LEGAL BARRIERS IN CANADA'S IMMIGRATION SYSTEM FOR CLIMATE-DISPLACED REFUGEES

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ABSTRACT

Canada currently lacks a dedicated immigration pathway for individuals displaced by climate change, leaving climate-affected people to rely on temporary public policies, humanitarian and compassionate applications, or programs that are meant for other crises. These options are inconsistent and assume that people will eventually be able to return home, which is not realistic for communities whose land is sinking, eroding, or repeatedly destroyed. Research shows that Canada's current system is not designed to deal with long-term or permanent climate displacement, creating serious access-to-justice problems.

This paper looks at the legal and structural gaps in the *Immigration and Refugee Protection Act*, including the limits of sections 96 and 97, and examines international decisions such as *Teitiota v New Zealand*, which confirms that climate-related risks may trigger non-refoulement duties under the *International Covenant on Civil and Political Rights*. It also reviews Canadian policy responses and recommendations from the Canadian Association of Refugee Lawyers. This paper argues that these temporary or discretionary pathways cannot meet the needs of climate-displaced people. It proposes a permanent Climate Protection Pathway under section 25.2 of the Act, supported by eligibility rules, a triage model based on the Library of Parliament's three types of climate migration, and strong settlement supports. This paper also explains the important role paralegals can play in helping climate-displaced individuals navigate the system and access justice.

I. INTRODUCTION

People around the world are being forced to leave their homes because of climate change, but neither international nor Canadian law has a category for "climate refugees." Under the 1951 Refugee Convention,[1] a person must fear persecution by a human actor to qualify for refugee status. This means that individuals displaced by rising sea levels, extreme weather, drought, or other natural disasters do not meet the legal definition of a refugee.[2] This gap matters for Canada because climate-related displacement is increasing rapidly; in fact, it is estimated that up to 1.2 billion people could be displaced by 2050.[3]

1 United Nations High Commissioner for Refugees, "The 1951 Refugee Convention" (last visited 25 September 2026), online: <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>.

2 US Committee for Refugees and Immigrants, "The 1951 Refugee Convention: Displacement Caused by Climate Change" (15 July 2025), online: <https://refugees.org/the-1951-refugee-convention-displacement-caused-by-climate-change>.

3 Sean McAllister, "There Could Be 1.2 Billion Climate Refugees by 2050: Here's What You Need to Know" (23 October 2024), online: <https://www.zurich.com/insights/business/there-could-be-1-2-billion-climate-refugees-by-2050-here-s-what-you-need-to-know>.

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As the effects of climate change get worse, Canada will face growing pressure to respond, both internationally and within its own borders. The Library of Parliament has noted that since 2008, climate-related disasters have forced 25.3 million people from their homes internally, demonstrating how fast this problem is accelerating.[4]

Cairo University, the International Organization for Migration,[5] and the International Catholic Migration Commission[6] have reported that individuals who are displaced by climate change are lost legally. They do not have refugee status and cannot return to their homes. This has been very well documented in Canada and elsewhere. For example, many people have lost their homes because of fires, floods, droughts, or any other natural disaster that has resulted from climate change, as well as the slow disappearance of coastal areas.[7] These cases demonstrate a huge access-to-justice gap in Canada's immigration system. Individuals who have suffered as a result of climate change are ultimately forced into streams of immigration that were never based on their situation. This raises serious access-to-justice issues, as those suffering permanent environmental displacement are forced to fit themselves into legal categories that do not apply to their situation. The Library of Parliament notes that climate migration exists on a spectrum of voluntary, forced, or planned relocation, yet Canada's system does not recognize any part of this spectrum, leaving those affected without a meaningful legal path.[8]

Canada's current legal system does not have a dedicated pathway for people displaced by climate change. Instead, climate-affected individuals must rely on temporary public policies, discretionary humanitarian and compassionate applications, or programs created for unrelated crises. These options do not offer protection and assume that a return will eventually be possible. This assumption does not hold for communities whose land is eroding, sinking, or repeatedly destroyed. Some researchers and advocates have noted that

4 Philippe A Gagnon & Alexia Lagacé-Roy, *Climate Change and Migration: The State of International Refugee and Human Rights Law* (Ottawa: Library of Parliament, 2024), online (pdf): <https://lop.parl.ca/staticfiles/PublicWebsite/Home/ResearchPublications/HillStudies/PDF/2024-02-E.pdf>.

5 Cairo University and International Organization for Migration, *Climate Change and Migration* (Cairo: IOM, 2025), online (pdf): <https://crisisresponse.iom.int/sites/g/files/tmzbdl1481/files/uploaded-files/Climate-Change-and-Migration-2025.pdf>.

6 International Catholic Migration Commission, "What (and Who) Are Climate Refugees?" (26 November 2025), online: <https://www.icmc.net/2025/11/26/what-and-who-are-climate-refugees>.

7 Rubaiyat Karim, "First Person: I'm a Climate Refugee," *CBC News* (6 November 2022), online: <https://www.cbc.ca/newsinteractives/features/first-person-climate-refugee>.

8 Gagnon & Lagacé-Roy, *supra* note 4.

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Canada's immigration system is not prepared for the long-term, irreversible nature of climate displacement.[9]

International cases like *Teitiota v New Zealand*[10] illustrate how climate change can create life-threatening circumstances, even when current refugee law does not recognize it as a basis for protection. Canada has failed to revise its immigration system by not taking into consideration this growing reality. People displaced by climate impacts are left with no permanent route to settlement, navigating temporary programs and decision-making that do not align with their long-term circumstances. Climate displacement is rising, and Canada must adopt a more permanent and predictable way of addressing this issue. The absence of a legal category for climate-displaced people leaves them unprotected, even when the harm they face is serious and irreversible.

