Center for Gender & Refugee Studies

Submission to the Special Rapporteur on the Independence of Judges and Lawyers

CGRS Input for the Thematic Report on the Role of Justice Systems in Addressing the Climate Crisis

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The Center for Gender & Refugee Studies (CGRS) is grateful for the opportunity to contribute this input to inform your thematic report on the role of justice systems in addressing the climate crisis.[1]

This submission draws upon the *Practical Toolkit on International Protection for People Displaced across Borders in the context of Climate Change and Disasters* (hereinafter the Practical Toolkit), prepared by CGRS, the Kaldor Centre for International Refugee Law and Essex Law School and Human Rights Centre, in collaboration with UNHCR.[2] The Toolkit provides analysis and guidance directly relevant to the call for input. A copy is included in the Annex.

Among the most tangible consequences of climate change and disasters is displacement. In 2025 alone, disasters triggered 13.6 million displacements worldwide.[3] Weather-related events, many intensified by climate change, accounted for 90.97 percent of those

[1] The Office of the High Commissioner for Human Rights, *Thematic Report on the role of Justice Systems in Addressing the Climate Crisis - Call for input* (accessed on May 18, 2026). This submission responds to questions **Judges № 3.1** "Climate Competence: What steps would best ensure that judges have the skills to engage effectively with scientific evidence concerning climate change and environmental harm?" and **Lawyers № 1.1** "How do lawyers respond to the climate crisis, having particular regard to their participation in litigation, in civil and criminal cases involving environmental defenders, in community education, and in legal empowerment efforts?"

[2] Kate Jastram, Jane McAdam, Geoff Gilbert, Tamara Wood and Felipe Navarro, *International Protection for People Displaced across Borders in the context of Climate Change and Disasters: A Practical Toolkit* (Center for Gender & Refugee Studies, Kaldor Centre for International Refugee Law and Essex Law School and Human Rights Centre, 2025).

[3] Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2026* (2026).

movements.[4] The scale of this displacement, and its trajectory, underscore the urgency of developing legal and institutional responses adequate to the challenge.

This submission examines the role of judges, adjudicators and practitioners in ensuring the effective application of existing international protection frameworks to people displaced across borders in the context of climate change and disasters. Part I addresses the nature of the competencies required for accurate and rights-based decision-making in this context and traces the evolution of the legal landscape from early misconceptions to emerging consensus. Part II presents the Practical Toolkit as a resource designed to support the domestic implementation of these principles. Part III offers recommendations directed at States and relevant institutions.

I. CLIMATE CHANGE, DISPLACEMENT AND JUSTICE SYSTEMS

While most displacements resulting from the effects of climate change and disasters occur within domestic borders, a growing number of people are compelled to cross international boundaries in search of safety and protection. As the impacts of climate change intensify, judges, adjudicators and practitioners in receiving states are increasingly being called upon to determine whether those who cross borders in this context are entitled to international protection under existing refugee and human rights frameworks.

A. Judges, Adjudicators and International Protection in the Context of Climate and Disaster Related Displacement

Ensuring that judges and adjudicators can effectively assess claims arising in this context does not require specialized expertise in climate science or environmental modeling. Instead, as explained in the Practical Toolkit, it requires a clear understanding of how the impacts of climate change and disasters generate or interact with the conditions for persecution and other serious harm. This means moving beyond a narrow conception of climate events as purely natural phenomena. Disasters are never simply natural. They occur when natural hazards interact with pre-existing social, economic, cultural and political conditions, including patterns of discrimination, failures of governance, and structural inequality, that together determine whether people can withstand those hazards or are forced to flee.

[4] *Id.*

Instead, judges and adjudicators must be able to evaluate the full range of hazards experienced by applicants, understood within the broader social, economic, cultural and political conditions of the country of origin, and to assess how those conditions interact with their individual circumstances and vulnerabilities, including the trajectory of risk over time. UNHCR has described this as understanding the local *hazard-scape* as a whole, rather than focusing narrowly on the climate or disaster event itself.[5]

This understanding of the *hazard-scape* underpins the accurate application of existing international refugee and human rights frameworks to claims arising in this context. There is currently no dedicated international legal framework specifically governing people displaced across borders in the context of climate change and disasters, but existing frameworks provide protection for some people when interpreted and applied with rigor.

B. Applying Existing Frameworks: From Misconception to Emerging Consensus

Until relatively recently, it was widely assumed that international refugee and human rights law did not apply to people displaced in the context of climate change and disasters. Climate-related harm was treated as a background condition, a natural and therefore legally neutral fact, rather than as the kind of persecution or serious harm capable of grounding an international protection claim. This understanding has evolved substantially as scholars, international bodies, and domestic courts have worked through how climate impacts interact with marginalization, state failure, discriminatory policy, and human rights obligations.

