

RETHINKING MIGRATION IN THE AGE OF THE ANTHROPOCENE

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## **Abstract**

The rise in global temperatures and extreme weather events has affected agricultural trends throughout the world and threatened the livelihoods of entire communities. Although not a determinant on its own, environmental degradation constitutes one of the overlooked causes of mass displacement in the 21<sup>st</sup> century. This dissertation works with the myth of ‘invasion’ by ‘environmental refugees’ in order to understand the systemic nature and demographic characteristics of population displacement related to the erasure of the means of survival, land and work for communities *en masse*, compelling members of these communities to take severe risks for survival. More specifically, this dissertation examines the implications of non-recognition for environmentally displaced people and linkages between environmental displacement and various conditions of precarity. The underlying aim of my research is two-fold: to make theoretical contribution to the field of forced migration studies by further explaining the significance of non-recognition for the environmentally displaced, and to consider the practical implications of non-recognition by establishing connections between environmental displacement and irregular migration, as well as the formation of regional clusters of precarious labour and other forms of exploitation.

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## Chapter One: Introduction

The Isle de Jean Charles, a narrow island 80 miles southwest of New Orleans, has shrunk by 98%, continuing to slip into the Gulf of Mexico, making living conditions increasingly unbearable. Most of the residents belong to the Isle de Jean Charles (IDJC) Biloxi-Chitimacha-Choctaw tribe. In the 1830s, the Indian Removal Act relocated the tribe to Isle de Jean Charles from Louisiana's mainland. At the community's peak, 300 families called the island home, but only about 26 remain today.<sup>1</sup> Erosion, fueled by a mix of climate change and land subsidence, accelerated by the fossil fuel industry is forcing them out once more.<sup>2</sup> The movement of people in search of better environmental and climatic conditions is a phenomenon that has taken on a new dimension as human-made environmental changes increasingly threaten landscapes and livelihoods of entire communities. What is labeled as the age of the Anthropocene in recent times is marked by a major human impact on the environment that has resulted in frequent and extreme weather events, such as floods, hurricanes and droughts, leading to significant population displacement. According to estimates by the United Nations University Institute for Environment and Human Security and the International Organization for Migration, between 50 million and 200 million people, mainly subsistence farmers and fishermen, could be displaced by 2050 because of climate change.<sup>3</sup> While much of the international scientific community now acknowledges that the climate is changing,

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<sup>1</sup> Robynn Boyd, "The People of Isle de Jean Charles are Louisiana's First Climate Refugees- but they Won't be the Last," *NRDC*, September 29, 2019, <https://www.nrdc.org/stories/people-isle-jean-charles-are-louisianas-first-climate-refugees-they-wont-be-last>.

<sup>2</sup> Boyd, "Isle de Jean Charles."

<sup>3</sup> Coral Davenport and Campbell Robertson, "Resettling the First American 'Climate Refugees'," *The New York Times*, May 2, 2016 <https://www.nytimes.com/2016/05/03/us/resettling-the-first-american-climate-refugees.html>



there has not been substantial legal discussion regarding the inevitable displacement of the people affected.<sup>4</sup> Environmental displacement is a phenomenon that has not yet been defined in international law.

As a result, environmentally displaced populations are more likely to take risks in order to secure their livelihoods, at times being absorbed into exploitative labour practices and becoming more prone to human rights abuses. In this dissertation, I aim to uncover existing blind spots in international law and migration studies that render environmentally displaced populations invisible, while establishing possible connections between environmental displacement and various conditions of precarity and exploitation. Thus, with a specific focus on the aforementioned populations who in effect lack international legal recognition as refugees or displaced people, my research will be guided by the following questions:

*What are the implications of non-recognition for environmentally displaced persons?*

*How can we address the plight of environmentally displaced persons, who lie outside the purview of international law, without resorting to and reproducing apocalyptic, Malthusian perspectives?*

Although the protection gap for environmentally displaced persons has been acknowledged by some authors,<sup>5</sup> the implications of this protection gap has not been addressed elsewhere. In this dissertation, I begin by examining existing legal categories and frameworks into which

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<sup>4</sup> Carey DeGenaro, "Looking Inward: Domestic Policy for Climate Change Refugees in the United States and Beyond." *U. Colo. L. Rev.* 86 (2015): 993.

<sup>5</sup> See for example: Roberta Cohen, and Megan Bradley. "Disasters and displacement: gaps in protection." *J. Int'l Human. Legal Stud.* 1 (2010): 95-142; Vikram Kolmannskog and Lisetta Trebbi. "Climate change, natural disasters and displacement: a multi-track approach to filling the protection gaps." *Int'l Rev. Red Cross* 92 (2010): 713-730.

environmentally displaced persons are placed. Having established the inadequacies of these categories, I turn to the implications of non-recognition for environmentally displaced persons and suggest possible connections between environmental displacement and irregular migration. I then examine links between environmental displacement and labour migration by examining labour recruitment schemes in Mexico, South Asia and the Pacific islands. In addition, I consider employment options that are available for subsistence workers in the aftermath of environmental stress and examine potential links between climate change and human trafficking. Following this analysis, I turn to the question of how we can begin to address the plight of environmentally displaced persons. I do this by first examining shortcomings in current responses and then considering alternatives to existing responses. I argue that it is imperative to prioritize the voices of environmentally displaced persons, who have remained outside the purview of international protection for far too long.

The underlying aim of my dissertation is two-fold. First, I make a theoretical contribution to the field of forced migration studies by further explaining the significance of non-recognition for the environmentally displaced. Second, I consider the practical implications of non-recognition by establishing connections between environmental displacement and irregular migration, as well as the formation of regional clusters of precarious labour and other forms of exploitation. I demonstrate that in the absence of international recognition and protection, the environmentally displaced take extreme risks to secure their livelihoods.

## **The Anthropocene Defined**

While environmental changes and disasters have impacted human mobility throughout history, the current epoch of the Anthropocene has resulted in major shifts in the environment with significant implications for human mobility. Several authors argue that the Anthropocene began around 1800, with the onset of industrialization and the significant expansion in the use of fossil fuels.<sup>6</sup> This phenomenon of change on a global scale represents a significant shift in the relationship between humans and the rest of nature. For the first time in history, the earth has left its natural geological epoch and human activities have become so pervasive that they rival forces of nature. As a result, the earth is becoming less biologically diverse, less forested, and a much warmer, wetter and stormier site.

The use of fossil fuels and coal and the expansion of oil and gas made industrialization central for the earth system. The turn to fossil fuels resulted in an era with looser constraints on energy supply, significant growth in human numbers, and the expansion of the global economy. It also resulted in an era of intensified human influence on the earth system, eventually culminating in the current epoch. Crutzen and McNeil argue that the first stage of the Anthropocene coincides with the beginning of the industrial era, from 1800-1850. From 1950-2000, the percentage of the world's population living in urban areas grew from 30% to 50% and continues to grow strongly.<sup>7</sup> Over the past fifty years, humans have changed the world's ecosystems more rapidly and extensively than in any other comparable period in human history. The expansion of the human enterprise from the mid 20<sup>th</sup> century and global-scale impacts on many aspects of the earth system

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<sup>6</sup> Will Steffen, Paul J. Crutzen, and John R. McNeill. "The Anthropocene: Are Humans Now Overwhelming the Great Forces of Nature." *AMBIO: A Journal of the Human Environment* 36, no. 8 (2007): 614-621.

<sup>7</sup> Crutzen and McNeil, "The Anthropocene," 617.

characterize the second stage of the Anthropocene and the Great Acceleration.<sup>8</sup> The institutions and economic systems that have driven the Great Acceleration continue to dominate human affairs and the global system, with the adverse effects of the Anthropocene impacting those who have least contributed to the industrial projects that have damaged the earth system. In fact, colonial societies were first to experience environmental degradation and some have argued that climate change is a new form of colonization.

Yet, Steffen, Crutzen and McNeil argue that since 2015, we have entered a new stage, with growing recognition that human activities are indeed affecting the structure and functioning of the earth system as a whole (as opposed to local and regional scales). In the age of the Anthropocene, we have become a ‘force of nature’ and it has become increasingly difficult to separate human action and earth dynamics as distinct domains.

The Anthropocene thesis makes two powerful and compelling claims that must be addressed by the social sciences and humanities. First, it suggests that humans have become a ‘telluric’ force, changing the functioning of the earth, as much as volcanism, tectonics, and earth’s orbital movements around the sun. For centuries, modern humanities and the social sciences have envisioned society as though it were above material energy cycles and unrestricted by the earth’s finiteness. The Anthropocene poses challenges to political theory, which views political regimes as purely intra-human contracts and struggles. Likewise, the social-only conceptions of the ‘economy, agency, freedom, and reflexivity’ that have been the pillars of modernity since the 19th century are also being challenged by the Anthropocene. These theories must now understand

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<sup>8</sup> Crutzen and McNeil, 61.

natural history and human history as inseparable and part of the same geo-history. Therefore, our understanding of the market, culture, society and history must be re-conceptualized.

Second, the Anthropocene thesis posits that the inhabitants of our planet will face global environmental shifts of an unprecedented scale within a few decades. Rather than a mere ecological crisis, the Anthropocene thesis predicts a new geological regime of existence for the earth and the formation of a new human condition. It is predicted that even if all humans, particularly those in the rich industrialized countries were to become fully green and if all societies adopted sustainability practices, it might nevertheless take centuries or millennia to return to Holocene-like conditions.

Thus, the Anthropocene requires a reconceptualization of political agency in democracy. An underlying hope within a democracy is that a newly elected government can undo what the previous government has done. Within the Anthropocene, this hope for undoing vanishes in the sense that the earth system and the environment on which life depends are now on an entirely different trajectory. Thus, paradoxically as humans appear to have taken control over nature, becoming principal actors of its transformation, we are also unprepared to govern a world under the influence of these changes.

The age of the Anthropocene challenges us to reconsider underlying assumptions in migration theories that largely overlook environmental factors as drivers of human migration. Unlike ever before, nature is a strong factor in human movement and can no longer be overlooked as a factor that shapes mobility decisions. Given that the geographical distribution of populations on the planet are increasingly under great stress, it is increasingly difficult to divorce migration studies from the age of the Anthropocene. The first requirement of the Anthropocene is to extend our ability to think and act beyond the human experience and to realize that human history and

earth history are intricately connected. As humans increasingly play a role in changing the natural environment, the natural environment in turn responds to these changes by influencing mobility patterns. Thus, it is essential to consider the role of the environment in conjunction with other determinants of mobility when considering contemporary movements. Under the current epoch of the Anthropocene, environmental factors interact in notable ways with other drivers of mobility to influence migration patterns such that the environment can no longer be an overlooked driver of migration. This is why it is important to consider current migration patterns in the broader context of the Anthropocene.

### **Questioning Apocalyptic Metaphors in Environmental Discourses**

The idea of crisis as an imminent collapse or even the end of nature plays an overwhelmingly powerful role in shaping most contemporary environmental discourses.<sup>9</sup> It is questionable, however, whether such metaphors can in fact encourage cooperative, collective and democratic responses, as opposed to encouraging a ‘lifeboat ethic,’ and elitist responses, in which the powerful lead the rest forward.<sup>10</sup> In the context of migration, apocalyptic metaphors associated with the end of nature have the potential to promote the securitization of borders, to the extent that they promote the idea of waves of refugees or migrants from the Global South escaping environmental degradation and invading the Global North.

Harvey’s critique of Foster’s *The Vulnerable Planet* can be used to uncover some of the shortcomings of catastrophic metaphors that have permeated environmental discourses. Although Foster persuasively relates the existence of environmental problems to the dynamics of capitalism,

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9 David Harvey. "Marxism, Metaphors, and Ecological Politics." *Monthly Review* 49, no. 11 (1998): 17.

10 Harvey, "Marxism, Metaphors," 17.

Harvey locates two central failings in Foster's framework. These failings can be extended to other dystopic rhetoric<sup>11</sup> within environmentalism, which rely far too heavily on the idea of an impending disaster.

First, Harvey problematizes the idea of a planetary ecological crisis or the postulation that human beings can single-handedly destroy the earth. Harvey argues that while it is crucial to be aware of the ramifications of our actions, both for ourselves and for the planet, it is important to realize that it is materially impossible for humans to single-handedly destroy the entire planet earth. Harvey's argument is corroborated by Klaus Winter, a plant physiologist who tried to imagine the earth's future under global warming. Winter planted the seedlings of ten tropical tree species in greenhouses and subjected them to uncontrollable or unbearably high temperatures, in order to replicate the conditions under global warming by the end of the century. Surprisingly, the vast majority of Winter's seedlings did not die, most thrived at significantly warmer temperatures.<sup>12</sup>

This does not mean that climate change will not materialize or that it is insignificant. Human beings have played a great role in bringing destruction to the planet and have created various destructive weapons and substances with the capacity to significantly endanger various forms of life on the planet. However, it is important to be cautious of over-estimating humans' abilities to bring complete destruction to the entire planet. Within dystopic predictions of the earth's future, there is a problematic assumption that life will not continue on the planet without

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<sup>11</sup> Dystopic rhetoric often emphasizes a catastrophic end-point that is usually outside the purview of human agency. See for example: McKibben, Bill. *The End of Nature*. (Random House Incorporated, 2006), Foster, John Bellamy. *The Vulnerable Planet: A Short Economic History of the Environment*. (NYU Press, 1999).

<sup>12</sup> Lizzie Wade, "This is What the World Will Look Like After Climate Change," *Mother Jones*, September 8, 2015 <http://www.motherjones.com/environment/2015/09/climate-change-rain-forests-oceans>.

the existence of humans. The history of evolutionary change, which has brought transformations for human beings and other living organisms is also undermined in this framework.<sup>13</sup>

Moreover, the assertion that ecocide is imminent has had a turbulent political history. Although general scientific consensus exists regarding the potentially serious nature of environmental problems, the ability of scientists to accurately predict the impacts and outcomes of environmental transformations for all life forms is still limited.<sup>14</sup> Therefore, such claims are vulnerable to criticism from thinkers such as Simon and Easterbrook, who argue that the stark doomsday scenario is unlikely because the conditions of life now are far better than they ever were before, considering measures such as life expectancy.<sup>15</sup> In addition, catastrophic metaphors are problematic because if the collapse fails to materialize in the near future, the grounds for such expectations are seriously disputed and scientific theory and environmentalism in general become discredited for predicting a collapse far too often.<sup>16</sup> Searching for signs of disaster also arguably diverts attention from longer term and more gradual changes that are preventable and instead encourages reactive responses.

Moreover, as Harvey demonstrates, the postulation of a planetary ecological crisis and the idea that the planet is vulnerable to human action aligns with the claims of those who seek planetary domination.<sup>17</sup> The implication here is that earth is fragile and that human beings must become the caring physicians or saviours of the planet and that they are the only ones capable of

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<sup>13</sup> David Harvey, *Spaces of Hope*. Vol. 7. (University of California Press, 2000), 216.

<sup>14</sup> Harvey, *Spaces of Hope*, 217.

<sup>15</sup> David Harvey, *Justice, Nature and the Geography of Difference* (Cambridge Mass. Blackwell Publishers, 1996), 194.

<sup>16</sup> David Harvey. "Marxism, Metaphors," 18.

<sup>17</sup> David, Harvey *Justice, Nature and the Geography of Difference*. 194.



nursing the planet back to health.<sup>18</sup> Interestingly, the same rhetoric is found in colonial adventurism, evidence for which can be found in 18th and 19th century fiction.<sup>19</sup> Native societies of colonizable lands were portrayed as being inherently savage and inclined to violence. They were seen to be in need of external intervention to assist with progress towards civilization.<sup>20</sup>

Most importantly, the idea of a planetary ecological crisis is very much compatible with corporate capital's concern for rationalizing planetary management in their own interests. With the increasing pressure from the global environmental movement and its perceived threat to corporate interests, corporations have accepted that a compromise of some sort is necessary. This has led to the emergence of corporate environmentalism. However, the compromise that is considered acceptable for corporations is not one that fundamentally challenges existing structures of power and patterns of accumulation. A clear example of this trend is the UN Rio conference on sustainable development. Gill demonstrates that the UN Rio Conference on the environment and its aftermath is linked to what Gramsci called *trasformismo* or the cooptation of opposition. In public policy, sustainable development is often defined as being compatible with market forces and the freedom of enterprise. Therefore, the question of how environmental movements can avoid cooptation is an important consideration and one that will be explored in this dissertation.

### **The Environment as a Driver of Migration**

It is becoming increasingly evident that the number of people displaced by environmental causes is growing at a rapid rate, possibly outpacing the numbers of traditional refugees under the

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<sup>18</sup> Harvey, 194.

<sup>19</sup> Gregory Claeys, ed. *The Cambridge Companion to Utopian Literature*, Ecology and Dystopia 262.

<sup>20</sup> Claeys, *The Cambridge Companion*, 262.

Convention definition.<sup>21</sup> In 1992, at the UN Conference on Environment and Development, the UN High Commissioner for Refugees noted that “more and more people are being forced to flee for a complex combination of reasons, linked as much to population growth, poverty, famine, and environmental degradation as to mass violations of human rights, social and ethnic tensions and armed conflict.”<sup>22</sup> The commissioner assured her audience that [the UNHCR] is clearly concerned that environmental degradation is increasingly the cause of population movements, stating that this relationship between refugees and the environment has long been overlooked.<sup>23</sup>

Of the world’s 19 megacities, 16 are situated on coastlines and all but four are in the developing world.<sup>24</sup> The World Disaster Report points out both the human and economic costs involved: “the most vulnerable areas are found in the tropics, especially in the west Coast of Africa, South Asia and South-east Asia and the low-lying coral atolls in the Pacific and Indian oceans. The nations hardest hit will be those least able to afford coastal protection measures and where inhabitants have nowhere to go.”<sup>25</sup> The people most likely to be displaced by environmental crises and degradation are amongst the world’s poorest, with the least political muscle.

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<sup>21</sup> Brooke Havard. "Seeking protection: Recognition of environmentally displaced persons under international human rights law." *Vill. Envtl. LJ* 18 (2007), 82. See Press Release, United Nations University, Institute for Environment and Human Security, “As Ranks of ‘Environmental Refugees’ Swell Worldwide, Calls Grow for Better Definition, Recognition, Support” Oct. 11, 2005, [https://www.eurekalert.org/pub\\_releases/2005-11/unu-ro100405.php](https://www.eurekalert.org/pub_releases/2005-11/unu-ro100405.php).

<sup>22</sup> See Sadako Ogata, High Commissioner for Refugees, United Nations, Statement at the UN Conference on Environment and Development, June 10, 1992, <https://www.unhcr.org/admin/hcspeeches/3ae68fcd4c/statement-mrs-sadako-ogata-united-nations-high-commissioner-refugees-united.html>

<sup>23</sup> Sadako Ogata, High Commissioner for Refugees, United Nations, Statement at the UN Conference.

<sup>24</sup> Molly Conisbee, and Andrew Simms. *Environmental Refugees: The Case for Recognition*. (London: New Economics Foundation, 2003), 17.

<sup>25</sup> Conisbee and Simms, *Environmental Refugees*, 17.

## **An Introduction to the Debate on Environmental Refugees**

The emergence of the concept of environmental refugees can be traced back to discourses on sustainable development and global environmental change that gained political salience in the late 1970s and early 1980s. The concept of environmental refugees was brought about primarily by Northern voices concerned about the number of people who would be displaced by the impacts of environmental degradation.<sup>26</sup> Thus, already in the 1980s environmental refugees were discussed in conjunction with concepts such as desertification and over-population.

Understanding the links between the environment and forced migration has since generated some heated public debates. As a starting point, it is helpful to look at the work of two authors who represent opposing positions in an academic and political debate that started in the mid-1980s, with a paper on environmental refugees, published by the United Nations Environment Programme. The first is Norman Myers, who has written extensively on environmental change and population displacement. His work is often cited as being highly influential, particularly a report written with Jennifer Kent, entitled “Environmental Exodus: An Emergent Crisis in the Global Arena.” The second author is Richard Black, who has written a book entitled *Refugees, Environment and Development*. The two authors disagree profoundly on many key points. While Myers focuses on the plight of what he calls ‘environmental refugees,’ Black questions the value of the very notion of environmental refugees in a working paper entitled “Environmental Refugees: Myth or Reality.”

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<sup>26</sup> KTH, Environmental Humanities Laboratory, “Giovanni Bettini.: Migration and Climate Change,” August 25, 2015, 2012, video, 5:29, <https://www.youtube.com/watch?v>

Myers argued that there were at least 25 million environmental refugees in the mid 1990s, this figure exceeded the then 22 million refugees as officially defined. He predicted that the number of environmental refugees might well double by the year 2010 and could rise more quickly as a result of global warming. Eventually, as many as 200 million people could be at risk of displacement.

Black, on the other hand, argues that there are no environmental refugees as such. Although environmental factors do play a role in forced migration, they are always closely linked to a range of political and economic factors. Thus, focusing on environmental factors in isolation does not help in understanding the specific situation of population displacement.<sup>27</sup>

Myers argues that environmental changes and the natural and man-made disasters associated with them are forcing millions of people to flee their homes. By this, he does not suggest that environmental factors necessarily lead directly to displacement. Rather, environmental pressure leads to land competition, impoverishment, and encroachment on ecologically fragile areas. According to Myers, these events in turn cause political and ethnic conflicts which may precipitate violence and war and in turn become the immediate cause of flight.<sup>28</sup> Myers predicted that some of these 'environmental refugees' would end up in slums, or camps for internally displaced persons within their country of origin. Millions of others would leave their country of origin, seek refuge in neighboring countries of the South, where they may cause further environmental problems and conflicts. However, many, according to Myers' prognosis, would try to obtain asylum in the developed countries of Western Europe and North America. The issue of

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<sup>27</sup> Richard, Black, "Environmental Refugees: myth or reality?" *New Issues in Refugee Research*. Geneva: United Nation High Commissioner for Refugees. Working Paper 34 (2001): 1-19.

<sup>28</sup> Norman Myers. "Environmental Refugees." *Population and Environment* 19, no. 2 (1997), 175.

environmental refugees thus “promises to rank as one of the foremost human crises of our times.”<sup>29</sup> The rich countries would close their doors, but it will be impossible to “hold back the rising flood of refugees.”<sup>30</sup> Myers argues that refugee camps and shantytowns will become “breeding grounds for civil disorder, social upheaval and even violence.” There may be “substantial outlays to counter pandemic diseases and deficits of food, water and energy.” The result could be threats to social cohesion and national identity, resulting in ethnic tension and civil disorder.<sup>31</sup>

Black dismisses Myers’ approach as neo-Malthusian and argues that it is based on dubious assumptions. Most importantly, it constructs refugees and migrants as a threat to security. Black argues that there is no evidence that environmental change leads directly to mass refugee flows, especially flows to developed countries and sees the emphasis on environmental refugees as a distraction from central issues of development and conflict resolution. He argues that movements in response to environmental factors will likely be cyclical than permanent. Instead of focusing on global forecasts, Black argues that it is important to examine the strategies adopted by governments and communities in specific cases. For instance, after the Kobe earthquake in Japan, 300,000 people were displaced, but within three months, this figure had fallen to 50,000. By contrast, in the Philippines, many of the people displaced by the Mount Pinatubo eruption were still living in temporary camps or squatter settlements several years later.<sup>32</sup> According to Black, this is linked closely to problems of under-development and North-South relationships.

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<sup>29</sup> Myers, “Environmental Refugees,” 175.

<sup>30</sup> Myers, 175.

<sup>31</sup> Myers, Norman, and Jennifer Kent, *Environmental Exodus: An Emergent Crisis in the Global Arena* (Washington DC: Climate Institute, 1995), 151-3.

<sup>32</sup> Stephen Castles, “Environmental Change and Forced Migration: Making Sense of the Debate.” UNHCR, 2002, 3.

Although definitions and categories may seem arbitrary, we cannot avoid or escape the definitional issue easily. This is because definitions are crucial in guiding the policies of governments and international agencies towards mobile people and definitions reflect and reproduce power, none more than the refugee definition.<sup>33</sup> Thus, it makes a significant difference whether people are perceived as refugees, other types of forced migrants, or voluntary migrants. The question for critical scholars is how to find ways of dealing with the impacts of climate change and human mobility in ways that do not reproduce Malthusian, apocalyptic views of waves of refugees or migrants invading the North, coming from the South.<sup>34</sup>

### **The Multicausality of Migration**

There is increasing consensus that the environment is one of many reasons that prompts people to migrate, sometimes operating on its own, but more often through other mechanisms, particularly loss of livelihoods affected by environmental disruption.<sup>35</sup> Yet, the environment remains an overlooked driver in prevailing migration theories, resulting in the absence of recognition and protection for impacted populations. As a result of this oversight, environmentally displaced populations are often misrepresented as labour migrants, seeking better livelihood opportunities in a new location when in fact their mobility can be traced to environmental disruption resulting in the loss of livelihoods.

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<sup>33</sup> Castles, *Environmental Change*, 3.

<sup>34</sup> KTH Environmental Humanities Laboratory, “Giovanni Bettini, Migration and Climate Change,” August 25, 2015, 5:29, <https://www.youtube.com/watch?v=V-FL3oarq-s>.

<sup>35</sup> Susan F. Martin “Climate Change and International Migration,” *The German Marshall Fund of the United States* (2010): 1.

The multicausal nature of migration provides one explanation as to why environmental factors have remained largely absent from migration policies and debates for several decades. Traditional demographic, economic, social and political factors have often been presented as being decisive, with environmental factors simply playing a secondary role by influencing primary factors.<sup>36</sup> Countless migration studies have focused on the role of conflict, political instability, and lack of economic, educational, and professional opportunities in countries of origin or the prospects of job opportunities, higher salaries, and a more democratic political environment in destination countries. Often, the environment is dissociated from primary factors of migration such as the economic or political landscape when in fact environmental factors often influence these areas in complex ways. Thus, while the environment is just one factor of migration, neglecting its role amounts to an “incomplete panorama of contemporary migration.”<sup>37</sup> The invisibility of the environment in prevailing migration theories has direct implications on legal and political debates on whether or not to create specific categories of visas or protection, or even new international conventions on migration that would be defined by environmental or climatic criteria.

### **The Paucity of Data**

According to the IDMC, between 2008 and 2012, out of the 36 countries that experienced displacement linked to conflict, 33 also suffered forced migration due to natural disasters. For instance, the massive displacement of more than 349,000 people from South Sudan due to flooding in 2011 cannot be dissociated from the complex crisis that engulfed the country due to armed conflict, food insecurity, border disputes and the arrival of refugees from Sudan to the DRC.

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<sup>36</sup> Dina Ionesco, Daria Mokhnacheva, and François Gemenne. *The Atlas of Environmental Migration*. (Taylor & Francis, 2016), 64.

<sup>37</sup> Ionesco, Mokhnacheva and Gemenne, *Atlas of Environmental Migration*, 64.

The long absence of climatic and environmental factors from migration policy debates is directly linked to the lack of data demonstrating that a particular climatic or environmental factor has triggered an instance of migration, particularly in countries and regions such as mountainous regions, boreal areas, tropical forests or tundra regions that are more greatly affected than others, with their economies and societies more dependent on ecosystems.<sup>38</sup> It is easier to identify sudden extreme weather events as the principal causes of forced migration than the slow degradation of land, coastal erosion or soil salinization. Thus, more gradual weather events tend to be overlooked as drivers of migration, with those who migrate in response to more insidious weather events such as desertification being categorized as labour migrants, as shall be demonstrated in forthcoming chapters.

### **The Limitations of International Law & the Relevance of Third World Approaches to Law (TWAIL)**

The impacts of forced human displacement are felt particularly in the Global South, with statistics indicating that most displacement cases originate and culminate in the Global South.<sup>39</sup> International law is often looked upon to provide solutions to global challenges such as mass human displacement.<sup>40</sup> Yet, when it comes to the issue of forced displacement, there are serious limitations. During the development of international legal and institutional frameworks of response to forced displacement, much of Africa, Asia and the Middle East were under colonial rule.<sup>41</sup> Following decolonization, newly independent states acceded to international frameworks that had

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<sup>38</sup> Ionesco, Mokhnacheva and Gemenne, 64.

<sup>39</sup> Samuel Berhanu Woldemariam, Amy Maguire, and Jason von Meding, "Forced Human Displacement, the Third World and International Law: A Twail Perspective." *Melb. J. Int'l L.* 20 (2019), 15.

<sup>40</sup> Woldemariam, Maguire and Meding, "Forced Human Displacement," 15.

<sup>41</sup> Woldemariam, Maguire and Meding 16.



been shaped without their input. As Woldemariam, Maguire and Meding explain, the frameworks were initially developed to liberally manage forced displacement in Europe, but later morphed to strictly regulate forced displacement as it interacted with Europe from the outside.<sup>42</sup> This inherent non-inclusiveness within international law of Third World voices and interests leads to significant problems and has led TWAIL scholars to argue that the development of international law is closely tied to colonialism.<sup>43</sup> TWAIL emerges from a context that considers the regime of international law as illegitimate: “a predatory system that legitimizes, reproduces and sustains the plunder and subordination of the Third World by the West.”<sup>44</sup> Moreover, TWAIL is a critical method of looking at international law that attempts to understand its history, structure and process from the perspective of Third World peoples, with the aim of exposing the ways in which international law continues to disadvantage Third World countries and their people.<sup>45</sup> As Mutua explains, historically, the Third World has generally viewed international law as a regime and discourse of domination and subordination, not resistance and liberation.<sup>46</sup> TWAIL scholars apply the term ‘Third World’ not so much in a geographic or economic sense, but as a political term. For TWAIL scholars, the ‘Third World’ is employed to voice a dialect of opposition to an international system of laws that evolved in consideration of Euro-centric cultures and one that continues to advantage and favour the West while disadvantaging subaltern nations.<sup>47</sup> Most importantly, for TWAIL scholars, the Third World represents a coalition of nations and people who self-identify and unite

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<sup>42</sup> Woldemariam, Maguire and Meding 3.

<sup>43</sup> Woldemariam, Maguire and Meding, 16.

<sup>44</sup> Makau, Mutua, "What is TWAIL?." In *Proceedings of the annual meeting American Society of International Law*, (2000): 31.

<sup>45</sup> Woldemariam, Maguire and Meding, 4.

<sup>46</sup> Makau, Mutua, "What is TWAIL?." In *Proceedings of the annual meeting American Society of International Law*, (2000): 31.

<sup>47</sup> Woldemariam, Maguire and Meding, 4.

“around a historical and continuing experience of subordination at the global level that they feel and share.”<sup>48</sup> In this sense, TWAIL is both reactive and proactive. It is reactive insofar as it responds to international law as an imperial project and proactive in the sense that it seeks the internal transformation of conditions in the Third World.<sup>49</sup>

## **Theoretical Framework and Methodology**

For centuries, the economy has been analyzed in isolation of the environment, with natural resources being understood as infinitely available for consumption by humans. Harvey offers an alternative framework for approaching environmental issues. In this framework, humans are construed as being embedded within an ongoing flow of living processes that we can individually and collectively affect through our actions, while simultaneously being affected by the events within the world that we inhabit. Such a framework recognizes the ways in which our actions filter through the web of interconnections that make up the living world. This dissertation adopts Harvey’s web of life approach, in which humans are construed as active agents embedded in living processes.<sup>50</sup> In this framework, the environment and the economy can be viewed as being deeply interconnected. This approach allows researchers to avoid a monocausal understanding of migration and to understand the ways in which various factors interact with one another to shape migration decisions.

Moreover, those who have been impacted by environmental degradation have been marginalized and silenced while the colonial violence that has fostered the ruination of the planet

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<sup>48</sup> Chinedu Obiora Okafor, "Newness, imperialism, and international legal reform in our time: A TWAIL perspective." *Osgoode Hall LJ* 43 (2005):171.

<sup>49</sup> Makau, Mutua, "What is TWAIL?" 31.

<sup>50</sup> Harvey references Capra, who originally wrote on the web of life approach. See: Capra, Fritjof. *The web of life: A new synthesis of mind and matter*. HarperCollins, 1996.

has for the most part been blurred out of focus in public dialogue.<sup>51</sup> As Dhillon argues, Standing Rock illustrates that a fight for environmental justice must be framed first and foremost as a struggle for Indigenous sovereignty. My research is guided by the question of justice and recognizes that environmental justice is firmly rooted in Indigenous political strategies advancing decolonization. A struggle for environmental justice is a call to end structural colonial violence more broadly and Indigenous peoples and their “longstanding resistance to environmental devastation are clear signposts of who should guide us into the future.”<sup>52</sup> Once we begin to conceive of natural resources as more than substitutable resources, only then might we become more reluctant to make decisions that will uproot entire populations and leave others stateless and homeless.

Second, this dissertation is concerned with the question of responsibility as it pertains to the injustices of anthropogenic climate change. Numerous studies have demonstrated that rich, industrialized nations are predominantly responsible for anthropogenic climate change. Yet, the populations that are being uprooted from their homes and facing the most immediate consequences of anthropogenic climate change are those that are least responsible for the degradation of the planet. This is why we must understand climate change as a question of injustice. De Sousa Santos (2002) writes:

more stridently even than others, environmental refugee flows portray the dark side of capitalist world development and global lifestyles. They should therefore, become the best candidates for the application of a new and more solidary transnational conception of burden sharing.<sup>53</sup>

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<sup>51</sup> Jaskiran Dhillon, “What Standing Rock Teaches Us About Environmental Justice,” SSRN, December 5, 2017, <https://items.ssrc.org/just-environments/what-standing-rock-teaches-us-about-environmental-justice/>

<sup>52</sup> Dhillon, “Standing Rock.”

<sup>53</sup> Boaventura de Sousa Santos, *Toward a New Legal Common Sense: Law, Globalization, and Emancipation*. Cambridge University Press, 20

My research critically examines and uncovers the unknowns and the invisible figures in migration theories, arguing that there is a need to understand why certain populations have been marginalized, forgotten and left outside the purview of international protection.

Moreover, this dissertation acknowledges that migration patterns are often non-linear and multi-dimensional. There is often a mix of motivations in migration such that the need to survive can simultaneously exist with other needs and aspirations that go beyond the mere need to ensure existence. Thus, it is difficult to categorize movements as strictly voluntary or forced. The nuances within recent mobility patterns demonstrate that it is increasingly difficult to identify individual drivers of mobility. In many cases, complex interactions between multiple factors have resulted in various forms of movement. Climate change and environmental degradation are increasingly influencing patterns of migration in complex ways and compelling affected populations to take severe risks for survival. The resulting migration patterns are similarly non-linear and multi-causal and it is, therefore, difficult to place affected populations within existing categories.

By studying a group of unrecognized displaced people, my research analyzes the disjuncture between conceptual policy and categories and the lived experiences of displaced populations, as discussed by Crawley and Skleparis. My research is influenced by TWAIL in its analysis and understanding of relationships between forced human displacement and international law. It aims to better understand the ways in which the application of dominant categories as the basis of an analytical approach can limit our understanding of migration and render us potentially

complicit in a political process that has gradually stigmatized, vilified and undermined the rights of refugees and migrants.<sup>54</sup>

Isolating the environment as a driver of migration has proved to be a difficult task, as shall be discussed further below. Often, respondents in studies do not self-identify as environmental migrants, given the range of drivers that play a role in their migration decisions, along with the tendency to overlook environmental factors as possible drivers of migration. Given these challenges in isolating the environment as a driver of migration and displacement, I instead relied on existing reports with an exclusive focus on environmental migration, environmental displacement or environmental refugees. Although my dissertation draws upon a wide array of additional sources, these reports provided the underlying foundations for my research.<sup>55</sup> Upon analyzing these reports, I was able to better understand existing international frameworks, loopholes that currently exist as well as patterns in environmental migration and displacement.