II. WHY CLIMATE REFUGEES DO NOT FIT THE REFUGEE CONVENTION

Section 96 of the *Immigration and Refugee Protection Act*[11] contains a definition of refugees that is identical to the definition found in the 1951 Refugee Convention.[12] According to this definition, a person must fear persecution based on race, religion, nationality, political opinion, or membership in a particular social group. Natural disasters like rising sea levels, droughts, flooding, and wildfires are not caused by a human actor, and they do not single people out because of who they are. Therefore, a person who is displaced because of the impacts of climate change does not meet the definition of a refugee under section 96 of the IRPA.

The Immigration and Refugee Board of Canada (IRB) requires a clear link between the harm and one of the Convention grounds. Environmental disasters, no matter how serious, do not create that link.[13] So even when an individual has lost their home or their land, or their community repeatedly suffers from climate disasters, they cannot access Canada's refugee system unless another Convention ground applies.

9 Muzna Dureid, "Op-Ed: Muzna Dureid on Canada's Response to Climate Refugees," *LERRN* (24 November 2021), online: <https://carleton.ca/lerrn/2021/op-ed-canada-immigration-climate-change>.

10 United Nations Human Rights Committee, *Teitiota v New Zealand*, Communication No 2728/2016, UNCCPROR, 127th Sess, UN Doc CCPR/C/127/D/2728/2016 (2020).

11 SC 2001, c 27 [IRPA].

12 United Nations High Commissioner for Refugees, *supra* note 1.

13 Immigration and Refugee Board of Canada, "Chairperson's Guidelines" (last modified 12 August 2026), online: <https://www.irb-cisr.gc.ca/en/legal-policy/policies/Pages/chairperson-guideline.aspx>.

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This limitation also appears under section 97 of the IRPA, which protects people facing a risk to life or cruel treatment. The law requires that the risk targets the individual directly and is not one faced generally by others in the country. Climate change, however, affects entire regions. Flooding in Bangladesh, droughts in East Africa, or rising sea levels in the Pacific Islands affect whole groups, not specific individuals. Since the risk is widespread, it does not meet the legal threshold for protection under section 97.

These rules make it hard for people who are displaced because of climate change. Both sections 96 and 97 require a kind of harm that climate change does not cause. Climate change affects everyone and is often slow to happen, which means it does not fit the tests that decision-makers have to use. Even the United Nations Human Rights Committee (UNHRC) said that climate change can be dangerous in the *Teitiota* case. It also said that current refugee laws are not meant to deal with environmental risks that affect everyone. This gap means that people who are displaced because of climate change do not have access to Canada's refugee system, even when they are in ongoing danger.

These structural barriers significantly limit access to justice. People displaced by climate are pushed into pathways that do not align with their situations, such as humanitarian and compassionate grounds. These options are discretionary and unpredictable and do not guarantee long-term stability. They also require applicants to navigate complex processes without clear guidance, despite facing displacement that is often sudden and traumatic. For many, the lack of a clear legal category leads to long-term uncertainty, inconsistent decision-making, and limited access to affordable legal assistance, deepening the access-to-justice gap.

International organizations have noted that people displaced by climate impacts are often unable to stay safely in their home regions, yet they also do not qualify for protection under existing refugee law. This leaves many individuals without a direct pathway to permanent protection. Instead, they must rely on temporary programs or discretionary options that were never designed for their situations, which involve long-term displacement. The structure of Canada's current system makes it difficult for climate-displaced individuals to secure a stable status, highlighting a growing access-to-justice gap.

III. INTERNATIONAL CASE LAW: TEITIOTA V NEW ZEALAND (2020)

Teitiota is the most widely discussed case on climate-related displacement. In this case, a complaint was brought before the UNHRC by Ioane Teitiota, a man from Kiribati, whose home island faced severe environmental problems,

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including rising sea levels, overcrowding, and saltwater intrusion.[14] Teitiota argued that returning to Kiribati would expose him to life-threatening conditions caused by climate change and that New Zealand's refusal to grant him protection violated his right to life under the *International Covenant on Civil and Political Rights*.[15] In Kiribati, environmental degradation had already reached a point where essential resources such as fresh water and habitable land were becoming rare. This is the kind of long-term harm that the present refugee law struggles to address.

The complaint was dismissed by the UNHRC because there was not a serious risk to Teitiota's life at the time. The UNHRC held that, in certain circumstances, it triggers non-refoulement obligations. In other words, states may not lawfully return someone to a place where climate impacts threaten someone's life. The UNHRC also acknowledged that environmental degradation, rising sea levels, and extreme weather could eventually make some areas uninhabitable. It emphasized that future claims could succeed if the level of risk meets the threshold.[16]

The decision is important for Canada because it recognizes climate-related harm as a potential basis for international protection. Even though it does not fit within the refugee definition, Canada is a member of the ICCPR and is bound by the same non-refoulement obligations discussed in *Teitiota*. However, Canada has no method to apply these obligations consistently or predictably to people displaced by climate impacts. Instead, individuals must rely on discretionary pathways. The Canadian Association of Refugee Lawyers (CARL) similarly notes that Canada lacks a comprehensive legal framework for climate-displaced individuals despite its international human rights obligations, resulting in inconsistent responses.[17]

The *Teitiota* decision also highlights a key access-to-justice issue. Those experiencing harm because of climate change must navigate legal systems that were not originally designed for their circumstances. The 1951 Refugee

14 Mari Galloway, "Teitiota v New Zealand, Climate Migration and Non-Refoulement: A Case Study of Canada's Obligations Under the Charter and the ICCPR" (2022) 45:2 Dal LJ, online: <https://canlii.ca/t/7mz49>.

