Environmental Migration in an Era of Accelerated Climate Change: Proposing a Normative Framework for International Migrant Rights and Domestic Migration Policy

by

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Abstract

This dissertation takes up the challenge of addressing the growing gap between international human rights and the changing face of migration in a period of accelerated climate change. The conditions of climate change are increasingly displacing peoples through rising sea levels, desertification and the resultant agricultural loss, and extreme storm activity. Yet, as the project demonstrates through its interpretivist methodology, the international human rights regime and domestic migration policies have struggled to keep pace with these changes, offering little to no protection to vulnerable forced environmental migrants.

The dissertation's central offerings include an ethico-political conceptualization of the problem of forced environmental migration and its own approach to defining categories of Environmentally Displaced Peoples. Its central argument – that Environmentally Displaced Peoples should have a right to migration and assisted adaptation, but that these rights are not adequately supported or guaranteed under an international regime committed to a Westphalian sovereign authority – is constructed through normative theory and then woven into an analysis of international law and representative domestic policy regimes related to environmental displacement. Its analysis reveals that while some recent advances in law and policy hold potential in terms of being able to address some of the challenges presented by Environmentally Displaced Peoples, the current state of the international regime and domestic policy falls short of meeting the full range of the normative and practical demands associated with an ethically-sound response to forced environmental migration. Exploring the roots of this challenge, the dissertation suggests

that the challenges to the international community that are presented by forced environmental migration may run deeper than traditionally conceived by the field. Indeed, it considers that part of the reason for the gaps between Environmentally Displaced Peoples' rights and their expression under the current international regime may stem from an inappropriate commitment to the preservation of the Westphalian sovereign state system as we enter what may be a new era of migration, increasingly defined by the conditions of climate change.

Given the emerging nature of climate change displacement, the dissertation offers a temporally nested approach that targets both global and domestic politics. Its framework's proposals include an urgent call for the international community to reduce carbon emissions, support adaptation assistance, adjust existing migration policy to better account for forced environmental migrants, and incorporate civil society and 'norm entrepreneur' strategies to advance normative goals and integrate a full range of actors in future policy developments. These actions, it argues, should further be nested in a long-term strategy that maximizes adaptation and migration assistance through a non-optional international adaptation assistance program that acknowledges capacity, capability, and culpability on the part of donating states. Significantly, this long-term strategy also holds that the global political community should move away from a strict adherence to the Westphalian sovereign state system and begin to usher in of an era of freer migration and more open borders that acknowledges a basic common responsibility for the well-being of Environmentally Displaced Peoples. The options of dual and, eventually, deterritorialized modes of citizenship and sovereignty are raised in an effort to maintain the political autonomy that is central to ideas of citizenship and the realization of rights and group

identities, especially to the peoples of states currently facing extinction as a result of climate change (specifically, 'sinking' island nations). The demands for policy change advocated for by the dissertation are considerable, but it is believed that they are in keeping with the real challenges associated with forced environmental migration and the dissertation's normative framework.

Preface

This thesis is an original work by Nicole Marshall. Parts of the Introduction, and Chapters Two, Three, Four, and Seven have been or will be published in the following articles:

Marshall, Nicole (2015). "Politicizing Environmental Displacement: A Four Category Approach." *Refugee Review*. Vol.2: 96-112.

Marshall, Nicole. (Forthcoming, Fall 2015). "Forced Environmental Migration: Towards Special Mobility Rights." *Environmental Ethics*.

Marshall, Nicole. (Forthcoming). "Forced Environmental Migration: An Ethical Review and Practical Analysis." *Ethics, Policy & Environment.*

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On a personal note, the support and endless encouragement I have received from both my partner and my parents over the years have taught me to believe in myself, even when things seem more murky than clear. You have taught me that with perseverance and careful thought, there is usually a light at the end of the tunnel. Finally, I must thank my son, who, even though he doesn't know it, inspires me daily to believe in the possibility for a better tomorrow. Nothing is worthless, if it has meaning to you.

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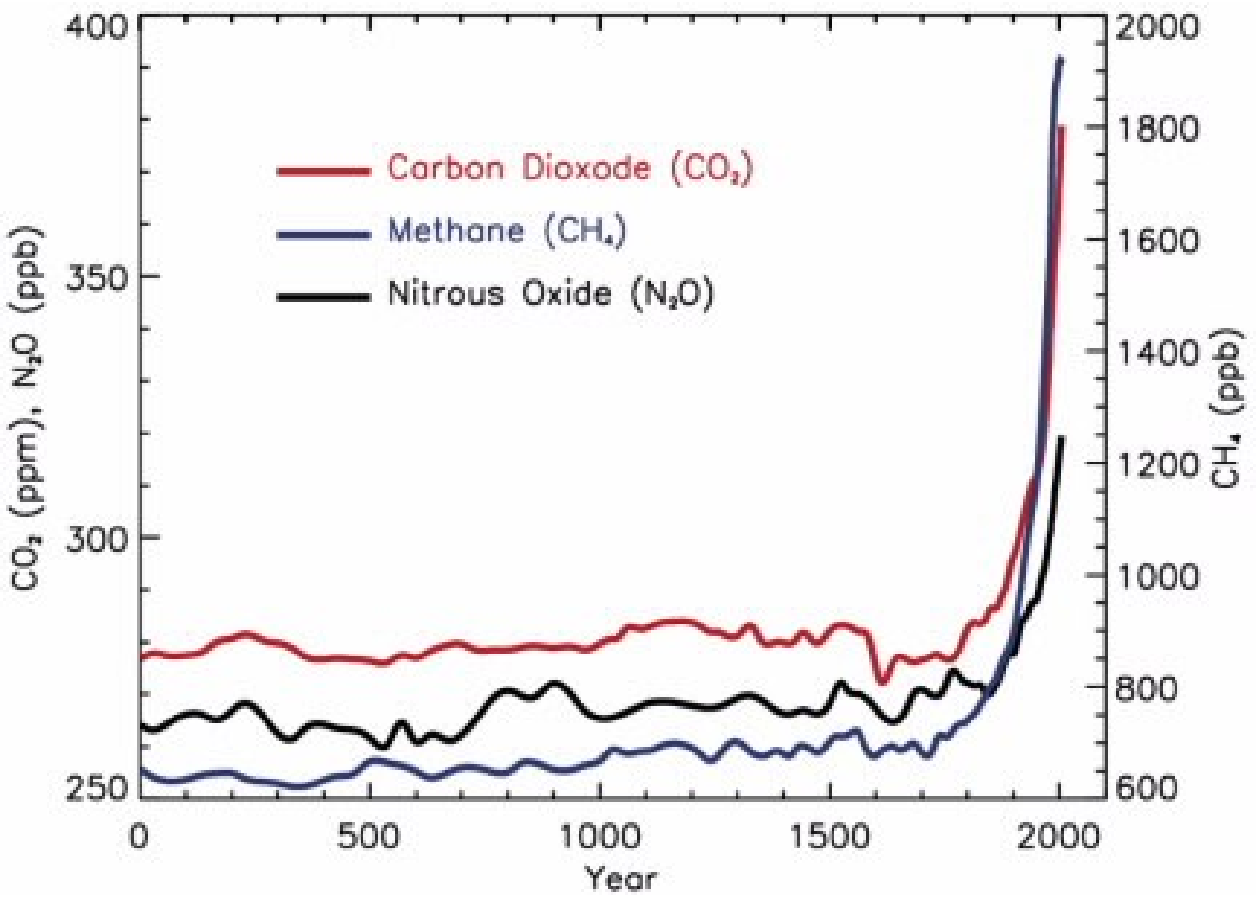
Table 1

This table illustrates the clear rise in greenhouse gases since the industrial revolution.



https://www.acs.org/content/acs/en/climatescience/greenhousegases/industrialrevolution/_jcr_content/articleContent/columnbootstrap_2/column0/image.img.jpg/1374088243357.jpg

Table 2

This table outlines the ethical conclusions of Chapter Three

Ethical Principles	Rights	Risks	Responsibilities
1. In as much as the geographical location of a population is arbitrarily imposed by birth, or other uncontrollable force, that population has a normative right not to be disadvantaged by its geographical positioning.	EDP Right to Adapt	The risks involved in geographical positioning (and/or return to such positioning) are not ethically sufficient to negate access to these rights	Global Responsibility to Provide Adaptation Assistance
2. There is a universal right not to be unequally disadvantaged or harmed by the conditions of climate change.	First-Order EDP Right to Migrate	The global nature of Environmental Risk logically necessitates a global (and not statist) response.	Global Responsibility to Facilitate Pre-Emptive Migration

Table 3

Key instruments in international law as they may relate to climate change and migration

Instrument	Jurisdiction	Type of Law	Principles
Budayeva v. Russian Federation (2008)	European Court of Human Rights	Case Law	Right to Life
Cartagena Declaration (1984)	Latin America	Soft Law	Expanded Understanding of Refugee
Guiding Principles on Internal Displacement (1998)	International	Soft Law	Internal Environmental Displacement
Hyogo Framework for Action: Building the Resilience of Nations and Communities to Disasters (2005-2015)	International	Soft Law	Adaptation
Law of the Seas Convention (1982)	International	Hard Law	Sovereignty
Island of Palmas Arbitration [Netherland v. United States] (1928)	International	Case Law	Sovereignty
Montevideo Convention on the Rights and Duties of States (1933)	International	Hard Law	Sovereignty
New Zealand High Court Case 3125 (2013) [Teitiota v Chief Executive of the Ministry of Business Innovation and Employment]	New Zealand	Case Law	Environmental Refugees
Operational Guidelines on Human Rights and Natural Disasters (2006)	International	Soft Law	Adaptation
Organization for African Unity Convention (1969)	African Union	Hard Law	Expanded Understanding of Refugee
Rio Earth Summit (2002)	International	Soft Law	Pollution of Global Commons
Stockholm Convention on Persistent Organic Pollutants (2001)	International	Soft Law	Pollution of Global Commons
Treaty of Westphalia (1648)	International	Hard Law	Sovereignty
United Nations Convention Relating to the Status of Refugees (1951) and Protocol (1967)	International	Hard Law	Environmental Refugees
United Nations Convention Relating to the Status of Stateless Persons (1954)	International	Hard Law	Cross-border Environmental Migrants
United Nations Framework Convention on Climate Change (1992, ongoing)	International	Soft Law	Adaptation
Universal Declaration of Human Rights (1948)	International	Hard Law	Adaptation/Migration

Table 4

Key documents in domestic and regional policy related to climate change and migration

Document	Jurisdiction	Year	Principle
Action Plan on the Implementation of the Stockholm Project	European Commission	2010	Policy research
Aliens Act	Finland	2004	Category-specific migration exemption
Aliens Act	Sweden	2005	Category-specific migration exemption
Bill C-24 "An Act to amend the Citizenship Act and to make consequential amendments to other Acts"	Canada	2014	Narrowing of dual citizenship rights
Border Security, Economic Opportunity, and Immigration Modernization Act	United States Senate Hearing	2013	Expedited path to residency
Clean Air Act	United States	1963, last major amendment 1990	Reduction of Kyoto commitments
Constitution	Kiribati	Revised 1980	Dual citizenship
Environmental Change and Forced Migration Scenarios (EACH-FOR)	European Commission	2007-2009	Policy research
Emergency Management Reform Act	United States	2006	Frame IDPs in US
Foresight: Migration and Global Environmental Change	United Kingdom	2011	Policy research
Global Approach to Migration and Mobility	European Commission	2005, renewed 2011	Policy goals for adaptation
Immigration Act	Canada	1976	Addition of humanitarian consideration to Convention Definition of Refugees
Nansen Initiative		2013-ongoing	State-based policy research
National Disaster Housing Strategy	United States	2009	Disaster relief policy
National Disaster Recovery Framework	United States	2011	Disaster relief policy
Pacific Access Category, Immigration Act	New Zealand	2009	Category-specific (labour) migration consideration
Pacific Solution	Australia	2001	Narrowing of Convention Definition of Refugees
Qualification Directive	European Commission	2004, renewed	Category-specific migration exemption

		2011	
Return Directive	European Commission	2008	Category-specific migration exemption
Robert T. Stafford Disaster and Relief Act	United States	1988	Disaster relief
Schengen Agreement And Treaty of Amsterdam	Europe, excepted: UK and Ireland; Croatia, Bulgaria, and Romania as candidate states as of 2013	1990 1998	Reduction of migration restrictions/borders
Temporary Protected Status	United States	1990	Category-specific migration exemption
Temporary Protection Directive	European Commission	2001	Category-specific migration exemption

Abbreviations

CIDA – Canadian International Development Agency

EDP – Environmentally Displaced Person

IDMC – Internal Displacement Monitoring Centre

IEM – Imperative Environmental Migrant

IDP – Internally Displaced Person

IPCC – Intergovernmental Panel on Climate Change

GAMM – Global Approach to Migration and Mobility

GHG – Greenhouse Gas (especially carbon dioxide, but also methane and nitrous oxide)

IDMC – Internal Displacement Monitoring Center

IO – International Organization

NGO – Non-Governmental Organization

OAU - Organization of African Unity

OCHA - Office for the Coordination of Humanitarian Affairs (UN)

PAC – Pacific Access Category (New Zealand's labour migration scheme)

PEM – Pressured Environmental Migrant

RPG – Refugee Policy Group

TEM – Temporary Environmental Migrant

UDHR – Universal Declaration of Human Rights (1948)

UN – United Nations

UNFCCC – United Nations Framework Convention on Climate Change

UNGA – United Nations General Assembly

UNHCR – United Nations High Commissioner for Refugees

Introduction

Right now, the island of Tuvalu is sinking; so too are Kiribati, the Republic of the Marshall Islands, the Maldives, and a handful of other low-lying small island nations. In 2014, the state of California experienced the longest period without rain in the last 500 years. It was so severe, that access to drinking water was destabilized for more than 40,000 residents. The number of severe storms causing massive destruction and loss of life increases each year. In November 2013, Typhoon Haiyan was particularly devastating, taking over 6,000 lives in the Philippines alone. It was the strongest storm on record when it made landfall, and may have been the strongest typhoon ever recorded in terms of wind speed. It was the thirtieth large-scale storm in the Pacific that year, marking a particularly destructive typhoon season for the region. Around the world, climate change is increasingly becoming one of the largest threats to human security. The severity of droughts, floods, storms and the resulting loss of life, infrastructure, property, and access to sustainable livelihoods is stunning, with new reports of severe environmental hardship emerging around the world nearly every day. Indeed, more than 25 million people, on average, are displaced by environmental factors every year (UNHCR 2013). This number does not include those instances of displacement where the environment is merely a secondary factor driving the choice to migrate, which, if included, could see the estimated number of Environmentally Displaced Peoples (EDPs) soar to over 50 million annually (see Myers 2001). In a world in constant flux, one thing is clear: the climate is changing, and the human population is struggling to keep up – in more ways than one.

Right now, we are challenged to find new methods of adaptation to meet the shifting environmental realities that are threatening our very existence. Many of us are still struggling to afford known environmental adaptation technologies like seawalls, dikes, or robust irrigation systems. In the international community, we are struggling to re-frame established human rights to keep pace with the ethical and practical fallout of environmental destruction and displacement. We are struggling with the principles of international law in the same way – especially those related to vulnerable migrants, like

refugees and asylum seekers. Indeed, in many ways we are even struggling with the principle of state sovereignty itself in as much as it frames international responsibilities to protect and assist, and regulate and restrict. We are struggling to keep up with the changing nature of international ethics, vulnerable populations, and human migration in the face of widespread, severe climate change; yet, in many ways, we are falling short of these substantial demands.

The Project

From all of the environmental events worldwide that are directly and acutely impacting how people live their lives, it is clear that climate change is affecting how we do things. Indeed, there is a large and growing body of literature on the topic of environmental politics. Within this field, is a narrower study of the ways in which climate change is impacting human migration: both where it forces populations to migrate, and where populations are able to avoid migration with successful adaptation (see, for example, the collected works of Jane McAdam or Norman Myers; also, Black 2001; Bates 2002; Cohen 2008; among others). Indeed, the impacts of climate change on migration to date have been explored in some detail, particularly in the areas of international law and emerging domestic state immigration policy (see, for example, McAdam 2012 for a comprehensive analysis of international law and its application to persons displaced by climate change; Cohen 2008 and 2009 on emerging policy responses in the United States; or Geddes and Sommerville 2013 on potential policy responses in the European Union). Yet, largely absent from the literature is a politically-framed analysis of the ethics and assumptions underpinning the debate: specifically, a study that carefully explores the key ethical, legal, and political considerations that frame the issue of climate change displacement, and how might these play out under an international regime paradigmatically constructed around the principle of Westphalian state sovereignty. This is not, however, to suggest that the ethical face of the challenge has not been considered. Nawrotzki (2014), Lister (2014), Harris (2011), and others explore some of the central ethical issues of forced environmental migration, but in a way that is not always clearly tied to the political and legal considerations that equally, if not more-so, shape the debate. Seeking to offer some insight in this regard, this dissertation strives to explore the challenges presented by forced

environmental migration in a way that is ethically meaningful, but not disconnected from the political, cultural, and economic realities faced by Environmentally Displaced Peoples (EDPs). Through a logical arc that builds across its chapters, I argue that Environmentally Displaced Peoples should have a normative right to migration and assisted adaptation, but that these rights are not adequately supported or guaranteed under an international regime committed to a Westphalian sovereign authority. This argument draws together a consideration of the problem presented by climate change in the context of displacement, an ethics of forced environmental migration, some of the central legal challenges presented by Environmentally Displaced Peoples, and some of the domestic and regional policies that affect their ability to actualize their ethical status, as I argue for it. My analysis seeks to speak to academics and policymakers attempting to understand and address this global challenge; yet, its conclusions also run deeper than a prescriptive analysis of forced environmental migration, questioning the normative foundations of the current international system itself in the face of increasing environmental migration.

Approach

Ultimately, the project begins with a problem: the conditions of climate change are impacting human livelihoods in complex, new, and deeply challenging ways. It begins from a position that recognizes this problem as one that, in many ways, stems from the liberal democratic paradox (see Benhabib 2004; Schmitt [1923] 1985) that exists between a normative commitment to the principles of universal human rights, and the particular wills of domestic sovereign states. Normatively, as will be discussed, Environmentally Displaced Persons have some moral standing: both under the liberal logic that underpins the international human rights regime (see Blau and Moncada 2005 on the liberal foundations of the human rights regime), as well as under competing logics of cosmopolitanism and communitarianism. Yet, at the same time, these normative 'rights' are not easily translating into legal or political rights for this group of vulnerable migrants. This dissertation starts from a position that seeks to understand this gulf, and offer some potential responses for those seeking to bridge it in an ethically meaningful way.

My work takes an interpretivist approach to studying the international regime, which I understand as being composed of the interconnected and overlapping sets of laws, policies, and norms that shape the global reality within which Environmentally Displaced Peoples might receive rights and recognition. I have taken an interpretivist approach in order to draw out an analysis that highlights understanding over explanation, pinpointing this factor as one that will be helpful in moving the state of environmental migration and adaptation rights forward (following Parsons 2010, 80-97; Marsh 2010, 212-224). In this, it looks to explore the social construction of the liberal human rights regime in relation to the principle of state sovereignty by reflecting on some of the key philosophic principles that shape our understanding of rights and responsibilities, membership, and belonging under the international regime. As a work that makes substantial use of inductive and moral reasoning, I recognize that normative frame I apply is one that will always be contestable, but hold that it is also one worth consideration in seeking to develop a deeper understanding of forced environmental migration in the modern era (see, especially, Dworkin 2011). I have applied this methodology to my project because, in many ways, I believe it enables an understanding of the challenge of forced environmental migration that offers substantially different results from those produced under some of the more traditional quantitative approaches, or those focused on institutionalism. Where these traditional approaches have been successfully applied in my field (see Gemmene and Shen 2009; Myers 2001; Nelson 2009; Burkett 2011; McAdam 2012, among others), I believe an interpretivist approach can build on their findings and drawn into view a clearer understanding of the discursive and paradigmatic challenges that face Environmental Displacement under the current international regime. Since it is also a work that, at its core, seeks to draw together ethical considerations and political realities, normative theory also plays a central role in my project, as it seeks to address the question of ought over is (see Buckler 2010). Here, inductive reasoning becomes a helpful tool for two reasons: first, because the project seeks to draw general principles from the policies and norms that shape the reality of forced migration in today's global society; further, given the emerging nature of the field, inductive reasoning is a necessary method in that it seeks, on some level, to predict (see Vickers 2014; Bevir and Rhodes 2002). While I recognize that, as David Hume has pointed out, inductive reasoning is challenged by its inherent inferences wherein

"instances of which we have had no experience resemble those of which we have had experience" (Hume 1888, 89), I do not view this as an inherent flaw in methodology for my project. Instead, I recognize forthright that the intended outcome of my project – indeed, perhaps even one of its strengths – is that it is not aimed at producing a single 'truth', but rather offers a series of observations and arguments for the reader's consideration.