As detailed in the Toolkit, two developments marked a decisive shift. In 2020, the UN Human Rights Committee issued its decision in *Teitiota v New Zealand*, holding that without robust national and international efforts, the effects of climate change in receiving states may expose individuals to violations of their rights to life and to freedom from cruel, inhuman, or degrading treatment under the ICCPR, thereby triggering the *non-refoulement* obligations of the sending states.[6] In 2020, UNHCR issued its *Legal Considerations regarding Claims for International Protection made in the context of the Adverse Effects of Climate Change and Disasters*, affirming that existing frameworks—including the 1951 Refugee Convention and its 1967 Protocol, the International Covenant on Civil and Political Rights (ICCPR), the

[5] UN High Commissioner for Refugees (UNHCR), *Legal Considerations regarding Claims for International Protection made in the context of the Adverse Effects of Climate Change and Disasters* (2020).
[6] UN Human Rights Committee, *Teitiota v New Zealand*, Communication No. 2728/2016, UN Doc CCPR/C/127/D/2728/2016 (Jan. 7, 2020).

Convention against Torture, and their regional counterparts in Africa, the Americas and Europe—apply to claims arising in this context.[7]

These developments have since been reinforced at the regional and international levels. The Inter-American Court of Human Rights, in its 2025 *Advisory Opinion on the Climate Emergency and Human Rights,*[8] recognized that cross-border displacement driven by climate change can give rise to international protection claims and that states' *non-refoulement* obligations apply in this context.[9] The International Court of Justice, in its 2025 *Advisory Opinion on the Obligations of States in respect of Climate Change,*[10] affirmed the same principle, holding that states may not return individuals to countries where climate-related conditions place their lives at real risk, in breach of their obligations under international human rights law.[11]

II. THE PRACTICAL TOOLKIT AS A RESOURCE FOR JUDGES AND LAWYERS

The Practical Toolkit was developed to assist judges, adjudicators and practitioners faced with claims in which the impacts of climate change and disasters form part of, or provide the context for, an international protection claim. It does not seek to extend the scope of international protection under refugee or human rights law. Rather, it explains how climate change and disasters can contribute to establishing the factual basis for international protection under existing legal frameworks, and provides principled guidance on their interpretation and application. It covers the international frameworks most relevant to such claims, including the 1951 Refugee Convention and its 1967 Protocol, the ICCPR and the Convention Against Torture, as well as established regional frameworks in Africa, the Americas and Europe.

[7] UNHCR, *Legal Considerations* (2020).
[8] Inter-Am. Ct. H.R., Advisory Opinion 32/23, *Climate Emergency and Human Rights* (May 29, 2025). The Opinion was first made available on July 3, 2025, in Spanish only. Official English and Portuguese translations are expected beginning July 11, 2025. The Court has also created a dedicated microsite for the Opinion with access to all written interventions, hearing videos, and related materials.
[9] *See* Felipe Navarro, *The Inter-American Court of Human Rights' Advisory Opinion: From emerging practices to legal obligations on climate- and disaster-related displacement*, Nansen Initiative +10 Blog (Apr. 20, 2026).
[10] I.C.J., *Obligations of States in Respect of Climate Change*, Advisory Opinion (Jul. 23, 2025).
[11] Jane McAdam, *How the ICJ's Advisory Opinion on Climate Change Addresses Displacement, International Protection and Ongoing Statehood*, Researching Internal Displacement (Jul. 24, 2025).

A. Key Considerations for Assessing International Protection Claims

The Practical Toolkit identifies five key considerations that should guide the preparation and assessment of all international protection claims involving the impacts of climate change and disasters, whether such impacts are central to the claim or part of the broader context in which it arises. These considerations apply across all relevant legal frameworks and are equally relevant to individual and group-based determination procedures.

- First, there are no special rules for international protection claims involving climate change and disasters. Such claims are assessed through the same systematic application of applicable legal criteria to the established facts as any other protection claim.

- Second, the *hazard-scape* should be considered as a whole. Judges, adjudicators and practitioners should assess the full range of hazards to which an applicant may be exposed, including their interaction with social, economic, cultural and political conditions, rather than focusing narrowly on the climate or disaster event itself.

- Third, climate change and disasters affect people in different ways. Their impacts are not uniform but fall unevenly across populations, with marginalized groups, including women, children, Indigenous peoples, and people with disabilities, frequently facing heightened exposure and vulnerability on account of pre-existing patterns of discrimination and inequality. An intersectional assessment of the applicant's individual circumstances, characteristics and vulnerabilities is therefore essential.

- Fourth, human agency contributes to the impacts of climate change and disasters. The relevant inquiry is not whether climate change itself is "natural," but whether State action or inaction, discrimination, exclusion or failures of protection contribute to the risk of serious harm faced by the applicant.

