displaced persons, known as refugees. These international agreements also establish national cooperation and shared responsibility to protect refugees, while promoting long-term solutions (United Nations High Commissioner for Refugees, 2001).

However, these instruments respond to the displacement of people due to the aforementioned factors, but they do not contemplate new events that can trigger the migration of people, such as climate change.

Climate change with the degradation of the environment has negative effects on society, these effects have been one of the social issues that has acquired the most prominence in the political agendas of the international community in the last three decades. All this has meant that since 1992, the year in which the United Nations Convention on Climate Change was celebrated, a long task of debates and agreements on this topic has been developed (Camargo Farías & Carredor Naranjo, 2021).

However, despite the infinity of agreements, declarations, conventions and conventions signed by the various nations of the world to mitigate the impacts of these environmental phenomena, today thousands of people still suffer from droughts, floods and other environmental problems, directly affected by earthquakes, high waves, and rising sea levels and other environmental phenomena threaten the safety, life and integrity of men, women and children around the world (Camargo Farías & Carredor Naranjo, 2021).

All these factors have led to a flow of cross-border migration, that is, a new cause of displacement of people, as stated by our interviewees:

According to some studies it is considered that natural disasters have caused more deaths than wars or armed conflicts and taking into account global warming, earthquakes, natural disasters and even situations caused by man himself such as: oil leaks or chemicals substances into rivers, which affects both their habitat and the food they eat. (interviewed 2.6).

In this context, the concept known as environmental refugees arises, which has been consolidated within the framework of different international scientific forums. The first definition of environmental refugee by the United Nations was given in a report carried out in 1985 in which different guidelines were established for these people (El-Hinnawi 1985). However, although its existence is recognized, the problem arises from the absence of legal recognition. The lack of recognition of the condition of refugees from climate change in the international human rights system prevents the right to life of this group from being adequately protected (Ruiz López, 2023).

The lack of recognition of the condition of refugees from climate change in the international human rights system prevents adequately protecting the right to life of this group of people. At the regional level, the Cartagena Declaration of Refugees (1984), despite being a non-binding legal instrument for the States, concluded that it was necessary to broaden the concept of refugee enshrined in the Convention and its Protocols (Ruiz López, 2023).

For these reasons, it is essential to reconsider international, regional and national instruments, to broaden this recognition, as stated:

A reform is necessary in both national and international regulations, it is foreseeable that in the near future the number of regulations that incorporate this type of provision will increase. And logically, by having a reform to the regulations, new administrative provisions will also be issued for the determination of refugee status in Ecuador. (Interview 1.7).

Although the need to carry out a reform to the different existing regulations is evident, we also have to be aware that carrying out these reforms is not viable to a certain extent due to various factors; making modifications to the 1951 Convention could be counterproductive, the fact of opening the Convention to recognize environmental refugees would lead to the opening of new negotiations on "refugees" within a context of current crisis marked by emotional debates in In the context of immigration, reopening the debate within the Convention would be risking and even weakening it (Raquel & Díaz, 2017).

On the other hand, the main difficulty that states argue is the fact that the legal recognition of environmental factors means a devaluation of current refugee protection, since migration due to environmental factors does not address the political factors contained in the law. Refugee Convention (Solà, 2012).

For Solà (2012) it is not positive to generate confusion in terminology related to climate change, migration and the specificity of persecution, which are the main reasons why refugees leave their country of origin and seek and request international protection. .

Another difficulty that can be encountered at the time of recognition is that there are too many definitions and typologies regarding environmental refugees. This occurs because there is no consensus on the causes that should grant a person the status of environmental refugee. On the one hand, treating any type of deterioration and/or environmental and/or climatic impact as an official reason for refugee status will lead to the use of a specific protection instrument to cover any type of situation and become a general instrument. Or vice versa, it is limited so as not to cover cases of extreme urgency and critical treatment (Camargo Farías & Carredor Naranjo, 2021).

