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Climate Exile without Refugeehood: Rethinking Legal Protection for Cross-Border Climate Displacement in South Asia

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ABSTRACT: South Asia is one of the world's most climate-vulnerable regions, where glacial melt, extreme flooding, salinity intrusion, sea-level rise, and intensifying heat are already driving large-scale internal displacement and, in specific corridors, increasingly plausible cross-border mobility. Yet cross-border climate-displaced persons remain poorly recognised and weakly protected. Regional engagement with the international refugee regime is uneven: Afghanistan has acceded to the 1951 Refugee Convention and 1967 Protocol, but several key South Asian states remain non-parties and most do not operate comprehensive asylum systems that translate need into enforceable status and rights. This creates a recurring recognition gap in which movement may occur, but lawful stay, legal personhood, and protection are contingent or withheld, reinforced by global reluctance to expand Convention refugeehood to environmental harm as such. Using the lens of compound uninhabitability, this article argues that climate mobility in South Asia is often neither temporary nor voluntary. The convergence of ecological shocks, territorial degradation, and institutional fragility generates repeated and sometimes functionally irreversible movement, while governance choices, including land policy, infrastructure, and unequal relief and adaptation, can convert climate stress into compelled mobility without a clear convention-ground nexus. The article shows why existing refugee and migration frameworks are ill-suited to climate exile, why non-refoulement and emerging doctrines including climate-induced statelessness remain partial, and why regional legal innovations, including mobility compacts and humanitarian residency pathways, offer the most viable protection route beyond refugeehood.

KEYWORDS: Climate-Induced Displacement, Compound Uninhabitability, Cross-Border Climate Mobility, Refugee Protection Gap, South Asia

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1. Introduction: Climate Exile without Refugeehood in South Asia

South Asia is entering a new phase of climate vulnerability in which mobility is no longer only a short-term reaction to discrete disasters, but increasingly a longer-run response to places becoming harder to live in. Intensifying flood cycles, extreme heatwaves, unprecedented glacial melt and glacial lake outburst flood risks, alongside salinity intrusion and sea-level rise in low-lying coastal zones, are reshaping settlement viability and livelihoods across the volatile region (IPCC 2023). These pressures are already driving large-scale internal displacement and, in specific corridors and borderlands, contribute to cross-border mobility pathways that are socially and economically familiar even when they are legally precarious. Hence, climate displacement in South Asia cannot be understood as temporary or voluntary in any simple way. The convergence of ecological shocks, territorial degradation and institutional fragility is producing compound conditions of uninhabitability that generate repeated, and sometimes irreversible, mobility. In this setting, bordering is not only a jurisdictional line but a mode of political ordering that distributes risk, regulates movement, and frequently converts vulnerability into illegality. Border governance is increasingly securitised, treating mobility as a threat to be deterred rather than a harm to be managed, and this securitisation shapes who can move, how, and at what cost. Citizenship and documentation operate as exclusion technologies, filtering access to work, welfare, and recognition, and thereby magnifying climate harms for groups already positioned at the margins. Hence, the result is a participation and protection deficit in borderlands, where vulnerable communities experience climate stress alongside surveillance, constrained access to remedies, and limited voice in the policy choices that structure exposure and relocation.

The legal and political predicament is that cross-border climate mobility remains poorly recognised even as it becomes more foreseeable. Contrary to common shorthand, the region is not uniformly positioned outside the global refugee regime. Afghanistan acceded to the 1951 Refugee Convention and the 1967 Protocol in 2005, but several key South Asian states, including Pakistan, India, Bangladesh, Nepal, Sri Lanka and Maldives, have not acceded, and most do not operate comprehensive national asylum systems that reliably translate need into enforceable status and rights (UNHCR 2015; UNHCR 2005). Non-signatory states are disproportionately concentrated in South and Southeast Asia, and the persistence of non-accession and ad hoc practice is a structural feature of how the international refugee regime operates in the contemporary period (Janmyr 2021). For people displaced by climate stress who cross borders, this produces a recurring recognition gap: movement may occur, but legal personhood, lawful stay and protection are often withheld or rendered contingent. That gap is also shaped by a global politics of definition. There is no dedicated international convention that confers refugee status on persons displaced by climate change as such, and there is limited political appetite to revise the Refugee Convention definition to include environmental harm as an independent ground. UNHCR (United Nations High Commissioner for Refugees) has consistently cautioned against the label “climate refugee” because it blurs the legal boundaries of Convention refugeehood and can imply entitlements that the Convention, in most cases, does not provide (Siegfried 2023). The result is a double constraint: borders harden as habitats become less viable, yet the dominant protection categories remain anchored in persecution-based templates or discretionary migration schemes. This creates what this article terms climate exile: a condition of cross-border movement under uninhabitability pressures where recognition is politically constrained and legal protection remains thin, temporary or absent.

This article does not argue for expanding the Refugee Convention definition to include climate harm as an independent ground. Such expansion is doctrinally awkward, politically unattainable in the foreseeable future, and, critically, of limited practical value in South Asia, where most states are not parties to the Convention or its Protocol and would remain unbound by any amended definition. Instead, the argument is that protection for climate exile must be constructed outside Convention refugeehood, through human rights obligations that bind South Asian states independently of refugee law, and through regional legal innovation.

The paper uses the lens of compound uninhabitability. The concept captures the way climatic hazards converge with territorial degradation and institutional fragility to produce conditions in which return is formally imaginable but substantively untenable. When livelihoods collapse through salinity intrusion, repeated flooding, or the cascading effects of mountain hazards, the distinction between "voluntary" movement and "forced" displacement becomes unstable. In these contexts, people often move not because they prefer to migrate, but because the option of staying becomes progressively non-viable. The paper therefore proposes "climate exile" as a category that names the political and legal predicament of cross-border mobility under uninhabitability conditions, where legal personhood and protection are withheld not because movement is optional, but because recognition is politically constrained (Gilmore et al. 2024).

