



The Humanitarian Role of International Migration Under the Geneva Conventions

Aicha Abdelhamid

Department of Law, Faculty of Law and Political Science, Chadli Bendjedid University, El
Tarf
Algeria

Email : Abdelhamid - aicha@univ-eltarf.dz ; Orcid : 0009-0007-3506-1646

ABSTRACT:

The international community has given significant attention to the phenomenon of migration, making it a key issue in the programs and activities of the International Labour Organization. Migration generally refers to the movement from one place to another with the intention of staying for an extended period in the host country.

However, due to international conflicts, wars, and acts of genocide affecting entire populations, migration and asylum have become pressing concerns, highlighting the humanitarian suffering of millions of individuals. This persists despite the global commitment to upholding human rights, which primarily entails refraining from committing human rights violations.

In the context of migration, this includes abstaining from arbitrary detention, torture, or the mass expulsion of migrants, which are among the most serious violations.

Keywords: Refugee; International Law; Migrant; Geneva Convention; Humanitarian Role.

Received : 12/04/2025

Accepted : 25/09/2025

Published : 12/10/2025

INTRODUCTION:

The international community has paid close attention to the phenomenon of migration, making it a central issue in the programs and activities of the International Labour Organization, as well as in the domestic legislation of various receiving and sending countries.

As for the laws regulating migration, there are differences among European states in defining the concept of a migrant; consequently, there are criteria for distinguishing between citizens and migrants.

The refugee problem arose from conflicts and international ambitions in the lands of oppressed peoples, which led to a new form of colonialism aimed at dispersing populations living under its yoke. This prompted the United Nations to establish special conventions for the treatment of refugees worldwide—addressing their status and legal positions, protecting them, and safeguarding their rights and duties in light of their humanitarian condition. This effort culminated in the convention signed in December 1951 to address all refugee issues, along with its protocol of 1971.

We therefore observe a closeness and parallelism in concept between international refugee law and international humanitarian law: both arise from the need to protect persons who fall into the hands of a state of which they are not nationals.

Addressing the issue of humanitarian asylum as a humanitarian condition calls for intervention by states and international organizations to provide more concrete assistance that enables the refugee to endure and resist the difficult circumstances resulting from asylum—within the scope of international law and international humanitarian law.

Accordingly, we pose the following problematic question:

To what extent does international migration law address migration within a humanitarian framework?

We approach the topic by adopting an analytical method to examine the phenomenon and to identify the avenues addressed by international law and international humanitarian law in their various instruments, as well as the relevant conventions.

Thus, we divide our presentation into:

- **First:** Distinguishing between international humanitarian migration and similar terms.
- **Second:** International humanitarian asylum under international humanitarian law.

FIRST: DISTINGUISHING BETWEEN INTERNATIONAL HUMANITARIAN MIGRATION AND SIMILAR TERMS

The concept of an environmental refugee or ecological refugee, environmental migration or climate asylum, or displacement caused by natural disasters, refers to migration or displacement resulting from environmental harm.¹

Environmental balance, or ecological equilibrium, is a fundamental condition for health and life; however, this balance may be disrupted and worsened during armed conflicts.²

1. The Definition of the Concept

The concept of the environmental refugee appeared in United Nations literature in 1985, in a report by the United Nations Environment Programme.

There is a difference between the traditional refugee and the environmental refugee based on the following elements:

- The traditional refugee does not benefit from legal protection in their home country.
- The environmental refugee, on the other hand, maintains a legal relationship with their state, though this relationship is suspended or temporarily interrupted.

A refugee in general can be defined as a person who has left their homeland because they fear persecution for reasons related to race, religion, nationality, political opinion, or membership in a particular social group, and who is unable or unwilling to place themselves under the protection of their country of origin.³

In this regard, we can distinguish between the following terms:

A- Internally Displaced Persons (IDPs):

These are individuals who leave their habitual place of residence due to natural or humanitarian disasters and live in safety within their country's territory until the causes of their displacement disappear.

B- Refugees:

These are individuals who have left their country of origin due to a well-founded fear of persecution for reasons related to race, religion, gender, social affiliation, or political opinion. The granting of refugee status depends on the decision of the host country, based on security and political considerations.