By surveying several published reports, this dissertation explores global patterns and common challenges faced by environmentally displaced persons, while uncovering a possible connection between environmental displacement and labour migration, precarity and various forms of exploitation. Understanding the motivations and experiences of those on the move, as well as changes over space and time in response to shifting circumstances, brings into question the

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<sup>54</sup> Heaven Crawley, and Dimitris Skleparis. "Refugees, migrants, neither, both: Categorical fetishism and the politics of bounding in Europe's 'migration crisis'." *Journal of Ethnic and Migration Studies* 44, no. 1 (2018): 50.

<sup>55</sup> Some more recent publications include the Migration Policy Institute's Special Issue on Climate Change and Migration: <https://www.migrationpolicy.org/programs/migration-information-source/special-issue-climate-change-and-migration>.

See also the following on internal migration: Kumari Rigaud, Kanta, Alex de Sherbinin, Bryan Jones, Jonas Bergmann, Viviane Clement, Kayly Ober, Jacob Schewe, Susana Adamo, Brent McCusker, Silke Heuser, and Amelia Midgley. 2018. Groundswell: Preparing for Internal Climate Migration. The World Bank. Pg 2. <https://openknowledge.worldbank.org/handle/10986/29461>

usefulness of policy categories fixed in time and space and opens up new possibilities of understanding migratory processes.<sup>56</sup>

In order to reflect diverse perspectives on the topic, the selected reports were published by a variety of sources, including academic, non-governmental and international institutions. The analysis of this literature is of importance because it offers access to information that is otherwise missing or scant in academic papers. This includes testimonies from affected populations, mapping of climate change impacts on a global level and updated international research findings. Moreover, this literature narrows down the gap between theory and policy by offering recommendations and projections of future trends and practical challenges that might arise in the implementation of theory. In addition to analyzing their key findings and trends in environmental displacement, I looked for various categories and terminologies that were used to refer to those who are environmentally displaced, as well as the discussion on the protection gap for the environmentally displaced.

The following reports were analyzed:

1. Ionesco, Dina, Daria Mokhnacheva, and François Gemenne. *The Atlas of Environmental Migration*. (Taylor & Francis, 2016).  
\* an IOM publication.
2. IOM, “Migration and Climate Change” *IOM* No.31 (2008): 1-64.  
[https://publications.iom.int/system/files/pdf/mrs-31\\_en.pdf](https://publications.iom.int/system/files/pdf/mrs-31_en.pdf)
3. Environmental Justice Foundation, “Falling Through the Cracks: A Briefing on Climate Change, Displacement and International Governance Frameworks,” *EJF* ( October 12, 2014), <https://ejfoundation.org/resources/downloads/EJF-Falling-Through-the-Cracks-briefing.pdf>
4. Environmental Justice Foundation “Beyond Borders: Our Changing Climate- Its Role in Conflict and Displacement,” *Environmental Justice Foundation*, (February 11, 2017), <https://ejfoundation.org/reports/beyond-borders>.

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<sup>56</sup> Crawley and Sklerparis, “Refugees, migrants,” 50.

5. Camilo Boano, Roger Zetter and Tim Morris, “Environmentally Displaced People: Understanding the Linkages between Environmental Change, Livelihoods and Forced Migration”, *Oxford, Refugee Studies Centre* (November 2008): 1-44, <https://www.rsc.ox.ac.uk/files/files-1/pb1-environmentally-displaced-people-2008.pdf>
6. Foresight, *Migration and Global Environmental Change Final Project Report* (The Government Office for Science, London 2011).
7. Mixed Migration Centre, “Weak Links: Challenging the Climate and Migration Paradigm in the Horn of Africa and Yemen,” (February 4, 2020): 1-33.  
<http://www.mixedmigration.org/resource/challenging-the-climate-and-migration-paradigm/>
8. Fabrice Renaud, Janos J. Bogardi Olivia Dun, Koko Warner, “Control, Adapt, Flee: How to Face Environmental Migration?” *UNU-EHS*, (2007) 1-48.  
<https://environmentalmigration.iom.int/control-adapt-or-flee-how-face-environmental-migration>.

The *Atlas of Environmental Migration* was particularly useful since it is the first publication mapping patterns in environmental migration and it clarifies terminology and concepts related to environmental mobility. It also contains important case studies from various regions around the world, based on updated international findings. The second IOM publication entitled “Migration and Climate Change” contains important discussion on climate migration predictions and included possible policy responses that I took into consideration. The Foresight report is also a seminal work in the field of environmental migration and contained key findings on trapped populations that will be discussed in forthcoming chapters. Moreover, the publication by the Mixed Migration Centre was important since it provides a critical analysis of the nexus between climate change and migration that is considered in this dissertation. Both of the Environmental Justice Foundation publications enabled me to understand environmental displacement patterns from a justice perspective and provided a useful background for understanding international governance frameworks. The publication by Boano, Zetter and Morris contained important policy recommendations that were worth considering. Lastly, “Control, Adapt, Flee: How to Face Environmental Migration?” is written by scholars who are experts in the area of environmental

migration and contains five important policy action points that should be considered in preparation for environmentally-driven migration.

One notable shortcoming of these reports is that while most research focuses on countries in the Global South, it is mostly conducted by researchers in the Global North. Thus, improving research capacity is essential in order to include perspectives from the Global South and to build stronger evidence on environmental migration in areas that are strongly impacted by environmental degradation. In their research paper, Piguet, Kaenzig and Guélat present a review of the geography of research on climate change. They analyze the locations of various case studies, the academic affiliations of the researchers, and the origin of the funding. They identify blind spots in the research as well as “overstudied” areas. Their results demonstrate that research on environmental migration is mainly done in countries of the Global South, whereas climate science research in general is focused on countries in the Global North. They argue that this geography of environmental migration must be understood through the lens of post-colonial and securitization studies as the result of a framing of “environmental refugees” (and refugees in general) as an intrinsically “southern problem” and as a security risk for the world.<sup>57</sup>

My research demonstrates that growing concerns about the state of the environment require social scientists to improve the concepts with which we describe and analyze the relationship between the environment and human processes like migration.<sup>58</sup> Bates proposes a classification scheme in which the decision to migrate is conceptualized as a continuum. (See Figure 1).

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<sup>57</sup> Etienne Piguet, Raoul Kaenzig, and Jérémie Guélat. "The uneven geography of research on “environmental migration”." *Population and environment* 39, no. 4 (2018): 357-383.

<sup>58</sup> Diane C. Bates, Diane C. "Environmental refugees? Classifying human migrations caused by environmental change." *Population and environment* 23, no. 5 (2002):475.



INVOLUNTARY	COMPELLED	VOLUNTARY
ENVIRONMENTAL REFUGEE	ENVIRONMENTAL EMIGRANT	MIGRANT

**FIGURE 1.** Continuum of control over migration decisions in situations of environmental change.<sup>59</sup>

Such a continuum overcomes the challenge of over legalistic definitions of refugees and allows for a broad range of constraints on the decision-making process.<sup>60</sup> Hugo (1996) proposed such a continuum in reference to environmental refugees, demonstrating that environmental disruptions produce a wide range of constraints on human activities, some changes directly expelling populations, while others damage local economic opportunities.

### Methods

As shall be further discussed in Chapter Three, there are numerous challenges in the quantification of populations displaced as a result of environmental or climatic factors. It is especially difficult to highlight the role of the environment as a factor impacting mobility when environmental stress is more insidious, as is the case with rising sea levels and desertification. Apart from the multicausal nature of migration, what has compounded the problem is the fact that there is no consensus on categories or terminology to describe persons compelled to move because of climatic or environmental change. My research critically examines existing international frameworks and the loopholes within them, which fall short of providing adequate recognition or protection for persons compelled to move in response to environmental stress. These findings will be used to

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<sup>59</sup> Bates “Environmental Refugees?” 468.

<sup>60</sup> Bates 468.

argue that in the absence of legal recognition or protection, populations displaced by environmental factors are more likely to be absorbed into precarious working conditions. The second part of the dissertation combines empirical evidence from published reports focusing on environmental stress with findings on labour movements and conditions of precarity in regions neighbouring climate-vulnerable areas. This analysis demonstrates a possible correlation between labour flows from environmentally susceptible areas to neighboring areas, demonstrating that the absence of legal protection could be contributing to the absorption of environmentally displaced populations into precarious labour markets.

### **The Structure of the Argument**

Following this Introduction, Chapter Two examines the evolution of multilateral initiatives before introducing the conceptual divide in the literature on environmental displacement. It then critically examines the distinction between internally displaced persons and refugees and makes the argument for the recognition of environmentally displaced persons in international law.

Having established the need to reach an international consensus on the definition of environmentally displaced persons, Chapter Three turns to the origins of the term environmental refugee and examines existing legal frameworks that may be applicable to the plight of environmentally displaced populations. Uncovering the strengths and weaknesses of various frameworks, this chapter ultimately demonstrates that there is no consensus on the categorization of those who are compelled to move by environmental or climatic factors. Refraining from a dichotomous understanding of migration patterns and using a continuum, as suggested by Bates and others, may prove more relevant to the nuances that are being experienced by people on the move.

Chapter Four further problematizes dichotomies within existing migration policies and examines the existing debate concerning environmental refugees. Drawing parallels with protection regimes for ‘conventional refugees,’ the chapter demonstrates the ways in which existing dualisms have failed to capture the complexity of migration patterns and left specific populations unprotected. This chapter argues that categories in the current migration system matter and can in fact render entire populations invisible. The question is how to construct alternative frameworks for understanding complex migration patterns in which to survive and to prosper are not inevitably mutually exclusive. Frameworks which emphasize the needs of affected populations and recognize the importance of home in people’s lives are presented as possible alternatives, along with the need to critically analyze existing categories in order to prioritize the voices and lived experiences of those impacted by various forms of environmental stress. These ideas will be further developed in the final chapters.

Drawing on the previous chapters, Chapter Five further examines the implications of non-recognition for environmentally displaced persons. Existing studies suggest that in their places of origin, affected populations were involved with natural resource-based livelihoods, while in their destinations, they are more engaged in industrial or mechanized livelihoods. I discuss the ways in which environmental crises have pushed already marginalized societies further into poverty and exposed them to precarious labour practices. Interestingly, some sources demonstrate that environmental degradation does not only lead to more human exploitation, but the causation has been shown to operate in the reverse direction as well, in the sense that extremely cheap labour has been shown to contribute to environmental degradation (deforestation, highly polluting methods of shrimp farming). The impact of climate change on childhood marriages is examined as yet another outcome of climate change on the livelihoods of subsistence workers. Often, poverty

is cited as the root cause of child marriages, but as the cases in this chapter demonstrate, it is increasingly apparent that poverty is driven in part by climate change, resulting in the loss of livelihoods. Moreover, a number of recent studies have demonstrated that human trafficking and exploitation tend to increase after natural disasters where large numbers of people have been displaced. In some instances, conditions in destination countries are so dire that displaced populations prefer to return home but their movement is constrained by their employers, this in effect can be seen as the reversal of *non-refoulement*, whereby the right to return home is threatened. The overarching aim of this chapter is to demonstrate that the economy and environment can no longer be studied separately, the two interact with one another to influence livelihoods and migration patterns.

Having established the legal lacunae in international law with respect to environmentally displaced persons, the next chapter turns to existing responses to anthropogenic climate change, their strengths and shortcomings. First, the chapter discusses the overarching individualism that has become prevalent in climate change policies. Next, I examine the transformation of potential refugees into labourers and the shortcomings of migration schemes and adaptation responses which again place the impetus on individuals impacted by environmental stress. The chapter then examines planned relocation measures, and their potential impacts on affected populations. The chapter ends by exploring some of the achievements of legal responses to climate change and the remaining obstacles.

The previous chapters demonstrated that existing discourse on migration and refugees does not adequately address the rights of populations who are escaping environmental degradation. In this final chapter, using Derek R. Bell's framework, I will consider the importance of place in people's lives, and the extent to which the physical environment in which one lives may be

partially constitutive of one's identity.<sup>61</sup> I will then consider more sustainable sectors of work for migrants, the ways in which the rights of migrant workers and environmental migrants can be protected, and alternative frameworks for understanding anthropogenic climate change. For example, against the idea that we are headed into some inevitable collapse or abyss, Harvey offers an alternative framework that can be used for understanding our relationship to our external environment and other species. In this framework, humans are construed as being deeply embedded within an ongoing flow of processes that we can individually and collectively affect through our decisions and actions, while simultaneously being deeply affected by all the events within the world that we inhabit. There is also a need to be cognizant of the racial and class distinctions that are embedded within the environmental discourse and to conceptualize environmental issues as at least partially related to race and class. Lastly, the chapter analyzes the effectiveness of more concrete advancements, such as resistance to climate change by youth groups. This chapter will demonstrate that it is critical to confront systemic problems that perpetuate various forms of climate injustice.

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<sup>61</sup> Derek R. Bell, "Environmental refugees: What rights? Which Duties?" *Res Publica* 10, no. 2 2004, 135-152.

## **Chapter Two: International Law's Silence on Environmentally Displaced Persons**

### **Introduction**

The need to mitigate climate change has dominated the debate on global environmental governance until very recently.<sup>1</sup> However, it is now clear that mitigation efforts alone are insufficient; climate change is already a reality of the 21<sup>st</sup> century that we must contend with. In 2019 alone, nearly 1,900 disasters triggered 24.9 million new displacements across 140 countries and territories. This is the highest figure recorded since 2012 and three times the number of displacements caused by conflict and violence.<sup>2</sup> While some forms of displacement in richer countries in the Global North may be prevented through adaptation measures such as reinforced coastal protection or changes in agricultural production and water supply management, many poorer countries are unlikely to be able to initiate sufficient adaptation programs and climate-induced migration might be the only option for many communities. Under these circumstances, displaced persons will rely on effective protection and support from the international community, regardless of whether climate migration will be internal or international. Unfortunately, however, existing laws fail to address the issues that environmentally displaced persons are faced with and there is no agreed upon category or terminology to describe those who are compelled to move because of climate or environmental change. As a result, environmentally displaced persons do not have their own instrument of international protection and are instead dependent on the goodwill of agencies or countries for

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<sup>1</sup> Frank Biermann and Ingrid Boas. "Preparing for a warmer world: Towards a global governance system to protect climate refugees." *Global Environmental Politics* 10, no. 1 (2010): 60.

<sup>2</sup> Internal Displacement Monitoring Centre, "Global Report on Internal Displacement 2020," *IDMC*, April 2020: 10 <https://www.internal-displacement.org/sites/default/files/publications/documents/2020-IDMC-GRID.pdf>

their recovery.<sup>3</sup> One of the most crucial governance needs of the current epoch is to address the plight of environmentally displaced people. In this chapter, I look at the evolution of multilateral initiatives before introducing the conceptual divide in the literature on environmental displacement. I then critically examine the distinction between internally displaced persons and refugees and make the case for the recognition of environmentally displaced persons in international law.

### **The Environmental Change-Migration Nexus**

There are numerous examples of migrations associated with environmental changes throughout history.<sup>4</sup> In recent years, environmental changes have become an increasingly important factor in displacement worldwide and several sources corroborate that climate change increasingly poses profound consequences for human mobility.<sup>5</sup> The fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) projected that “climate change over the 21<sup>st</sup> century [will] increase [the] displacement of people.”<sup>6</sup> The IPCC projects that “extreme weather events provide the most direct pathway from climate change to migration” but in the longer term, “sea level rise, coastal erosion, and loss of agricultural productivity will have a significant impact

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<sup>3</sup> Nicole Angeline Cudiamat. "Displacement Disparity: Filling the Gap of Protection for the Environmentally Displaced Person." *Val. UL Rev.* 46 (2011): 892.

<sup>4</sup> Francois Gemenne, “The Anthropocene and its Victims,” in *The Anthropocene and the Global Environmental Crisis: Rethinking Modernity in a New Epoch*, eds. Clive Hamilton, François Gemenne, and Christophe Bonneuil, (New York: Routledge, 2015), 169.

<sup>5</sup> Susan F. Martin, “Environmental Change and Human Mobility: Trends, Law and Policy,” *Comparative Population Studies* Vol.42 (2017): 188.

<sup>6</sup> IPCC. “Summary for Policymakers” In: Field, Christopher B. et al. (Eds.): *Climate Change 2014: Impacts, Adaptation and Vulnerability. Part A: Global and Sectoral Aspects. Contribution to Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change.* (New York: Cambridge University Press, 2014), 20.

on migration flows.”<sup>7</sup> Over the period of 2008-12, more than 140 million people were displaced as a result of natural disasters.<sup>8</sup> In 2013, natural disasters forced 22 million people to flee their homes, a figure that is higher than the number of political refugees forced to cross a border because of violence and persecutions.<sup>9</sup> It is important to note that the number of those fleeing natural disasters does not include the large populations displaced because of slow, gradual or incremental impacts of climate change, such as desertification or sea level rise.<sup>10</sup> This population is not accounted for in any existing statistical database.<sup>11</sup> Thus, it can be asserted without reluctance that environmental changes have become a major driver of migration and displacement on the planet, if not *the* major driver, as Gemenne suggests.<sup>12</sup>

The existential threat of climate change for coastal regions such as Bangladesh and the small Pacific islands present compelling cases in which the environmental change-migration nexus should be studied and addressed. Bangladesh has had a long history of extreme weather events, with devastating impacts resulting in mortalities in several instances.<sup>13</sup> Bangladesh’s climate change scientists and politicians concur that by 2050, rising sea levels will inundate approximately 17% of the land and displace approximately 18 million people.<sup>14</sup>

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<sup>7</sup> Adger, W. Neil et al, “Human Security” In *Climate Change 2014: Impacts, Adaptation, and Vulnerability*. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change. 755-791, (Cambridge University Press: 2014), 767-769.

<sup>8</sup> Yonetani M 2014 *Global Estimates 2014: People Displaced by Disasters*, Internal Displacement Monitoring Centre, Geneva.

<sup>9</sup> The number of political refugees in the same year was 16.9 million (Ibid).

<sup>10</sup> Gemenne, “The Anthropocene and its Victims,” 169.

<sup>11</sup> Francois Gemenne, “Why the Numbers Don’t Add Up: A Review of Estimates and Predictions of People Displaced by Environmental Changes,” *Global Environmental Change* 21 S41-S49. 2011.

<sup>12</sup> Gemenne, “The Anthropocene and its Victims,” 169.

<sup>13</sup> Allan Findlay and Alistair Geddes. “Critical Views on the Relationship between Climate Change and Migration: Some Insights from the Experience of Bangladesh.” *Migration and Climate Change* (2011): 146.

<sup>14</sup> Gardiner Harris, “Borrowed Time on Disappearing Land,” *The New York Times*, March 28, 2014, [https://www.nytimes.com/2014/03/29/world/asia/facing-rising-seas-bangladesh-confronts-the-consequences-of-climate-change.html?\\_r=0](https://www.nytimes.com/2014/03/29/world/asia/facing-rising-seas-bangladesh-confronts-the-consequences-of-climate-change.html?_r=0)



In the case of the Pacific islands, the Intergovernmental Panel on Climate Change has concluded that sea level rise impacts on low-lying states of Kiribati, Tuvalu and the Marshall Islands may pose risks to the sovereignty and existence of these states.<sup>15</sup> Some estimates suggest that Tuvalu could disappear in the next fifty years and its government has raised concerns about the potential for its complete submersion. Kiribati has similarly been preparing for the full submersion of its territory.<sup>16</sup>

In most instances, the environment interacts with political, social, economic and demographic processes to impact mobility decisions. However, in coastal regions such as Bangladesh and the small Pacific islands, environmental factors are more direct and immediate drivers of mobility. In these cases, severe environmental factors often exacerbate preexisting pressures, resulting in a tipping point, which would not have been otherwise reached.<sup>17</sup> Existing studies suggest that those who migrate are usually not the most vulnerable populations. In fact, the most vulnerable are often trapped in the face of environmental changes or do not survive them.<sup>18</sup> Nevertheless, research conducted by the IOM in South Asia suggests that migrant households have less land size than non-migrant households, making people who are landless more prone to migration.<sup>19</sup> The relatively recent introduction of labour migration schemes in neighboring regions of climate-vulnerable areas has compelled migrants from poor households to seek loans in order

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<sup>15</sup> Intergovernmental Panel on Climate Change (IPCC), Fourth Assessment Report, 'Report of the International Working Group II: "Impacts, Adaptation and Vulnerability": 736.

<sup>16</sup> Susin Park, "Climate Change and the Risk of Statelessness: The Situation of Low-Lying Island States." *UNHCR* (2011): 1.

<sup>17</sup> Jane McAdam and Maryanne Loughry. "We Aren't refugees." *Inside Story* 29 (2009): 479.

<sup>18</sup> Gemenne, "The Anthropocene and its Victims," 170.

<sup>19</sup> Golam Rabbani, Fathima Shafeeqa, and Sanjay Sharma. "Assessing the Climate Change Environmental Degradation and Migration Nexus in South Asia." Dhaka: *IOM* (2017), [https://publications.iom.int/system/files/pdf/environmental\\_degradation\\_nexus\\_in\\_south\\_asia.pdf](https://publications.iom.int/system/files/pdf/environmental_degradation_nexus_in_south_asia.pdf)

to cover recruitment and travel costs in search of a better livelihood, as shall be discussed in the next chapter.

Moreover, it is important to take note of a common dynamic in displacement in which populations forced to migrate end up in areas that are difficult and dangerous to survive in. Adding further complexity to existing patterns, another phenomenon is emerging in which people are being forced to migrate by non-climate factors, into highly climate-vulnerable areas. This is happening in Bangladesh, where Rohingya refugees have ended up in areas of Bangladesh that are most impacted by climate factors such as monsoons, cyclones and rising sea levels.<sup>20</sup>

Conversely, in the Syrian case, prolonged drought has been identified by numerous sources as a factor that has exacerbated tensions, contributing to the 2011 demonstrations against the Assad regime, which in turn resulted in the prolonged conflict that has displaced millions of people.<sup>21</sup> The nuances within these examples demonstrate that it is increasingly difficult to identify individual drivers of mobility. In many cases, complex interactions between multiple factors have resulted in various forms of movement. Moreover, as noted by Crawley and Skleparis (2018), dominant representations of the European ‘migration crisis’ represent the flow of people heading towards Europe as linear and uninterrupted. In reality, many of those arriving in Europe had been living for months or years in other countries. These observations are applicable to cases involving environmental degradation and the erasure of the means of survival, land and work for communities *en masse*. Climate change and environmental degradation are increasingly

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<sup>20</sup> Alex Randall, Alex. “Stateless, and At Risk of the Weather.” *Le Monde Diplomatique*, May 22, 2018  
<https://mondediplo.com/outsidein/stateless-and-at-risk-of-the-weather>

<sup>21</sup> See: Colin P. Kelley et al. Climate Change in the Fertile Crescent and Implications of the Recent Syrian Drought. *In Proceedings of the National Academy of Sciences of the United States of America* edited by Brian Jon Hoskins. 112, 11 (2015): 3241-3246. Also: Francesca De Châtel, "The Role of Drought and Climate Change in the Syrian uprising: Untangling the Triggers of the Revolution." *Middle Eastern Studies* 50, no. (2014): 521-535.

influencing patterns of migration in complex ways and compelling affected populations to take severe risks for survival. The resulting migration patterns are similarly non-linear and multi-causal and it is therefore difficult to place affected populations within existing categories.

As the first chapter demonstrated, a critique against apocalyptic narratives does not entail the denial or trivialization of climate change and its impacts on human mobility. Rather, in line with Bettini and others, this chapter argues that the securitization of an issue relies upon apocalyptic representations that depict an issue as threatening and/or out of control. Thus, we should exercise caution in unconsciously reproducing Malthusian views of population and mobility, which serve to reproduce fear and justify xenophobic response and the further securitization of borders.

### **The Evolution of Multilateral Initiatives**

The development of multilateral initiatives during the inter-war period culminated in the creation of the UNHCR, as well as the adoption of the Convention Relating to the Status of Refugees (Refugee Convention) and the 1967 Protocol. These remain the prominent legal and institutional frameworks dealing with displaced persons.<sup>22</sup> Notwithstanding a few exceptions that fall in the domain of soft law, the evolution of institutional and binding legal frameworks governing forced displacement has significantly slowed down, if not halted at the global level, since the creation of the UNHCR and the adoption of the 1967 Protocol.<sup>23</sup>

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<sup>22</sup> Samuel Berthanu Woldemariam, Amy Maguire, and Jason von Meding. "Forced Human Displacement, The Third World and International Law: a TWAIL Perspective." *Melb. J. Int'l L.* 20 (2019): 249.

<sup>23</sup> Woldemariam, Maguire, and von Meding. "Forced Human Displacement," 249.

As these international legal and institutional frameworks were being developed, much of Africa, Asia and the Middle East remained under colonial rule.<sup>24</sup> Newly independent states acceded to these frameworks following decolonization, yet they were already outdated. Less than two decades after the signing of the 1951 Convention, refugees were already substantially different, prompting the need for an expanded definition in the 1967 protocol.<sup>25</sup> Not long after the implementation of the 1967 Protocol, there were massive conflicts throughout Africa that necessitated the expansion of the original 1951 Convention definition and tailoring to the state of the African continent. Similarly, the increase in the flow of refugees in Central America required an expansion of the definition from the Refugee Convention. As in the OAU Convention, the language met the specific needs of the refugee situation in South America.<sup>26</sup>

The existing system remains inadequate as the refugee framework continues to be challenged by mass displacements of both recurring nature (conflicts or disasters) and relatively recent phenomena (anthropogenic climate breakdown).<sup>27</sup> Flows of refugees today are unlike the refugees at the conception of the original definition; people are fleeing from persecution in larger numbers and for different reasons. Similarly, environmentally displaced persons are not people that the 1967 Protocol conceived of being protected.

The incapacity of international law to date to generate human-focused responses to climate change impacts has been an indication for some that it may be unwise to look to law to produce

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<sup>24</sup> Woldemariam, Maguire, and von Meding, 250.

<sup>25</sup> Nicole Angeline Cudiamat. "Displacement Disparity: Filling the Gap of Protection for the Environmentally Displaced Person." *Val. UL Rev.* 46 (2011): 924.

<sup>26</sup> Cudiamat, "Displacement Disparity," 913.

<sup>27</sup> Woldemariam, Maguire, and von Meding "Forced Displacement," 249.

adequate change.<sup>28</sup> In fact, McAdam argues that “it is dangerous to see the law as the solution,” because the law is inherently political.<sup>29</sup> However, while overly legalistic approaches to governance in the area are not necessarily the answer, the law may assist us by setting the minimum standards by which states should inform their responsibilities towards impending climate-induced displacement, providing a principled legal framework for examining states’ responses and a threshold against which their actions may be assessed.<sup>30</sup>

### **Acknowledgement of the Problem**

As early as 1990, the Intergovernmental Panel on Climate Change, (IPCC) predicted that the gravest consequences of climate change may be those on human migration, with millions of people displaced by shoreline erosion, coastal flooding and agricultural disruption. Three years later, the UNHCR identified four causes of refugee flows: political instability, economic tensions, ethnic conflict and environmental degradation.<sup>31</sup> In early 2009, in its report on the relationship between climate change and human rights, the Office of the United Nations High Commissioner for Human Rights encouraged the international community to find political solutions for population displacement linked to climate change.<sup>32</sup> The UNHCR has even acknowledged that there is a real

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<sup>28</sup> Amy Maguire and Jeffrey McGee. "A Universal Human Right to Shape Responses to a Global Problem? The Role of Self-Determination in Guiding the International Legal Response to Climate Change." *Review of European, Comparative & International Environmental Law* 26, no. 1 (2017): 65.

<sup>29</sup> Jane McAddam. "Climate change'refugees' and international law." *Bar News: The Journal of the NSW Bar Association* Winter 2008 (2008): 30.

<sup>30</sup> Maguire and Jeffrey McGee. "A Universal Human Right to Shape Responses," 65.

<sup>31</sup> Paragraph 19 (dd), Executive Committee of the High Commissioner’s Programme, Report of the Forty-Fourth Session, Geneva, A/AC.96/821, 12 October 1993.

<sup>32</sup> OCCHCR 2009, p. 22.

“need to find durable solutions for those among the displaced who cannot return and resume their normal lives in the aftermath of a disaster.”<sup>33</sup>

While there is clear evidence of various international bodies acknowledging the links between environmental degradation and migration, dating back to the 1990s, there has been little legal action to protect those affected by environmental displacement. As ensuing chapters shall demonstrate, the susceptibility of people during natural disasters does not stem from the natural occurrence itself, but rather the combination of the event and the availability of institutional support to cope with its effects.<sup>34</sup>

### **Slow-onset vs. Sudden-onset Disasters**

Climate change can take on the form of slow-onset environmental degradation such as the melting of polar ice caps and rising sea levels, increased salinization of groundwater and soil, droughts and desertification from changes in precipitation levels. It can also take on the form of sudden-onset disasters including storms and floods, heatwaves and wildfires.<sup>35</sup> The number of weather-related natural disasters has risen on all continents since 1980.<sup>36</sup> From 1970 to 2012, there were 8,835 disasters related to climate, of which 3,496 took place between 2001 and 2010.<sup>37</sup> More than half of these were related to rainfall patterns. Both floods and droughts are increasingly evident in many parts of the world. Since 2008, an average of 21.7 million people have been displaced each year

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<sup>33</sup> Sireesha V. Chirala, "Acclimating to Climate Change: Filling the International Policy Void for Environmentally Displaced People." *Hous. J. Int'l L.* 35 (2013): 387.

<sup>34</sup> Cudiamat. "Displacement Disparity," 892.

<sup>35</sup> Environmental Justice Foundation "Beyond Borders: Our Changing Climate- Its Role in Conflict and Displacement," *Environmental Justice Foundation*, February 11, 2017, <https://ejfoundation.org/reports/beyond-borders>.

<sup>36</sup> Environmental Justice Foundation, "Beyond Borders."

<sup>37</sup> World Meteorological Association, "Atlas of Mortality and Economic Losses from Weather, Climate and Water Extremes (1970-2012)" *World Meteorological Association*, 2015, <https://public.wmo.int/en/resources/library/atlas-mortality-and-economic-losses-weather-and-climate-extremes-1970-2012>.

by weather-related hazards: the equivalent of 59,600 every day or 41 people every minute.<sup>38</sup> There is no clear global dataset on displacement by slow-onset extremes such as sea level rise and desertification. Often this migration is classified as economic or planned migration, failing to acknowledge fully the pressure from climate change impacts, leaving the full human impact of climate change unknown.

Already, some 40% of the world's population live within 100 km of the coast; projected sea-level rises of 28-98cm by 2100 will inundate farmland and urban areas and cause immense damage and disruption to the social fabric of such communities, driving forced migration and causing people to leave their homes.<sup>39</sup> As the previous chapter demonstrated, countries, that have contributed least to climate change are experiencing the strongest negative impacts, with increasing frequency and magnitude of extreme weather events that pose potentially disastrous consequences for food and security.<sup>40</sup> It is predicted that if left unchecked, climate change could draw up to 720 million people back into extreme poverty between 2010 and 2050.<sup>41</sup> By 2050 climate change is forecast to increase the number of people at risk of hunger by 10-20%, of these, 65% would be in Africa.<sup>42</sup>

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<sup>38</sup> Internal Displacement Monitoring Centre, "Global Report on Internal Displacement," *IDMC*, 2017, <http://www.internal-displacement.org/globalreport/grid2017/#on-the-grid>

<sup>39</sup> IPCC, Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III of the Fifth Assessment Report of the Intergovernmental Panel on Climate Change. [Core Writing Team R.K. Pachauri and L.A. Meyer (eds.)] IPCC, Geneva, Switzerland, 151.

<sup>40</sup> Justin Sheffield and Eric F. Wood, *Drought: Past Problems and Future Scenarios*, Earthcan, London, 210.

<sup>41</sup> Ilmi Granoff et. al, "Zero Poverty, Zero Emissions," Overseas Development Institute, September 2015, <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9844.pdf>

<sup>42</sup> Environmental Justice Foundation "Beyond Borders: Our Changing Climate- Its Role in Conflict and Displacement," *Environmental Justice Foundation*, February 11, 2017, 9, <https://ejfoundation.org/reports/beyond-borders>

## Conceptual Divide: Categorizing the Environmentally Displaced

Forced displacement for environmental reasons is not a recent phenomenon. Scarcity of land resources and environmental degradation have led to waves of out-migration throughout history.<sup>43</sup> Migration and population movement in general is part of human history and can act as an important adaptive mechanism. Thus, it has always been difficult to differentiate “environmental refugees” from “economic migrants.” A decision to move is often a function of a push to leave one disaster-affected location and the economic pull of another, more promising location.<sup>44</sup> Three million people fled the Dust Bowl of the 1930s while 700,000 mostly poor African Americans departed the northern states following the Mississippi Delta flood of 1927. Their decisions in many cases reflected a combination of ‘pressures and aspirations.’<sup>45</sup>

However, as Boano, Zetter and Morris argue, what distinguishes both the present era and the foreseeable future are two factors. First, the global scale of environmental change and thus the potential impacts it will have are new phenomena. These impacts will no longer be episodic or localized. Second, human agency is now at the center of environmental change and the potential to respond to it.<sup>46</sup> However, environmental conditions do not currently constitute a basis for international protection and there is a lack of dialogue between ecologists and social scientists that renders the links between environmental change and forced migration complex and highly debatable.<sup>47</sup>

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<sup>43</sup> Camilo Boano, Roger Zetter and Tim Morris, “Environmentally Displaced People: Understanding the Linkages between Environmental Change, Livelihoods and Forced Migration”, *Oxford, Refugee Studies Centre* (November 2008): 5, <https://www.rsc.ox.ac.uk/files/files-1/pb1-environmentally-displaced-people-2008.pdf>.

<sup>44</sup> Boano, Zetter and Morris, “Environmentally Displaced People” 5.

<sup>45</sup> Boano, Zetter and Morris, 5.

<sup>46</sup> Boano, Zetter and Morris, 5.

<sup>47</sup> Boano, Zetter and Morris, 5.



The lack of conceptual clarity and consensus is an underlying problem that impedes research on environmentally displaced persons. As shall be discussed in forthcoming chapters, some studies draw on broad definitions of ‘environmental refugees’ while other studies offer overly complex definitions that are difficult to operationalize in practice. The very term ‘refugee’ as it relates to environmental mobility is disputed by several sources and a number of authors and intergovernmental bodies instead suggest terms such as “migrants” or “displaced persons.”<sup>48</sup> Despite unquestionable evidence of populations being displaced for environmental reasons, past efforts to reconcile a comprehensive definition of environmentally displaced persons have not had much success.<sup>49</sup>

Debates around the linkages between environmental degradation and forced migration have led to the emergence of a range of highly contested terms: primarily *environmental refugees*, but also *environmental migrant*, *forced environmental migrant*, *environmentally motivated migrant*, *climate refugee*, *climate change refugee*, *environmentally displaced person (EDP)*, *disaster refugee*, *environmental displace*, *eco-refugee*, *ecological displaced person* and *environmental refugee to be ( ERTB)*.<sup>50</sup> As Cournil argues, the description of these population movements varies depending on the persons and bodies expressing themselves: UN agencies, international organizations, political institutions and actors, civil society and NGOS, experts and academics.<sup>51</sup> These actors use terms based on their aims, relevant expertise, academic theorization, activism or political actions and depending on the forms of protection they wish to see emerging.<sup>52</sup>

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<sup>48</sup> Biermann and Boas. "Preparing for a Warmer World," 62.

<sup>49</sup> Cudiamat. "Displacement Disparity," 917.

<sup>50</sup> Boano, Roger Zetter and Morris, "Environmentally Displaced People," 4.

<sup>51</sup> Christel Cournil, "The Protection of 'environmental refugees' in International Law," in *Migration and Climate Change*, ed. Etienne Piguet (UNESCO/Cambridge University Press 2011), 359.