In many ways, there is a sense in the literature that the field has settled the debate over the definition of Environmentally Displaced Peoples, or at least settled enough to move forward with the general understanding that we have managed to establish (especially, see the special issue of *Refuge*: Vol. 29, No 2 [2014]). We agree, for the most part, that there are people who will be permanently displaced, people who will be temporarily displaced, and people who might be strongly encouraged to move as a result of environmental changes, and who may or may not deserve migration rights or recognition as Environmentally Displaced Peoples. Yet, at the same time, many ambiguities remain. While the field has done much to understand and conceptualize environmental displacement vis-à-vis dominant migration discourses – especially those surrounding "refugees"– (see Gemenne 2015; Lister 2014; Bates 2002; Black 2001; Kibreab 1997; Myers 1993, 2001; McGregor 1993; El-Hinnawi 1985; McAdam 2012; and others, as discussed in Chapter Two), little work has been done outside of these discursive constraints.

Using inductive reasoning to explore the problem and draw general normative principles, my research arrives at the conclusion that many of the dominant understandings of environmental displacement are problematically depoliticized and simultaneously disconnected from the ethical issues that underpin the challenges presented by forced environmental migration in the modern era. Through a careful analysis of the dominant understandings of environmental displacement in Chapter Two, and the dominant moral and political logics of membership, borders, rights, and responsibilities that underpin the international human rights regime in Chapters Three and Four, the project locates environmental displacement as an inherently ethico-political challenge, which will demand a more robust response from the international community than one which views environmental displacement as a challenge to decide who moves where and who gets what (as it is often framed in current policy literature, discussed in Chapter Six).

In reaching this conclusion, the project looks closer at what some of the key ethical considerations might be, by opening a conversation with some of the dominant (Western) thinkers in the field of ethics and migration: especially, Michael Walzer (1984), Joseph Carens (1987), John Rawls (1971, 1999), and Thomas Pogge (2001). Through this conversation in Chapter Three, I argue that these otherwise differently-oriented political theorists would likely agree that Environmentally Displaced Peoples should have some moral right to both migration and assisted adaptation.

From here, the project seeks to anticipate critics by locating where some of the key theoretical constraints on these rights might lie; particularly, in the issues of assumed risk and global and domestic responsibilities. Inductive reasoning is again employed on these issues to reach the normative conclusion that neither of these pathways presents sufficiently robust ethical limitations that would negate the initial rights of Environmentally Displaced Peoples to migrate and adapt.

Yet, the project also recognizes that if this is a global issue that requests international migration rights we must also look at how these moral rights might play out at a global level. In this, the project explores the meaning, understanding, opportunities, and constraints of the international regime in the context of Westphalian sovereignty (Chapter Four), international law (Chapter Five), and domestic and regional policy (Chapter Six), again through the interpretivist lens.

Finally, the project faces the question: if we agree that the rights called for in Chapter Three are legitimate, yet recognize that they are constrained in very significant and detrimental ways under the current international regime (Chapters Four through Six), how might we approach a reconciliation of these tensions? Again using inductive reasoning and normative theory to draw from the conclusions of previous chapters (following Vickers 2014; or Buckler 2010), Chapter Seven seeks to offer a possible pathway forward that highlights some of the spaces that are able to maintain the ethical commitments of the project within the very real constraints of the current international regime, and conceptualizing ways that may circumvent or exceed these constraints where they cannot be effectively reconciled.

Fundamentally, the project is designed to explore the rights and responsibilities surrounding forced environmental migration while offering critical and philosophical reflections from a normative perspective that centres human rights and ethical obligations at the core of its methodology.

Outline

The chapters unfold on a logical arc in their attempt to persuade the reader as to the importance of understanding climate change displacement as an ethico-political problem. Chapter One situates the reader in the relationship between shifts in climate and human movement through a historical account of some of the central ways in which it has been experienced throughout history, coupled with a brief introduction to the basic scientific principles that guide its transformations. Through is use of history and science, the chapter demonstrates that while the impacts of climate change on migration are not new, they are also not the same as they have always been: there are two key aspects of contemporary climate change that are affecting human movement in previously un-experienced ways. First, the increased regulation of mobility vis-à-vis the state and its sovereign borders has restricted the historical use of migration as a method of environmental adaption; and second, the anthropogenic – i.e. human-influenced – character of climate change is speeding up and augmenting the 'normal' impacts of climate change in a way that offers a clear ethico-political frame to the problem of environmental displacement. Under this new period of anthropogenic climate change, then, not only are the impacts of climate on human populations both more widespread and more severe than they have been in the past, but from an ethical position, they are also largely being driven by human activity. From this seemingly small but immeasurably important point, I will argue in Chapter Three that a global responsibility is formed to resolve the negative effects of climate change and displacement. This global responsibility, I will argue, also serves to draw the ontological construction of the international regime around the mechanisms of the sovereign state into critical focus, and questions the moral appropriateness of human rights being guaranteed and realized though the mechanism of the sovereign state. Ultimately, drawing from Chapter Three, Chapter Four frames the global nature of forced environmental migration –

both in terms of impact and responsibility – as one which demands an equally global positioning of the human rights regime, where it must be guaranteed and realized through humanity itself and not through particular states (following a similar argument to that expressed by Hannah Arendt [1951] in her comments on the atrocities committed on the Jewish people during World War II).

Yet, given the emerging nature of the study of climate change migration, the dissertation also seeks to provide a close and critical analysis of one of the ongoing central debates in the field – the question of definition – before proceeding too far in developing its argument. As such, Chapter Two offers a comprehensive review of the various understandings of Environmentally Displaced Peoples (EDPs), as they exist in the academic and policy-oriented literature on the topic. Through this analysis, it becomes apparent that the field is rife with dissent: to the extent that it may be having real effects on the quality of treatment experienced by EDPs around the world. Entering the debate, I argue that a single definition of an Environmentally Displaced Person, like many presented, is too likely to conflate important differences while missing many of the underlying factors that distinguish EDPs from other vulnerable migrant populations. As such, I present my own list of what I conceive as the four different typologies of EDP based on the science outlined in Chapter One: Imperative, Pressured, Temporary, and Human. Together, these groups cross a range of experiences, from internal to cross-border displacement; from experiences likely to receive international recognition as being environmentally displaced in a politically meaningful way (Imperative and Human Environmental Migrants), to those with little hope of being recognized as anything beyond economic migrants (Pressured Environmental Migrants). These categories are carried through the project as informative of the variations in experience, treatment, recognition, and vulnerability that are faced by populations who are displaced, at least in part, by environmental causes. Further, they also serve as a significant reminder to the reader that one of the key challenges in addressing the issue of forced environmental migration is its multifaceted nature. In nearly every case of environmental displacement framed by this dissertation, I cannot clearly distinguish the environment or climate change as the sole motivator for initiating migration. Indeed, this is true for most cases of what I call forced environmental migration, with the possible

exception of the handful of small island states that are slowly being submerged by rising sea levels in the South Pacific. In these few cases, it is most likely that there will come a moment when it is literally impossible not to migrate as a result of climatic changes. Jane McAdam (2012) and Richard Black (2001) each give a clear and detailed discussion of this conceptual challenge, where they explain that climate change is but one of many factors instigating migration. Yet, where authors like Gaim Kibreab (1994) have argued that this somehow reduces the validity of the study of climate change as forced migration, I must disagree. While climate change is clearly one of many factors causing the migration of EDPs, I believe we must take special notice of it for its unique ethical quality: effectively, that the climate change factors involved in forcing migration for EDPs have been caused by humanity as a whole (see, also, Nawrotzki 2014; or Gardiner 2010 on this issue). In this, unlike the other factors driving forced environmental migration, humanity as a whole has a responsibility to monitor and ameliorate its outcomes.

As mentioned, Chapters Three and Four ground the ethical nature of the project. Chapter Three specifically lays out a set of inviolable rights that should be expected and received by Environmentally Displaced Peoples. Cross-cutting the major approaches to normative migration theory – communitarian, liberal, and cosmopolitan – it argues that there is a common minimum moral threshold that must be met by all ethical accounts of justice: EDPs should have a right to adapt, and they should have a right to choose migration as a form of adaptation. Significantly, the chapter finds that these rights are not nested: one should not need to attempt the first, before the second becomes an option. Yet, these rights also face deep challenges in seeking their realization from all fronts: in terms of 'fitting' with the discursive theory that shapes both the international and human rights regimes (Chapter Four); in terms of finding traction in international law (Chapter Five); and, in terms of finding meaningful political expressions in domestic public policy (Chapter Six).

Perhaps the deepest tension emerging from the project is that which is created in applying these rights under an international human rights regime that is dominated by the negative rights discourse associated with liberal theory and the principle of non-interference set out by the Westphalian conception of sovereignty. As the conclusions of Chapter Three set out and Chapter Four explores, EDP rights to adapt and migrate – both of which ethically

demand a corresponding (positive, i.e. active) international responsibility to ensure that these rights are met – butt up against an international regime primarily predicated on negative rights and the principle of sovereignty, which stems from 1648's Treaty of Westphalia. It is true, as experts in international law and climate migration like Jane McAdam would argue, that under the current international regime, the right to adapt and the right to migrate already exist. However, in its exploration of the transferability of these rights into the current human rights regime, Chapter Four finds that the rights to migration and adaptation exist in a way that is incapable of meeting the ethical demands laid out in Chapter Three on a universal scale. Here, we see that the challenge presented by forced environmental migration is being played out on two fronts: first, in establishing the ethical need to recognize these rights in the context of EDPs (Chapter Three), and second, in encouraging the international community to recognize that it must somehow do more to meet the ethical needs of EDPs (Chapter Four). Indeed, Chapter Four goes on to suggest that meeting this second challenge may run deeper than it initially appears, and in a way that is somehow different than challenges to the Westphalian state hitherto: more than just convincing the international community of the merits of EDP rights, the full force of their realization may evolve into a paradox that destabilizes the very logic of the Westphalian system: if universal free migration for EDPs is not supported, the liberal logic underpinning the moral legitimacy of the human rights regime will fail; if it is allowed, the logic of the Westphalian system – the common perception that states must remain sovereign over their domestic borders in order to protect the individual rights of their citizens (for example, see Meilaender 2001; Walzer 1984, among others)– will fail. What is specifically 'new' about this challenge (and slightly but significantly different from that presented by refugees in general) is that there is an ethical obligation directly and explicitly held by humanity in common for having created the conditions of climate change that are now threatening statelessness and a potential severing of access to human rights for EDPs. Either path, maintaining our ethical obligations or maintaining the sovereign state system, I argue will lead to a substantial disruption of the current international human rights regime, highlighting the significant ethical demands presented by EDPs to the fields of political theory, international human rights, and public policy. Fundamentally, EDP rights, as

argued for in this dissertation, complicate the moral legitimacy of the principle of state sovereignty in previously un-experienced ways.

Yet, as a project in applied ethics, the dissertation simultaneously recognizes the pressing, practical needs of Environmentally Displaced Peoples: as much as the ethical revelations of Chapter Four matter, they likely matter very little to the people facing the brunt of climate change. Indeed, resolving that someone from Tuvalu has an ethically supportable right to free migration will do nothing for her when she arrives at Australia's borders, seeking immigration. As such, Chapters Five and Six take the reader through the current state of international law and regionally-organized domestic policy in an examination of their capacities to meet the immediate needs of EDPs and potential EDPs facing displacement. While the findings of these analyses are rather meagre, these chapters serve to highlight small areas of success that could be built upon or modified to better suit the diverse practical and ethical needs of EDPs in their various forms. Tying the ethical conclusions of Chapters Three and Four together with the legal and political realities explored in Chapters Five and Six becomes the task of Chapter Seven, and the ultimate offering of the dissertation project. Indeed, Chapter Seven presents an original, nested framework resolution that offers a series of policy-related suggestions from the findings of the dissertation. Its nested nature is designed to offer a list of policies suitable for immediate implementation alongside a shorter list of long-term systemic changes that should be considered by the international community in as much as it seeks uphold the basic dignities and ethical status of EDPs as members of humanity.

Overall, the project seeks to explore some of the key questions surrounding the issue of forced environmental migration in a way that acknowledges its ethical nature as well as the practical challenges it creates: how should we understand Environmentally Displaced Persons; why do they matter; and how should the international community respond? While these questions come from a simple place, the dissertation will reveal that their answers are anything but straightforward. Fundamentally, seeking to recognize the strong ethical nature of the problem presented by forced environmental migration and address it in a practical, but ethically-robust, way enables this dissertation project to engage with other studies of forced environmental migration, but also with those in the broader fields

of migration and human rights in international normative theory. It is my hope that the reader will find its contributions worthy of its task.

Chapter 1| Understanding the History and Science of Forced Environmental Migration

Forced environmental migration, or, feeling forced to migrate due to what are primarily climate-related factors, is not a new phenomenon. Indeed, there is evidence of environmental and climate-induced migration dating back thousands of years, ranging from well-documented cases like the American 'dust bowl' migration of the mid-twentieth century, the seasonal migration of historic nomadic tribes throughout North America, Europe, and Asia, and the demise of the infamous Rapa Nui (Easter Island), as well as what are surely thousands of other, undocumented experiences throughout the history of the world. Clearly, the location and relocation of human settlement has long been associated with changes in climate and the impact these have on the successful maintenance of a subsistence lifestyle. Throughout history, if a significant change in climate adversely affected the availability of food, humans (both hunter-gatherer and agricultural settlement societies) would move to find more hospitable environmental conditions in order to maintain their way of life (see Bokovenko 2004). Yet, today, climatic impacts on the availability of food are no longer the only, or often even the core reason for environmental migration. While subsistence agriculture is still a prominent practice throughout much of the developing world, a large portion of the human population no longer depends on short-term, unreliable methods of supplying sustenance. Indeed, grocery stores and local markets exist for convenience' sake in most corners of the world, and global agriculture is shifting towards high-yielding agri-business models and away from meeting immediate hand-to-mouth needs. As such, when crops fail, most people can purchase or trade for food and still survive the season. The human population has also done much to insulate itself from the unpredictability of the climate and weather. In terms of agriculture, irrigation and water storage methods have been improved to avoid crop failure during periods of drought, and scientific modifications can now decrease plants' vulnerability to climate fluctuations (for example, by splicing fish genes into tomato plants to increase their resistance to frost damage). Some agri-companies have even successfully created test-tube food which is being tested for human consumption and prepared for marketing (including

Modern Meadow's latest invention: entirely engineered steak chips). In terms of habitability, housing structures too have become increasingly weather-resistant over time, to the point where foundations and walls have been developed to move with hurricane-force winds, or have been stacked on stakes to avoid sea-swells and/or rising sea levels. Even on an individual scale, we have created increasingly effective clothing to insulate us from uncomfortable elements: from UV-protected, to deep-freeze insulated clothing; from wind-resistant umbrellas, to battery-heated boots. With all of these innovations and adaptive strategies to avoid or mitigate harsh changes in climate, humanity is increasingly able to choose not to migrate; however, this is not universally the case.

Indeed, the 21st century has seen a renewed interest in peoples who feel compelled to migrate as a result of environmental issues. In many ways, today, people who are seeking to avoid difficult climates face complications that were not experienced by our ancestors. As climate change increases the frequency, strength, and impact of storms and related weather events, environmental migration is increasingly associated with large-scale displacement and immediate loss of life. Moreover, many of those who need to migrate to obtain a stable food supply are crippled by systemic poverty, which often effectively eliminates migration from their range of possible adaptation strategies. And so the complications of modern climate migration begin to compile. With an increased potential for loss of life, and desperate populations who are unable to legally migrate, it is clear that there are new faces of forced environmental migration: ones that urgently demand particular and appropriate responses from policymakers and the international community.

Of course, it also must be recognized that migration is but one of a list of adaptation strategies, and many of the populations threatened by the effects of climate change have been very clear that they are not primarily seeking migration as an adaptive option. For example, the peoples of the Republic of the Marshall Islands, Kiribati, and the Maldives have been particularly vocal about this point (see *Threatened Island Nations Conference* proceedings 2011). Instead, many populations would rather employ local environmental adaptation strategies such as the construction of seawalls to keep out rising tides, or dike systems to manage increasing groundwater, to extend the habitability of their homelands. The primary challenge with these localized adaptive mechanisms, however, is that they are

quite costly and the communities and states that would most benefit from them do not typically have the financial resources to develop and implement the required infrastructure (for example, the Republic of the Marshall Islands: see Johnson 2010). To do so successfully, these states would require significant international assistance – assistance that is not readily available in today's international political climate (see discussion in Chapter Five and Six). For example, Republic of the the Marshall Islands has faced particular challenges in meeting the costs of constructing sufficient seawalls, where these would make a substantial difference in keeping salinized water away from crops and protecting the stability of roadways, houses, and other infrastructure from flood-related deterioration. In 2010, the United Nations launched a plea for US$20 million in aid, meant to finance the construction of three seawalls in the most vulnerable areas of the island chain (Johnson 2010). While billions of dollars were pledged to assist with climate change adaptation since 2008, according to the Republic of the Marshall Islands' United Nations Ambassador, Phillip Muller, "not much of this pledged money has flowed to countries [like his] that need it" (*in* Johnson 2010). Moreover, evidence is mounting to suggest that the possible success of these and other adaptation strategies is declining as we move forward in time. Without sufficient funding and technological advances, these island-based societies may find themselves out of adaptation options beyond international migration as sea levels continue to rise and local habitability declines.

Indeed, today's increasingly volatile and unpredictably changing global climate sees, on average, more than 25 million Environmentally Displaced Persons sitting in a condition of displacement each year (UNHCR 2013; also see Myers 1997, 2001). As the number of environmental migrants increases, the makeup of these migrants is also becoming more complex. Many forced migrants cannot afford safe migration, and all international migrants face the further challenge of securitized state borders that impede access to a full range of available migration options. Clearly, there are a number of new challenges associated with this longstanding problem, and this often leaves modern environmental migrants deeply challenged to fully and effectively adapt to local and regional changes in climate, even in instances where their ancestors may have succeeded.

In seeking to develop a deeper understanding of the past and future of forced environmental migration, this chapter will first provide a targeted history of environmental migration, followed by an overview of the science of climate change to enhance the reader's understanding of the depth and scope of the problem that climate change directly presents to modern migration studies. Together, this historical and scientific discussion will not only provide the necessary background for the dissertation project, but will also frame modern environmental displacement in an ethico-political context. Indeed, as the chapter will demonstrate, modern environmental displacement is not a 'natural' occurrence – it is a highly political experience with deep ethical underpinnings that need to be recognized and addressed by the international community.

Old, Yet New: Developing a Historical Understanding of Forced Environmental Migration

As mentioned, the history of environmental migration is long and vast, with many well-documented examples. These are particularly helpful in drawing out a deeper understanding of the various faces of forced environmental migration as it has existed in the past and has evolved into today. Most striking, as time moves forward, is the gradual regulation of environmental migration: from experiences that were largely characterized by free, if challenging, migration for better food security or new opportunities, to today's expression of environmental migration that is deeply complicated by modern borders and instruments of state security. The historical examples discussed below usefully illustrate how modern political processes such as state sovereignty and the regulation of human migration have dramatically limited the scope of options now available to address the issue of forced environmental migration, adding a new layer of political complexity to the issue that was not as significantly experienced in the past.

Climate Migration: Historical Process with Modern Challenges

The history of environmentally-motivated migration highlights the last major period of global warming as one that was at least as much, if not more-so, dominated by adaptation opportunities than it was by negative experiences of 'forced' migration. Today, however, politically-constructed states, borders, and the principles of Westphalian state sovereignty

and non-intervention, have framed the experience of environmental migration as an almost-exclusively negative process: 'forcing' migration, rather than enabling it. The historical access to the benefits of climate change is now restricted in ways that were not experienced throughout pre-state history, when political authorities did not as tightly restrict human mobility. Through an exploration of the historical examples that follow, it will be illustrated that environmental migration is far from new, but in many ways, its experience in the modern era is. It is significant to take note of this shift in experience because it reminds us that climate-related migration is not an inherently negative experience: it is not inherently manifested as forced environmental migration; in many ways, it is the modern state system that has made it so.