Climate exile in South Asia is shaped by political structures that mediate climate harm into displacement. Hazards rarely translate into mobility automatically. Land governance, infrastructure choices, disaster response capacity, and the distribution of adaptation protections determine who is exposed, who is protected, and who is compelled to move. In settings marked by institutional fragility, patronage, or unequal protection, climate stress can become a displacement multiplier: vulnerability is socially produced, and mobility can be coerced through omission, neglect, or the uneven allocation of relief, compensation, and safe relocation options (Wisner et al. 2004; IPCC 2023). This matters for the legal argument because it destabilises the assumption that climate displacement is merely "natural" or voluntary, while also explaining why many cases still fall between categories. Governance failures often generate compulsion without a clear Convention-ground nexus, producing movement that is materially forced yet legally misrecognised (McAdam 2012; Manou et al. 2017).

The article advances three core arguments. First, existing refugee and migration law frameworks are structurally incapable of addressing climate exile where borders remain hardened but habitats become uninhabitable. Second, non-refoulement and emerging doctrines, including debates around climate-induced statelessness, offer partial but insufficient protection, often operating case-by-case and at high evidential thresholds. Third, regional legal innovations, rather than Convention-based refugeehood, may offer the most viable path in the South Asian context, including mobility compacts, humanitarian residence pathways and minimum-standard protection principles that respond to uninhabitability without requiring formal refugee reclassification.

The article proceeds as follows. Section 2 sets out South Asia's hazard profile and the mobility dynamics that link environmental stress to cross-border movement. Section 3 introduces three short case studies that illustrate distinct pathways into climate exile, coastal salinity and erosion, Himalayan hazard cascades, and anticipatory mobility under sea-level rise. Section 4 develops the protection gap and doctrinal mismatch across refugee law, migration law and partial human rights-based protections. Section 5 proposes a set of regional and sub-regional legal pathways that are politically realistic and operational. Section 6 concludes by refining the categories of climate exile and forced environmental statelessness and explaining how they can guide workable protection architecture beyond refugeehood.

2. South Asia Context: Rising Climate Harm, Mobility, and Hardened Borders

South Asia's risk profile is increasingly defined by overlapping hazards that drive both sudden-onset displacement and slower forms of livelihood collapse. The region faces escalating risks from extreme heat, intensified monsoon flooding, sea-level rise, and glacier melt in the Hindu Kush Himalaya. These hazards interact with development deficits and entrenched vulnerability, producing compounding impacts rather than isolated "events" (IPCC 2023). Climate risk in this setting is therefore not only episodic. It is increasingly cumulative and structural, shaping the conditions of daily life, work, and long-term settlement viability across multiple sub-regions.

In the Northern mountain of South Asia, accelerated snow and ice loss is linked to cascading hazards that extend well beyond high-altitude zones. Glacial retreat, hydrological instability, and downstream exposure combine to increase risks to infrastructure, settlements, and river-dependent livelihoods. Recent assessments emphasise the growing relevance of glacial hazards for basin communities, including glacial lake outburst floods (GLOFs) and associated compound impacts that travel through interconnected systems of roads, energy, irrigation, and local markets (Wester et al. 2023). These dynamics have clear displacement implications. Rapid-onset hazards can force evacuations, while repeated disruption and asset loss can erode the feasibility of remaining in place over time. Alongside mountain risks, heat stress is becoming a pervasive pressure on health, productivity, and urban livelihoods across major South Asian cities. This reinforces the point that climate harm is increasingly "ambient", affecting everyday safety and income generation even in the absence of a single defining disaster (Debnath et al. 2023).

South Asia's climate hazards are translating into displacement at scale, through both repeated shocks and slow-onset degradation that steadily narrows viable options in place. The Internal Displacement Monitoring Centre reports that disaster displacements in South Asia nearly tripled in 2024 to around 9.2 million, the second highest level for the region in more than a decade, driven largely by major flood events (IDMC 2025). This reported increase is significant not only as an annual figure, but as an indicator of how repeated exposure and constrained recovery capacity can turn ostensibly temporary displacement into recurring movement. Where reconstruction is delayed, livelihoods are disrupted, and protective infrastructure remains insufficient, subsequent hazard seasons arrive before households have regained stability. At the country level, Pakistan illustrates how floods, glacial melt, and drought can generate both immediate displacement and longer-term relocation pressures, particularly where recovery capacity is thin and repeat exposure is high (Shahzar 2025). Acute events can force mass displacement and emergency sheltering, while longer recovery horizons can generate secondary movement into cities and peri-urban areas. Where floods recur, drought intensifies, or glacial hydrology becomes more volatile, households can be pushed into serial displacement, with repeated moves reflecting diminishing assets, rising debt, and the progressive contraction of viable livelihood choices. The displacement dynamics are therefore not exhausted by the event itself. They are shaped by governance capacity, recovery systems, and the ability of receiving areas to absorb mobility without compounding vulnerability.

In coastal and deltaic zones, slow-onset processes such as salinity intrusion, waterlogging, shoreline change, and sea-level rise increasingly interact with storms and floods. These combined pressures create movement that is rarely a single "one-off" evacuation. More often, displacement unfolds through a chain of moves that can end in long-term or permanent urban relocation (Sikder et al. 2025). This is an important analytical point because slow-onset degradation can make the causal story of movement cumulative rather than discrete. A household may relocate temporarily after a cyclone or flood, return, and then move again when land productivity declines, drinking water becomes unreliable, or repeated inundation increases housing instability. Over time, incremental movements can crystallise into permanent relocation, often in informal urban settlements where access to secure work, services, and legal documentation is uneven. This context makes cross-border mobility plausibly relevant in parts of South Asia. Geography matters, but so do social and economic networks. Large populations live near borders, borders cut through dense settlement areas, and long-standing labour, kinship, and trade corridors already structure regional movement. Climate stress can therefore push people into pathways that are socially "known" and economically legible, even if legally precarious (Das and Basu 2023). The implication is not that climate stress automatically produces international movement, but that existing mobility infrastructures can be activated and intensified when hazards converge and livelihood thresholds are crossed. Empirical scenario work further indicates that migration patterns in South Asia are shaped by discontinuous relationships between shocks, local economic conditions, and opportunity structures. This helps explain why acute events can trigger movement that later becomes sustained or circular rather than

purely temporary (de Bruin 2024). The practical form of movement depends on subsequent employment availability, household assets, debt, land access, and the presence or absence of support. The key point is that cross-border movement is not only a speculative future phenomenon. It is a foreseeable adaptation pathway in a region where livelihood thresholds can be crossed quickly when multiple hazards converge (IPCC 2023). Foreseeability matters because it frames mobility not as an exceptional anomaly but as an intelligible response to compounding risks.