<sup>52</sup> Cournil, 359

Thus, the emphasis on environmental refugees by NGOs is above all an appeal to the international community and to those in power to raise awareness and to take action on the climate change risks hanging over some communities.<sup>53</sup> Nonetheless, there has been greater rapprochement between NGOs, academics and international organizations from environmental and migration communities, particularly since negotiations over the 2010 Cancun Adaptation Framework and the publication of the 2011 Foresight report.

The IOM has been more cautious and uses the term environmental migrant instead in its publications. Likewise, the UNHCR has clearly positioned itself on the erroneous use of the expressions ‘climate refugees or environmental refugee,’ which, in its opinion leads to serious confusion with existing international law.<sup>54</sup> Avoiding the term ‘refugee,’ the UNHCR has cautiously moved towards a definition of environmentally displaced persons as those:

who are displaced from or who feel obliged to leave their usual place of residence, because their lives, livelihoods and welfare have been placed at serious risk as a result of adverse environmental, ecological or climatic processes and events.”<sup>55</sup>

In order to avoid confusion with other categories, the agency notes that such a definition makes no reference to cross-border movement, nor to displacement related to persecution, armed conflict or human rights violations.<sup>56</sup>

While meanings applied to the term environmental refugee have merit and attempt to address the shortcomings of current refugee law, none of the definitions have been recognized by international law or consistently defined. There is neither an agreed upon definition of the term in

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<sup>53</sup> Cournil, 360.

<sup>54</sup> Cournil, 360.

<sup>55</sup> Gorlick, B. “Environmentally Displaced Persons: a UNHCR Perspective”, last modified May 16, 2007, [www.ony.unu.edu/seminars/2007/16May2007/presentation\\_gorlick.ppt](http://www.ony.unu.edu/seminars/2007/16May2007/presentation_gorlick.ppt)

<sup>56</sup> Gorlick, “Environmentally Displaced Persons: UNHCR Perspective.”

international law nor is there a formal endorsement of the term “environmental refugee” by the United Nations.<sup>57</sup> Several sources have argued that the UNHCR is not equipped or designed to handle hundreds of millions of refugees from climate change as it already finds its resources inadequate to handle political refugees in the world.<sup>58</sup> However, as Hoising and Razzaque argue, the fact that environmental displacement is a highly complex issue with international organizations already overwhelmed by the demands of conventionally recognized refugees does not make a persuading case to negate the term, nor does it take the problem (of environmental displacement) away.

Given the lack of a precise definition of an environmental migrant or refugee and the fact that migration is an emotionally charged and sometimes even fear-inducing issue in host countries, it is not surprising that the links between environmental change and forced migration are the subject of much public and scientific debate. However, regardless of the inability to provide a concrete status for environmentally displaced persons, few would argue that people whose livelihoods have been threatened or eliminated by environmental issues do not merit material and technical assistance.<sup>59</sup>

### **The Distinction between Refugees and Internally Displaced Persons**

In the current regime, most environmentally displaced persons could be conceptualized as internally displaced persons.<sup>60</sup> However, as Keane argues, the term “environmentally internally displaced person” only serves as a descriptive purpose, not as a status that confers obligations on

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<sup>57</sup> Chirala, "Acclimating to Climate Change," 359.

<sup>58</sup> Chhabara R. "Climate Change Refugees Seek a New Deal," *Climate Change Corp*, 2008, <http://www.Climatechangecorp.com/content.asp?contentid=5?71>

<sup>59</sup> Cudiamat. "Displacement Disparit

<sup>60</sup> Biermann and Boas. "Preparing for a Warmer World," 73.

states. As shall be discussed in the next chapter, the Guiding Principles on Internal Displacement state that the primary duty to provide protection and humanitarian assistance lays with national authorities. Likewise, the 2006 Operational Guidelines on Human Rights and Natural Disasters from the Inter-Agency Standing Committee directed to internally displaced people, places primary responsibility on national authorities of affected countries, with the assistance of humanitarian agencies.<sup>61</sup>

Currently, only a handful of states such as Azerbaijan, Bosnia and Herzegovina, Colombia, Croatia, Georgia, and the Russian Federation have adopted legislation providing for the creation of a legal status for IDPs or selected groups of IDPs. No duties or obligations of other states are mentioned.<sup>62</sup> Instead, primary responsibility is placed on countries of origin, which contradicts the global responsibility for the victims of climate change, particularly for those who have least contributed to global greenhouse gas emissions and whose countries of origin are unwilling or unable to protect them against environmental degradation.

Moreover, some island states will effectively cease to exist, and some countries, especially those affected by drought will be overburdened by the far-reaching nature of environmental stress. These people will have to find refuge outside of their home country. For this reason, it seems arbitrary to argue that a global governance mechanism for their protection should confer a different status and a different term, depending on whether they have crossed a border.<sup>63</sup>

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<sup>61</sup> Biermann and Boas, 74.

<sup>62</sup> Höing, Nina, and Jona Razzaque. "Unacknowledged and Unwanted? 'Environmental Refugees' in Search of Legal Status." *Journal of Global Ethics* 8, no. 1 (2012): 21.

<sup>63</sup> Höing and Razzaque, 66.

Currently, Internally Displaced Persons (IDPs), including people displaced by internal strife and natural disasters are the largest group that the UNHCR assists. The total number of IDPs displaced by violence, conflict or natural disasters is 40.3 million, double the number from the year 2000. By contrast, there are 16.5 million refugees as of mid 2016, according to the UNHCR. Yet, unlike refugees, IDPs are not protected by international law or eligible to receive many types of aid because they are legally under the protection of their own government. Unlike refugees, IDPs are under the protection or assistance of their own national governments, which in many cases are unwilling or unable to assist them and may have caused them to flee in the first place. In contrast to hard law, the Guiding Principles on Internal Displacement are a soft law instrument and consequently not legally binding on states.

Moreover, there is often a tendency in the literature to downplay internal displacement and to look at internally displacement populations separately. IDPs are really sidelined as a population and what is overlooked is the fact that without sufficient protection and assistance mechanisms in place, internally displaced people could easily become future refugees. There is currently very little hard data on how many refugees were previously IDPs, but in some cases, there is a clear correlation. In a survey of several thousand Syrians arriving to the islands of Greece, 85% said they were internally displaced several times inside of Syria before moving further. It is not uncommon for people to become internally displaced many times before they undertake the risks and dangers of a journey abroad.<sup>64</sup>

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<sup>64</sup> A recent example of this can be found in Syria. Unusually severe and sustained drought led to movement from agricultural lands and small communities to the big cities. This in turn led to an exacerbated situation of food shortages, which in turn contributed to domestic unrest in urban centers, which then led to dramatic and protracted conflict with millions of internally displaced and millions more becoming refugees.

By its very nature, the protection of IDP rights is limited to national legislation, operating under the umbrella of international law. As the next chapter shall demonstrate, the definition of IDP is descriptive rather than legal and provides no means of international protection. Thus, even though they are migrating and in need of protection, displaced persons within their own countries are not called ‘refugees’ because they do not enjoy international protection under the Geneva Convention.<sup>65</sup> By contrast, those who are recognized as refugees, as opposed to migrants or IDPs, theoretically have several rights under international law, one of which is the right not to be sent back to their country of origin.<sup>66</sup> This does not apply to environmentally displaced persons who have crossed borders.

### **The Question of Status, Recognition and Rights**

A key question is whether or not environmentally displaced persons should have some form of international recognition or status. Governments have a strong interest in keeping the refugee definition narrow because of the obligations they have to refugees. There is no consensus for extending the refugee regime to ‘environmental refugees’ because most “receiving states want to restrict it further rather than improve it.”<sup>67</sup> For this reason, the instinctive reaction for most states will be to resist granting refugee status to a large new group of people. However, regardless of the recognition of an international status, the issues of rights for those who are environmentally displaced and associated questions of human security are urgent matters of policy.<sup>68</sup>

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<sup>65</sup> Christel Cournil, “The Protection of ‘Environmental Refugees’ in International Law,” 371.

<sup>66</sup> This is known as the principle of *non-refouement* in international law.

<sup>67</sup> Stephen Castles “Environmental change and forced migration: Making Sense of the Debate” UNHCR Working Papers No. 70, (2002): 10.

<sup>68</sup> Boano, Zetter and Morris, “Environmentally Displaced People,” 11.

Davis argues that although famine is frequently triggered by drought, it is in fact caused by the way political and economic systems deprive people of their rights to access natural resources.<sup>69</sup> Following Sen's work, many analyses of famines now identify the issues of rights in relation to poverty, inequality, market and policy failures, as deeper causes of what may seem to be 'natural' disasters.<sup>70</sup> As in the case of famine, so too in most areas of environmental change, recognizing the role of human agency and the need for states to articulate and address the protection of rights in relation to environmental stresses leading to displacement is a pressing issue. The case is reinforced by the likelihood that the majority of environmentally induced migrants are considered as IDPs rather than refugees. Thus, Zetter et al. argue that the protection of rights may be a much more profitable route to follow than the call for international status. Whether or not a legal status is a pre-condition for accessing rights is an open question that arises out of this discussion.

### **Trapped Populations**

Migration studies suffer from what Schewel refers to as a "mobility bias." Schewel uses the phrase "mobility bias" to describe "an overconcentration of theoretical and empirical attention on the determinants and consequences of mobility and by the extension, the concomitant neglect of immobility."<sup>71</sup> From this perspective, immobility is primarily understood as involuntary, a result of constraints on freedom and desire to move.<sup>72</sup> However, just as mobility "is a highly

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<sup>69</sup> Mike Davis. *Late Victorian holocausts: El Niño famines and the making of the third world*. Verso Books, 2002.

<sup>70</sup> Boano, Zetter and Morris, "Environmentally Displaced," 11.

<sup>71</sup> Kerilyn Schewel, "Understanding immobility: Moving beyond the mobility bias in migration studies." *International Migration Review* 54, no. 2 (2020): 331.

<sup>72</sup> Schewel, "Understanding immobility," 332.

differentiated activity where many different people move in many different ways,”<sup>73</sup> so too is immobility.

One of the most important contributions of the Foresight Report is its insight on populations that are affected by environmental risk but lack the capacity to migrate away from worsening conditions. Such populations are described as “trapped” and a double vulnerability is described: the poorest people usually live in the most environmentally risky locations, for example, in flood plains and on steep hill slopes, while having the resources to migrate away from that risk.<sup>74</sup>

Moreover, given the importance of home and land for some communities, many populations have persistently chosen not to migrate in the face of environmental degradation. These two areas represent a significant gap in our understanding of migration-environment relationships.<sup>75</sup> In some instances, labelling these populations as trapped can have the effect of depriving key populations of their sense of agency and can facilitate the intervention of governments in relocation processes, which face a significant amount of resistance. Yet, a growing body of immobility literature suggests that for many non-migrants, staying also reflects and requires agency.<sup>76</sup> The impact of environmental racism on forced relocation or entrapment are also not considered in theories of migration and international law, yet they have great impacts on mobility patterns.

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<sup>73</sup> Peter Adey. "If mobility is everything then it is nothing: towards a relational politics of (im) mobilities." *Mobilities* 1, no. 1 (2006): 83.

<sup>74</sup> Foresight, *Migration and Global Environmental Change Final Project Report*, (Government Office for Science, London 2011).

<sup>75</sup> Richard Black, Neil Adger, Nigel W. Arnell, Stefan Dercon, Andrew Geddes, and David Thomas. "The effect of environmental change on human migration." *Global environmental change* 21 (2011): S3-S11.

<sup>76</sup> Kerilyn, Schewel, "Understanding immobility: Moving beyond the mobility bias in migration studies." *International Migration Review* 54, no. 2 (2020): 330.



The aspiration-capability framework is a conceptual approach that is useful for studying mobility and immobility. Carling (2002) proposed the first iteration of the framework and decided to consider the aspiration and ability to migrate separately.<sup>77</sup> According to Carling, migration requires both aspiration and ability, while immobility results from the lack of either one. Carling's "aspiration/ability model" proposed three mobility categories: *mobility* (having both the aspiration and ability to migrate), *involuntary immobility* (having the aspiration but not the ability to migrate), and *voluntary immobility* (having the ability but not the aspiration to migrate). This framework allows an examination of the agency and capabilities of people in the context of environmental change.

### **The Impacts of Non-Recognition on Livelihoods**

An IPCC report warns agricultural production will be severely compromised by climate variability and change. Already, approximately 1.1 billion people, 17% of the global population concentrated in the Global South lack access to potable water, and climate change will inevitably accentuate the problem.<sup>78</sup> Farmers in warmer and drier conditions in the Sahel region of Africa have already curtailed their cropping seasons and yields from rain-fed agriculture are expected to fall as much as 50% in some poor African countries as early as 2020.<sup>79</sup> Sana'a, the capital of Yemen and Quetta, the capital of Pakistan's Baluchistan province are cities that are said to be at particular risk of having to be abandoned in the foreseeable future, due to water scarcity.<sup>80</sup>

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<sup>77</sup> Jorgen Carling, "Migration in the age of involuntary immobility: Theoretical reflections and Cape Verdean experiences," *Journal of ethnic and migration studies* 28, no. 1 (2002): 5-42.

<sup>78</sup> Boano, Zetter and Morris, "Environmentally Displaced People," 14.

<sup>79</sup> Boano, Zetter, Morris, 14.

<sup>80</sup> Boano, Zetter, Morris, 14.

Water depletion is paradoxically complemented by an increased propensity for flooding, with approximately 41% of the world's population living within 100 km of the coast.<sup>81</sup> By 2050, sea level rise may displace more than 14 million Egyptians and there are other deltas at risk in Indonesia, Thailand, Pakistan, Mozambique, Gambia, Senegal, Surinam and a number of small island states such as the Maldives, Kiribati, Tuvalu and the Marshalls. Bangladesh already claims to have 'climate change refugees.'<sup>82</sup> Over 50,000 inhabitants of Bhola island in Bangladesh lost their homes when the island was permanently submerged by floods in 2005. Most of these people are relocated within the country's slums of Dhaka and some studies predict that the entire population of Bangladesh may become refugees by the turn of the century if the sea level keeps rising.<sup>83</sup> While the data on the exact numbers of displaced people are disputed, one trend remains clear: the greatest impact of such events is likely felt in the Global South and among marginalized communities in the Global North.

Third world countries get hardest hit by environmental issues such as famine because agriculture tends to be at the heart of their economies (see for example the Haitian exodus to the United States in the late 1970s as well as recent water shortages in Iraq). When this is the case, people are forced to leave their countries simply because those lands have become uninhabitable and reached their carrying capacities. (a country's carrying capacity is the ability of its ecosystem to support life).<sup>84</sup> The inability of national governments to provide support to their people during a famine increases risks and in some cases forces populations to relocate because of shortages of

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<sup>81</sup> Boano, Zetter, Morris, 15.

<sup>82</sup> Chhabara R. "Climate Change Refugees Seek a New Deal," *Climate Change Corp*, 2008, <http://www.climatechangecorp.com/content.asp?contentid=5871>.

<sup>83</sup> Höing and Razzaque. "Unacknowledged and Unwanted?" 19.

<sup>84</sup> Cudiamat. "Displacement Disparity" 922.

food. Chimni argues that existing interpretations of the condition of a ‘well-founded fear of persecution’ that lies at the heart of the refugee Convention has meant that most third world refugees will continue to remain *de facto* excluded from the existing refugee regime, since their departure is often caused by natural disasters, war, or political turmoil, rather than by persecution as it is currently understood.<sup>85</sup>

Thus, various populations in the Global South, as well as marginalized communities in the Global North, face a new dispossession in the form of loss of a safe global climate system.<sup>86</sup> When viewed historically, industrialized states bear responsibility for this dispossession. Yet, this form of dispossession is not addressed and in many cases, displaced populations have no legal status and access to fundamental rights. Chapter Five will look more thoroughly at the connections between loss of livelihoods, environmental displacement and the formation of regional clusters of precarious labour, facilitated by the fact that affected populations lack recognition and access to formal employment.

### **The Search for Alternatives**

Environmental disasters are increasingly challenging many of the long-standing conceptual, legal and organizational means of addressing displacement. As the next chapter shall demonstrate, international protection regimes either exclude or fail to focus on environmentally displaced persons.<sup>87</sup> The underlying assumption in current refugee governance is that refugees may return

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<sup>85</sup> Bhupinder S Chimni, "Globalization, humanitarianism and the erosion of refugee protection." *Journal of Refugee Studies* 1

<sup>86</sup> Amy Maguire and Jeffrey McGee. "A Universal Human Right to Shape Responses to a Global Problem? The Role of Self-Determination in Guiding the International Legal Response to Climate Change." *Review of European, Comparative & International Environmental Law* 26, no. 1 (2017): 67.

<sup>87</sup> Roberta Cohen, and Megan Bradley. "Disasters and Displacement: Gaps in Protection." *J. Int'l Human. Legal Stud.* 1 (2010): 97

home once state-led persecution in their countries of origin ended. As Biermann and Boas argue, however, this caveat needs to be replaced by an institutional design that conceives of most purported climate refugees as permanent immigrants to the regions or countries that accept them. Moreover, the Geneva Convention is based on individual persecution, which has sometimes included quasi-collective titles, for example where entire ethnic or religious groups in a country are judged as being persecuted. However, the regime is essentially designed for individual, state-based persecution.<sup>88</sup> A regime for the protection of environmentally displaced persons, or ‘climate refugees’, would need to be tailored for collectives of people, such as populations or certain villages, cities, regions, provinces, or even entire nations.

Given the current climate for conventional refugees is quite restrictive, some have argued that it does not make much sense to extend the definition of refugees in the Geneva Convention to include purported climate refugees. Instead, Biermann and Boas argue for a *sui generis* regime for recognition, protection and resettlement of ‘climate refugees.’<sup>89</sup> Regardless of the path ahead, developing a cohesive definition for Environmentally Displaced Persons (EDPs) is the first step in devising a level of protection designed specifically to address the plight of EDPs and to establish legal responsibility to protect these people.<sup>90</sup> In the meantime, millions of people find themselves without homes and international standards of law to support them if they are unable to return to their homes.<sup>91</sup> The movement toward protecting EDPs should start with an international agreement on the legal definition of an EDP, then the international community should follow up with creating

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<sup>88</sup> Biermann and Boas. "Preparing for a Warmer World," 75.

<sup>89</sup> Biermann and Boas, 75.

<sup>90</sup> Cudiamat. "Displacement Disparity," 892.

<sup>91</sup> Cudiamat, 901.

its own convention.<sup>92</sup> Establishing a definition of environmentally displaced persons is important given that those seeking to deny assistance to affected people will tend to dismiss legitimate environmentally displaced persons as economic migrants, accused of leaving their homes to seek greater income.<sup>93</sup>

Moreover, as Höing and Razzaque argue, putting together a robust definition for those displaced by environmental factors is part of a larger campaign to push climate change and environmental issues to the forefront of public perception.<sup>94</sup> It remains clear that these people are imperiled and their circumstances demand a global response focused on their particular circumstances and aspirations as rights-bearing individuals and communities. How the Global North responds to the plight of peoples displaced by climate change impacts is an open question and one that the international community currently says little about.<sup>95</sup>

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<sup>92</sup> Cudiamat, 930.

<sup>93</sup> Höing, Razzaque, "Unacknowledged and Unwanted," 19.

<sup>94</sup> Höing, Razzaque, 21

<sup>95</sup> Maguire and McGee. "A Universal Human Right to Shape Responses to a Global Problem?" 68.

## **Chapter Three: Existing Avenues for Categorization: A Population without Recognition**

### **Introduction**

The concept of environmental refugees was first introduced by Lester Brown of the Worldwatch Institute in the 1970s. It was subsequently addressed in a November 1984 briefing of the London-based Institute for Environment and Development and entered into common usage after a 1985 United Nations Environment Programme policy paper written by El-Hinnawi entitled “Environmental Refugees.”<sup>1</sup> Findlay and Geddes’s bibliometric analysis demonstrates that the term became increasingly pervasive in the 1990s with the publication of estimates of the global scale of potential refugee flows.<sup>2</sup> In this chapter, I examine various recent reports and uncover an underlying deficit and lack of consensus on the appropriate usage of terminology referring to those who move in response to environmental stress. As the next chapter shall demonstrate, there have been several attempts to promote the idea that a new category of refugees is needed in order to protect people who have to move because of environmental factors. However, thus far, there is no universal agreement on what an environmental migrant or refugee constitutes.

### **Existing Patterns**

Most migration occurring in response to climate change and environmental degradation is likely to be internal, with affected populations seeking to find more habitable locations, with greater opportunities within their own countries or nearby regions.<sup>3</sup> However, a portion of such

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<sup>1</sup> El-Hinnawi, E. *Environmental Refugees*. (Nairobi, UN Environmental Programme, 1985).

<sup>2</sup> Allan Findlay and Alistair Geddes, “Critical Views on the Relationship between Climate Change and Migration: Some Insights from the Experience in Bangladesh,” in *Migration and Climate Change*, ed. Etienne Piguet (UNESCO/Cambridge University Press 2011), 140.

<sup>3</sup> Susan F. Martin “Climate Change and International Migration,” *The German Marshall Fund of the United States* (2010): 1

migration can be international. In the most extreme cases, particularly in the context of rising sea levels, the entire population of island nations may need to be relocated.<sup>4</sup> In other instances, environmental migrants and environmentally displaced populations may eventually follow already established migration routes that are international in scope. For example, the Mexican state of Jalisco already has significant migration to the United States, if climate change worsens drought conditions in the state, there may be additional migration to the North.<sup>5</sup> Similarly, rising sea levels in Bangladesh may contribute to already established migration to India and the Gulf region of the Middle East.

Further compounding the situation is a lack of sufficient information and analysis on the circumstances in which international migration may result from climate change.<sup>6</sup> Existing maps of changes that will result from various projections of sea level rise or intensified drought provide useful regional tools to assess how many people may be affected by climatic changes and how many may be forced to leave their homes. However, they do not provide useful assessment as to where they are likely to move; for example, short or long distance, internally or internationally or how these movements are likely to take place, spontaneously or planned, slowly or suddenly, voluntarily or forced.<sup>7</sup>

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<sup>4</sup> Susan F. Martin, "Climate Change and International Migration," 1.

<sup>5</sup> Susan F. Martin, 2.

<sup>6</sup> Susan F. Martin, 3.

<sup>7</sup> Susan F. Martin, 2.

Increasingly, environmental processes, including climatic variability<sup>8</sup> have an impact on migration, displacement, and planned relocation.<sup>9</sup> According to a major study by the International Organization for Migration, least developed countries, landlocked developing countries, and small-island developing states (SIDS) are among the most vulnerable groups of countries in the world.<sup>10</sup> These countries are disproportionately affected by the negative impacts of climate change due to their structural constraints and geographical disadvantage.<sup>11</sup>

Climatic events and changes can affect human mobility either directly or in conjunction with other drivers.<sup>12</sup> A review of recent studies of environmental change as a driver of migration reveals that migration-environment relationships are ‘contextually contingent’;<sup>13</sup> individual decisions or intentions to migrate are shaped by socio-economic and demographic factors as well as the characteristics of the place of origin.

## **The Legal Void**

For many years, the international definition of a refugee has divided scholars. The extent to which international law and practice provide the environmentally displaced with protection from serious human rights violations unfortunately prove to be very scant. As shall be demonstrated in the next

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<sup>8</sup> This includes storms, drought and other kinds of weather shocks such as heatwaves, floods and cyclones and shifts in climate patterns associated with glacial melt, sea-level rise and desertification.

<sup>9</sup> Mixed Migration Centre, “Weak Links: Challenging the Climate and Migration Paradigm in the Horn of Africa and Yemen,” February 4, 2020. <http://www.mixedmigration.org/resource/challenging-the-climate-and-migration-paradigm/>.

<sup>10</sup> IOM, “Climate Change and Migration in Vulnerable Countries,” 2019 <https://publications.iom.int/books/climate-change-and-migration-vulnerable-countries>.

<sup>11</sup> IOM, “Climate Change and Migration.”

<sup>12</sup> Mixed Migration Centre, “Weak Links: Challenging the Climate and Migration Paradigm in the Horn of Africa and Yemen,” February 4, 2020: 7. <http://www.mixedmigration.org/resource/challenging-the-climate-and-migration-paradigm/>

<sup>13</sup> Mixed Migration Centre, “Weak Links,” 7.



chapter, under international law, the status of people on the move where the primary cause of movement is related to the climate or environment remains undefined. This is mainly due to the difficulty of isolating environmental factors from other, often related drivers of migration and because these groups are not covered by the 1951 Refugee Convention. Thus, it is unclear how the international community will respond to the predicted millions of migrants and asylum seekers whose movement is primarily induced by environmental stress or climate change. No major destination country has a proactive policy designed to resettle populations adversely affected by environmental hazards. Legal academics are still in search of an appropriate means of protection, as the definitional literature shall demonstrate.

### **The Question of Causality and Challenges in Quantification**

Several sources have demonstrated that establishing direct linkages between environmental stressors and mobility is problematic due to the multi-causality of migration.<sup>14</sup> My research demonstrates that ascribing any single cause to mobility is problematic given that a range of factors often interact with one another to influence mobility decisions. Nevertheless, environmental factors (including exposure to hazards and land productivity and habitability) often tend to be overlooked in analyses of human migration, resulting in a partial and somewhat deterministic understanding of migration patterns. Thus, rather than arguing that the environment is the sole cause of migration, I argue that the environment could be one of multiple drivers of migration and one that must be given greater attention.<sup>15</sup> In a number of instances, especially under circumstances

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<sup>14</sup> Mixed Migration Centre, “Weak Links: Challenging the Climate and Migration Paradigm in the Horn of Africa and Yemen,” (February 4, 2020): 1-33, <http://www.mixedmigration.org/resource/challenging-the-climate-and-migration-paradigm/>

<sup>15</sup> Economic, social, political, demographic are the other factors.

in which there are weaknesses in other drivers of migration, the environment acts as a threat multiplier that compels migration.

One of the key challenges in quantifying environmental migrants is that climate change and environmental stressors cannot be disaggregated from the wide range of factors affecting populations.<sup>16</sup> A study conducted in 2017 found limited evidence of drought as a major driver for recent movement along the eastern route through Somalia towards Yemen and the Gulf countries.<sup>17</sup> Overall, few migrants interviewed for the study linked their movement specifically to drought. The study concluded that while drought may be one of a number of reasons for migrating to Yemen and beyond, it is not necessarily the main driver, with interviewees citing a mix of factors including economic issues related to lack of employment and livelihood opportunities, low salaries, and land scarcity. The study did not go further to question the ways in which the environment interacted with these factors.

Similarly, a 2019 study on migratory decisions in the low-lying Maldives archipelago arrived at some unexpected findings: “contrary to a view of islanders preparing to flee their islands as ‘climate change refugees,’ the interviewees provided nuanced and varied responses.”<sup>18</sup> The

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<sup>16</sup> Mixed Migration Centre, “Weak Links: Challenging the Climate and Migration Paradigm in the Horn of Africa and Yemen,” (February 4, 2020): 5, <http://www.mixedmigration.org/resource/challenging-the-climate-and-migration-paradigm/>

<sup>17</sup> EU Emergency Trust Fund of Africa, “Migration between the Horn of Africa and Yemen, A Study of Puntland, Djibouti and Yemen,” last modified 25 July 2017, <https://www.soas.ac.uk/ref-hornresearch/research-papers/file122639.pdf>

<sup>18</sup> Kelman, I., Orlowska, J., Upadhyay, H. *et al.* “Does climate change influence people’s migration decisions in Maldives?” *Climatic Change* 153, 285–299

future threat of climate change impacts rarely influenced their migration-related decisions. There was instead evidence of internal (not international) movement, in search of better standards of living, better living conditions and more job opportunities.<sup>19</sup>

One of the key findings of a 2012 study by UNHCR in the Horn of Africa was that “cross-border movement, as a direct response to climatic variability” was rarely mentioned. For most, cross-border migration was typically a second migration, the first often being internal and often induced by environmental considerations and the second caused by violence, drought, or a combination of both.<sup>20</sup> The Mixed Migration Centre’s primary data gathering network, the Mixed Migration Mechanism initiative (4 Mi), which surveys thousands of people traveling in mixed flows within and out of the Horn of Africa, revealed that few respondents select environmental issues as a leading driver of their mobility.<sup>21</sup>

Nevertheless, not all studies are so doubtful. A bolder assertion on correlation was made in a study from New Zealand, where 16 destinations and 198 origin countries were analyzed for migration correlations over a 34-year period (1980-2014). The study found climate change to be a more important mobility driver than income and political freedom combined.<sup>22</sup> This study demonstrated that longer-term analysis is often necessary when considering environmental drivers of mobility. Likewise, a study by Columbia University climate researchers in the journal *Science*

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<sup>19</sup> Mixed Migration Centre, “Weak Links: Challenging the Climate and Migration Paradigm in the Horn of Africa and Yemen,” (February 4, 2020): 8 <http://www.mixedmigration.org/resource/challenging-the-climate-and-migration-paradigm/>

<sup>20</sup> Tamer, Afifi et. al. Climate Change, Vulnerability and Human Mobility: Perspectives of refugees from the East and Horn of Africa. (UNU-EHS, 2012).

<sup>21</sup> Mixed Migration Centre, “Weak Links: Challenging the Climate and Migration Paradigm in the Horn of Africa and Yemen,” (February 4, 2020): 2 <http://www.mixedmigration.org/resource/challenging-the-climate-and-migration-paradigm/>

<sup>22</sup> Amelia Auburn and Dennis Wesselbaum, “Gone with the Wind: International Migration,” University of Otago, Economics Discussion Papers, No. 1708 (2017): 1-31.

projected that climate change, especially continued warming, will add another “threat multiplier” that induces people to seek refuge abroad.<sup>23</sup>

Climate-induced mobility and mixed migration are complex and multi-causal processes in which natural hazards are closely linked to economic, social, and political factors as part of the broader environment in which people live.<sup>24</sup> Thus, contextual factors surrounding natural hazards in many instances inform if and how natural hazards will influence mobility.<sup>25</sup> Moreover, given the incremental nature of environmental impact on peoples’ lives, those on the move or those who have already moved may be unaware or unable to directly identify the role environmental factors have played in their decisions to move.<sup>26</sup> Further research is required on examining the extent to which interviewers’ oversight regarding the role of the environment as a driver of migration influences responses. Perhaps one of the reasons behind the responses is the underlying separation between the environment and the economy and the ways in which the question is framed.

The Mixed Migration Centre concedes that while their study’s findings of a strong presence of internal climate mobilities and a weak presence of external climate mobilities conforms to the findings of various other studies, these findings do not preclude the possibility of important changes in mobility patterns in the future.<sup>27</sup> As the negative cumulative impacts of climate change

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<sup>23</sup> Anouch, Missirian, and Wolfram Schlenker. "Asylum Applications Respond to Temperature Fluctuations." *Science* 358, no. 6370 (2017): 1610-1614.

<sup>24</sup> Stephen Castles, "Environmental Change and Forced Migration: Making Sense of the Debate," *New Research in Refugee Research*, Oxford University (2002).

<sup>25</sup> Laura, Freeman. "Environmental Change, Migration, and Conflict in Africa: A Critical Examination of the Interconnections." *The Journal of Environment & Development* 26, no. 4 (2017): 351-37

<sup>26</sup> Izzie Ramirez, "Climate Change Will Create 1.5 Billion and We Have No Idea Where They’ll Go," *Vice*, September 12, 2019, [https://www.vice.com/en\\_ca/article/59n9qa/climate-change-will-create-1-5-billion-migrants-by-2050-and-we-have-no-idea-where-theyll-go](https://www.vice.com/en_ca/article/59n9qa/climate-change-will-create-1-5-billion-migrants-by-2050-and-we-have-no-idea-where-theyll-go) (accessed February 15, 2020)

<sup>27</sup> Mixed Migration Centre, "Weak Links: Challenging the Climate and Migration Paradigm in the Horn of Africa and Yemen," (February 4, 2020): 1-33, <http://www.mixedmigration.org/resource/challenging-the-climate-and-migration-paradigm/>

further affects the economy, politics, and sustainable development in these countries, there may be more nuanced findings on migratory patterns. Moreover, the fact that there is currently a paucity of evidence on the impact of climate change on external movement does not mean it will not do so in the short or medium term future.<sup>28</sup> Indeed, the MMC concedes that it is difficult to see how it will not, given the scale of impact that climate change is expected to have and the importance it will have on people's lives, economies, politics and options.<sup>29</sup> The critical finding of various recent studies is that global environmental change affects the main drivers of migration even if it is not the primary cause of regional or intercontinental movement.<sup>30</sup> It acts as a threat multiplier. There is also a degree of scientific consensus that the numbers of climate-induced migrants will increase in the future.

It is also important to note that not all those affected by environmental stressors are able to move, whether in the context of slow or sudden-onset events. Migration is expensive and those who lack capital in the form of financial, social, political, or physical assets, as a direct or indirect consequence of environmental stressors may lack the capabilities to move away from the places that are extremely vulnerable to environmental change. Thus, it must be noted at the outset that while environmental change is likely to make migration more probable, it could also make it less possible. In other instances, lacking resources necessary to engage in long-distance migration, affected populations are more likely to move within their own country or to nearby urban areas.

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<sup>28</sup> Mixed Migration Centre, "Weak Links, 6"

<sup>29</sup> Mixed Migration Centre "Weak Links, 6"

<sup>30</sup> Mixed Migration Centre, "Weak Links," 30.

## Blind Spots Within Existing International Frameworks

There is currently an underlying binarism in dominant migration theories that distinguishes between voluntary and forced migration, without accounting for nuances within existing mobility patterns. Although the environment is rarely the sole driver of migration, it is often an overlooked factor in migration theories.<sup>31</sup> Moreover, while displacement associated with sudden-onset events is more easily acknowledged, movement associated with slow-onset events is often overlooked. Some people move pre-emptively before the disaster has become acute, but even those who move when the slow-onset event is severe are often seen as ‘distress migrants’ and do not receive the same level of attention and protection as people seen as displaced due to conflict and sudden-onset events.<sup>32</sup> At other times, the movement of people in response to slow-onset events is inaccurately categorized as economically-motivated.

In this section, I provide an outline of the various international policy and legal frameworks which are relevant to different forms of climate and environmentally-induced displacement, as well as their respective strengths and shortcomings. I argue that none of the categories provide adequate protection for the environmentally displaced. The existing legal categories do not consider changes in mobility over time and space and do not consider broader changes in the environment related to anthropogenic climate change. Consequently, they do not reflect the motivations, experiences, and needs of the environmentally displaced. Thus, while in theory, a

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<sup>31</sup> Dina Ionesco, Daria Mockhnacheva and Francois Gemenne, *The Atlas of Environmental Migration*, (IOM, Routledge, 2017), 2.

<sup>32</sup> Vikram, Kolmannskog, "Climate change, environmental displacement and international law." *Journal of International Development* 24, no. 8 (2012), 1074.

range of legal categories exist into which environmentally displaced persons can be placed, none of the categories are tailored to reflect the specific needs and interests of environmentally displaced persons. This protection gap for environmentally displaced persons means that affected populations must resort to securing their own livelihoods, with little assistance from the international community and from those who are primarily responsible for anthropogenic climate change. I explore the implications of non-recognition further in Chapter Five.

## **Refugeehood**

The definition of the term refugee is provided under Article 1 of the 1951 Convention relating to the Status of Refugees amended by the 1967 Protocol Relating to the Status of Refugees, which states that a refugee is any person who:

owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership to a particular social group or political opinion, is outside of the country of his nationality and is unable, or owing to such fear, unwilling to avail himself of the protection of that country; or who not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.<sup>33</sup>

There are four key parts to this definition, namely, the person must be outside their country of nationality or former habitual residence, the person must fear persecution, the fear of persecution must be for reasons of one of the five convention grounds (race, nationality, religion, membership to a particular social group or political opinion), and the fear must be well-founded.