The Eurasian migration of the Huns, Turks, and Mongols, which spanned much of the first millennium BC through the thirteenth century AD, marks what is likely to be the first documentable experience of global climate migration. This mass-movement of people has been traced through archaeological and written sources to substantial shifts in climate and dominant weather patterns that would have made daily life increasingly difficult to survive. For example, during the Bronze Age (the third to second millennia BC) the climate of Central Asia was much drier and colder than it is now (Van Geel et al. 2004, 305). The levels of humidity in this region increased – along with the average temperature – until the Ninth or eighth century BC, when they began to decline again (Van Geel et al. 2004, 305*)*. As the climate became more hospitable during this time, there was a clear alignment with the migration of the expansionist Tagar cultures of the first millennium BC (Bokovenko 2004, 29). Bokovenko (2004, 29-30) cites evidence of cool and humid climatic trends from about the third and fourth centuries AD, which align with the introduction of the Tastyk culture into the steppe region (also see van Geel et. al. 2004). From these and other examples, there is a clear causal link between a significant increase in humidity and temperature in the steppe region from western Central Asia to western Siberia, which opened new migration possibilities for the Huns, Turks, and Mongols at various points during the first millennium. Similar trends can be found in Europe during this period, where a warm climate was replaced by a colder and wetter climate (van Geel et. al. 1996, 1998). This climatic shift can be linked to the migration of nomadic tribes westward.

Indeed, the permanent settlement of Europe has been traced to about 12,000 years ago, when the last long glacial period finally receded (Ponting 2007, 26-7). The receding ice age opened the possibility for permanent human settlement, which replaced what had previously been a seasonally-nomadic existence that was primarily focused on following the migration routes of reindeer across Europe. Finally, the settlement of the Americas also aligns with a period of climate change, where the reduced sea levels of the Bering Strait revealed a land bridge, which initially enabled human migration from Siberia into Alaska, and warmer climates enticed populations further southward (Ponting 2007, 29). While it is not clear, given the lack of clear historical documentation from this time period, that climate alone initiated these migrations, Bokovenko (2004, 31) argues that there are "no doubts" that it played an "essential role" in stimulating the move of these various nomad groups over long distances. Importantly, none of these experiences would be possible in today's international political community, where migrating groups would have to cross a series of regulated, sovereign state borders.

Significantly, the 'forced' side of environmental migration is not a new phenomenon, either; nor is it always directly related to the existence of sovereign state borders. The American Dustbowl region spanned extensive areas of Colorado, Kansas, New Mexico, Texas, and Oklahoma in the 1930s and had devastating effects on many of the farming families who lived within its bounds. It was created naturally during a period of successive droughts, where windstorms swept clouds of dirt and dust across the American prairies, the land produced little or no food, and approximately one third of farmers living in this region felt forced to migrate, often towards California, seeking more sustainable livelihoods for themselves and their families (Goffman 2006, 1). Here, we see an example of a shift in microclimate that resulted in large-scale internal displacement, within the modern state system: indeed, this is the most common form of environmental displacement experienced today, as well as the most difficult to recognize because it is not easy to separate economic from environmental factors as the clear drivers of this type of migration. Typically, where one might expect special migration rights for displaced populations, this is not typically the case for economic migrants. It will, however, be argued later in the dissertation that this is

a false dichotomy and cannot properly be used to restrict the migration rights and assistance expectations of Environmentally Displaced Peoples.

Further back in history, is the iconic case of Rapa Nui, or "Easter Island." Through an analysis of the more than 600 massive stone statues, averaging twenty feet high, which were discovered on the 150 square mile island, Ponting (1992, 1-7) draws clear links between the effects of a changing environment and human flourishing. Easter Island is located approximately 2,000 miles off the west coast of South America. When Europeans first 'discovered' the island in 1722, they found a primitive culture of about 3,000 people who were impoverished, warring, and often resorted to cannibalism in order to survive. None of this reality fit with the level of organization and sophistication required to erect the hundreds of statues around the island, which raised many questions. Ponting (1992), drawing from anthropological studies conducted in the nineteenth and twentieth centuries, pieces together the history of a civilization – not lost, but surely diminished – as a result of environmental deterioration. The story illustrates the level of interdependence between humans and their environment in a way that is more visible and dramatic than the current imperceptible processes of climate change, GHG emissions, and global warming, but which nevertheless holds clear lessons for us today. Ponting's (1992) analysis reveals that the ancient Easter Islanders were an extremely advanced people. Their large stone statues, likely religious in nature, were probably carved out of a stone quarry at Rano Raraku and moved to sites all over the island via rolling wooden platforms placed over a series of logs. Between the necessity of cutting down trees to clear land for an increasing population, increasing agricultural practices (which were also quite sophisticated), housing needs, fuel, and the vast number of logs required to move the impressive religious icons around the island, it was not long before Easter Island was deforested (Ponting 1992). Anthropologists believe the population peaked at about 7,000 in 1550AD and declined steadily from there. By 1600AD the island was completely deforested, although Ponting (1992) believes that related problems had likely begun well beforehand. From about 1500AD, people were likely forced to abandon housing and live in caves due to a shortage of trees to supply lumber, as many carved statues remained at Rano Raraku due to what Ponting (1992) argues was a lack of transportation. The population steadily decreased

from 1550AD onwards due to a declining standard of living, and a lack of forest and undergrowth to protect agricultural crops from soil erosion. Canoes could no longer be built, which significantly decreased fishing capabilities and the overall mobility of the population. Fishing endeavours were further complicated due to nets (and also clothing) having been constructed from the paper mulberry tree, now likely extinct on the island (Ponting 1992). In the end, it seems likely that the ancient Easter Islanders were trapped on a remote island with little-to-no adaptation possibilities; they lost their rich culture, sustainable lifestyle, and some may say, even their humanity as they were forced to turn to cannibalism. Most anthropologists believe that the decline was quick, resulting from an inability to adapt to their surrounding environment, and no option to migrate away from it.[1] While this case illustrates an extreme situation, the lessons that lie within it are immediately applicable to the central argument of this dissertation: adaption methods must be recognized and implemented early, before they lose their potential to be effective.

These examples, taken together, illustrate that when forced environmental migration occurs, having the option to migrate as an adaptation strategy significantly alters its impacts on the population in question. For example, in the case of Easter Island – a closed-migration situation – the environmental conditions were unable to recover to a state able to support a large human population. Being forced to remain in such deteriorated environment resulted in disaster for the otherwise thriving community. In the context of forced environmental migration today, populations are increasingly forced into closed-migration situations, not entirely dissimilar to that of Easter Island, as a result of the restrictions on migration put in place by state borders, the principle of sovereignty, and control over membership (citizenship) being held by the state and its mechanisms. Today, artificially-imposed political boundaries constrain migration as adaptation in many of the same ways that physical boundaries have in the past. The key difference, however, is that today's constraints are self-imposed and therefore not insurmountable, as the ocean may have once been without a canoe.

[1] A documentary has recently been released that challenges this traditional interpretation with one that sees smallpox, slave trading, and land theft on the part of European settlers as the downfall of Easter Island's inhabitants (*Easter Island: Mystery Of A Lost World*. 2014).

While this is not, and will not be, the only issue for forced environmental migration, as indeed, many forced environmental migrants are and will continue to be displaced within their own state's borders and are thus able to migrate at least somewhat freely within those borders, the reality of constrained international migration in the face of the Westphalian sovereignty brings a new level of urgency to the conditions of environmental migration for low-lying small-island nations worldwide where international migration is almost an inevitability: Tuvalu, Kiribati, the Maldives, Palau, and many others all face this expected outcome. As long as 'free' migration – which today would likely take the form of special protected migratory status – is unavailable to these closed-communities, a deteriorating quality of life is becoming the likely outcome for these islanders, much the same as it did for those inhabitants of Easter Island hundreds of years ago. The significant difference is that while the Easter Islanders were essentially incapable of leaving the island, as it seems that they lost access to sea-faring canoes, today's islanders are being held in place by socially and politically-constructed barriers that can, and, as this dissertation will argue, must be changed. While the dramatic negative effects of climate-induced migration may have been inevitable for societies in the past, we often have the means and ability to avoid these outcomes today. The failure to meet many of the challenges of the emerging paradigm surrounding climate migration will be ours and ours alone.

Overall, these selected examples provide a good glimpse at the extensive and well-documented history of environmentally-induced human migration over the last three thousand years. As illustrated, some experiences have been positive in nature, opening up new regions for human habitat; others, negative, where people have faced difficulties, or even failed to adapt to shifts in the natural environment which ultimately forced them to migrate or suffer significant setbacks because of their inability to do so. The examples also range in speed of onset from slow-moving, gradually urged or necessitated migration which occurs over decades or even centuries, to an immediate need (realizable, or not) to flee for survival. These historical trends have not changed in their natures. As a result of the particularities of each case, I argue that any response to the overall issue of forced environmental migration will need to effectively address its multifaceted nature – an issue taken up in the next chapter where the dissertation will build from these historical

processes, in part, to inform a robust understanding of forced environmental migration that captures its complexity. Furthermore, this section has also served to highlight the fact that while historical populations may have been restricted in their ability to adapt, we, as a human population, are instead restricting ourselves through myriad factors, including borders, the principle of sovereignty, and an unwillingness to share adaptive technologies with populations who could benefit from them. This logic is reaffirmed by the scientific processes that regulate climate change in that these add an ethical frame to our understanding of forced environmental migration: one that is often minimized or overlooked by the field (see, for example, Chope 2009; Docherty and Gianni 2008; El-Hinnawi 1985; Geddes and Somerville 2013; Goffman 2006; among others).

The Science of Climate Change: the Anticipated Future of Environmental Displacement

Few citizens or policymakers have deeply considered the challenges presented by forced environmental migration or the impact that accelerated climate change is having on its magnitude. This lack of awareness has been one of the central obstacles to meeting the needs and advancing the rights of Environmentally Displaced People. As such, I now turn to the science of climate change and, importantly, the impact that climate change is expected to have on the future of forced environmental migration. Building from the previous section, it has already been established that changes in global climate impact local weather patterns and alter, for example, rainfall patterns and the subsequent likelihood of flooding or drought. These changes in climate and weather can undermine the availability of food sources and functional habitation and, as a result, necessitate migration. While other forms of adaptation are typically tried first, instances of forced environmental migration are sure to increase, particularly because we are now in a period of *accelerated* climate change and microclimates are shifting more quickly. By contributing to the pace and nature of climate change, human activity is aggravating the problem of environmentally-induced migration. As a result, pre-planned and early-executed environmental adaptation methods, including establishing a pathway to migration, are necessary to avoid dramatic degradation. While the science associated with global warming and climate change remains somewhat controversial in some circles, scepticism

has diminished significantly over the last decade (see, for example, Horner 2007). The debate will not centrally be addressed here, but to say that I am convinced that some level of human activity has accelerated what may have otherwise been a natural – slower – increase in global mean temperature (for readers looking to be convinced, see Carr 2011; Lovgren 2004; Mathez et. al. 2009, 134; or Horner 2007). Instead, this subsection will present some of the science that explains the processes of climate change in terms of expected future trends and how these are likely to impact migration. It will also lie some of the groundwork that will be helpful in assessing moral responsibility for adaptation and migration assistance, addressed later in the dissertation. Most importantly, this subsection will illustrate that climate change works in three central ways that displace people: rising sea levels, desertification, and severe storm activity. Developing a clearer understanding of each of these characteristics will contribute to the dissertation's efforts to define the different categories of Environmentally Displaced Peoples, which is the focus of Chapter Two.

For our purposes, the key scientific insight is that climate change has been affected by increasing amounts of carbon dioxide (CO_2) and other greenhouse gases (GHG) accumulating in the atmosphere (see, for example, Mathez et. al. 2009, 131-150, 171-184; National Geographic 2009, among many others). This accumulation is problematic because a build-up of carbon in the atmosphere disrupts naturally occurring fluctuations in the carbon cycle, a process by which the earth's climate is regulated. This normally benign cycle operates in concert with other benign processes to form what is called the "greenhouse effect." Together these processes maintain the finely balanced, warm temperature of the earth's surface, which in turn enables us to live and grow food with relative ease. Problems occur when these processes become unbalanced.

Greenhouse gases, of which carbon dioxide is only one, blanket the earth and absorb and hold the heat from the sun that is reflected off of the oceans. These gases act in a similar manner as the glass of a greenhouse, letting sunlight in while preventing heat from escaping into outer space. Carbon dioxide has drawn the most concern in discussions of climate change because of the dramatic increase in human-related CO_2 emissions since the industrial revolution. This increase has been linked to the build-up of excessive carbon in

the atmosphere, which is trapping more heat than usual and has led to the current, accelerated, global warming trend. For example, it is now believed that human activities are responsible for adding roughly 7.8 billion tons of carbon into the carbon cycle per year (Mathez 2009, 71). Of this, approximately 3.5 billion tons remains in the atmosphere and another 2.3 billion tons diffuse into the oceans (Mathez et. al. 2009, 72). The extraction and burning of stored forms of carbon such as fossil fuels, and the pumping of carbon dioxide into the atmosphere is also occurring at rates that appear to exceed the natural rate of CO_2 removal from the atmosphere (Mathez et. al. 2009, 72). The net increase of carbon dioxide is thought to be responsible for global climate change because it is intensifying the greenhouse effect, which in turn is slowly raising the surface temperature of the earth. Indeed, Mathez et. al. (2009, 132-3) notes that

> the warming that has been occurring since the beginning of the twentieth century is unusual… it has been about 10 times more rapid than the warming at the end of the most recent glacial period 15,000 years ago … [Further,] it is a global, not regional phenomenon.

Fundamentally, while global warming is natural, this rate of warming is not (also see table 1 regarding the impact of the industrial revolution on the rate of warming).

The real effect of the increase in atmospheric CO_2 is seen in an increase in global mean temperature: in 2001, the United Nations-sponsored Intergovernmental Panel on Climate Change (IPCC) reported that the average temperature of the earth is likely to increase by between 1.4 and 5.8 degrees Celsius by the year 2100 – a very significant increase when one considers that the temperature of the globe has increased approximately one degree Celsius over the past 500 years (Lovgren 2004; Mathez et. al. 2009, 134). Indeed, in the last century alone the average temperature of the earth has climbed only about 0.6°C (Lovgren 2004).

While warmer temperatures may intuitively seem to make for more pleasant living conditions, there are three specific fallout effects that create serious problems which, in turn, induce mass migration: (i) rising sea levels, (ii) severe soil degradation, and (iii) extreme weather events.

Sea Level Rise

Rising sea levels are a particularly significant effect of global warming. Essentially, as the surface temperature of the planet continues to rise, two processes occur: first, arctic ice (glaciers, icebergs, icecaps, ice sheets, frozen tundra, etc.) begins to melt. These vast reservoirs of fresh water not only add to the overall volume of water on the planet, but they also alter the delicately balanced salinity of the oceans. The first functions to raise sea levels, move shorelines inland, flood low lying areas – particularly during high tide – and generally shrink the habitable landmass of coastal regions. One example of the more intricate complications of effects of sea level rise is the shifting nature of King Tides in the South Pacific. King Tides, the highest point of the spring tide season (January-March, where typical tides are higher than the rest of the year as a result of celestial alignment), occur annually and can last anywhere from a few days to weeks (Lin et. al. 2014). Due to the increase in overall sea volume, these have been higher than normal and consequently more destructive in the South Pacific island region. For example, one can look to the most recent experiences of the atoll nation of Tuvalu: the highest point on the island chain stands a mere 4.6 meters above sea level, with much of the habitable landmass resting much closer to the one meter mark. The highest recorded King Tide was in 2006, where water levels reached an astounding 3.415 meters (Lin et. al. 2014). For comparison, the average human is less than two meters tall. While the 2006 King Tides were somewhat of an anomaly, Tuvalu has experiences high tides ranging from 3.2 meters to 3.286 meters lasting from January through March, *each* year since 2006 (Lin et. al. 2014). Clearly, this poses significant problems for the daily livelihoods of small island peoples and their continued local existence.

At the same time, shifting ocean salinity, a second effect of melting ice, has been linked to coral bleaching and the subsequent erosion of shorelines, as well as shifts in global weather patterns. As many of us know, the ocean is made up of salt water; however, some areas have a denser concentration of dissolved salts than others. While there is a great deal of information on ocean salinity and its impacts, what is significant to know for this dissertation is that any imbalance in salt concentration has the potential to form a feedback loop, and thus be self-sustaining (i.e. continue without further outside influence). This

process begins with a shift in the major ocean currents, which can affect the formation and density of clouds – thus affecting rainfall patterns – and can cause rapid changes in air temperature and pressure, and thus affect the severity and frequency of storms. Both of these changes directly impact the security of both agricultural crops and human habitats. According to Robert Gagosian, president and director of the Woods Hole Oceanographic Institution, such shifts may have already begun. Gagosian argues that we could see substantial shifts in ocean currents in by 2034, which could disturb or even halt large currents in the Atlantic Ocean (NASA 2004). Without the vast heat that these ocean currents deliver (comparable to the power generation of a million nuclear power plants) Europe's average temperature would likely drop between 5 and 10°C (NASA 2004). Parts of eastern North America would also be affected, although to a somewhat lesser extent. A dip in temperature this dramatic would see similar global average temperatures as those that existed toward the end of the last ice age, about 20,000 years ago (NASA 2004).

The second challenge associated with rising sea levels is a process known as thermal expansion: as water becomes warmer, the molecules begin to move faster, bump off of each other with more vigour, and thus distance themselves from each other. With more space between each molecule, the overall volume of the water expands. Indeed, studies indicate that thermal expansion alone has already raised sea levels between 10 and 20 centimeters (Lovgren 2004). This problem is specifically concerning in terms of environmental displacement because a significant portion of the world's population lives within one meter of current sea levels (for example: 80-90 percent of Bangladesh, most of the eastern seaboard of the United States, Lisbon, and the majority of island nations such as the Maldives, the Republic of the Marshall Islands, Kiribati, Tuvalu, and others).

As major ice sheets continue to melt and thermal expansion continues, an increase in sea levels beyond the one meter threshold is widely forecasted by the end of this century. Steve Nerem from the University of Colorado researches global sea levels and believes that based on changes in the Greenland and West Antarctic ice sheets alone, there is "a lot of evidence out there that we're going to see at least a meter of sea level rise by 2100" (*in* Black et. al. 2011; also see Carr 2011). A one meter rise in current sea levels will unequivocally displace more than 250 million people, based on the current populations of

Bangladesh (over 156 million people) and the U.S. eastern seaboard alone (over 111 million people) (CIA World Factbook 2011). And this level of displacement may come sooner than initially expected: 2012 was the first year in centuries that saw an astonishing 97 percent surface melt of the Greenland ice sheet, with over 56 percent of the melt occurring in only four days, from July 8-12, 2012 (NASA 2012). Clearly, changes in sea levels can occur quickly and without much warning.

Even if all GHG emissions were to cease immediately (an occurrence which, while nearly theoretically possible, is not reasonably anticipated), the current temperature of the earth's atmosphere will itself result in continuing ice melts and thermal expansion sufficient enough to trigger a one meter rise in sea levels by 2100 (Carr 2011). No further warming is required. Indeed, based on a series of studies conducted over the last three decades which measured combined global tide gauges and satellite data, Mary Elena Carr, an oceanographer from the Earth Institute at Columbia University, believes that an increase between one and two meters – and not merely a one meter rise – is increasingly more likely. As such, it is clear that not everyone will be able to sufficiently adapt their habitats to be able to remain in their current locations; many people, particularly those from low-lying island nations, will be forced to migrate in order to survive.

The processes of sea level rise are further complicated by two factors: seasonal changes between *El Niño* and *La Niña* and the connecting fact that sea levels do not rise equally around the globe. The *El Niño* and *La Niña* events mark the two irregular oceanic seasons of the Western Pacific: *El Niño's* warm phase, which brings high air surface pressure, and *La Niña's* cold phase which brings low air surface pressure. These phases are further accentuated by local tidal activity and moon phases which can raise and lower shorelines between one and two meters on average, outside of King Tides and the surrounding spring tide season discussed above. (Jacob 2011). For example, during an *El Niño* period, global weather is typically drier, which slows sea level rise, but brings an increase in sea-related storms. *La Niña*, on the other hand, typically brings wetter weather, an acceleration of sea level rise, and a decrease in sea-related storms (Jacob 2011). More problematic is the fact that these variations affect the Pacific regions more significantly because of their prevailing winds. These winds push water into the pacific basin, where warm conditions and

conductive activity combine, and together can account for a variance of a 10-20mm between what 'should be' and 'what is' in the Pacific region (Carr 2011).[2] Geographically, this region also houses a high concentration of small, low-lying island nations, for most of which a 10-20mm variance in sea levels can have disastrous effects in terms of maintaining daily lifestyles and food security.