Border governance in South Asia, however, frequently converts mobility into irregularity and a recognition gap, particularly where movement is framed through a securitised lens rather than a protection lens. Research on the Bangladesh–India border shows how fencing, enforcement, and the politics of "illegal migration" have become organising logics of border policy, shaping mobility costs and narrowing the practical scope for lawful entry and residence (McDuie-Ra 2014; Shahriar 2021). Where legal routes are constrained, documentation requirements are rigid, and enforcement is intensified, movement that may be driven by necessity is rapidly channelled into irregularity. Irregularity then becomes a multiplier of vulnerability by restricting access to formal work, services, and legal remedies, and by increasing the risks and costs associated with onward mobility. India's official government materials also emphasise fencing and "crime-free" border objectives as security measures, reinforcing an institutional orientation toward control rather than reception or status determination (Press Information Bureau 2025). This reinforces a governance baseline in which deterrence and enforcement are prioritised over protection-oriented approaches. In such settings, the central administrative question is often how to prevent or remove unauthorised entry, rather than how to recognise and regularise mobility that is foreseeable under compounding climate stress.

On the other side of the region, recent reporting and human rights documentation further indicate intensified expulsions and "pushbacks" to Bangladesh, alongside concerns about procedural safeguards and the targeting of vulnerable groups. These accounts illustrate how documentation demands and enforcement practices can rapidly convert movement into precarious legal invisibility (Agarwala 2025; Human Rights Watch 2025). The legal significance lies not only in the practice of pushbacks itself, but in the way it constrains access to procedures through which protection claims could be articulated and assessed. When people are denied meaningful opportunities to regularise status or access safeguards, mobility becomes associated with exclusion, insecurity, and unstable forms of tolerated stay. These trends align with wider analyses showing that climate-related mobility is frequently narrated as a risk to be managed through deterrence and bordering, rather than treated as a predictable adaptation pathway requiring rights-bearing legal routes (Trombetta 2014; Vogler 2023). This broader framing helps locate South Asian bordering practices within a general pattern of securitisation. Securitised mobility governance tends to prioritise policing over recognition, and it systematically produces gaps between movement in fact and legal status in law. Hence, these dynamics help explain why displacement in South Asia is often recurring rather than temporary. Where exposure is repetitive and recovery is incomplete, each new flood season, heatwave cycle, or coastal salinity spike can push households further along a pathway from coping, to adaptation, to relocation, and in some cases to cross-border movement by necessity rather than preference (IDMC 2025; IPCC 2023). Recurrence is therefore not simply a behavioural choice. It is a function of hazard frequency, asset depletion, constrained recovery, and the erosion of in-place options. This also clarifies why hardened borders become analytically and legally salient in the region. Even where climate pressures make mobility foreseeable, border regimes can prevent recognition from following movement, leaving cross-border movers caught between exclusion, irregularity, and unstable legal presence.

Therefore, climate exile is not only about the event, but about fragmented governance and weak absorption capacity in cities that receive migrants, which can turn repeated shocks into persistent displacement conditions. In this setting, rising uninhabitability and hardened borders interact to deepen precarity, shaping a regional

mobility landscape in which climate harm can be a driver of movement while legal recognition remains difficult to secure.

3. Climate Exile as a Governance Problem in South Asia: Three Narratives

Together, these narratives will show how climate pressures in South Asia and adjacent island states increasingly operate through slow, compounding loss of habitability, not only through discrete "disaster moments". The legal relevance is that these pathways generate mobility pressures that are cross-border in potential and logic, yet they do not map cleanly onto refugee law's identity-focused triggers such as persecution, nexus, and Convention grounds. Mobility is shaped by how states manage territory and membership, how borders are securitised, and how documentation and welfare access sort people into recognised and unrecognised lives. In this sense, "climate exile" names a predicament that is materially coercive but politically under-recognised, and it clarifies why protection debates cannot rely on the idea that recognition as a Convention refugee is either likely or systemically available. The term is developed here as an original analytical category; it builds on, but is not found in, existing accounts of the limits of Convention refugeehood in climate contexts (McAdam 2012) and the emerging recognition that sea-level rise raises foundational questions of statehood and protection beyond existing categories (International Law Commission 2025).

Along Pakistan's Indus Delta, Keti Bandar is often used as shorthand for a wider pattern of slow-onset coastal unravelling. The material story is not one dramatic rupture but a sequence of cumulative change. Reduced sediment delivery and altered river flows interact with coastal erosion and saline intrusion into soils and groundwater. Agricultural viability declines, pressures on fisheries intensify, and livelihoods become harder to sustain. Over time, the delta becomes less able to support settlement and income, which makes mobility feel less like choice and more like compelled adaptation. Peer-reviewed work quantifying saltwater intrusion and associated ecological degradation in the Indus Delta supports the claim that salinisation and erosion are not marginal stressors but structural threats to delta sustainability (Aeman et al. 2023). Longer-run geomorphological accounts also emphasise that the modern Indus Delta has been profoundly reshaped by upstream infrastructure and reduced sediment delivery, changing the baseline conditions within which climate hazards land (Syvitski et al. 2013).

