

From Sinking Islands to Climate Migration: Where the Laws Drowns

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ABSTRACT

Environmental vulnerabilities in form of rising sea levels espoused with the extreme weather conditions that entail in environmental disruption typically manifested as floods, droughts, etc., constitute an inexorable part of human life in this era. The impact of environment crisis on human life is indelible, with its effects more amplified upon small island states having limited access to infrastructural resources, medical facilities and rehabilitation opportunities. Exploring the issue of loss of statehood in the face of rising sea levels, this paper delves into the legal aspects of climate induced displacement of people under international law. Climate degradation has led to the emergence complex problems including extinction of state owing to submergence under sea, international recognition of the extinct state and human rights of the displaced people. Projecting the case of the many drowning or sinking island nations such as Tuvalu, etc., as an understudy, the article offers a glimpse onto the politico-legal norms pertaining to the statehood, sovereignty, human right laws including the rehabilitation of displace population. The study offers an account of nature and scope of climate displacement espoused with the entailing legal and political realities. It assesses the conditions of the sinking or drowning island, and their legal consequences analysing the humanitarian crisis related to migration and resettlement policies under existing international and regional law. The paper analytically assessing the problem and attempts to formulate a viable solution in the direction.

Keywords: *Sinking Island, drowning island, forced migration, displacement, sea level, climate change*

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I. INTRODUCTION

"The earth provides enough to satisfy every man's needs, but not every man's greed." - Mahatma Gandhi *"The world must come together to confront climate change. There is little scientific dispute that if we do nothing, we will face more drought, famine and mass displacement that will fuel more conflict for decades."* - Barack Obama

Climate has an inextricable impact on human survival. The historical roots of the human evolution and civilization are embedded in the changes in climatic condition of a region. Climate change has the direct impact not only our natural habitat but our legal, political and social ecosystem also. Climate change and climate induced displacement of people is one of the most pressing issues emerging in international law. The phenomenon of sinking island and displacement of its people are no longer future threats or potential future risks but a tangible reality staring in the face of international law¹. The phenomenon has irreversibly uprooted the lives of the inhabitants of such low-lying island by destroying their cultivable land, disrupting their livelihood, culture and history to the rising sea levels. Sinking or drowning island, once considered a

farfetched potential outcome of the climate degradation, now is an imminent reality upending the lives of the thousands of people living on these low-lying islands². It reveals a set of complex problem for which international law does not provide satisfactory solution. The problem *inter alia* involves the question of preserving the statehood of these disappearing island states, including right of nationality and residence for the people displaced from their home state. In 2010, all the inhabitants of Tebunginako³, which was once a village in the Republic of Kiribati, were relocated as the water inundated the island along with its coastal defences, to the point that the only visible sign of existence of this submerged village is a church planted in the middle of the sea. Similarly, the East Island in Hawaii disappeared underwater, after getting hit

² Forty percent of the central district of Funafuti is below sea level at high tide. Hon. Kausea Natano, Tuvalu Prime Minister, Tuvalu National Statement for the World Leaders Summit (Nov. 2, 2021) (transcript available at <https://perma.cc/PZX5-B9PV>).

³ Pala, Christopher. "Kiribati's President's Plans to Raise Islands in Fight against Sea-level Rise." *The Guardian*. August 9, 2020. Accessed August 23, 2021. <https://www.theguardian.com/world/2020/aug/10/kiribati-presidents-plans-to-raise-islands-in-fight-against-sea-level-rise>

¹ 'We are Sinking': Tuvalu Minister Gives Cop26 Speech Standing Knee Deep in Seawater Video, *GUARDIAN* (Nov. 9, 2021), <https://perma.cc/BCU2-39MC>.

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by the category 5 Hurricane Walaka in 2018⁴. The same fate has met Five Island, which was a part of the Solomon Island, part of Pacific archipelago⁵. These are the cascading effects of the production of the Green House Gasses (GHG), which has increased the global temperature of Earth by approximately 1 degree Celsius, causing melting/thawing of glaciers, further resulting in rising sea levels⁶. This further has precipitated in severe environmental consequences such as coastal erosion, salt water contamination and submerging of shoreline, causing potential threat to life and livelihood of the inhabitants thus, entailing displacement of a large section of population from their state of origin. The article underscores the fact that current legal framework falls short of affording effective protective and rehabilitative measures to the climate induced population partly owing to the novelty of the raised issue.

II. SINKING ISLANDS

The concept of 'sinking states' comprises of states that are at the risk of potentially losing their statehood by the virtue of the loss of their territory due to submergence into water, caused by rising sea levels or hurricanes induced flooding⁷. Their existence raises profound questions under normative international law with no resolute solution. Questions pertaining to the legal implications of the extinction of a state due to loss of territory and permanent population are extremely pertinent in the contemporary scenario where many low lying island nations are disappearing under water⁸ owing to the ever-rising sea

levels and climate degradation⁹. Also, with respect to the human rights of the citizens of the extinct island nations, international law offers little clarity for acquiring new nationality, right to livelihood, right to residence, etc.

The issue of impacts of climate change to human kind was first internationally recognized by the United Nations General Assembly in 1988¹⁰, hence confirming that these effects could be disastrous to mankind if timely steps were not taken. This prompted intense multilateral negotiations between states to actively address the threat posed by climate change¹¹, which ultimately culminated into the establishment of United Nations Forum for Climate Change (UNFCCC) in 1992. The primary objective of the Convention along with any other instrument entered under its framework is to achieve "*stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.*"¹² Although, UNFCCC is a legally binding treaty, it does not impose any legal limit or cap on the emission of the Green House Gases. It has, however, aided in the establishment of numerous subsequent agreements under its aegis, such as Kyoto Protocol and Paris Agreement.

Although experts emphasize that only a swift and comprehensive transformation of global societies can keep the world within a narrow window to avert the most severe impacts of climate change¹³, many environmental changes

⁴ El-Hinnawi, Essam. "Environmental Refuge es." United Nations. 1985. Accessed August 31, 2021. <https://digitallibrary.un.org/record/121267?ln=en>.

⁵ "Consultant – Development of Relocation Guidelines for Solomon Islands." Consultant – Development of Relocation Guidelines for Solomon Islands. Accessed August 23, 2021. <https://australia.ion.int/vacancy/consultant—development-relocation-guidelines-solomon-islands>.

⁶ NASA Climate change Website Report, <https://climate.nasa.gov/vital-signs/sea-level/?intent=121>. And, U.N. ENV'T PROGRAM, THE CLOSING WINDOW: CLIMATE CRISIS CALLS FOR RAPID TRANSFORMATION OF SOCIETIES *passim* (2022). According to the report, if states do not implement policies to meet these commitments, existing policies have put the world on track for warming of 2.8 °C above pre-industrial levels by the end of the century. This level of warming was recently described as a "death sentence for vulnerable countries" by António Guterres, the U.N. Secretary-General. U.N. Secretary-General, Secretary-General's Remarks to the Security Council Debate on 'Sea Level Rise: Implications for International Peace and Security' (Feb. 14, 2023), <https://perma.cc/7TF5-A6XG>.

⁷ Tuvalu Minister to Address Cop26 Knee Deep in Water to Highlight Climate Crisis and Sea Level Rise, GUARDIAN (Nov. 8, 2021), <https://perma.cc/NVG9-T6H7>.

⁸ Tuvalu, Kiribati, the Maldives, and the Marshall Islands are four states most at risk of becoming completely submerged by sea level rise. ALEJANDRA TORRES CAMPRUBI, STATEHOOD UNDER WATER: CHALLENGES OF SEA-

LEVEL RISE TO THE CONTINUITY OF PACIFIC ISLAND STATES 103 (2016). Tuvalu has a land area of thirty square kilometers and its maximum height above sea level is five meters. Tuvalu SPC Member Map, PAC. CMTY. (Aug. 9, 2022, 4:25 PM), <https://perma.cc/JQY5-3PWE> [hereinafter Tuvalu Map]. The Marshall Islands has a land area of 180 square kilometers with a maximum height above sea level of 10 meters. Marshall Islands SPC Member Map, PAC. CMTY. (Aug. 9, 2022, 4:28 PM), <https://perma.cc/WFY9-Y3WL> [hereinafter Marshall Islands Map]. The highest point in the Maldives is less than three meters above sea level, the "lowest highest point . . . in the world." Ken Jennings, Maphead: Ken Jennings Finds the World's Lowest Highest Point, TRAVELER (May 14, 2012), <https://perma.cc/M8Z7-LF3C>; Andrew Evans, Climbing the Highest Point in the Maldives, NAT'L GEOGRAPHIC (Nov. 5, 2013), <https://perma.cc/9G9Q-MTAT>.

⁹ FREDERIK VON PAEPCKE, STATEHOOD IN TIMES OF CLIMATE CHANGE: IMPACTS OF SEA LEVEL RISE ON THE CONCEPT OF STATES 207 (2015).

¹⁰ G.A. Res. 43/53, Protection of Global Climate for Present and Future Generations of Mankind (Dec. 6, 1988).

¹¹ Daniel Bodansky, The United Nations Framework Convention on Climate Change: A Commentary, 18 YALE J. INT'L L. 451, 471-75 (1993).

¹² U.N. Framework Convention on Climate Change art. 2, adopted May 9, 1992, 1771 U.N.T.S. 107.