Due to the reasons presented , it is possible to conclude that it is not feasible to make a modification to the existing regulations, but it is imminent to seek a solution. macCue(1993) suggests adopting a new Convention based on the principles of international environmental law, which would include three fundamental principles: the duty to prevent damage, the obligation to mitigate it, the obligation to provide assistance and the general duty to compensate. MacCue (p. 151-191).

This proposal could be considered a long-term solution, since it would require the political will of the states to carry out a new international legal instrument that is in charge of granting protection to environmental migrants and also of certain obligations and duties to States facing this migratory group (Camargo Farías & Carredor Naranjo, 2021).

3.1 Caso de Ecuador

As previously analyzed, Ecuador has ratified the different existing conventions on refugees, both internationally and regionally, therefore, it undertakes to comply with the provisions presented in them. At the national level, Ecuador also has instruments that help guarantee protection for people who request refuge.

One of those instruments in the Constitution of the Republic of Ecuador which expresses in its article 41 that:

The rights of asylum and refuge are recognized, in accordance with the law and international human rights instruments. People who are in a condition of asylum or refuge will enjoy special protection that guarantees the full exercise of their rights. The State will respect and guarantee the principle of non-refoulement, in addition to emergency humanitarian and legal assistance.. (National Constituent Assembly of Ecuador, 2008)

On the other hand, Ecuador also has the Organic Law of Human Mobility which aims to:

Regulate the exercise of rights, obligations, institutions and mechanisms related to people in human mobility, which includes emigrants, immigrants, people in transit, returning Ecuadorians, those who require international protection, victims of human trafficking and trafficking crimes, smuggling of migrants; and, their relatives. (Foreign Ministry of Ecuador, 2017)

Although Ecuador has these instruments to guarantee refuge and human mobility, the same problem that exists both internationally and regionally with respect to people displaced by climate change occurs, since they are not contemplated in the regulations. Although to date "no requests for environmental issues have been submitted to the International Protection Unit of the Azogues 6 Zonal Directorate" (interview 1, 1) "it is also known that in the future it will be one of the main reasons why the people will be forced to leave their country of origin" (Interview 2.1).

Since displacement due to climate change is a reality and since there is no regulation that guarantees the protection of these people, it is considered that:

"A reform is necessary both in national and international regulations, it is foreseeable that in the near future the number of regulations that incorporate this type of provision will increase. And logically, by having a reform to the regulations, new administrative provisions will also be issued for the determination of refugee status in Ecuador" (Interview 2,7).

Regarding what is incumbent on the national level: "a reform of the Constitution, the Organic Law of Human Mobility and its regulations is necessary" (interview 3.7).

Therefore, it can be concluded that, although in Ecuador there are different instruments and regulations to guarantee the protection of people who request refuge or people who for some other reason have to migrate, there are no regulations for those people who have to be displaced by environmental issues therefore their protection cannot be guaranteed.

4. Conclusión

It is clear that there is a need for international protection for people who have had to be displaced by climate change. The recognition of these people represents an urgent need. Throughout this titling work, the existing definitions of refugees have been examined, the impacts of climate change on the displacement of people have also been understood, in order to confirm the need for specific international regulations for people displaced by change. climate.

It was possible to identify the existing definitions of refugees provided by the different international regulations such as the Convention on the Status of Refugees of 1951 and its 1967 Protocol, regional regulations such as the 1969 Convention of the Organization of African Unity, Latin American regional regulations such as the Declaration of Cartagena in terms of national regulations we have the Constitution of the Republic of Ecuador. After analyzing all the existing definitions, we can confirm that an expansion of these definitions is necessary for current cases.

On the other hand, lower case was possible to understand what climate change is, its causes and consequences in order to confirm that there is a direct relationship between climate change and the displacement of people both within the same country and outside its borders.