The legal payoff is that this displacement pathway is frequently "legally quiet". People move internally toward Karachi and other urban centres, or into peri-urban informal economies, often without an administratively legible "displacement event". Many legal and policy systems, including disaster response and compensation schemes, are built around event-based triggers. A slow-onset coastal collapse produces the opposite, an accumulative loss of habitability that is empirically real but administratively deniable. That deniability shapes politics as well as law. When mobility is treated as ordinary urbanisation rather than displacement, those moving are more likely to land in informal housing and precarious work, with weaker access to entitlements and limited capacity to contest the policy choices that structure exposure and relocation. In that setting, cross-border mobility may be a future pressure rather than an immediate mass crossing, but the legal point is already present. The harm is foreseeable, long-run, and difficult to convert into a recognised protection claim. This is the space where "climate exile" helps name mobility that is functionally forced by uninhabitability dynamics, yet treated as ordinary migration because it is not anchored to a single, court-friendly incident (McAdam 2012). A policy-oriented articulation of the same pattern in Pakistan highlights both scale and trajectory, including the observation that "over 8 million people were displaced by the 2022 floods alone", while also flagging the Indus Delta as a locus of future climate-driven migration pressure (Shahzar 2025).

The Hindu Kush Himalaya corridor illustrates a different mechanism of compounding uninhabitability, mountain hazards that cascade through transboundary basins and repeat over time. The region is a globally significant "water tower" with dense downstream dependence, and it faces interacting risks from glacier change, glacial lake expansion, and extreme precipitation. Glacial lake outburst floods matter here not only because they can be catastrophic, but because they unfold in settings where roads, bridges, hydropower assets, and valley settlements concentrate exposure. A key synthesis estimates that very large populations live downstream of glacial lakes and are potentially exposed to glacial lake outburst flood hazards, underscoring that this is not a niche risk (Taylor et al. 2023). The broader regional assessment literature similarly emphasises that cryosphere change and hazard interactions can drive repeated disruption, reducing the feasibility of "return to normal" after each event (Wester et al. 2019).

When hazard cycles recur, and when state capacity to restore livelihoods and safe settlement is uneven, return becomes formally imaginable but substantively unstable. This is not simply an environmental condition. It is mediated by governance, by where infrastructure is built, whose losses are compensated, whose settlements are treated as "safe", and whose movements are treated as suspect. The doctrinal mismatch is structural. Refugee law is set up to adjudicate targeted harm and culpability, while uninhabitability dynamics more often operate through risk, material insecurity, and cumulative erosion of viable life conditions (McAdam 2012). This helps explain why, in practice, responses drift toward discretionary migration management tools rather than rights-bearing protection status, even when movement is not meaningfully voluntary.

The Maldives vignette captures the anticipatory edge of climate exile, mobility planning under the prospect of territorial and habitability loss without stable cross-border legal personhood pathways. Sea-level rise and coastal flooding risks are central to the Maldives' long-running political discourse, but the governance response has often been channelled into relocation and consolidation policies that also carry domestic political economy objectives. Detailed analysis of Maldivian relocation policy over time shows that relocation decisions are driven by a mix of institutions, focusing events, and development priorities, and that sea-level rise rhetoric and domestic policy do not always align neatly (Abel et al. 2019). Related work on Maldivian resettlement politics argues that "climate change" can be deployed as a justificatory frame for contested relocation programmes, which is a reminder that climate mobility governance can itself become a site of power and legitimacy struggles (Kothari 2014).

The legal payoff here is twofold. First, the Maldives foregrounds a question that South Asia's continental cases can postpone, what happens when the state anticipates a habitability horizon it cannot fully manage in situ, and when mobility governance becomes a contested project of statecraft rather than an emergency response. Second, it demonstrates why "refugeehood" is not a credible default solution even when existential risk is discussed openly. Anticipatory mobility planning still runs into the absence of dedicated cross-border status and reception frameworks. Even where human rights law offers partial protections, thresholds are demanding and case-specific, and the pathway remains uncertain as a scalable architecture for future movement. This is why the sea-level rise work of the International Law Commission is important. It explicitly treats sea-level rise as raising interconnected issues across the law of the sea, statehood, and the "protection of persons affected", and it recognises the need for practical legal solutions in the absence of a dedicated framework, including for those "internally or externally displaced" by sea-level rise (International Law Commission 2025, paras 42–43).

4. The Protection Gap, Doctrinal Mismatch, and Partial Protections

The regional protection gap for cross-border climate displacement in South Asia is best understood as a governance and legal design problem rather than a simple absence of compassion. Most South Asian states remain outside the core treaty architecture of refugee protection, and the result is that people moving across

borders under climate stress often enter legal systems through migration control rather than protection pathways. In the South Asian context, Afghanistan acceded to the 1951 Refugee Convention in 2005, but the major destination, transit, and neighbouring states in the region (including India, Pakistan, Bangladesh, Nepal and Sri Lanka) are not parties to the Convention or its 1967 Protocol (UNHCR 2015; Janmyr 2021). This posture matters because it typically correlates with a thinner institutional ecology of asylum: fewer codified procedures, less predictable status determination, weaker access to rights by legal entitlement, and a greater reliance on executive discretion or ad hoc arrangements (Janmyr 2021).

Scholarship has moved well beyond the foundational accounts of the climate–displacement–law nexus. A substantial body of work now interrogates how human rights law, regional protection instruments, and disaster law can be mobilised where refugee law cannot (Manou et al. 2017; Villani 2021; Scissa 2022; De Coninck and Soete 2022). The most comprehensive recent synthesis identifies a layered landscape of international protection responses to disasters and climate change, encompassing treaty interpretation, complementary protection, regional free movement arrangements, and humanitarian admission, while cautioning that none of these yet amounts to a coherent protection architecture (Cantor et al. 2024). Practical toolkits have similarly mapped the operational pathways available to people displaced across borders in disaster contexts (Jastram et al. 2025). This article builds on that literature but departs from it in one respect: rather than treating South Asia as a region where these mechanisms are simply absent, it asks what functional equivalents could be constructed given the region's non-accession posture and securitised border politics.