15 United Nations General Assembly, *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976), online: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [ICCPR].

16 United Nations Human Rights Committee, *Views Adopted on Teitiota Communication No 2728/2016*, UN Doc CCPR/C/127/D/2728/2016 (2020), online (pdf): <https://cdn.climatepolicyradar.org/navigator/XAA/2015/un-human-rights-committee-views-adopted-on-teitiota-communication_d5710057e4f9fccda3bef69f244a70c6.pdf>.

17 Aviva Basman, Warda Shazadi Meighen & Rachel Bryce, *The Canadian Association of Refugee Lawyers' 2023 Report on Climate Migrants* (Toronto: CARL, October 2023), online (pdf): <https://carl-acaadr.ca/wp-content/uploads/2025/09/CARL-Climate-Report-October-2023-1-002.pdf>.

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Convention focuses on persecution by a human actor, and the IRPA aligns with that definition. Even when climate impacts threaten life, Canadian law does not provide a direct pathway for protection. This results in a system in which individuals facing irreversible environmental loss must rely on temporary measures rather than a stable process.

The *Teitiota* case also shows that there is a problem. International human rights law says that climate change can be dangerous, but the laws in each country, including Canada, are not equipped to deal with it. This means that people who are displaced because of climate change do not have a way to get help. For Canada, this case shows that the country needs a system that is based on people's rights and that follows the rules of the ICCPR.

While *Teitiota* did not create new legal categories, it demonstrates a change in how international organizations understand climate-related displacement. For Canada, the case highlights the need for a long-term, consistent approach to climate-driven migration.

IV. CANADIAN CONTEXT: NO CLIMATE REFUGEE RECOGNITION

The IRPA defines a Convention refugee as someone who will face "a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion."[18] Climate-related harm does not fall within this definition, and decision-makers are more likely to treat environmental harm as a generalized risk rather than persecution.[19] As a result, even when environmental conditions make return unsafe, climate-displaced individuals cannot access Canada's refugee system unless they can link their situation to a Convention ground.

The Library of Parliament has similarly noted that Canada has no climate migration framework, no category for climate-displaced individuals, and no long-term strategy to handle climate migration.[20] This means that individuals affected by climate impacts must navigate a system that does not acknowledge their situation or provide a clear pathway to protection.

A main reason for this gap is that sections 96 and 97 of the IRPA require harm that is specific to an individual, which climate change cannot provide. Environmental damage affects areas or groups of people, not just one person, so it does not meet the legal test for persecution or personalized risk. As a result, it is difficult for decision-makers to recognize climate-related harm as

18 IRPA, s 96.

19 Immigration and Refugee Board of Canada, *supra* note 13.

20 Gagnon & Lagacé-Roy, *supra* note 4.

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a reason for protection even if the danger is severe, ongoing, and irreversible. This leaves people displaced by climate change without access to Canada's refugee system.

Not having access to the refugee system leads to other problems. Climate-displaced individuals are forced to fit themselves into different or temporary means of accessing safety, such as on humanitarian and compassionate grounds. Civil society organizations have warned that these alternatives lack reliability and do not provide the same level of protection against ongoing environmental harm or any guarantee of lasting safety and stability.[21]

Canada's lack of a climate-specific protection mechanism to safeguard individuals against climate change shows a disconnect with other international discussions, including the UNHRC's recognition in *Teitiota*, which held that, under certain circumstances, climate change impacts may violate non-refoulement obligations. As a result, there is a growing gap in access to justice for individuals whose homes have been destroyed or have become no longer safe to live in because of climate change.

V. CASE STUDIES: WHEN RETURN IS IMPOSSIBLE

Wildfires almost entirely destroyed the village of Lytton in British Columbia following a record-breaking heatwave in 2021. Residents were displaced with little notice, and because of repeated fires, loss of infrastructure, and ongoing climate risks, many have not been able to return to their homes. CBC News reported in 2025 that the area was still under evacuation alert and remained highly vulnerable to climate-related disasters in the future.[22]

Similarly, in 2023, Yellowknife, the capital of the Northwest Territories, was ordered to evacuate because of unprecedented wildfires. According to CBC News, the evacuation was one of the largest in Canadian history, with long-term uncertainty about future wildfires for residents.[23] These events show that even wealthy, well-resourced regions are not immune to climate-driven displacement.

21 Lainie Nichols, "Climate-Induced Migration: Canada's Obligations & Opportunities" (21 August 2025), online: <https://cpj.ca/report/climate-induced-migration-canadas-obligations-opportunities>.

22 Brieanna Charlebois, "Wildfires Near Lytton, BC Prompt Evacuation Orders, State of Local Emergency," *CBC News* (last modified 2 July 2025), online: <https://www.cbc.ca/news/canada/british-columbia/fire-near-lytton-evacuation-alert-2025-july-1-1.7574835>.