- Fifth, the risk of harm may manifest over time. A forward-looking assessment of risk must be broad enough to encompass harms that may emerge gradually, and there is no requirement that the risk be imminent.

Together, these considerations provide judges and lawyers with a practical analytical framework for evaluating protection claims in a manner that is legally grounded, context-sensitive and responsive to the realities of climate-related displacement.

B. TRANSLATING PRINCIPLES INTO DOMESTIC PRACTICE

While international and regional legal frameworks provide the foundation, their application necessarily unfolds within domestic legal systems. Judges, adjudicators, and practitioners play a critical role in that process, and the Practical Toolkit is designed to support that work by offering principled, comparative guidance on how existing refugee and human rights frameworks apply to claims arising in this context. To that end, it is available in English and Spanish,[12] with a French version forthcoming in second half of 2026, reflecting a commitment to reaching legal practitioners across different regions and legal traditions.

To facilitate its use in practice, the Practical Toolkit is accompanied by a shorter Overview[13] introducing its key considerations for decision-makers and practitioners as a ready-reference guide. In addition, co-authors at the Kaldor Centre for International Refugee Law have developed a suite of training materials, including an introductory video, notes for trainers, participant worksheets and hypothetical scenarios.[14]

The work of translating these principles into domestic practice is already underway. In 2023, CGRS published its practice guide for U.S. practitioners, *Analyzing Asylum Claims for Individuals Fleeing Climate Change or Environmental Disasters* (Feb. 2023).[15] It broke new ground as the first resource to adapt UNHCR's 2020 *Legal Considerations* into practical guidance tailored to a specific domestic legal framework. Since then, CGRS has published three more country-specific practice advisories for advocates, demonstrating the climate dimensions of protection claims from Nicaragua, Guatemala, and Haiti, using composite

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[12] Kate Jastram, Jane McAdam, Geoff Gilbert, Tamara Wood y Felipe Navarro, *Protección internacional para personas desplazadas a través de fronteras en el contexto del cambio climático y los desastres: Herramientas Prácticas* (Center for Gender & Refugee Studies; Kaldor Centre for International Refugee Law y Essex Law School and Human Rights Centre, 2025).

[13] Kate Jastram, Jane McAdam, Geoff Gilbert, Tamara Wood and Felipe Navarro, *Overview of International Protection for People Displaced Across Borders in the Context of Climate Change and Disasters: A Practical Toolkit* (Center for Gender & Refugee Studies, Kaldor Centre for International Refugee Law and Essex Law School and Human Rights Centre, 2025).

[14] *See* Climate Mobility Hub, *Practical Toolkit on Climate Change and Disaster Displacement: Training Materials for Decision-Makers and Practitioners* (last accessed on Jun. 1, 2026).

[15] CGRS, *Analyzing Asylum Claims for Individuals Fleeing Climate Change or Environmental Disasters* (Feb. 2023). To access this resource, please follow this link for general research purposes. It is also available upon request to advocates representing asylum seekers through CGRS's Technical Assistance Library.

hypotheticals drawn from real cases to show how climate-related harms intersect with and strengthen asylum claims under U.S. law.

National versions of the Practical Toolkit are also under development in other countries. In Australia, the Kaldor Centre is developing a resource expected to be published in 2026, which will provide guidance to legal practitioners and decision-makers on the preparation and determination of claims involving climate change and disasters under Australia's domestic legal framework, noting the particular requirements of Australian legislation and its interpretation by Australian courts and tribunals. In the United Kingdom, a practitioner-led initiative is similarly underway, with the participation of Essex Law School and Human Rights Centre, developing guidance tailored to the domestic legal framework to support practitioners and judges engaging with these claims.

III. RECOMMENDATIONS

There is an urgent need to support judges, lawyers and decision-makers in applying existing international protection frameworks accurately and consistently to claims involving the impacts of climate change and disasters. Building on the frameworks and resources described above, the following recommendations aim to strengthen judicial and legal capacity and promote consistent, rights-based decision-making in this context.

- States should ensure that judges, adjudicators and practitioners responsible for determining international protection claims involving climate change and disasters have access to adequate training and guidance on the application of existing refugee and human rights frameworks in this context, including resources such as the Practical Toolkit and its accompanying training materials.

- States should ensure that decision-makers have access to comprehensive and reliable country of origin information that includes information on the impacts of climate change and disasters, the availability of State protection, and the situation of marginalized groups, enabling accurate factual assessments of the risks faced by applicants in this context.

- States should develop or support the development of domestic guidance adapting international and regional protection frameworks to their specific legal systems, ensuring that the principles established at the international level are translated into consistent and rights-based practice at the national level.