doi:10.1017/aju.2025.10000

SYMPOSIUM ON FINANCING CLIMATE MOBILITY

TOOLS TO FINANCE CLIMATE MOBILITY: AN INTRODUCTION TO THE SYMPOSIUM

Alice Hamilton Farmer and Katerina Linos***

In this edition of *AJIL Unbound*, we start with good news: in the operationalization of the Loss and Damage Fund at the twenty-eighth session of the Conference of Parties to the United Nations Framework Convention on Climate Change (COP28, in 2023), states took a significant step forward toward funding solutions for climate mobility.[1] This reflects the immense need generated by large scale human displacement connected to the impacts of climate change. The next steps include realizing these commitments, expanding on them, and ensuring that we spend the money effectively in ways that enhance outcomes for those most affected. This volume seeks to provide evidence from practitioners and academics alike on how to finance climate mobility effectively.

Migration is one key way that humans adapt to a changing environment.[2] Research suggests that, by 2070, one to three billion people are projected to be left outside the climate conditions that have served humanity for the past six thousand years.[3] Of course, not all of these people will migrate, and amongst those who do, many will migrate within their country of origin. Prominent scholars note that it is hard to be accurate in predicting climate-related mobility, as we do not know how, when, and where people will move, nor do we know what adaptive technologies will emerge that allow some people to stay in place.[4] Yet even if we accept the low estimates, the numbers dwarf the record displacement highs seen from conflict in recent decades. Meanwhile, the legal framework—developed for conflict-driven displacement and economic migration—is ill-suited to the challenges ahead and needs innovation and evolution.[5]

The urgency of the issue demands that we work toward solutions, and so this edition aims to provide evidence on how climate mobility financing can work. There are gaps between those who focus on climate change, and those who focus on migration and displacement. Likewise, policymakers and academics cleave apart when analyzing various forms of climate displacement and proposing solutions. Even terminology itself is not settled—while the term "climate refugees" is generally considered legally inaccurate, many stakeholders use other interchanging terms. This volume strives to close those gaps, drawing from on-the-ground research,

* *Fellow at Stanford's Center for Advanced Study in the Behavioral Sciences, Stanford, California, United States.*

** *I. Michael Heyman Professor of Law and Co-Director of the Miller Institute for Global Challenges and the Law at the University of California, Berkeley, California, United States.* *We are very grateful to Annais Bengandavale, Toni Mendicino, and Berkeley Law's Miller Institute for Global Challenges and the Law for helping us organize this issue and a preparatory workshop.*

[1] *See, e.g.*, IOM, Loss and Damage Fund Operationalized at COP28 (Jan. 19, 2024).

[2] JANE MCADAM, CLIMATE CHANGE, FORCED MIGRATION, AND INTERNATIONAL LAW 252 (2012).

[3] Martin Scheffer et al., *Future of the Human Climate Niche*, 117 PNAS 11350 (2020).

[4] *See, e.g.*, Elizabeth Ferris, *The Relevance of the Guiding Principles on Internal Displacement for the Climate Change- Migration Nexus*, *in* RESEARCH HANDBOOK ON CLIMATE CHANGE, MIGRATION, AND THE LAW 113 (Benoit Mayer & François Crépeau eds., 2017).

[5] MCADAM, *supra* note 2 (giving an overview of bodies of international law relevant to climate displacement).

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https://doi.org/10.1017/aju.2025.10000 Published online by Cambridge University Press

government programming and policymaking, legal proceedings, and academic analysis to propose feasible pathways for financing climate mobility.

The first essay is by Alice Farmer, a co-editor of this volume, and a fellow at Stanford's Center for Advanced Study of the Behavioral Sciences, drawing insights from her extensive experience in the field with international organizations. Farmer examines mobility in climate-vulnerable settings such as fishing and agricultural communities, and looks at small-scale, community-based financing efforts in those regions. She argues that governments that want to finance climate mobility would be well-placed to invest in and magnify community-driven work such as this, in part because of the strong potential for good return on that investment, and in part because it better realizes the human rights of those facing displacement.