23 "City of Yellowknife Has New Plans for Emergencies and Evacuations," *CBC News* (last modified 18 September 2024), online: <https://www.cbc.ca/news/canada/north/yellowknife-emergency-response-evacuation-plan-1.7326176>.

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Along Canada's Atlantic coast, communities are facing rising sea levels, storm surges, and repeated flooding. According to Ducks Unlimited Canada, coastal erosion and saltwater intrusion are already reshaping entire regions by threatening homes, infrastructure, and livelihoods.[24] This is another example illustrating that even within Canada, climate change can make it unsafe and impossible for individuals to stay in their homes.

The consequences are even more severe internationally. Bangladesh, in particular, faces some of the highest rates of climate-driven displacement. Amnesty International[25] and Al Jazeera[26] document how extreme flooding has pushed millions of people from their homes and destroyed farmland. Return is not an option for many, as the land they once lived on is now underwater or permanently damaged.

Pacific Island nations like Tuvalu and Kiribati face significant challenges from rising sea levels. BBC News highlights that Tuvalu is preparing for the possibility of complete territorial loss.[27] The reality of this issue was demonstrated on the world stage by Tuvalu's foreign minister in his speech at the United Nations climate change conference COP26.[28] He delivered his speech while standing knee deep in seawater, literally illustrating the impact that rising levels are having on the country. The area he stood in was once dry land. This was a way to send a strong message and to show how quickly Tuvalu is disappearing. These islands are home to many and will soon be impossible to inhabit or return to.

In 2010, Haiti faced an earthquake; Canada's response to this event highlighted how environmental disasters can create long-term displacement. Canada introduced temporary immigration measures, but this has not provided

24 Ducks Unlimited Canada, "Rising Sea Levels Raise Concerns on Canada's Coasts" (15 November 2019), online: <https://www.ducks.ca/stories/conservator/rising-sea-levels-on-canadas-coasts>.

25 Amnesty International, "Bangladesh: Climate Crisis Magnifies Discrimination Against 'Invisible' Sanitation Workers" (16 October 2025), online: <https://www.amnesty.org/en/latest/news/2025/10/bangladesh-invisible-sanitation-workers>.

26 Faisal Mahmud, "'I Have Lost Everything': Bangladesh Floods Strand 1.24 Million Families," *Al Jazeera* (28 August 2024), online: <https://www.aljazeera.com/features/2024/8/28/i-have-lost-everything-bangladesh-floods-strand-1-24m-families>.

27 Sophie Yeo, "Tuvalu: The Disappearing Island Nation Recreating Itself in the Metaverse," *BBC News* (21 November 2024), online: <https://www.bbc.com/future/article/20241121-tuvalu-the-pacific-islands-creating-a-digital-nation-in-the-metaverse-due-to-climate-change>.

28 "Tuvalu Minister to Address COP26 Knee Deep in Water to Highlight Climate Crisis and Sea Level Rise," *The Guardian* (8 November 2021), online: <https://www.theguardian.com/environment/2021/nov/08/tuvalu-minister-to-address-cop26-knee-deep-in-seawater-to-highlight-climate-crisis>.

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a permanent pathway for the most affected individuals.[29] This shows that Canada's response to sudden and unexpected disasters is to enforce short-term solutions rather than long-term ones. This creates a lack of consideration for those who are unable to return and also demonstrates that there is no approach to address the displacement caused by slower and ongoing climate-related change.

VI. WHY TEMPORARY PATHWAYS FAIL

In general, Canada has responded to humanitarian crises using temporary or discretionary immigration pathways. These pathways include special public policies, temporary resident permits, or humanitarian and compassionate applications. While useful in providing short-term support, these measures are not meant to support individuals who are facing irreversible displacement because of climate change.

As noted above, in 2010, millions of Haitians were displaced because of an earthquake, following which Canada introduced special immigration measures to allow some Haitians to enter Canada temporarily.[30] However, these measures were limited and did not create a new long-term immigration category for individuals who could not safely return to Haiti because of the loss of homes and infrastructure that were damaged or destroyed by the earthquake. As a result, many Haitians were left in an unstable situation: they could not safely return to Haiti, and there was no stable path to permanent residency in Canada. Today, these challenges are similarly faced by climate-displaced individuals. Temporary immigration programs may provide immediate assistance at first, but they do not provide long-term security.

The Canada–Ukraine Authorization for Emergency Travel (CUAET) presented a similar situation with a limited time frame and no guarantee of permanent residency. The CUAET program provided approximately three years of status to many Ukrainians fleeing the war,[31] but once the program ended in 2023, many were still unsure where their lives would go from there. Further, the design of the CUAET highlights a larger problem. Temporary immigration measures often assume that displacement is temporary and that

29 Government of Canada, News Release, "Government of Canada Introduces Special Immigration Measures in Response to the Earthquake in Haiti" (last modified 15 December 2016), online: <https://www.canada.ca/en/news/archive/2010/01/government-canada-introduces-special-immigration-measures-response-earthquake-haiti.html>.

30 *Ibid.*

31 Immigration, Refugees and Citizenship Canada, "Canada–Ukraine Authorization for Emergency Travel" (last modified 22 March 2022), online: <https://www.canada.ca/en/immigration-refugees-citizenship/news/2022/03/canada-ukraine-authorization-for-emergency-travel.html>.

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people will be able to return home at some point. However, this is not the case for people displaced by environmental factors, as their homes may be permanently lost. In these cases, temporary solutions fail to address the need for long-term stability and protection.