Existing definitions with respect to environmental refugees generally have in common the fact that they do not distinguish whether the persons migrating or fleeing have crossed an international border. For example, El Hinnawi defined environmental refugees as:

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<sup>33</sup> UNCHR 2006b: 16.

those people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life [sic]. By ‘environmental disruption’ in this definition is meant any physical, chemical, and/or biological changes in the ecosystem (or resource base) that render it, temporarily or permanently unsuitable to support human life.<sup>34</sup>

Jacobson (1988: 37-38) identifies different types of environmental refugees:

- those displaced temporarily due to local disruption such as an avalanche or earthquake;
- those who migrate because environmental degradation has undermined their livelihood or poses unacceptable risks to health; and
- those who resettle because land degradation has resulted in desertification or because of other permanent or untenable changes in their habitat

Myers (1993: 752) defines environmental refugees as:

people who can no longer gain a secure livelihood in their erstwhile homelands because of drought, soil erosion, desertification, and other environmental problems. In their desperation, they feel they have no alternative but to seek sanctuary elsewhere, however hazardous the attempt. Not all of them have fled their countries, many are internally displaced. But all have abandoned their homelands on a semi-permanent or not permanent basis, having little hope of a foreseeable return.<sup>35</sup>

Bates offers an intentionally vague definition, stating that environmental refugees are “people who migrate from their usual residence due to changes in their ambient non-human environment.”<sup>36</sup>

The Environmental Justice Foundation (EJF) uses a modified International Organization for Migration (IOM) definition to refer to climate refugees as: “persons or groups of persons, who,

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<sup>34</sup> El- Hinnawi, *Environmental Refugees*. (Nairobi: UN Environmental Programme, 198

<sup>35</sup> Norman Myers. "Environmental Refugees in a Globally Warmed World." *Bioscience* 43, no. 11 (1993): 752.

<sup>36</sup> Diane C.Bates, "Environmental Refugees? Classifying Human Migrations Caused by Environmental Change." *Population and environment* 23, no. 5 (2002): 468.



for reasons of sudden or progressive climate-related change in the environment that adversely affects their lives or living conditions, are obliged to leave their habitual homes either temporarily or permanently, and who move either within their country or abroad.”<sup>37</sup> Likewise, the authors of “Control, Adapt, Flee” retain the term refugee to characterize people precipitously fleeing their place of residence because of an environmental stressor regardless of whether or not they cross an international border.<sup>38</sup>

Regional documents have broadened the Convention’s definition of refugee.<sup>39</sup> One such document is the Convention Governing the Specific Aspects of Refugee Problems in Africa (African Union Convention), put forth by the African Union, which expands the Refugee Convention definition to include as refugees:

Every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country or origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.<sup>40</sup>

While the definition does not specifically name environmentally displaced persons as refugees, it does not overtly exclude them, and it does significantly expand the scope of those persons entitled to legal protections as a result of forced migration.<sup>41</sup>

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<sup>37</sup> Environmental Justice Foundation, “Falling Through the Cracks: A Briefing on Climate Change, Displacement and International Governance Frameworks 2014, EJF, October 12 2014, <https://ejfoundation.org/resources/downloads/EJF-Falling-Through-the-Cracks-briefing.pdf> (accessed December 1, 2019)

<sup>38</sup> Fabrice Renaud, Janos J. Bogardi Olivia Dun, Koko Warner, “Control, Adapt, Flee: How to Face Environmental Migration?” *UNU-EHS*, 2007 <https://environmentalmigration.iom.int/control-adapt-or-flee-how-face-environmental-migration>

<sup>39</sup> JoAnn, McGregor. “Refugees and the Environment.” *Geography and refugees: Patterns and processes of change* 157 (1993): 157-70.

<sup>40</sup> See: Convention Governing the Specific Aspects of the Refugee Problem in Africa, art. 1, September 10, 1969, African Union.

<sup>41</sup> Brooke Havard, “Seeking protection: Recognition of environmentally displaced persons under international human rights law.” *Vill. Envtl. LJ* 18 (2

Like the African Union Convention, the 1984 Cartagena Declaration on Refugees (Cartagena Declaration) offers an expansive definition of refugee.<sup>42</sup> The Cartagena Declaration specifically notes the need to “consider enlarging the concept of refugee,” and defines refugees as “persons who have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disrupted public order.”

Both the expansive language of the African Union Convention and the Cartagena Declaration would seem to implicitly encompass environmentally displaced persons, because when people are forcibly displaced as a result of environmental causes, they are seeking refuge from a ‘serious disturbance of the public order.’ However, critics argue that the protection offered by these regional agreements is insufficient because they offer only temporary protection. Nevertheless, these agreements demonstrate a willingness to accept a more expansive definition of refugees, that although not originally designed to, may offer protections to EDPs.<sup>43</sup>

Of the four aspects of the 1951 Refugee Convention, the one that would be most difficult to define in the context of “environmental refugees” is the fear of persecution. In this context, it would be difficult to identify the persecutor and the extent to which a group is being persecuted, as opposed to facing a threat, noting that the term persecution implies an element of intent to harm or failure to prevent harm from occurring.<sup>44</sup> Unless it is assumed that “nature” or the environment can be persecutors, the term refugee does not appear suitable for describing those displaced by

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<sup>42</sup> See: The Cartagena Declaration on Refugees 1984, UNHCR, <https://www.unhcr.org/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html>.

<sup>43</sup> Brooke Havard, "Seeking protection: Recognition of environmentally displaced persons under international human rights law." *Vill. Envtl. LJ* 18 (2007), 76.

<sup>44</sup> James C. Hathaway, *The Law of Refugee Status*, (Toronto: Butterworths, 1990).

environmental factors, if we consider the above Convention definition. This point will be further explored in the next chapter. Some scholars have argued for a dynamic and contextual interpretation of existing refugee law, arguing that the Convention has previously shown flexibility while remaining relevant. For example, gender-related persecution was not considered by the drafters of the Convention either, yet feminist jurisprudence has been successful in arguing for a gender-sensitive interpretation of the Convention.<sup>45</sup> Similarly, it may be too quick to argue that environmentally displaced persons will never be covered by the refugee definition.

Additionally, the term ‘climate refugee’ underscores the human rights dimension of climate change and reflects the reality that a form of refugeehood – the experience of involuntarily leaving one’s home, is an inherent feature of the globally unequal distribution of responsibility for climate change.<sup>46</sup> However, more often than not, refugee status does not offer a durable solution. According to the average rate of resettlement indicated by the last five annual United Nations High Commissioner for Refugees (UNHCR) Global Trends Reports, it would take 112 years to resettle the current total population of refugees. Over two thirds of these refugees live in protracted situations of displacement, the average length of which is now approaching two decades.<sup>47</sup> Betts introduces the phenomenon of “survival migration” to refer to “people fleeing basic rights deprivations rather than just persecution.”<sup>48</sup> Perhaps the best example of flexibility or stretching is conflict. Although conflict is not explicit in the Refugee Convention, UNHCR considers conflict affected persons to be refugees and offers protection without considering if they have been

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<sup>45</sup> Kolmannskog, Vikram. "Climate Change, Environmental Displacement and International Law." *Journal of International Development* 24, no. 8 (2012) :1075.

<sup>46</sup> Kolmannskog, "Climate Change, Environmental Displacement," 10

<sup>47</sup> Gil Loescher, and James Milner. "Understanding the challenge." *Forced Migration Review* 33 (2009): 9.

<sup>48</sup> Betts, Alexander. *Survival migration: Failed governance and the crisis of displacement*. Cornell University Press, 2013, 4.

persecuted or otherwise fit the convention definition. Nevertheless, officially amending existing international refugee law by widening its interpretation could potentially risk opening it up to renegotiation and could thereby undermine existing protection mechanisms. In 2011, a proposal from UNHCR to 145 member states to develop a soft law framework specifically addressing “protection gaps created by new forms of forced displacement” was met with a poor response. Only four governments committed to exploring the UNHCR initiative further.<sup>49</sup> This indicates a lack of willingness on the part of most states to cede control over the development of frameworks. Currently, there are three durable solutions available to refugees: return, local integration and resettlement, as well as a fourth semi-solution: local settlement or migration with work authorization but not citizenship. A fundamental challenge in the field of refugee law is that there is no global refugee court and even if there are increasingly effective regional mechanisms, countries retain much discretion to interpret refugee law.<sup>50</sup>

Moreover, on a practical level, refugee law is of very little use to those displaced by environmental factors who move within rather than across international borders and who usually move for short rather than prolonged periods of time. Nevertheless, unmitigated climate change may significantly alter these trends. The evidence that has been compiled in Bangladesh suggests that although long-distance and more permanent migration is an uncommon response in the immediate post-displacement phase, since survival is the prime concern during this period, it may become a longer-term survival strategy.<sup>51</sup> On the other hand, key populations at risk of

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<sup>49</sup> Antonio Guterres, (2011). “UNHCR Intergovernmental Meeting at Ministerial Level: Closing Remarks by the United Nations High Commissioner for Refugees” 8 December 2011, <http://www.unhcr.org/4ef094a89.html> 19.

<sup>50</sup> Kolmannskog, “Climate Change, Environmental Displacement,” 1078.

<sup>51</sup> Abrar Chowdhury Rafiqul, and Sayed Nurullah Azad. *Coping with Displacement: Riverbank Erosion in North-West Bangladesh*. RDRS Bangladesh, North Bengal Institute for Alternative Research and Advocacy, Refugee and Migratory Movements Research Unit, 2004.

displacement actively reject the idea of becoming refugees, preferring instead to stay in situ, as shall be discussed in ensuing chapters.<sup>52</sup>

## **Internal Displacement**

The majority of environmentally displaced persons remain within their country of origin. Since 1975, displaced persons have been included in the mandate of UNHCR which essentially considers “internally displaced persons” as any person or group of persons who, if they had breached an international border, could be considered refugees.<sup>53</sup> In 1998, the UN Secretary-General representative for displaced persons, Francis M. Deng, proposed the following definition for internally displaced persons:

Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters and who have not crossed an internationally recognized State border.

The 1998 Guiding Principles on Internal Displacement refer explicitly to flight from ‘natural or human-made disasters’ and cover the before, during and after phases of displacement, as well as pertinent requirements for states, such as the need to develop adequate early warning and disaster preparedness systems. However, as they pertain solely to those displaced within national boundaries, they exclude any person displaced by climate change who moves across a

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<sup>52</sup> See: Carol Farbotko and Heather Lazrus. "The first climate refugees? Contesting global narratives of climate change in Tuvalu." *Global Environmental Change* 22, no. 2 (2012): 382-390.

Elizabeth Karen McNamara and Chris Gibson. "We do not want to leave our land': Pacific ambassadors at the United Nations resist the category of 'climate refugees.'" *Geoforum* 40, no. 3 (2009): 475-483.

Adeline, Masquelier, "Why Katrina's victims aren't refugees: Musings on a “dirty” word." *American Anthropologist* 108, no. 4 (2006): 735-743.

<sup>53</sup> Aurelie Lopez. "The protection of environmentally-displaced persons in international law." *Environmental Law* (2007): 368.

border. Moreover, while the definition encompasses persons internally displaced for environmental reasons, it is not legally binding. It serves only as a base for discussion on the actual content of international law's protection of internally-displaced persons.<sup>54</sup> The majority of the environmentally displaced are likely to remain within their national borders, so this could be an opportunity to define the rights of those affected. However, there is little benefit in according people affected by environmental degradation the status of displaced persons since it is only a descriptive term, not a status that confers obligations on states. The Guiding Principles on Internal Displacement are not in any way binding on states, nor are they part of customary law.<sup>55</sup>

Most notably, there is a false dichotomy between the internally displaced and refugees when in fact the two populations are very much interrelated. On the one hand, many of those who are originally internally displaced could eventually cross borders in search of better livelihoods and on the other, many refugees waiting for resettlement are living in protracted situations of displacement. Moreover, although the Nansen Initiative and the 2009 Kampala Convention explicitly reference climate change, it is unclear whether the focus on disasters provides sufficient scope to adequately protect those displaced by slow-onset environmental processes related to climate change. The Guiding Principles deliberately exclude those displaced for economic reasons, overlooking the fact that most human mobility related to climate change contains a strong economic dimension centered around the loss of livelihoods and reductions in household income.<sup>56</sup>

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<sup>54</sup> Lopez, "The Protection of Environmentally Displaced Persons," 387.

<sup>55</sup> Lopez, 387.

<sup>56</sup> Khalid Koser, "Climate Change and Internal Displacement" in Piguet, E., Pecoud, A. & De Guchteneire, P. (eds.) *Migration and Climate Change*. (Cambridge: Cambridge University 2011), 289.

Thus, the issue of climate change revives the debate of whether internally displaced persons are well-enough protected and what would be the best way to enhance their protection.<sup>57</sup>

Very few countries act to address internal displacement through national laws and policies. Out of the 124 countries to have experienced sudden-onset climate related displacement in 2008-12, just over one third have national policies in place which express a commitment to addressing internal displacement.<sup>58</sup> In their current form, the Guiding Principles do not explicitly address environmental displacement. Lastly, there is no global organization or institution which is legally empowered to oversee internally displaced persons.

### **Statelessness**

The issue of climate-induced statelessness is linked to unresolved questions of what constitutes a state and when a state can be said to have ceased to exist.<sup>59</sup> The UNHCR foresees three potential ways to maintain citizenship in the context of climate-induced collapse or disappearance: (1) a donation of territory and transfer of sovereignty, (2) formal union with another state; (3) a government in exile. The third outcome could potentially lead to *de facto* statelessness given that the powers and functions of the exiled government would be constrained and subject to the hospitality and good grace (discretion) of the host state.<sup>60</sup> Although a person whose state has disappeared would qualify as a stateless person under the treaty definition, the instruments

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<sup>57</sup> Kolmannskog, "Climate Change, Environmental Displacement," 1073.

<sup>58</sup> Internal Displacement Monitoring Centre, "Global Figures," IDMC 2014, <http://www.internal-displacement.org/global-figures> 27.

<sup>59</sup> Jane McAdam, "Disappearing States, Statelessness and the Boundaries of International Law" *University of New South Wales Faculty of Law Research Series* Paper no. 2 (2010)

<sup>60</sup> United Nations High Commissioner for Refugees (2009). "Climate Change and Statelessness: An Overview" Submission to the 6th session of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention," last modified May 15 2009 <https://www.refworld.org/docid/4a2d189d3.html>

governing statelessness are reactive rather than proactive in the sense that they would require the person to be already present in the territory of another state.<sup>61</sup>

Given that there is no precedent for the loss of an entire territory or the exile of an entire population, a range of questions would arise if oceanic nations were to consider permanently relocating to another land. If a host state extended an invitation to the government of an affected island state, this would include a willingness to allow it to exercise its personal sovereignty over its nationals.<sup>62</sup> However, since an entire population would be under the territory and jurisdiction of a foreign state, the powers of the government would be limited, not only by the host country, but also by the willingness of other states to recognize the jurisdiction of the government. This would also include an acceptance of its legislative jurisdiction.<sup>63</sup> Park argues that it is unlikely that permission to exercise jurisdiction to enforce laws could be granted to the affected island states and it would be unlikely that the affected state institutions, such as police or courts would be able to function under these circumstances.<sup>64</sup>

Thus, Park's analysis reveals a range of practical challenges that would arise from the permanent relocation of an entire population. Although the rights of these displaced populations should theoretically be protected under international human rights law, in practice, such rights could be difficult to secure. In the absence of some durable legal status, displaced populations could experience restrictions on their freedom of movement, face obstacles in finding employment, accessing property or even basic healthcare.

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<sup>61</sup> Jane McAdam, 'Climate Change "Refugees?" Climate-Related Displacement and Migration' in *Climate Change and Australia: Warming to the Global Challenge*. Sydney, (eds.) Saul, B. (The Federation Press: 2012).

<sup>62</sup> Susin Park, "Climate Change and the Risk of Statelessness: The Situation of Low-Lying Island States." *UNHCR* (2011) 7.

<sup>63</sup> Park, "Climate Change and Statelessness," 7.

<sup>64</sup> Park, 7.



In light of these realities, it becomes apparent that the relocation of entire populations should be a measure of last resort. In fact, Park's research demonstrates that many affected states wish to ensure their existence through adaptation mechanisms for as long as possible.<sup>65</sup> Keeping the principle of preventing statelessness in mind, Park argues that adequate and durable multilateral arrangements should be concluded in a timely manner, for the nations at risk of being submerged and rendered uninhabitable.<sup>66</sup> Park also discusses labour migration schemes and argues that such arrangements could be used to prevent statelessness. While Park briefly discusses the requirements for the Pacific Access Category, which is limited to applicants between the ages of 18-45, she does not consider potential human rights violations that could occur under circumstances where labourers lack legal recognition and are dependent on the host country for recognition. Ultimately, Park argues that a clearer understanding is required regarding the motivations and concerns of the populations likely to be affected by climate change, who should be fully involved in planning for their own adaptation.<sup>67</sup>

### **International Frameworks Governing Environmental Change**

Climate-induced displacement has been explicitly recognized in the United Nations Framework Convention on Climate Change (UNFCCC) treaty framework. Section 14 (f) of the 2010 Cancun Adaptation Framework encourages parties to undertake: "Measures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at the national, regional and international levels." While

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<sup>65</sup> Park, 7.

See Maryanne Loughry, and Jane McAdam. "Kiribati—relocation and adaptation." *Forced Migration Review* 31, no. 2 (2008): 51-52.

<sup>66</sup> Park, "Climate Change and Statelessness," 23.

<sup>67</sup> Park, 21.

the UNFCCC differentiates scales (national, regional, international) and types (displacement, migration, planned relocation) of human mobility, it does not fully incorporate migration as a form of climate change adaptation.<sup>68</sup> The international framework governing environmental change has made some progress on the issue of climate-induced displacement. Some researchers suggest that the UNFCCC potentially offers a strong institutional framework through which to prevent climate-induced displacement.<sup>69</sup> In its current state, however, it is difficult to see how it could be implemented to extend protection or assistance. Lacking clarification on the definition of climate-induced displacement and a specification of concrete measures to prevent, prepare for and respond to situations of displacement, the current legal and policy framework remains too vague to be of sufficient value.<sup>70</sup>

### **International Human Rights Frameworks**

The International Bill of Rights places all states under two categories of obligation: (1) to refrain from courses of conduct that violate or may violate human rights and (2) to take proactive measures to prevent other actors and events from infringing upon human rights. In the context of climate-induced displacement, there are a variety of reasons why these obligations as they relate to states of origin and/or third states, cannot be straightforwardly determined.<sup>71</sup> For instance, establishing legal causation between a particular environmentally harmful course of conduct and a specific

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<sup>68</sup> Environmental Justice Foundation, "Falling Through the Cracks: A Briefing on Climate Change, Displacement and International Governance Frameworks 2014, EJF, last modified October 12 2014, <https://ejfoundation.org/resources/downloads/EJF-Falling-Through-the-Cracks-briefing.pdf>

<sup>69</sup> Christine Gibb and James Ford. "Should the United Nations framework convention on Climate Change Recognize Climate Migrants?." *Environmental Research Letters* 7, no. 4 (2012): 045601.

<sup>70</sup> Environmental Justice Foundation, "Falling Through the Cracks: A Briefing on Climate Change, Displacement and International Governance Frameworks 2014, EJF, last modified October 12 2014, <https://ejfoundation.org/resources/downloads/EJF-Falling-Through-the-Cracks-briefing.pdf>

<sup>71</sup> Astrid Epiney. 'Environmental Refugees' in *Migration and Climate Change* (eds.) Piguet, E., Pecoud, A. & De Guchteneire, P. (Cambridge: Cambridge University, 2011).

instance of climate-induced displacement which violates one or more human rights is somewhat difficult.<sup>72</sup>

The right to asylum is provided under Article 14 of the Universal Declaration of Human Rights (UDHR). The principle of *non-refoulement* is recognized as customary international law. *Non-refoulement* prohibits the expulsion of individuals to territories where they may be subjected to torture, inhuman or degrading treatment, or where their lives and freedoms might be at risk. Nevertheless, international human rights law does not regulate admission into foreign territory. This is a core protection gap for those forced to move across borders as a result of climate-induced displacement.

### **Persistent Lacunae**

People displaced by environmental changes can encounter numerous challenges in the absence of recognition and protection, yet perhaps of greater concern is the situation of those who find themselves trapped in the face of environmental disruptions, as previously discussed.<sup>73</sup> On the one hand, if there is a need to migrate but there is no desire to do so, for cultural or social reasons, or because people do not perceive the risks, vulnerability to environmental stress can be aggravated by immobility. The inhabitants of Kiribati, for example, are already experiencing the effects of climate change, sea-level rise, soil degradation, and their impact on food, water, and health security. These communities are aware that one day they may have no choice but to relocate in the face of complete submergence and their government is already taking measures to prepare for this

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<sup>72</sup> Environmental Justice Foundation, “Falling Through the Cracks”

<https://ejfoundation.org/resources/downloads/EJF-Falling-Through-the-Cracks-briefing.pdf>

<sup>73</sup> Dina Ionesco, Daria Mockhnacheva and Francois Gemenne, *The Atlas of Environmental Migration*, (IOM, Routledge, 2017), 28.

challenge. However, a strong attachment to the land, which is often considered an extension of the self and on which identity, traditions, myths and knowledge are strongly dependent, many are unwilling to leave.<sup>74</sup>

On the other hand, when people feel the need and the desire to migrate but are unable to do so, they can become ‘trapped,’ as briefly discussed in the previous chapter. This is experienced by individuals with low socio-economic status, few material and financial assets, or limited social support networks.<sup>75</sup> Poor health, limited access to information, belonging to marginalized groups and isolation can all be factors undermining the ability to leave hazard-prone or gradually degrading environments. When Hurricane Katrina struck the Gulf Coast of the United States in August 2005, approximately 15 percent of the residents of New Orleans (60,000 people) found themselves trapped because they had been unable to evacuate prior to the disaster.<sup>76</sup> Many of them resided in poor and marginalized neighborhoods. In Bangladesh, poor communities affected by floods or cyclones are unable to migrate to safer places due to a lack of means or support and must continue to live in waterlogged houses several months a year. Elsewhere, pastoralist communities are prevented from pursuing their traditional nomadic lifestyles due to changes in the environment or conflict over resources.<sup>77</sup>

Moreover, many environmentally displaced persons will be indigenous to the place from which they are displaced, these people may therefore attain international protection afforded uniquely to indigenous peoples. The 1991 International Labour Organization (ILO) on the Rights

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<sup>74</sup> Ionesco, Mockhnacheva and Gemenne, *The Atlas of Environmental Migration*, 28.

<sup>75</sup> Ionesco, Mockhnacheva and Gemenne, 28.

<sup>76</sup> Ionesco, Mockhnacheva and Gemenne, 28.

<sup>77</sup> Ionesco, Mockhnacheva and Gemenne, 29.

of Indigenous Peoples and the 2007 UN Declaration on the Rights of Indigenous Peoples afford unique rights to Indigenous peoples. However, neither instrument directly addresses the question of protection in the event of displacement.

## Conclusion

In 2008, an International Organization for Migration (IOM) report warned that vulnerable populations exposed to climate change impacts were “falling through the cracks” of international governance frameworks.<sup>78</sup> Despite growing empirical research which is rapidly refining our understanding of the climate change-mobility nexus, not much has changed in the intervening years. Individuals rendered *de facto* stateless by extreme climate change impacts essentially constitute an entirely unprotected and unassisted category. For the most part, individuals crossing borders are afforded a minimum of protection provided by the *non-refoulement* principle, although for those impacted by slow-onset events, even this may not apply.<sup>79</sup>

Populations inhabiting under-sourced areas at risk of being affected by rainfall variability, saltwater intrusion, and other slow-onset processes of degradation have in many instances poor access to options for adaptation or mobility. Most importantly, in cases where such persons move in advance of the full deterioration of their environment, there is virtually no recourse to rights-based protection, other than those afforded by legal instruments governing international labour migration. This is why many populations escaping environmental degradation or seeking to secure alternate livelihoods are primarily categorized as labour migrants, with the environmental

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<sup>78</sup> Oli Brown, “Migration and Climate Change” *IOM Migration Research Series* 31 (2008).

<sup>79</sup> Environmental Justice Foundation, “Falling Through the Cracks”

<https://ejfoundation.org/resources/downloads/EJF-Falling-Through-the-Cracks-briefing.pdf>

dimension of their mobility decisions often overlooked. The next chapter provides a more in-depth discussion of the debate concerning environmental refugees and demonstrates that categories in fact have great implications for affected populations; the absence of suitable categories under international law has left many in a legal limbo.

## Chapter Four: The Definitional Debate on the Climate-Migration Nexus

*Due recognition is not just a courtesy we owe to people; it is a vital human need*

(Charles Taylor) <sup>1</sup>

### Introduction

Environmental conditions were initially recognized in the first theories of migration elaborated at the end of the 19<sup>th</sup> century, however, they soon began to be undermined in succeeding theories.<sup>2</sup> Current migration policies continue to be shaped by a binary understanding of migration inherited from the post-war years. Migrants are often placed in rigid and dichotomous categories in which the extent of volition and coercion involved in their mobility decisions play a vital role in refugee status determination.<sup>3</sup> International recognition is more frequently granted to those who are forced to flee for political reasons, while those who move for other reasons are considered migrants, with responsibility for their reception falling solely on individual states, rather than the international community. This underlying binarism in migration policies resurfaced in the summer of 2015, during Europe's 'migration crisis', and has served to justify policies of exclusion and constraint.<sup>4</sup> During Europe's 'migration crisis,' there were an estimated 6 million internally displaced people (IDPs) in Syria and about 5 million Syrian refugees in Jordan, Lebanon and Turkey, while the

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<sup>1</sup> Charles Taylor. *Multiculturalism: Examining the Politics of Recognition*. (Princeton: Princeton University Press, 1994), 26.

<sup>2</sup> Dina Ionesco, Daria Mokhnacheva, and François Gemenne. *The Atlas of Environmental Migration*. New York: Routledge, 2017), 2.

<sup>3</sup> Pablo Bose and Elizabeth Lunstrum "Introduction Environmentally Induced Displacement and Forced Migration." *Refuge*, Vol. 29 No.2 (2014): 8, <https://refuge.journals.yorku.ca/index.php/refuge/article/view/38163/34559>.

<sup>4</sup> Heaven Crawley and Dimitris Skleparis. 2018. "Refugees, Migrants, Neither, Both: Categorical Fetishism and the Politics of Bounding in Europe's 'Migration Crisis'." *Journal of Ethnic and Migration Studies* 44, no. 1 (2018): 4.

number of asylum seekers attempting to enter Europe in 2015 was about 1.3 million.<sup>5</sup> Nevertheless, governments and media have since reinforced the sense of an imminent crisis and strengthened the distinction between ‘refugees’ and ‘migrants’, with a strong preference for the latter.<sup>6</sup> This sense of an impending crisis has only served to fuel stricter migration policies, even in the face of coverage of human drowning in the Mediterranean Sea. The reality of migratory patterns, in which political, economic and environmental factors are intricately intertwined has been systematically overlooked in prevailing migration policies. In this chapter, I will demonstrate that existing binaries in refugee law fail to capture the intricate relationship between social, economic, political and environmental factors in human mobility, leaving many environmentally displaced persons without recognition and undermining the voices of those impacted by climate-induced migration. In order to overcome this oversight, we must critically analyze existing categories and prioritize the voices and lived experiences of those impacted by environmental change.

### **Revisiting the Debate on Environmental Refugees**

The rise in global temperatures and accompanying ecological disasters have already begun to significantly reduce the productivity of many lands and accelerated the urbanization process. For instance, in many communities, subsistence farming which previously ensured a family’s livelihood, has become unfeasible. Thus, families are often trapped in a cycle of deep poverty, indebtedness and precarity. While it is foreseeable that the majority of movements motivated by

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<sup>5</sup> Philip, Connor, “Number of Refugees to Europe Surges to Record 1.3 Million in 2015.” Pew Research Centre. 2016 <http://www.pewglobal.org/2016/08/02/number-of-refugees-to-europe-surges-to-record-1-3-million-in-2015/>.

<sup>6</sup> UNHCR Working Paper (submitted by the informal group on Migration/Displacement and Climate Change of the IASC) “Climate Change, Migration and Displacement: Who Will Be Affected” UNHCR, 31 October 2008: <http://www.unhcr.org/protection/environment/4a1e4fb42/climate-change-migration->.



climate change and environmental degradation will occur within countries, urban capitals are increasingly becoming inhospitable to those seeking protection from ecological disasters. It is likely that climate change will trigger larger and more complex movements of populations, both within and across borders.<sup>7</sup> In such instances, increased intra-regional movement is also a possible outcome. It is thus worth delving deeper into the environmental refugee debate.

Despite growing recognition of the role of the environment in migration, particularly since the middle of the 2000s, there is still reticence in recognizing environmentally displaced persons as refugees. There has since been great debate concerning the usage of the term. Informed by previous works, Bettini offers an intuitive mapping that distinguishes between four discursive families: a capitalist, a scientific, a humanitarian and a radical discourse on climate change.

The IPCC epitomizes the scientific discourse, with its ideally objective interpretation of the best available climate science.<sup>8</sup> The capitalist discourse emphasizes the risks to economic and political security posed by climate change and climate-induced migration and views global warming as a market failure to be resolved with market-oriented mechanisms, supervised by global governance institutions.<sup>9</sup> The humanitarian perspective, represented by publications by organizations such as the Environmental Justice Foundation and Christian Aid, view climate change as a hindrance to development and with potential of developing into a humanitarian catastrophe, of which climate refugees represent the emblematic face.<sup>10</sup> Lastly, the Agreement signed by the World People's Conference on Climate Change and Rights of Mother Earth, held in

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<sup>7</sup> António Guterres, "Climate Change, Natural Disasters and Human Displacement: A UNHCR Perspective," UNHCR, <https://www.unhcr.org/4901e81a4.pdf>

<sup>8</sup> Kevin Anderson argues that the IPCC is very conservative in its estimates.

<sup>9</sup> See the Stern review for an example.

<sup>10</sup> Giovanni Bettini. "Climate Barbarians at the Gate? A Critique of Apocalyptic Narratives on 'Climate Refugees'." *Geoforum* 45 (2013) 6

Bolivia represents a radical southern platform. Climate change is seen here as a systemic failure that reveals capitalism's inherently unsustainable and destructive character, of which the corporations and the governments of the so-called developed countries bear the main responsibility. As such, climate induced migration is seen as a matter of climate injustice. This discourse sees systemic shifts as necessary for an approach to climate change that guarantees substantial equity among humans and other forms of life.<sup>11</sup>

It must be noted that a discourse that is missing from Bettini's framework is what many migration experts posit; namely that the numbers of likely environmental migrants and displaced persons, particularly those crossing borders, could be easily managed with political will and resources. Rather than be seen as threatening, these movements should be seen as manageable. This discourse neither minimizes the impacts of climate change nor uses migration as a scare tactic.

There are numerous reasons for the reluctance to extend refugee status to movements associated with environmental change. First, several sources have convincingly argued that environmental change is just one of many drivers of mobility and that the environment has the greatest impact on mobility where there are deeper underlying causes associated with political economic, sociological and demographic processes, this is particularly true for slow-onset events.<sup>12</sup> Some sources have argued that the extension of the refugee category could undermine the international legal regime for protection of conventional refugees. It has been argued that extending the refugee category to include those who fall under the broader category of 'forced migrants,' or who were initially economic migrants could reduce the already limited protection

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<sup>11</sup> Bettini, "Climate Barbarians at the Gate?" 64.

<sup>12</sup> See: Graeme Hugo, *Migration, Development and Environment*. (Geneva: International Organization for Migration, 2008).

provided under international law for those fleeing conflict, human rights abuse or persecution. Other sources have argued that the use of the term poses the danger of ‘strategic essentialism’ and that the term ‘climate refugee’ is an empty signifier appropriated by various social actors for purposes other than the protection of forced migrants and offering assistance to them.<sup>13</sup>

In the aftermath of Hurricane Katrina, a controversy emerged over the use of the word ‘refugee’ to characterize the displaced residents of New Orleans. While some argued that it was a particularly suitable term insofar as it reflected the horrific conditions that many of Katrina’s survivors had endured, others countered that it stripped victims of the hurricane of their agency and dignity.<sup>14</sup> Masqueiller argues that the tendency to label Katrina victims as refugees was part of a racialized discourse that excluded poor New Orleans residents from its public, through its emphasis on responsibility and accountability, thereby helping to “naturalize social inequality.”<sup>15</sup> Being classified as ‘refugees’ in the aftermath of Katrina amounted to being “stripped of the specificity of culture, place, and history.”<sup>16</sup> Thus, by demonstrating that the term ‘refugee’ served to exclude them from the rest of the United States, dispossessed New Orleans residents reminded us that the seemingly inclusive language of citizenship can be at times used to reinforce the subordination of communities, who because of their ethnic or socioeconomic characteristics, stand outside of mainstream middle class culture.<sup>17</sup>

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<sup>13</sup> Calum Nicholson, “Is the ‘Environmental Migration’ Nexus an Analytically Meaningful Subject for Research?” Paper presented at the ES-UniBi-ZiF Research Conference no “Environmental Change and Migration: From Vulnerabilities to Capabilities.” Bad Salzflen, Germany 5-9, 2010, reproduced by the Centre on Migration, Citizenship and Development Working Papers No. 104.

<sup>14</sup> Adeline, Masqueiller, “Why Katrina’s Victims Aren’t Refugees: Musings on a “dirty” word.” *American Anthropologist* 108, no. 4 (2006): 737.

<sup>15</sup> Masqueiller, 737.

<sup>16</sup> Liisa H. Malkki *Purity and exile: Violence, Memory, and National Cosmology among Hutu Refugees in Tanzania*. University of Chicago Press, 1995, 12.

<sup>17</sup> Masqueiller, “Why Katrina’s Victims Aren’t Refugees” 737.

On the other hand, some sources have argued that environmentally displaced persons should be recognized as refugees. For example, Jessica B. Cooper has argued that environmental refugees fall within the definition of the Refugee Convention and deserve official refugee status, as well as the accompanying protections from all nations signatory to the Refugee Convention.<sup>18</sup> Similarly, Biermann and Boas (2010) problematize the need to reserve the term ‘refugee’ for a category of people who needed immediate recognition in the aftermath of the Second World War and the subsequent tendency to invent less appropriate terms for new categories of people, who are currently being forced to flee their homes.<sup>19</sup>

The Handbook on Procedures and Criteria for Determining Refugee Status which is unquestionably the most authoritative interpretation of the 1951 Refugee Convention and the 1967 Refugee Protocol, affirms that [t]here is no universally accepted definition of ‘persecution’ and various attempts to formulate such a definition have been met with little success.<sup>20</sup> As B.S. Chimni further explains, “[i]t is widely accepted that the drafters of the Convention deliberately left the meaning of ‘persecution’ undefined as it was an impossible task to enumerate in advance the myriad forms it might assume.” Thus, environmental harm may be considered as persecutory depending on the definition of persecution that is adopted.

On the other hand, the UNHCR has consistently rejected the case for categorizing the environment as a basis for refugee status, arguing that it must concentrate its limited resources on

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<sup>18</sup> Jessica B. Cooper, "Environmental refugees: Meeting the Requirements of the Refugee Definition." *NYU Env'tl. Law Journal* 6 (1998): 486.

<sup>19</sup> Frank Biermann and Ingrid Boas. "Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees." *Global environmental politics* 10.1 (2010): 67.