Soil Degradation

In addition to sea level rise, global climate change also accelerates soil degradation. The fertile soil that is necessary for productive agriculture can be degraded many ways, the first of which is a process known as desertification. As Mathez et. al. note (2009, 136-7), rising temperatures are not the only cause for concern: even minor shifts in the earth's hydrological cycle can bring about significant changes in patterns of precipitation and drought. Of immediate concern to the dissertation are the direct negative impacts these shifts have on agriculture, water supplies, and microclimate ecosystems. As global warming increases the speed of evaporation, more moisture is being taken from the ground, and held in the air. This process is known as desertification and makes agricultural practices increasingly difficult. Under a condition of global warming, desertification is compounded by the build-up of moisture in the air, which tends to result in an increase in the severity of rainfall events, i.e. larger quantities of rainfall over a shorter period of time (Mathez et. al. 2009, 138). These rainfall events adversely affect agriculture in their tendency to produce flash floods, damage crops, and be brief, rarely falling long enough for the soil to absorb any significant amount of moisture before it evaporates again.

The second process that degrades fertile soil is known as soil and/or coastal erosion. This type of erosion can be brought on by heavy rainfall and flash floods, often stripping the nutrients from the soil, or stripping the soil itself and leaving infertile soil or rock where agricultural practices once took place. Overall, the shifts in climate that affect soil are slow moving and the effects are felt over a long period of time. In terms of forced environmental migration, many populations along the borders of desert regions or areas of frequently

[2] *El Niño* causes higher rise in the Eastern and Central Pacific, while *La Niña's* winds pushes further into the Western Pacific region.

high or intense rainfall feel pressured to migrate to more hospitable climates in order to sustain their livelihoods, which often rely on subsistence farming. This is particularly the case for millions of impoverished families forced to migrate over vast expanses of desert, without assistance, in many developing regions such as rural China or sub-Saharan Africa.

Extreme Weather

Finally, in terms of fallout effects, the processes of global climate change have also been linked to extreme global weather, including an increase in the frequency and severity of hurricanes, tornados, typhoons, and tsunamis worldwide (Mogil 2007).[3] These changes are linked to micro-shifts in ocean currents and the irregular and thus, unpredictable, changes that occur with the *El Niño* and *La Niña* ocean seasons. Each of these processes affects air movement and the gathering of moisture in the air (the process through which clouds are formed). As clouds experience sudden fluctuations in temperature, they are forced upwards or downwards, into or away from the atmosphere, which can cause violent, sudden, and severe weather events. Each of these storm-types has significant effects on human populations when they make landfall: killing residents, destroying homes, crops, and basic infrastructure, and/or displacing large portions of the population until the event and its effects have been resolved, if indeed resolution is possible. Due to the unpredictability of such weather events, effective pre-migration adaptation is often difficult to analyse, in addition to being quite costly. For example, where a small island state could potentially build a seawall to keep rising tides back, comparable options for adaptation are not available for tsunamis, hurricanes, and the like. At best, states could hope to secure an advanced early warning system, but in many cases, the infrastructure and/or geography to safely weather such extreme events is simply unavailable. While migratory demands in this context tend to be temporary, they typically result from severe storms that make landfall without significant warning, and with disastrous results. For example, according to the United Nations Office of the Envoy for Tsunami Recovery, the 2004 Indian Ocean Tsunami event caused an estimated 230,210 deaths, with only 184,167 of these able to be

[3] Research has recently linked tsunami activity to climate change, noting that shifts in ocean currents and temperature can trigger underwater faults that may have otherwise remained stable (see "Climate Change And Tsunamis: Ice Melt May Cause Underwater Avalanches, Research Shows" 2013).

confirmed. Approximately 125,000 people were injured and 45,752 people were reported missing after the event. In all, of the survivors, around 1.69 million people were displaced by this single weather event. With severe weather events like these becoming more frequent, it is clear that something must be done to avoid this level of death and destruction being repeated on a regular basis.

This overview of the science of climate change and the fallout effects of global warming underlines the urgency of confronting the realities of forced environmental migration. In particular, there are four conclusions that will be especially important to guide any response to environmental migration resulting from climate change: first, climate change is a global process, but it is experienced in unique and acute ways at the regional and local levels. While some regions will see more immediate impacts, it is a mistake to believe that any geographical region will be immune from its effects. Secondly, global warming has already passed the point of no return in terms of producing a 'doomsday scenario': sea levels will rise by *at least* one meter. The processes of global warming that will result in displacement cannot be stopped. Further, the severity of the effects of global warming and climate change are going to get worse before they get better. Thus, while efforts to slow global warming are still relevant, it is urgent that increased efforts be directed to managing its effects. The focus here should be on efforts to effectively adapt local communities where possible, and on establishing initiatives to address the needs and rights of those caught up in forced environmental migration. Thirdly, it must be recognized that the processes of global warming are not entirely 'natural'. In as much as humans have played a role in creating the conditions of climate change, an ethical responsibility is formed to mitigate its effects and assist those most negatively affected (for a well-rounded discussion of the ethics of climate change, especially theorizing issues of intergenerational justice and alternate framings of climate ethics outside of liberal human rights discourse, see Gardiner et. al. 2010; Tremmel and Robinson 2014, also discussed in Chapters Two and Three).[4]

[4] Tremmel and Robinson (2014) argue that while rights discourse makes sense in many ways, it can also bump up against liberal individualisms in debilitating ways that make utilitarian approaches the only way to determine whose 'right' wins at the end of the day (for example, between country A's right to continue oil development and country B's concerns over climate change and continued fossil fuel extraction). In this way, they argue that rights theorizing is problematic, especially in framing the intergenerational dimension of climate ethics (Tremmel and Robinson 2014: 190). Here, alternate theorizing such as an ethics of care, or, as they suggest a "needs-based"

Finally, because the local and regional consequences of climate change vary in terms of severity and scope, and the human consequences and possibility of recovery or adaptation are different depending on whether the fallout effects in question are flooding, severe storms, or desertification, it is important that we have a carefully considered framework for defining and understanding the different experiences of forced environmental migrants. The multifaceted nature of forced environmental migration necessitates a complex, multifaceted approach to designing international and domestic policy responses. Each of these scientifically-drawn conclusions lay the foundation for the dissertation's goals: establishing an ethically-grounded policy framework set to address each typical experience of environmental displacement.

Moving Forward

The science associated with global warming and its links to environmental degradation and human displacement is increasingly incontrovertible. This dissertation responds to the climate change displacement that is already occurring with the expectation that forced environmental migration will only become more desperate and widespread over time, without substantial human intervention to ease the challenges associated with effective adaptation (including migration). The chapters that follow seek to locate strategic adaptation possibilities to a changing climate, with a particular focus on integrating the ethical needs and rights of forced environmental migrants with public policy and international law, as these are substantially under-represented in the current state of both spheres. As we can extrapolate from the scientific findings above, climate change will result in forced migration for many populations worldwide. As such, this project employs terms like "environmentally-induced migration," "forced environmental migration," "climate change migration," and "environmental displacement" to indicate that modern environmental migration is fundamentally not a choice, but an adaptive necessity. Modern climate change does more than makes lives more difficult; it directly threatens the basic

framing of climate change ethics (Tremmel and Robinson 2014: 191), may be able to exceed these limitations and better balance intergenerational ethical concerns. While I do not disagree their concerns, my project offers a different perspective, which accepts rights theorizing as a helpful path, but seeks to ground it outside of liberal individualist theory (instead, in an Arendtian commonality, as discussed in Chapter Four). Their concerns, however, are useful to note for my project despite my different approach.

existence of individuals, communities, and even entire nations (for example, see the recent series of record-breaking storms from Hurricanes Mitch, Rita, and Katrina in the Americas, to the 2004 Indian Ocean Tsunami, or the destruction caused by Typhoon Haiyan in the Philippines). It is clear that climate change is making continued habitation and food security difficult for a growing number of people. While adaptation methods – from techniques of irrigation to flood management – have become more sophisticated and effective, they have also become more expensive, to the point that they are often priced far beyond the reach of affected populations. Moreover, as climate events become increasingly severe, less expensive local approaches to small-scale adaptation have simultaneously become less effective. As a result, a growing portion of the population is failing to effectively adapt to climate shifts and extreme weather events, leaving unwanted migration as the only adaptation method available (see *Threatened Island Nations Conference* 2011; Tremonti 2013). Compounding the problem, modern restrictions on migration across increasingly securitized state borders often remove what I will argue is a morally legitimate option from those who have no choice but to leave their homes. As such, the international community is increasingly facing the prospect of sizeable displaced populations with nowhere to go. Throughout the dissertation, the idea that migration must be offered as an adaptation strategy in order to combat the full severity of climate change is upheld; yet, the political challenges associated with this approach are also recognized and addressed in its approach to balance substantial ethics and public policy. Indeed, in the face of international regimes and sovereign state policies that would restrict environmental migration, this dissertation seeks to develop a policy framework and strategy to support Environmentally Displaced Peoples in a way that is both ethically and politically meaningful. This is significant, because much of the field does not yet recognize what I believe is an ongoing depoliticized (or, 'naturalized') discursive framing of the environment in the academic literature, policy, or law that addresses climate change displacement (discussed below). As this chapter has illustrated, climate change is not 'natural': human activity has fundamentally affected both its rate and its course (see Table 1). Especially since 1990 and the widespread signing and ratifying of the Kyoto Protocol, it can also clearly be argued – as it will be – that states were aware, or should have been aware, that their policies towards the environment impacted the rate at which climate change was

progressing and the severity of its effects in terms of sea level rise, desertification, and extreme weather (see also Jamieson 2010, 77-86, discussed in Chapter Three). In this, I believe we can start to see the extent to which climate change is an inherently ethico-political issue: an argument that will be developed in full over the next two chapters. Yet, as mentioned, much of the literature does not conceptualize climate change displacement through this lens, instead often conceiving the problem of forced environmental migration as one which is largely about who moves where, and when. This, I believe, merits a closer examination of the field and how it currently understands 'the problem'. Chapter Two delves deeper into this issue through an examination of the various conceptualizations of environmental displacement as they span both academic and policy literatures. It narrows focus on the debate over definition as one that is central to the field, since discord here seems to be having deep and lasting impacts on the shape of responses emerging from the international regime.

Chapter 2| Defining and Situating Forced Environmental Migration and Environmentally Displaced Persons

Forced environmental migration, as we have seen in the previous chapter, is not a new phenomenon. Indeed, it has shaped and reshaped human (dis)placement throughout recorded history when local adaptation attempts have failed. Yet, significantly, the quality of human environmental migration is different today from what it has been in the past. Slow-moving changes in landscape and weather are more rapid; storms, more violent and destructive. Rather than subtly guiding human movement, in many cases shifts in climate are now firmly encouraging, if not outright demanding it. Yet, perhaps because of its new patterns, forced environmental migration is still a relatively new term, lacking clear and comprehensive definition. The cacophony of the field has complicated consensus, in turn adding to the delay of locating and implementing effective responses in law and policy. In response, Chapter Two begins with an analysis of the merits of employing 'refugee' discourse – a persistent trend in the field (see Gemenne 2015; Lister 2014; or, Bhat and Manzoor 2014 for recent examples) – in the context of forced environmental migration. It engages with the ideas and analyses found in academic literatures that tackle environmental migration with a focus on environmentalism, human rights, and state security. These approaches have been selected due to their centrality in shaping many of the background assumptions that inform competing understandings and terminologies in the field. Following this discussion and analysis, the chapter shifts to explore the ideas, perspectives, and analyses that have been examined and advanced by practitioners, official international institutions, and others engaged in policymaking and policy debates at the international level.[5] In this, the chapter looks to clarify the social and political considerations surrounding environmental migration and displacement, noting how and why they differ from both experiences of environmental migration in the past as well as from contemporary experiences of non-environmental displacement.

Through its analysis of the current state of the field, the chapter argues that more than anything, many significant advances are being obfuscated by the lack of a clear

[5] Regional approaches will be addressed more carefully in Chapters Five and, particularly, Six.

understanding of who and what makes an Environmentally Displaced Person. In response, drawing from the science of Chapter One, the chapter ultimately presents what are, by my account, four distinct, ethico-political categories of Environmentally Displaced Persons (EDPs) based on their experiences of displacement. Each of these, as we will see, holds its own ethical and policy consideration that cannot effectively be conflated into a generalized understanding of environmental migrant, as has been a common approach. Rooted in the science of anthropogenic climate change and shaped by the historic principle of sovereignty, these are furthermore deeply ethical and political categories that need to be recognized as such in developing a comprehensive view of the field. Three of these four categories will eventually be adopted to underpin the overall discursive framework for the dissertation as we move forward, informing its final policy framework offering.

Exploring the Definition Question: EDPs and "Refugee" Rights

To date, a significant amount of intellectual work has been completed to justify including Environmentally Displaced Persons (EDPs) among traditional refugees for purposes of definition, counting, and protection (for example, see Myers and Kent 1995; Myers 1997, 2001; Bates 2002; Brown 2008; Lister 2014; or, Bhat and Manzoor 2014). Initially, it was research from the United Nations Environmental Programme (UNEP) that first defined Environmentally Displaced Persons as "environmental refugees." The UNEP explained that these "refugees" should be considered as such because, similarly to traditional refugees, environmental refugees are "people who have been forced to leave their traditional habitat, temporarily or permanently, because of marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life" (El-Hinnawi 1985, 4). While the displacing event is different than that involved in traditional refugee claims (political persecution verses environmental disruption), the idea that the quality and/or safety of the lives affected are in jeopardy is prominent in both, as is the central theme that some sort of disruption has resulted in a need to migrate away from a negative situation. In 1993, Norman Myers, one of the more prolific writers on environmental displacement, popularized the term "environmental refugees" with his forecast that there would likely be 150 million such displaced peoples by 2050 (1993d, 191). While his use of the term "environmental refugee" was quickly – and

accurately – criticised by, among others, McGregor (1993) and Kibreab (1994) for being "poorly defined" and "legally meaningless and confusing," his figures were adopted by the Intergovernmental Panel on Climate Change (IPCC), the United Nations' scientific body responsible for reviewing the causes and impacts of climate change. By 1996, Myers had altered his forecast to expect 200 million environmental refugees from sea level rise alone, drawing further international political attention to the term, as well as heightening fears over the mass international migration which was anticipated from such displacement. At that time, Myers also suggested that the total number of "environmental refugees" may have already have been as high as 25 million, which numerically put this group well ahead of the 'political' refugees of concern to the United Nation High Commissioner for Refugees (UNHCR) (Myers 1996). This final claim, more than any other, demanded attention: if there truly were more "environmental refugees" than political refugees, why were they not receiving international protection from organizations like the United Nations who traditionally assisted displaced persons and protected their rights?

"Environmental Refugees" in the Literature

Since its inception, the term "environmental refugee" has been seductive in the developing body of literature around environmental displacement. This trend is striking, particularly because Environmentally Displaced Peoples are not considered "refugees" under the preeminent instrument in international law that houses refugee rights, the United Nations' 1951 Convention Relating to the Status of Refugees, hereafter referred to as the 1951 Refugee Convention. The disconnection here between discourse and reality begs further consideration. There are a few possibilities as to why the term persists: first, Kibreab (1997) alludes to the possibility that the popularity of the term can be connected to the agenda of policymakers in the Global North, who are largely seeking to further restrict asylum laws and procedures. Specifically, Kibreab (1997, 21) claims that the term was "invented at least in part to depoliticise the causes of displacement, so enabling states to derogate their obligation to provide asylum." He goes on to explain that because current international law does not require states to provide asylum to those peoples who are displaced by environmental degradation, the notion that many or even most of the

migrants who are moving from Africa to Europe, or from Central America and Mexico to the United States, are forced to move because of environmental factors such as desertification, or prolonged periods of drought or flooding, enables the governments of the Global North to exclude them from being granted asylum status (Kibreab 1997, 21-2). Thus, discursively highlighting the environmental nature of displacement moves the experience from one that may trigger rights-claims under international law to one that triggers nothing, legally.

Indeed, Kibreab's claim is plausible, particularly as it is exceedingly difficult to distinguish a definitive line between an environmental migrant and an economic migrant, especially in the case of subsistence farmers facing periods of prolonged drought which lead to repeated crop failure. Such a person would simultaneously be encouraged to migrate to find more hospitable agricultural land for both environmental and economic reasons, neither of which provide an exceptionally stronger or clearer rationale than the other, and neither of which would (currently) lead to an internationally-recognized claim for asylum or protected status in another state. As it currently stands, most of the environmental migrants who arrive at the borders of the Global North (often from Central America and Mexico to the United States, and from African states to European ones, especially Spain), fall into this poorly-defined category and are simply classified as economic migrants with no special rights at the border. This discursive framing serves to strip ethical considerations from their migration, making it easier for states to deny them entry.

Yet, Kibreab's reasoning does not entirely fit with the thrust of the developing literature on forced environmental migration. Richard Black (2001, 11-12) argues that the notion of describing Environmentally Displaced Peoples as environmental refugees as one that is being promulgated by northern governments seeking to restrict asylum does not correspond with the fact that much of the literature on environmental refugees in fact argues for an extension of asylum law and/or humanitarian assistance to include those peoples who are forcibly displaced by environmental degradation. Indeed, Kibreab's claim would better stand to reason if the bulk of the literature consistently endorsed a differentiation between 'political' and 'environmental' causes of migration rather than conflating the two. Black (2001) turns to two reports to support his critique, distinguishing between academic and non-governmental writings and those motivated by

public policy concerns: the first, conducted jointly by the World Foundation on Environment and Development and the Norwegian Refugee Council, argues for establishing a system of protection specifically designed to meet the needs of environmental refugees (see also Trolldalen et al. 1992, 23); the second, produced by the International Organisation for Migration (IOM) and the US-based Refugee Policy Group (RPG), also concludes that new international instruments are needed to provide assistance and/or protection to environmental migrants who are largely being ignored by international policy (IOM/RPG 1992, 30). One could further cite numerous academics from the Global North, particularly located in the United Kingdom and Australia (see Norman Myers; Andrew Simms; CRIDEAU and CRDP's 'Draft Convention on the International Status of Environmentally-Displaced Persons; Docherty and Giannini 2009; or 'A Convention for Persons Displaced by Climate Change' 2010, among others) for evidence of a demand to minimally extend recognition for environmental migrants, if not to establish an entirely new protection regime (discussed further in Chapter Seven). Therefore, it seems that even if the practical impact of the literature on "environmental refugees" may have been to provide governments of the Global North with a possible argument to further restrict the terms associated with asylum and/or refugee claims, this has not been the direct intention of the many authors writing on the topic of environmental refugees. Beyond this evidence, it is also interesting to note that the term "environmental refugee" originated with the United Nations Environment Programme – the first among few UN organisations located in the Global South, and seen by many (including Black 2001) as being more firmly aligned with African rather than 'northern' interests in the UN.

Yet, if academic and policy interest in the notion of environmental refugees is not overtly motivated by a desire in the Global North to restrict asylum, the question remains as to why so much of the literature seeks to separate environmental causes of migration from other political, economic, or social causes. The second explanation, which I believe gains credibility in light of an overall study of the field, is that the terminology "refugee" is seductive because of the weight it holds in international law and policy. Indeed, a "refugee" is granted a fairly comprehensive set of special rights that align well with the central goal of much of the literature on environmental displacement. Overall, there seem to be three

general approaches that take up the debate, and are drawn towards the "refugee" label: environmentalism, human rights/international law, and conflict studies. The fourth approach, which largely comes from a background of geography and/or international politics, stands firmly against adopting the term "refugee" in the context of environmental displacement.

Environmentalism/Green Theory

Beginning with work on the topic of forced environmental migration that is rooted in environmentalism, one often finds research that is somewhat detached from the current political challenges of the international community. More specifically, critiques can be laid on work from this perspective as to its relevance and expertise regarding the realities of forced migration in an international regime shaped by the principle of state sovereignty and securitized borders. For example, Black (2001, 12) critiques Norman Myers on this account, arguing that he

> comes not from a background in migration or refugees or asylum, but from the science of ecology: in turn, the principle concern of his writing is not migration, but the imminent threat of environmental catastrophe surrounding climate change (Myers, 1993c, 1993d), deforestation, and desertification (Myers 1993a).