¹³ U.N. ENV'T PROGRAM, THE CLOSING WINDOW: CLIMATE CRISIS CALLS FOR RAPID TRANSFORMATION OF SOCIETIES *passim* (2022). According to the report, if states do not implement policies to meet these commitments, existing policies have put the world

already underway are considered irreversible¹⁴. One of the most alarming among these is the rise in global sea levels, which the United Nations Secretary-General has described as a “threat multiplier”¹⁵ due to its far-reaching and compounding consequences.

According to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC)¹⁶, sea levels are projected to continue rising for many years to come as a result of sustained deep ocean warming and ice sheet melting, with elevated levels persisting for thousands of years¹⁷.

In its 2019 Special Report on the Ocean and Cryosphere in a Changing Climate¹⁸, the IPCC projected that the global mean sea level could increase by 0.43 to 0.84 meters by 2100. However, this rise will not be evenly distributed — some regions are expected to experience higher-than-average sea level increases. Furthermore, the report underscores that low-lying island nations face heightened risks, as they are exposed to a combination of rising sea levels, human-induced environmental alterations, and demographic and settlement pressures that together amplify their vulnerability.

The term “sinking island” in this article is used as an all-encompassing and descriptive term for low lying island nations or states which are at a heightened risk of loss of territory owing to submergence or erosion due to rising sea levels. These island nations are at a risk of becoming uninhabitable owing to inundation of habitable territory or the unavailability of fresh water. Although these island

states might not be literally sinking but at a high risk of submergence, the description, however, is apt for the unique vulnerabilities of these states. The four state of Kiribati, Tuvalu, the Marshall Island and the Maldives, are at the highest risk of submergence as their highest altitude is but five and ten metres above sea level¹⁹. Other low-lying islands such as Vanuatu is at a risk of losing three quarters of its landmass by 2100²⁰.

Notably, no island state has lost its territory yet except loss of individual islands to the rising sea such as Micronesia and five of the Solomon Islands²¹. These sinking islands

on track for warming of 2.8 °C above pre-industrial levels by the end of the century. This level of warming was recently described as a “death sentence for vulnerable countries” by António Guterres, the U.N. Secretary-General. U.N. Secretary-General, Secretary-General's Remarks to the Security Council Debate on ‘Sea Level Rise: Implications for International Peace and Security’ (Feb. 14, 2023), <https://perma.cc/7TF5-A6XG>.

¹⁴ INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE [IPCC], SIXTH ASSESSMENT REPORT: SUMMARY FOR POLICYMAKERS, at B.5.4 (2021), <https://perma.cc/T8VG-FXX8>.

¹⁵ U.N. Secretary-General, supra note 19. On the “climate-security nexus,” see, e.g., Mark P. Nevitt, The Climate-Security Nexus, AM. BAR ASS’N (Jan. 3, 2023), <https://perma.cc/3HE7-757J>; Mark Nevitt, Climate Change and the Specter of Statelessness, 35 GEO. ENV’T L. REV. (forthcoming 2023) (manuscript at 16-23).

¹⁶ INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE [IPCC], SIXTH ASSESSMENT REPORT: SUMMARY FOR POLICYMAKERS, at B.5.4 (2021), <https://perma.cc/T8VG-FXX8>.

¹⁷ INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE [IPCC], SIXTH ASSESSMENT REPORT: SUMMARY FOR POLICYMAKERS, at B.5.4 (2021), <https://perma.cc/T8VG-FXX8>.

¹⁸ IPCC, SPECIAL REPORT ON THE OCEAN AND CRYOSPHERE IN A CHANGING CLIMATE 324 (2019).

¹⁹ CAMPRUBI, supra note 4, at 103. Tuvalu has a land area of twenty-six square kilometers and its maximum height above sea level is five meters. Tuvalu Map, supra note 4. The Marshall Islands have a land area of 181 square kilometers with a maximum height above sea level of 10 meters. Marshall Islands Map, supra note 4. The highest point in the Maldives is less than three meters above sea level, the “lowest highest point . . . in the world.” Jennings, supra note 4; Evans, supra note 4. Kiribati has land area of 810 square kilometers and its maximum height above sea level is 81 meters. Kiribati Results Summary 2021, PAC. CMTY., <https://perma.cc/AR5H-4C86> (last visited June 11, 2023).

²⁰ Bogdan Aurescu & Nilufer Oral, (Co-Chairs of the Study Group on Sea-Level Rise in Relation to International Law), Int’l Law Comm’n, 72nd Sess., First Issues Paper on Sea-Level Rise in Relation to International Law, U.N. Doc. A/CN.4/740, para. 216 n. 446 (2020); Charles Di Leva & Sachiko Morita, Maritime Rights of Coastal States and Climate Change: Should States Adapt to Submerged Boundaries? 8 (The World Bank, Law and Development Working Paper Series No. 5, 2008). Vanuatu is not at risk of complete disappearance, as its highest point above sea level is 1,877 meters. Vanuatu SPC Member Map, PAC. CMTY., <https://perma.cc/TC4L-MDLC> (last visited Apr. 29, 2023).

²¹ The term “sinking states” has been used by representatives of these states, media outlets, and scholars to describe the discrete number of states that are at risk of submergence. See, e.g., Natano, supra note 3 (stating that “Tuvalu, and other low-lying atoll nations, are sinking and our land is fast disappearing”); see also Katherine Purvis, Sinking States: The Islands Facing the Effects of Climate Change, GUARDIAN (Feb. 15, 2016), <https://perma.cc/9RMG-JBSC>; Patrick Sykes, Sinking States: Climate Change and the Next Refugee Crisis, FOREIGN AFFS. (Sept. 28, 2015), <https://perma.cc/P7AQ-2BWC>; Derek Wong, Sovereignty Sunk: The Position of Sinking States at International Law, 14 MELB. J. INT’L L. 346 passim (2013); Katrina Miriam Wyman, Sinking States, in PROPERTY IN LAND AND OTHER RESOURCES 439 passim (Daniel H. Cole & Elinor Ostrom eds., 2012). Another term that has been used to describe this category of states is “disappearing island states.” E.g., Emma Allen, Climate Change and Disappearing Island States: Pursuing Remedial Territory, BRILL OPEN L. passim (2018), <https://perma.cc/49RY-JRS4>; JENNY GROTE SOUTENBURG, DISAPPEARING ISLAND STATES IN INTERNATIONAL LAW passim (2015). Additionally, “disappearing states” has been used. E.g., Reed Koenig, Climate Change’s First Casualties: Migration and Disappearing States, 29 GEO. IMMIGR. L.J. 501 passim (2015); Rosemary Rayfuse, International Law and Disappearing States, 41 ENV’T POL’Y L. 281 passim (2011). Although the U.N. High Commissioner for Refugees

are facing dual threat, one of losing their landmass to the engulfing sea, second to the gaping legal vacuum that has emerged with respect to it. The plight of the low-lying island nations is further compounded by the legal ambiguity with respect to the legal status of these disappearing nations. While the conventional notion of statehood dictates the state to have certain constitutive elements such as a territory, population, government and sovereignty²², it is essential to highlight that there is no legally binding definition of state under international law²³. In the absence of any precedent in the line of extinction of a state owing to submergence of territory, the question as to at what point does it cease to exist as a state, or at what point it loses its statehood, is legally unclear under the normative international law²⁴. Furthermore, the question of the rights of the population of these sinking island nations, with regard to nationality, livelihood, residence, etc. linger in legal limbo.

(UNHCR) has discouraged the use of the terms "sink" or "disappear" in reference to small island states, this seems to be in service to the principle that "the legal presumption of continuity of statehood needs to be emphasized," rather than any recognition of the factual reality. U.N. HIGH COMM'R FOR REFUGEES, SUMMARY OF DELIBERATIONS ON CLIMATE CHANGE AND DISPLACEMENT (2011), <https://perma.cc/483N-D9U4>.

²² Int'l L. Comm'n, Study Group on Sea-Level Rise in Relation to International Law, U.N. Doc. A/CN.4/L.972, paras. 11, 39 (July 15, 2022) (recalling that "there was no generally accepted notion of a 'State'" and that "statehood was a complex issue deserving of caution, and . . . there was neither a generally accepted definition of a State, nor clearly defined criteria for the extinction of a State"); JAMES CRAWFORD, THE CREATION OF STATES IN INTERNATIONAL LAW 37 (2007) (noting that "there has long been no generally accepted and satisfactory legal definition of statehood"); Karen Knop, Statehood: Territory, People, Government, in THE CAMBRIDGE COMPANION TO INTERNATIONAL LAW 95, 95 (James Crawford & Marti Koskenniemi eds., 2015) (stating that "there is no generally accepted legal definition of statehood"); Tanvi Bhargava & Rebecca Cardoso, An Examination of Palestine's Statehood Status Through the Lens of the ICC Pre-Trial Chamber's Decision and Beyond, 54 INT'L L. & POL. 14, 16 (2021); Thomas D. Grant, Defining Statehood: The Montevideo Convention and Its Discontents, 37 COLUM. J. TRANSNAT'L L. 403, 408 (1999) (noting that "[i]n fact, international legal sources provide no satisfactory definition of 'state'" and that "codifying statehood has proven fraught with difficulty").