A second layer of the gap is political, and it operates well beyond South Asia. Even in regions where the Refugee Convention is firmly embedded, there is limited political appetite to revise the definition of a refugee to include "climate harm" as such. Instead, the dominant strategy in international practice has been interpretive containment: acknowledging that climate change and disasters can interact with persecution, discrimination, and conflict, but resisting any categorical expansion that would convert climate-affected mobility into a general entitlement to refugee status (Goodwin and McAdam 2021; UNHCR 2023; Cantor et al. 2024). This reluctance is partly doctrinal, but it is also governance-driven. States fear that an explicit climate ground would be difficult to cabin, would amplify responsibility-sharing disputes, and would intensify already fragile domestic consent for asylum (Betts 2011; Chimni 1998). The consequence is a familiar dilemma in climate mobility debates: borders harden and status categories stay narrow while habitability erodes, leaving many cross-border movers situated between "refugee" and "migrant" labels that do not map cleanly onto lived coercion (Kälin 2010; Kälin and Schrepfer 2012).

In South Asia this dilemma is intensified by regional politics and the historical structure of protection in the Global South. The modern refugee regime was shaped through Eurocentric priorities and later universalised, but without producing uniform protection outcomes across regions (Chimni 1998; Janmyr 2021). South Asian states have frequently preferred sovereign discretion, bilateralism, and security governance over binding asylum commitments, even while hosting large displaced populations, most notably Afghans over decades (Janmyr 2021). This background matters for climate exile because climate-driven movement often arrives through the same governance channels as irregular labour migration and conflict spillover, meaning it is easily securitised and administratively processed as illegality rather than vulnerability. The practical effect is not simply that "refugee status" is unavailable, but that lawful presence, documentation, work authorisation, and access to services remain precarious, so protection is contingent, revocable, and unevenly distributed. In a setting of high mobility and dense borderlands, that precarity becomes a structural driver of irregularity, exploitation and invisibility rather than a temporary legal inconvenience (Betts 2011; Costello et al. 2021).

The doctrinal mismatch begins with the refugee definition itself. Refugee law is designed around persecution, a nexus to one of the Convention grounds, and state inability or unwillingness to protect. Climate-related harms, by contrast, are often distributed as risk and loss, and they frequently lack an identifiable persecutor. The causal pathway runs through environmental hazard, livelihood collapse, and governance

incapacity rather than targeted persecution (Hathaway and Foster 2014; Manou et al. 2017). This does not mean that climate displacement can never meet the refugee definition. It can, in narrower configurations: where state neglect is discriminatory, where marginalised groups are denied protection or relief on Convention grounds, where land and resource conflicts are channelled through ethnic or religious violence, or where adaptation policies themselves become vehicles of repression (Goodwin and McAdam 2021; UNHCR 2020). But the core problem remains structural: most climate-driven mobility is not easily translated into persecution with a Convention nexus, especially when the coercion is incremental and produced by cascading socio-ecological pressures rather than a discrete persecutory act (Kälin 2010; Cantor et al. 2024).

General migration law does not resolve the mismatch either. Migration frameworks are usually premised on temporariness, choice, and economic motive, and they tend to treat climate mobility as "adaptation" rather than displacement. Even where humanitarian discretion exists, it is often exceptional, revocable, and operationally thin. As a result, the legal system frequently misrecognises coercion by reclassifying it as preference: movement is treated as voluntary because people can still physically remain in place, even if remaining entails progressive destitution, repeated disaster exposure, or predictable future harm (Kälin and Schrepfer 2012; Villani 2021). This is where compound uninhabitability functions as a stress test for legal categories. If "return" is technically possible but substantively untenable, and if "choice" exists only in the narrow sense that people can remain and suffer, then the binary between voluntary migration and forced displacement becomes unstable. In these conditions, the doctrinal insistence on intention, immediacy, and identifiable persecutors can under-diagnose coercion, even as the lived experience is one of compelled mobility under collapsing viability (Wisner et al. 2004; IPCC 2023).

Against this backdrop, the most meaningful legal openings often sit outside the Refugee Convention, in human rights based non refoulement and complementary protection. The doctrinal foundation is now well established. In Teitiota v New Zealand, the UN Human Rights Committee accepted in principle that the effects of climate change may expose individuals to a violation of the right to life under Article 6 ICCPR, triggering non refoulement obligations, even though the claim failed on its facts because the risk was not imminent and Kiribati retained intervening capacity to act (UN Human Rights Committee 2020). Read alongside General Comment No. 36, which recognises environmental degradation and climate change as among the most pressing threats to the right to life (UN Human Rights Committee 2019), Teitiota establishes that removal to conditions of climate induced uninhabitability is not beyond the reach of human rights law, while simultaneously demonstrating how demanding the evidential threshold remains (Scissa 2022; De Coninck and Soete 2022).

Subsequent developments have thickened this doctrinal base. Regional human rights systems have engaged in cross fertilisation on environmental non refoulement, with scholars tracing how the European and Inter American systems' jurisprudence on socio economic and environmental conditions of return can inform climate cases (De Coninck and Soete 2022; Scissa 2022). The Inter American Court's 2025 advisory opinion on the climate emergency, the ITLOS advisory opinion on climate obligations under UNCLOS (2024), and, most significantly, the ICJ's 2025 advisory opinion on the obligations of states in respect of climate change collectively reframe climate harm as a matter of binding legal obligation rather than policy discretion (ICJ 2025). The ICJ opinion matters for South Asia despite the region's distance from refugee law. It articulates duties of prevention, cooperation, and human rights protection that bind South Asian states as parties to the ICCPR and other human rights treaties, independently of the Refugee Convention. Soft law instruments, including the Nansen Initiative Protection Agenda and its operationalisation through the Platform on Disaster Displacement, have meanwhile supplied state endorsed practice on humanitarian admission and stay in disaster contexts (Nansen Initiative 2015; Cantor et al. 2024).

The relevance of these developments for South Asia is real but must not be overstated. India, Pakistan, Bangladesh, Nepal and Sri Lanka are all parties to the ICCPR, and the customary status of non refoulement in respect of risks to life and freedom from ill treatment arguably binds them regardless of treaty ratification

(Villani 2021). Domestic courts in the region have occasionally drawn on constitutional rights to life to restrain removals. Yet the protection these routes offer remains individualised, evidentially demanding, and procedurally fragile in states without codified asylum systems, where non refoulement claims must be channelled through ad hoc executive discretion or constitutional litigation rather than a status determination procedure. Non refoulement therefore functions in South Asia as a constraint of last resort, not a protection architecture, which is precisely why this article looks to regional legal innovation rather than doctrinal expansion as the viable route.