C- Migrants and Deportees:

Migrants are persons who leave their country or habitual place of residence to settle in another country for economic, social, or political reasons.⁴

As for the internally displaced person or internally deported person, displacement occurs due to armed conflict or environmental hazards. The status of refugees in international law is governed by the United Nations Convention relating to the Status of Refugees (Geneva, 1951) and its 1967 Protocol. However, migrants and internally displaced persons are not protected by any specific international legal instrument; they therefore remain subject to national law and human rights law.

A refugee is considered any person who crosses international borders. The 1951 United Nations Convention relating to the Status of Refugees defines refugees as victims of political or religious persecution or civilians fleeing a war zone where they have become targets.⁵

The concept of the environmental refugee includes all categories of persons who are victims of forced displacement due to environmental disasters, whether natural or man-made, in the absence of any international or regional legal instrument capable of providing protection to environmental refugees.

Article 1 of the 1951 Geneva Convention defining the refugee does not mention the concept of the environmental refugee.

Persons displaced for environmental reasons are, in reality, an existing category that has emerged decades ago, yet they still lack international recognition.

The term climate refugee or environmental refugee denotes a causal relationship between environmental degradation due to climate change and displacement or migration, particularly for those who have crossed national borders.⁶

Environmental asylum can be divided into two types:

- **Temporary Environmental Asylum:**

This occurs as a result of sudden natural disasters that damage the area of residence and its surroundings, leading to temporary forced migration for a certain period.

- **Permanent Environmental Asylum:**

This results from severe environmental threats that make it impossible to repair the damage or return to the area of residence, thus rendering the displacement permanent.⁷

As for the term expulsion, it refers to the prevention of a refugee's return to a state of persecution—whether that state is the refugee's country of origin or any other country where they may face persecution. It is a legal measure taken by a state to remove a foreign national who is legally present in its territory, and it is considered a normal procedure.⁸

2. The Relationship Between the Concept and International Humanitarian Law

International humanitarian law (IHL), in its broad sense, consists of all international legal provisions—whether legislative or customary—that ensure respect for the individual and promote human welfare.

The Law of War, in its broad sense (also known as the Law of Armed Conflict), seeks to establish rules governing military operations. It is divided into two main branches: The Hague Law (or the Law of War) and The Geneva Law (or International Humanitarian Law). The former, The Hague Law, aims to define the rights and duties of belligerents in the conduct of military operations and to limit the choice of means used to inflict harm. It originates from the Hague Conventions of 1899 and 1907.

As for The Geneva Law, or International Humanitarian Law, it specifically aims to protect combatants who are no longer able to fight, as well as those not taking part in hostilities. It is embodied in the Geneva Conventions of 1949, which bear the same name, along with the two Additional Protocols of 1977 attached to these conventions.⁹

The purpose of the Geneva Law is to protect the victims of armed conflicts. While The Hague Law represents the law of war, the Geneva Law represents the law of protection—that is, the protection of victims of armed conflict, including members of the armed forces who are no longer taking part in hostilities (the wounded, the sick, the shipwrecked, prisoners of war) as well as civilian populations.¹⁰

The Geneva Conventions of 1949, although they did not establish specific and detailed rules regarding refugees, did not neglect or overlook this group. On the contrary, refugees are protected under IHL if they fall under the control of one of the parties to the conflict.¹¹

In international humanitarian law, asylum refers to the flight of victims from imminent dangers resulting from armed conflicts to places and institutions that can offer them protection.¹²

The ultimate purpose of international humanitarian law is to protect human beings and the environment in which they live, especially during armed conflicts.¹³

However, the absence of a clear definition for the term environmental refugee remains a limitation. A refugee is not necessarily required to leave their country and seek asylum elsewhere a practical example of this is the environmental refugee.¹⁴

The climate refugee represents a vulnerable category and an indicator of a major and unresolved problem. Despite this, there is still no specific international convention dedicated to protecting their rights. Under international law, this group is treated like other categories of migrants but occupies a particular status within international law, which, at least in theory, provides stronger protection for migrants regardless of the type of migration than that afforded by other legal systems.