Finally, after analyzing and discussing the information obtained from different official sources and the case study, the feasibility of recognizing displaced persons as refugees can be determined. Although at the beginning of the research an extension of the current definition of refugee is proposed, throughout the research it was confirmed that this would not be viable due to different factors such as the fact of opening the convention on the status of refugees could weaken it, for the states the recognition of refugees due to climate change would imply a devaluation of the current protection of refugees. Finally, there are too many definitions and typologies regarding environmental refugees, so because of this it is complicated to define whether a person needs or not international protection.

Therefore, the most viable option would be to hold a new convention for displaced persons, which means a long-term solution, but for this to be achieved, the will of states and the international community is needed.

In conclusion, it is essential that the international community works together to establish strong and coherent international law that effectively addresses the recognition and protection of people displaced by climate change. In addition, it is necessary to strengthen assistance and accountability mechanisms to ensure an adequate and fair response to this humanitarian crisis. Climate change is a global challenge that requires global action, and the protection of displaced people must be high on the international agenda.

Referencias

ACNUR. (n.d.). *La Convención de 1951*. ACNUR. <https://www.acnur.org/convencion-de-1951#:~:text=El%20art%C3%ADculo%201%20de%20la,fuera%20del%20pa%C3%ADs%20de%20su>

ACNUR. (2003). *Normas procedimentales para determinar la condición de refugiado bajo el mandato del ACNUR*. ACNUR. Retrieved March 21, 2023, from <https://www.acnur.org/fileadmin/Documentos/Publicaciones/2012/8944.pdf>

ACNUR. (2017). *Desplazamiento interno en América Latina y el Caribe en el contexto del cambio climático*

- Agencia Internacional de Energía (AIE). (2020, April 28). *Global Energy Review 2020 – Analysis*. IEA. Retrieved March 23, 2023, from <https://www.iea.org/reports/global-energy-review-2020>
- ACNUR. (2020, January 24). *UN Human Rights Committee decision on climate change is a wake-up call, according to UNHCR*. UNHCR. Retrieved April 13, 2023, from <https://www.unhcr.org/news/briefing/2020/1/5e2ab8ae4/un-human-rights-committee-decision-climate-change-wake-up-call-according.html>
- ACNUR. (2004, Noviembre). *LA SITUACIÓN DE LOS REFUGIADOS EN AMÉRICA LATINA: PROTECCIÓN Y SOLUCIONES BAJO EL ENFOQUE PRAGMÁTICO DE LA DECLARACIÓN DE CARTAGENA SOBRE LOS REFUGIADOS DE 1984*.
- ACNUR - The UN Refugee Agency. (s. f.). *Protección | ACNUR*. ACNUR. <https://www.acnur.org/proteccion>
- ACNUR. (2021). *Protegiendo a las personas refugiadas en Ecuador. Preguntas y Respuestas*. ACNUR. Retrieved March 2, 2023, from https://www.acnur.org/fileadmin/Documentos/RefugiadosAmericas/Ecuador/Preguntas_y_respuestas_sobre_refugio_en_Ecuador.pdf
- Alto Comisionado de las Naciones Unidas para los Refugiados & Unión Interparlamentaria. (2001). *GUÍA SOBRE EL DERECHO INTERNACIONAL DE LOS REFUGIADOS*.
- Asamblea Nacional del Ecuador. (2008). *Constitución de la República del Ecuador dada por la Asamblea Nacional de 2008*.
- Bell, J. (2005). *Cómo hacer tu primer trabajo de investigación* (Roc Filella Escolá, trad.). España: Gedisa. (Trabajo original publicado en 1999).
- Borràs Pentinat, S. (2006). *Environmental refugees: The new challenge in international environmental law*.
- Camargo Farías, D. C., & Corredor Naranjo, J. A. (2021). Migraciones y medio ambiente: el sistema jurídico internacional frente a la figura de refugiado ambiental. *El Ágora USB*, 21(1), 75–98. <https://doi.org/10.21500/16578031.5496>.
- Campos, N. (2018). *EL CAMBIO CLIMÁTICO Y LA AMPLIACIÓN DEL ESTATUS DE REFUGIADO. ESTUDIO DE CASO: LA MIGRACIÓN FORZADA DE KIRIBATI Y TUVALU POR LOS EFECTOS DEL CALENTAMIENTO GLOBA*.
- Cancillería del Ecuador. (2017). https://www.cancilleria.gob.ec/wp-content/uploads/2014/03/ley_de_movilidad_humana_oficial.pdf
- Centro Internacional para la Investigación del Fenómeno de El Niño. (2022). *Adaptación y Mitigación*. CIIFEN. Retrieved March 3, 2023, from <https://ciifen.org/adaptacion-y-mitigacion/>