²³ Ibid

²⁴ Relation to International Law), Int'l Law Comm'n, 73d Sess., Second Issues Paper on Sea-Level Rise in Relation to International Law pt. IV, U.N. Doc. A/CN.4/752 (2022); JENNY GROTE STOUTENBURG, DISAPPEARING ISLAND STATES IN INTERNATIONAL LAW 264 (2015) (stating that "[i]t thus seems to there exists no precedent in international law for a state without a territorial basis"); see also ILA LISBON REPORT, supra note 28, at 25 (describing the "diminishing aspects of statehood" due to sea level rise as an "unprecedented legal situation").

III. CLIMATE MIGRATION

The impact of climate change can be observed in two forms, namely: fast onset event and slow onset event. The fast onset event, also referred to as rapid onset event is a distinct event that takes place in a matter of hours or days such as storms, floods, droughts. However, the slow onset event is an outcome of a gradual process involving changes occurring over several years or with an enhanced frequency or intensity of the recurring events²⁵ such as rising temperature, rising sea level, acidification of water, salinization of soil. While slow onset events may not pose imminent danger to people's lives and property, it can however have irreversible impacts on them. Recent empirical evidence confirms that weather-based disasters have intensified since 2008, resulting in an average of 24.1 million global displacements annually²⁶. This escalating crisis prompted a recent United Nations climate report to issue a "code red for humanity." The report warns that without immediate global intervention, human-caused climate change will trigger "unprecedented" extreme events and push island nations to the "edge of extinction." This threat is already a reality in places like Kiribati, a coral atoll in Kiribati and one of the world's most climate-vulnerable islands. A 2016 UN report found that sea-level rise had already impacted half of all households there. Consequently, environmental change is a major driver of migration, accounting for one in seven relocations in Kiribati, and people have already begun moving away from Kiribati due to these pressures²⁷. This climate degradation has given rise to a new phenomenon of displacement of inhabitants of the vulnerable island nations to neighbouring state or territory. These people, informally referred to as "climate migrants" have little to no legal protection under international law, as they are not legally recognised terms under any accepted definitions.

Climate migration, a term that has recently gained momentum in international environmental discourse, refers to displacement of people due to climate degradation. Professor Norman Myers, in his report estimated that about 200 million people will be displaced by 2050 owing to climate change²⁸. The report triggered

²⁵ "Coastal Erosion." U.S. Climate Resilience Toolkit. Accessed August 24, 2021. <https://toolkit.climate.gov/topics/coastal-flood-risk/coastal-erosion>

²⁶ "Climate Change 2021: The Physical Science Basis." IPCC. Accessed August 23, 2021. <https://www.ipcc.ch/report/sixth-assessment-report-working-group-i/>.

²⁷ Berchin, Issa Ibrahim, Isabela Blasi Valduga, Jéssica Garcia, and José Baltazar Salgueirinho Osório De Andrade Guerra. "Climate Change and Forced Migrations: An Effort towards Recognizing Climate Refugees." *Geoforum* 84 (2017): 147-50. doi:10.1016/j.geoforum.2017.06.022.

²⁸ See NORMAN MYERS, ORG. FOR SEC. & COOPERATION IN EUR., 13TH ECONOMIC FORUM, PRAGUE, ENVIRONMENTAL REFUGEES: AN EMERGENT SECURITY ISSUE 1 (2005), available at <http://www.osce.org/eea/14851> (last visited Aug. 8, 2012) ("When global warming takes hold, there could be as many

momentous discourse over the phenomenon of climate migration. Although the figure estimated might be untested, the solid reality of rising sea levels and the entailing environmental complications are an established scientific fact²⁹.

Admittedly, *climate migration* is an evolving term without any specific legal definition, which signifies the displacement of people owing to climate degradation such as rising sea levels, erosion of coastal regions, salt water contamination, etc., caused by increase in temperatures³⁰, threatening human inhabitation. Specifically in Small Island Developing States (SIDS)³¹, due to submergence of the terrain, the issue of population displacement is acute. The drastic surge in global temperature levels has led to disruption of weather patterns, compounded by rising sea levels further exacerbate the environmental issues³². The plight of the small island nations such as Tuvalu, Maldives, Kiribati, etc., with their sinking shore line, symbolises the irreversible impact of climate change and represents a dire cry for global attention to the crisis. The issue of climate migration not only posits a pressing environmental exigency acutely affecting the small island nations but constitutes an acute human right crisis in the face of the horrific realities of the climate change.

The vulnerabilities of these small island nations primarily stem from their precarious geographical locations. Islands such as Tuvalu, owing to its low-lying atolls, faces a looming threat of dissipating boundaries to the rising sea levels. These problems are further exacerbated by cyclonic storms, which further disrupts the island ecosystem. The case study of the delicate ecosystem of these sinking islands has a profound environmental and legal implications for the international community as the disappearance of these islands serve as a harbinger of the repercussions of unheeded climate changes. The underlying interconnectivity and interdependence between

climate change, rising sea levels and the ensuing submergence of islands followed by climate migrations, needs to be solemnly heeded with a robust national and international politico-legal plan to accommodate and rehabilitate the climate migrants.

The submergence of these island territories triggers not only large-scale displacement of its population but also risks losing its unique history, cultural heritage, traditional knowledge, including its characteristic flora, fauna and aquaculture.

This article examines the causative factors, nature and scope of climate displacement and aims to suggest a tentative framework for evaluating viable solutions to the actual problem.

IV. THE REALITIES OF SINKING ISLANDS: CASE STUDY

Small Island Developing Nations (SIDS) are on the forefront of climate crisis. Their geographical location, low elevation and small territorial size render them susceptible to rising sea levels and consequent submergence. The destruction of homes, agricultural lands and critical infrastructure due to extreme coastal erosion and saltwater intrusion, poses a looming existential threat to its inhabitants. This pervasive environmental degradation transpires into severe human right violation, which necessitates urgent and proactive national and international redressal.

Climate induced migration is often compounded by factors such as poverty, overcrowding, limited natural resources and infrastructure to support the climate migrants in the host state. These factors are further amplified by factors such as loss of livelihood, social structure and cultural heritage of the climate migrants.

For Small Island Developing States (SIDS), the loss of habitable land is not a distant threat, but an imminent crisis, as evidenced by their specific timelines and physical characteristics. Let us briefly take a look at the status of the small island nations:

A. Tuvalu: With an average elevation of less than 2 meters above sea level, this island nation is the most vulnerable to becoming uninhabitable³³. As it consists of narrow coral atolls, which makes it highly susceptible to flooding and storms³⁴. The estimated adaptation costs for Tuvalu alone are approximately US\$1 billion for a 0.5-meter sea-level rise by 2070-

as 200 million people overtaken by disruptions of monsoon systems . . . , by droughts . . . , and by sea-level rise and coastal flooding.”); U.N. DEV. PROGRAMME, HUMAN DEVELOPMENT REPORT, CLIMATE CHANGE AND FORCED MIGRATION: OBSERVATIONS, PROJECTIONS AND IMPLICATIONS 2007/17, at 5 (2007) (Oli Brown) [hereinafter DEVELOPMENT REPORT] (noting Myers’s estimate of “200 million climate migrants by 2050”).

²⁹ Small Island Developing States - the United Nations, accessed on June 30, 2025, <https://www.un.org/en/page/sids>

³⁰ Climate change and forced displacement: a case for refugee status | Global law firm, accessed on June 30, 2025,

³¹ UNEP & Small Island Developing States (SIDS), accessed on June 30, 2025, <https://www.unep.org/topics/ocean-seas-and-coasts/small-island-developing-states/unep-small-island-developing-states>

³² HUMAN RIGHTS, CLIMATE CHANGE AND MIGRATION - ohchr, accessed on June 30, 2025, <https://www.ohchr.org/Documents/Issues/ClimateChange/materials/KMMigration.pdf>

³³ Thousands in Sinking Island Nation Tuvalu Apply for Climate Migration to Australia - SOFX, accessed on June 30, 2025, <https://www.sofx.com/thousands-in-sinking-island-nation-tuvalu-apply-for-climate-migration-to-australia/>

³⁴ New World Bank Research Outlines Adaptation Pathways for Pacific Atoll Countries, accessed on June 30, 2025, <https://www.worldbank.org/en/news/press-release/2024/11/14/protect-accommodate-or-retreat-new-world-bank-research-outlines-adaptation-pathways-for-pacific-atoll-countries>

2100, a figure equivalent to roughly 20 years of its current Gross Domestic Product (GDP)³⁵.

- B. Marshall Islands:** With an average elevation of about 2 meters above sea level, this island faces a looming danger of flooding and coastal erosion. Its capital, Majuro Atoll, which is the home to about half the nation's population, is projected to lose more than 80% of its land to submergence³⁶.
- C. Kiribati:** The island which consists of 33 low-lying atolls spread all throughout Pacific Ocean. It is at high risk of losing its territory owing to soil salinization and coastal erosion. The island government is proactively planning to purchase land in Fiji as a potential resettlement area for the refugees should the island become uninhabitable³⁷.
- D. Maldives³⁸:** With an elevation of mere 1 meter above sea level, Maldives is exceedingly vulnerable to salt water contamination, coastal erosion and dissipating sea line. As per the projection data, about 80% of its land mass will be submerged by 2100 with this continuing global warming³⁹. In order to counter the effects of its losing shoreline, the government has undertaken adaptive measures such as erecting a sea wall and building of artificial island such as Hulhumale⁴⁰.