Yet despite this disconnect Myers is, somewhat problematically, one of the leading academics in the field (see McAdam's 2011 critique of Myers' uncritically-extrapolated forecasts of the expected number of EDPs *in* Aikman 2011). In an article published for *People and the Planet*, Myers (1993b, 28) points out that while he "does not assert that the immigrant problem should be perceived as some sort of threat … without measures of exceptional scope and urgency, Europe may have to accommodate growing numbers of newcomers." He goes on to pose an ominous choice for the Global North (particularly, Europe): "either to be more expansive in our attitudes towards neighbouring countries that are also developing countries, or accept that Europe's living space will have to become more expansive to accommodate extra people" (Myers 1993b, 33). In other words, Myers puts forward the idea that to do something about the rising tide of expected environmental refugees, governments must either address the causes of environmental degradation or

increase immigration. Linking environmentally-friendly policies and practices with the threat of destruction (usually human social/political, but also environmental) is not uncommon in environmentalist writing; however, it can be dangerous in that it can border on fear-mongering. The idea, not entirely misplaced, is that fear is the most effective motivator of public support, and thereby government action, to initiate the sufficient environmental protectionist policies required to slow climate change and avoid instances of environmental migration in their entirety. This reasoning (if A then B; fix A, eliminate B), however, over-simplifies the complex realities of both the causes and consequences of climate change as well as the challenges of modern international (even domestic) migration. Given the current international political climate, which tends to look negatively upon immigration – particularly that relating to the asylum or refugee classification (see Castles and van Hear 2005, or Cornelius *et al.* 2004, among others) – threatening further government inaction with a mass influx of refugee claimants would certainly receive attention, if not produce successful results in terms of applying adequate pressure for implementing stricter environmental protection legislation. Indeed, Myers is not alone: *Climate Refugees* (2010) concludes with a segment on how changing one's light bulbs to energy efficient ones and taking public transit will help to avoid having to accept environmental migrants into one's country en masse. Canada's policy approach, as will be discussed in Chapter Six, also exhibits signs of this thinking in its *ad hoc* approach to environmental displacement, illustrating a belief in its temporariness (see Omeziri and Gore 2014). This reasoning, however, borders on the absurd: particularly in light of the climate science presented in Chapter One which indicates that even if greenhouse gas (GHG) emissions were to stop today, climate change would continue and sea levels will at least surpass the one meter mass-displacement threshold – if not more – in the near future. Whether intentional or not, much of the literature written or presented from this perspective offers a false dichotomy: be "environmentally-friendly" or face "environmental refugees." Underpinning this argument, lies the misguided hope that global warming can be stopped, should steps be taken immediately to reduce GHG emissions, energy waste, water waste, pollution, and the like (a hope which, as the reader will recall, is extremely unlikely to be realized without immediate and substantial changes to everything from industry, to economy, and lifestyle). This body of literature tends toward using existing

political language like the term "refugee" without acknowledging its associations with notions of 'the other', poverty, and the developing world. As such, while it tends to provoke a sense of urgency, it is largely unhelpful in understanding the complexity of widespread forced environmental migration, and even detrimental towards actual environmental migrant populations seeking to free themselves from the language of 'victim.'[6] While potentially successful in producing the necessary motivation for people to cut GHG emissions or reduce their environmental footprint, the abstract numbers, threats, and scenarios it associates with environmental displacement are further rarely accompanied by practical solutions or methods to ameliorate the hardships it predicts (see, particularly, the work of Norman Myers). Essentially, while descriptions of the potential problem produced by mass environmental displacement are given, they tend to be romanticized and presented abstractly and without careful and concrete political consideration. Overall, this approach towards forced environmental migration tends to be written by the North, for the North, and is based on an inaccurate assumption that the role for the North will be largely passive, as protector of the environment or – at worst – a receiving state, and not as an active participant in the realities of displacement; it largely rests on false hope and ultimately fails to offer any true resolution to this global problem. With islands like Tuvalu and Kiribati on the verge of submergence, and 80-90% of Bangladesh likely facing a similar fate, changing a few light bulbs and funding hybrid automotive technology may help to reduce the impact of continuing climate change, but it will not sufficiently resolve the problem of environmental displacement.

[6] François Gemenne has recently argued that the depoliticization and "de-victimisation" of environmental migration has enabled the international community to view this type of migration as a "commodity" that could be solved through environmental policy, rather than as a political problem tied to industrialised countries (see Gemenne 2015). In response, he advocates for an embrace of the term "climate refugee" or "environmental refugee" to politically frame the experience of environmental displacement by recognizing climate-induced migration as persecution. While I recognize and agree with his diagnosis, I am unconvinced of the effectiveness of applying the term "refugee" to the experience of environmental displacement. I am unconvinced precisely *because* of the deeply-rooted, historic political framing of refugee status, which I believe cannot easily be – indeed, should not be – severed from its current legal understanding. I also note the cross-border limitations that using the term refugee has when seeking to recognize internally displaced environmental migrants. While I agree that the depoliticization of environmental displacement has enabled the international community to avoid its responsibilities to Environmentally Displaced Peoples, I advocate for a particularized, political conceptualization of environmental displacement through the definitions proposed in the final section of this chapter.

Human Rights and Law

Writers from human rights and law backgrounds primarily drive the second approach taken in the literature on forced environmental migration. Much of this literature seeks the advancement of a protective regime similar, if not identical, to that received by those migrants who are currently designated as "refugees" by the 1951 Refugee Convention is housed here (see, for example, Lister 2014; Bhat and Manzoor 2014; Cohen 2006; Keane 2004; Conisbee and Simms 2003; or Bates 2002). This approach tends to focus on making human rights claims based on the commonalities between convention refugees and Environmentally Displaced Persons. McAdam and Saul (2009, 3), for example, make this link while countering numbers-sceptics, arguing that whether the data regarding the projected number of forced environmental migrants is entirely correct or not, from "a legal perspective, the number of displaced do not affect the normative response to the issue, although they may of course impact on practical responses." In other words, if a normative human rights threshold is reached, the granting of protected status is required whether one or one million persons are affected. Fundamentally, McAdam and Saul remind us that the issue of environmental displacement is a question of human rights rather than one of climate models or other scientific projections. Similarly, Bates (2002, 467-468) draws a link between the various motivations of migration, stating the "term 'refugee' may be … applied to migrants simply compelled by external constraints … [that] may vary from moderate to intense, with the difference partially contingent on subjective assessments." As the motivation to migrate in both cases is driven by some level of compulsion rather than a mere personal desire, for Bates, an ethical requirement to protect this vulnerable population rests on the international community, much the same as it does in the case of traditionally-defined refugees. Indeed, Bates (2002, 468) uses this rationale to classify environmental migrants into three categories based on the level of compulsion associated with their 'choice' to migrate: a "migrant" makes a "voluntary" choice, and "environmental emigrant" is "compelled" to migrate, and an "environmental refugee's" choice to migrate is "involuntary." While logical, clear, and largely convincing in the bulk of its normative arguments and rationally-driven conclusions derived from the similarities between traditional and so-called "environmental" refugees, this approach is however

simultaneously hindered by the reality of the international human rights regime, which often finds itself without sufficient financial support or political will to enforce its decided principles – let alone those which are still under debate such as the validity of 'forced' environmental migration. In this vein, environmental migration cannot currently be considered as an actualisable human right. Clearer definition and a more practically-minded approach (offering reasonable and politically acceptable solutions connected to these sorts of ethical and human rights demands) may be of much benefit to the literature written from this perspective, which can have a tendency to argue effectively for an extension of rights (see, particularly, Lister 2014), but leave policy-oriented solutions to others. This tendency is particularly evident in arguments rooted in normative principles; however, many legally-driven analyses also suffer from a disconnectedness with the lack of political will exhibited by the international community to expand protection regimes towards existing – let alone emerging – vulnerable populations (for more see Burkett 2011, among others). This shortcoming of many offered legal analyses will be discussed in further detail in Chapter Five of this dissertation, given its central importance to linking what are significant moral and human rights rationales with the political realities of international migration.

Conflict and Security Studies

Perhaps most successful in pushing the term "environmental refugees" to the centre of the debate have been writers from the field of conflict studies, who offer a third approach to the literature. This group of writers, similar to many environmentalists, tends to highlight fear as the primary driver for action; however, they do so in the context of international security and not environmental protectionism. As such, conceptualizations of "environmental refugees" from this perspective typically tend to be most destructive in terms of offering assistance to Environmentally Displaced Persons, or ameliorating the conditions of migration, as their work tends to focus on the Global North and its sovereign borders. The general rationale presented in this body of literature is that the effects of climate change lead to conflict, which will in turn further destabilize the security of the international community. For example, reporting on a major project sponsored by the

American Academy of Arts and Sciences and the Peace and Conflict Studies Program of the University of Toronto, Thomas Homer-Dixon (1994) presents three hypotheses on the relationship between the environment and conflict: (a) that environmental scarcity leads to simple scarcity conflicts between states; (b) that environmental scarcity causes large population movement, which in turn causes group-identity conflict; and (c) that environmental scarcity causes economic deprivation and disrupts social institutions, leading to 'deprivation' conflicts. Although Homer-Dixon ultimately rejects the first hypothesis, the latter two are upheld in his report, offering the examples of Bangladesh and Northeast India (the Assam region) as cases where millions of Environmentally Displaced People are said to have contributed to regional conflict. Here, EDPs are fundamentally framed as a threat to national and international security and not a vulnerable migrant group in need of rights, recognition, or other special considerations. This theme has also been taken up by Suhrke (1992, 1993, 1994), who draws a distinction between 'environmental migrants', who respond to a combination of 'push-pull' factors – prominent among them, environmental factors – and 'environmental refugees', suggesting that if "it is to have a meaning at all, the concept of environmental refugee must refer to especially vulnerable people who are displaced due to extreme environmental degradation" (Suhrke 1993, 9). In part, his distinction can be viewed as having a temporal aspect, where a slow build-up of environmental degradation eventually leads to mass migration. The first stage of degradation produces a few "environmental migrants;" degradation continues until an eventual threshold is reached, at which time immediate, absolute, and irreversible degradation induces a flow of "environmental refugees" to neighbouring and distant countries worldwide. In other words, the term "environmental migrant" is meant to designate those people who migrate in smaller numbers, where "environmental refugees" participate in mass migration, threatening stability.

Suhrke's distinction is problematic on a number of points that raise concerns for the broader security approach, not least of which is the way in which an "environmental refugee" is defined (also see Black 2001's critique on this point). The legal definition of a refugee – and, ultimately, the one that guides government and international policy – is neither based on the speed of the onset of migration, nor on the size of population forced to

migrate. Instead, the concept of "refugee" is based on the crossing of an international boundary and consequent need for protection that is not, or cannot be, provided by the migrant's country of origin. As such, Suhrke's definition of "environmental refugee" is problematic on three points: the first follows McAdam and Saul's (2009) comment regarding threshold, that whether there are one or one million persons displaced, if the conditions of vulnerability are met, the status should stand. Secondly, the threshold for status is too high since in most conceivable circumstances that might fit Suhrke's threshold definition, an individual would likely satisfy the criteria for being labelled a traditional refugee, making the label 'environmental' redundant (see Black 2001). Finally, the frame of definitions offered negates the possibility of pre-emptive action taken on the part of the international community. By the time status is reached, nothing can be done. Here we see an example of the overall security approach's difficultly in negotiating normative concerns, where security and pragmatic politics overwhelms the possibility of any consideration of the ethics driving the challenge of forced environmental migration. Black (2001) further critiques Suhrke's list of factors that lead to environmental migration, questioning whether these would suddenly evaporate or crystallise into a single "environmental cause" (distinguishable from economic, political, cultural, or other cause) at the time people become classified as "refugees." He goes on to note that although a distinction could be sustained at the level of proximate causes of flight, there is a fundamental lack of definitiveness as to what the "threshold" exactly is. Indeed a lack of specificity – a common downfall within much of the field of environmental migration studies – is unhelpful from a critical point of view if it is accepted that a response to forced migration needs to be guided by underlying, rather than simply proximate causes. In other words, whether migration is forced by environmental factors, or influenced by them, will likely significantly impact both the necessity and feasibility of designing a specific framework for international environmental migration protection. Conflict-alarmist analyses such as Suhrke's (1992, 1993, 1994) which problematically apply the label "refugee" to vulnerable populations and imply inevitable conflict from mass migration, serve to hinder the overall progression of the debate by detracting from the fundamentally normative nature of the problem: the existence of a vulnerable population outside of a recognized protection regime in need of international assistance.

More generally, a large portion of the literature on "environmental refugees" written from a security perspective seems to focus on pre-emptively blocking inevitable environmental displacement (see, for example, Levy 1995; Brown et al. 2007; Johnson 2009-10; Becklumb 2010; or the *Millennium Project*'s "Environmental Threat Matrix"). While this body of literature recognizes the probability that large numbers of people will be displaced, many of whom will likely be displaced across international sovereign borders, it focuses on the "refugee's" association with being a potential 'threat' to national security (either a violent threat, a threat to maintaining adequate health care, job security, or any number of conceivable intangible threats), rather than drawing attention to the vulnerability of the displaced population. Unlike the environmentalist literature, this approach tends to link "environmental" and "refugee" by way of the inherent threat of the unknown "other:" "they" will threaten "us" if "we" do not protect ourselves from the conflict "they" will inevitably bring to our doorsteps (often, conflict over resources is cited, see for example, the *Millennium Project*'s "Environmental Threat Matrix," or, more traditionally, Thomas Malthus' (1798) "An Essay on the Principle of Population"). Solutions are geared towards increased border control, or, if aimed at threatened populations, toward adaptation possibilities meant to hold potential migrant populations at bay for as long as possible. This body of literature does not typically seek an extension of the definition of refugee to include Environmentally Displaced Persons, despite its use of the term "refugee" (thus lending support to Kibreab's [1997] earlier concerns over the Global North and its anti-asylum leanings). Further, it often fails to recognize that the vast majority of potential forced environmental migrant populations have no desire to migrate. As such, much of this literature misses an opportunity to work with potential migrant populations to achieve a workable solution to meet their immediate needs and desires, which are overwhelmingly focused on adaptation and not migration.

Rejecting "Refugee" Discourse

Ultimately, although the dominant trend in the literature on environmental migration has been to make links between environmental displacement and the terminology of "refugee," there is also a group of critics who stand firmly against employing the language of "refugee"

to most cases of environmental displacement. Written largely from geography and/or international policy backgrounds, this approach tends to argue that unlike political refugees, persons displaced by environmental factors are most often displaced by a number of interconnected factors, only one of which is environmental degradation. This point, in and of itself, they argue, negates any claim to refugee-like status for all potential Environmentally Displaced Peoples, with the possible exception of displacement resulting directly from rising sea levels (particularly see, Black 2001, 1998; Kibreab 1994; Suhrke 1994, 1993, 1992[7]; McGregor 1993 or McNamara 2007 for a good, if brief, review). For example, Black (2001, 7-8) makes room for the possibility of refugee-like claims from EDPs displaced by rising sea levels, but he also goes on to note that given the circumstances of their displacement and the impossibility of return, this group of people would likely be classified as traditional refugees, or at least protected as such should the actual designation itself not be extended by the international community. Thus, any need for 'environmental refugee' status would be rendered moot. Black (2001) is clear that even if environmental causes could be unequivocally located as the primary motivation of migration, existing political structures in international law and practice will likely suffice to meet the needs of environmental migrants: an assertion which McAdam (2011: 105-130) confirms for potential stateless EDPs, at least. Yet, as will be argued in Chapter Five, current international law does not adequately accommodate the ongoing threat of impending environmental displacement, as its instruments almost exclusively have the potential to address displacement once it has already occurred. Ethically, pre-emptive measures are significant: potentially displaced populations should not be required to wait until such a time when their habitable land is completely submerged for international action to be undertaken. Practically, it is also unreasonable to expect such passive complacency – to wait until one literally cannot remain in her homeland before attempting migration (McAdam also raises this concern in her 2012 publication on the status of EDPs in international law by concluding that international law, as it stands, does not provide a substantial platform to establish a pre-emptive right to migration for potential EDPs).

[7] While Suhrke applies the label "refugee" to instances of mass displacement, the central argument presented in his work typically tends to avoid the common rationale applied to "environmental refugee literature," which relates to rights and protection. Instead, Suhrke's work focuses on minimizing cross-border displacement from a viewpoint that expects conflict to result from such instances of mass migration.

There are, moreover, political reasons as to why it is unlikely that refugee status would be extended to threatened populations in a sufficient, timely, and appropriate manner, not least of which would be identifying a state that is willing to extend refugee-like status to potentially large populations, perhaps even nations in their entirety. For example, evacuating an island state while maintaining the substance and dignity of its culture against the rising tides of increasing sea levels and floods will take more consideration than a 'when they are displaced, they will be considered refugees' approach. A planned migration will have to take place: one that addresses questions of who will go where, and what will be expected of them upon their arrival. Particularly in the case of 'sinking' islands such as Tuvalu, Kiribati, or the Maldives, a fully planned evacuation will likely be essential because most of the population lacks the means to arrive at another state and make a claim for refugee status without logistical support (i.e. a large enough boat or airfare). This point is particularly salient given the isolation and minimal standard of living on many of the small island states that are currently being threatened by persistent rising sea levels. More generally, this example further sheds light on the underlying challenge presented by this approach to environmental displacement rights: its denial that environmental change is capable of forcing human migration beyond the rising sea level argument. Indeed, as has been illustrated in the first chapter, climate change displacement operates in at least three forms, only one of which fits with the rising sea levels scenario. McGregor (1993), for example, claims that the addition of forced environmental migrant to the refugee category would be unhelpful as it incorrectly implies that environmental change could be a cause of displacement that can be separated from economic and political factors. Thus, for him, the use of an environmental refugee category involves "a false separation between overlapping and interrelated categories" (McGregor 1993, 158) and obscures the complex reasons behind why people are forced to migrate. Where research has directly provided evidence of forced environmental migrants, Black (1998, 23) argues that many of the projects were ''methodologically flawed,'' as the evidence provided on Environmentally Displaced Peoples was often separated from the economic, political and social contexts. While the thrust of McGregor and Black's points are accurate – the causes of displacement are obscured in cases of forced environmental migration – this dissertation argues that this reasoning cannot be used to justify a reduction of their ethical standing or associated rights

and international responsibilities. Instead, the dissertation contends that the conditions of environmental displacement should build upon the standing social, political, and economic rights of vulnerable migrants, and thus demand a more robust international response. This issue will be addressed in greater detail as Chapters Three and Four unfold.

Approaching the critique from a broader perspective, Lonergan (1998, 8) questions the validity of claims of environmental displacement in their entirety, arguing that ''there is little empirical evidence'' behind the claims and arguments of a growing environmental refugee problem (also see Mougeot 1992). Critiques such as these, which question the empirical evidence behind claims that the environment will cause large-scale human displacement, have diminished both in number and strength of claim since 2000 in the face of mounting empirical evidence and more accurate and detailed climate models predicting significant threats to habitable land. However, cautions such as Black (1998) and McGregor's (1993) as to the clarity of the issue remain well-founded and should be carefully considered by any literature on the topic of environmental displacement. That said, this argument is not sufficient to stop the debate; it merely highlights the need to take careful consideration of its points moving forward. Indeed, it is exceedingly difficult to discern a single cause of environmental displacement, again, with the exception of cases where an entire island or state is submerged by rising sea levels. Practically, if there is a difference between a person who is forced to move because she can no longer sustain a livelihood in subsistence farming and a person who can no longer sustain her family because the climate has shifted and subsistence farming is no longer suitably productive, it is nominal. On the other hand, from a normative perspective the difference is substantial – particularly in terms of recognizing a responsibility to mitigate the conditions of climate change. This latter point will be discussed in greater detail in Chapter Three. Further, as there has been strong opposition in the international community towards allowing "economic migrants" access to other states in their attempts to move to a more hospitable or productive community, it seems likely that similar claims for "environmental migrants" to be allowed access to a more hospitable environment across state borders will be similarly challenged and unjustly rejected in the international political arena. Clearly,

closer distinction and definition of the challenge of forced environmental migration will be required if we seek such claims to be upheld (as this project does).