Applications for humanitarian and compassionate grounds also fall short as a solution. While these applications allow people to explain tough situations, each case moves at its own pace and is decided differently every time. Applicants must demonstrate compelling personal circumstances without any guarantee of success, and climate-related harm is not recognized as an independent ground for protection. As a result, individuals must try to fit their stories and experiences into a legal framework that does not fully recognize climate displacement.[32] This creates a system where outcomes heavily depend on the judgment of decision-makers, rather than on clear and consistent legal standards. Humanitarian and compassionate applications are also very personal, meaning officers look at hardship rather than harm to the environment or whole communities. Because climate change affects areas, not just specific people, it doesn't fit the model that humanitarian and compassionate applications use. This makes these applications unable to provide predictable protection for people displaced by climate change.

Temporary public policies, such as those used after natural disasters or political crises, are similarly restricted. These responses target immediate problems but fade out too fast to help in the long term. As noted, climate change produces both sudden disasters and slow-onset environmental deterioration that unfolds over years or decades. A temporary program cannot address the permanent loss of land in the Pacific Islands, the irreversible flooding in Bangladesh, or the repeated destruction of communities like Lytton and Yellowknife.

Access to justice is heavily restricted because of temporary pathways. They do not offer individuals a clear direction and require them to navigate multiple complicated processes that are frequently changing. Individuals have to deal with all this while many are suffering, have experienced trauma, have no stability, or have experienced loss. Temporary status limits access to settlement services, health care, employment opportunities, and long-term planning. It also leaves people in an uncertain situation, where their place in the country hangs in the balance with policy changes instead of solid ground.

Ultimately, temporary pathways are unsuccessful because they rely on the hope of being able to return. When wildfires destroy homes, coastlines vanish, and whole countries are threatened by rising sea levels, there is no going back.

32 Government of Canada, "Humanitarian and Compassionate Considerations" (last modified 29 September 2025), online: <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/humanitarian-compassionate-considerations.html>.

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Temporary programs cannot provide stability, predictability, or long-term protection required for individuals who have no home to return to. Without permanent pathways to provide protection from climate displacement, Canada's immigration system will continue to keep climate-displaced people in a complicated legal situation where they receive temporary safety but no long-term security.

VII. THE SOLUTION: A PERMANENT CLIMATE PROTECTION PATHWAY

The current Canadian immigration pathways are not enough to address long-term, irreversible climate-driven displacement. Current temporary programs assume return is an option, and current humanitarian pathways are reliant on discretionary decision-making, resulting in inconsistent outcomes. To adequately address the realities of climate displacement, Canada needs a permanent immigration pathway that is designed to support people who cannot safely return to their home regions because of climate-related harm. A dedicated Climate Protection Pathway would align Canada's immigration system and its processes with international human rights standards, including the UNHRC's identification of climate-related impacts as triggering non-refoulement obligations.[33] A dedicated Climate Protection Pathway would provide a predictable, transparent, and long-term mechanism for individuals who cannot safely return to their country.

A Climate Protection Pathway could be created under existing legislative authority. Section 25.2 of the IRPA allows the minister to establish public policies to facilitate immigration for humanitarian reasons, and this provision has been used repeatedly to establish humanitarian programs such as the CUAET, as well as special measures for Haiti. However, the Climate Protection Pathway would be a permanent pathway that is structured with clear eligibility criteria based on scientific evidence and the principles of international human rights. The applicant must demonstrate that the impacts of climate change (e.g., rising sea levels, flooding, or natural disasters) present a real and continuing threat to life, public safety, or the ability to meet basic subsistence needs. The Climate Protection Pathway, then, would serve as a legitimate ground to seek legal protection from the impacts of climate change without being bound by the restrictive definition of a Convention refugee.

CARL has proposed several policy options for addressing climate displacement, including updated humanitarian and compassionate guidelines, creating a public policy class, temporary resident permits, ministerial instructions

33 Galloway, *supra* note 14.

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under section 48(2), private sponsorship, and pilot programs.[34] However, these proposals do not provide a solution. The Climate Protection Pathway would be a long-term solution that aligns with Canada's international obligations and addresses the irreversible nature of climate displacement.

The Canadian government has shown it can respond quickly and efficiently to crises. The CUAET program, which helped people from Ukraine, demonstrated that Canada can mobilize resources and streamline processing. However, this program was temporary and did not provide a pathway to permanent residence. The Climate Protection Pathway would build on the strengths of the CUAET program and provide permanent status to people who cannot return home because of climate-related harm.

To be fair and efficient, the Climate Protection Pathway should incorporate a triage system based on the three triggers for climate migration identified by the Library of Parliament.[35] Priority 1 will include people who are being forced to relocate because of catastrophic climate events such as wildfires, flooding, or total destruction of land. Priority 2 will include people who are being relocated as a result of planned relocations, where governments determine that long-term environmental degradation makes it impossible for individuals to continue to reside safely and adequately. People in Priority 3 will be voluntary migrants who choose to relocate in anticipation of slow-onset climate changes such as desertification and reduced agricultural productivity. The triage system would prioritize addressing immediate and irreversible harm first, while still recognizing slow-onset displacement.