Complementary and humanitarian pathways can also offer partial solutions, but they often reproduce the same instability that motivates the argument for "climate exile". Humanitarian visas, temporary protection, discretionary leave, or tolerated stay can provide lawful residence and reduce immediate exposure to exploitation. Yet such measures are frequently time-limited, policy-contingent, and weakly institutionalised. They may not deliver durable status, predictable family unity, or secure labour rights. In regions without entrenched asylum institutions, these routes are also vulnerable to securitised reversal when domestic politics shift or when neighbouring-state relations deteriorate (Betts 2011; Costello et al. 2021). Thus, while complementary protection can prevent immediate return in hard cases, it rarely supplies a stable architecture for mobility that is foreseeable, repeatable, and rights-bearing at the scale suggested by regional climate risk trajectories (IPCC 2023).

This is the point at which climate-induced statelessness debates, and the proposed concept of forced environmental statelessness, become analytically useful. Formal statelessness remains legally narrow, but climate displacement can produce a practical deprivation of protection that functions like statelessness without necessarily dissolving nationality. Documentation can be lost in disasters, civil registration can fail, and border crossing can convert people into long-term irregulars with no effective access to rights, work, or remedies. In addition, in heavily managed border regimes, a lack of papers can quickly become a lack of personhood in administrative terms, particularly for populations already marginalised. The result is an erosion of "effective nationality" in the sense of practical protection, even where legal nationality persists. This condition is especially plausible in contexts where climate harm intersects with institutional fragility and where mobility occurs through informal routes, producing durable exclusion from legal identity infrastructures (Kälin 2010; Kälin and Schrepfer 2012). It is precisely here that "climate exile" captures the predicament. Cross-border mobility driven by uninhabitability conditions, where protection is withheld not because movement is optional, but because recognition is politically constrained. Therefore, the solution space cannot be reduced to "make climate-displaced persons into Convention refugees", because the political will for definitional expansion is weak and the doctrinal fit is structurally limited. Yet it is also inadequate to treat climate mobility as ordinary migration, because uninhabitability and compulsion are increasingly central features of the regional risk landscape. What follows is the need to build protection through a layered architecture: using existing refugee and human rights law where it genuinely applies, but developing regional and sub-regional mechanisms that secure lawful stay, documentation, and minimum standards of treatment for cross-border movers in climate stress settings, without requiring a wholesale re-writing of the Refugee Convention (Kälin and Schrepfer 2012; UNHCR 2020; Nansen Initiative 2015).

Moreover, political structures in South Asia can be treated as displacement multipliers because they often determine whether climate stress becomes manageable risk or forced mobility. Climate hazards do not translate into displacement mechanically. They are mediated through land governance, infrastructure choices, disaster response capacity, and the distribution of adaptation resources. Where institutions are weak or captured, climate impacts are more likely to produce avoidable loss, uneven exposure, and coerced relocation, even when the initial trigger is environmental (Barnett and Adger 2007; Wisner et al. 2004). This is why the claim that existing refugee and migration law frameworks are structurally incapable of addressing climate exile is not

only about definitional limits. It is also about how governance choices can create conditions of uninhabitability that push people into movement while keeping their mobility legally classified as discretionary or "economic".

A first pathway is development and infrastructure governance. Large dams, embankments, and water management projects can displace communities directly and can also shift risk downstream by altering sediment flow, flood regimes, or livelihood patterns. Classic displacement scholarship shows that when resettlement is poorly planned, it produces long-run impoverishment risks, including landlessness, joblessness, and social disarticulation (Cernea 2000). In South Asia, these dynamics are often intensified by patronage-driven allocation and weak safeguards, meaning that climate adaptation or "water security" frames can legitimise projects while affected communities bear the displacement costs with limited remedy or meaningful participation. This logic matches the environmental instrumentalism lens, where crisis narratives and institutional discretion are used to concentrate benefits and externalise burdens. A second pathway is land control and "green" development. Conservation zones, carbon projects, green energy corridors, and climate mitigation initiatives can produce dispossession when implemented through exclusionary land tenure practices or weak consultation. The "green grabbing" literature documents how environmental agendas can provide a justificatory language for appropriation, converting ecological protection into a mechanism of unequal land reallocation and displacement (Fairhead et al. 2012; Borras et al. 2011). In South Asia, where customary tenure and informal land rights are common, these dynamics can generate climate-related displacement that is formally legal under domestic project authority but substantively coercive for affected groups. A third pathway is disaster governance and the unequal distribution of protection. Even when hazards are broadly shared, states frequently decide who receives early warning, evacuation support, compensation, and rebuilding assistance. Unequal protection can turn recurring floods, heat stress, or slow-onset degradation into durable displacement for marginalised groups. This matters for legal analysis because it explains why some climate displacement cases may become legally relevant through discrimination or denial of protection, while many others remain misclassified as voluntary mobility due to the absence of a Convention-ground nexus. The combined effect is a structural production of "climate exile", where political choices intensify mobility pressures but legal frameworks still treat the resulting cross-border movement as outside protection categories.

5. Recommendations: Regional Cooperation and National Accountability

A South Asian response to climate exile should prioritise regional mechanisms because global instruments either do not fit the problem well or do not reliably deliver implementation. The Refugee Convention is structured around persecution and the refugee definition, so it does not map neatly onto movement driven primarily by compounding climate hazards, slow-onset livelihood collapse, and "ambient" uninhabitability pressures (McAdam 2012; Kälin and Schrepfer 2012). The empirical reality of such compounding hazards and slow-onset pressures in South Asia is well documented (IPCC 2023; Debnath et al. 2023). Meanwhile, global governance initiatives on migration and displacement often rely on non-binding cooperation, which means outcomes can vary sharply with domestic political cycles and bilateral tensions. In this context, regional frameworks offer the most plausible route for building predictable, operational pathways that reduce irregularity and protect legal personhood. SAARC is an under-used institutional platform for this agenda. It already has enabling architecture for cross-border cooperation on hazards through the SAARC Agreement on Rapid Response to Natural Disasters, which establishes principles and modalities for regional coordination and facilitation of assistance (SAARC 2011). It also has a foundational Charter commitment to regional cooperation that can legitimise technical and humanitarian arrangements even where political relations remain difficult (SAARC 1985). The recommendation is not to attempt a sweeping "climate refugee" treaty under SAARC, which is unlikely to be politically achievable. Instead, the recommendation is to develop a SAARC Climate Mobility Compact as an opt-in protocol or set of operational guidelines nested within disaster risk

management and adaptation cooperation. This avoids definitional stalemates while still creating legal and administrative predictability for cross-border mobility that is foreseeable in parts of the region (IPCC 2023; IDMC 2025).