Overall, we can see that the question of "to 'refugee' or not to 'refugee'" does not effectively capture the full challenge forced environmental migration brings to the international community; yet, this question has dominated much of the debate in the field thus far. We have also seen how the literature is often paralysed in its inability to bring together normative and political policy concerns in a meaningful way, a task that is taken up by this dissertation project. It is, therefore, worth exploring the literature emerging directly from the policy world, to see if the on-the-ground understanding of this challenge has developed along a different trajectory.

Policy Positions: An On- the-Ground Approach to Forced Environmental Migration

Overall, institutional discussions of the issue of forced environmental migration would also benefit from clearer definition, although the shortcomings evidenced in these discussions manifest themselves in a significantly more latent manner than they do in academic writings. Institutions, governments, and organizations around the world, like academics, are also beginning to directly address the issue of environmental displacement; however, their concerns and complications often lie in unexpected places. This section of the chapter seeks to locate and analyse the policy side of the debate on forced environmental migration, paying particular attention to the central concerns raised by policy-oriented organizations. It begins with a brief review of some of the realities of environmental displacement, before moving on to a discussion of the ways in which the topic tends to be framed and employed in political and institutional terms.

Clarifying the Experience of Displacement: Recalling The Statistics

As noted in Chapter One, environmental migration is not new; there are, however, two particular features that make it, by my account, a different experience today from what it has been in the past: first, large-scale environmental migration has never before been so directly coupled with the processes of anthropogenic global climate change. Second, the powerful borders of sovereign states now strictly divide the globe. As mentioned, coupling

the impacts of climate change events around the globe with increasingly securitized, restrictive migration policies has led to a new and challenging development: the international system is now facing the likely deterioration of large amounts of habitable land and, as a result, large-scale human displacement outside of an internationally recognized legal migration regime. Minimally, a portion of this displaced population will be forced across the increasingly securitized borders of nation states. The movement of these migrants will be challenged by border control measures, likely including potentially violent security tactics enacted in defence of the "national security" of receiving states. Problematically, decoupling the ethical responsibilities of forced environmental migration from the migration challenges of a hyper-securitized international community has produced a political reality in which we are ill-prepared to address the full impact of climate change displacement on both its ethical and practical fronts.

Indeed, island nations such as Tuvalu, Kiribati, the Republic of the Marshall Islands, and the Maldives are widely expected to be completely submerged before the next century (Brown 2008; Collins 2005), and habitability will be lost to rising sea levels far sooner. Moreover, beyond the unique situation of small island nations, it also expected that displacement will continue to increase within continental countries, both developed and developing, as a result of severe drought or sea level rise, depending on the particular geography of the region in question. In Bangladesh, for example, eighty to ninety percent of the populated land sits a mere one meter above rising sea levels, and is geographically positioned in a particularly vulnerable location to sea-related storms (tsunamis, hurricanes, and the like). As of July 2012, Bangladesh was home to approximately 154.7 million people (World Bank 2012). Beyond the immediate threat of storm surges, sea levels are expected to surpass the one meter rise mark by 2050. Given the significant population located within what can be referred to as the "danger zone," Bangladesh begs the question: where will these people go? Who will take them? Which nation-state has both the capacity and domestic political will to do so? These questions become even more difficult to answer when it is considered that Bangladesh is anything but alone in its experiences and projected future. The reader will recall that according to the United Nations High Commissioner for Refugees (UNHCR 2013) the globe sees, on average, more than 25 million Environmentally Displaced People

standing in a condition of displacement each year. In contrast to other displaced populations, the number of "official" refugees has generally remained much lower, at approximately 15 million people (World Refugee Survey 2008).[8] Even together, official refugees, internally-displaced persons (IDPs), and asylum seekers have accounted for only approximately 26 million people on average worldwide, according to the United Nations High Commissioner for Refugees (Yacoub 2009). This number has increased only recently, for the first time since World War II, to over 50 million (UNHCR 2014). The complications presented by these figures are numerous and significant, and international organizations and institutions that address issues of migration have begun to take notice.

On-the-Ground Reactions: International Organizations and Policy Groups

As discussed earlier in this chapter, the similar experiences between traditionally-defined displaced persons – particularly political refugees – and Environmentally Displaced Persons are many (see also Lister 2014 on how 'Environmental Refugees' are refugees in many meaningful ways, with the exception of their legal status). However, there are also significant differences that necessitate careful consideration and clear definition. For example, both political refugees and EDPs have been displaced from their homes and livelihoods against their will, often with few or none of their possessions. As a result, both groups are in a position of extreme vulnerability upon the moment of displacement, requiring, in many cases, some level of assistance to live well: sometimes, even to survive. Despite, or as a result of, these similarities, there exists some debate as to whether the distinction between politically and Environmentally Displaced Persons is relevant, significant, or helpful (see Trolldalen *et. al.* 1992; Black 2001; Bates 2002; Brown 2008; McAdam 2010, among others). Exploring the policy significance of these considerations will help to further clarify and distinguish the experiences of displacement, setting the foundation upon which this dissertation will be constructed.

[8] There were approximately 14 million refugees and asylum seekers reported in 2007, with numbers fluctuating between 12 and 15 million between 1997 and 2007. Of course, it should also be recognized that official refugee counts do not necessarily reflect the number of people experiencing refugee-like conditions, but who do not meet the requirements of the official definition or have not made a formal claim; nor can this prediction be viewed as entirely accurate, as any number of political circumstances could change quickly around the world which may dramatically increase or decrease past trends.

Following a similar trajectory to the discussions in academic literature, a central point of contention in the major international and domestic policy debates is over the validity of distinguishing between traditional conceptualizations of displaced persons (mainly, refugees, asylum seekers, and Internally Displaced Persons [IDPs]) and Environmentally Displaced Persons. Much of the work that asserts a distinction draws upon research conducted by the UNHCR, employing their specific and purposefully-limited understanding of the circumstances that create a "refugee." According to the UNHCR, a "refugee" does not include those persons displaced by environmental events (2013).[9] As such, EDPs are excluded from any of the official UNHCR head-counts or guaranteed access to legal protection regimes. According to a representative of the UNHCR, this distinction is maintained for two very practical reasons: first, because most Environmentally Displaced Persons are currently displaced within their state of origin and thus qualify as Internally Displaced Persons (IDPs) who should be monitored by international institutions such as the Internal Displacement Monitoring Centre (IDMC) (Reforms in Refugee Protection Roundtable, *CARFMS* 7 May 2010). Second, while ultimately recognizing the reality of environmental displacement, the UNHCR is currently at capacity given its global resources and the numerous challenges and demands presented by traditionally-defined refugees (*CARFMS* 2010; Cohen 2008; Black 2001). As such, expanding their official monitoring and assistance programs to include Environmentally Displaced Persons would not be a viable option at this time (indeed, McAdam 2013 argues that the lead role for the UNHCR has been to put the issue of climate change displacement on the international agenda). It is significant to note the practical, hands-on character of the rationale adopted by the UNHCR in this matter, as well as the functional administrative solution implied therein: essentially, that there are already institutions and structures designed to manage the experiences of displacement which should be sufficient to address all forms of displacement, including the challenges of environmental displacement. This approach echoes the body of literature that argues against offering refugee rights for EDPs because it does not recognize the environment as a primary displacing factor (see Black 2001, 1998; Kibreab 1994; Suhrke 1994, 1993, 1992; McGregor 1993; McNamara 2007). Both of these approaches fail to

[9] This definition is abstracted from the 1951 *Convention on the Status of Refugees* and the 1967 *Protocol*, both of which will be discussed in detail in Chapter Five.

recognize the critical ways in which environmental displacement presents a unique challenge to the international community, and thus tend to miss the opportunity presented by instances of forced environmental migration to re-examine the current state of the international system, including its human rights regime. This is an opportunity the dissertation takes seriously. Ironically, while the principles of the UNHCR provide the foundation for much of the literature on distinguishing between EDPs and traditionally-defined displaced persons, it does not support the creation of a new protection regime, but rather insists that the definitional and institutional structures already exist to manage the needs of all displaced persons (although, perhaps not at current levels of funding), no matter the motivation for their displacement (see Zetter 2011). As such, for the UNHCR, it seems that meeting the challenges of environmental displacement is not a question of definition, but rather one of institutional capacity and international political will: particular in terms of funding.[10] This conclusion is supported by the academic literature rooted in international law, politics, and geography (especially see Black 1998; McAdam 2011); however, it is the position of this dissertation that approaches that follow this rational trajectory collapse the complexity – especially in terms of moral responsibility – of environmental displacement as a new form of displacement, with new drivers of forced migration, and new appropriate responses thereto vis-à-vis traditionally understood displacement regimes. For example, where localized, internationally-funded adaptation efforts would have little to no bearing on the experiences of traditional displaced peoples, these would have an enormous impact on many populations displaced by climate change events. Existing organizational and institutional rationales on the issue of forced migration, however, are not designed to support efforts such as environmental adaptation assistance. Clearly, understanding the nature of this new form of displacement is crucial to effectively meeting its challenges. Yet, while many scholars debate the important nuances between definitions, it is clear that institutional responses at the level of the UNHCR are generally not motivated by the same considerations. Indeed, as will be argued later in this chapter, the differences in the experiences of displacement do matter – especially from an

[10] The practical impact of EDPs migrating, however, has caused the UNHCR to take a more active role in recent years, despite the maintenance of its official stance (see UNHCR 2014b).

ethical perspective – to those engaged in the task of understanding and delineating appropriate normative demands and policy responses.

On a domestic political level, the UNHCR's claim that the vast majority of Environmentally Displaced Persons are internally displaced is accurate, to the point of further complicating the realization of EDP rights and protection. The specific challenge to internally displaced EDPs is that the legal restrictions on states with Internally Displaced Persons are not as strict as those regarding refugees (see USA for UNHCR 2013). Indeed IDPs fall outside of the traditional bounds of international law (USA for UNHCR 2013) because of the principles of 1648's Treaty of Westphalia, which established the principles of state sovereignty and non-interference: where refugees exist outside of the state and directly under international law, Internally Displaced Persons remain inside their state and the 'responsibility' of their (sovereign) government, not the international community. As such, rather than receiving protection from an international organization under the supervision of the United Nations like the UNHCR for Refugees, Internally Displaced Persons are "monitored" rather than "protected" by the Internal Displacement Monitoring Centre (IDMC). According to the IDMC, there are approximately 33.3 million Internally Displaced Persons (IDPs) worldwide (IDMC 2014).[11] The IDMC defines IDPs as those people who "live in situations of internal displacement as a result of conflicts or human rights violations … [and] were forced to flee their homes because their lives were at danger… [U]nlike refugees they did not cross international borders" (IDMC 2009). Similar to that of refugees, the traditional understanding of an IDP is fundamentally rooted in the human-political context: the IDMC is primary concerned with those persons displaced by human conflict, and not changes in the environment that effect human lifestyles. Indeed, according to Roberta Cohen (2008), a non-resident senior fellow at the Brookings Institute, even though it is the leading organization that counts IDPs, the Internal Displacement Monitoring Centre does not include people uprooted by disasters in its statistics despite the fact that it clearly acknowledges such people as being internally displaced. Similarly, in 2005, the UNHCR clarified that while it would serve as the lead agency for the protection of conflict IDPs

[11] Statistics vary between UNHCR (23.9 million) and IDMC (33.3 million) counts, likely due to a discrepancy in definition and availability of protection (IDMC 2014).

under the United Nation's new cluster approach, its role would not extend to those uprooted by disaster except "in extraordinary circumstances" (Cohen 2008). To date, the level of disaster required to initiate a classification of "extraordinary circumstance" remains unclear, further indicating a lack of political will on the part of the primary international organizations which protect and monitor forced migration to meet the unique challenges presented by environmental displacement. In their official capacities, neither cross-border nor internally-concerned organizations like the UNHCR or the IDMC acknowledge EDPs as a distinct population under their protection mandate. Neither organization seems particularly concerned with delineating Environmentally Displaced Peoples as distinct from traditional displaced populations; further, both organizations interpret the traditional definitions of "refugee" under the 1951 Convention and "Internally Displaced Person" so as to exclude the specific recognition of EDPs from their respective fields of responsibility (see above, CARFMS 2010). This is particularly concerning because both organizations acknowledge the existence of EDPs, but actively avoid taking direct responsibility for their human rights protection. This disconnect between the acknowledgement of, and responsibility for, EDPs ultimately leaves a vulnerable migrant population without the status or rights that they deserve under basic humanitarian principles, as will be discussed in greater detail in Chapter Three. From this, it is clear that more specific definition is required to unequivocally determine where responsibility lies for the protection EDPs, as well as what an appropriate set of rights and policies might look like for this vulnerable migrant population.

Yet, where international organizations have been unable or unwilling to accept responsibility for EDPs, these migrants are not absent from their research. For example, the IDMC and the UN Office for the Coordination of Humanitarian Affairs (OCHA) conducted a joint study in 2008 to produce an estimated count of the number of people who were forced out of their homes due to climate-related natural disasters (*in* Gregor 2010). Similar research conducted by the International Red Cross revealed that more people currently migrate as a result of environmental disaster than those who migrate because of violent conflict (*in* Gregor 2010). Ultimately, the fact that international institutions like the IDMC and International Red Cross have chosen to invest time and

resources into assessing the rate of growth in the number of Environmentally Displaced Persons worldwide indicates that environmental displacement may be a problem that is beginning to gain traction in international political discourse. Perhaps, as Suhrke (1993) suggests is the appropriate course of action, they are waiting to see if a certain numerical threshold is reached or surpassed. On the other hand, these and similar research efforts may merely indicate that the increasing numbers of EDPs worldwide has gained international attention, but that traditional supporting organizations for vulnerable migrants are unwilling or unable to participate in the creation or expansion of a protection framework designed to address their needs as EDPs. Perhaps research and advocacy are the extent of their capabilities, as McAdam (2013) suggests. If this is the reality of the situation, it may also be more clearly related to the UNHCR's lack of funding and international political will to expand its mandate, rather than unwillingness in spirit (see also CARFMS 2010). In this, it can be reasonably deduced that these organizations may be conducting studies to monitor the geographical density and overall number of EDPs for two primary reasons: first, they may be collecting data so as to be in a position to demand the creation of a separate, but similar body which would have the authority and capacity to work with nations experiencing either severe environmental degradation or an influx of environmental migrants at their borders. This research rationale could cite the complications that arise due to the dual nature of environmental migration – both internal and external or cross-border – and the challenges that international legal principles such as Westphalian sovereignty create, as will be discussed in Chapter Four. As such, should a new body be created with a goal similar to the UNHCR with respect to refugees, or the IDMC regarding Internally Displaced Persons, this body would require a mandate to work both across and within sovereign state borders. It is also possible that international organizations still find themselves somewhat at a loss as to how to meet this dual challenge in the current anti-migration international political climate – particularly if economic and political logistics are taken into consideration (as they must be).

A second possibility is that the number of, and particularly, the projected number of EDPs is being carefully considered in the context of a possible threat towards international or domestic state security. As mentioned, approaches to environmental displacement from

the security perspective are increasingly prominent in academic and institutional discussions (see, for example, Levy 1995; Brown et al. 2007; Johnson 2009-10; Becklumb 2010; the documentary film "Climate Refugees" 2010; or, the particularly frightening *Millennium Project*'s "Environmental Threat Matrix"). Problematically, approaches that frame the problem entirely in the political negative – as a threat to protect against rather than as a humanitarian challenge to be met – fundamentally stagnate and perhaps even deter progress towards developing an effective response to this issue. For example, where nations and international organizations could, and should, be implementing adaptation schemes and working towards developing a plan for responsible, guided migration (both internally and across borders) many of these analysts have devoted their time and effort to focus on the negative consequences if pre-emptive heightened border security is not established. Indeed, this scholarship is likely correct in predicting security threats and widespread, violent conflict over resources at the height of global forced environmental migration (see, particularly, the *Millennium Project*'s "Environmental Threat Matrix"); however, it is strictly the argument of this dissertation that this level of chaos and conflict can be avoided with careful thought, effort, and effective resource distribution that occurs in a timely manner. A proposal for such action will be offered for consideration in Chapter Seven.

The Challenge of State Sovereignty to Internal Environmentally Displaced Persons

Any effective response will have to address the deep-rooted challenge presented by the entrenchment of Westphalian sovereignty in the international community and, importantly, in the human rights regime. Here, as mentioned above, we see that there is an inherent tension that exists between some 'universalized' set of human rights, and the particularistic principles of state sovereignty and non-interference (see Arendt 1968[1951]; Benhabib 2006; Belton 2011, among others; also, Chapter Four of this dissertation for a broader critique of Westphalian sovereignty in the context of environmental displacement). For Internal Environmentally Displaced Persons, this means that their home states are ultimately responsible for the maintenance of their human rights. As a result, where the international community has worked to take a "collaborative

approach" in its attempts to address cases of internal environmental displacement outside of a single mandated organization responsible for EDPs (IDMC 2011), these efforts have often been inhibited or challenged by national governments, or an inability to effectively co-ordinate among governments and non-governmental or international organizations. One particularly distressing example of how the collaborative approach to environmental displacement has been rendered ineffective was revealed through the Brooking's Institute's exposé on the United States' efforts to avoid labelling Hurricane Katrina survivors as IDPs in 2005. This case further indicates the ineffectiveness of traditional labels, in part due to the discursive baggage associated with them (for example, the notion that IDPs do not exist in developed countries'). During this disaster, United States' government officials "settled on every possible description of those uprooted by Hurricane Katrina except IDPs" (Cohen 2008). They described them as "evacuees," "disaster victims," and even "refugees" despite the obvious misuse of the term because, according to Cohen (2008), in the American government's view, IDPs were people displaced by conflict elsewhere in the world. This analysis of the US government's response to instances of internal displacement following Hurricane Katrina (2005) draws attention to two important factors involved in understanding and addressing instances of environmental displacement, particularly in the Global North. First, it is, and will continue to be, difficult for states in the Global North to recognize that their populations are suffering from "internal displacement." Historically, the term "displacement" has most often been employed in the human political context outside of the Global North. There is an assumption that displacement has mostly affected lesser-developed nations that (supposedly) do not have firmly established and democratic governments that operate strictly under the rule of law. In other words, what we can see here is an example of the prevailing myth that displaced people, internal or otherwise, exist only in politically and economically chaotic states in the developing world, where the people also tend to be poor and non-white. Conventional wisdom continues that in "developed," democratic states, the strong relationship between the citizen and state would not breakdown so as to separate people from their rights or displace them, internally or otherwise. Indeed, democracy is often cited as the lynchpin for the realization of rights (see, for example, the body of work produced by Seyla Benhabib), yet as we know from Hannah Arendt (1968[1951]) and the treatment of Jews during Nazi Germany, democracy

in itself is not enough to secure these rights (a point with which Benhabib would also likely agree). Yet, as is argued in this dissertation, displaced peoples are also not exclusively displaced in a socio-political context: democratic principles alone cannot hope to maintain the settlement and rights of EDPs because the conditions of displacement exceed the traditional framing of displacement as a situation which results from a breakdown of the citizen-state relationship. Setting aside the numerous weaknesses of the citizen-state political protection myth that can trace its roots to liberal social contract theories (see Hobbes 1660 and Locke 1689, in particular) to be dealt with in Chapter Four, I believe the most direct method of dispelling this myth for our purposes is to attack the definition of displacement itself: for EDPs, it is not exclusively a political, citizenship problem, but rather a fundamentally human phenomenon. In other words, it is an experience common to our humanity and not one bound by the experience of citizenship (see also Arendt's 1968[1951] discussion on the topic in the context of Jewish Refugees during World War II, elaborated in Chapter Four). In this, as will be argued, I believe that it is fundamentally inappropriate to house the rights and recognition of EDPs at the state level (where, it may be appropriate to house citizenship rights). A person displaced by *any* cause is a person displaced and in need of protection and/or assistance. In many ways, this distinction is even more poignant for EDPs than it is for other displaced peoples because their displacement clearly does not result directly from a function or breakdown of the citizen-state relationship as a refugee or IDP might.[12] Here, the 'truth' of displacement may in fact be outweighed by the ontological understanding of it: in many meaningful ways, the exact cause of displacement is less important than how that displacement is understood and framed under the international regime. For example, policies like Canada's designated safe country list highlight this reality: certain countries have been deemed safe, so as to be unlikely producers of 'legitimate' refugees. This is a blanket designation, where the specific circumstances of displacement matter less than the overarching understanding of which kinds of political situations produce 'refugees' and which do not (see Corrigan 2013 for more on how this policy creates a second class refugee claimant). Yet, at the same time,

[12] By definition, a refugee is framed as a function of the citizen-state relationship as someone who is "unable, or owing to … fear, is unwilling to avail himself of the protection of [his] country," or does not have a nationality (1951 Refugee Convention).

while an EDP does not clearly exist as a failing of the citizen-state relationship, an argument could be made for an indirect failing of the state to protect the security of its people by failing to take appropriate adaptation measures where these are possible (following the logic of the 2001 *Responsibility to Protect*). Given the complexity of environmental displacement, two potential policy resolutions can be drawn forth: first, to expand our understanding of displacement beyond its current political context; and, second, to identify and enact new universal – i.e. outside of the jurisdiction of traditional political constraints of Westphalian sovereignty – understandings of displaced peoples. Following these intellectual pathways enables a shift away from the tendency to frame environmental displacement as a citizenship problem requiring a state-level response (which leads to a securitized approach to the problem), and towards one that frames it as a ethico-political problem, held in common by humanity (and thus requiring a common, or universal response). Exploring this reasoning will be taken up more carefully in Chapters Three, Four, and Seven.