<sup>20</sup> Lopez, Aurelie. "The protection of environmentally-displaced persons in international law." *Environmental Law* (2007): 378.

those fleeing political, religious or ideological persecution.<sup>21</sup> It is also argued that populations internally displaced should be able to appeal to their own government and the UNHCR argues that people displaced through environmental degradation will be able to move within their own country. However, there are a number of problems with these arguments. As discussed in previous chapters, to claim that these populations can be accommodated within their own countries ignores two facts. First, it neglects that the governments of these countries may be the direct source of displacement and a poor source of protection (as is the case of dam projects). Second, it neglects that countries or large parts of them may disappear or become uninhabitable, or that the governments may lack the resources to cope. Even more importantly, the argument against proper protection ignores the international cause and solutions of the crises that are faced and burdens national governments, often the world's poorest states, with the costs of displacement and fails to acknowledge the responsibility of polluters.<sup>22</sup> The global nature of environmental change means that we need global migration policies that transcend national boundaries.

Returning to the aforementioned dichotomy between migrants and refugees, some sources have been critical of efforts to privilege refugees over migrants and have argued that this serves to reinforce, rather than challenge the dichotomy's flawed foundations. Kibreab has argued that the environmental refugee term was invented at least in part to depoliticize the causes of displacement, thereby enabling states to derogate their obligation to provide asylum.<sup>23</sup> Kibreab adds that since

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<sup>21</sup> Molly Conisbee, and Andrew Simms. *Environmental Refugees: The Case for Recognition*. (London: New Economics Foundation, 2003), 27.

<sup>22</sup> Rich countries spend a minimum of \$80 billion a year, subsidizing their fossil fuel industries, yet at climate negotiations in Bonn in 2001, they pledged just 0.4 billion per year from 2005, to help poor countries manage their emissions and adapt to climate change. Conisbee and Simms 2003, 28.

<sup>23</sup> See: Gaim Kibreab, "Environmental causes and Impact of Refugee Movements: A Critique of the Current Debate." *Disasters* 21, no. 1 (1997): 20-38.

current international law does not require states to provide asylum to environmental refugees, academics are complicit in the process of exclusion by endorsing the term.

Although Kibreab makes a valid point about the use of categories to depoliticize the causes of displacement and divert responsibility towards asylum seekers, his criticism of the environmental refugee term overlooks the fact that much of the literature on environmental refugees has in fact argued for an extension of asylum law and humanitarian assistance for those displaced by environmental degradation, rather than endorsing a differentiation between political and environmental causes.<sup>24</sup>

Interestingly, Gemenne argues that by forgoing the term ‘climate refugees,’ we have depoliticized the reality of these migrations.<sup>25</sup> Gemenne argues that forgoing the term ‘climate refugee’ is also a way of forgoing the idea that climate change is a form of persecution. He argues rather convincingly that climate impacts are a form of persecution. Gemenne argues that now that the causes of global warming are unequivocal and its disproportionate impacts are known, greenhouse gas emissions should be treated as a form of political oppression.<sup>26</sup> By using what Gemenne refers to as ‘clinical terms’ such as ‘climate-induced migrants’ or ‘people on the move in the context of climate change’ we have de-politicized climate-induced migration.

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<sup>24</sup> Richard Black. 2001. *Environmental refugees: Myth or Reality?* Working Paper no. 34. Geneva: United Nations High Commissioner for Refugees, 2001: 11.

It is important to note that the term ‘environmental refugee’ originated with the UN Environment Programme, which was one of the first and one of the few UN organizations not to be located in the North. It was thus seen by many as being more firmly aligned with African, rather than northern interests within the UN.

<sup>25</sup> Gemenne, “The Anthropocene and Its Victims,” 172.

<sup>26</sup> Gemenne, 172. see also: Molly Conisbee, Molly, and Andrew Simms. *Environmental Refugees: The Case for Recognition*. (London: New Economics Foundation, 2003).i.

Similarly, Bettini et. al. have argued that the shift from climate refugees to climate migration could result in the marginalization of climate justice initiatives.<sup>27</sup> While the figure of the climate refugee is not infallible, an important dimension of discourses on climate refugees and one with significant discursive effects is that they pose the question of responsibility. This in turn entails a problematization of climate change and its impacts on human mobility that is rooted in climate justice.<sup>28</sup> Thus, in its more progressive articulation, the figure of the climate refugee tacitly acknowledges that climate vulnerability results from deeper structural wrongs and can be a reminder that climate change entails a foundational international inequality, both in terms of historical responsibilities and differentiated adaptive capacities.<sup>29</sup>

The fact that the environment is just one of many drivers of mobility does not mean that it should be overlooked. In fact, the above cases demonstrate that environmental factors are increasingly impacting migration patterns and it can be argued that mobility in general is a multi-causal phenomenon. Thus, the role of environmental factors in mobility decisions should be considered *in conjunction* with other drivers of mobility, rather than being entirely overlooked.

However, it is important to recognize that eligibility for refugee status alone does not necessarily guarantee international protection. From a structuralist perspective, refugees belong neither here nor there, instead they lie in the “betwixt and between.”<sup>30</sup> In the context of the 2015 migration crisis, 90% of those arriving in Greece originated predominantly from three countries:

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<sup>27</sup> Giovanni Bettini, Sarah Louise Nash, and Giovanna Gioli. "One Step Forward, Two steps Back? The Fading Contours of (in) Justice in Competing Discourses on Climate Migration." *The Geographical Journal* 183, no. 4 (2017): 348-358.

<sup>28</sup> Bettini, Nash and Gioli, “One Step Forward, Two Steps Back?” 353.

<sup>29</sup> Bettini, Nash and Gioli, 353.

The figure of the climate refugee has functioned in a number of campaigns as a reminder of foundational injustice in climate change- See: Environmental Justice Fund 2009, Greenpeace 2008, so in this sense, it does serve a purpose.

<sup>30</sup> Victor Turner. "Liminality and Communities." *The Ritual process: Structure and Anti-Structure* 94, no. 113 (1969): 125-30.

Syria, Afghanistan and Iraq. It was thus anticipated that most would be accepted as *de facto* refugees. In practice, however, many of those arriving across the Mediterranean were dismissed as ‘economic migrants,’ purportedly taking advantage of the situation in Syria to move to Europe and work.<sup>31</sup> Predictably, there was even greater room to reject the first climate refugees arriving in New Zealand from the Pacific islands, on the grounds that they did not face persecution. Moreover, while the legal definition of refugee is shaped by the Refugee Convention, its interpretation and application take place at the national level, reflecting national interests, which change over time.<sup>32</sup>

In an effort to bring into the purview of the international community regime those who are neither refugees nor migrants, several scholars have created new categories to make sense of the complexities of migration.<sup>33</sup> For example, Collinson (1999) has introduced the term ‘distress migrants’, while Betts uses ‘survival migrants.’ These definitions could be applicable to those populations whose livelihoods are threatened by environmental factors. In many instances, migration in response to environmental factors is not a failure to adapt and should instead be considered as an adaption strategy. Yet, in some instances, an attempt to stress the agency of migrants can result in a deflection of responsibility towards those most impacted by global warming.<sup>34</sup>

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<sup>31</sup> Crawley and Dimitris Skleparis. "Refugees, Migrants, Neither, Both," 69.

<sup>32</sup> Crawley and Skleparis, 52.

Crawley and Skleparis note that Afghan nationals were once widely regarded as having almost *prima facie* claims for protection under international law, however, they are no longer regarded as legitimate beneficiaries of international protection. In October 2016, the EU signed an agreement with the Afghan government, allowing members states to deport an unlimited number of asylum seekers and obliging the Afghan government to receive them.

<sup>33</sup> Crawley and Skleparis, "Refugees, Migrants, Neither, Both," 51.

<sup>34</sup> Gemenne, "The Anthropocene and its Victims," 172



## The Question of Responsibility

The shift away from inherent rights towards the idea that risk should be overseen through the fostering of individual preparedness imposes additional pressure on potential migrants.<sup>35</sup> The debate then becomes less about institutional agents (such as states and the international community) and more about the ways in which individuals can become resilient in the face of environmental stress.<sup>36</sup> This framework displays climate change as an inevitable external disturbance to which individual communities must independently respond and adapt.<sup>37</sup> These emerging discourses on the nexus between climate change and migration often reflect broader shifts on how the very idea of risk is conceptualized and governed.

In fact, within ‘minimalist’ understandings of climate change and migration, a neoliberal variation is becoming increasingly dominant.<sup>38</sup> Whereas the ‘maximalist’ framework presents climate-induced migration as representative of broader failures of nation-states to adequately address climate change and protect both refugees and national security, the neoliberal minimalist alternative frames internally governed forms of climate-induced migration as an individual opportunity to achieve human security.<sup>39</sup>

A few weeks before the Cancun Climate Change Conference, Mexico hosted the Global Forum on Migration and Development. During these discussions, many governments and the UNHCR were cautious about using the term refugee, but expressed their belief in the need to

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<sup>35</sup> Bettini, Gioli and Nash, “One Step Forward, Two Steps Back,” 349.

<sup>36</sup> Bettini, Gioli and Nash, 349.

<sup>37</sup> Bettini, Gioli and Nash, 350.

<sup>38</sup> Daniel Faber and Christina Schlegel. "Give me shelter from the storm: framing the climate refugee crisis in the context of neoliberal capitalism." (2017): 11.

<sup>39</sup> Bettini, “One Step Forward, Two Steps Back,” 180.

address situations of environmental mobility. The advocacy that led to the adoption of the Cancun framework on migration, displacement and planned relocation focused on redirecting the discussion from a strong emphasis on migration as a sign of failure to adapt to one recognizing that migration can be an adaptive response to changes in the environment. The argument was that migration should not be seen as maladaptive behaviour that should be prevented; rather, there should be legal avenues for prospective migrants to pursue this form of adaptation.

However, the language of climate migration as adaptation has also been used to transform the location of social agency and consequently responsibility for climate change consequences. Rather than accepting potential ‘climate refugees’ as being impacted by climate change, produced predominantly by industrialized countries and thus in need of justice, affected populations are transformed into entrepreneurial migrants, who can lift themselves out of poverty but also positively contribute to their vulnerable communities.<sup>40</sup> The resulting view of climate migrants as “fully adaptable subjects,” capable of initiating economic development is now quite dominant in international bodies. At the persistence of the US, the UNFCCC substituted the term ‘climate refugees’ with ‘climate change induced displacement, migration, and planned relocation.’<sup>41</sup> Such frameworks in effect divert attention away from social relations in forced migration patterns.<sup>42</sup>

The individualistic concept of resilience encourages the idea that individuals must take responsibility for their own social-economic well-being rather than relying on the state or broader international community. This shift towards resilience has the potential to undermine the

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<sup>40</sup> Romain Fellli “Managing Climate Insecurity by Ensuring Continuous Capital Accumulation: ‘Climate Refugees and ‘Climate Migrants’”. *New Political Economy* 18 (3) 2013: 350.

<sup>41</sup> Faber and Schlegel “Give Me Shelter from the Storm,” 12.

<sup>42</sup> Peter Berglez and Ulrika Olausson, “The Post-Political Condition of Climate Change: An Ideology Approach.” *Capitalism, Nature, Socialism* 25 (1) 2014: 54.

significance of questions related to justice and equality as questions of political and ethical relevance in the context of climate change. As the next chapter shall demonstrate, the resilient subject is in effect deprived of inalienable rights and forced to navigate through a dangerous and precarious existence.<sup>43</sup> The aforementioned neoliberal minimalist position overlooks the contradictions and structural inequalities that reproduce socio-ecological vulnerabilities, which in turn impede the mobility of some, while compelling others into displacement.<sup>44</sup> On the other hand, a deep emphasis on vulnerability reinforces postcolonial imaginaries of the silenced “other,” with no agency and there is once again no room left for contestation. Instead, the impacted subjects are transformed into voiceless victims that the developed countries should protect.<sup>45</sup>

The difficulty of collective action against climate change is that those who need to undertake the most effort to reduce greenhouse gas emissions live in industrialized countries and are also less likely to be immediately impacted by global warming and the other consequences of anthropogenic climate change. From a neoliberal perspective, industrialized nations have very little reason to act.<sup>46</sup> Thus, it is important to prioritize local perceptions of appropriate coping strategies and to see local populations impacted by environmental change as impactful agents in shaping new futures for themselves.<sup>47</sup> It is useful here to consider McAdam and Loughry’s research on climate change in the Pacific islands. Their research in Kiribati and Tuvalu reveals that the term ‘refugee’ evokes a sense of helplessness and lack of dignity. These negative

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<sup>43</sup> Bettini notes that the “neoliberal notion of a docile, highly mobile and adaptable worker, [who is] malleable to capitalist control and resilient to climate change is pervasive” (Bettini, 2014,191).

<sup>44</sup> Bettini, “One Step Forward, Two Steps Back,” 191.

<sup>45</sup> Giovanni. Bettini, “Climate barbarians at the gate? A critique of apocalyptic narratives on ‘climate refugees’.” *Geoforum* 45 (2013) 70.

<sup>46</sup> Gemenne, “The Anthropocene and Its Victims”, 172.

<sup>47</sup> Findlay and Geddes, “Critical Views on the Relationship between Climate Change and Migration,” 153.

associations with the refugee status are traced back to the broader failures of the international system in providing adequate protection for refugees and other displaced people. This includes a failure of many nations to provide adequate assistance and accommodation, leaving millions of refugees in camps for extended periods, living precarious lives.

While Kiribati and Tuvalu face similar challenges, their responses to an impending climate change crisis have been distinct. The president of Kiribati has tried to secure opportunities for labour migration in Australia and New Zealand, so that those who are willing and able to move have an early opportunity to do so.<sup>48</sup> This would result in more gradual resettlement and would ease the transition process if and when the entire population has to relocate. In Tuvalu, however, there is a preference for emissions reductions and a refusal to accept that migration or climate refugee protection alone are sufficient responses to the complex changes that are underway in small islands.<sup>49</sup>

Although resettlement strategies have become increasingly popular, they raise a number of ethical issues, dealing in particular with the human rights of those resettled.<sup>50</sup> Resettlement strategies which seek to redress geographical exposure have in practice resulted in greater disruptions to livelihoods and networks. Resettlement processes often treat affected populations as

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<sup>48</sup> Jane McAdam, Jane and Maryanne Loughry. "We Aren't refugees." *Inside Story* (29) 2009. <https://insidestory.org.au/we-arent-refugees/>

<sup>49</sup> Carol Farbotko, and Heather Lazrus. "The first climate refugees? Contesting global narratives of climate change in Tuvalu." *Global Environmental Change* 22, no. 2 (2012): 385.

<sup>50</sup> For instance, the government of Vietnam has been implanting a policy called 'Living with Floods' which entails resettling villagers located in a zone that is increasingly prone to floods and sea level rise. See: Danh, Vo Thanh, and Shahbaz Mushtaq. "Living with Floods: an Evaluation of the Resettlement Program of the Mekong Delta of Vietnam." In *Environmental Change and Agricultural Sustainability in the Mekong Delta*, (Springer, Dordrecht, 2011) 181-204.

commodities that can be suddenly uprooted from one place and settled in another, in order to accommodate the impacts of global warming.<sup>51</sup> There is no recognition of the importance of place and home in people's lives and the difficulties associated with the loss of home and networks.<sup>52</sup>

It is important to note that the failure of existing categories to capture the lived experiences of affected populations has significant consequences. The implications of non-recognition mean that while climate refugees may exist as an objective reality, until they are recognized as such, there will be very little social action to address the causes or symptoms of their plight.<sup>53</sup> In this sense, categories are important in the current system because the label that a person is assigned by authorities can mean the difference between assistance and protection or arrest and deportation.<sup>54</sup>

The lack of consensus on the appropriate term for populations impacted by environmental degradation, along with the fact that migration could act as a climate change adaptation solution calls into question the traditional dividing line between forced and voluntary migration.<sup>55</sup> This reality encourages us to re-consider the binary divisions between voluntary and involuntary movements and to address the disjuncture between conceptual policy categories and the lived experiences of displaced populations.<sup>56</sup>

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<sup>51</sup> Gemenne, "The Anthropocene and its Victims," 173.

<sup>52</sup> See: Chowdhury Rafiquil Janet Seeley eds., *Social Protection, Livelihoods Marginalized Migrant Workers of India and Bangladesh*, (Dhaka: University Press, 2009).

Chowdhry and Seeley's research reveals that a deep attachment to the land where their forefathers had lived and a deep sense of respect for ancestral homes prevent many people from moving from their homelands.

<sup>53</sup> Faber and Schlegel "Give Us Shelter from the Storm," 18.

<sup>54</sup> Claus K. Meyer, Sebastian Boll and Borislav Gerasimov, eds. "Irregular Migrants, Refugees or Trafficked Persons?" *Anti-Trafficking Review*, Issue 11.

<https://www.gaatw.org/events-and-news/68-gaatw-news/974-categorising-migrants-standards-complexities-and-politics>

<sup>55</sup> Ionesco, Mokhnacheva and Gemmene, *The Atlas of Environmental Migration*, 2.

<sup>56</sup> Heaven Crawley and Dimitris Skleparis. "Refugees, Migrants, Neither, Both" 48.

## Conclusion

The above analysis demonstrates the complex interplay between the environment and other processes in shaping displacement patterns, which in turn increasingly problematize the use of exclusive binaries in dominant migration policies. In many instances, it is very difficult to distinguish between voluntary and forced movement. Often, decisions will involve a delicate mix of both elements in different proportions and the decision to leave one's home is often quite difficult.<sup>57</sup> It is useful to consider Richmond's continuum between proactive and reactive migration, which replaces the dichotomy between voluntary and involuntary or forced migration. In Richmond's framework, typical proactive migrants include professionals, entrepreneurs, retired people and temporary workers under contracts. Also, proactive are spies, defectors and politically motivated movers. Reactive migrants include those who meet the refugee Convention definition by having a genuine fear of persecution and being unable or unwilling to return, but may also comprise others reacting to crisis situations caused by war, famine, economic collapse and other disasters.<sup>58</sup> There is no 'hard and fast line' dividing reactive and proactive migrants, although the latter have more options available to them. The distinction between refugees and migrants often fails to capture the complexity of existing patterns of movement. The categorization of populations impacted by environmental disasters is significant and they remind us that even in the most extreme circumstances, categorical distinction and their usage to classify people matter.<sup>59</sup>

Although the environment is often just one of many drivers of mobility, it should not be overlooked as a contributing factor in mobility decisions. The tendency to overlook environmental

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<sup>57</sup> Jane McAdam, *Climate change, Forced Migration, and International Law*. (Oxford University Press, 2012), 28.

<sup>58</sup> Anthony H. Richmond. "Reactive migration: Sociological perspectives on refugee movements." *Journal of refugee Studies* 6, no. 1 (1993): 12.

<sup>59</sup> Masqueillier, "Why Katrina's Victims Aren't Refugees", 737.

change as a key driver of migration and displacement has had profound implications for affected populations, as shall be further discussed in succeeding chapters.

As previous chapters demonstrated, recent literature on migration and environmental change has shifted from a debate between advocates of the idea that there are growing numbers of environmental refugees and those challenging such a view towards a more multi-casual approach with recognition that migration is driven by a range of factors, in which environmental change can play an important and pivotal role.

Adopting a human rights lens to address climate change is somewhat contentious and vulnerable to the critique being too anthropocentric.<sup>60</sup> However, Aminzadeh's discussion suggests that the framing of the problem is irrelevant, because mitigation efforts will ultimately aim to reverse the overall problem and will inevitably benefit both humans and other species in the environment. Thus, while it may be debatable whether or not humans should be the icons of climate change, it is perhaps inevitable that any mitigation effort will be anthropocentric to some extent, in part because the existing damages are largely human-induced.

The lacunae that exist within the international legal system in terms of effectively recognizing and responding to the needs of environmentally displaced persons have exacerbated the challenges that displaced populations are faced with. In the absence of any international recognition or protection, populations displaced by the environment are more likely to turn to irregular migration routes and are more likely to be exploited as precarious labourers, as shall be demonstrated in the next chapter. Rather than endorsing top-down policies that serve to discourage

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<sup>60</sup> Sara C. Aminzadeh, "A Moral Imperative: The Human Rights Implications of Climate Change." *Hastings Int'l & Comp. L. Rev.* 30 (2006): 263.

out-migration, we must instead critically examine the implications of binary categories in migration policies and instead consider the ways in which various factors overlap and intersect to impact mobility decisions. In anticipation of increased movements resulting from climate change and environmental stress, a group of academics have been advocating for a focus on the needs of displaced people rather than focusing solely the exact reasons for leaving. For example, some scholars have argued that there are core human rights that belong to everyone, regardless of whether or not they move. Beyond those core rights may be ones that are specifically linked to causation because the affected persons have different needs from other migrants.<sup>61</sup> It is clear that long-standing international definitions of forced migration and international systems of protection may soon have to expand in order to accommodate the many different patterns of migration that are emerging.<sup>62</sup> Extending the refugee definition to populations impacted by environmental pressures can serve to politicize the discourse on ecological crises and those impacted by them. The next chapter offers an in depth analysis of the practical implications of non-recognition for environmentally displaced populations, uncovering the nexus between displacement and various forms of precarity.

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<sup>61</sup> For instance, Michael Doyle (Columbia University) has advocated for this view.

<sup>62</sup> Roberta Cohen, and Megan Bradley. "Disasters and Displacement: Gaps in Protection." *J. Int'l Human. Legal Stud.* 1 (2010): 97.



## Chapter Five: The Erosion of Livelihoods

*Land is life. It is the basis of livelihoods for peasants and indigenous people across the Third World and it is also becoming the most vital asset in the global economy.*

(Shiva Vandana)<sup>1</sup>

### Introduction

Climate and environmental changes increase the risk of natural disasters and place great strains on livelihoods that are dependent on sectors highly interlinked with climate processes such as small-scale agriculture, forestry, fishing and mining. Combined heatwaves can lead to severe harvest failures with major implications for agriculture producers and the food securities of communities all over the world.<sup>2</sup> A European heatwave and drought in the summer of 2018 led to widespread harvest failures and a massive decline in agricultural productivity in many countries across the continent. Various national governments sought help from the European Commission. In Germany alone, approximately 8,000 farmers were prompted to call for federal emergency relief worth around EUR 1 billion (US 1.8 billion) in order to be compensated for their losses, after a massive decline in harvest resulted in total damages of EUR 3 billion (US 3.54 billion).<sup>3</sup> However, the countries most susceptible to drought, mainly in the Global South, are often in much more

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<sup>1</sup> Vandana Shiva, "The Great Land Grab: India's War on Farmers," *Al Jazeera English*, June 8, 2011, <https://www.commondreams.org/views/2011/06/08/great-land-grab-indias-war-farmers> (accessed May 14, 2020).

<sup>2</sup> Eckstein et. al, "Global Climate Risk Index 2020," Germanwatch (2020): 17.

<sup>3</sup> Eckstein et. al, 17.

precarious situations, as they often cannot rely upon government support in the form of financial resources or technologies.<sup>4</sup>

Given that the environment is often overlooked as a possible driver in creating precarity and inducing migration, affected populations are often left unprotected, with very limited options for securing a livelihood, irrespective of whether or not they stay or leave their homes. Moreover, the intersection between environmental degradation and human trafficking is currently understudied, albeit an increasingly probable outcome in these situations. Once environmentally displaced persons are transformed into temporary labourers with minimal rights, the risk of human rights abuses increases, resulting in exploitation and unbearable situations. This chapter examines the ways in which the climate crisis and environmental factors have created precarious living conditions for populations around the world, particularly those who depend on subsistence farming.<sup>5</sup> The examples in this chapter demonstrate the range of ways in which populations engaged in natural and resource-based livelihoods have been impacted by various environmental events and the efforts that have been made to diversify their livelihoods, in the absence of alternative livelihood sources.

### **Contextualizing Uneven Development**

The uneven distribution of fossil fuel technology is in fact a condition for its very existence.<sup>6</sup> Engineering science and the adoption of fossil fuels are often described as decisive factors of the industrial revolution. However, what is overlooked are the global and social processes that have

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<sup>4</sup> Eckstein et. al, 17.

<sup>5</sup> This includes fishing and agriculture.

<sup>6</sup> Alf Hornborg “The Political Ecology of the Technocene,” in *The Anthropocene and the Global Environmental Crisis*, ed. Clive Hamilton, Christophe Bonneuil and François Gemenne (New York: Routledge, 2015): 60.

made the relative price of labour and resources in the world market the prerequisite to technological progress in the industrialized world. The historical origins of anthropogenic climate change were predicated upon highly inequitable global processes and the technological gains of the industrial revolution continue to be unevenly accessible to different segments of world society.<sup>7</sup> Thus, ingenuity was a necessary but not sufficient condition for modern technological progress. What is often conceived as the history of human invention is in reality the history of rising inequalities within an increasingly globalized economy.<sup>8</sup> The industrial path taken by core countries would not have been possible without a systemic unequal ecological exchange with peripheral regions of the world system.<sup>9</sup> Recruited to work in those industries with harmful impacts on both humans and the physical environment, the people of the Global South have historically faced the consequences of harmful work. Thus, it is helpful to consider the underlying nature of vulnerable jobs and the condition of hyperprecarity.

Vulnerable jobs are often insecure, temporary, low-paid with non-payment, long and irregular working hours and unfair dismissal as their common features.<sup>10</sup> Anderson and Rogaly's study on construction, agriculture, care and cleaning migrants in Asia, Africa, Latin America, Central and Eastern Europe reveals that migrants are increasingly recruited through subcontracting chains and agents that make it increasingly difficult to protect migrants' basic rights. The added layer of unreasonable recruitment fees further complicates the issue and these factors combine to

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<sup>7</sup> Hornborg, "The Political Ecology of the Technocene," 60.

<sup>8</sup> Hornborg, 60.

<sup>9</sup> Clive Hamilton, Christophe Bonneuil and François Gemenne, "Thinking the Anthropocene," in *The Anthropocene and the Global Environmental Crisis*, ed. Clive Hamilton, Christophe Bonneuil and François Gemenne (New York: Routledge, 2015): 7.

<sup>10</sup> Hannah Lewis, et. al "Hyper-precarious Lives: Migrants, Work and Forced Labour in the Global North," *Progress in Human Geography* 39, no. 5 (2015): 584.

result in the treatment of workers that can be described as forced labour in some cases.<sup>11</sup> In these instances, it is increasingly difficult to categorize labour as forced or voluntary, as shall be discussed further below. Thus, many scholars have been concerned that a rigid binary between forced and voluntary labour is unhelpful due to the underlying heterogeneity of various types of labour across a spectrum.<sup>12</sup> It is further argued that labour status should not be studied in isolation and without challenging the underlying system that led to their existence in the first place.

The term ‘unfree labour’ has been preferred by a number of sources. Philipps (2013) argues that contemporary unfreedom in the global economy differs from traditional forms of unfreedom, such as slavery, indenture or bondage in four key ways.<sup>13</sup> First, modern forms of unfreedom take a contractual form, and are usually shorter in duration and maintained by indebtedness. Second, contemporary forms of unfreedom are primarily related to the preclusion of exit, as opposed to a coerced point of entry.<sup>14</sup> Third, in contrast to traditional unfree labour, contemporary forms often involve some sort of exchange of labour for money. Lastly, unfreedoms do not only exist at the point of exit, but are characteristic of the work itself, through harsh, degrading and dangerous conditions of work, violations of workers’ labour and human rights.<sup>15</sup>

It is again pertinent to return to the idea of a continuum in understanding labour and migration experiences. As Morgan and Olsen demonstrate, labourers initially voluntarily enter into relationships, which later turn out to be coercive and inhumane or degrading. Subsequently, they

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<sup>11</sup> Lewis, et. al, “Hyperprecarious Lives,” 584.

<sup>12</sup> Julia Davidson O’Connel. “New slavery, old binaries: human trafficking and the borders of ‘freedom’.” *Global Networks* 10, no. 2 (2010): 244-261.

<sup>13</sup> Nicola Phillips, “Unfree labour and adverse incorporation in the global economy: Comparative perspectives on Brazil and India.” *Economy and Society* 42, no. 2 (2013): 171-196.

<sup>14</sup> Preclusion of exit through indebtedness, withholding wages, also workers’ own perception of responsibilities, obligations, debts, used as disciplining mechanisms by employers).

<sup>15</sup> Lewis, et. al, “Hyper-precarious Lives, 587.

fall into a ‘tunnel of encampment,’ as their options are increasingly limited.<sup>16</sup> Migration processes and immigration restrictions further compound precarity and result in various forms of unfreedoms that can prevent any alternatives to exploitative labour. Employment and immigration insecurities combine in a condition that Lewis et al. characterize as hyper-precarious.<sup>17</sup>

Numerous studies provide evidence on the ways in which asylum seekers and refugees feel excluded from the formal labour market and the ways in which work and their lack of rights to work forms the center of both their possible lives and their current problems and frustrations.<sup>18</sup> In many instances, precarious immigration status is combined with structured exclusion from work.<sup>19</sup> The absence of legal status results in further exploitation. For instance, the Turkey-EU agreement was negotiated in the aftermath of the 2015 ‘migration crisis’ to prevent Syrians from moving to the EU. Given that work permits are difficult to obtain in Turkey, most migrants and asylum seekers have been absorbed into the informal sector and low-skill jobs. As a result, a significant number of Syrians in Turkey face long hours, unsafe conditions, lack of guaranteed payment and low wages. A critical analysis of citizenship is required in order to expose the deliberate exclusion of migrants in destination countries and how transnational social positions and livelihood pressures contribute to the necessity of engaging in unfree labour, as described by Lewis et al.

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<sup>16</sup> Lewis et. al, 588.

<sup>17</sup> Lewis et. al, 588

Compulsion by necessity: not because there is no choice, but because there is no real and acceptable alternative relevant to those who have incurred debt /under pressure to send remittances (Lewis 588).

<sup>18</sup> Lewis et. al, “Hyperprecarious Lives,” 591.

<sup>19</sup> Lewis et. al, 591.

## **Livelihood Diversification: Environmental Migration and Precarious Labour**

Today's agriculture and food security are highly vulnerable to the impacts of climate change and thus are key sectors for intervention. Even a seemingly slight rise in global mean temperatures can have major implications for rural poverty and for both rural and urban food security. According to the FAO's more recent estimates, the number of people suffering from chronic hunger has increased substantially, with most of the world's hungry situated in South Asia and sub-Saharan Africa. These regions have large rural populations, widespread poverty and extensive areas of low agricultural productivity, steadily degrading resource bases, weak markets and high climate risks.<sup>20</sup> High seasonal variability in rainfall renders farmers and landless labourers that are dependent on rain-fed agriculture particularly vulnerable to endemic poverty. Given that climate change will likely bring further difficulties to millions of people, for whom achieving food security is already problematic, it is worth examining the options that subsistence workers in particular have in search of alternative sources for survival.

Although there are few published definitions of either subsistence agriculture or smallholder agriculture, Barnett et al. define subsistence farming as "farming and associated activities which together form a livelihood strategy wherein the main output is consumed directly, where there are few, if any purchased inputs and where only a minor proportion of the output is marketed."<sup>21</sup> 'Smallholder agriculture' is used more generally to describe rural producers, predominantly in developing countries, who farm using mainly family labour and for whom the

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<sup>20</sup> Nedurmaran et. al "Climate Change and Food Security in Asia and Africa: Agricultural Futures," in *Climate Change Challenges and Adaptations at Farm Level: Case Studies from Asia and Africa* eds. Vermeulen (2011) 87.

<sup>21</sup> Given the lack of clear and standardized definitions of these categories, there are few informed estimates of world or regional populations of small-holder or subsistence farmers .

farm provides the principal source of income.<sup>22</sup> Pastoralists almost all depend on the sale of livestock and livestock products to buy staple foods and other necessities <sup>23</sup> and people dependent on artisanal fisheries and aquaculture enterprises are also included in this category. The various risks of drought, food, crop and animal disease and market shocks, may be felt by individual households or entire communities in these sectors.<sup>24</sup>

According to the International Fund for Agricultural Development (IFAD), 75% of the world's 1.2 billion poor (defined as consuming less than one purchasing power adjusted dollar per day) live and work in rural areas.<sup>25</sup> Earlier IFAD figures suggest that approximately 50% of the developing country rural population were smallholders (farming less than 3 hectares or less of crop land) and approximately 25% were landless, which may have included some agricultural labourers, non-pastoralist livestock keepers and poorer people not engaged in agriculture. The proportion of smallholders in sub-Saharan Africa was higher at 73%.

In many instances, outlined below, livelihood diversification takes the form of shifts to low-income, unsustainable, irregular occupations. A pattern emerges in which populations escaping environmental degradation end up in industries that are equally damaging to both workers and the environment such as deforestation, highly polluting forms of shrimp farming and increased exposure to various environmental hazards.<sup>26</sup> In Northern Kenya, Southern Ethiopia and

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<sup>22</sup> Tony Barnett, Erik Blas, and Alan Whiteside. "AIDS briefs: subsistence agriculture." *USAID Health and Human Resources Analysis and Research for Africa Project* (1997).

<sup>23</sup> Little, PD, McPeak JG (2006) in *Pastoral Livestock Marketing in Eastern Africa: Research and Policy Challenges*, eds McPeak JG, Little PD (Intermediate Technology, Rugby UK) 1-13.

<sup>24</sup> John F. Morton "The impact of climate change on smallholder and subsistence agriculture." *Proceedings of the national academy of sciences* 104, no. 50 (2007): 19680-19685.

<sup>25</sup> Barnett, A., Erik Blas, and Alan Whiteside. "AIDS briefs: subsistence agriculture." *USAID Health and Human Resources Analysis and Research for Africa Project* (1997) 15.

<sup>26</sup> Gerrard, Michael B. "Climate Change and Human Trafficking After the Paris Agreement." *U. Miami L. Rev.* 72 (2017): 359.

Mozambique for example, the shift away from pastoralism has led to charcoal production, wood harvesting, reed cutting, clearing of large forest or water zones and unsustainable shrimp farming. The cases below, derived from various geographic regions, demonstrate that smallholder and subsistence workers and rural populations more generally will continue to be deeply impacted by climate change and have already resorted to various livelihood strategies to ensure their basic needs are met. The absence of legal recognition and protection further limits access to formal employment and results in precarious living and working conditions for populations impacted by environmental degradation.

### **The Drought in Central America**

In Central America, drought, famine and the battle for dwindling natural resources are increasingly being recognized as contributing factors in the exodus to the United States.<sup>27</sup> Asked why he was still willing to incur crippling debts and risk his life to migrate to the US, Esteban Gutiérrez, interviewed by *The Guardian* explains:

My children have gone to bed hungry for the past three years. Our crops failed and the 'coffee farms have cut wages to \$4 a day,' he says, playing nervously with the white maize kernels in a plastic trough strapped to his waist.

We hope the harvest will be good, but until then we have only one quintal [46kg] of maize left – which is barely enough for a month. I have to find a way to travel north, or else my children will suffer even more.<sup>28</sup>

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<sup>27</sup> Oliver Milman, Emily Holden and David Agren “The Unseen Driver Behind the Migrant Caravan: Climate Change,” *The Guardian* October 30 2018 <https://www.theguardian.com/world/2018/oct/30/migrant-caravan-causes-climate-change-central-america>.

<sup>28</sup> Nina Lakhani, “People are Dying : How the Climate Crisis has Sparked the Exodus to the US,” *The Guardian* July 29 2019.



In 2018, drought-related crop failures directly affected one in ten Guatemalans and caused extreme food shortages for almost 840,000 people, according to the UN's Food and Agriculture Organization (FAO).<sup>29</sup> As a result, since October 2018, entire families have been migrating in record numbers to the US. Since October 2018, more than 167,000 Guatemalans travelling in family groups have been apprehended at the US border, compared with 23,000 in 2016.<sup>30</sup> Migration surged from those areas of Guatemala without reliable subsistence farming or wages from commercial farming jobs, with Guatemala the single largest country contributing to undocumented migration across the US Southwest border.<sup>31</sup>

To further complicate matters, the region's main cash crop, coffee is increasingly threatened by a global price crash and a deadly rust fungus known locally as *la rolla*, which thrives in hot and humid conditions, exacerbated by the climate crisis. As a result, 80% of the region's coffee has been eradicated in the past five years. In many instances, families face an impossible choice: stay and risk starvation or risk everything on the perilous migrant trail. "They risk their lives if they stay- and if they go."