E. St. Helena Island, South Carolina, USA: Inhabitants called Gullah Geechee⁴¹, are descendants of Central and Western Africans people who are believed to have been trafficked into slavery for their expertise in coastal rice farming and irrigation system. The people's life is steeped in rich African culture blended with southern American influence. After the end of the American Civil War in 1865, the newly freed black families were given 40 acres of land, along the coastline. The isolated geography which spans out over 12,000 square miles, also referred to as Gullah Geechee Corridor⁴², which is inhabited by isolated island and coastal communities, which subsists on their own agriculture and fishing⁴³. This very aspect has been threatened by the environmental changes such as salt-water erosion, rising sea level and unpredictable weather patterns. The area was severely hit by Hurricane Matthew in October 2016, which caused extreme flooding, wiping out entire crop. The climate change is changing the saline content of the sea which has become adverse o shrimp, an integral part of their cuisine. Some of the area in Gullah Geechee Corridor are experiencing submergence of land especially in areas built upon sand-based soil or wetlands in Charleston peninsula. This is causing rising concerns over conservation of Gullah Geechee livelihood, history, culture and cuisine, as the island community is facing loss of land and hence, their source of food⁴⁴. The community is expected to move to the mainland owing to loss of major part of their terrain.

V. THE BASIC LEGAL ISSUES: CRACKS IN THE INTERNATIONAL LEGAL FRAMEWORK

This section underscores the legal aspect covering the issue of climate induced migration. The unique problem of disappearing island poses an international legal question with respect to the human rights, statehood, sovereignty and territorial integrity. This part attempts to map out the different legal avenues under international law pertaining to the preservation of the statehood of low-lying island states and assesses the human right aspect entailing it. This part attempts provide some clarity under normative international law to the complex problems posed by climate degradation and climate induced migration.

³⁵ Ibid

³⁶ Shocking! Maldives and 9 other countries that could vanish sooner than you think, accessed on June 30, 2025, <https://timesofindia.indiatimes.com/life-style/travel/shocking-maldives-and-9-other-countries-that-could-vanish-sooner-than-you-think/articleshow/122021461.cmsid>

³⁷ Shocking! Maldives and 9 other countries that could vanish sooner than you think, accessed on June 30, 2025, <https://timesofindia.indiatimes.com/life-style/travel/shocking-maldives-and-9-other-countries-that-could-vanish-sooner-than-you-think/articleshow/122021461.cms>

³⁸ Shocking! Maldives and 9 other countries that could vanish sooner than you think, accessed on June 30, 2025, <https://timesofindia.indiatimes.com/life-style/travel/shocking-maldives-and-9-other-countries-that-could-vanish-sooner-than-you-think/articleshow/122021461.cms>

³⁹ Rising to the climate challenge: How the Maldives can thrive in a warming world, accessed on June 30, 2025, <https://blogs.worldbank.org/en/endpovertyinsouthasia/thriving-in-a-warming-world-how-maldives-can-adapt-to-climate-c>

⁴⁰ Mitigating impacts of climate change induced sea level rise by infrastructure development: Case of the Maldives - ClimaHealth.info, accessed on June 30, 2025, <https://climahealth.info/resource-library/mitigating-impacts-of-climate-change-induced-sea-level-rise-by-infrastructure-development-case-of-the-maldives/>

⁴¹ Dannenberg, Andrew L., Howard Frumkin, Jeremy J. Hess, and Kristie L. Ebi. "Managed Retreat as a Strategy for Climate Change Adaptation in Small Communities: Public Health Implications." *Climatic Change* 153, no. 1-2 (2019): 1-14. doi:10.1007/s10584-019-02382-0.

⁴² "Rising Seas Threaten the Gullah Geechee Culture. Here's How They're Fighting Back" and "Vanishing Land: Climate Change Displaces Black Families Along Gullah-Geechee Corridor"- published in *National Geographic* and *The Post and Courier*

⁴³ Ibid

⁴⁴ <https://www.theguardian.com/us-news/2023/sep/12/slave-descendants-preservation-land-georgia-gullah-geechee>

A. The Montevideo Convention on the Rights and Duties of States 1933⁴⁵ lays down the specific criterion for statehood, namely- 1) Territory; 2) Population; 3) government and 4) capacity to enter into relationship with other states. In the case of low-lying island nations, the persistent rise in sea levels directly threatens their territory and population including their capacity to enter into relationship with other nations owing to loss of governing infrastructure. This may precipitate in potential loss of statehood. Furthermore, the question of potential loss of the statehood raises serious questions about access to international adjudication mechanisms. Without a recognized state, it becomes effectively difficult for the affected populations to pursue claims or seek redress through international courts and tribunals for climate-induced damages or other injustices. This creates a legal vacuum, leaving these communities vulnerable and voiceless in the face of a crisis not of their making. The Convention does not provide for a legally binding definitional concept of the state, hence it is unclear that at what point does a sinking island ceases to be a state⁴⁶. The legal status of the displaced population with respect to their right to nationality, residence and livelihood also slip through the gaps in the international law framework and lack adequate legal consensus.

Many proposals have been put forth to ensure the continuity of the statehood of a state on the verge of extinction. Novel concepts have been formulated to avoid the extinction of a sinking state such as purchase of new territory from neighbouring states, creation of new

territory, or being an associate state only to have been diligently set aside in the lights of glaring legal flaws. With the idea of land reclamation, it has been argued by some scholars such as James Crawford, that a state's claim to the continuity of its statehood can hardly be solely based on the creation of artificial island in locations where there was no such land mass⁴⁷. The *South China Sea Arbitration* case⁴⁸ serves as a guiding point which confirms that land reclamation could preserve soil quality or prevent groundwater salinization. Furthermore, the case reveals that land reclamation can have devastating environmental impact on the marine ecosystem. The concept of de-territorialized state was introduced by Maxine Burkette⁴⁹ that would allow for the continuity of the sovereign statehood along with all its rights and prerogatives in perpetuity under international law. This proposal does away with the conventional notion of the state that depended upon the existence of a territory or a permanent population. This entire exercise calls for an innovated conception of statehood.

B. Sovereignty and International Recognition: Equally significant is the issue of continued membership in international organizations. A nation's participation in bodies such as the United Nations, the World Health Organization, or regional economic blocs is contingent on its recognition as a sovereign state. The dissolution of statehood would automatically sever these ties, isolating the affected populations from crucial international aid, support, diplomatic representation, and collaborative efforts on global challenges. This would not only diminish the voice of these vulnerable communities on the world stage but also weaken the universality and effectiveness of international governance structures. Such an unprecedented situation underscores a profound and urgent need for legal innovation within the international system. Primarily owing to the unforeseen novelty of the issue the existing environmental conventions and treaties do not address the problem of climate migrations and therefore provide no mechanism to redress it, creating a legal grey area for any coordinated international endeavours in the direction. The traditional legal frameworks, designed for a more geographically stable

⁴⁵ The concept of 'climate refugee' - European Parliament, accessed on June 30, 2025, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI\(2021\)698753_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI(2021)698753_EN.pdf)

⁴⁶ Int'l L. Comm'n, Study Group on Sea-Level Rise in Relation to International Law, U.N. Doc. A/CN.4/L.972, paras. 11, 39 (July 15, 2022) (recalling that "there was no generally accepted notion of a 'State'" and that "statehood was a complex issue deserving of caution, and ... there was neither a generally accepted definition of a State, nor clearly defined criteria for the extinction of a State"); JAMES CRAWFORD, *THE CREATION OF STATES IN INTERNATIONAL LAW* 37 (2007) (noting that "there has long been no generally accepted and satisfactory legal definition of statehood"); Karen Knop, *Statehood: Territory, People, Government*, in *THE CAMBRIDGE COMPANION TO INTERNATIONAL LAW* 95, 95 (James Crawford & Martti Koskeniemi eds., 2015) (stating that "there is no generally accepted legal definition of statehood"); Tanvi Bhargava & Rebecca Cardoso, *An Examination of Palestine's Statehood Status Through the Lens of the ICC Pre-Trial Chamber's Decision and Beyond*, 54 INT'L L. & POL. 14, 16 (2021); Thomas D. Grant, *Defining Statehood: The Montevideo Convention and Its Discontents*, 37 COLUM. J. TRANSNAT'L L. 403, 408 (1999) (noting that "[i]n fact, international legal sources provide no satisfactory definition of 'state'" and that "codifying statehood has proven fraught with difficulty").

⁴⁷ James Crawford, *Islands as Sovereign Nations*, 38 INT'L & COMP. L.Q. 277, 279 (1989) (observing that "artificial islands cannot form the basis for territorial States any more than can ships"); Imogen Saunders, *Artificial Islands and Territory in International Law*, 52 VAND. J. TRANSNAT'L L. 643, 676 (2019); Allen, *supra* note 28, at 7 (contrasting a sinking state's efforts to create territory in order to preserve its claims at statehood with efforts to create an entirely new state of the Republic of Minerva through the creation of an artificial island).

⁴⁸ *The South China Sea Arbitration* (Phil. v. China), 2016 PCA Case Repository No. 2013-19, Award of Jul. 12, 2016, para. 541, <https://perma.cc/RA33-LKM6>.