The second key aspect of Cohen's (2008) analysis of the US response to Katrina evacuees is that it draws attention to the capability of states and governments to manipulate certain situations as they deem appropriate or necessary. For example, through its denial of Katrina survivors as Internally Displaced Persons, the actions of the US government were shielded from international human rights monitoring programs such as the IDMC. As such, their response to the crisis, which has since received significant domestic and international criticism from the Brookings Institute, the International Red Cross, and other human rights institutions, was largely guided by domestic priorities and not international human rights standards, as it should have been. This example again suggests the benefit of a reconceptualization of environmental displacement as common, global phenomenon: as displacement is a basic challenge to many human rights norms (again, see Arendt 1968[1951], or Chapter Four for more), it should therefore be addressed on a common human (global) level. In as much as climate change events are not a direct result of domestic political failure – with the possible exception of a lack of reasonable emergency preparedness – an appropriate response should not be made subject to particularized political principles such as state sovereignty. For example, the United States government

has been charged with a failure to protect its citizens as stemming from a failure to maintain an adequate levee system in New Orleans (see levees.org in particular). Further, the US government has been accused of failing to establish a sufficient evacuation scheme, so as to ensure that all citizens were afforded the ability to evacuate the city upon receiving notice to do so (levees.org). These charges are ethically and politically significant and could have diminished the extent of the disaster caused by the hurricane; however, the actual problem of environmental displacement was not exclusively a result of government failure – even with regular maintenance and updates, there is no evidence that the levees would have held, or that the land and houses would have been saved (the number human lives lost to the storm could arguably have been significantly reduced as a result of government action). Indeed, it was the loss of habitable land and housing that caused displacement, which was a direct result of the storm and not the government's action or inaction. Had the hurricane not struck land at that speed, intensity, and geographical location, the crisis of mass displacement might never have occurred.

In sum, it is clear that in terms of discursive and political responses from both domestic and international actions, efforts have been made to maintain an official distinction between environmental displacement and the traditional forms of displacement through the under-examined use of traditional definitions, and a purposeful framing of responsibility for displaced populations. While the collaborative approach taken by the UNHCR and IDMC in terms of addressing environmental displacement is based on a fundamental recognition of the problem of environmental displacement, it is also coupled with a lack of political will and economic support to entice official recognition. Where it may be beneficial in that it is well-situated to move within the current political boundaries and limitations of the international community, it is significantly challenged in its inability to recognize the negative role that political borders and sovereign authorities play in the maintenance of an inappropriate framing of displacement as a political citizenship, rather than common human, problem. Collaborating institutional approaches towards the issue of environmental displacement will be increasingly challenged to find politically acceptable durable solutions as the number of Environmentally Displaced Persons continues to rise. At present, large-scale cross-border migration has yet to occur as a result of climate

change; however, as the climate continues to warm and sea levels continue to rise, it will only be a matter of time before small island nations such as Tuvalu, Kiribati, or the Maldives are completely submerged and countries like Bangladesh experience flooding that will result in more Environmental IDPs than it can manage, forcing many EDPs across borders. There will be a first state casualty to non-human conflict. It will be an entirely new situation and it will require an entirely new approach to the politics of international migration. In avoiding a clear, comprehensive definition of the reality of the factors involved in environment displacement, international organizations, institutions, and states have been able to manipulate their role in monitoring and/or facilitating environmental displacement and migration. While a "collaborative approach" has been able to function despite consensus on international responsibility for EDPs thus far, as the numbers of EDPs continues to grow and the circumstances surrounding their displacement become more definitive, it will be increasingly likely that this approach will ultimately fall short. As such, we see that clearer definition is fundamentally required both within academic and policymaking/practitioner circles. Applying traditional definitions will not be sufficient to comprehensively understand environmental displacement without significant re-framing. Instead, it is the contention of this dissertation that creating a series of new displacement categories with clearer, more accurate labels and descriptions, is a necessary step in resolving the complications presented by global environmental displacement.

Moving Forward: (Re)Defining Environmentally Displaced Persons

Thus far, this chapter has explored the ongoing discord among researchers, practitioners, and affected populations over who an Environmentally Displaced Person is, as well as how she might best be understood vis-à-vis the international protection regime. Ultimately, it has been suggested that this discord may be at least partially resolved from greater attention to the details, experiences, and demands of environmentally-induced migration. This section of the chapter seeks to draw out these aspects and offer a clear working definition that is carefully framed so as to address the full range of climate change displacement experiences.

Why Traditional Framing Will Not Work

It seems that at least part of the desire to employ the language of "refugee" in making claims for the creation and implementation of a protection regime for Environmentally Displaced Persons is related to a gap in the literature on environmental displacement that has done too little to define and categorize the different experiences of environmental displacement. This gap has ultimately left the 'refugee regime' as the closest and most coherent set of internationally-accepted norms to which authors seeking to establish international recognition of environmental migration rights can turn (especially see Lister 2014). Yet, despite the advancement of our understanding of environmental displacement, attempts to apply the language of "refugee" and its associated rights have yet to be successful (see, especially, Teitiota v. New Zealand High Court, Case 3125 on the rejection of refugee status for environmental migrants, discussed in Chapter Five). This failure begs further investigation.

In 2004, McNamara (2007) conducted a set of 45 interviews with United Nations ambassadors and senior diplomats regarding the issue of "environmental refugees." Ultimately, her research revealed that among all of the interviews conducted, there was a general lack of discursive consensus, common language and shared definitions (McNamara 2007). As a result, she found that the issue of forced environmental migration was pushed to the periphery of UN discussions and policy initiatives, at best. Furthermore, without a common and coherent discourse, the interviews conducted with UNHCR representatives all indicated that the UNHCR found itself constrained by the only definition it had to work with – that of traditional refugees, as defined by the 1951 Convention and 1960 Protocol (McNamara 2007). As Chapter Five will further explore, this definition currently contains no space to include those persons forced to move as a result of environmental factors (again, see Teitiota v. NZHC 3125), yet the United Nations – the institution McNamara argues is in the best position to take action on the issue of environmental displacement – has yet to officially clarify what an environmentally-induced migrant is, or adequately assess if a protection framework is necessary, and if so, what it would look like (Ban Ki-Moon has, however, officially recognized the problem of one worthy of international attention in multiple public addresses).

The UN's lack of action is particularly surprising given that it was, as mentioned, research from the United Nations Environmental Programme (UNEP) that was among the first to define "environmental refugees."[13] As far back as 1985, the UNEP explained that these "refugees" are "people who have been forced to leave their traditional habitat, temporarily or permanently, because of marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life" (El-Hinnawi 1985, 4). As the reader will recall, here, the term "environmental disruption" was meant to indicate any physical, chemical, and/or biological changes in an ecosystem or resource base which render it temporarily or permanently unsuitable to support human life, which would include both natural and human-influenced shifts in the environment as an inducement to migrate. But, the UNEP did little to define the level of "support" it would classify as suitable. More recently Norman Myers and Jennifer Kent have intervened to define "environmental refugees" as "persons who can no longer gain a secure livelihood in their traditional homelands because of what are primarily environmental factors of unusual scope" (Myers and Kent 1995, 18). While this revised definition narrows the range of causal factors associated with classifying migrants as environmental refugees, terms such as "secure livelihood" and "environmental factors of unusual scope" still leave considerable ambiguity as to who exactly would qualify.

More recently, there has been an important trend to distinguish between cross-border "refugees," Internally Displaced Persons, and "others" has also emerged (see, for example, Kälin 2010). Thinkers who have avoided describing the problem strictly in terms of "climate refugees," instead tend to opt for more generalized terms such as "climate-induced displacement," "climate migrant," "environmental migrant" or even "forced environmental migrant." Within this broader approach, the term "climate refugee" is often more appropriately used to indicate a particular experience of climate-induced displacement, rather than as a blanket depiction of the problem. Indeed, one need not cross international borders as a "refugee" to experience climate-related displacement. My work follows this more subtle and differentiated approach to the issue of environmental displacement,

[13] Brown, McGrath, and Stokes, however, first defined 'ecological refugees' in 1976 in their Malthusian piece on 22 growing pressures on population dynamics.

arguing that carefully differentiated definitions are essential to advancing EDP rights and recognition. However, I remain also sceptical of employing the politicized language of traditional terms, including "refugee," even as a sub-categorization for four reasons:

1. First, the traditional terms of "refugee" and "internally displaced person" have particular discursive meaning and are politically-contextualized in such a way so as to exclude or enable the exclusion of developed nations from participating in the experience of the problem, thereby minimizing their incentive to participate in creating a viable solution (drawing from Cohen 2008, discussed above). I believe this challenge also stems in part from a general depoliticized understanding of the environment that serves to hive off state-based responsibility from the 'natural' processes that drive environmental migration. Here, where refugees conceptually fit with state-based responsibilities, Environmentally Displaced Peoples are conceptualized as resulting from 'bad luck' and trigger no special protection rights under the current Westphalian, liberal human rights regime (legally, or conceptually; discussed further in Chapter Four).

2. Second, the internationally-accepted legal definition of "refugee" does not extend beyond a human-political framing, nor does it include the possibility for environmental inference (see Teitiota v. NZHC 3125).

3. Third, there is a general lack of international political will to expand the definition of "refugee," or that of any other protected migrant population, thereby necessitating the creation of a newly-defined protected migrant group in the global consciousness (see McAdam 2011).

4. Fourth, even if traditionally-framed definitions such as "refugee" or "internally displaced person" were to be expanded, these would exclude those Environmentally Displaced Persons who are displaced within their own national borders (i.e. not "refugees") or internationally (i.e. not "IDPs"). These terms have histories and discursive baggage that are unhelpful in conceptualizing the complexity of this new form of migration and displacement.

Policy trends are clear: there is a distinct drive to avoid extending recognition to any kind of "climate refugee." The United Nations High Commissioner for Refugees rejects this language, as do other international organizations responsible for humanitarian protection (see Geddes and Somerville 2013, 4). Where in-roads have been made in terms of domestic policy, states once again seem to be retreating from the language of "refugee" and "protection" (discussed in Chapter Six). Fundamentally, these examples help to illustrate how existing political language is quite laden with history and expectations, making it less useful for adoption on a global scale in the context of climate change migration. In many ways, these examples also begin to illustrate how this discourse is too narrowly conceived within the context of the social contract, the Westphalian protection regime and its citizen-state centric conception of responsibility to address the complex reality of environmental displacement in a way that is both accurate and effective. As such, I suggest that a new definition is in order, which I offer below, drawing from my understanding (and Chapter One) of the ways in which the science of climate change is increasingly driving instances of migration.

A Clearer Conceptualization of Environmental Displacement

From the discussion above, it is my conclusion that a clearer conceptualization and discursive framing will allow for a useful differentiation of displacement experiences and will help to improve our understanding of the realities and challenges of environmental displacement in the field. The development of clear and specific categories of Environmentally Displaced Persons will allow for an assessment of the capacity of existing international organizations to address the challenges of displacement, as is one of the goals of this dissertation. The insights and clarity associated with a new discourse underpinned by clearer conceptualizations of the problem may also help to establish the political will and support for appropriately funded action. It is, above all, this hope that motivates my effort to identify, define and label the different experiences of forced environmental migration. In the remainder of this chapter I break the experiences of environmental displacement into four separate categories that have been designed and labeled in a way that responds to the insights suggested by various existing conceptualizations as well as

the political considerations discussed thus far. It is hoped that my framing of forced environmental migration clarifies the various reasons for displacement, sheds light on the different experiences of displacement, and begins to reveal the distinct responses that should be expected from the international community.

Thus far, the debate in the field has been conceptualized as splitting into two general trends: those who draw a direct causal link between the environment and migration (for example, Bates 2002; Myers 2001; Myers and Kent 1995; El-Hinnawi 1985), and those who regard the issue as deeply entangled in other social and economic considerations (for example, McAdam 2011, 2012; Black 2001; McGregor 1994). Suhrke (1993, 1994) respectively calls these approaches "maximalist" and "minimalist." Above, I have offered a map of the field drawing from background and assumptions about the causes and consequences of migration that instead split the field into an environmentalist approach, a human rights approach, and a security/conflict studies approach. My conceptualization of the field follows from the interpretivist approach of my project, seeking to pull apart and explore the underlying socially-constructed assumptions that shape the field by highlighting some of its dominant discursive underpinnings; however, Suhrke's conceptualization is also one that is helpful in critically assessing the quality of environmental displacement: are EDPs displaced by climate change, or are they primarily traditional migrants whose migratory motives have been multiplied by environmental pressures? Morrissey (2012), in particular, levies a serious critique on the direct causation camp, arguing that it assumes an ahistorical and de-politicized conception of the developing world and collapses dynamic and complex migration factors into an over-simplified understanding of environmental migration. Indeed, his critique is significant: EDPs are not easily conceptualized, as I have discussed above, and the direct-causation camp (which Morrissey [2012] calls "proponents of 'environmental refugees'") has tended towards collapsing this experience into one of "refugees" that are cleanly displaced by the effects of climate change. As the reader may have gleaned from my map of the field above, and from Chapter One, I do not believe our understanding of forced environmental migration benefits from such a deeply divided conceptual split. Indeed, I would argue that this divide in approach stems more from an under-examination of the ethical nuances that

overlay traditional migration discourses in the context of environmental displacement. In this, my conceptualization of Environmentally Displaced Peoples draws from both camps: it recognizes that the direct causation between climate change and migration matters substantially because of anthropogenic climate change, even though it may not be the sole factor driving migration. This nuanced path leads me to distinguish four types of forced environmental migrants:[14]

Imperative Environmental Migrants

I have labeled the first, and most logically-compelling under the current international regime, of these categories "imperative environmental migrants" (IEM). Imperative Environmental Migrants include those persons who have been or will be permanently and irrefutably displaced from their homes and/or livelihoods primarily as a result of environmental factors. Some examples of persons in this category would include the residents of Tuvalu, the Maldives, or Bangladesh, where entire island-nations or large portions of habitable land are gradually being submerged by rising sea levels and residents are left with no potential to remain. IEMs have the most immediate and demanding claim for a distinct migration protection regime, which may be similar to that of currently-defined "refugees" because of the clear direct causation between climate change and displacement, which resonates with both ethical and legal human rights narratives.

Imperative Environmental Migration is most likely to occur as a result of rising sea levels. As such, the largest groups of IEMs currently inhabit low-lying coastal areas, or small island nations. For example, Norman Myers has identified a number of parts of the world, including Bangladesh, Egypt, China, Vietnam, Thailand, Myanmar, Pakistan, Iraq, Mozambique, Nigeria, Gambia, Senegal, Columbia, Venezuela, Brazil, and Argentina, as being threatened by "even a moderate degree of sea level rise" (Myers 1993d, 194-95). Many of these areas also face significant threats from storm-related displacement; most acutely: Bangladesh, Pakistan, Thailand, Vietnam, and Myanmar. These are what can be referred to as high-risk areas, which are most likely to experience large-scale, long-term population displacement in the near future. Of these, Bangladesh and Pakistan are

[14]A reduced version of these categories has been previously published in Marshall (2015).

especially concerning given the number of people inhabiting coastal regions, as well as the political, religious, and ethnic challenges of the surrounding geographical region. This is not to suggest that these are the only regions currently threatened (the numerous small island nations of the South Pacific immediately disprove such a conclusion); merely to that highlight certain geographic regions are more susceptible to environmental events than others (for example, those with low-lying shores).

While localized methods of adaptation that could make migration less necessary are not impossible in these regions, adaptation efforts such as building seawalls or dike systems are seriously challenged by a lack of available funds for implementing new and costly technologies. Successful non-migration adaptation strategies include building levee systems, breaker walls, dams, dikes, and – for wealthier, more adventurous nations – constructing infrastructure to support floating landmasses like those of Dubai. Of course, the success of these and other adaptation attempts depends heavily on the geography of the area being adapted. The altitude, terrain, and latitude/longitude all play a factor in determining the level of risk involved with respect to sea level rise, the damage it will do, and the number of people that will be displaced. For example, a small flat island will be at greater risk than a fairly large, mountainous one, as populations will have the potential to relocate within their country of residence in the latter, where this would not be an option for the former. While 'floating islands' such as those built in Dubai are a possible solution for the small, flat islands, mountainous islands may not need to consider such drastic and costly measures.

The second aspect of climate change that has significant potential to create direct causation IEMs is the rising mean temperature of the earth and resultant melting ice. In addition to raising sea levels, global mean temperature rise will also affect populations living in the northern hemisphere, particularly those living within the Arctic Circle who are seeking to live a traditional lifestyle. These groups of people straddle the line between IEMs and the second category, Pressured Environmental Migrants, and are thus more difficult to conceptualize under the current international regime: migration is imperative, but not to maintain life as much as it may be to maintain a chosen, traditional lifestyle. The more complex ethical approach to conceptualizing environmental displacement as resulting from

more than just climate change (as well as the historical and ethico-political obligations that exceed climate change logics) begin to play a larger factor in understanding this type of migrant. Where migration is necessary, it is necessary to maintain a legitimate (and historical) choice in lifestyle. In this, we can begin to glimpse the bare life/autonomous life divide that splits the field quite deeply in terms of access to rights (particularly, see Johnson 2012 on applying Amartya Sen and Martha Nussbaum's capabilities approach to understanding environmental migration and rights). Yet, the direct causation argument still holds substantial weight in its rooting in anthropogenic climate change: the obligation to offer rights, where it exists, comes from a direct causation understanding of forced environmental migration, even if the migration itself is complicated in other ways (for example, through the recognition of a Universal Declaration of Human Rights' right to culture, or via the capabilities approach). Further, while these populations will be 'pressured' to move, migration will likely result in the cessation of their way of life, given its close interconnectedness with the land and climate of the north. As this climate continues to be threatened, physical migration will not be necessary for the cessation of their traditional lifestyles: climate change will end this possibility by itself. One's perspective on this issue will affect which category of migrant they will perceive these populations as 'fitting' into; however, I believe either could be effectively argued. Non-migration adaptation possibilities are extremely limited for this group of environmental migrants, as northern climates cannot be simulated as easily as landmass can be created. Indeed, 'adaptation' may be limited to migration in small increments further north as the climate and stability allow; however, this practice is likely too costly to be a viable option. As such, it is likely that adaptation is not functionally possible, and these populations will have to rely on the hope of scientific advancement being able to stop, if not reverse, the effects of climate change if they hope to remain in their homelands.