Yet the severe drought in what has become known as the 'dry corridor,' which has resulted in the loss of 80% of Honduras' corn, bean crops and resulted in food insecurity affecting 2 million people is not recognized as an official basis for seeking asylum in the United States. While hunger traced to droughts that have become increasingly severe and frequent is an underlying reason why

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<sup>29</sup> Lakhani, "People are Dying."

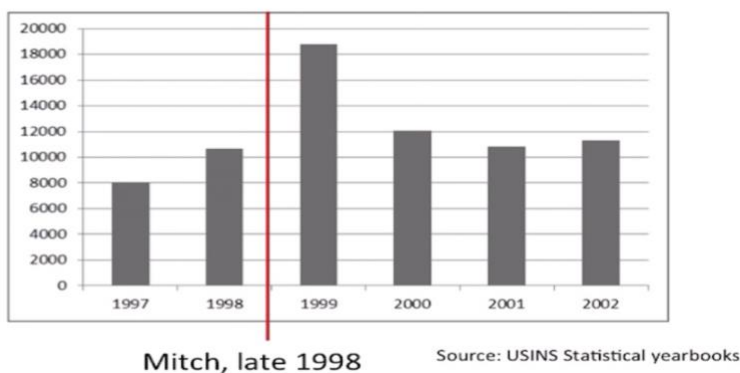
<sup>30</sup> US Customs and Border Protection, "US Border Patrol Southwest Border: Apprehensions by Sector Fiscal Year 2020" <https://www.cbp.gov/newsroom/stats/sw-border-migration/usbp-sw-border-apprehensions>

<sup>31</sup> Jacob Soboroff and Julia Ainsley, "Trump admin Ignored its own evidence of climate change's impact on migration from Central America," *NBC News*, September 20, 2019, <https://www.nbcnews.com/politics/immigration/trump-admin-ignored-its-own-evidence-climate-change-s-impact-n1056381>.

many are fleeing for their lives, it does not qualify as persecution, which is the only condition under which asylum can be granted.

In fact, a similar pattern was seen two decades ago with Hurricane Mitch, which hit Central America in October 1998, becoming one of the deadliest hurricanes to hit the Western Hemisphere in 200 years, killing 11,000 people, destroying thousands of homes resulting in \$5 billion in damages affected.<sup>32</sup> Following the Hurricane, livelihoods were destroyed and there was a sharp increase in migration throughout the region. Nicaraguan farmworkers were leaving to Costa Rica, Guatemalans moved to Belize and Hondurans moved to the US to look for work.<sup>33</sup> The below figure shows the number of Hondurans that were intercepted trying to cross the border to the United States. It can be seen that immediately following Hurricane Mitch, there was a sharp rise in the number of Hondurans trying to get into the United States.<sup>34</sup>

Undocumented Hondurans intercepted at  
US-Mexico border



<sup>32</sup> History.com Editors, “Hurricane Mitch,” <https://www.history.com/topics/natural-disasters-and-environment/hurricane-mitch> (accessed May 17, 2020).

<sup>33</sup> TEDx Talks, “Beyond Environmental Refuge: Robert McLeman at TEDx UOttawa,” October 18, 2012, video, 10:20, [https://www.youtube.com/watch?v=vdeyz\\_1gNSA&t=487s](https://www.youtube.com/watch?v=vdeyz_1gNSA&t=487s).

<sup>34</sup> Modified figure taken from Robert McLeman, TEDx talk.

Likewise, a study published in the 2010 Proceedings of the National Academy of Sciences found that Mexican migration to the United States pulsed upward during periods of drought. The study projected that by 2080, declines in agricultural productivity alone would drive 1.4 to 6.7 million people toward the Southern U.S. border.<sup>35</sup> Thus, although factors such as violence and instability in Mexico and the Northern triangle should not be undermined as important drivers of migration, it is important to recognize that environmental factors are increasingly interacting with existing instabilities to shape mobility patterns.

It is helpful to return here to the definitional debate on recognition for environmentally displaced persons. It is clear that the lack of consensus on definitions for populations affected by environmental degradation has had real consequences and serves as a reminder to consider whether or not the term ‘persecution’ is encompassing enough. Lacking legal recognition, migrants who are essentially fleeing hunger and starvation triggered by droughts are instead referred to as ‘criminals’ and placed in detention centers or in better case scenarios, remain undocumented and have to ultimately work in precarious sectors to earn a living.

## **Environmental Migration and Precarious Labour**

### **Gulf Cooperation Council: Circular Labour Migration**

While environmentally-induced displacements lead to catastrophic circumstances in certain regions, adjacent or nearby countries with steady labour demands use this reservoir of displaced people as new recruitments for their workforce, though often in heavily curtailed terms leading to

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<sup>35</sup> Shuaizhang Feng, Alan B. Krueger, and Michael Oppenheimer. "Linkages among climate change, crop yields and Mexico–US cross-border migration." *Proceedings of the National Academy of Sciences* 107, no. 32 (2010): 14257-14262.

bonded labour practices and precariousness. It must be stated at the outset that the *kafala* system in the Gulf Cooperation Countries (GCC) countries is by no means an exception. Similar migration schemes exist in Canada and throughout the world; such migration schemes share the characteristic of recruiting foreign workers on a temporary basis, to work in precarious industries, with little protection or recognition from the sponsor or state in question. Nevertheless, the GCC has one of the highest ratios of migrants to citizens worldwide and rather openly eschews human rights norms in terms of its treatment of migrant workers. The focus on the GCC in this dissertation stems from an interest in uncovering a possible nexus between environmental displacement and labour migration in the Global South.

The Gulf Cooperation Council's workforce is overwhelmingly non-national and the degree of dependence on non-national workers is greatest in some of the smaller Gulf states.<sup>36</sup> The first surge of migration flows to the region began with the 1973 oil boom and subsequent undertaking of a large number of development projects, which in turn resulted in a rapid rise in the demand for foreign labour in the Gulf region.<sup>37</sup> With the onset of neoliberal reforms, there has been a general decline in wage levels for non-nationals throughout the region. Wages have fallen between 20-30 percent and up to 45 percent since 1983.<sup>38</sup> Simultaneously, there have been socioeconomic and environmental changes across the Indian subcontinent. This includes increases in the extent and severity of natural disasters, declining crop yields, availability of mountain

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<sup>36</sup> John S. Birks, Ian J. Secombe, and Clive A. Sinclair. "Labour migration in the Arab Gulf states: patterns, trends and prospects." *International Migration* 26, no. 3 (1988): 267-286.

<sup>37</sup> Md Mizanur Rahman. "Bangladeshi labour migration to the Gulf States: Patterns of recruitment and processes." *Canadian Journal of Development Studies/Revue canadienne d'études du développement* 33, no. 2 (2012): 214-230.

<sup>38</sup> Birks et. al "Labour Migration in the Arab Gulf States"

products, reductions in the diversity of mountain agriculture and a decline in water flows from local sources resulting in growing food insecurity.<sup>39</sup>

In the absence of any alternative means of securing a livelihood, labour migration has become a livelihood strategy for affected populations throughout the Indian subcontinent. Most prospective migrants originate from villages. The rapid urbanization of South Asia has meant that cities have increasingly become over-crowded and inhospitable to these rural migrants. Thus, the neighboring Gulf countries, with their heavy demands for foreign labour have become a seemingly better destination. In 1976, Bangladesh launched a government agency called the Bureau of Manpower, Employment and Training (BMET), in order to seize the opportunity for temporary employment in GCC countries.<sup>40</sup> According to BMET, around 5.3 million Bangladeshi migrants joined the GCC between 1976 and 2010.<sup>41</sup> The construction industry is one of the largest employment sectors in the GCC and workers predominantly come from India, Nepal, Bangladesh and the Philippines, all places that are deeply affected by environmental disasters. Looking at the ND-GAIN rankings<sup>42</sup> of these countries, it becomes apparent that they all have low or lower-middle scores, demonstrating their vulnerability to climate change and other global challenges. Thus, the environment could be a possible factor in motivating migration to the adjacent Gulf region. The search for a higher income or better jobs can be traced indirectly to environmental factors, which have deprived many of their traditional livelihoods. The upcoming 2022 World Cup

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<sup>39</sup> Brigitte Hoermann, Banerjee Soumyadeep, and Michael Kollmair. *Labour migration for development in the Western Hindu Kush-Himalayas: understanding a livelihood strategy in the context of socioeconomic and environmental change*. International Centre for Integrated Mountain Development (ICIMOD), 2010.

<sup>40</sup> Mizanur, Md Rahman, "Bangladeshi labour migration to the Gulf States: Patterns of recruitment and processes." *Canadian Journal of Development Studies/Revue canadienne d'études du développement* 33, no. 2 (2012): 214-230.

<sup>41</sup> BMET statistics: <http://www.bmet.org.bd>.

<sup>42</sup> The ND- GAIN index measures a country's vulnerability to climate change and other global challenges in combination with its readiness to improve resilience <https://gain.nd.edu/our-work/country-index/rankings/>

in Qatar and related projects have required the recruitment of thousands of new migrants from the aforementioned countries in a short time frame. The estimated number of additional workers needed to complete world cup and related infrastructure projects range from 500,000 to 1 million.<sup>43</sup> Paradoxically, environmentally displaced persons are recruited to partake in development projects with detrimental impacts on the environment.

Moreover, in recent years, hundreds of thousands of Yemenis have begun traveling irregularly to Saudi Arabia, periodically being subject to mass deportation or expulsion. In 2018, an estimated 700,000 Yemenis were working irregularly in the kingdom.<sup>44</sup> Yet, because they do not get involved with abusive smugglers to access Saudi Arabia, this aspect of regional economic migration is rarely covered in published reports. In addition to the civil war, Yemen's water availability per capita is the lowest in the world, with Sana'a being the world's most water-stressed cities and is the only capital city that may run out of freshwater by the next decade,<sup>45</sup> making environmental degradation an overlooked cause of migration in this case as well.

Several institutions play a key role in recruiting transient labour from South Asia to the GCC. This includes employers, who directly recruit prospective migrants, public employment services and private and for-profit recruitment agencies.<sup>46</sup> Gradually, direct employers and public employment services have substantially declined, while migrant networks and private agents have

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<sup>43</sup> Human Rights Watch. "Building a better World Cup: Protecting migrant workers in Qatar ahead of FIFA 2022." (2012).

<sup>44</sup> The New Arab "UN Urges Saudi Arabia to Halt Yemen Migrant Deportations," <https://www.alaraby.co.uk/english/news/2018/5/9/un-urges-saudi-arabia-to-halt-yemen-migrant-deportations>

<sup>45</sup> USAID, "Climate Risk Profile: Yemen," Climate Links, November 2016, <https://www.climatelinks.org/resources/climate-change-risk-profile-yemen> (accessed March 14, 2020).

<sup>46</sup> Philip Martin., "Merchants of labor: agents of the evolving migration infrastructure" Geneva, International Institute for Labour Studies. 2015, <http://www.ilo.org/public/english/bureau/inst/publications/discussion/dp15805.pdf> (Accessed 20 October 2019).

increased worldwide.<sup>47</sup> Increasingly, actors involved in the migration industry are charging fees for prospective migrants, who require work visas, resulting in the commercialization of network-assisted recruitment.<sup>48</sup> The additional problems which arise from indebtedness through recruitment fees have left both documented and undocumented migrants more vulnerable to exploitation and job blackmailing. In a sense, these migrants become dispossessed a second time, this time, trying to escape the destination that they thought would provide them with new opportunities, which instead leaves them trapped in jobs they never agreed on, receiving salaries far below what they expected, and lacking the practical means to return to their homes. In a sense, this scenario is the inversion of *non-refoulement*, although there is a strong desire to return to the country of origin, it is not possible due to various impediments imposed by employers.

### **RSE and Asia-Pacific**

In the Pacific islands, subsistence agriculture has historically served the purpose of sustaining the livelihoods of islanders. Recently, however, pockets of poverty have emerged in nearly every island community and in some cases, the rate of increase in poverty is quite shocking.<sup>49</sup> The emigration of nurses and teachers to Australia and New Zealand under temporary visas has had negative impacts on health and education systems in the Pacific.<sup>50</sup>

More recently, the Recognized Seasonal Employers Scheme (RSE) was introduced to assist employers from particular industries in New Zealand attract seasonal workers. These seasonal workers were recruited to fill seasonal shortages in destination countries, especially in the

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<sup>47</sup> Martin, xiii.

<sup>48</sup> Md Mizanur Rahman. "Bangladeshi labour migration to the Gulf States."

<sup>49</sup> Satish, Chand. "Labour Mobility for Sustainable Livelihoods in Pacific Island States' in Michael Powles (Hg.): *Pacific Futures*. Canberra." (2006).

<sup>50</sup> Graeme Hugo "Best Practice in Temporary Labour Migration for Development: A Perspective from Asia and the Pacific." *International migration* 47, no. 5 (2009):33.

agricultural sector, usually lasting a few months, during the harvesting periods. Under the RSE, priority is given to workers from the Pacific (more likely looking to leave because of risks to their livelihoods associated with environmental damage), for seasonal work opportunities in horticulture, viticulture industries, planting and maintaining harvesting and packing crops, where New Zealand workers are not available.<sup>51</sup> The contracts typically last 7-9 months, and the recruits are usually young males, with unfair discrimination favouring married men who are seen as being more stable and less likely to run away than single men. Low skilled migrant workers often have to accept below average wages and conditions in the destination. By comparison, skilled temporary ‘expatriate’ temporary migrant workers often have conditions that are above average for workers at their destination.

Similarly, through the Pacific Access Category program, 75 citizens of Tuvalu, 75 from Kiribati and 250 from Tonga can immigrate to New Zealand. However, as discussed by Cohen and Bradley, this program is not designed to respond to the protection needs of the citizens of small island states struggling with the impacts of climate change. The initiative is considered a migration program and access to the program requires that workers be 18-45 years old, have a job offer, speak English, pass a health check and have no criminal record. It does not provide protection to those who are most deeply impacted by climate change and environmental degradation, including children, people with disabilities and the elderly.

Likewise, in the Asia-Pacific, temporary movement has become the dominant mode of labour migration in the region. The history of temporary labour migration in Asia and the Pacific dates back to colonial times, with various forms of indentured and semi-indentured labour flows

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<sup>51</sup> Hugo, “Best Practices,”35.



between colonies organized by colonial authorities and the private sector.<sup>52</sup> In the contemporary period, temporary labour migration, both within and between countries in the region has reached an unexpected scale and diversity.<sup>53</sup> The largest scale of movement is of low-skilled, contract labour, which is overwhelmingly directed toward the Middle East.<sup>54</sup> These movements are further complicated by the fact that in several sending countries, there are a plethora of agents and subagents, middlemen and travel providers, officials involved in the recruitment process and imposing charges- some legitimate and some not.<sup>55</sup> As a result, it is not uncommon for migrant workers and their families to go into debt in order to meet the costs which are imposed. This is then a major barrier to the earnings of migration in the form of remittances. In some countries, it is documented migrants who have higher transaction costs than undocumented migrants, hence one of the reasons many opt to take the undocumented route, in order to avoid gate keepers who extract money, both official and unofficial at every stage of the migration process.<sup>56</sup>

## **Mexico**

Temporary foreign worker schemes have been expanding throughout the world and in particular in North America. The Seasonal Agricultural Worker Program in Canada began as a labour agreement with Jamaica in 1966. It has since been expanded to nine countries, with Mexico by far the largest participant.<sup>57</sup> Most of the migrants originate from Mexico's rural areas and are small-

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<sup>52</sup> Hugo, 26.

<sup>53</sup> Although difficult to quantify because migration data in the region remains under-developed and undocumented migration is substantial. See Graeme Hugo, "Best practice in temporary labour migration for development: A perspective from Asia and the Pacific." *International migration* 47, no. 5 (2009): 23-74.

<sup>54</sup> Graeme Hugo, "Best practice in temporary labour migration", 28.

<sup>55</sup> Hugo, 45.

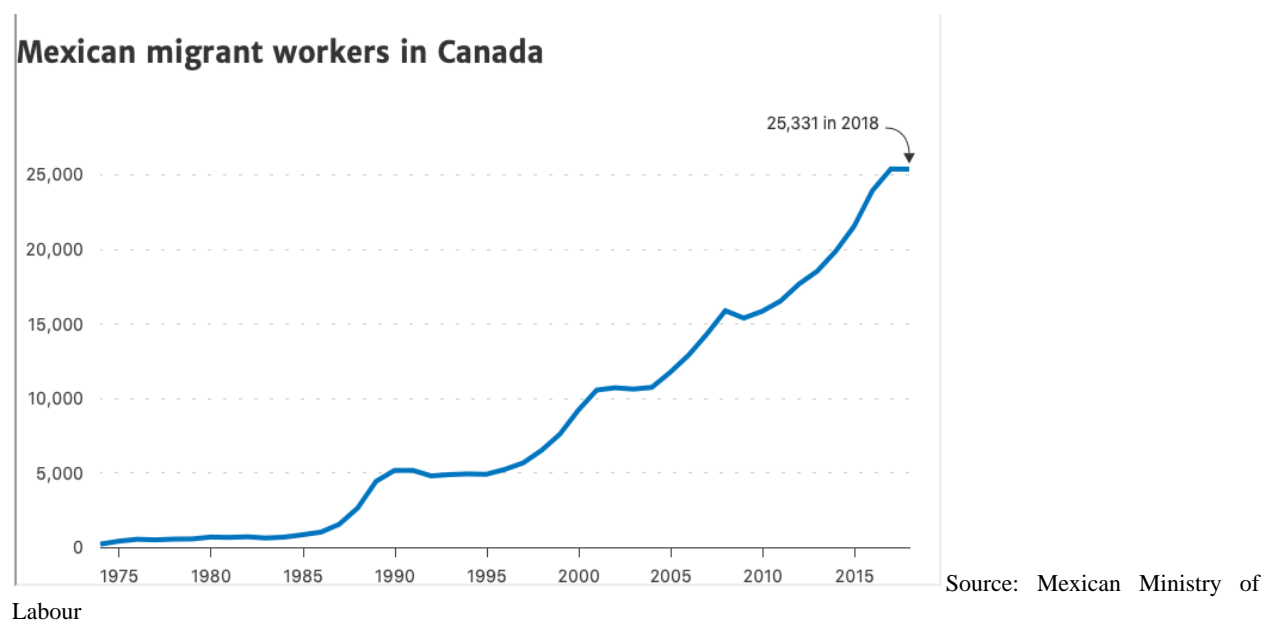
<sup>56</sup> Hugo, 30.

<sup>57</sup> Of the roughly 36,000 workers who came to Canada in 2018 through the program, more than 25, 000 were Mexican.

(<https://www.thestar.com/news/canada/2019/10/10/every-spring-he-left-mexico-to-pick-crops-in-canada-one-year-he-didnt-come-home-we-expose-the-terrible-cost-of-migrant-work.html>)

scale farmers, looking for alternate ways of supporting themselves, in the face of competition arising from domestic agricultural reform, free trade agreements with Canada and the US, as well as rising environmental challenges.<sup>58</sup>

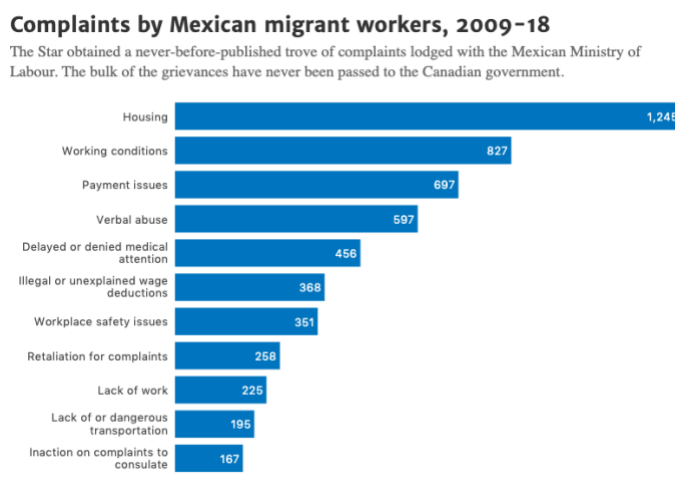
A paper commissioned by the US Commission on Immigration Reform looked at the inter-linkages between unsustainable land and water use and migrations from Mexico to the USA. The report concluded that migration was probably due to a set of factors that includes large wage differentials between the two countries and extensive migrant network in the US (pull factors), but also emphasized the fact that, based on Mexican Government's data, approximately 900,000 people left arid and semi-arid areas every year in part because of their inability make a living from the land due to dry conditions and soil erosion.



<sup>58</sup> Sara Mojtehdzadeh, “Every Spring he left Mexico to Pick Crops in Canada,” October 10, 2019, <https://www.thestar.com/news/canada/2019/10/10/every-spring-he-left-mexico-to-pick-crops-in-canada-one-year-he-didnt-come-home-we-expose-the-terrible-cost-of-migrant-work.html>.

The Seasonal Agricultural Worker Program is advertised as a “model for international cooperation” by Mexican authorities, while the Canadian Federation of Agriculture has described the initiative to members of Parliament as one of the “best development programs.” However, in submissions to the federal government, migrant worker advocates have called the program a form of indentured labour, whose realities are almost entirely invisible to Canadians.

In 2019, the *Toronto Star* newspaper obtained records of thousands of complaints made by seasonal agricultural workers to the Mexican government about Canadian employers. These complaints range from snake-infested bunk beds to wage theft and physical assault. On a farm in Ontario, a migrant labourer reported working more than 23 hours straight. In Quebec, another reported working conditions so unsanitary that they caused a scabies outbreak. Workers in Nova Scotia reported being forced to live in an abandoned church with 36 people and no bathrooms. In BC, a complaint indicated that workers were forbidden from drinking water while working. Such realities reveal similarities in the working conditions of Canadian migration schemes and those in the Gulf Cooperation Council, proving that the working conditions in the GCC are by no means exceptional. In both cases, environmental degradation and the resulting loss of livelihoods are overlooked drivers of migration from countries of origin.



Source: Mexican Ministry of Labour

## The Role of Gender in Seasonal Migration

Discussions within public policy and academic realms regarding climate change and migration are often gender neutral, neglecting important differences in the migration experiences of men and women.<sup>59</sup> Gender is an important component in understanding seasonal migration undertaken in times of drought and other disasters in agricultural regions. Research suggests that men account for a greater share of seasonal migrants.<sup>60</sup> In Nepal, Grossman-Thompson found that discriminatory laws led to an increase in irregular and illegal migration that exacerbates women labour migrants' vulnerability to a variety of abuses.<sup>61</sup> Massey et al. found that while environmental deterioration leads to short distance moves within the immediate vicinity, this affected men more than women.<sup>62</sup> Their findings suggest that more men than women typically migrate locally in a manner consistent with Nepal's gendered division of labour.<sup>63</sup> As a result, the number of female-headed households is constantly growing and observers increasingly speak of the 'feminization of agriculture.'<sup>64</sup> Women, in particular those with family responsibilities, stay behind in villages and have to support themselves and their children. Relying on their specialized knowledge of cultivation of plants and crops, women have developed expertise in the identification of wild plant species and effective medicines. However, increasing environmental

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<sup>59</sup> Lorri M. Hunter and Emmanuel David, "Displacement, Climate Change and Gender," in *Migration and Climate Change*, ed. Etienne Piguet (UNESCO/Cambridge University Press 2011), 306.

<sup>60</sup> Michelle Leighton, "Drought, Desertification and Migration: Past Experiences, Predicted Impacts and Human Rights Issues," in *Migration and Climate Change*, edited by Etienne Piguet, Antoine Pecoud and Paul De Guchteneire, (New York, Cambridge University Press, 2011), 336 .

<sup>61</sup> Barbara Grossman-Thompson. "Protection and paternalism: narratives of Nepali women migrants and the gender politics of discriminatory labour migration policy." *Refuge: Canada's Journal on Refugees* 32, no. 3 (2016): 40-48.

<sup>62</sup> Douglas S. Massey, William G. Axinn, and Dirgha J. Ghimire. "Environmental change and out-migration: Evidence from Nepal." *Population and environment* 32, no. 2-3 (2010): 109-136.

<sup>63</sup> Leighton, "Drought, Desertification," 336.

<sup>64</sup> Friederike Knabe, and Jacqueline Nkoyok. "Overcoming barriers: promoting women's local knowledge." *Knowledge Management for Development Journal* 2, no. 1 (2006): 14.

degradation has meant that the supply of uncultivated foods has become scarce or disappeared altogether.<sup>65</sup>

A study from the Upper Indus Basin likewise found that gender structures circular migration, with men predominantly participating in labour migration to urban areas.<sup>66</sup> The authors demonstrate that gender structures the migration process, and migration indirectly helps reinforce a gendered division of labour, confining women's work to the household and the farm (considered an extension of the household). The study found that women are left behind to take care of agricultural work and the household, but despite their increased role in farming activities, no significant changes were noted in the decision-making power of women as a result of male outmigration. In addition, the study found that women's work is often devalued.<sup>67</sup> The authors suggest that women's contributions as farmers and caregivers need to be recognized, regulated and protected as part of the formal economy.

Likewise, women's disproportionate burden of unpaid work has been highlighted by experts. "Women's agricultural work remains mostly unrecognized across South Asia, by governments, data collectors, employers, families and by women themselves," explains Haris Gazdar from the Collective for Social Science research, Karachi, Pakistan. As a result, he adds:

women workers are unpaid or underpaid, and the price is often paid in terms of women's health, and the health and nutrition of their children. We found in a rural region of Pakistan that women who worked in cotton harvesting were more likely to be undernourished, and their children were significantly more likely to be stunted, compared with women who did not do this work.

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<sup>65</sup> Knabe and Nkyok, "Overcoming barriers," 14.

<sup>66</sup> Giovanna Gioli, Talimand Khan, Suman Bisht, and Jürgen Scheffran. "Migration as an adaptation strategy and its gendered implications: A case study from the Upper Indus Basin." *Mountain Research and Development* 34, no. 3 (2014): 255-265.

<sup>67</sup> Giovanna Gioli et al. "Migration as an adaptation strategy," 263.

Women are increasingly carrying the burden of their households, which often remain in their communities of origin. It is therefore essential to be aware of the gendered implications of seasonal migration and to understand that such work often takes place at the expense of women's well-being and the development and well-being of their children.

### **Human Trafficking- Climate Change Nexus**

Relevant Protocols define people smuggling and trafficking differently, but as Gozdzia and Walter explain, smuggling and trafficking networks are not distinct and many trafficking situations start as smuggling. Therefore, it is helpful to conceptualize human smuggling and trafficking as interrelated phenomena, on a continuum from tolerable forms of labour migration to trafficking.<sup>68</sup> As argued previously, climate change increases the risk of natural disasters and places strains on livelihoods by exacerbating poverty. However, the impact of climate change as a potential contributor to human trafficking is rarely considered in global discussions or national level policy frameworks.<sup>69</sup> Some scholars raise questions about the empirical evidence regarding assumptions about the link between sudden-onset events and trafficking in persons, while others are less skeptical.<sup>70</sup> In the absence of academic studies or policy documents on the nexus between human trafficking and climate change, anecdotal evidence from field practitioners reflected in grey

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<sup>68</sup> Elżbieta M Gozdzia and Alissa Walter. "Misconceptions about human trafficking in a time of crisis." *Forced Migration Review* 45 (2014).

<sup>69</sup> The Vatican is the only entity to have acknowledged the nexus between human trafficking and environmental issues. From 21-22 July 2015, the Vatican organized a meeting entitled "Modern Slavery and Climate Change: the Commitment of Cities", as part of the symposium on "prosperity, people and planet: Achieving Sustainable Development in our cities," which brought together over 70 mayors. (Source: IOM- The Climate Change and Human Trafficking Nexus).

<sup>70</sup> See for example: Elżbieta M Gozdzia and Alissa Walter. "Misconceptions about human trafficking in a time of crisis." *Forced Migration Review* 45 (2014).

literature indicate that sudden and slow-onset events both impact human trafficking, although some distinctions can be drawn on their impacts.<sup>71</sup>

The effect of sudden-onset events on Trafficking in Persons (TiP) is often more clearly demonstrable in comparison to the impact of slow-onset events. This is because sudden-onset events cause unexpected loss of land and lives, as well as the destruction of the means of survival, thereby immediately pushing those without safety nets deeper into poverty. Moreover, in the immediate aftermath of a disaster, displacement is likely to occur, giving space for traffickers to operate and exploit affected people, their desire for safety and search for means of income to help restore their lives.<sup>72</sup> Many displaced persons see irregular migration as the only viable option to pursue better opportunities for survival and may seek the assistance of human smugglers operating in regions that are deemed vulnerable by smugglers. Trafficking is more likely to occur in camps or camp-like settings established to shelter those who have been displaced by environmental disasters. Cases from the Asia-Pacific region demonstrate that these settings attract criminal actors and can become targets for human traffickers.<sup>73</sup>

Sometimes, affected families or individuals may also resort to trafficking or collude with traffickers in order to earn money. In the case of slow-onset events, populations engaged in natural-resource-based livelihoods that are affected by events such as coastal erosion, sea-level rise and glacial retreat may take proactive measures to diversify their income and support their families.<sup>74</sup> In cases where there is irreversible damage due to slow-onset events such as land erosion or

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<sup>71</sup> IOM, “The Climate Change-Human Trafficking Nexus,” 2017, 3

[https://publications.iom.int/system/files/pdf/mecc\\_infosheet\\_climate\\_change\\_nexus.pdf](https://publications.iom.int/system/files/pdf/mecc_infosheet_climate_change_nexus.pdf)

<sup>72</sup> IOM, “The Climate Change-Human Trafficking Nexus,” 3.

<sup>73</sup> IOM, “The Climate Change-Human Trafficking Nexus,” 3

<sup>74</sup> IOM, “The Climate Change-Human Trafficking Nexus,” 3.

repeated droughts, households may face increased debt and poverty. In all of these instances, women and girls are disproportionately impacted by human trafficking.<sup>75</sup>

Traffickers are likely to recruit in such vulnerable areas of prospective climate migrants, but also at their destinations such as in urban slums. Within urban slums, climate migrants often have no savings, little education and limited access to stable employment. As such, these migrants have minimum bargaining power to assert their rights and can become easy targets for human trafficking and exploitation. This is especially the case for migrants engaged in domestic work or in the construction sector, as previously discussed. It is important to note that there is a dual process at play that operates in both directions. Those who have escaped environmental degradation often end up in industries that have a detrimental impact on the environment and contribute negatively to climate change, apart from being highly exploitative.<sup>76</sup> In Southeast Asia, for example, the lucrative palm oil industry is heavily dependent on less-than ethical recruitment of foreign labour, as well as coercive labour practices.<sup>77</sup> This industry exemplifies the link between forced labour associated with modern slavery, industrial scale and often un-regulated logging and the widespread destruction of the Bornean and Sumatran rainforests.<sup>78</sup>

As previously discussed, there is also large-scale and irregular labour migration to the Gulf Cooperation Council countries from South and South-East Asia and from South-West Asia to the

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<sup>75</sup> According to the United Nations Office on Drugs and Crime (UNODC), the vast majority of all human trafficking victims, some 71% are women and girls and one third are children.

<sup>76</sup> The United States Department of State: “The Intersection between Environmental Degradation and Human Trafficking.” June 20, 2014, <https://2009-2017.state.gov/j/tip/rls/fs/2014/227667.htm> (accessed November 21, 2019)

<sup>77</sup> E. Benjamin Skinner, “Indonesia’s Palm Oil Industry Rife with Human Rights Abuses,” Bloomberg Businessweek, July 20, 2013, <https://www.bloomberg.com/news/articles/2013-07-18/indonesias-palm-oil-industry-rife-with-human-rights-abuses> (accessed May 18, 2020).

<sup>78</sup> IOM, “The Climate Change-Human Trafficking Nexus,” 5.



Middle East and Europe, that results in forms of exploitation commonly associated with human trafficking. In parallel with this trend of human trafficking, the Asia Pacific region also faces extreme vulnerability to climate change. The region's diverse topography, which ranges from landlocked mountainous countries to low-lying atolls increase exposure to a wide range of natural disasters. These natural disasters, either sudden or slow-onset, have resulted in large numbers of displacements and protracted displacement due to disasters wherein displaced communities live in camp or camp-like settings.<sup>79</sup>

Field research conducted in Bangladesh after Cyclone Sidr in 2007 demonstrated an increased rate of trafficking in affected districts. According to study findings, criminal networks began operating in the disaster-affected region, targeting widows, men desperate to cross the border to India in order to find employment and income and sometimes entire families. Victims of trafficking were forced in to sex work or hard labour, with some working in sweatshops. Another study conducted following Ayla that struck Bangladesh two years later in 2009 reported similar trends, with households led by women identified as especially vulnerable to human trafficking and associated forms of exploitation. Furthermore, there were similar results in the aftermath of Typhoon Haiyan, which struck the Philippines in 2013, affecting a part of the county that was already suffering from poverty and human trafficking.

In Egypt, a subtler link between environment and human trafficking can be drawn. Between 200,000 and 300,000 people are employed in Egypt's fishing industry, which has witnessed a dramatic decrease in fish catch since the 1990s.<sup>80</sup> Subsequently, given the absence of livelihood

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<sup>79</sup> In 2015, 16.3 million people were newly displaced in the region.

<sup>80</sup> Between 2008 and 2009 alone, fish catch decreased by 10% due to over-fishing of major income generating species. While the government of Egypt responded by imposing fishing quotas, no alternative livelihoods sources were provided to fishermen communities

and the increased demand for crossing borders, there has been a rise in the recruitment of Egyptian fishermen by smuggling networks, whose involvement is linked to the striking socioeconomic degradation of the country's fishing sector. Some fishermen fell back into fishing in the territorial waters of Libya and Tunisia, while others opted to switch to more profitable smuggling activities.

These incidents of human trafficking in the wake of sudden and slow-onset disasters demonstrate the necessity of planned response to address this crosscutting issue. There needs to be acknowledgment that human trafficking can be an unintended consequence when migration occurs in the absence of government support and management following disasters and in the face of slow-onset events. In the absence of protection and recognition, affected populations will continue to face various difficulties.

### **Child Marriage**

In Maharashtra, India, increased desperation has pushed populations affected by environmental degradation into the hands of criminal actors, even into colluding with them. This is seen in the case of men selling their wives or other female relatives or parents selling their children in order to cope with the losses associated with a changing climate.<sup>81</sup> Likewise, Mozambique is the third most at-risk African country to climate change and its related impacts. The current El Nino-induced drought, which has been the worst in 35 years, has led to significant changes in dietary diversity and consumption patterns, particularly among women and adolescent girls. In response to the seasonal nature of production in Inhambane, many have traditionally migrated for seasonal work on farms and mines in South Africa. When asked, 70% of men and women state their

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<sup>81</sup> See P.M. Nair and Sankar Sen, *Trafficking in Women and Children in India*, Orient Blackswan, 2005.

migration is due to lack of food, drought conditions or lack of water.<sup>82</sup> The current drought cycle has affected migration trends, with many men not returning to their households at the close of seasonal work and not sending remittances to cover household expenses.<sup>83</sup> There is also a new trend for women to migrate, leaving behind children in the care of grandparents.

With the onset of the drought, many families have used child marriage as a coping mechanism to raise income through the payment of a bride price or to reduce the number of dependents per household. This rise in child marriages has rendered many girls at risk of sexual and physical abuse and poor nutrition as well as increased chances of maternal neonatal death.