Climate Change Litigation Databases. (2015). *Ioane Teitiota v. The Chief Executive of the Ministry of Business, Innovation and Employment - Climate Change Litigation*. Climate Change Litigation Databases. Retrieved April 13, 2023, from <http://climatecasechart.com/non-us-case/ioane-teitiota-v-the-chief-executive-of-the-ministry-of-business-innovation-and-employment/>

Coloquio de Cartagena & ACNUR. (1984). *DECLARACIÓN DE CARTAGENA SOBRE REFUGIADOS*. Comisión Europea. (2022, August 24). *Protection without Ratification? International Refugee Law beyond ...* CORDIS. Retrieved March 2, 2023, from <https://cordis.europa.eu/project/id/851121/es>

Comité de Derechos Económicos, Sociales y Culturales de las Naciones Unidas. (2020). Observación general No. 7 (2020) sobre el derecho a una vivienda adecuada y los desalojos forzados.

Comité de Derechos Económicos, Sociales y Culturales de las Naciones Unidas. (2019). Observación general No. 36 (2018) sobre el derecho a la alimentación.

Convención Marco de las Naciones Unidas sobre el Cambio Climático. (1992). Retrieved April 18, 2023, from <https://unfccc.int/resource/docs/convkp/convsp.pdf>

Debebe, E. (2020, January 21). *El Comité de Derechos Humanos abre la puerta a las solicitudes de asilo por cambio climático*. UN News. Retrieved April 13, 2023, from <https://news.un.org/es/story/2020/01/1468291>

Declaración de Brasilia sobre la Protección de Personas Refugiadas y Apátridas en el Continente Americano. (2010, November 11). ACNUR. Retrieved March 2, 2023, from <https://www.acnur.org/fileadmin/Documentos/BDL/2010/8133.pdf>

GRID 2020 | Informe mundial sobre desplazamiento interno 2020. Internal Displacement Monitoring Centre.

Gaunor, T. & Jeane, T. (2020, November 30). 'El cambio climático es la crisis determinante de nuestro tiempo y afecta especialmente a las personas desplazadas. ACNUR

Jaimes Villamizar, J. P. (2014). *Desplazamiento forzado y derechos humanos*. Editorial de la Universidad de Granada.

Retrieved October 27, 2022, from.

<https://www.acnur.org/noticias/noticia/2020/11/5fc5dcb54/el-cambio-climatico-es-la-crisis->