⁴⁹ Maxine Burkett, *The Nation Ex-Situ: On Climate Change, Deterritorialized Nationhood and the Post-Climate Era*, 2 CLIMATE L. 345, 346 (2011).

world, are ill-equipped to address the complexities of climate-induced statelessness. The imperative is to develop new legal doctrines and instruments that can prevent the catastrophic loss of statehood and, crucially, safeguard the associated rights, protections, and identities for affected populations. This may involve exploring concepts such as "de-territorialized statehood," the establishment of international mechanisms for climate-induced migration with guaranteed rights to the displaced individuals, or the creation of new forms of international legal personality for displaced populations. Without proactive and creative legal responses, the international community risks witnessing the unprecedented spectacle of entire nations vanishing, along with the fundamental rights and heritage of their peoples. In response to the existential threat of territorial loss, innovative concepts such as the "digital state" or "e-governance" are emerging as potential pathways for state preservation. The Republic of Estonia's pioneering development of an "e-state" serves as a compelling precedent⁵⁰. Estonia's extensive digitization of its governmental functions, including e-identification, e-governance, and e-banking, was partly motivated by a strategic imperative to ensure its survival and continued operation through digital platforms, even in a hypothetical scenario where its physical territory might be occupied or its government displaced. Building on this model, vulnerable Small Island Developing States (SIDS) are actively exploring similar approaches. Tuvalu, for instance, is a leading proponent of a "digital twin" initiative, which involves creating a digital replica of the nation in the Metaverse⁵¹. This ambitious project aims to establish a digital government administrative system designed to ensure that if mass migration becomes necessary due to sea-level rise, Tuvalu could ostensibly shift its governmental functions and legal personality to a virtual space and continue to operate as a sovereign nation.³¹ This approach fundamentally seeks to fulfil the holistic goals of traditional statehood—including governance, service provision, and the maintenance of national identity—through digital platforms, thereby enhancing the autonomy and flexibility of at-risk island nations. The concept of a "digital state" is not merely a technological novelty; it represents a profound legal and political strategy for sovereign survival. By digitizing their governance and potentially creating a "digital twin," the sinking island nations are attempting to decouple statehood from its traditional reliance on physical territory. This strategic move aims to ensure the continuity of their legal personality, administrative functions, and critically, the preservation of their cultural identity even in the

absence of a contiguous physical landmass. This proactive approach seeks to prevent statelessness and maintain international recognition, offering a potential blueprint for other vulnerable states facing similar existential threats. It underscores the vital intersection of technological innovation and the necessary adaptation of international legal principles to address unprecedented challenges. The technological innovations of creating digital twin of a state or an 'e-state' does simplify the problem of perpetuating the legal personality of the state. However, it fails on the human account of ensuring rights to the displaced people of the state who are to be rehabilitated to another host state. The climate induced migration presents a rather complicated ethical, political and legal challenge with respect to international law and Human rights. The sheer scale of projected displacement consisting of millions of lives and large swathes of land, elevates the problem from a purely environmental issue to a dire human right crisis. The numbers of climate migrants are not abstract fabrication, but large communities of humans facing the imminent loss of livelihood, generational land and home, cultural heritage and traditions⁵². The magnitude of the scale of human mobility necessitates proactive legal framework beyond the fragmented knee-jerk response.

Another approach that might not ensure continuity of the statehood but may preserve an international legal personality despite of the loss of the territory is following the example of Holy See and the Sovereign Order of Malta⁵³, which allows for continued discourse and engagement with international organizations and execution of bilateral and multilateral treaties. It can be achieved by creation of seat in international organization to continues representation on international platforms. This approach, however, must be studied cautiously since the Holy See and the Sovereign Order of Malta are not typical states but "non- state sovereign entities"⁵⁴. This entails in redefining of statehood in an innovative light of judicial interpretation.

⁵⁰ <https://e-estonia.com/>;

⁵¹ Three Reconstructions of 'Effectiveness': Some Implications for State ..., accessed on June 30, 2025, <https://academic.oup.com/ojls/article/44/2/201/7611976>

⁵² Chapter 4: Sea Level Rise and Implications for Low-Lying Islands, Coasts and Communities, accessed on June 30, 2025, <https://www.ipcc.ch/srocc/chapter/chapter-4-sea-level-rise-and-implications-for-low-lying-islands-coasts-and-communities/>

⁵³ Rosemary G. Rayfuse, W(h)ither Tuvalu? International Law and Disappearing States 10 (Univ. N.S.W. L. Rsch. Paper No. 2009-9, 2009), <https://perma.cc/LL79-XB8Q>; Rosemary Rayfuse & Emily Crawford, Climate Change, Sovereignty and Statehood 10 (Sydney L. Sch. Rsch. Paper No. 11/59, 2010) (using the full title "The Sovereign Military Order of St John of Jerusalem, of Rhodes and of Malta"), <https://perma.cc/P5LB-8KUBI> Burkett, supra note 67, at 356-57; McAdam, supra note 28, at 21-22.

⁵⁴ Emma Allen & Mario Prost, Ceci n'est pas un Etat: The Order of Malta and the Holy See as Precedents for Deterritorialized Statehood?, 31 RECIEL 171, 171 (2022).

C. In the absence of a concrete legal framework addressing the specific issue of climate migration and displacement, it is subject to the International Human rights law such as the Refugee Convention of 1951, which is designed for refugees fleeing persecution. **The 1951 Convention Relating to the Status of the Refugees and its Protocol of 1967**, defines refugees as “individuals who out of the fear of being persecuted for the reason of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country”⁵⁵. Designed against the historical backdrop of World War-II to highlight the issue of displacement caused by political and social persecution, it is structurally inadequate to address the novel phenomenon of climate migrants and offers no tangible legal status and protection to such individuals⁵⁶. Albeit a cornerstone of international refugee law, the Refugee Convention of 1951 defines refugee in very strict and narrow term, based on a “well-founded fear of being persecuted” for specific grounds, none of which explicitly include environmental conditions or climate change⁵⁷. Secondly, owing to the fact that majority of the climate related displacement occurs within the national borders, the individuals displaced solely by the reason of climate change are henceforth unqualified to claim asylum under 1951 Convention⁵⁸. This is primarily due to the reason that the Convention extends asylum only to those individuals who have crossed national borders⁵⁹. Although, the Convention does not define ‘persecution’, UNHCR⁶⁰ has interpreted it as “a threat to life and freedom” as one of the grounds for

protection under the Convention. The disparity in global consensus as to the application of Refugee Convention to climate induced displaced individuals is reckoned as a hinderance to achieving any tangibly viable solutions. The concept of “climate asylum” or “humanitarian asylum”, i.e. granting of asylum by high emitting states to the people displaced from low emitting states on humanitarian basis, has increasingly gained traction under UNHCR guidance⁶¹.

D. **The Principle of Non-Refoulment**⁶² as enshrined under Article 33 Of the Refugee Convention of 1951⁶³, expressly prohibits return of the people back to the place where they face the risk or threat of life and freedom. Through this principle, a pathway may be paved for the extension of protection to displaced individuals. Non-refoulment as the principle recognised under customary international law, prohibits the states from returning the individuals to the country where they face a risk or threat to their life or freedom or irreparable harm. However, its applicability to climate migrants is not clearly established under international law and opinion juris. But as provided in the landmark case of *Teitiota v. New Zealand* (2020)⁶⁴, The UN Human Right Committee acknowledged that severe environmental crisis which amount to violation of the individual’s right to life and freedom can trigger non-refoulment obligations of a State. The said ruling established a precedent that a state has an obligation to take effective measures to mitigate the conditions that threaten life. In this case, the petitioner Ioane Teitiota, a citizen of Kiribati, sought asylum to the New Zealand Government. Upon denial of his claim, he filed a communication with the Human Rights Committee but was deported before his issue can be reviewed. It was held by the Human Rights Committee that deporting an individual to a state having adverse impact of climate change amounts to violation to his right to life⁶⁵. The Committee concluded that despite of considering evidence of land erosion, extreme salination of soil, lack of fresh water on the Kiribati, the environmental degradation does not

⁵⁵ Are 'Climate Refugees' Compatible with the 1951 Refugee Convention? - E-International Relations, accessed on June 30, 2025, <https://www.e-ir.info/2024/08/13/are-climate-refugees-compatible-with-the-1951-refugee-convention/>

⁵⁶ HUMAN RIGHTS, CLIMATE CHANGE AND MIGRATION - ohchr, accessed on June 30, 2025, <https://www.ohchr.org/Documents/Issues/ClimateChange/materials/KMMigration.pdf>

⁵⁷ The concept of 'climate refugee' - European Parliament, accessed on June 30, 2025, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI\(2021\)698753_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI(2021)698753_EN.pdf)

⁵⁸ Are 'Climate Refugees' Compatible with the 1951 Refugee Convention? - E-International Relations, accessed on June 30, 2025, <https://www.e-ir.info/2024/08/13/are-climate-refugees-compatible-with-the-1951-refugee-convention/>

⁵⁹ Climate change and forced displacement: a case for refugee status | Global law firm, accessed on June 30, 2025, <https://www.nortonrosefulbright.com/en/knowledge/publications/2b805664/climate-change-and-forced-displacement-a-case-for-refugee-status>

⁶⁰ Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees HCR/1P/4/Eng/REV.2

⁶¹ UNHCR Strategic Framework for Climate Action 2021

⁶² Non-refoulement: A Human Rights Perspective on Environmental ..., accessed on June 30, 2025, <https://jia.sipa.columbia.edu/content/non-refoulement-human-rights-perspective-environmental-migration-small-island-developing-states>

⁶³ Are 'Climate Refugees' Compatible with the 1951 Refugee Convention? - E-International Relations, accessed on June 30, 2025, <https://www.e-ir.info/2024/08/13/are-climate-refugees-compatible-with-the-1951-refugee-convention/>

⁶⁴ *Teitiota v New Zealand*, UNHRC, Comm No 2278/2016, UN Doc CCPR/C/127/D/2728/2016 (2019) para 9.11.