Implementation would require coordination across federal departments, but the administrative model already exists. Canada's private sponsorship of refugees (PSR) program, for example, shows how community organizations, settlement agencies, and government bodies can collaborate to support newcomers. A Climate Protection Pathway could adopt a similar structure, combining government-assisted and community-sponsored streams. Government-assisted applicants would be selected based on their vulnerability to environmental risks, while community sponsorship would enable Canadian groups to support individuals from regions facing severe impacts. This model would also allow for a more equitable distribution of responsibility, increase public support for this new program, and ensure that those most in need receive asylum.

The Climate Protection Pathway must also include comprehensive settlement supports to ensure significant access to justice. This means that people admitted to Canada through the program would receive the same services as government-assisted refugees, including temporary accommodation upon

34 Basman, Shazadi Meighen & Bryce, *supra* note 17.

35 Gagnon & Lagacé-Roy, *supra* note 4.

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arrival, assistance in locating long-term accommodation, and income support where needed.[36] Settlement services such as job readiness training, help in obtaining credentials, and help connecting people to local employers for job opportunities would be provided to those by Immigration, Refugees and Citizenship Canada (IRCC)–funded settlement agencies that already exist.[37] In recognition of the trauma associated with the sudden loss of their environment, people who arrive in Canada through the program will also have access to language training, mental health support, and integration assistance for the first year they live in Canada through community sponsorship, which is an approach used in the PSR program. Partnerships among the provinces, municipalities, and community providers will enhance access to health care, education, and housing for those who arrive through the program.

Within this framework, paralegals play a critical role in improving access to justice. Climate-displaced individuals often arrive with limited documentation, trauma, and little understanding of the Canadian legal process. As front-line legal professionals, paralegals can help guide them through the application process, assisting them with gathering supporting evidence and preparing their applications.

In Ontario, paralegals are authorized to represent clients at the IRB. Although paralegals cannot submit temporary resident permits and humanitarian and compassionate grounds applications to IRCC, they can partner with lawyers or existing organizations such as the Canadian Environmental Law Association[38] that have funding from Legal Aid.

The establishment of a permanent Climate Protection Pathway would help create certainty for both paralegals and their clients. This would be beneficial for both parties, as paralegals can assist their clients in successfully navigating the application process, leading to greater consistency in decision-making and ensuring that vulnerable individuals receive accurate legal information.

Additionally, paralegals play a crucial role in providing community outreach. Clients need to be as comfortable as possible, especially after being forced to relocate, as that experience can be traumatizing. Paralegals can help make the process feel less intimidating and provide the support that these vulnerable clients require.

36 Government of Canada, "Government-Assisted Refugees Program" (last modified 3 November 2025), online: <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/resettle-refugee/government-assisted-refugee-program.html>.

37 Immigration, Refugees and Citizenship Canada, "Settlement Program" (last modified 9 April 2026), online: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/program-terms-conditions/settlement.html>.

38 Refer to the Canadian Environmental Law Association website at: <https://cela.ca>.

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Funding is essential, but the required investment is both manageable and justified. Canada already allocates significant resources to emergency responses, disaster relief, and temporary immigration programs. A permanent pathway would allow the government to shift from short-term, reactive spending to more proactive and long-term planning. The federal government could also draw on existing climate adaptation funding, which already supports resilience efforts both within Canada and internationally.[39] In addition, partnerships with many provinces and municipalities would help ensure that settlement supports are tailored to local needs.[40] By creating a permanent pathway, future costs associated with repeated temporary programs and emergency responses can be reduced.

Public opinion data from Environics Institute show that many Canadians are concerned about the overall number of immigrants entering the country.[41] Therefore, any new pathway needs to be properly designed and justified. The Climate Protection Pathway doesn't mean that every person from that region has an open border into Canada. It creates a structured process for a specific group of migrants from a part of the world who cannot return home because the land they were born on is no longer safe or habitable. By using clear eligibility criteria, caps on how many people will have these criteria met, and a transparent manner of determining who qualifies, a manageable and accountable program can be created. This helps make sure that climate displacement can be dealt with in a controlled manner and not through reactive measures that may not be easy to explain or justify to the public.

Timelines for implementation could be realistic and phased. In the first year, the federal government could identify eligibility criteria, consult with experts, and develop assessment tools based on existing climate risk assessments. In the second year, pilot programs could be developed in partnership with regions facing high climate risk, such as the Pacific Islands and South Asia. In the third year, the scope of the program could expand to include all regions of the world, supported by a standardized assessment framework and integrated settlement supports. A phased approach will enable Canada to develop capacity while addressing urgent needs.

39 Government of Canada, "Canada's National Adaptation Strategy" (last modified 1 August 2023), online: <https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/national-adaptation-strategy/full-strategy.html>.

40 Kent Mundle, "Canadian Cities Are Unprepared for Climate-Driven Migration—Here's What They Can Do" (12 August 2025), online: <https://www.preventionweb.net/news/canadian-cities-are-unprepared-climate-driven-migration-heres-what-they-can-do>.

41 Environics Institute for Survey Research, "Canadian Public Opinion About Immigration and Refugees" (16 October 2025), online: <https://environicsinstitute.org/canadian-public-opinion-about-immigration-and-refugees-2025>.

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A Climate Protection Pathway would also strengthen Canada's international leadership. Countries such as New Zealand and Australia have begun exploring climate-specific visas, and regional frameworks in the Pacific region and Africa are developing mobility agreements for climate-affected populations.[42] By creating a permanent pathway, Canada would join in the efforts and demonstrate a commitment to human rights.