The climate refugee is threatened by the dangers of climate change, which often compel them to move to safer areas. This includes groups such as women, children, indigenous peoples, and persons with disabilities, in accordance with the principle of non-discrimination. Thus, this principle can be applied to climate refugees, guaranteeing their right to life as a fundamental human right and their freedom from threats, since climate change particularly endangers the right to life and livelihoods.¹⁵

Environmental asylum has therefore become a reality imposed by circumstances, as ongoing environmental changes and their growing challenges increasingly force human beings to alter the course of their lives.

Although the common factor in all forms of asylum lies in the risks associated with environmental conditions and their potential impact on human life and safety, the distinction remains that refugee law provides a precise definition of the refugee, whereas international humanitarian law remains vague in this regard and rarely uses the term. This does not mean, however, that IHL ignores refugees, for they still enjoy protection when under the control of a party to the conflict.

The Fourth Geneva Convention obliges the parties to the conflict to refrain from detaining such refugees.

International humanitarian law has sought to protect the environmental refugee despite its shortcomings in this area. In its classical sense, IHL represents a set of internationally agreed-upon principles and rules designed to limit the use of violence during armed

conflicts by protecting persons involved in military operations. Consequently, it does not apply directly to victims of environmental disasters.¹⁶

However, the evolution of international law has expanded its scope to include humanitarian intervention aimed at obtaining international assistance to protect victims of natural disasters and emergencies. This was affirmed by the United Nations General Assembly Resolution No. 43/131 of December 8, 1988, adopted upon France's initiative, which emphasized the principle of providing assistance to victims of natural disasters and similar emergency situations.

Furthermore, the General Assembly Resolution No. 45/100 established humanitarian corridors for victims of natural disasters and comparable emergencies.

SECOND: INTERNATIONAL HUMANITARIAN ASYLUM UNDER INTERNATIONAL HUMANITARIAN LAW

The refugee problem has become an international issue concerning the entire global community, given its connection to the protection of human rights and its relevance to the maintenance of international peace and security. Therefore, we will focus on the general protection granted to refugees in international conventions, followed by specific protection mechanisms.

1. Protection in International Charters

A- The Universal Declaration of Human Rights

The Universal Declaration of Human Rights constitutes a fundamental basis, as it recognizes for refugees rights broader than those enshrined in international humanitarian law or in the rules governing the right of asylum. The Universal Declaration of Human Rights (1948), in its Article (13), explicitly provides for the right of asylum.¹⁷

The Declaration was adopted on 10 December 1948 and consists of 80 articles that include a comprehensive list of civil, political, economic, social, and cultural rights.¹⁸

B- The Fourth Geneva Convention of 1949 and Its Additional Protocol I of 1977

International humanitarian law provides legal protection for refugees that is broader than that offered by international refugee law, as it guarantees the protection of all civilians during armed conflicts, with particular emphasis on refugees.

The Fourth Geneva Convention of 1949 includes provisions ensuring that refugees are not forced to return to a country where they may face danger. Moreover, its Additional Protocol of 1977 expanded the scope of civilian protection to include all civilians, regardless of their nationality, including stateless persons, in accordance with Article (73) of the Protocol.

C- The United Nations Convention Relating to the Status of Refugees (1956)

This Convention was adopted on 28 June 1958 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, which was convened by the United Nations General Assembly under its Resolution 429 (14 December 1950).

The Convention entered into force on 22 April 1954, and by September 2001, it had been ratified by 141 States.

This Convention constitutes the foundation of international refugee law, as it explicitly defines the term refugee and determines their rights and obligations.¹⁹ It explicitly refers to the term refugee.²⁰

D- The Protocol Relating to the Status of Refugees (1967)

The objective of this Protocol is to acknowledge the applicability of the 1951 Refugee Convention to contemporary refugee movements. States may become parties to this Protocol by adhering to and applying its provisions.

2- The United Nations Declaration on Territorial Asylum (1969):

The General Assembly adopted this Declaration after ten years of extensive discussions under Resolution 2312 (XXII) on 14 December 1967. It consists of a preamble and four articles, reflecting the international consensus that the granting of asylum is a peaceful and humanitarian act that should not be regarded by any state as unfriendly.²¹

2. International Special Mechanisms for the Protection of Refugees

A- The United Nations High Commissioner for Refugees (UNHCR):

The idea of establishing the United Nations High Commissioner for Refugees (UNHCR) dates back to 1946, when a resolution was adopted defining the United Nations' activities in support of refugees. The General Assembly recommended that the Economic and Social Council pursue the matter, leading to the creation of UNHCR in 1951 by General Assembly Resolution 319 (IV) of 3 December 1949.