⁶⁵ U.N. Hum. Rts. Comm., Views Adopted by the Committee Under Article 5(4) of the Optional Protocol, Concerning Communication No. 2728/2016, U.N. Doc. CCPR/C/127/D/2728/2016 (Sept. 23, 2020) [hereinafter *Teitiota v. New Zealand*].

create 'imminent' threat to human habitation. Therefore, the deportation of the petitioner did not constitute violation of his right to life⁶⁶. The decision triggered intense dissent and criticism for its failure to uphold the sanctity of human life.

E. Additionally, **International Organization for Migration (IOM)** describes "environmental migrants" as persons who are forced or obliged to flee their homes due to sudden or progressive environmental changes that adversely affect their lives⁶⁷. This definitional discrepancy between "climate refugees" and "environmental migrants" is not of mere academic concern but has profound legal ramifications. Since the individuals are not granted the "refugee" status under the Refugee Convention 1951, they are stripped of the specific rights and protection extended by the convention⁶⁸. The semantic disparity leaves millions of homeless individuals in a legal limbo, wherein due to lack of definitional clarity, the required basic legal protection and humanitarian assistance are not afforded by the host state. The core inadequacy of the existing legal regime highlights the dire need for legal innovation for the safeguard of the rights and dignity of the people.

F. **The Global Compact for Safe, Orderly and Regular Migration (GCM)**, adopted by UN Member States in July 2018⁶⁹, stands as a pivotal, albeit non-legally binding, cooperative framework. Its significance lies in its unique identification of climate change and environmental degradation as key drivers of migration. This explicit acknowledgment is a crucial advancement, effectively elevating climate-induced displacement from a previously marginalized concern to a globally recognized challenge that demands concerted international attention and action. The GCM is not merely a statement of recognition; it outlines a comprehensive series of objectives and commitments designed to address these complex drivers of migration. Objective 2, in particular, is directly dedicated to minimizing the adverse drivers of migration. It calls upon states to proactively develop robust adaptation and resilience strategies that

inherently consider the implications for migration. Furthermore, it emphasizes the critical need to integrate displacement considerations into national disaster preparedness strategies, ensuring that humanitarian assistance is readily available and effectively provided to affected populations. Beyond mitigation and preparedness, the GCM also focuses on creating safe and predictable pathways for those displaced by environmental changes. Objective 5 specifically seeks to enhance the availability and flexibility of pathways for regular migration. This includes concrete proposals such as the provision of humanitarian visas or temporary work permits for individuals displaced by sudden-onset disasters, like tsunamis or hurricanes, and planned relocation or visa options for communities affected by slow-onset environmental events, such as desertification or rising sea levels. A particularly noteworthy aspect of the GCM is Objective 21, which prohibits the return of migrants to situations of "irreparable harm." This objective holds profound implications, as it can be compellingly argued to encompass scenarios where low-lying island states become uninhabitable due to escalating sea-level rise and other climate impacts. This provision offers a crucial legal and ethical foundation for protecting populations whose homelands are being progressively eroded or submerged, reinforcing the international community's responsibility to prevent their forced return to untenable and life-threatening conditions. In essence, the GCM provides a holistic framework that not only acknowledges the drivers of climate migration but also offers a roadmap for states to respond humanely and effectively, both in preventing displacement where possible and in managing it when it becomes unavoidable. By articulating these norms and encouraging coherent approaches, the GCM lays significant groundwork for future policy and legal development. It signifies a global political consensus on the legitimacy of climate-induced migration and human mobility as a concern. However, its non-binding nature means its effectiveness hinges on the political will and commitment of individual states for implementation. This highlights a persistent tension in international environmental and migration law: the ability to articulate progressive norms versus the inherent limitations in enforcing them. While the GCM has advanced the discourse and established a normative framework, it does not, by itself, resolve the immediate legal protection deficit faced by climate-displaced persons.

G. **The United Nations Framework Convention on Climate Change (UNFCCC)**⁷⁰ and its seminal offspring, the **Paris Agreement**, have progressively and more explicitly recognized the profound and inherent connection between climate change and

⁶⁶ Ibid

⁶⁷ Non-refoulement: A Human Rights Perspective on Environmental ..., accessed on June 30, 2025, <https://jia.sipa.columbia.edu/content/non-refoulement-human-rights-perspective-environmental-migration-small-island-developing-states>

⁶⁸ The concept of 'climate refugee' - European Parliament, accessed on June 30, 2025, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI\(2021\)698753_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI(2021)698753_EN.pdf)

⁶⁹ The Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195), is the first intergovernmental agreement, prepared under the auspices of the United Nations, to cover all dimensions of international migration in a holistic and comprehensive manner.

⁷⁰ United Nations Framework Convention on Climate Change, May 9, 1992, S. Treaty Doc No. 102-38, 1771 U.N.T.S. 107.

human mobility. This growing recognition is not merely an academic exercise but a crucial evolution in international climate policy, acknowledging that population movements are an inescapable reality of a changing climate.

- H. A pivotal moment in this evolving understanding was the adoption of the Cancun Adaptation Framework in 2010. This framework, and subsequent decisions by the **Conference of the Parties (COP)**, have actively encouraged signatory nations to significantly enhance their understanding, coordination, and cooperation regarding climate change-induced displacement, migration, and planned relocation. This encouragement reflects a shift from a purely environmental focus to one that acknowledges the direct human impacts of climate change, prompting states to develop more comprehensive and humane responses. A cornerstone mechanism within this developing framework is the Task Force on Displacement (TFD), strategically established in 2015 under the auspices of the Warsaw International Mechanism (WIM) Executive Committee. The TFD's mandate is critical and far-reaching: to develop concrete and actionable recommendations for integrated approaches to avert, minimize, and address displacement resulting from the multifaceted and adverse impacts of climate change. Its work encompasses a broad spectrum of activities, fundamentally focused on facilitating international cooperation in relation to all forms of human mobility, including spontaneous migration, forced displacement, and carefully planned relocation initiatives. Furthermore, the TFD provides invaluable technical guidance for integrating these crucial considerations into relevant national climate change planning processes. This includes, most notably, National Adaptation Plans (NAPs), which are designed to help countries identify and implement actions to adapt to the impacts of climate change. Illustrative examples of countries that have proactively mainstreamed human mobility into their NAPs include vulnerable island nations like the Republic of Marshall Islands, and large developing countries such as Pakistan, Ethiopia, and the Philippines, demonstrating a global uptake of these principles. The integration of human mobility into the core frameworks of the UNFCCC and the Paris Agreement, particularly through the diligent efforts of the TFD and the strategic inclusion within NAPs, represents a profound and necessary recognition that migration is not simply an unfortunate consequence of climate change. Rather, it can—and often does—serve as a pragmatic and effective adaptation strategy. This perspective marks a significant and welcome paradigm shift in the international discourse, moving the conversation beyond a reactive reliance on humanitarian aid towards proactive planning and robust management of population movements. This forward-looking approach seeks to mitigate suffering and harness the potential for orderly movement.

- I. **Principle of Common but Differentiated Responsibilities:** It is rather imperative to acknowledge the subtle yet significant implications of primarily framing human mobility as an "adaptation" measure. While practical in its approach, there is a latent potential for implicitly shifting the primary burden of response onto affected states and, more acutely, onto the individuals who are most vulnerable. This framing, while offering a pathway for practical intervention, risks inadvertently de-emphasizing the critical "loss and damage" and "responsibility" aspects of the climate crisis. By focusing heavily on adaptation, the discourse can sometimes inadvertently depoliticize the issue of forced displacement, potentially downplaying the historical contributions of major industrial emitters to the climate crisis and, consequently, diminishing the urgent need for robust compensatory measures and international solidarity for those disproportionately affected. A balanced approach would ideally acknowledge both the adaptive potential of human mobility and the imperative for climate justice, ensuring that the historical polluters bear their share of the responsibility for the unfolding humanitarian challenges. At the core of discussions surrounding forced migration from sinking islands is the concept of climate justice, highlighting the significant and unequal historical responsibility for the climate crisis. Wealthier, industrialized nations, having historically contributed the majority of greenhouse gas emissions, bear a substantial moral and ethical responsibility to aid vulnerable Small Island Developing States (SIDS). These island nations, despite their minimal contribution to global warming, now face its most severe and imminent consequences, including the existential threat of submergence. This stark imbalance between SIDS' negligible contribution to global emissions and their disproportionate suffering forms the moral foundation of climate justice. This moral imperative is increasingly translating into strong legal arguments for responsibility and reparation. **The principle of Common but Differentiated Responsibilities (CBDR)**, a cornerstone of international environmental law enshrined in the UNFCCC, offers a recognized legal basis for demanding financial and technical support from developed nations. This support is framed not merely as aid or charity, but as a form of restorative justice for the historical harms inflicted upon these vulnerable states. This understanding emphasizes that the assistance provided should be commensurate with historical emissions and their resulting impacts, promoting a more equitable distribution of the burdens and benefits of climate action. International Law, however, does not provide for any substantial mechanism for climate migrants to gain any resettlement rights and financial assistance. Conclusively, in the absence of a solid international legal framework addressing the issue of climate displacement, the climate migrants are rendered at the

mercy of host state and its legal policies for relocation and resettlement.