Next, Dr. Erica Bower and Charlotte Finegold make a compelling argument for community inclusion in decision making around climate mobility, specifically with planned relocations of entire communities. Bower, who leads planned relocation research and advocacy at Human Rights Watch, and Finegold, who is a fellow there, draw on extensive qualitative interviewing with communities who have undergone or who are facing planned relocation. They argue that while all planned relocations entail human rights risks, those that communities request or that have high levels of community buy-in are more likely to be both rights-respecting and effective—and tend to need access to funding. Meanwhile, they argue that planned relocations executed without community consultation will likely violate human rights and should not be funded.

Janka Deli, currently the Miller Empirical Fellow at the University of California, Berkeley School of Law, examines this decision of whether or not to fund from the donor's point of view. Her essay analyzes the EU's various mechanisms for climate financing, arguing that there exist creative tools that could be deployed for mobility issues. She points to the dramatic transformations in EU fiscal federalism over the last few years. She emphasizes that well over 30 percent of the transformative NextGenerationEU fund must be used to fight climate change, and presents an optimistic approach on one of the largest and most sophisticated donors in climate financing.

However, this optimism is challenged by Iris Goldner Lang, Jean Monnet Professor of EU Law, Head of the Department of European Public Law and Vice Dean, at the University of Zagreb, and Maroje Lang, Vice Governor at the Croatian National Bank. At a moment when the United States is rapidly withdrawing from key international commitments, they warn that the EU's shifting priorities toward internal resilience, protectionism, and defense may reduce its capacity for responding to global development challenges. The direction of the EU on climate mobility remains to be seen—we simply do not know whether the optimistic or the more measured view will prevail.

Shana Tabak, affiliated scholar and adjunct professor of law at Georgetown's Institute for the Study of International Migration, turns our gaze to a broader group of states, largely in the Global South. Her analysis of state submissions to international judicial bodies complements the earlier essays on the European Union, providing an in-depth look at the motivations and positionality of various states on climate mobility. Crucially, Tabak's analysis looks at what states *want* to see funded: both responsive obligations to assist those already displaced, and preventative obligations to help people remain in place if they choose.

Both Katerina Linos and Melissa Johns explore motivations of states beyond rights-based obligations, making the business case for financing climate mobility. Linos, the I. Michael Heyman Professor of Law at the University of California, Berkeley, and a co-editor of this volume, looks at the responsibility-sharing implications of climate displacement. Linos argues that financing climate mobility requires shifting from traditional duty-based perspectives to viewing it as a strategic investment that benefits both sending and receiving nations. This approach is exemplified by successful historical models like the EU's response to Ukrainian displacement and the U.S. resettlement of 1.3 million Indochinese refugees, which transformed Southeast Asian economies from refugee sources to growth centers.

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Johns, who has held leadership and advisory roles for two decades at the World Bank and at the United Nations, makes a case for refugee inclusion in countries' climate response. Johns highlights the plight of Rohingya in Bangladesh uncertain if they will receive post-hurricane housing assistance, Nicaraguan farmers in Costa Rica questioning their eligibility for flood compensation, and Ukrainian entrepreneurs in Poland navigating uneven access to green energy subsidies. She argues that multilateral development banks can prevent secondary displacement and build resilient communities by establishing rules that include refugees in climate adaptation and disaster response programs funded by them. In this scenario, refugees would be treated as habitual residents deserving inclusion on equal terms, rather than as separate populations requiring special humanitarian aid.

In the final essay, Lindsay Jenkins, a former senior advisor at the U.S. State Department, examines how to go beyond traditional multilateral and bilateral donor grants and loans, to multiply the effectiveness of their efforts. Jenkins analyzes how international institutions and state donors can partner with a broader range of private and public actors to support diaspora financing, blended finance, and debt swaps. Concessional finance, she argues, can have multiplier effects when used to help diasporas combine remittances to fund collective projects, when targeted to displaced persons who become climate entrepreneurs, and when given to countries that host large numbers of displaced persons and are then hit by climate disasters.

In a symposium of this nature, we did not strive to be exhaustive—we do not examine all types of financing of climate migration—but we do aim to be generative. Drawing on ideas from conflict-driven displacement, climate finance, and innovations born of crises, the authors provide a menu of insights. We hope this inspires further examination of evidence-based approaches to effective climate mobility financing.

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