First, it should be trigger-based and time-limited. A core problem in South Asia is that movement is frequently converted into irregularity because there are few lawful pathways for those displaced across borders by acute events or compounding pressures (McDuie-Ra 2014; Shahriar 2021). Triggers can be designed narrowly to manage political concerns. For example, a protocol could activate temporary entry and stay where a severe disaster has been officially declared, where early warning systems confirm major displacement risk in designated districts, or where jointly recognised indicators show short-term uninhabitability due to floods, heat extremes, or sudden-onset glacial hazards (Wester et al. 2023; IPCC 2023). Narrow triggers reduce the scope for securitised narratives while still enabling lawful, managed entry for those facing immediate risk.

Second, the compact should establish minimum protection and documentation standards focused on legal personhood rather than symbolic status labels. A practical baseline can include temporary residence documentation, permission to work in defined sectors, access to urgent healthcare, and safeguards against summary removal during the defined trigger period. This matters because climate-related movers frequently fall into a recognition gap in which their presence is tolerated informally, but their rights are unstable and their exposure to exploitation increases (Trombetta 2014; Vogler 2023). Documentation, even if time-limited, makes it easier to prevent trafficking and abuse, to plan service delivery, and to reduce the incentives for dangerous clandestine crossings.

Third, SAARC should institutionalise regional information-sharing and anticipatory planning. South Asia already faces overlapping hazards that can generate cascading displacement. This includes monsoon flood cycles, heat stress in urban labour markets, and glacier-related hazards such as GLOFs that create downstream exposure (Wester et al. 2023; Debnath et al. 2023). A SAARC mechanism could standardise climate and disaster data sharing, harmonise risk indicators, and support shared dashboards for forecasting likely displacement corridors and reception pressures. This is not a purely scientific recommendation. It is an administrative capacity recommendation. If receiving districts can anticipate inflows, they can pre-position public health, shelter, and transport support and reduce the disorder that often drives enforcement-heavy responses.

Fourth, the compact should incorporate calibrated responsibility-sharing to make cooperation politically sustainable. A predictable, cooperative approach can be framed as a win-win for all member states. It reduces chaotic irregular crossings, lowers enforcement volatility, and stabilises costs by shifting from crisis spending to planned, limited measures. Comparable regional practice illustrates the rationale. The EU Temporary Protection Directive provides group-based, time-limited protection in mass influx situations and is designed to reduce system overload and share responsibilities, even if solidarity remains contested in implementation (European Union 2001). The EU Civil Protection Mechanism similarly illustrates how a region can coordinate disaster response capacity and information systems to improve speed and effectiveness in emergencies (European Union 2013). The point for South Asia is not institutional imitation, but functional learning. A SAARC compact can combine limited lawful stay and practical documentation with shared planning, contingency funding, and support for high-pressure border districts and receiving cities.

SAARC's constraints should be handled through modularity. Because SAARC decision-making can be slowed by consensus requirements and political tensions (SAARC 1985), a phased approach is advisable. Initial steps can focus on technical standards and humanitarian operating procedures, then expand gradually. This approach is consistent with how other regions have built cooperation in sensitive domains. ASEAN's AADMER demonstrates that legally binding regional disaster governance is possible, including standby arrangements and coordination mechanisms (ASEAN 2005). In Africa, the Kampala Convention illustrates that regional legal standards can directly address displacement and disaster-related drivers without waiting for

global treaty reform (African Union 2009). Together, these comparators support a clear recommendation for South Asia: build a rights-bearing, operationally specific regional pathway for climate-related mobility through SAARC, anchored to disaster governance and anticipatory planning, and designed to reduce irregularity and recognition gaps.

Regional arrangements can reduce cross-border precarity, but they cannot substitute for national accountability. Climate exile is produced not only by climate hazards, but also by governance choices that distribute protection unevenly, under-invest in resilience in politically marginal areas, and convert mobility into legal invisibility through documentation barriers and exclusionary service rules (IPCC 2023; IDMC 2025). National recommendations should therefore focus on preventing the governance production of exile conditions. This includes reducing displacement drivers where feasible, ensuring dignified treatment where movement occurs, and designing adaptation and infrastructure choices around fairness.

A useful normative anchor is a "climate veil of ignorance" approach, adapted from Rawls' veil of ignorance as a decision procedure for fair institutional design (Rawls 1971). Under a climate veil of ignorance, policymakers should design adaptation, relocation, and disaster governance as if they do not know whether they will be a coastal household facing salinity intrusion, an informal worker exposed to extreme heat, or a mountain community at risk of cascading glacial hazards. The practical value is not philosophical ornamentation. It is an accountability discipline. It forces policy design to internalise worst-case exposure and to treat the protection of marginal groups as a structural requirement rather than a discretionary add-on.

First, states should entrench non-discrimination and transparent allocation in disaster relief, compensation, and adaptation finance. In South Asia, displacement often becomes recurring where recovery is incomplete and where assistance is delayed or distributed unevenly (IDMC 2025). A minimum accountability framework should include published eligibility criteria, time-bound entitlements, and accessible grievance mechanisms with independent oversight. This reduces the risk that relief becomes politicised or patronage-driven, which can push households from coping into forced relocation. It also reduces secondary displacement into cities when rural recovery fails.