A permanent Climate Protection Pathway is also in Canada's national interest. The individuals who are forced to leave their homes because of climate change are often resourceful and skilled and will likely want to rebuild their lives in Canada. For rural and Atlantic communities experiencing population decline, welcoming new residents provides an opportunity for those communities to provide economic opportunities and strength to their essential industries. It is important to remember that while these individuals are forced to relocate because they don't have a choice, they could bring important and necessary skills to Canada that could be of benefit to the country.

Most importantly, a permanent pathway would address the access-to-justice gap in Canada's current system. People whose homes are underwater, have burned down, or are no longer habitable will not be required to rely on short-term programs that do not offer long-term security. A Climate Protection Pathway will offer individuals much-needed stability and clarity. It will create an immigration system in Canada that better mirrors the new normal of our planet, which is experiencing global warming, and uphold the principles of fairness and protection in the IRPA.

VIII. CONCLUSION

Displacement driven by climate change is creating an issue where conditions are such that returning to the land is no longer possible for millions of people. Despite this rising issue, Canada's immigration system is reliant on strict legal categories and temporary measures that do not account for irreversible environmental loss. Some people who are facing the loss of their homes because of flooding, wildfires, and rising sea levels are forced into established government programs that assume displacement is only temporary, even though this is not the situation in many cases. This creates an access-to-justice gap that leaves climate-affected individuals without a stable or predictable pathway to safety. This undermines both fairness and access to justice.

The limitations of Canada's refugee framework, particularly the individualized risk requirement under sections 96 and 97 of the IRPA, mean that

42 Climate Migration Council, Press Release, "Advancing Climate Mobility Solutions: Highlights from COP29" (17 December 2024), online: <https://www.climatemigrationcouncil.org/press-releases/advancing-climate-mobility-solutions-highlights-from-cop29>.

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climate-related harms cannot be recognized within existing legal categories. Temporary pathways such as public policies, temporary resident permits, and humanitarian and compassionate applications also fail to provide long-term security, as they rely on discretionary decision-making and the assumption that return will eventually be possible.

Therefore, the establishment of a permanent Climate Protection Pathway offers a practical resolution to a surging issue. By creating clear eligibility criteria, stable funding, and a durable legal framework, Canada can provide long-term protection for those who have been or will be impacted by climate change. The pathways would also align with Canada's international human rights obligations, address structural gaps in existing law, and ensure that individuals facing irreversible environmental harm are not left navigating a complex and inconsistent system.

As climate change continues to rise in many places around the world, adapting Canada's approach is not only the right thing to do but also necessary to protect the stability and well-being of those who are and will be most impacted. A permanent pathway would close the access-to-justice gap, provide predictable protection, and ensure that Canada's immigration system reflects the realities of climate change being experienced around the world.

BIBLIOGRAPHY

LEGISLATION

Immigration and Refugee Protection Act, SC 2001, c 27.

JURISPRUDENCE

United Nations Human Rights Committee, *Teitiota v New Zealand*, Communication No 2728/2016, UNCCPROR, 127th Sess, UN Doc CCPR/C/127/D/2728/2016 (2020).

SECONDARY SOURCES

Amnesty International, "Bangladesh: Climate Crisis Magnifies Discrimination Against 'Invisible' Sanitation Workers" (16 October 2025), online: <https://www.amnesty.org/en/latest/news/2025/10/bangladesh-invisible-sanitation-workers>.

Basman, Aviva, Warda Shazadi Meighen & Rachel Bryce, *The Canadian Association of Refugee Lawyers' 2023 Report on Climate Migrants* (Toronto: CARL, October 2023), online (pdf): <https://carl-acaadr.ca/wp-content/uploads/2025/09/CARL-Climate-Report-October-2023-1-002.pdf>.

This excerpt is for review purposes only and may not be shared, reproduced, or distributed to any person or entity without the written permission of the publisher. © 2027 Emond Montgomery Publications. All Rights Reserved.

Cairo University and International Organization for Migration, *Climate Change and Migration* (Cairo: IOM, 2025), online (pdf): <https://crisisresponse.iom.int/sites/g/files/tmzbdl1481/files/uploaded-files/Climate-Change-and-Migration-2025.pdf>.

Canadian Environmental Law Association: <https://cela.ca>.

Charlebois, Brieanna, "Wildfires Near Lytton, BC Prompt Evacuation Orders, State of Local Emergency," *CBC News* (last modified 2 July 2025), online: <https://www.cbc.ca/news/canada/british-columbia/fire-near-lytton-evacuation-alert-2025-july-1-1.7574835>.

"City of Yellowknife Has New Plans for Emergencies and Evacuations," *CBC News* (last modified 18 September 2024), online: <https://www.cbc.ca/news/canada/north/yellowknife-emergency-response-evacuation-plan-1.7326176>.

Climate Migration Council, Press Release, "Advancing Climate Mobility Solutions: Highlights from COP29" (17 December 2024), online: <https://www.climatemigrationcouncil.org/press-releases/advancing-climate-mobility-solutions-highlights-from-cop29>.

Ducks Unlimited Canada, "Rising Sea Levels Raise Concerns on Canada's Coasts" (15 November 2019), online: <https://www.ducks.ca/stories/conservator/rising-sea-levels-on-canadas-coasts>.

Dureid, Muzna, "Op-Ed: Muzna Dureid on Canada's Response to Climate Refugees," *LERRN* (24 November 2021), online: <https://carleton.ca/lerrn/2021/op-ed-canada-immigration-climate-change>.