Its Statute was approved by Resolution 428 (V) of 14 December 1950, and the agency began its official operations in 1951.

B- The International Committee of the Red Cross (ICRC):

The International Committee of the Red Cross is described as a neutral humanitarian body—an international, non-governmental organization composed of volunteers working in the humanitarian field. It was founded in 1863 through the efforts of Jean Henry Dunant, a Swiss national.²²

The ICRC is an international non-governmental organization whose mission is to provide protection and assistance to victims of international and non-international armed conflicts, including both civilians and military personnel.

C- International Environmental Law and the Law of Stateless Persons:

In general, international environmental law provides only limited protection for climate change refugees and offers few mechanisms for adaptation. However, during the Bangkok Conference in 2011, it was agreed that climate refugees represent a serious problem requiring concrete measures.

As for the Law of Stateless Persons, a stateless person is an individual who is not considered a national by any state under the operation of its law (de jure stateless). Statelessness can constitute both a personal and humanitarian disaster. Relevant instruments include:

- The Convention Relating to the Status of Stateless Persons (1954);
- The Convention on the Reduction of Statelessness (1961); and
- The special protection mandate of UNHCR concerning stateless persons.²³

D- The International Organization for Migration (IOM):

The International Organization for Migration (IOM) was established in 1951. It is the only international organization dedicated specifically to migration issues. It currently includes 125 member states and 18 observer states.²⁴

The impacts of climate change compel people to leave their homes in search of food, water, security, and better living conditions. However, the existing international legal framework remains inadequate and unprepared to meet the needs of these environmentally displaced persons.

Similarly, national legislation and domestic policies in most countries do not facilitate legal cross-border migration caused by climate effects.

Therefore, the following measures are necessary:

- To expand the scope of the 1951 Refugee Convention to include environmentally displaced persons or environmental migrants;
- To update the current definition of “refugee” contained in the 1951 Refugee Convention, so that it encompasses those displaced by environmental or climatic factors.

Conclusion:

The issue of migration and asylum goes beyond the ambiguity of terminology itself; it surpasses the traditional concept, nature, and framework to become a concept with a humanitarian dimension.

Accordingly, we arrive at the following conclusions:

1. It is necessary to broaden the temporal and geographical scope of the concept, as migration and asylum today have taken on new and evolving meanings.
2. Under the 1951 Convention and the 1967 Protocol, the asylum seeker, migrant, or refugee remains a burden on the state in which they have sought refuge.

We further conclude that:

- 1- Humanitarian asylum is caused by wars, foreign occupation, civil wars, internal disturbances within a state's territory, or as a result of human rights violations.

2- Humanitarian asylum remains collective in nature; therefore, we raise the question of the extent to which the rights of civilians are guaranteed during the process of mass asylum.

List of Sources and References

I. Legal Texts

1. Article 06 of the Rome Statute.
2. Article 07 of the Statute of the International Criminal Court.
3. Article 08, paragraph 2 (c) of the Statute of the International Criminal Court, and paragraph 2 (b) of the same text.
4. Article 130 of the Third Geneva Convention of 1949.
5. Article 147 of the Fourth Geneva Convention.
6. Article 186, paragraphs 01 and 02 of the First Additional Protocol of 1977.
7. Article 25 of the Rome Statute.
8. Article 28 of the Rome Statute.
9. Article 33 of the Rome Statute.
10. Article 51 of the Geneva Convention of 1949.
11. Article 85 of the First Geneva Protocol.
12. The Common Article 3 of the Geneva Conventions, which concerns armed conflicts not of an international character.