Second, relocation and infrastructure governance should be treated as rights domains. In coastal and deltaic areas, slow-onset pressures such as salinity intrusion, waterlogging, and shoreline change interact with storm and flood events, frequently producing a chain of moves rather than a single evacuation (Sikder et al. 2025). National law and policy should therefore require participatory relocation planning, prior information, compensation that reflects both assets and livelihood reconstruction, and land tenure safeguards in receiving sites. A concrete recommendation is mandatory displacement-impact assessment for major adaptation and infrastructure projects, including downstream risk externalities and distributional effects. This is essential because infrastructure that protects one group can displace risk onto another. Under a climate veil of ignorance, such risk transfers must be justified publicly and mitigated through compensation, alternative protections, or project redesign (Rawls 1971; IPCC 2023).

Third, protect legal personhood through disaster-resilient documentation and portable access to services. A defining mechanism of climate exile is administrative invisibility. People lose documents in floods, cannot replace them quickly, and then face barriers to welfare, schooling, healthcare, housing, and formal work. National systems should establish simplified document replacement after disasters, mobile registration capacity, and service access rules that do not require strict domicile proof for internal movers. This is particularly important when repeated shocks produce serial displacement into urban areas, where informal settlement conditions can deepen precarity (Shahzar 2025; IDMC 2025). Dignity-based governance requires that services follow the person rather than being tied rigidly to origin locality.

Fourth, build urban absorption capacity and labour protections because cities are the default receivers of recurring displacement. Heat stress increasingly shapes daily work and wellbeing in South Asian cities, particularly for outdoor and informal labour (Debnath et al. 2023). When displaced households arrive in cities

without planning support, they often enter precarious labour markets and insecure housing, increasing exploitation risks. National governments should finance receiving municipalities, expand affordable housing and basic services, and strengthen labour inspection in sectors where displaced people concentrate. Skills recognition and targeted training can improve integration outcomes and reduce political backlash by linking protection to stable economic participation. These national commitments should be reinforced by two cross-cutting governance tools. The first is anticipatory action and risk-informed budgeting, so early warning triggers automatically activate pre-positioned resources and temporary income support. This reduces chaotic flight and helps prevent the conversion of movement into irregularity or exploitative dependence. The second is independent oversight. National human rights institutions, auditors-general, and parliamentary committees should have authority to demand data, investigate discriminatory allocation, and compel corrective action. This is particularly important in contexts where border governance is increasingly securitised and where enforcement practices, documentation demands, and pushbacks can rapidly create legal invisibility for vulnerable groups (Press Information Bureau 2025; Human Rights Watch 2025; Agarwala 2025).

Finally, this accountability agenda is not limited to South Asia or the Global South. The governance dilemma is universal. As extreme weather intensifies, the key question in both North and South is whether institutions protect people equitably, preserve legal personhood during displacement, and treat mobility as foreseeable and manageable, or whether they allow protection to track privilege and leave marginal groups effectively governed out of place (IPCC 2023). National accountability grounded in fairness and dignity is therefore a globally relevant response to climate exile, even as the specific hazard profiles and institutional capacities differ across regions.

6. Conclusion

South Asia is moving into a climate reality in which displacement is increasingly recurrent, cumulative, and governance-mediated rather than a short-lived response to discrete “events”. Intensifying flood cycles, extreme heat, glacier-related hazard cascades, salinity intrusion and sea-level rise interact with development deficits and institutional fragility to produce compound uninhabitability, where return may be formally imaginable but substantively unstable. Recent displacement estimates underline the scale at which disasters are already translating risk into movement, with South Asia’s disaster displacements sharply increasing in a way that reflects repeated exposure and constrained recovery capacity rather than isolated catastrophe. Hence, this article has framed the resulting predicament as climate exile: cross-border movement under uninhabitability pressures where recognition is politically constrained and legal protection is thin, temporary, or absent. The concept is not intended to displace existing categories, but to clarify why many climate-displaced persons are materially compelled to move while remaining legally misrecognised. The core doctrinal mismatch lies in the architecture of refugee law. The Refugee Convention’s persecution-centred framework requires nexus, intent, and targeted harm that many climate displacement pathways do not exhibit, particularly where coercion is incremental and causation is distributed through hazard, livelihood collapse and governance failure rather than a persecutor. This does not deny that climate impacts can sometimes interact with discrimination, conflict, or denial of protection in ways that generate Convention-relevant claims. It does, however, establish that reliance on refugeehood as the systemic solution is structurally implausible, especially in South Asia where non-accession and uneven asylum infrastructures intensify the recognition gap.

Partial protections exist, but they are not yet a protection architecture. Human rights-based non-refoulement and complementary protection can constrain removal where return would expose a person to serious harm, yet these pathways are typically case-specific, evidentially demanding and poorly suited to scalable mobility management. The global politics of definition also remains restrictive, with sustained reluctance to treat climate change as an independent basis for refugee status and cautions against legal conflation embedded in

policy guidance. As borders harden under securitised framings, mobility is more readily processed as illegality rather than vulnerability, widening the gap between foreseeable movement and lawful status. The normative and practical implication is that protection must be built through layered, politically realistic pathways beyond Convention-based refugeehood. Regionally, SAARC-adjacent mechanisms can supply a pragmatic response by institutionalising trigger-based humanitarian entry and stay, minimum documentation standards, and anticipatory data-sharing that treats mobility as foreseeable risk management rather than an exceptional breach. Moreover, a "climate veil of ignorance" decision discipline provides a principled test for whether adaptation and relocation policies would be judged fair under uncertainty about who will bear the burdens of risk and movement. Therefore, the conclusion is intentionally forward-looking. Sea-level rise and related debates on statehood, territory, and the protection of affected persons, now reinforced by the ICJ's 2025 advisory opinion confirming that states' climate obligations are matters of binding international law engaging human rights protection (ICJ 2025), signal that climate exile will increasingly intersect with foundational questions of international law, not only migration governance. The legal task is therefore not to force climate mobility into ill-fitting categories, but to construct predictable, rights-bearing routes that reduce irregularity, preserve personhood, and align recognition with the foreseeable realities of uninhabitability.

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