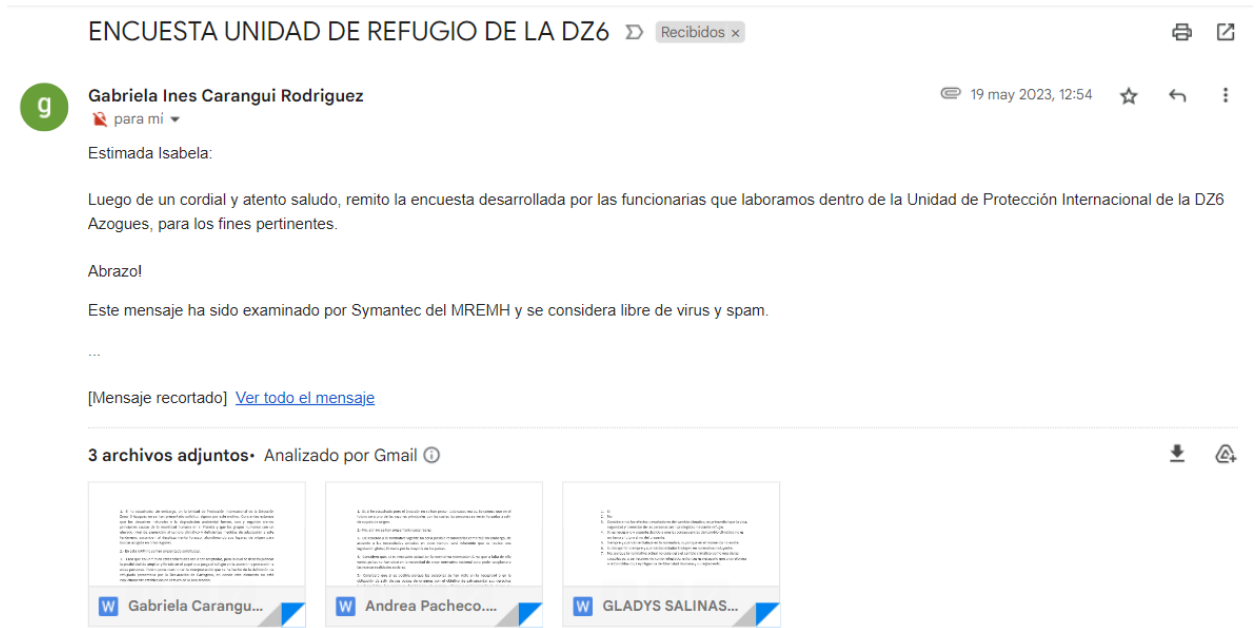
Grupo Intergubernamental de Expertos sobre el Cambio Climático (IPCC). (2014). Cambio climático 2014: Impactos, adaptación y vulnerabilidad. Informe de trabajo del Grupo II del IPCC

IPCC. (2021). Cambio climático 2021: La base de las ciencias físicas. Contribución del Grupo de trabajo I al Sexto Informe de evaluación del IPCC

- La Agencia de la ONU para los refugiados. (2021). *Declaración y Plan de Acción de México / ACNUR - Declaración de Cartagena - 30 años*. Cartagena+30. Retrieved March 2, 2023, from <https://cartagena30.acnur.org/declaracion-y-plan-de-accion-de-mexico-para-fortalecer-la-proteccion-internacional-de-los-refugiados-en-america-latina-2/>
- La Agencia de la ONU para los Refugiados. (2021). *Determinación de la condición de refugiado*. ACNUR. Retrieved March 2, 2023, from <https://www.acnur.org/determinacion-de-la-condicion-de-refugiado.html>
- La agencia de la ONU para los Refugiados. (2021, agosto 2). *Historia del ACNUR*. ACNUR. Retrieved March 1, 2023, from <https://www.acnur.org/historia-del-acnur.html>
- Liu, J., Dietz, T., Carpenter, S. R., Alberti, M., Folke, C., Moran, E., ... & Ostrom, E. (2018). Compound risks of ecological and socioeconomic systems. *Ecology and Society*, 23(4), 31. doi: 10.5751/ES-10562-230431
- Maja Janmyr. (2021). Los Estados no signatarios y el régimen internacional de los refugiados. *Revista Migraciones Forzadas*, 67, 42. <https://www.fmreview.org/sites/fmr/files/FMRdownloads/es/edicion67/janmyr.pdf>
- Manos Unidas. (2020, Junio 9). *¿Qué es el cambio climático? | ONG Manos Unidas*. Manos Unidas. Retrieved March 2, 2023, from <https://www.manosunidas.org/observatorio/cambio-climatico/que-es-cambio-climatico>
- MacCue, G. (1993). Environmental Refugees: Applying International Environmental Law to Involuntary Migration, *Georgetown International Environmental Law Review*, 6 (1), pp.151-191, 1993.
- Mcnamara, K. E. (2015). *Migración con dignidad a través de las fronteras en Kiribati*. www.gpem.uq.edu.au
- Moore, S. M. (2021). *La nueva geopolítica del cambio climático: de la cooperación a la competencia*. CIDOB. Retrieved June 19, 2023, from https://www.cidob.org/es/articulos/anuario_internacional_cidob/2021/la_nueva_geopolitica_del_cambio_climatico_de_la_cooperacion_a_la_competencia
- Myers, N. (2002). Environmental refugees: A growing phenomenon of the 21st century. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 357(1420), 609-613. <https://doi.org/10.1098/rstb.2001.0953>
- Naciones Unidas. (2020). *¿Qué es el Protocolo de Kyoto? | CMNUCC*. UNFCCC. Retrieved March 3, 2023, from https://unfccc.int/es/kyoto_protocol
- Naciones Unidas. (2020). *¿Qué es el Protocolo de Kyoto? | CMNUCC*. UNFCCC. Retrieved March 3, 2023, from https://unfccc.int/es/kyoto_protocol