II. Legal Publications

1. Ahmed Si Ali, Protection of Persons and Property in International Humanitarian Law, 1st ed., Dar Al-Academia, Algeria, 2010.
2. Ahmed Abdel Karim Othman, International Crimes in Light of International Criminal Law and Islamic Sharia, Dar Al-Kutub Al-Qanuniya, Studies for Publishing and Software, Egypt, 2009.
3. Jihad Al-Qudat, Degrees of Litigation and Their Procedures in the International Criminal Court, Dar Wael, Jordan, 1st ed., 2010.
4. Hossam Deeb Ibrahim Al-Haddad, Arbitration in International Law, Dar Al-Kitab Al-Hadith, 2008.
5. Abdul Hussein Shaaban, Refugees in the World: Human Suffering and the Deficiency of Protection Mechanisms, Al-Ma'rifa, Al-Jazeera, March 13, 2009.
6. Abdel Fattah Bayoumi Hegazy, The International Criminal Court: The General Theory of International Crime and the Theory of Judicial Jurisdiction of the Court, Dar Al-Kutub Al-Qanuniya, Dar Shatat for Publishing and Software, Egypt, 2007.

7. Abdel Fattah Bayoumi Hegazy, *The International Criminal Court*, Dar Al-Fikr Al-Jami'i, Alexandria, Egypt, 2005.
8. Omar Saadallah, *Compendium of Contemporary International Law*, Diwan Al-Matbou'at, Algeria, 2007.
9. Omar Maki, *International Humanitarian Law in Contemporary Conflicts*, Publications of the International Committee of the Red Cross, n.d.
10. Fadel Abdul Zahra Al-Ghazawi, *Displaced Persons and International Humanitarian Law*, Al-Halabi Legal Publications, Lebanon, 2013.
11. Qassi Hisham, *Encyclopedia of International Human Rights Law*, Dar Al-Mufid, 2008.
12. Mohamed Saadi, *Public International Law in a Changing World*, Dar Al-Rayhana for Books, Algeria, 2004.
13. Mohamed Yaqoub Abdel Rahman, *Humanitarian Intervention and International Relations*, 1st ed., 2004.
14. Moataz Faisal Al-Abbasi, *Obligations of the Occupying Power toward the Occupied Territory*, Al-Halabi Legal Publications, Lebanon, 2003.
15. Mouloud Didan, *International Charters: The Charter of the United Nations, the Statute of the International Court of Justice, the Universal Declaration of Human Rights*, Dar Balqis, Algeria, 2011.
16. Nizar Al-'Ankabi, *International Humanitarian Law*, Dar Wael for Publishing, 1st ed., 2010.

III. Articles and Contributions

1. Belmadioni Mohamed, *The Status of Refugees in International Humanitarian Law*, Academy of Social and Human Studies, No. 17, January 2017.
2. Ben Aissa Ahmed, *The Position of International Law on Environmental Asylum*, Journal of International Law and Business, University of Hassan I, September 2019.
3. Ben Fatma Boubekur, *The Right to Environmental Asylum in International Law*, Journal of Legal and Political Research, No. 2, 2014.
4. Boubekur Abdelkader, *International Criminal Responsibility for International Crimes*, Algerian Journal of Political, Legal, and Economic Sciences, No. 2, June 2012.
5. Roukia Aouacheria, *International Protection of the Environment during Armed Conflicts*, Journal of Legal Studies, April 2003.
6. Roger Zetter, *Legal and Legislative Frameworks: Migration, Climate Change, and Refuge*, Refugee Studies Centre, Issue 31, December 1, 2008.

7. Ali Rashed Bin Nabgha Al-Tunaiji, The Role of Principles of International Humanitarian Law in Environmental Protection, Journal of the College of Politics and Economics, No. 3, July 2019.
8. Omar Salman Al-Naimi, Iraqi Refugees and International Protection, Hadara Journal, Iraq, No. 14, April 2012.
9. Mohamed Jassem, Mohamed Ali Jassem, International Protection of Refugees in International Armed Conflicts, Journal of Al-Rashid College University, Iraq, No. 7, 2018.
10. Najib Ben Omar Ouinat and Khaled Abdullah Al-Shafi, The International Criminal Court and State Sovereignty, Tunisian Legal Journal, University Publishing Center, 2011.