### **Farmer Suicides and Human Costs**

Lastly, and most tragically, one of the responses to the loss of livelihoods has been farmer suicides. Cases of farmer suicides have been highly documented particularly in India, in the region of Maharashtra, the same region discussed above in the section pertaining to child marriage. The region is experiencing high rates of migration, human trafficking in the face of environmental stress, as well as high suicide rates. The National Crime Records Bureau (NCRB) recently announced that 11,379 farmers committed suicide in 2016. In its latest report for 2016, NCRB suggests that there were 948 farmer suicides every month, or 31 suicides every day. While the report indicates that Maharashtra witnessed a 20% decline from the previous year, it continues to be the top state with suicide rates, with 2,550 of the 6,270 farmers' suicides documented nationwide. Between 2013 and 2018, over 15,000 farmers committed suicide in Maharashtra.

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<sup>82</sup> Amy Fischer, "Hope Dries Up? Women and Girls Coping with Drought and Climate Change in Mozambique," Care, November 2016, [https://careclimatechange.org/wp-content/uploads/2016/11/El\\_Nino\\_Mozambique\\_Report\\_final.pdf](https://careclimatechange.org/wp-content/uploads/2016/11/El_Nino_Mozambique_Report_final.pdf).

<sup>83</sup> Fischer, "Hope Dries Up?"

Overall, the data suggests that while farmer suicides have declined by about 21%, those of farm labourers have risen by 10%.<sup>84</sup>

## Conclusion

All of the above patterns demonstrate that changes in climatic factors have had deep implications on agricultural patterns and the livelihoods of those dependent on various forms of agricultural farming, with great implications on their livelihoods, compelling affected populations to take great risks in order to ensure their survival. As the next chapter shall demonstrate, existing responses do not address the deep systemic nature of these challenges and in many cases, serve to exacerbate existing issues. A collective approach is required to make sense of the nuanced implications of climate change on unrecognized and unprotected populations. The examples above reveal market-based thinking in which environmentally displaced persons are transformed into creditor-debtors, labourers, and consumers.<sup>85</sup>

One of the purported benefits to labour migration has been the financial security gained through remittances. The New Economics of Labour Migration, for example, argues that migration is a household risk management strategy; some members of the household migrate so others can survive in situ through remittances when there are no other social safety nets. Where social safety nets and insurance mechanisms work, affected populations can remain at home throughout the event that might otherwise cause them to move. The above discussion problematized this argument by examining some of the many challenges encountered by labour migrants, including low wages

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<sup>84</sup> Business Today, “11,379 Farmers Committed Suicide in 2016, Modi Government Finally Releases Data,” November 9, 2019, <https://www.businesstoday.in/sectors/agriculture/farmer-suicide-ncrb-finally-releases-data-11000-deaths-in-2016-maharashtra-tops-the-list/story/389497.html> (accessed November 25 2019).

<sup>85</sup> Kate Raworth, “A New Economics,” in *This is Not a Drill*, ed. Extinction Rebellion, (UK, Penguin Press Random House, 2019), 153.

and dangerous working conditions. Further compounding the problem, the World Bank estimates that remittances will fall by about a fifth this year, from \$714 billion to \$572 billion, as a result of the global pandemic.<sup>86</sup> This prediction only adds to the precarity of environmentally displaced persons who have turned to labour migration as a means of securing livelihoods. The next chapter turns to existing responses to anthropogenic climate change and environmental displacement, outlining some of the shortcomings in existing initiatives that perpetuate the cycle of precarity.

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<sup>86</sup> The World Bank, “World Bank Predicts Sharpest Decline of Remittances in Recent History,” *The World Bank* last modified April 22, 2020, <https://www.worldbank.org/en/news/press-release/2020/04/22/world-bank-predicts-sharpest-decline-of-remittances-in-recent-history>.

## Chapter Six: Existing Responses to Anthropogenic Climate Change and Environmental Displacement, A Critical Analysis

### Introduction

Appeals to individual action in the fight against climate change have become pervasive in corporate advertising, school textbooks and campaigns of mainstream environmental groups, particularly in the Global North.<sup>1</sup> Meanwhile, the breakdown of carbon emissions can be traced back to 100 companies collectively responsible for 71 percent of emissions since 1988.<sup>2</sup> The freedom of corporations to pollute on the one hand and the concurrent fixation on individual lifestyle responses on the other are not accidental. As Marin Lukacs explains, it is the result of an ideological, neoliberal war that has been waged over the last forty years against the possibility of collective action. Neoliberalism has had two principal aims. The first has been to dismantle any barriers to the access of unaccountable private power, while the second has been to create barriers in order to prevent the exercises of democratic public will or action. Neoliberalism's defining features of privatization, deregulation, tax cuts and free trade deals have liberated corporations and enabled them to accumulate profits at the expense of the environment, while restricting the public's ability to plan for collective welfare through the state.<sup>3</sup> Currently, neoliberal ideology seeks to restrict the unprecedented collective public response that is required to fight climate change.

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<sup>1</sup> Martin Luckas, "Neoliberalism has Conned us Into Fighting Climate Change as Individuals," *The Guardian*, July 17, 2017, <https://www.theguardian.com/environment/true-north/2017/jul/17/neoliberalism-has-conned-us-into-fighting-climate-change-as-individuals> (accessed March 5, 2020).

<sup>2</sup> Paul, Griffin, "The Carbon Majors Database: CDP Carbon Majors Report 2017," *Climate Accountability Institute*, July 2017, <https://b8f65cb373b1b7b15feb-c70d8ead6ced550b4d987d7c03fcdd1d.ssl.cf3.rackcdn.com/cms/reports/documents/000/002/327/original/Carbon-Majors-Report-2017.pdf>.

<sup>3</sup> Luckas, "Neoliberalism has Conned Us"

The age of neoliberalism has been marked by the celebration of competitive self-interest and hyper individualism. In fact, studies demonstrate that people who have grown up under this era have become more individualist and consumerist. The reality of interdependence has been replaced by an emphasis on self-reliance and a culture that increasingly frames citizens as consumers.<sup>4</sup> Given that the IPCC's recent report suggests that emissions must be reduced by 45% in the next twelve years, in order to stabilize global warming at 1.5 degrees, it is clear that outsourcing to the individual to solve systemic problems will not be sufficient.<sup>5</sup> This is not to say that personal ethical choice is irrelevant or unimportant. However, we cannot allow these discussions to be weaponized in order to derail the push for systemic change.<sup>6</sup> As such, there is a fine balance between rendering personal choices inconsequential on the one hand and losing sight of more structural problems on the other. In this chapter, I examine existing responses to anthropogenic climate change and environmental displacement. I argue that in order to truly address the plight of the environmentally displaced, we must begin to prioritize the voices of those who are primarily impacted by anthropogenic climate change and we must pursue systemic change that truly addresses the global nature of the challenges of the Anthropocene.

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<sup>4</sup> Even before the advent of neoliberalism, the capitalist economy had thrived on people believing that being affected by structural problems of an exploitative system such as poverty, joblessness, poor health and lack of fulfillment were in fact personal deficiencies (Lukacs).

See also Adrian Parr. *The Wrath of Capital: Neoliberalism and Climate Change Politics*. Columbia University Press, 2014.

<sup>5</sup> JS. Rafaeli and Neil Woods, "Fighting the Wrong War." In *This is Not a Drill*, edited by Extinction Rebellion, (UK: Penguin Random House Press, 2019), 40-45.

<sup>6</sup> Rafaeli "Fighting the Wrong War" 42.

## **The Question of Responsibility and the Suppression of Justice under Neoliberalism**

The idea that all of humanity is equally and collectively responsible for climate change, or any other social or environmental problem is quite problematic.<sup>7</sup> As numerous studies have shown, not everyone is responsible for the same quantity of greenhouse gas emissions. People in the world's poorest countries produce roughly one hundredth of the emissions of the richest people in the richest countries.<sup>8</sup>

However, in 'Losing Earth' Nathaniel Rich<sup>9</sup> traces the failure to act on climate change between 1978 and 1989 to the failure of political strategy. Looking past the powerful influence of lobbyists, Rich argues that the U.S. government failed to act because they could not look far enough into the future. Rich argues that as humans, we cannot engage with complex long term problems, that we favour short term comfort over long term safety, even when this may be illogical. Thus, our political systems are set up to favour short term political wins and our politicians think only as far as the next election.

Randall questions Rich's explanation for the failure to act and instead places responsibility on the concurrent restructuring of the most developed economies in the late 70s and 80s. During this period, regulation and corporate taxes were stripped back, environmental regulation controlling pollution and taxes on polluting substances were seen as preventing businesses from thriving and providing cheap energy to people. In place of regulation, consumer choice was

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<sup>7</sup> Alex Randall, "Neoliberalism Drives Climate Breakdown, Not Human Nature," *Open Democracy*. August 2018 <https://www.opendemocracy.net/en/opendemocracyuk/why-new-york-times-is-wrong-about-climate-change/>

<sup>8</sup> Alex Randall, "Neoliberalism Drives Climate Breakdown"

<sup>9</sup> Nathaniel Rich. "Losing earth: The decade we almost stopped climate change." *New York Times Magazine* 1 (2018).



presented as an alternative.<sup>10</sup> Depending on the demand, non-polluting products were provided at an extra cost.

It is important to note that the ideology and practice of neoliberalism were not always consistent. While ideology demanded the withdrawal of the state, many private businesses continued to demand and receive vast government subsidies. During the 1980s in the U.S., the government continued to sponsor billions of dollars of research into fossil fuel extraction.<sup>11</sup> Incidentally, the reshaping of the U.S. economy took place during the same period covered by ‘Losing Earth,’ and it was during this decade, ranging from 1979-1989, that neoliberalism began to enter the political mainstream.

As a result of these changes, it was no longer politically possible to address climate change. While in previous decades, it may have been possible to tax or cap fossil fuels and carbon emissions in order to reduce consumption, or to invest in renewable energy, it was no longer so in the neoliberal era. Thus, the economy had been very deliberately reshaped in order to return economic advantage to the wealthiest people, it was not a political or human accident, as ‘Losing Earth’ holds. These series of events clearly reveal that it would be remiss to separate the environment from the economy and vice versa; the two very often reciprocally impact one another in complex ways. This is also why it is difficult to differentiate economic causes of migration from environmental ones, especially in instances when natural resources play a great impact in sustaining livelihoods, as discussed in the previous chapter.

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<sup>10</sup> Alex Randall, “Neoliberalism, Climate Breakdown”

<sup>11</sup> Alex Randall, “Neoliberalism, Climate Breakdown”

## Climate Apartheid and the Emphasis on Resilience and Adaptation

Poor communities, especially people of colour, whether in the Global North or South, often bear the brunt of new catastrophes. Thus, in many respects, ending the domination over nature intersects with addressing all forms of domination and hierarchy. The struggle for climate justice is also the struggle for racial, gender, sexual and economic equality.<sup>12</sup>

It is thus important to prevent the alienation of the poor while addressing climate change challenges. Former president Mohamed Nasheed of the Maldives notes that we cannot frame climate change as a war between working [class] people and saving the planet. This has been demonstrated by the 2018 protests in France which started over an increase in fuel taxes. We must recognize that coalminers are not the problem and that wealth and technological progress, as well as a significant rise in living conditions would not have been possible without the labour of working class populations.<sup>13</sup> Thus, we should not blame coal miners, loggers or oil rig workers for *causing* the climate change crisis, but instead thank them for helping to fuel human civilization.<sup>14</sup> Most importantly, as Nasheed points out, in the shift of the global economy away from fossil fuels, it is the poor and working class people who stand to lose the most from the end of the fossil fuel age, and hence they should be the first to gain from new, clean energy. This is a test that must be applied before any intervention is made, but one that is frequently overlooked.

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<sup>12</sup> Farhana Yamin. “Die, Survive or Thrive?” In *This is Not a Drill*, edited by Extinction Rebellion, 25, UK: Penguin Random House Press, 2019.

<sup>13</sup> Mohamed Nasheed, “We are not Prepared to Die,” in *This is Not a Drill*, edited by Extinction Rebellion, (UK: Penguin Random House Press, 2019), 33.

<sup>14</sup> Mohamed Nasheed, “We are not Prepared to Die,” 33.

Increasingly, the concern to adapt to climate change has been taken up by the development sector through a set of policies and practices that have collectively come to be known as adaptation.<sup>15</sup> Whereas mitigation focuses on reducing CO<sub>2</sub> emissions, adaptation focuses on how communities can respond to climate change and its existing and future challenges. The most widely used definition of adaptation from the IPCC is “adjustment which comes in natural or human systems in response to actual or expected climate stimuli or their effects, which moderates harm and exploits beneficial opportunities.”<sup>16</sup> The IPCC recognizes different types of adaptation including anticipatory, reactive, public, private, autonomous and planned. The concept of vulnerability remains an important (and somewhat contentious) feature in the development of adaptation theory and practice.

There have been several different approaches to adaptation by various development institutions, with some organizations suggesting that adaptation should focus on large scale projects such as the construction of dams, or climate-proofing infrastructure, while others argue that adaptation should be community-based. Building climate change resilience has been seen as covertly anti-migrant by some, insofar as it discourages migration and instead places emphasis on remaining in situ, while others frame migration as a form of adaptation that diversifies livelihoods.

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<sup>15</sup> Philip Ireland and Katharine McKinnon. "Strategic localism for an uncertain world: A postdevelopment approach to climate change adaptation." *Geoforum* 47 (2013): 158-166.

<sup>16</sup> IPCC 2001 Climate change 2001: synthesis report. Cambridge University Press. Cambridge, UK.

## **The Transformation of Migrants into Labourers**

The transformation of displaced people into undocumented migrants, economic migrants or temporary labourers, all serve the purpose of diminishing or restricting their access to rights from the international community. As noted in the preceding chapter, the rights of temporary migrants are significantly reduced compared to those of citizens. In some instances, migrant workers are prone to becoming victims of forced labour and trafficking in destination countries under the pretext of foreign employment, working in some of the most perilous, unrewarding and challenging jobs with rampant cases of human trafficking.<sup>17</sup>

In their most recent book, Alexander Betts and Paul Collier <sup>18</sup>call for politicians to harness “the remarkable opportunities of globalization” to reorient the refugee system away from humanitarian assistance and towards development. Referencing the arrival of large numbers of Syrian refugees in Europe throughout 2015, they argue that the refugee system has failed to provide long-term solutions for refugees who are left in “humanitarian silos.” Betts and Collier suggest that the creation of Special Economic Zones (SEZs)<sup>19</sup> in countries such as Jordan will result in a “win-win” situation for both developing countries which overwhelmingly support the world’s refugees despite having limited resources, as well as the rich countries struggling politically to manage the consequences of irregular migration. They argue that providing companies with tax

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<sup>17</sup> Anurag Devkota, “Breaking the Chain,” *The Kathmandu Post*, December 26, 2019, <https://kathmandupost.com/columns/2019/12/26/breaking-the-chain> (accessed January 15, 2020)

<sup>18</sup> Paul Collier and Alexander Betts. *Refuge: Rethinking Refugee Policy in a Changing World*. (UK: Oxford University Press, 2017).

<sup>19</sup> Special Economic Zones are designated areas with special economic regulations intended to attract foreign direct investment.

incentives and opportunities for trade in exchange for providing refugees with opportunities for work, autonomy and self-reliance could be a mutually beneficial outcome.

The idea of harnessing the skills and capabilities of refugees for development has existed for decades. In the 1960s, the UNHCR tried to link its refugee assistance programmes with development aid.<sup>20</sup> Since the early 1980s, there has been a strong emphasis on what came to be known as “refugee aid and development programmes,” with the aim of moving refugees towards self-sufficiency and a durable solution to their situation.<sup>21</sup> However, the increased interest shown by the EU and international organizations such as the World Bank is unprecedented and reflects recent political and economic developments, particularly in the EU and Jordan. On the one hand, the EU has been desperately trying to find ways of limiting the number of refugees arriving in Europe, while Jordan has been struggling with long-standing economic challenges, exacerbated by the arrival of large numbers of Syrian refugees.<sup>22</sup> These political and economic interests culminated in the Jordan Compact,<sup>23</sup> which was signed in London in February 2016. The agreement provides \$2.1 billion aid package to Jordan on the condition that jobs are created for Syrians refugees who have been barred from legally working in the Kingdom for the past five years, with the ultimate aim of creating 200,000 jobs for Syrian refugees over the next five years.<sup>24</sup>

Simultaneously, a number of adaptation initiatives have served to undermine local perceptions of appropriate coping mechanisms and have failed to see local populations impacted

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<sup>20</sup> Heaven Crawley, “Why Special Economic Zones Won’t Solve the Problems Facing the World’s Refugees,” *The Conversation*, April 6, 2017, <https://theconversation.com/why-jobs-in-special-economic-zones-wont-solve-the-problems-facing-the-worlds-refugees-75249>

<sup>21</sup> Crawley, “Why Special Economic Zones Won’t Solve the Problems.”

<sup>22</sup> Crawley, “Why Special Economic Zones Won’t Solve the Problems.”

<sup>23</sup> The EU has signed a similar agreement with Ethiopia.

<sup>24</sup> Crawley, “Why Special Economic Zones Won’t Solve the Problems.”

by environmental change as impactful agents in shaping new futures for themselves.<sup>25</sup> It is instead important to look into the processes and events that lead to the forced displacement of populations because of changes in their environment.<sup>26</sup> Studies have shown that rather than being inevitably impacted by hurricanes and tsunamis, coastal areas have been *made* more vulnerable by urbanization and development policies.<sup>27</sup>

In light of these realities, the Pacific island nations of Tuvalu and Kiribati have begun discussions with larger, industrialized countries in the region, such as Australia and New Zealand. However, in the absence of any international recognition or protection for their represented populations, these discussions have largely revolved around enhanced labour migration.

Some sources have argued that labour migration schemes can prevent statelessness and can be seen as a positive adaptation response to ecological disasters. For example, Savage and Harvey have suggested that remittances greatly reduce the vulnerability of countries recovering from natural disasters. Susin Park's report for the UNHCR Legal Protection and Policy Research Series suggests that these labour migration quotas could help expose Pacific islanders to different cultures and lifestyles and gather additional remittances to invest in local adaptation measures.

However, evidence from SEZs in Asia reveals that labour rights have been compromised, resulting in extremely low wages, forced overtime and various forms of abuse. In fact, in India,

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<sup>25</sup> Allan Findlay and Alistair Geddes, "Critical Views on the Relationship between Climate Change and Migration: Some Insights from the Experience of Bangladesh," in *Migration and Climate Change*, edited by Etienne Piguet, Antoine Pecoud and Paul De Guchteneire, 155, 2011.

<sup>26</sup> Chester W Hartman., Gregory Squires, and Gregory D. Squires, eds. *There is no such thing as a natural disaster: Race, class, and Hurricane Katrina*. Taylor & Francis, 2006.

<sup>27</sup> Pablo S. Bose, "Vulnerabilities and displacements: adaptation and mitigation to climate change as a new development mantra." *Area* 48, no. 2 (2016): 168-175.

the conditions have been so dire that special economic zones have been dubbed “Special Exploitation Zones.”<sup>28</sup> The abovementioned proponents of Special Economic Zones overlook the potential human rights violations that could occur under circumstances where labourers lack legal recognition and are dependent on the host country for recognition. The existing literature demonstrates that urban migrants and trans-border migrants face numerous challenges, including questionable labour practices, insufficient payment and dangerous living conditions and evictions. Migrants are often exploited and subjected to discrimination, denied basic rights and paid less than their local counterparts. The jobs are typically low or semi-skilled, with long and repetitive hours. In the Jordanian context, although Syrian refugees are allowed to apply for work permits outside of the SEZs, they are barred from applying for jobs as accountants, doctors, engineers, lawyers and teachers for which they have been previously trained but which are viewed as potentially taking opportunities from Jordanian workers.

Field studies in Nepal and India have concluded that increased workload in labour-sending countries has had a detrimental impact on women’s health, leading to a rise in mental tension and physical stress, particularly for women heading nuclear families. These findings are consistent with the aforementioned research on the gendered impacts of seasonal migration. Moreover, remittances frequently do not reach families who have remained in the export-sending countries or are not substantial.

Most fundamentally, the focus on creating employment does not address the problem that lies at the heart of the refugee system: the failure of the international community to step up to its

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<sup>28</sup> Heaven Crawley, “Why Special Economic Zones Won’t Solve the Problems.”

responsibilities under international law.<sup>29</sup> The use of SEZs as a means of addressing the needs of refugees assumes that the solution can be found in employment and overlooks the factors that led to displacement in the first place.

Although not recognized as refugees, the examples in the previous chapter demonstrate yet another instance in which employment in precarious jobs is used instead of protection, one in which the affected population is excluded from the formal labour market. Thus, if migration schemes are to be a part of adaptation measures, they will need to be subject to political and legal oversight and accompanied by humanitarian protections and labour rights.<sup>30</sup>

### **Planned Relocation**

The possibility that entire populations of low-lying island nations could be displaced due to the effects of rising sea levels is one of the most widespread examples of the potential consequences of anthropogenic climate change and one with no precedent. As discussed in Chapter Three, the relocation of entire populations should be a measure of last resort, especially given that many affected states wish to ensure their existence through adaptation mechanisms for as long as possible.

Farbotko and Lazrus's analysis of contesting narratives of climate change uncovers the motivations and concerns of populations affected by climate change in Tuvalu. The authors problematize the focus on climate refugees by journalists and environmentalists and argue that the increased focus on climate refugees by journalists and environmentalists encourages an imperative

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<sup>29</sup> Crawley, "Why Special Economic Zones Won't Solve the Problems."

<sup>30</sup> The UN Convention on the Rights of All Migrants Workers and Their Families is relevant, however, no wealthy destination country has ratified it. A number of regional powers in the Global South have ratified this convention, thus they are implementable in those settings. The ILO Convention affecting labour migrants shares similarities with the aforementioned UN Convention and comes with the same caveats.



to save these populations as victims, regardless of whether alternative migration strategies are preferred or already in practice. Farbotko and Lazrus argue that such approaches are influenced by environmental determinism and leave little room for consideration of politics, policy and power, that also shape the ways in which displaced populations come into existence.<sup>31</sup>

Drawing upon McNamara and Gibson's interviews with Pacific representatives to the United Nations, the authors locate a dominant view among them that rejects the identity of the climate refugee being applied to the populations that they represent.<sup>32</sup> Interestingly, they demonstrate that there is a contrast in perceptions among Tuvaluan civil society and government discourse. The former is often strongly opposed to the reductionism within some climate refugee discourses, while the latter is often characterized by self-identification as vulnerable. The government's strategy captures the seriousness of climate risks and draws attention to the need for international responses. Thus, Farbotko and Lazrus emphasize that it is important to understand the narratives within which climate change issues are articulated.<sup>33</sup> Their findings from Pacific representatives suggest that there is a preference for emissions reductions and a refusal to accept that climate refugee protection alone is sufficient to address the complex changes that will occur in small Pacific islands in the future.

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<sup>31</sup> Carol Farbotko and Heather Lazrus. "The first climate refugees? Contesting global narratives of climate change in Tuvalu." *Global Environmental Change* 22, no. 2 (2012): 386.

<sup>32</sup> Farbotko and Lazrus, 386.

<sup>33</sup> Farbotko and Lazrus 387.

On the other hand, some authors have argued that while a rapid reduction in global greenhouse gas emissions can mitigate the total impacts of climate change, it will do little to alleviate the more immediate crisis for low-lying islands. Moreover, they have suggested that internal migration is not a viable option for nations that consist entirely of low-lying islands.<sup>34</sup> In fact, some Pacific island states such as the Maldives and Kiribati have been more proactively seeking to relocate their citizens to safer grounds. The Maldives, which is an archipelago of 1,190 islands with an average elevation of 4 feet above sea level could have portions of its capital flooded by 2025. The former president of the Maldives, Mohamed Nasheed publicly stated his desire to acquire land outside of the Maldives' current territory, and to move all Maldivians to surrounding areas, preferably India or Sri Lanka.<sup>35</sup> The president of Kiribati has likewise favoured pre-emptive migration in order to prevent last minute chaos and insufficient international support.

Several authors have acknowledged that for Pacific islanders, a sense of history is strongly connected to mobility. More interestingly, Farbotko and Lazrus note that although land is important, it does not delimit economic, social and cultural values. Instead, the ocean is an important bonding element and a point of continuation between communities. Thus, from a Tuvaluan perspective, migration by itself does not constitute a challenge. It is rather the possibility of permanent loss of land and self-determination, especially if there is no remedy for these losses, particularly from those who caused the damage.

It is important to reframe our understanding of environmental displacement by considering the importance of place and home in people's lives. This is particularly important because the

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<sup>34</sup> Maxine Burkett, "In Search of Refuge: Pacific Islands, Climate-Induced Migration, and the Legal Frontier." *Asia Pacific Issues* 98

<sup>35</sup> Burkett, "In Search of Refuge."

populations most likely to be displaced by climate change often have a closer attachment to the land and the community that they share that home with.<sup>36</sup> Thus, if we conceive of natural resources as more than perpetually substitutable resources, we might be more reluctant to make decision that will leave these populations homeless.<sup>37</sup>

### **Legal Avenues for addressing the impacts of anthropogenic climate change**

Prevailing scientific research demonstrates that industrialized countries in the Global North have been predominantly or almost entirely responsible for global greenhouse gas emissions. However, they are not most likely to suffer the worst consequences of climate change. It is instead those living on marginal lands who will suffer the most from anthropogenic climate change. This inverts the logic of burden sharing and leads to the question of whether the role of developed nations in creating environmental burdens for less developed nations might suggest an historical injustice that needs to be rectified.

A number of arguments can be made regarding the legal obligations of industrialized nations towards environmentally displaced persons and climate migrants. First, such efforts can contribute to mitigation efforts, by preventing further damage to global ecosystems (such as deforestation caused by uncontrolled mass migration). Second, industrialized countries have a moral obligation due to the effects of climate change and their contribution to the problem. Third,

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<sup>36</sup> Derek R. Bell, Derek "Environmental Refugees: What Rights? Which Duties?." *Res Publica* 10, no. 2 (2004): 150.

<sup>37</sup> Bell, "Environmental Refugees"

such efforts can provide humanitarian assistance to those in need. The Cancun agreements of December 2010 promote measures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation.<sup>38</sup>

Given that the political will for radical cuts in greenhouse gas emissions does not exist, in large part due to the global economy's heavy reliance on the burning of fossil fuels, the use of litigation has become a means of compelling governments and other parties to take action in reducing the effects of anthropogenic climate change. It is thus worth revisiting the debate on international law and the human rights implications of climate change.

There are numerous instances in which legal avenues have been used to encourage progress in climate change mitigation efforts. In the *Lopez Ostra vs. Spain* case, a Spanish national filed a petition claiming that noxious fumes from a water plant near her residence violated her right to privacy and family life. The court ruled in her favour and recognized that the consequences of environmental degradation may interfere with an individual's well-being, right to privacy and family life.<sup>39</sup>

In 2005, a group of Inuit in the Canadian and Alaskan Arctic presented a petition to the Inter-American Commission on Human Rights, seeking compensation for violations of their human rights, resulting from climate change caused by greenhouse gas emissions from the U.S. While the Inter-American Commission deemed the case inadmissible, it drew international attention to the threat that climate change poses to indigenous peoples. Furthermore, the case

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<sup>38</sup> Penny Becklumb, *Climate Change and Forced Migration: Canada's Role*. Parliamentary Information and Research Service, 2010, 2.

<sup>39</sup> *Lopez Ostra v. Spain*, 20 Eur. Ct. H.R. 277 (1995).

established the critical linkage between climate change and human rights and resulted in the IACHR's thematic hearing in 2008, which investigated the connection between climate change and human rights.

Moreover, in light of the regulatory failures of the Kyoto Protocol, the Alliance of Small Island States attempted to include an article in the Climate Convention that would have implemented a specific standard of state responsibility. While this outcome was not ultimately reached, Small Pacific island states argued that the problem with climate regime commitments to emissions reductions is that they have been mild in comparison with those recommended by the scientific community.<sup>40</sup> The fact that the worst polluters have not committed to the Protocol further exacerbates the problem.

In 2002, Tuvalu, (later joined by Kiribati and the Maldives), announced that it was planning to take legal action against Australia and other major polluting countries. At the same time, it stated that it was seeking refuge for its population as environmental refugees in Australia and New Zealand.<sup>41</sup> This raised the question of whether it could be argued that greenhouse gas emitters are committing international crimes by failing to enact policies to combat climate change. As discussed previously, prevailing scientific research demonstrates that climate change is the result of greenhouse emissions and that historically, developed countries have been almost entirely responsible for these emissions. However, these countries are not more likely to suffer the worst consequences of climate change. It is instead those living on marginal lands who will suffer the

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<sup>40</sup> Timo Koivurova, "International legal avenues to address the plight of victims of climate change: problems and prospects." *J. Envtl. l. & Litig.* 22 (2007): 277.

<sup>41</sup> Koivurova, 274.

most from anthropogenic climate change. This then leads to the question of whether the role of developed nations in creating environmental burdens for less developed nations might suggest an historical injustice that needs to be rectified.

Ultimately, Tuvalu did not specify its plan on how and when it would file its petition with the ICJ and the Pacific islands did not take any legal action against major polluting countries. Given that the ICJ's jurisdiction is confined to disputes to which both parties have given their consent, it is difficult to imagine a scenario in which the polluting parties would be held accountable for their actions. Although it is possible for small island states to bypass the ICJ's jurisdictional consent request through obtaining an advisory opinion from the ICJ, the process involves achieving a majority within the General Assembly and is unlikely. The ICJ's foreshadowed reticence may be contributed to the expectation that a radical decision might result in a rapid decline in the willingness of states to submit claims in the future. The same applies to the ICJ's use of advisory opinions. Lastly, as Koivurova points out, the ICJ has never condemned any country for damage that it may cause in the future. Given that the dimension of damage in the future is at the core of climate change litigation, this could be yet another obstacle. Although international law is moving towards remedying future wrongs, it has still not reached this point.<sup>42</sup>

More recently, in 2014, Iona Teitota, from Kiribati applied in New Zealand to become the world's first 'climate change refugee.' This was on the basis of changes to his environment in Kiribati, caused by sea level rise, associated with climate change. The case was dismissed by New Zealand's Supreme Court and Teitota was deported the following year.<sup>43</sup> Perhaps more

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<sup>42</sup> Koivurova, 274.

<sup>43</sup> Tim McDonald, "The Man Who Would be the First Climate Change Refugee," *BBC News*, November 5, 2015, <https://www.bbc.com/news/world-asia-34674374> (accessed March 14, 2020).

promisingly, New Zealand announced in 2017 that it plans to create a special refugee visa for Pacific Island residents who are forced to migrate because of rising sea levels. The government wants to discuss the scheme with other Pacific nations and plans to start with 100 places annually. However, as Professor Nina Hall, from Johns Hopkins University has noted, New Zealand may need to consider programs for relocating entire communities rather than individuals. While this move is laudable at a time when borders have become increasingly securitized, it remains to be seen if there will be a greater willingness to acknowledge the impacts of the environment and climate change on displacement.

## **Conclusion**

Koivurova convincingly argues that actions to counter climate change should be taken as seriously as matters falling within the sphere of international security policy such as the war on terrorism or the proliferation of nuclear weapons.<sup>44</sup> The above cases demonstrate that the lacunae that exist in international law and migration policies concerning environmentally induced displacement have created great difficulties for dispossessed populations. Legal scholar JB Ruhl predicted that climate change could exert tremendous structural pressures on the design and implementation of law.<sup>45</sup> Given the realities discussed above, it is necessary for the international community to address the ways in which environmentally induced displacement can be addressed, with solutions tailored

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In this case and other similar cases, the requirement of non-refoulement did not apply, since the applicants were not recognized as genuine refugees, on the basis that they did not risk being persecuted by race, religion, nationality or by membership to a political or religious group under the 1951 Refugee Convention.

<sup>44</sup> Timo Koivurova, "International legal avenues to address the plight of victims of climate change: problems and prospects," *J. Envtl. l. & Litig.* 22 (2007): 299.

<sup>45</sup> J.B. Ruhl is cited in Maxine Burkett, "In Search of Refuge: Pacific Islands, Climate-Induced Migration and the Legal Frontier," *Analysis from the East-West Centre*, No.98 (2011): 6.

to the needs of populations who have been deeply affected by environmental degradation. Perhaps the first step is to recognize the importance of home and place in people's lives and the difficulties associated with suddenly being dispossessed.<sup>46</sup> Only then can we begin to move beyond lifeboat ethics.

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<sup>46</sup> Bell suggests that it is necessary to first reframe our understanding of climate change refugees, by considering the importance of place and home in people's lives.



## Chapter Seven: Which Way Forward?

### Introduction

As this chapter is being written, the UN Committee on the Elimination of Racial Discrimination has called on Canada to immediately suspend work on the Coastal GasLink pipeline, the Trans Mountain pipeline, and the Site C dam until ‘free, prior and informed consent is obtained from Indigenous peoples.’<sup>1</sup> In its two page decision statement, the committee said it is alarmed by the escalating threat of violence against Indigenous peoples in BC and ‘disturbed by the ‘forced removal, disproportionate use of force, harassment and intimidation by law enforcement officials against Indigenous peoples who peacefully oppose large-scale development projects’ on their traditional territories.’<sup>2</sup> The committee urged Canada to immediately cease the forced eviction of the Wet’suwet’en peoples, who oppose the Coastal GasLink pipeline and the Secwepmíc peoples opposed to the Trans Mountain pipeline, to prohibit the use of lethal weapons by the RCMP against Indigenous peoples and to guarantee no force will be used against them. The federal government was also urged to withdraw the RCMP along with associated security and policing services, from traditional lands.

This expansionist, extractive mindset that has long governed our relationship to nature is what the climate crisis calls into question.<sup>3</sup> The idea that nature is limitless, that there is an endless supply of what we need and that natural resources can be endlessly extracted and easily replaced is increasingly being challenged. The abundance of scientific research demonstrating that we have

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<sup>1</sup> Sarah Cox, “What Cost Are Human Rights Worth?” UN Calls for Immediate RCMP Withdrawal in Wet’suwet’en Standoff,” *The Narwhal*, Jan 9, 2020 <https://thenarwhal.ca/what-cost-are-human-rights-worth-un-calls-for-immediate-rcmp-withdrawal-in-wetsuweten-standoff/>.

<sup>2</sup> Cox, “Cost of Human Rights.”

<sup>3</sup> Naomi Klein, *On Fire, The Burning Case for a Green New Deal*, (Toronto: Alfred A. Knopf, 2019), 79.

pushed nature beyond its limits demands not just market-based solutions but a civilizational paradigm shift, one that is grounded not in dominance over nature, but in respect for natural cycles of renewal and one that is sensitive to natural limits.<sup>4</sup>

### **Returning to the Question of Justice**

Discussions around justice for environmentally displaced persons and purported climate refugees largely revolve around the language of compensation, understood as payment of money or goods to recognize certain harms or effectively transferring resources in order to put a person on the ‘indifference curve’ they would have been on had the disadvantage not occurred.<sup>5</sup>

Determining what purported climate refugees are owed requires an understanding of how this wrong came about, as Buxton argues.<sup>6</sup> Climate change did not happen by accident, it is the result of decisions by more developed states that have ignored basic emissions quotas and actively polluted environments through the burning of fossil fuels. As Buxton puts it, the plight of climate refugees is caused by the emissions of other states.

To further compound the unfairness, soon to be submerged states have historically been the lowest emitters, with Tuvalu projected to become the first zero-carbon state by 2020.<sup>7</sup> Thus, the unjust dimension of climate change demands a shift away from the language of compensation.<sup>8</sup> Compensation aims to remedy accidental damage or harm whereas reparation aims to rectify injustice. While compensation may be provided by a third party, reparation can only be

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<sup>4</sup> Klein, *On Fire*, 79.