- Naciones Unidas. (2020). *Qué es la Convención Marco de las Naciones Unidas sobre el Cambio Climático* | CMNUCC. UNFCCC. Retrieved March 3, 2023, from <https://unfccc.int/es/process-and-meetings/que-es-la-convencion-marco-de-las-naciones-unidas-sobre-el-cambio-climatico>
- Naciones Unidas. (2021). *Causas y efectos del cambio climático* | Naciones Unidas. the United Nations. Retrieved March 3, 2023, from <https://www.un.org/es/climatechange/science/causes-effects-climate-change>
- Naciones Unidas. (2021). *El Acuerdo de París* | CMNUCC. UNFCCC. Retrieved March 3, 2023, from <https://unfccc.int/es/acerca-de-las-ndc/el-acuerdo-de-paris>
- Naciones Unidas. (2022). *Cambio climático* | Naciones Unidas. the United Nations. Retrieved March 3, 2023, from <https://www.un.org/es/global-issues/climate-change>
- Naciones Unidas. (2022). *Cambio climático* | Naciones Unidas. the United Nations. Retrieved March 3, 2023, from <https://www.un.org/es/global-issues/climate-change>
- Neill, D. A., & Cortez Suárez, L. (2017). *Procesos y Fundamentos de la Investigación Científica*.
- Organización Mundial de la Salud. (2021, October 30). Cambio climático y salud. Retrieved April 18, 2023, from <https://www.who.int/es/news-room/fact-sheets/detail/climate-change-and-health>
- ONU. (1948). Declaración Universal de los Derechos Humanos. Retrieved April 18, 2023, from <https://www.un.org/es/universal-declaration-human-rights/>
- Raquel, J., & Díaz, C. (2017). *ESTATUTO JURÍDICO INTERNACIONAL DE REFUGIADOS AMBIENTALES EN COMUNIDADES*.
- Roberto Hernández Sampieri, & Carlos Fernández Collado. (2003). *Metodología de la investigación*.
- Solá, O. (2012) Desplazados medioambientales. Una nueva realidad, Revista Cuadernos de Derechos Humanos, Núm. 66, Universidad de Deusto, Bilbao.
- Trejo, M. (2017). *Refugiados climáticos: un vacío legal*. <http://www.iom.int/jahia/webdav/shared/shared/mainsite/microsites/IDM/workshops/climate-change->
- Vernet, S. (2016). *LOS REFUGIADOS CLIMÁTICOS UNA CUESTION A RESOLVER DEL DERECHO INTERNACIONAL* .

Anexos



Gabriela Carangui

1. ¿Ha escuchado usted acerca de los refugiados ambientales?