J. Finally, **human rights-based climate litigation** is increasingly becoming a vital tool for accountability in a global political arena marked by slow progress and inadequate commitments. This form of litigation targets both governments and corporations, challenging them for their inaction on climate change or for policies and activities that directly violate human rights. Litigants assert that the negative consequences of climate degradation infringe upon fundamental human rights, such as the rights to life, health, food, and water. They demand that responsible parties undertake concrete actions to reduce greenhouse gas emissions, support adaptation initiatives, and offer reparations for climate change-induced losses and damages. Significant cases highlight this trend. In *Billy v. Australia*⁷¹, Indigenous inhabitants of low-lying Australian islands contended that altered weather patterns and sea-level rise had damaged their traditional way of life and culture. They alleged that Australia's failure to adapt contravened its human rights obligations under the International Covenant on Civil and Political Rights (ICCPR). Likewise, in *Belgium's Klimaatzaak*⁷² case, the court determined that Belgian authorities had violated citizens' rights to life and respect for private and family life by inadequately limiting greenhouse gas emissions. These cases represent a strategic shift, utilizing domestic and international judicial bodies to bridge the enforcement gap left by political stagnation. By framing climate change as a human rights issue, litigants are circumventing traditional environmental law constraints and directly compelling states and corporations to act. Although challenges remain, particularly in establishing a direct causal link between specific emissions and localized harm, and addressing standing issues, mounting scientific evidence and judicial interpretations are progressively overcoming these obstacles. This surge in litigation underscores its significance as a potent leverage point for accountability within a stalled political process.

The burgeoning role of international courts in confronting the global climate crisis is increasingly apparent through concerted efforts to delineate states' responsibilities under international law. A pivotal moment occurred in 2023 when the UN General Assembly, led by the Pacific Island nation of Vanuatu and backed by other Small Island Developing States (SIDS)—nations acutely vulnerable to rising sea levels and extreme weather events—officially sought an advisory opinion from the International Court of Justice (ICJ). This groundbreaking request aims to illuminate the precise legal obligations of states concerning the protection of the global climate system and

to clarify the potential legal consequences that may arise from non-compliance with these duties.

While ICJ advisory opinions, by their very nature, are not legally binding on individual states in the same way a judgment in a contentious case would be, their influence is nonetheless profound. They carry significant "legal weight and moral authority," acting as powerful catalysts for the evolution of international legal norms. Such opinions can substantially shape the development of customary international law, providing authoritative interpretations that can subsequently be cited and applied by national courts in a burgeoning number of climate-related legal challenges. Furthermore, they serve as crucial guideposts for future legislative development across the globe, informing policy and lawmaking in areas related to climate mitigation and adaptation. This growing engagement of international tribunals with climate change issues is part of a wider, global trend. For instance, in a landmark development in May 2024, the International Tribunal for the Law of the Sea (ITLOS) issued its own significant advisory opinion. This opinion unequivocally declared that states bear an obligation to "take all necessary measures to reduce, prevent and control" greenhouse gas emissions, and crucially, to assist developing states in their efforts to mitigate the devastating impacts of climate change. The international legal community also anticipates an upcoming advisory opinion from the Inter-American Court of Human Rights, further underscoring this trend of judicial engagement with climate change.

These judicial opinions are not merely academic exercises; they serve as exceptionally powerful drivers of normative development and future accountability within the international legal framework. They represent a critical and transformative step in translating the undeniable scientific and moral imperatives of addressing climate change into concrete, actionable legal duties for states. By offering authoritative interpretations of existing international law within the specific and urgent context of climate change, these opinions can significantly reinforce the legal foundation upon which future claims for responsibility and reparations can be built. This, in turn, could pave the way for the establishment of more robust and effective accountability mechanisms at the international level. Ultimately, this judicial engagement aims to ensure that the international legal order is agile and responsive enough to effectively address the profound and existential threats posed by a rapidly changing global climate, thereby safeguarding human rights, environmental integrity, and global stability.

VI. ADAPTATION STRATEGIES AND SOLUTION

The reality of climate induced displacement is nuanced and needs problem-based solutions instead of blanket straight jacket formula. Although it has been argued by many such as James McAdams, that concerns over state extinction are overblown⁷³ and the island may be made

⁷¹ Billy et al. v. Australia, Communication No. 3624/2019, UN Doc CCPR/C/135/D/3624/2019 (23 September 2022)

⁷² Klimaatzaak ASBL v. Belgium (2015/4585/A).

⁷³ INT'L LAW ASS'N, LISBON CONFERENCE: FINAL REPORT 23 (2022) [hereinafter ILA LISBON REPORT]

habitable to the population *in situ* through various adaptation measures which may involve land preservation and land reclamation etc. Such adaptation measures are however significantly expensive. For example,

A. The Australia-Tuvalu Climate and Migration Agreement of 2023 is a one of its kind, ground breaking agreement also known as Falepili Union Treaty, is a bilateral agreement, which inter alia provides for permanent residency in Australia for 280 Tuvaluans. It also provides an elaborate framework for Australia to assist Tuvalu, a tiny South-Pacific Island with about 10,000 inhabitants, in adapting to climate impact and natural disasters. It is a rather unprecedented agreement of bilateral cooperation with respect to environmental impact and climate migration which serves a classic template for international frameworks to address relocation challenges, ensuring equitable outcomes. The treaty provides a legal pathway for easy migration for people of Tuvalu to Australia to work and study. The treaty further provides for preserving Tuvalu's statehood and sovereignty even after the land becomes inhabitable. Interestingly, the agreement does not grant refugee status to the climate migrants from Tuvalu, rather it is 'climate mobility pathway', which provides agency to people to rebuild their life in Australia and then decide whether to move or not. Similar efforts have been made New Zealand has developed a Pacific Access Ballot, which is an annual ballot system which allows resettlement of 75 Kitibati citizens in New Zealand every year⁷⁴. In 2017, New Zealand announced 'Humanitarian Visa' which enabled 100 Pacific Islander to resettle in New Zealand. The government of Kiribati island has introduced 'Migration with Dignity' which aims to create a skilled workforce for enhanced employment opportunities.

The same strategy has been adopted by the forum leaders of Pacific Island in 2008 by the signing of the **Niue Declaration on Climate Change**⁷⁵ which not only recognizes people's right to live in their home country but also encourages the signatory states to adopt policies that are in lines with the impacts of climate change. It calls upon the signatory states to increase their technical and financial support for climate change actions for adaptation, mitigation and relocation.

(noting that "[r]ecent studies have found that, for many atoll islands, habitability may be threatened as soon as the middle of the 21st century-which is far sooner than indicated by studies that focus on the permanent inundation of these islands"); Jane McAdam, "Disappearing States, " Statelessness and the Boundaries of International Law 4 (Univ. N.S.W. L. Rsch. Paper No. 2010-2, 2010), <https://perma.cc/8SSY-LFN2>.

⁷⁴ <https://usidhr.org/addressing-climate-refugees-and-displacement-involving-island-nations>

⁷⁵ 'Annex B THE NIUE DECLARATION ON CLIMATE CHANGE'.

B. Small Island Developing States (SIDS) are actively implementing a range of **adaptation strategies** to cope with the immediate and projected impacts of sea-level rise. These measures include traditional "hard" engineering solutions, such as the construction of sea walls and the development of artificial islands, exemplified by the ambitious Hulhumale project in the Maldives⁷⁶. However, the efficacy and sustainability of hard infrastructure are increasingly questioned. These structures can be prohibitively expensive, particularly for resource-constrained SIDS, are often carbon-intensive in their construction, and can paradoxically lead to adverse environmental outcomes such as beach loss, accelerated erosion in adjacent areas, and degradation of vital coastal ecosystems⁷⁷. The people of Tubigon, Bohol, in Philippines adapted to regular flooding through piling up coral stones to expand their islands, rebuilding their houses' foundations and placing them on stilts, or using all bamboo furniture called 'lantay' to elevate themselves and important items during home flooding. In recognition of these limitations, there is a growing emphasis on nature-based solutions, which are crucial for both coastal protection and the maintenance of ecosystem health. These include the restoration of coral reefs, which act as natural breakwaters, and the planting of mangroves, which stabilize shorelines and provide critical habitats. Addressing the critical issue of freshwater scarcity, many SIDS also employ *desalination through reverse osmosis* techniques and rainwater harvesting for water supplies. Despite these diverse and often innovative efforts, a significant challenge remains: many coastal communities in SIDS are still not sufficiently adapted to today's extreme sea levels, indicating a persistent gap between the scale of the threat and the capacity for effective in-situ adaptation. This persistent reality highlights that while adaptation is essential, the scientific data and observed impacts reveal its inherent limits, particularly for the most low-lying SIDS. The high costs, ecological drawbacks of hard engineering, and the sheer magnitude of projected SLR mean that for many, "adaptation in place" will eventually become impossible⁷⁸. This reinforces the critical understanding that human mobility, whether planned or forced, is not

⁷⁶ Shocking! Maldives and 9 other countries that could vanish sooner than you think, accessed on June 30, 2025, <https://timesofindia.indiatimes.com/life-style/travel/shocking-maldives-and-9-other-countries-that-could-vanish-sooner-than-you-think/articleshow/122021461.cms>

⁷⁷ Adapting to Sea Level Rise in Small Island Developing States: Employing IoT Technology, Leveraging Coastal Infrastructure and Ec, accessed on June 30, 2025, https://sdgs.un.org/sites/default/files/2024-05/Saks_Adapting%20to%20Sea%20Level%20Rise%20in%20Small%20Island_0.pdf