Environics Institute for Survey Research, "Canadian Public Opinion About Immigration and Refugees" (16 October 2025), online: <https://environicsinstitute.org/canadian-public-opinion-about-immigration-and-refugees-2025>.

Gagnon, Philippe A & Alexia Lagacé-Roy, *Climate Change and Migration: The State of International Refugee and Human Rights Law* (Ottawa: Library of Parliament, 2024), online (pdf): <https://lop.parl.ca/staticfiles/PublicWebsite/Home/ResearchPublications/HillStudies/PDF/2024-02-E.pdf>.

Galloway, Mari, "Teitiota v New Zealand, Climate Migration and Non-Refoulement: A Case Study of Canada's Obligations Under the Charter and the ICCPR" (2022) 45:2 Dal LJ, online: <https://canlii.ca/t/7mz49>.

This excerpt is for review purposes only and may not be shared, reproduced, or distributed to any person or entity without the written permission of the publisher. © 2027 Emond Montgomery Publications. All Rights Reserved.

Government of Canada, "Canada's National Adaptation Strategy" (last modified 1 August 2023), online: <https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/national-adaptation-strategy/full-strategy.html>.

Government of Canada, "Government-Assisted Refugees Program" (last modified 3 November 2025), online: <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/resettle-refugee/government-assisted-refugee-program.html>.

Government of Canada, "Humanitarian and Compassionate Considerations" (last modified 29 September 2025), online: <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/humanitarian-compassionate-considerations.html>.

Government of Canada, News Release, "Government of Canada Introduces Special Immigration Measures in Response to the Earthquake in Haiti" (last modified 15 December 2016), online: <https://www.canada.ca/en/news/archive/2010/01/government-canada-introduces-special-immigration-measures-response-earthquake-haiti.html>.

Immigration and Refugee Board of Canada, "Chairperson's Guidelines" (last modified 12 August 2026), online: <https://www.irb-cisr.gc.ca/en/legal-policy/policies/Pages/chairperson-guideline.aspx>.

Immigration, Refugees and Citizenship Canada, "Canada–Ukraine Authorization for Emergency Travel" (last modified 22 March 2022), online: <https://www.canada.ca/en/immigration-refugees-citizenship/news/2022/03/canada-ukraine-authorization-for-emergency-travel.html>.

Immigration, Refugees and Citizenship Canada, "Settlement Program" (last modified 9 April 2026), online: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/program-terms-conditions/settlement.html>.

International Catholic Migration Commission, "What (and Who) Are Climate Refugees?" (26 November 2025), online: <https://www.icmc.net/2025/11/26/what-and-who-are-climate-refugees>.

Karim, Rubaiyat, "First Person: I'm a Climate Refugee," *CBC News* (6 November 2022), online: <https://www.cbc.ca/newsinteractives/features/first-person-climate-refugee>.

Mahmud, Faisal, "'I Have Lost Everything': Bangladesh Floods Strand 1.24 Million Families," *Al Jazeera* (28 August 2024), online: <https://www.aljazeera.com/features/2024/8/28/i-have-lost-everything-bangladesh-floods-strand-1-24m-families>.

This excerpt is for review purposes only and may not be shared, reproduced, or distributed to any person or entity without the written permission of the publisher. © 2027 Emond Montgomery Publications. All Rights Reserved.

McAllister, Sean, "There Could Be 1.2 Billion Climate Refugees by 2050: Here's What You Need to Know" (23 October 2024), online: <https://www.zurich.com/insights/business/there-could-be-1-2-billion-climate-refugees-by-2050-here-s-what-you-need-to-know>.

Mundle, Kent, "Canadian Cities Are Unprepared for Climate-Driven Migration—Here's What They Can Do" (12 August 2025), online: <https://www.preventionweb.net/news/canadian-cities-are-unprepared-climate-driven-migration-heres-what-they-can-do>.

Nichols, Lainie, "Climate-Induced Migration: Canada's Obligations & Opportunities" (21 August 2025), online: <https://cpj.ca/report/climate-induced-migration-canadas-obligations-opportunities>.

"Tuvalu Minister to Address COP26 Knee Deep in Water to Highlight Climate Crisis and Sea Level Rise," *The Guardian* (8 November 2021), online: <https://www.theguardian.com/environment/2021/nov/08/tuvalu-minister-to-address-cop26-knee-deep-in-seawater-to-highlight-climate-crisis>.

United Nations General Assembly, *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976), online: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

United Nations High Commissioner for Refugees, "The 1951 Refugee Convention" (last visited 25 September 2026), online: <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>.

United Nations Human Rights Committee, *Views Adopted on Teitiota Communication No 2728/2016*, UN Doc CCPR/C/127/D/2728/2016 (2020), online (pdf): <https://cdn.climatepolicyradar.org/navigator/XAA/2015/un-human-rights-committee-views-adopted-on-teitiota-communication_d5710057e4f9fccda3bef69f244a70c6.pdf>.

US Committee for Refugees and Immigrants, "The 1951 Refugee Convention: Displacement Caused by Climate Change" (15 July 2025), online: <https://refugees.org/the-1951-refugee-convention-displacement-caused-by-climate-change>.

Yeo, Sophie, "Tuvalu: The Disappearing Island Nation Recreating Itself in the Metaverse," *BBC News* (21 November 2024), online: <https://www.bbc.com/future/article/20241121-tuvalu-the-pacific-islands-creating-a-digital-nation-in-the-metaverse-due-to-climate-change>.

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