Si he escuchado; sin embargo, en la Unidad de Protección Internacional de la Dirección Zonal 6 Azogues no se han presentado solicitud alguna por este motivo. Consientes estamos que los desastres naturales y la degradación ambiental fueron, son y seguirán siendo principales causas de la movilidad humana en el Planeta y que los grupos humanos con un elevado nivel de exposición al cambio climático y deficientes medidas de adaptación a este fenómeno, sucumben al desplazamiento forzoso, abandonando sus lugares de origen para buscar acogida en otros lugares.

2. ¿Se han presentado solicitudes de refugio por temas climáticos?

En esta UAPI no se han presentado solicitudes.

3. ¿Cuál es su opinión sobre la posibilidad de que las personas desplazadas por el cambio climático sean reconocidas como refugiados?

Creo que en un futuro estas solicitudes van a ser aceptadas, para lo cual se debería planear la posibilidad de ampliar y fortalecer el papel que juega el refugio en la atención y protección a estas personas. Esto supone cuestionar la interpretación que se ha hecho de la definición de refugiado presentada por la Declaración de Cartagena, en donde este elemento no está explícitamente establecido en el texto de la Declaración.

4. ¿Considera que es necesario actualizar el derecho internacional de los refugiados para incluir a las personas desplazadas por el cambio climático?

Por supuesto que urge actualizar la normativa nacional como internacional para incluir a las personas desplazadas por el cambio climático.

5. ¿Considera que es posible un reconocimiento a las personas desplazadas por el cambio climático como refugiados?

Una nueva lectura de la Declaración de Cartagena, que acoja a las víctimas de catástrofes ambientales, implicaría un gran paso en la construcción de soluciones regionales para enfrentar los retos que supone la protección de estas personas.

6. ¿Considera que los problemas derivados del cambio climático son factores determinantes para que las personas huyan de sus países? ¿Podrían encajar estas personas en la protección que se les da a los refugiados?

Creo que proponiendo una nueva interpretación de la Declaración de Cartagena que permita incorporar dentro del concepto de refugiado a las personas forzadas a abandonar su país de origen debido a desastres ambientales o climáticos que ocasionen graves disturbios al orden público, poniendo en peligro la vida, integridad y libertad de los afectados, podrían encajar para ser reconocidas como refugiadas.

7. ¿Se podría utilizar la normativa ecuatoriana y los procesos institucionales para dar protección a las personas que se encuentran en esta situación o qué tipo de reformas considera que sean necesarias tanto legislativas como en procesos administrativos?

Es necesaria una reforma tanto en la normativa nacional como internacional, es previsible que en el futuro próximo aumente el número de normas que incorporen este tipo de disposiciones. Y lógicamente, al tener una reforma a la normativa también se expedirá nuevas disposiciones administrativas para la determinación de la condición de persona refugiada en el Ecuador.

Andrea Pacheco

1. ¿Ha escuchado usted acerca de los refugiados ambientales?

Si, si he escuchado pero el área aún no se han presentado casos reales. Se conoce que en el futuro será uno de las razones principales por las cuales las personas se verán forzadas a salir de su país de origen.

2. ¿Se han presentado solicitudes de refugio por temas climáticos?

No, aún no se han presentado casos reales.

3. ¿Cuál es su opinión sobre la posibilidad de que las personas desplazadas por el cambio climático sean reconocidas como refugiados?

De acuerdo a la normativa vigente no sería posible reconocerlas como tal; sin embargo, de acuerdo a las necesidades actuales en poco tiempo será inherente que se realice una legislación global, firmada por la mayoría de los países.

4. ¿Considera que es necesario actualizar el derecho internacional de los refugiados para incluir a las personas desplazadas por el cambio climático?

Considero que, si es necesario actualizar la normativa internacional, ya que a falta de ella varios países se han visto en la necesidad de crear normativa nacional para poder acoplarse a las nuevas realidades sociales.