⁷⁸ What Is 'Loss and Damage' from Climate Change? 8 Key Questions, Answered, accessed on June 30, 2025, <https://www.wri.org/insights/loss-damage-climate-change>

merely a last resort but an inevitable and necessary component of comprehensive climate adaptation strategies, thereby requiring dedicated legal and policy frameworks to manage it effectively and equitably. Despite this diverse portfolio of innovative efforts and the commitment to adaptation, a profound and persistent challenge remains: numerous coastal communities within SIDS are still inadequately adapted to the current reality of extreme sea levels. This alarming disparity underscores a significant gap between the escalating scale of the threat and the actual capacity for effective "in-situ" adaptation. This stark reality unequivocally highlights that while adaptation is undeniably essential, a growing body of scientific data and observed impacts increasingly reveal its inherent limits, particularly for the most low-lying SIDS where land elevation offers little natural buffer. The combination of the exorbitant costs and ecological drawbacks of hard engineering solutions, coupled with the sheer, overwhelming magnitude of projected sea-level rise, leads to an inescapable conclusion: "adaptation in place" will ultimately become an untenable and impossible endeavour for many. This critical understanding reinforces the crucial and often difficult recognition that human mobility, whether meticulously planned and managed, or tragically forced by environmental pressures, is not merely a last resort but an inevitable and increasingly necessary component of comprehensive climate adaptation strategies. This necessitates the urgent development and implementation of dedicated legal and policy frameworks to ensure such mobility is managed effectively, equitably, and with due regard for human dignity and rights.

C. Planned relocation, once a peripheral consideration, is increasingly recognized as a critical "last-resort adaptation solution" when in-situ measures—strategies to protect communities in their existing locations—are no longer viable due to the irreversible impacts of climate change and environmental degradation. This shift in perspective underscores the escalating urgency of developing robust frameworks for managed retreat. However, the complexities inherent in such large-scale demographic shifts present a myriad of challenges that demand careful consideration and the integration of best practices.

The experience of the Walande community in the Solomon Islands⁷⁹ serves as a poignant and often cited illustration of the challenges and resilience associated with community-led relocation. Their journey highlights a crucial reality: many such relocations are undertaken with limited or often inadequate support from national governments or international humanitarian and development actors. This lack of comprehensive external assistance can leave communities vulnerable, forcing them to navigate complex logistical, social, and economic hurdles largely on their own. While undeniably necessary for survival in the face

of existential threats, these processes, if not managed with meticulous care and foresight, can inadvertently threaten the fundamental human rights of people and their communities. These rights include, but are not limited to, their entitlements to an adequate standard of living, secure housing, and access to traditional lands and resources. Without proper safeguards, the very act of adapting can inadvertently erode the foundations of human dignity and well-being. The distinction is crucial: genuine planned relocation seeks to enhance the well-being and security of affected populations, whereas forced displacement often results in heightened precarity and a loss of agency. In direct response to these profound challenges and the growing recognition of the ethical imperatives involved, a new global coalition has emerged. This coalition is dedicated to advocating for the widespread adoption and rigorous implementation of rights-based climate-related planned relocation policies. The core tenet of this emerging consensus emphasizes the paramount importance of community leadership and self-determination throughout every stage of the relocation process. This means ensuring that communities are not merely consulted, but are empowered to lead, ensuring they can relocate on their own terms, at their own pace, and with their dignity and cultural integrity intact. This critical shift implies that any legal frameworks, international guidelines, or national policies developed for planned relocation must fundamentally prioritize the agency, cultural rights, traditional knowledge, and overall well-being of the affected communities. This includes, as an absolute prerequisite, ensuring their free, prior, and informed consent (FPIC) and upholding their right to self-determination throughout the entire process, from initial planning and decision-making to post-relocation resettlement and integration. Only through such a holistic and human-centered approach can planned relocation truly serve as a just and effective solution to the intensifying impacts of climate change⁸⁰.

Climate degradation has an indelible impact not only on the environment but the very survival of humans. As has been discussed earlier, the present international law regime is quite inadequate to deal with the challenges posed by changing climate and its entailed physical consequences. In the face of natural calamity such as submergence of landmass and displacement of population, the states have assumed protectionist attitude to preserve limited resources. This calls for a concerted and collective action in form of progressive law making by the states and the international forum to confront the legal inadequacies to respond effectively to the environmental and human crisis. Without any substantive legal avenues, the people of these sinking island not only face the risk of losing their home

⁷⁹ Human Rights Watch Report, 17th March 2025

⁸⁰ Melissa Stewart and others, 'CASCADING CONSEQUENCES OF SINKING STATES' (2023) <<https://law.stanford.edu/stanford-journal-of-international-law-sjil/>>. Electronic copy available at: <https://ssrn.com/abstract=4321214>.

and identity, but are exposed to the potential risk of statelessness.

VII. CONCLUSION AND SUGGESTION

Climate induced migration has triggered heated debates and discussion in the academic and media circles, especially because it humanizes an otherwise technoscientific issue of climate change. The plight of the tiny island nations or Small Island Developing States (SIDS), grappling with the relentless encroachment by the rising sea and fading shoreline, is a haunting reminder of the crisis which demands immediate global redressal.

Despite of many the solutions proffered by the academia, the political realities do not align with the intended solutions, partly owing to limited resources, political and economic stability of the host state. The article analyses the viability of the proposed solutions in realistic scenarios of addressing and mitigating the effects of climate migration. Firstly, the provisions of the Refugee Convention 1951 need to be expanded to include climate and environmental conditions as one of the provisions of persecution for the grant of refugee status. Also, the domestic legislations need to be tailored in order to sweep climate change as one of the factors for granting asylum. Thirdly, proactive measures as undertaken by Australia to provide 'climate visa', a novel step initiated in response to further the provisions of Falepili Union Treaty with Tuvalu, an island state which faces imminent submergence, is an example of a model redressal pathway. It marks a paradigm shift in response to climate change refugees. Fourthly, a more coordinated engagement by international state and non-state agencies is required to legislate a model standard operating procedure providing for relocation and rehabilitation of displaced individuals owing to climate change in order to enable the host state to redirect and allocate its resources for the same purpose. The Cancun Agreement on Climate change adaptation⁸¹, adopted in 2010 by UN Framework for Climate Change (UNFCCC), provides for planned relocation, which refers to assisted movement of the people from their home to a planned location, generally identified within national borders. Such international pathway for migration to neighbouring states, needs to be chalked out among state actors via bilateral or multilateral treaty. While the terms like 'environmental refugee' or 'climate refugee' are devoid of any legal standing under international refugee law, considering people crossing national borders because of environmental degradation and climate change, do not fall squarely within the meaning of 'refugee'. Such individuals who are displace owing to environmental hazard within the national borders are subject to the provisions in Guiding Principles on Internal Displacement as well as international human right laws, i.e. **Article 25** of Universal Declaration of Human Rights provides for Right to Food and shelter and right to life under **Article 3**. In the absence of any binding treaty under international law,

limited protection is afforded to the individuals displaced across borders due to climate change⁸².

A comprehensive international legal framework explicitly addressing inter alia the political-legal approach to climate migration by the states including the provisions for relocation and resettlement of migrants, is needed. The international community must take proactive steps to promote international co-operation in this direction of not only relocation of individuals displaced from climate degradation but in order to draft a viable solution to the issue of climate migration, it is rather imperative to give due significance to the political realities, available resources in the host state. Based on the realistic evaluation of the climate displacement, through in-depth study of the available literature, the article offers viable solution.

Responding to the complex and urgent challenge of forced migration from sinking islands necessitates a fundamental paradigm shift in international law and policy. This shift must transcend reactive humanitarian aid, moving towards proactive, rights-based, and equitable solutions that recognize the unique vulnerabilities of Small Island Developing States. It demands unprecedented global solidarity, a shared understanding of common but differentiated responsibilities, and an unwavering commitment to safeguarding the human dignity, cultural heritage, and sovereign rights of populations on the front lines of the climate crisis. The predicament of sinking islands is more than an environmental tragedy or localized humanitarian issue; it represents a profound test of the international legal order's ability to adapt to existential threats, uphold justice, and protect human rights in a rapidly changing world. Comprehensive action is imperative now.

⁸¹ 'THE CUNCAN AGREEMENTS: OUTCOME OF THE WORK OF THE AD HOC WORKING GROUP ON LONG-TERM COOPERATIVE ACTION UNDER THE CONVENTION'.

⁸² Susan Martin, Climate Change, Migration, and Governance, 16 GLOB. GOVERNANCE 397, 403 (2010) ("There are no international instruments that specifically address international migration stemming from climate change or other environmental factors."); THE NANSSEN INITIATIVE, AGENDA FOR THE PROTECTION OF CROSS-BORDER DISPLACED PERSONS IN THE CONTEXT OF DISASTERS AND CLIMATE CHANGE, VOL. 1, at 8 (2015), <https://perma.cc/HE32-3W5H> ("International law does not explicitly address whether and under which circumstances disaster displaced persons shall be admitted to another country, what rights they have during their stay, and under what conditions they may be returned or find another lasting solution."); Jane McAdam, Protecting People Displaced by the Impacts of Climate Change: The UN Human Rights Committee and the Principle of 'Non-Refoulement', 114 AM. J. INT'L L. 708, 712 (2020).