IV. Theses and Dissertations

1. Bahloul Zakia, The Climate Refugee from the Perspective of Human Rights, Security, and International Law, Doctoral Thesis, University of Batna 1, 2019.
2. Hantawi Boujemaa, International Protection of Refugees, Doctoral Thesis, University of Ahmed Ben Bella, Oran, 2019.
3. Aisha Abdel Hamid, Violation of International Humanitarian Law by Coalition Forces in Iraq, Doctoral Thesis, University of Badji Mokhtar, Annaba, 2018.

¹ Ben Fatma Boubekur, The Right to Environmental Asylum in International Law, Journal of Legal and Political Research, No. 2, 2014, p. 98.

² Roukia Aouacheria, International Protection of the Environment during Armed Conflicts, Journal of Legal Studies, April 2003, p. 19.

³ Moataz Faisal Al-Abbasi, Obligations of the Occupying Power toward the Occupied Territory, Al-Halabi Legal Publications, Lebanon, 2003, p. 365.

⁴ Fadel Abdul Zahra Al-Ghazawi, Displaced Persons and International Humanitarian Law, Al-Halabi Legal Publications, Lebanon, 2013, p. 201.

⁵ Omar Saadallah, Compendium of Contemporary International Law, Diwan Al-Matbou'at, Algeria, 2007, p. 365.

⁶ Bahloul Zakia, The Climate Refugee from the Perspective of Human Rights, Security, and International Law, Doctoral Thesis, University of Batna 1, 2019, p. 84.

⁷ Ben Aissa Ahmed, The Position of International Law on Environmental Asylum, Journal of International Law and Business, University of Hassan I, September 2019.

⁸ Omar Salman Al-Naimi, Iraqi Refugees and International Protection, Hadara Journal, Iraq, No. 14, April 2012, p. 09.

⁹ Omar Maki, International Humanitarian Law in Contemporary Conflicts, Publications of the International Committee of the Red Cross, n.d., p. 18.

¹⁰ Aisha Abdel Hamid, Violation of International Humanitarian Law by Coalition Forces in Iraq, Doctoral Thesis, University of Badji Mokhtar, Annaba, 2018, p. 18.

¹¹ Mohamed Jassem, Mohamed Ali Jassem, International Protection of Refugees in International Armed Conflicts, Journal of Al-Rashid College University, Iraq, No. 7, 2018, p. 64.

¹² Belmadioni Mohamed, The Status of Refugees in International Humanitarian Law, Academy of Social and Human Studies, No. 17, January 2017, p. 160.

¹³ Ali Rashed Bin Nabgha Al-Tunaiji, The Role of Principles of International Humanitarian Law in Environmental Protection, Journal of the College of Politics and Economics, No. 3, July 2019, p. 123.

-
- ¹⁴ Hantawi Boujemaa, *International Protection of Refugees*, Doctoral Thesis, University of Ahmed Ben Bella, Oran, 2019, p. 192.
- ¹⁵ Bahloul Zakia, *Previously Cited Thesis*, p. 314.
- ¹⁶ Mohamed Yaqoub Abdel Rahman, *Humanitarian Intervention and International Relations*, 1st ed., 2004, p. 116.
- ¹⁷ Qassi Hisham, *Encyclopedia of International Human Rights Law*, Dar Al-Mufid, 2008, p. 18.
- ¹⁸ Ahmed Si Ali, *Protection of Persons and Property in International Humanitarian Law*, 1st ed., Dar Al-Academia, Algeria, 2010, p. 218.
- ¹⁹ Bahloul Zakia, *Previously Cited Work*.
- ²⁰ Hossam Deeb Ibrahim Al-Haddad, *Arbitration in International Law*, Dar Al-Kitab Al-Hadith, 2008, p. 27.
- ²¹ Bahloul Zakia, *Previously Cited Reference*, p. 269.
- ²² Omar Saadallah, *Previously Cited Reference*, p. 370.
- ²³ Roger Zetter, *Legal and Legislative Frameworks: Migration, Climate Change, and Refuge*, Refugee Studies Centre, Issue 31, December 1, 2008, p. 63.
- ²⁴ Abdul Hussein Shaaban, *Refugees in the World: Human Suffering and the Deficiency of Protection Mechanisms*, Al-Ma'rifa, Al-Jazeera, March 13, 2009, p. 63.