5. ¿Considera que es posible un reconocimiento a las personas desplazadas por el cambio climático como refugiados?

Considero que si es posible porque las personas se han visto en la necesidad o en la obligación de salir de sus países de orígenes con el objetivo de salvaguardar sus derechos fundamentales. Las personas desplazadas de manera interna o externamente lo hacen en necesidad de una protección.

6. ¿Considera que los problemas derivados del cambio climático son factores determinantes para que las personas huyan de sus países? ¿Podrían encajar estas personas en la protección que se les da a los refugiados?

De acuerdo con algunos estudios se considera que los desastres naturales han causado más muertes que las guerras o los conflictos armados y tomando en consideración el calentamiento global, terremotos, desastres naturales e incluso situaciones provocadas por el mismo hombre como: como fugas de petróleo o sustancias químicas a ríos lo que afecta tanto a su hábitat como a los alimentos que consumen. Todas estas situaciones no están bajo el control de las personas o pueden decidir sobre ellas por lo que les obliga a huir con la finalidad de que sus derechos fundamentales no se vean afectados.

7. ¿Se podría utilizar la normativa ecuatoriana y los procesos institucionales para dar protección a las personas que se encuentran en esta situación o qué tipo de

reformas considera que sean necesarias tanto legislativas como en procesos administrativos?

Al momento existen visas por razones ambientales; sin embargo, al momento de que se cree una normativa internacional permitiría regular a nivel mundial el acceso a este derecho sin que dependa de manera expresa de la buena voluntad de cada país. Por lo tanto, considero la necesidad de que exista una normativa mundial de acuerdo a las nuevas problemáticas ambientales.

Gladys Salinas

1. ¿Ha escuchado usted acerca de los refugiados ambientales?

Si, si he escuchado sobre el tema, pero no conozco de ningún caso puntual ya que en esta unidad no se han presentado casos en concreto.

2. ¿Se han presentado solicitudes de refugio por temas climáticos?

No, hasta el momento no se ha recibido solicitudes para solicitar refugio por temas ambientales.

3. ¿Cuál es su opinión sobre la posibilidad de que las personas desplazadas por el cambio climático sean reconocidas como refugiados?

Considerando los efectos devastadores del cambio climático, es primordial que la vida, seguridad y bienestar de las personas sean protegidas mediante refugio por lo tanto estoy de acuerdo con esta posibilidad sin embargo al momento no es posible que esto suceda por la normativa existente.

4. ¿Considera que es necesario actualizar el derecho internacional de los refugiados para incluir a las personas desplazadas por el cambio climático?

Si, es necesario debido a que en la actualidad no existe normativa internacional que hable sobre el tema y tiene que ser de manera urgente ya que las consecuencias del cambio climático no es un tema a futuro si no del presente.

5. ¿Considera que es posible un reconocimiento a las personas desplazadas por el cambio climático como refugiados?

Siempre y cuando se trabaje en la normativa, sí, porque en el momento no existe una normativa internacional que permita que las personas desplazadas por cambio climático puedan ser reconocidas como refugiados.

6. ¿Considera que los problemas derivados del cambio climático son factores determinantes para que las personas huyan de sus países? ¿Podrían encajar estas personas en la protección que se les da a los refugiados?

Si, es un factor que puede ser determinante al momento en el que las personas huyan de los países. Si, estas personas encajarían siempre y cuando los estados trabajen en normativa incluyente, ya que con la normativa que existe actualmente estas personas no podrían encajar en la protección a los refugiados.

7. ¿Se podría utilizar la normativa ecuatoriana y los procesos institucionales para dar protección a las personas que se encuentran en esta situación o qué tipo de reformas considera que sean necesarias tanto legislativas como en procesos administrativos?

No, porque la normativa actual no considera el cambio climático como una de las causales para ser reconocido como refugiado, entonces es necesario que una reforma a la Constitución, Ley Orgánica de Movilidad Humana y su reglamento.