<sup>5</sup> Rebecca Buxton. "Reparative Justice for Climate Refugees." *Philosophy* 94, no. 2 (2019): 197.

<sup>6</sup> Buxton, "Reparative Justice," 198.

<sup>7</sup> Government of Tuvalu (2015) 'Intended Nationally Determined Contributions: Communicated to the UNFCCC on November 27 2015,' available at:

<http://www4.unfccc.int/ndcregistry/PublishedDocuments/Tuvalu%20First/TUVALU%20INDC.pdf>

<sup>8</sup> Buxton, "Reparative Justice for Climate Refugees," 199.

successfully offered by those responsible for the harm.<sup>9</sup> For this reason, there must be a focus on reparative justice for purported climate refugees.

While there has been little discussion of reparations for ‘climate refugees’, there has been consideration of reparations for refugees more broadly.<sup>10</sup> In considering asylum as a form of reparative justice, Souter proposes moving toward an approach whereby asylum may be understood as a form of remedy for past wrongdoing. Souter’s reparative approach claims that states have special obligations to those refugees whom they have caused harm. Likewise, according the IOM’s 2008 World Migration Report, some analysts are beginning to argue that migration is both a necessary element of global redistributive justice and an important response to climate change and that greenhouse gas emitters should accept an allocation of climate migrants in proportion to their historical greenhouse gas emissions.<sup>11</sup> The difficulty lies in linking certain agents to the harm of climate displacement; there would have to be evidence that certain agents are responsible for climate change and potentially by extension the damage caused to small island states and other climate change hotspots.<sup>12</sup> However, this is becoming increasingly possible with the abundance of scientific evidence on emission rates.

In fact, what makes the UN climate negotiations threatening to some is that they have revived an anti-colonial courage in parts of the developing world that many thought had been

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<sup>9</sup> Michael Walzer. *Spheres of justice: A Defense of Pluralism and Equality*. Basic books, 2008.

<sup>10</sup> Buxton, “Reparative Justice for Climate Refugees,” 201.

<sup>11</sup> IOM. World Migration Report 2008. Managing Labour Mobility in the Evolving Global Economy , Geneva, International Organization for Migration. 2008. <https://publications.iom.int/books/world-migration-report-2008-managing-labour-mobility-evolving-global-economy>

<sup>12</sup> Buxton, “Reparative Justice for Climate Refugees,” 201.

eradicated.<sup>13</sup> Equipped with irrefutable scientific facts about who is responsible for global warming and who is suffering its effects most immediately and intensely, countries such as Bolivia and Ecuador are attempting to shed the “debtor” label imposed on them by decades of International Monetary Fund and World Bank loans and are declaring themselves creditors, owed not just money and technology to cope with climate change but also atmospheric space in which to develop.<sup>14</sup>

Given that climate science is no longer easy to deny, it is becoming increasingly clear that the agents who owe reparations are those who are responsible for creating the harm. There is a moral responsibility for consequences that are freely chosen, for which one can be held accountable. The Polluter Pays Principle (PPP) holds that emitters of high quantities of greenhouse gases are responsible for compensating those negatively affected, this is not only intuitively plausible, but has been affirmed in several international agreements, including a directive passed by the European Union.<sup>15</sup> This principle distinguishes between agents that make laudable choices on climate change and those who continue to contribute to greenhouse gas emissions beyond their reasonable level.<sup>16</sup> Thus, the PPP presents a straightforward path to determining responsibility for the payment of repatriations to climate refugees. Under the framework, polluting states are obligated to pay for all emissions, not only those which are immoral. The state offers a solution to the intergenerational problem, as it is itself an intergenerational entity existing despite constant shifts in membership. As states persist while individuals come and go, they can bear outcome responsibility for emissions, both past and present.<sup>17</sup> What can be more easily denied is the idea

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<sup>13</sup> Klein, *On Fire*, 89.

<sup>14</sup> Klein, 90.

<sup>15</sup> Simon Caney. "Cosmopolitan justice, responsibility, and global climate change." *Leiden journal of international law* 18, no. 4 (2005).

<sup>16</sup> Buxton, "Reparative Justice for Climate Refugees," 206.

<sup>17</sup> Buxton, 206.

that nations that are the largest historical emitters of carbon owe anything to the people impacted by the pollution. This will be denied on the only rationale possible: by the othering and inferiorization of populations most deeply impacted by greenhouse gas emissions.<sup>18</sup> This is why it is helpful to understand patterns of environmental destruction through the lens of environmental racism and settler colonialism.

### **Repairing the Damage**

A fundamental question that arises out of this discussion is whether anything can truly repair the damage wrought by climate change.<sup>19</sup> De Shalit argues that the crucial functioning of the ‘sense of place’ can never be compensated for, but we should remember that the case for reparations for environmentally displaced persons impacts upon future as well as current generations.<sup>20</sup> Thus, although the current generation may never have their sense of place restored, certain forms of reparations may reestablish a sense of place for future generations. As Buxton discusses, on a pragmatic level, reparations come in three forms: monetary compensation, the offering of asylum or immigration and the provision of land. In this context, monetary compensation overlooks the non-economic losses of climate change, does not seem commensurable with the loss faced by climate refugees and does not seem appropriate given the cultural harm involved.<sup>21</sup>

The second option would be to provide more opportunities to seek asylum or to migrate. Souter suggests that asylum could function as a form of reparation for displacement, whilst taking

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<sup>18</sup> Klein, *On Fire*, 89.

<sup>19</sup> Buxton, “Reparative Justice for Climate Refugees,” 211.

<sup>20</sup> Avner De Shalit, “Climate change refugees, compensation, and rectification.” *The Monist* 94, no. 3 (2011): 310-328.

<sup>21</sup> In the Timber Creek decisions, two lower courts issued compensation to the Ngaliwuru and Nugali peoples to the amount of AU 3.3 million in August 2016, this has been appealed in the D1/2018 on the grounds that these lower courts failed to fully recognize the non-economic loss that is faced by Ngaliwuru and Nugali peoples.

into consideration the choices of the individual in question.<sup>22</sup> Miller likewise argues that environmental destruction may be a particular case for which immigration is necessary, he argues:

At first sight, an even clearer instance of immigration as a form of reparation would be territories that become unable to sustain human life as a result of global warming, where no physical form of repair is possible... Perhaps in the absence of an agreed scheme for resettling those whose land has become uninhabitable, a right to reparation could be asserted against any state that has contributed significantly to the warming.<sup>23</sup>

The option of migration should remain open for all who need to move in response to environmental stress. However, the migration proposal as a form of reparation misses key points. First, it does not account for the importance of one's sense of place and assumes that simply allowing environmentally displaced persons to move to new lands would remedy the loss they have suffered. It overlooks the fact that choice is central to immigration proposals and that purported climate refugees should have the agency to decide where to put down their new roots. Moreover, the proposal does not consider the collective issue at hand, allowing individuals to migrate does not respect the possibility that the community may want to stay together, allowing them to maintain their distinctive culture, history and right to self-determination. A resident of Shishmaref, Alaska, an Inuit community that is set to be destroyed by rising seas notes that "collating or merging with other villages may be cheaper than relocation, but the risk is high that the village's lifestyle and culture will be lost."<sup>24</sup> Nevertheless, justice requires that we recognize the fundamental right of all people to seek safety and move when necessary, thus in many instances, the right to seek asylum and status on arrival is fundamental, given the underlying injustices of climate change.

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<sup>22</sup> James Souter "Towards A Theory of Asylum as Reparation for Past Injustice." *Political Studies* 62, no. 2 (2014).

<sup>23</sup> David Miller. "Justice in immigration." *European Journal of Political Theory* 14, no. 4 (2015): 402.

<sup>24</sup> Elizabeth Marino. *Fierce climate, sacred ground: An ethnography of climate change in Shishmaref, Alaska*. (University of Alaska Press, 2015), 81.

Finally, the last option is the proposal of land or territory. Although land is irreplaceable, the intergenerational nature of community means that this irreplaceability might not extend to future generations; the new land may become as important to future generations with new connections made further down the line. Kiribati has recently bought several small islands in Fiji to which it will move residents when the territory becomes uninhabitable, whilst Kiribati will not exercise jurisdiction over these new islands, it could at least preserve cultural heritage.

On the other hand, there remain reasons to be critical. There is a problem with the commodification of land and the assumption that it can be easily replaced by the purchase of new land, without threatening an underlying reciprocity to the land. Mass movement programs have been rejected by environmentally displaced persons themselves on the grounds that they do not respect their right to cultural heritage. Models of mass movement without statehood have been rejected by the people of Nauru whose land was nearly destroyed by phosphate mining in the 20<sup>th</sup> century. The proposal was to relocate the entire population to an island off the coast of Queensland. However, this model was rejected on grounds of cultural identity. Nauruans viewed this relocation as an attempt to destroy their strong personal and spiritual relationship with the island, ignoring the right of the Nauruan people under international law to permanent sovereignty over their natural wealth and resources. Yet even with these shortcomings, land appears to be the only form of reparation that addresses the collective nature of harm. Of course, consultation with impacted communities remains imperative.

## Theories of International Justice

In considering theories of international justice which might be applied to the particular plight of environmentally displaced persons, Bell argues that neither John Rawls's "Law of Peoples" approach nor Charles Beitz's cosmopolitanism provide an adequate account of justice in this context.<sup>25</sup> More specifically, Bell suggests that Rawls's account places too much emphasis on borders and boundaries and undermines the natural resource inequalities that are of great importance in a theory of international justice.<sup>26</sup> Beitz's cosmopolitanism theory of international justice is favourable because it would offer substantial rights to potential and actual environmental refugees. However, it would not provide sufficient reasons for countries that emit large quantities of greenhouse gases to cut their emissions. More importantly, it overlooks the extent to which the physical environment in which one lives can be constitutive of one's identity.<sup>27</sup> Ultimately, Bell suggests that it is necessary to first reframe our understanding of climate change refugees, or environmentally displaced persons, by considering the importance of place and home in people's lives. This is particularly important since the populations most likely to be displaced by climate change often also have a closer attachment to the land and the community that they share that home with.<sup>28</sup> We must also remember that land itself can have moral value depending on the practices and beliefs of its inhabitants; certain land has meaning for certain people. We therefore fail to do justice to the moral claims of particular groups when we treat the world as entirely undifferentiated.<sup>29</sup> For Bell, we cannot treat the 'disruption, degradation or destruction of particular

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<sup>25</sup> Derek Bell. "Environmental Refugees: What rights? Which Duties?" *Res Publica* 10, no. 2 (2004):135.

<sup>26</sup> Derek Bell, "Environmental Refugees: What rights?" 136.

<sup>27</sup> Bell, 136.

<sup>28</sup> Bell, 152.

<sup>29</sup> Rebecca Buxton, "Reparative Justice for Climate Refugees," 197.



environments as nothing more than the loss of some substitutable natural resource’.<sup>30</sup> Therefore, discussions of justice for potential climate refugees must move beyond territorial claims and also highlight the importance of land. The loss of land as home must not be forgotten, even if the loss of self-determination is easier to address.

## **Legal Responses**

The question that we are left with is how existing regulatory frameworks can respond to the needs of the populations forced to leave their homes as a result of climate change. With regard to the nexus of climate change, environmental stressors and mobility, three recent global processes attempt to address the protection gap and the legal limbo relating to those affected. The first is the Nansen Initiative, an intergovernmental, state-led consultative process that was launched by the governments of Norway and Switzerland in 2012, with the intention of building consensus on the development of a new “agenda for the protection of cross-border displaced persons in the context of disasters and climate change.” The resulting protection agenda was endorsed by 109 states in October 2015 and is now seen as the key framework for action by states and other stakeholders grappling with the question of how to best respond to the current caseload of disaster-induced forced displacement and the future expected future incidence of natural disasters and/or impacts of climate change.<sup>31</sup> The underlying premise of the Protection Agenda is that if displacement arises in the wake of a disaster, international protection should be granted, irrespective of the character of the disaster in question.

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<sup>30</sup> Derek Bell. "Environmental Refugees: What rights? Which Duties?" 152.

<sup>31</sup> The Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change* (Volume 1 2015).

The Nansen Initiative's shortcoming is that it recognizes a distinction between voluntary migration and forced displacement, which creates immediate challenges in contexts where mixed migration takes place. Determining whether movement in a given area or even for a particular person is forced or voluntary is problematic, particularly in scenarios involving slow-onset natural hazards such as droughts, where the relationship between the hazard and broader factors is unclear.<sup>32</sup> Nevertheless, a practical outcome of the Nansen Initiative is the state-led platform on Disaster Displacement, which seeks to implement the recommendations of the Protection Agenda and address the legal, institutional and operational gaps in the protection of those moving in the context of disasters related to natural hazards through a wide range of processes.

The protection gap has also been addressed by the 2018 Global Compact for Safe Orderly and Regular Migration. The Global Compact recognizes that environmental factors may be a cause of irregular migration and commits Objective 2 (18) to creating “conductive political, economic, social and environmental conditions for people to lead peaceful, productive and sustainable lives in their own country and to fulfill their personal aspirations, while ensuring that desperation and deteriorating environments do not compel them to seek a livelihood elsewhere through irregular migration.”<sup>33</sup>

The Compact also notes that in the case of natural disasters and adverse effects of climate change and environmental degradation, there should be efforts to strengthen joint analysis and

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<sup>32</sup> Mixed Migration Centre, “Weak Links: Challenging the Climate and Migration Paradigm in the Horn of Africa and Yemen,” February 4, 2020, <http://www.mixedmigration.org/resource/challenging-the-climate-and-migration-paradigm/> (accessed February 15, 2020).

<sup>33</sup> Global Compact for Safe, Orderly and Regular Migration, [https://refugeesmigrants.un.org/sites/default/files/180711\\_final\\_draft\\_0.pdf](https://refugeesmigrants.un.org/sites/default/files/180711_final_draft_0.pdf)

sharing of information to better map, understand and predict and address migration movements. This includes movements that may result from sudden onset and slow onset natural disasters, the adverse effects of climate change environmental degradation, as well as other precarious situations, while ensuring effective respect for and protection and fulfillment of the human rights of all migrants.

Objective 5 of the Global Compact aims to enhance availability and flexibility of pathways for regular migration. In paragraph 20(g), a good practice is for states to develop or build on existing national and regional practices that provide for admission and stay “based on compassionate, humanitarian or other considerations” when migrants “face unsurmountable obstacles to return, including due to sudden-onset natural disasters.” Humanitarian visas, private sponsorships, access to education for children, and temporary work permits are cited as actions states can take in this regard. Moreover, Paragraph 20(h) calls for cooperation among states to identify, develop, and strengthen solutions in the case of slow-onset environmental degradation related to the adverse effects of climate change, such as desertification, land degradation, drought and sea level rise. In this context, planned relocation and visa options are cited as options in cases where adaptation in or return to country of origin is not possible.

Nevertheless, the underlying aim of the Global Compact is to develop adaptation and resilience strategies to sudden onset and slow-onset natural disasters, the adverse effects of climate change and environmental degradation (such as desertification, land degradation, drought and sea level rise) while taking into account the potential implications for migration, recognizing that adaptation in the country of origin is a priority. This emphasis on adaptation goes back to the earlier discussion in Chapter Five regarding the emphasis on individual responses and adaptation, it is problematic that there is no emphasis on justice instead. Another shortcoming of the global

compacts is that they are legally non-binding on states and the refugee compact in particular, does not try to afford cross border climate-induced displaced people the rights of refugees as enshrined in the 1951 Convention, although it attempts to create a more predictable and equitable responsibility-sharing context for all refugees.

The Cancun agreements promote measures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation. In this sense, parties to the UN framework Convention on Climate Change (UNFCCC) have an obligation towards populations impacted by environmental displacement. Moreover, Canada and other countries provide permanent resident status to people who do not qualify as refugees, under any other immigration class when this status is justified by humanitarian and compassionate considerations. For example, in 2007, this power was used to facilitate the immigration of approximately 150 Vietnamese people living in the Philippines without status since the 1970s.<sup>34</sup> To date, the power has not been used to admit climate and other environmental migrants, but this is another possible avenue to consider, particularly given the moral responsibility towards those most immediately impacted by the climate crisis.

### **The Question of Non-Refoulement**

Chapter Six discussed the inversion of the *non-refoulement* principle, whereby populations that have left their homes desire to return but are prevented from doing so due to indebtedness or restrictions imposed by their employers. The principle of *non-refoulement* is also pertinent in the

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<sup>34</sup> Penny Becklumb, *Climate Change and Forced Migration: Canada's Role*. Parliamentary Information and Research Service, 2010.

case of populations intending to seek asylum in a new country, in response to environmental degradation. More specifically, the case of Ioane Teitiota is worth re-considering.

The threat of sea level rise formed the basis of Ioane Teitiota's four-year battle to become the world's first recognized climate refugee.<sup>35</sup> Mr. Teitiota and his wife decided to move to New Zealand as a result of the serious consequences of climate change in Kiribati, claiming the impossibility of returning. This was due to: the lack of access to drinking water, the overpopulation of the island of Tarawa (the main geopolitical center of the island chain), the increase in sea level rise, and the flooding of large areas of land formerly designated for agriculture, increased pollution and the impossibility of government authorities to provide a lasting solution despite having presented programs against these phenomena. Ultimately, however, Ioane Teitoita's claims for asylum were rejected and he was deported back to Kiribati.

More promisingly, in January 2020, the UN Human Rights Committee ruled that the effects of climate change should in some circumstances be taken into consideration when destination countries make decisions regarding the deportation of asylum seekers. Although the committee did not uphold Teitiota's claim to be a "climate refugee" entitled to Convention protection, its 16-page ruling included the following passage:

The Committee is of the view that without robust national and international efforts, the effects of climate change in receiving states may expose individuals to a violation of their rights under articles 6 or 7 of the [International Covenant on Civil and Political Rights], thereby triggering the *non-refoulement* obligations of sending states. Furthermore, given that the risk of an entire country becoming submerged under water is such an extreme risk, the conditions of life in such a country may become incompatible with the right to life with dignity before the risk is realized.

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<sup>35</sup> Tim McDonald, "The Man Who Would Become the First Climate Refugee," BBC, November 5, 2015 <https://www.bbc.com/news/world-asia-34674374> (accessed February 15 2020).

Some have interpreted the ruling as setting a global precedent, one that asserts a state will be in breach of its human rights obligations if it returns someone to a country where due to climate crisis, their life is at risk, or in danger of cruel, inhuman or degrading treatment.<sup>36</sup> Notably, the Committee recognized that climate change represents a serious threat to the right to life and therefore, decision-makers need to take this into account when examining challenges to deportation. The ruling also has great implications for the principle of non-refoulement, as it relates to environmental degradation. Currently, there is a lack of standardized application of this fundamental principle, and there is no uniform interpretation of the scope of obligations encompassed under Article 33.<sup>37</sup> These problems arise from the lacunae that currently exist in the Refugee Convention, which enable states to implement non-refoulement based on their subjective interpretations of the principle, often at the cost of international uniformity.<sup>38</sup> This lack of uniformity in state domestic interpretation leaves many refugees in an ambivalent situation in which the success of their asylum claim and the implementation of the *non-refoulement* principle are highly contingent upon the refugee's initial state of entry. Thus, while in theory the ruling broadens the protection parameters allowed by the *non-refoulement* principle, only future legal challenges to deportation will reveal the extent to which it significantly alters or clarifies the current legal landscape.<sup>39</sup>

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<sup>36</sup> Amnesty International, "UN Landmark Case for People Displaced by Climate Change." January 20, 2020, <https://www.amnesty.org/en/latest/news/2020/01/un-landmark-case-for-people-displaced-by-climate-change/>

<sup>37</sup> Ellen F. D'Angelo, "Non-Refoulement: The Search for a Consistent Interpretation of Article 33," *Vand J. Transnational Law* 285.

<sup>38</sup> D'Angelo, "Non-Refoulement," 280.

<sup>39</sup> Mixed Migration Centre, "Weak Links: Challenging the Climate and Migration Paradigm," 27.

## **An Inherited Crisis**

There has been a significant rise in youth movements addressing the future of climate change, with Greta Thunberg as a key example of an unknown teenager who became one of the most recognized faces of the planet. Yet, against the backdrop of youth movements in the Global North, young people in the Global South have been tackling the climate crisis for years, without getting nearly as much recognition. For instance, in India, Ridhima Pandey, whose entire family was displaced by the Uttarkhand floods of 2013 was just nine years old when she filed a lawsuit against the Indian government for failing to take action against climate change.<sup>40</sup> There are similar examples among Indigenous youth and youth all over the Global South. For instance, Nina Gualinga, who has been an Indigenous activist from the Ecuadorian Amazon since the age of eight won the WWF's top youth conservation award. Autumn Peltier from the Anishinaabe people of Canada is a clean water and climate advocate and Leah Namurgerwa is a fifteen-year-old Ugandan activist. Lepcha Indigenous youth in North Sikkim, India went on a hunger strike to protest the Indian Power Ministry's plan to develop seven hydroelectric dams as a means to increase energy production in the Himalayan states. These Indigenous youths critically questioned a state-directed development agenda that did not serve the interests of the community, citing the failure of the Indian government to foster employment opportunities in a country overwhelmed by endemic poverty. Ultimately four of the seven hydroelectric projects were canceled.

There are countless other names and examples that we rarely if ever hear. Most problematically, these activists are often referred to in the media as the "Greta Thunberg" of their

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<sup>40</sup> Chika Unigwe, "It's not Just Greta Thunberg: Why are We Ignoring the Developing world's Inspiring Activists?" *The Guardian*, October 5, 2019, <https://www.theguardian.com/commentisfree/2019/oct/05/greta-thunberg-developing-world-activists> (accessed March 10, 2019)

country, or said to be “following in her footsteps,” even in cases where their activism began long before hers. The identities of young activists from the Global South and Indigenous communities are completely erased by the Western media that rarely recognizes progress outside of its own part of the world. As Unigwe notes, this “white saviour” narrative invalidates the impact of locals working in their communities to bring change and perpetuates the stereotype of the “native with no agency” who cannot help themselves, while presenting those most deeply impacted by climate change as passive onlookers who are now only being spurred by the “Thunberg effect.”<sup>41</sup> Even with regard to broader changes, the Global South and Indigenous communities are portrayed as lagging behind the rest of the world and rarely seen as leaders in enforcing climate-friendly policies. For instance, Bangladesh was the first country to ban plastic bags in 2002 and Rwanda was the first country to ban non-biodegradable plastics in 2008, with Kigali named Africa’s cleanest city, yet we rarely hear of such stories in the mainstream media.

Thus, there is a need to be conscious of the ways in which an emphasis on some activists at the expense of others perpetuates colonial narratives of the white savior. Part of the effort of decolonizing narratives of climate change entails questioning which disasters predominantly get coverage in the mainstream media and by extension whose lives matter the most. There is also a need to critically analyze the coverage of climate change activism, with an awareness that in many cases activism originates in Indigenous communities and communities in the global South; areas that are most deeply impacted by climate change, yet often marginalized.

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<sup>41</sup> Unigwe, “It’s not Just Greta Thunberg.”



## The Need for Systemic Change

The previous chapter outlined the inadequacies of individualist responses to climate change and related movements. Yet, such responses continue to dominate the discourse on climate change adaptation and mitigation responses. A recent IPCC report lays out how serious the climate impacts of 1.5 degrees of warming are far less destructive than those of 2 degrees Celsius. The report ignores the huge inequality in emissions and chooses to constrain its policy advice to fit neatly with the current economic model.<sup>42</sup>

In order to genuinely reduce emissions, we must first become aware of the underlying asymmetry in consumption and emissions.<sup>43</sup> Reducing carbon emissions will entail a reduction in underlying inequalities. A number of sources have suggested a transformation in the productive capacity of society, reminiscent of the Marshall Plan. This means that labour and resources used to supply the high carbon lifestyles of the top 20% will need to shift rapidly in order to create a fully decarbonized energy system.<sup>44</sup> This process will require deep structural changes in the world economy, transitioning to a green, sustainable economy, while providing a fair and stable safety net for workers who have temporarily lost their jobs or for those whose jobs have become obsolete. This is especially important given that many people will continue to be displaced as a result of losing their jobs and livelihoods. Often, they are recruited to work under exploitative conditions in sectors that are also damaging to the environment, further perpetuating the cycle of loss of livelihoods, dispossession and displacement. Thus far, the steps taken by the United Nations

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<sup>42</sup> Kevin Anderson, "Response to the IPCC 1.5C Special Report," *Manchester Policy Blogs*, October 8, 2018 <http://blog.policy.manchester.ac.uk/posts/2018/10/response-to-the-ipcc-1-5c-special-report/> (accessed March 12, 2020)

<sup>43</sup> Almost 50% of global carbon emissions arise from the activities of around 10% of the global population, increasing to 70% of emissions from just 20% of citizens.

<sup>44</sup> Kevin Anderson, "Response to the IPCC 1.5C Special Report"

human rights bodies have been inadequate and “premised on forms of incremental managerialism and proceduralism” which are entirely disproportionate to the urgency and magnitude of the threat we are facing, as Alston suggests. We must return to the fact that mass movements of people are often caused by expulsions linked to globalized socioeconomic inequalities<sup>45</sup> and to the postcolonial reality of the present.<sup>46</sup> Therefore, out-sourcing systemic problems to the individual will not solve the issues that we are grappling with.

### **Possible Interventions**

The underlying stagnancy of international norms and laws is increasingly being challenged by anthropogenic climate change and its impacts on displacement. More than ever, it is essential to interpret law with an awareness of the evolving environment in which it must be applied.<sup>47</sup> A combination of solutions explored below may prove the most effective way of filling protection gaps.

The first step in addressing the plight of a population that currently falls outside the purview of international law is to reach a consensus on the legal status of those who are escaping environmental degradation. The absence of an internationally accepted legal status or definition for these people means that their rights are not protected, their interests are not represented and their needs are not met. The voices and experiences of those who are primarily impacted by various

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<sup>45</sup> Saskia Sassen, *Expulsions*, Harvard University Press, 2014.

<sup>46</sup> See Giovanni Bettini, Sarah Louise Nash, and Giovanna Gioli. "One step forward, two steps back? The fading contours of (in) justice in competing discourses on climate migration." *The Geographical Journal* 183, no. 4 (2017): 348-358.

<sup>47</sup> Vikram, Kolmannskog and Lisetta Trebbi. "Climate change, natural disasters and displacement: a multi-track approach to filling the protection gaps." *Int'l Rev. Red Cross* 92 (2010):729.

forms of environmental degradation must be centralized in all decision-making processes in order to truly capture the real challenges that are faced in the absence of international recognition and protection.

Indigenous peoples play a significant role in maintaining locally resilient social-ecological systems. Yet despite the adoption of the UN Declaration of the Rights of Indigenous Peoples (UNDRIP) in 2007, Indigenous peoples continue to be denied their rights and are subjected to climate injustice, remaining largely excluded from the UN climate negotiations. In a recent statement, the World Bank Group President Robert Zoellick acknowledged that Indigenous peoples carry a disproportionate share of climate change effects and stated that they must be included in international climate change discussions. However, translating this largely theoretical recognition into practice remains a major challenge.<sup>48</sup>

Likewise, populations of the Global South have been subjected to expansionist and extractive mindsets of dominant powers for centuries, resulting in various forms of environmental degradation. Thus, rather than focusing on top-down approaches to the climate crisis, the voices and perspectives of those primarily impacted by the climate crisis must be prioritized and integrated into existing policies. The focus must shift away from the burden of protection to the burden of responsibility.

The concept of Responsibility to Protect emerged in response to the failure of the international community to adequately respond to mass atrocities committed in the 1990s.<sup>49</sup>

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<sup>48</sup> Donna Green and Gleb Raygorodetsky. "Indigenous Knowledge of a Changing Climate." *Climatic Change* 100, no. 2 (2010):239.

<sup>49</sup> The independent International Commission on Intervention and State Sovereignty (ICISS) was established by the Canadian government in September 2000 to respond to the challenges posed by intervention and sovereignty. ICISS published a report in December 2001 underlining the primary responsibility of sovereign states to protect their own

Perhaps it is time to respond in a similar manner to environmental atrocities of the Anthropocene. Climate change is a global process that is influencing the incidence of natural disasters. The resulting international responsibility needs to be reflected in the financing of protection for those impacted by this change.<sup>50</sup> We must question our reticence to prevent environmental disasters and provide protection for the populations impacted, especially in the case of slow-onset events which we are witnessing as they unfold incrementally.

This can be done through a new binding global climate change agreement based on common but differentiated responsibilities. Funding would enable countries to better deal with displacement, most of which is likely to be internal or regional, in the Global South.<sup>51</sup> Instances of cross-border displacement require greater international and regional cooperation.

The amount of discretion in applying international norms must be reduced, especially given the volatile nature of attitudes towards refugees and migrants. This could entail the creation of new norms and laws, or the reinterpretation of existing principles. For example, there must be some uniformity in the interpretation of the *non-refoulement* principle, so that one's chances of being deported are not contingent upon the discretion of a particular receiving country, but on established international norms.

Susan Martin argues that policies on refoulement for those who are displaced by environmental change should be framed around the provision of whether the state is unable or unwilling to provide protection. She posits three scenarios. In the first scenario, the government is

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citizens from avoidable catastrophe. It highlighted that when states are unwilling or unable to protect their own citizens, that responsibility must be borne by the broader community of states.

<sup>50</sup> Kolmannskog and Trebbi, "Climate change and natural disasters," 729.

<sup>51</sup> Kolmannskog and Trebbi, 729.

willing and able to protect a citizen from the effects of climate change. In the second, the government is willing but unable to provide protection and in the third, the government is unwilling to provide protection whether they are able to or not. In the first case, there is no reason that another country would have any legal obligation to admit the person. In the second case, there should be concerted response by the international community to increase the government's capacity to protect, which might include relocation of affected persons internally or to other countries. In the third case, the person should have access to refuge in another country and be protected from refoulment.<sup>52</sup> These standards can be applied when considering the *non-refoulement* principle in the context of environmental displacement. There also arises an opportunity to examine the utility of TWAIL as a framework for understanding environmental displacement and migration patterns. Integrating TWAIL in migration theories could challenge the marginalization of specific voices and perspectives that have been historically undermined in the international system.

Moreover, I have highlighted the gendered implications of seasonal migration in the context of environmental degradation. However, there is greater room for research in this area. In considering seasonal labour migration as a response to environmental deterioration, there is a need to be aware of the burden that is carried by female-headed households and to understand the significance of unpaid work.

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<sup>52</sup> Susan Martin, "Forced migration, the refugee regime and the responsibility to protect." *Global Responsibility to Protect* 2, no. 1 (2010): 38-59.

Research on violence against women during disaster situations and humanitarian emergencies has focused primarily on conflict as opposed to natural disaster situations.<sup>53</sup> Data specifically related to the incidence of violence during natural disasters are limited, however there is evidence to suggest that levels of domestic and sexual violence against women increase in the aftermath of natural disasters.<sup>54</sup> This is an important area for further research and one that requires the attention of policy makers and academics.

Lastly, I have demonstrated that there are possible connections between the absence of recognition and protection for environmentally displaced persons and irregular migration flows (from Central America to the United States for example), as well as exploitative living and working conditions. There is a need for policymakers to consider employment options in the aftermath of environmental stress, particularly for subsistence workers. Where labour migration does become a preferred livelihood strategy, there must be greater pressure on receiving states to follow international labour standards and human rights norms.

## **Conclusion**

There has been a long-standing debate on the extent to which migration stems from a failure to adapt. The dominant view is that people who move because of environmental factors are in fact unable to adapt and thus have no option but to leave their homes. In this view, migration is the worst scenario and the option to avoid, therefore policies should strive to enable people to remain

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<sup>53</sup> Sarah Fisher, "Violence against women and natural disasters: Findings from post-tsunami Sri Lanka." *Violence against women* 16, no. 8 (2010): 905.

<sup>54</sup> Sarah Fisher, "Violence against women and natural disasters," 905.

in their homes.<sup>55</sup> Against this idea, several contributions argue that migration is not only reactive but a proactive strategy; rather than being a last resort, it represents a coping mechanism, and a way of adapting, for example through seasonal migration.<sup>56</sup> However, we must recall instances where migration may be desired but not possible, such as those where there is a shortage of resources to engage in long-distance migration or situations involving elderly or immobile populations. This is an area which requires further research.

As Hugo argues, governments and policymakers seem to react above all to disasters that force people to suddenly leave their homes. By contrast, the ‘silent crisis’ fueled by progressive environmental change, while affecting very high numbers of people, receives much less policy attention.<sup>57</sup> The implication of this oversight is that those who are migrating in response to gradual environmental stress are often depicted as labour migrants, overlooking the role of the environment as a possible driver of migration.

Integrating TWAIL in migration theories could ameliorate the tendency to overlook issues faced by marginalized populations around the world and could enable these populations to become active agents in decision-making and planning processes. With active involvement from affected populations, it is more likely that a legal definition will be specifically tailored to meet their specific needs. Countries like Canada that have been complicit in climate change, while

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<sup>55</sup> Etienne Piguet, Antoine Pecoud and Paul de Guchteneire, “Introduction: Migration and Climate Change,” in *Migration and Climate Change*, ed. Etienne Piguet (UNESCO/Cambridge University Press 2011), 15.

<sup>56</sup> Ibid.

<sup>57</sup> Etienne Piguet, Antoine Pecoud and Paul de Guchteneire, “Introduction: Migration and Climate Change,” in *Migration and Climate Change*, ed. Etienne Piguet (UNESCO/Cambridge University Press 2011), 23.

disproportionately benefitting from the combustion of fossil fuels, have a moral obligation to ensure that the voices and rights of historically marginalized populations are protected. Integrating TWAIL in migration theories could increase awareness of historical injustices that have rendered certain populations disproportionately susceptible to the effects of climate change and environmental degradation, while also ensuring that international law processes are more inclusive and equitable. Viewed through a TWAIL lens, environmental migration and displacement would no longer be considered as “southern problems” and as security risks for the rest of the world. Rather, there would be an awareness of the ways in which decisions by rich industrialized countries have impacted peripheral countries and communities. This in turn could prioritize the question of responsibility as it relates to historical injustices and there could be a shift away from lifeboat ethics in policymaking.

Climate change is a process that exacerbates some of the most pressing issues of our time. However, given the great complexity of conceptual debates, unless there is a concerted effort to reach an agreement, a consensus on the status of environmentally displaced persons is unlikely to be reached in the near future, either among researchers or in policy and public debates. As a consequence, differences in terms, notions and definitions are likely to persist, with significant implications for the populations impacted by environmental displacement. While shortcomings of the term climate refugee have been discussed elsewhere, a shift from climate refugees to climate migration could signal a marginalization of the very problem of climate justice in the debate on climate change and migration nexus, characteristic of broader patterns in climate politics.<sup>58</sup> Given

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<sup>58</sup> Giovanni Bettini, Sarah Louise Nash, and Giovanna Gioli. "One step forward, two steps back? The fading contours of (in) justice in competing discourses on climate migration." *The Geographical Journal* 183, no. 4 (2017): 349.



that it is increasingly difficult to isolate primary cause of migration, the question remains of whether we should continue to address displacement in terms of what drives it or instead in terms of the needs (and shared experiences) of those on the move.<sup>59</sup> What remains certain is that the voices and perspectives of those who are first to experience the impacts of climate change and displacement, who have been historically excluded from decision-making processes, should be prioritized.

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<sup>59</sup>See Jane McAdam, “Refusing Refuge in the Pacific,” in *Migration and Climate Change*, ed. Etienne Piguet (UNESCO/Cambridge University Press 2011), 106.

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