Pressured Environmental Migrants

I call the second category of environmental migrant "Pressured Environmental Migrants" (PEM). Many residents of Tunisia, Libya, Morocco, or the Gobi desert regions of China and Mongolia live in areas where the soil is suffering from the effects of desertification provide

excellent examples of potential PEMs. For example, according to Norman Myers, Morocco, Tunisia, and Libya annually lose over one thousand square kilometres of habitable land to desertification, which makes subsistence agriculture increasingly difficult, if not impossible, for those people who rely on it for food. In China, the Gobi desert similarly expands more than ten thousand square kilometres each year (Collins 2005). Otherwise, as mentioned, one could look to the warming of northern regions worldwide where ice floes are being disrupted and traditional habitats and lifestyles are becoming increasingly less viable. Primarily as a result of these slow-moving but devastating processes of climate change, residents no feel longer able to participate in effective subsistence farming or hunting, thus becoming strongly pressured to migrate away from their homeland to more hospitable climates in order to sustain their basic living requirements for food, water, and shelter. Similar to the second characterization of IEMs, PEMs straddle the conceptual line between migration resulting directly from environmental factors and climate change being but one of a series of factors that drives migration. This category can easily be overlooked by either of the dominant approaches because PEMs do not usually result directly from climate change (indeed, in most cases, climatic processes like desertification act to amplify already crushing conditions of poverty, especially in developing regions). Yet, it is a significant category to my study because of the ethical lens I apply: in as much as anthropogenic climate change is a factor driving migration for PEMs, I argue that they have ethical standing along with other forced environmental migrants. Humans participating in the causation of climate change have simultaneously participated in causing their displacement and thus have an ethical obligation to ameliorate its negative influence. Where the direct causation approach may miss this category in conceptualizing environmental displacement, the logic of the complexity camp is such that it may overlook their ethical standing. In this, Pressured Environmental Migrants are the most difficult category of environmental migrant to clearly conceptualize: both approaches are at least partially correct, the environment cannot be disentangled from other social conditions that may drive migration, but the ethical considerations and responsibility derived from anthropogenic climate change make any environmental causal consideration significant.

The specific climate change event that is primarily at play in instances of Pressured Environmental Migration is typically a generally warming climate, especially as it relates to the hydrological cycle discussed in Chapter One. A shift in global water distribution has fallout effects such as desertification, drought, and flooding that create challenges for agricultural production and day-to-day living. All of these aspects, as they directly relate to economic sustainability and/or the upkeep of a basic livelihood will have a direct impact on the pressure populations feel to migrate.

Non-migration adaptation possibilities for PEMs also vary among population capabilities and geographic and environmental conditions. For example, employing international development aid to better irrigate farmland suffering from drought would maximize the life of the land, enabling populations to avoid migration if that is their wish. Yet, historically, this group has typically chosen migration as adaptation, likely due to a significant lack of available funding to implement non-migration technologies such as advanced irrigation, crop rotation, or restricting nitrates. As migrants, PEMs have often been labelled "economic migrants" and have been turned away at borders – particularly those separating African states and those of the European Union – because they do not tend to have the desired skills to qualify as labour migrants, or the necessary qualifications of refugees (Nansen 2015). Problematically, those people who have been pressured to move as a result of climate-related stresses on their ability to sustain a livelihood for themselves and their families often become internally displaced or "illegal" immigrants as a result of the international community's failure to recognize the unique ethical circumstances of their displacement. This, significantly, highlights the need for an ethico-political framing of environmental displacement, as it is one that is somewhat unique in its ability to capture and activate Pressured Environmental Migration as a recognized, legitimate category of vulnerable migrant. In as much as climate change plays a role in their migration, I argue it is ethical; in as much as the international regime collapses their displacement into a related, but distinguishable category of economic migrant, (thus, I argue, effectively depoliticizing their migration experience: see Chapter Four, or Marshall 2015 for more) it is political. As the reader will see as Chapters Five and Six unfold, PEMs have the least defined set of rights under the current international regime, as well as the negative stigma

of 'unskilled economic migrant who becomes a burden on the state'. Problematically, they also make up the bulk of potential and existing EDPs, numerically. It is hoped that reframing the discourse surrounding PEM will help to make a case for a global responsibility to enable migration or, at least, assist in local adaptation projects, as the dissertation progresses.

Temporary Environmental Migrants

I understand the third category of Environmentally Displaced Person as "Temporary Environmental Migrants" (TEM). This category specifically includes those migrants experiencing short-term forced migration resulting from a one-time severe environmental event: for example, the survivors of Hurricanes Rita and Katrina in the southern United States, or the survivors of the 2004 Indian Ocean Tsunami in India, Sri Lanka, Thailand, Indonesia, the Maldives, Myanmar, and Somalia. It should be noted that while I call this group of migrants "temporary," the label is not meant to imply that their claim to environmental refugee status is, or should be, any less than those migrants in the preceding two categories (i.e. it is not a 'temporary' claim); neither is it meant to indicate a necessarily short period of time. The label "temporary" is merely meant to indicate that return *seems* possible (although, not necessarily desirable) in the foreseeable future. Obviously, depending on the geographical area in question, the severity of the event, the infrastructure and financial support available to return living conditions to pre-event status (or at least habitable conditions) will significantly affect how "temporary" the absence must be. Another caveat affecting TEMs is the increased likelihood that the longer period of time over which they are displaced, the less likely it is that they will want to return home in the first place as a result of having set down new roots, found new and potentially more sustainable and/or affluent employment, and/or (partially) re-built their lives – particularly when they have migrated to more-developed countries and regions. As such, the use of "temporary" tends to apply more to the land itself rather than the actual people displaced from it.

Beyond EDPs resulting from 'sinking' island states, TEMs have the next closest conceptual direct causation link to climate change displacement: a storm happens and they are forced

to relocate. But, again, issues of poverty, infrastructure, capacity, and the presence (or absence) of suitable disaster risk management policy will all factor into the scope and severity of displacement, complicating the direct causation understanding of displacement. This is a nuanced category that straddles both approaches, but much like PEMs, the ethical underpinnings of anthropogenic climate change are carried through to establish moral standing as *Environmentally* Displaced Peoples.

The climate change events which most significantly affect this group of environmental migrant are those related to sudden changes in the location and/or severity of stormy weather, particularly those related to water: hurricanes, tsunamis, and storm surges. As such, the most immediate non-migration adaption possibilities include the construction of storm walls, dams, levee systems, reinforced housing establishments, dike systems, or improved drainage structures; however, many of these procedures are extremely expensive and beyond the economic capability of many small or economically under-developed nations. Therefore, depending on the geographic location of the threatened area, implementing such strategic infrastructure may require substantial international aid. Yet, even with adaptive infrastructure, it should be noted that the predictability of displacement is greatly reduced for this category of environmental migrant, as the severity, length, and location of significant storms that make landfall is extremely difficult to predict. As such, the effectiveness of adaptation strategies cannot be guaranteed, and the prevention of all displacement resulting from a storm is impossible. Currently, international aid and charitable donations *after* disaster is the reality of "adaptation" for most populations affected by these effects of climate change. While these donation drives for aid have been successful in some cases (see, for example, the 2004 Indian Ocean tsunami), they have significantly fallen short in others (see, for example, the ongoing disasters in Haiti and New Orleans). In cases where aid and post-disaster assistance have been insufficient and internal migration is possible, such as New Orleans, it often becomes a form of post-disaster adaptation, creating internal EDPs.

Human Environmental Migrants

Finally, I understand a fourth category of environmental migrant as "Human Environmental Migrants" (HEM): residents displaced from their homes and/or livelihoods as a result of human conflict over limited environmental resources. Conceivably, direct involvement with the environment could take two forms: development projects such as the building or destruction of dams that directly affect the liveability of a geographical area. For example, the building of the Aswan Dam in Egypt, which resulted in the flooding of much of lower Nubia and the immediate displacement of more than 60,000 people (Scudder 2005, 61-62). Secondarily, the building of this dam also eroded farmland, and acted as a breeding ground for disease-carrying insects such as mosquitoes that spread malaria, and the parasite bilharzia that causes a chronic illness that can damage internal organs and impair childhood growth and cognitive development. The second form of human-induced environmental displacement is thoroughly discussed in the growing body of literature on environmental security (see above): human conflict over scarce environmental resources**.** Under some accounts, this category would include those people forced to migrant as a result of the war in Iraq (due to conflict over oil), or those people forced to migrate in Sierra Leone, Angola, Liberia, Ivory Coast, and the Democratic Republic of Congo (due to conflict over diamonds). This category also holds significant potential to include persons displaced as a result of future conflicts over fresh water and food.

There are no specific climate change events which can be directly linked to instances of Human Environmental Migration, although it is reasonable to extrapolate from the literature on environmental security that the climatic processes that make it more difficult to sustain a basic livelihood, such as desertification or drought, will contribute to the conditions which encourage conflict to breakout (see, for example, Homer-Dixon 1994). Yet, for this reason, I do not think the ethical underpinnings of anthropogenic climate change apply. Adaptation methods available to prevent a need to migrate in this context are similarly challenged to be able to pinpoint potential solutions given the multifaceted nature of the contributing factors that encourage migration. Yet, the literature on environmental security suggests that a stable and sustainable political government would help to reduce the number of violent outbreaks over scarce resources through effective

government policing, a stable economy, and transparent political system through which the populous feels respected and protected (see, for example Elliott 2010). A stable and effective political system is particularly important in cases where political decisions such as the building of a dam directly result in displacement.

While this is an important and timely category of Environmentally Displaced Person, I do not to include this fourth category of environmental migrant within the scope my dissertation for the reason that they are technically humans being displaced by other humans (as a result of conflict over scarce environmental resources), rather than humans being displaced directly by environmental events – which is my focus. In this, HEMs fall outside of the ethical frame of my conceptualization of forced environmental migration as the reasons underpinning their choice to migrate follow the logic of traditional displacement (people being displaced as a result of the in/action of their state) more than they do of *environmental* displacement. While there is validity in arguments made for their inclusion in research on environmental migration, I ultimately believe that their rights would probably be addressed more effectively elsewhere, and not among what I have identified as forced environmental migration rights.

Conclusion

Undoubtedly, the academic and political attention paid to the issue of environmental displacement has increased as the reality of the challenges associated with forced environmental migration has become more and more difficult to ignore. Media coverage of each new severe storm draws more attention to the new realities of environmental displacement. Yet, the global understanding of, and responses to, the problem remain limited. In turn this limitation has significantly narrowed the options available to proactively assist current and future Environmentally Displaced Persons. The problem is clear: it is reasonable for the global community to expect large numbers of displaced persons and migrants, most of whom will be from and/or remain in economically-poor, lesser-developed nations with far too few feasible and effective adaptation mechanisms available to them. As such, many will be faced with the option to migrate, or remain, suffer, and possibly even die. Given the global reality of this problem, most scholars, policy

writers, and activists have tended to look to existing international law, agreements, and discourse for a solution. This approach has often resulted in a framing of the problem as one of domestic security in an international context that produces threats to sovereign states – and this perspective tends to uncritically accept traditional, inflexible conceptions of borders, migration, displacement, and the Westphalian state with its sovereign reign. However, this chapter has illustrated that framing the problem as one of international security and looking to traditional methods for resolution is not only limited in that it does not account for the ethical face of environmental displacement, but further that these approaches cannot effectively meet the practical realities of increasing human mobility as we enter what I believe will prove to be a new era of migration.

This chapter has reviewed the extensive "environmental refugee" debate from both an academic and policy perspective, ultimately rejecting the use of traditional frames, including the discursive baggage associated with terms such as "refugee," in seeking a clearer definition of forced environmental migration that is capable of meeting both its normative and political challenges. Instead of relying on the discourse of refugee, I offered a new set of definitions of forced environmental migrants, rooted firmly in an understanding of environmental displacement as an ethico-political challenge of the modern era, that clarify what is distinct about the different experiences of environmental displacement. These definitions included the three forms of environmental displacement – imperative, pressured, and temporary – that will serve as a conceptual platform the remainder of this dissertation. I identified a fourth category – human environmental migrants – but, given its focus on the distinctly human political element of displacement, noted that it lies beyond the scope of my dissertation project. The discussion and analysis of existing perspectives on environmental displacement demonstrated that existing terminology and regimes for identifying and protecting migrants will not be sufficient to meet the challenges presented by all three forms of environmental displacement. A new discourse and new approaches are needed to effectively address the ethical, legal, and policy aspects of environmental displacement. Chapters Three through Six will address these facets respectively. To prepare for those discussions, this chapter has advocated framing the problem of environmental migration in relation to normative universal human

rights, rather than as an exclusively political problem of citizenship, borders, and international security – this has important consequences for our understanding of both the realities of and solutions to environmental displacement. Moving forward, the distinction between migration as a human rights problem and migration as political and state security problem will be made clear, solidified, and developed in relation to future legal and policy considerations surrounding the issue of forced environmental migration.

Forced environmental migration is a predictable, yet ethically arbitrary reality in that it occurs on no recognizable ethical grounds, which holds significant implications for the future of (non-)citizens' rights in the context of global justice, international law, and domestic (im)migration policy worldwide. In order to address the complexity of the issue in a coherent manner, it has been necessary to more-clearly define the various forms of environmental displacement. From here, the specific normative rights demanded by this vulnerable migrant group can be determined with greater precision than that which currently underpins much of the literature on environmental displacement. Developing such an ethics of environmental migration is necessary if the global community is to avoid significant human rights and global justice failings in the face of climate change and increasingly frequent and severe environmental events. Yet beyond developing a strictly normative argument, the following chapters also seek to address the opportunities and limitations of current international legal and domestic immigration policies, ultimately developing a policy framework from inductive reasoning that is – by my account – capable of meeting the diverse ethical demands of Environmentally Displaced Persons and balancing these with many of the political constraints currently facing the international regime.

Chapter 3| Setting a Normative Standard: the Rights, Risks, and Responsibilities of Forced Environmental Migration

Thus far, we have set down some of the background science and history of environmental migration and framed the problem as it exists today: an increasing number of people are being displaced by the processes of climate change in an international political community poorly prepared to cope with the fallout. In the literature on forced environmental migration, there is discord over everything from the nature of the problem to its possible resolution. I have argued that this tension primarily results from a failure to effectively conceptualize environmental displacement, which I have attempted to do by outlining four types of Environmentally Displaced Persons (EDPs): Imperative Environmental Migrants (IEMs), Pressured Environmental Migrants (PEMs), Temporary Environmental Migrants (TEMs), and Human Environmental Migrants (HEMs). In collecting the first three categories together for analysis under my ethico-political framing of forced environmental migration, I have set the trajectory of my dissertation. This chapter will add a normative layer to that frame by centering the ethical considerations of environmental displacement at the core of the project and framing it as a work in global justice politics. It places my categorization of the experiences of environmental displacement on hold in taking up a universal approach to the ethics of forced environmental migration. These categories will return to help us conceptualize forced environmental migration under the current international regime in Chapters Five and Six. Moving forward, my analysis of the practical problems of climate change migration will be driven from a position of significant ethical consideration.

The normative underpinnings of this project intellectually and methodologically follow the approach to moral reasoning taken by Ronald Dworkin (2011, 99), where, drawing from David Hume, he argues that morality is fundamentally an independent domain of thought. As such, any argument that either supports or undermines a moral claim must itself include or presuppose other moral claims or assumptions. This is a significant point on two levels, given the nature of the project: first, this means that one will have to participate in his/her own moral reasoning to engage and critique the project. I highlight this to pre-emptively

put aside critiques that may seek to separate morality and policy without responsibly engaging with its morally-reasoned counterpoint. I confidently hold that approaching the challenges of forced environmental migration from a place that does not simultaneously account for the ethical and practical considerations of the conditions of displacement will fail to capture the robust nature of this emerging form of forced migration. Therefore, following Dworkin (2011), it should be recognized by the reader that a critique to the ethical dialogue offered herein could not be produced without some moral engagement on the reader's part as well. Even an argument such as 'morality has no place in politics' is itself a moral claim, thus illustrating the deeply interconnected nature of ethics and politics. Secondly, as much as moral reasoning is its own domain of thought, I also recognize that I cannot *demonstrate* that I am correct to the reader; I can only seek to convince her that I have acted responsibly in reaching my conclusions (again, following Dworkin 2011, 100). The approach to the chapter follows the overall methodology of the project in its interpretivist nature, seeking to explore the socially constructed meanings of migration and belonging under the dominant logics that underpin the current international regime (following Marsh 2010, discussed above). In this, the chapter constructs a normative frame from which we can begin to consider the central question of the project: what rights should Environmentally Displaced People expect, and how might these be met by the international community? Drawing from some of the key ethical principles that frame questions of migration, rights, and responsibilities in the discipline, the chapter uses inductive reasoning to establish a set of normative rights that should be reasonably expected by EDPs, under the dominant (Western) logic of the current international regime. While some might find the conclusions of the chapter contestable, I believe this is, in many ways, the nature of normative theory. As such, I seek more to make a convincing argument that is logically driven, than to 'prove' I am correct in my findings. The chapter assumes that the principles of liberalism shape many of the core beliefs of the international regime at the outset (see Blau and Moncada 2005, among others), and so uses this frame as a basis for most of its comment and critique.

In discussing the rights, risks, and responsibilities surrounding climate change and migration in today's international political community, this chapter seeks to advance our

understanding of these three key ethical elements, in relation to the moral legitimacy and seriousness of EDP rights claims. First, the chapter establishes two ethical principles that can be used in analysing the ethical status of EDPs under the current international regime. It then seeks to apply these principles in a specific way, deriving two rights that I argue should be upheld for all Environmentally Displaced Peoples under the dominant logic of the international regime: the right to adapt and the right to choose migration as a method of adaptation.

Secondly, the chapter draws attention to the function of risk in the context of environmental displacement, as it both telescopes the global nature of the threat of climate change to sustainable livelihoods and enables us to more clearly delineate the location of responsibility (i.e the responsibility to assume the risk associated with climate change). Significantly, this includes an exploration of the liability of one's choice to maintain residence in a higher-risk geographical location and whether or not this could negate a global responsibility to alleviate the negative environmental impacts they experience there. Through an analysis of global risk, two arguments will be advanced: first, that the 'threat' of environmental displacement is global in nature, demanding an equally global response; and second, that making the choice to remain in a geographical area of higher risk to negative environmental impacts does not negate the ethical standing of a potential EDP or EDP population.

Finally, the chapter explores the concept of global responsibility for EDPs through a broad-spectrum approach that draws on three of the dominant international relations paradigms: cosmopolitanism, liberal-internationalism, and communitarianism. It argues that from whichever perspective one approaches the challenges presented by environmental displacement, a minimum moral responsibility to extend some set of environmental migration rights to EDPs is clearly articulated under a frame of global justice. As such, the conclusion of the chapter is clear: there is an ethical basis to extend a body of environmental adaptation and migration rights under the dominant liberal rights-logic that underpins the current international regime which is supported by a global responsibility to mediate the risks associated with climate change; further, these first two ethical

requirements are not diminished by the individual habitation choices of the affected populations.

Climate Change, Rights, and Forced Environmental Migration/Adaptation

As a brief preamble, I would like to address the question of rights broadly, as it plays out in global politics. Ultimately, there are two layers of rights discourse that overlap the issue of forced environmental migration: legal rights and normative rights. Legal rights are recognized, legitimized, and realized through international and domestic law, organizations, and the state, where normative rights do not receive the same degree of legitimation and are less concrete as a result (see Benhabib 2006; Douzinas 2007; and Birmingham 2006 for more on this distinction). Intersecting legal rights and normative rights are what we call "human rights." The term "human rights," itself, can be used in two ways: the first, which is employed in this chapter, is with an eye to the moral quality of the 'right' in question. The second, explored more carefully in Chapters Four and Five, is with an eye to the specific set of normatively-rooted rights that have been officially recognized in international law through instruments such as the Universal Declaration of Human Rights (1948). In this aspect, human rights bridge law and ethics in a way that is simultaneously powerful and crippling for EDPs. There are human rights, and then there are Human Rights: both are normative, but the second set is specifically legitimated and recognized in international law. The legal rights of Environmentally Displaced Persons will be left to Chapter Five for in-depth discussion, but here I will argue for two primary normative human rights that I believe are held by EDPs as a result of their circumstances: a right to adapt and a right to choose migration as a first-order method of adaptation. As we will see, this second right is twofold in that it demands a right to migrate, as well as a right to choose migration before making an attempt at localized environmental adaptation. Significantly, I will argue that these rights should not be nested: one should not need to participate in her right to local adaptation before she can legitimately deploy her right to migrate as an EDP. But, first, it will be helpful to explore the ethical parameters that will set these rights as necessary and significant.

Determining an Ethical Frame

The debates surrounding forced environmental migration too often limit themselves to discussions that focus on the relationship between migration and security, and miss the larger moral issue at hand: the climate is shifting and steps need to be taken to ensure that basic human decency and normative human rights are maintained. There are, of course, exceptions (see particularly, Epiney 2011; Harris 2011; Johnson 2012; Nawrotzki 2014; McAdam 2010; or Byravan and Rajan 2010), but even among those who accept that the ethical implications of climate change displacement should play a more prominent role, many simply look to the legal human rights regime to fulfil these normative claims (see Conisbee and Simms 2003; Bates 2002; among others). Problematically, the implications of their assumptions (i.e. that the legal human rights regime is best suited to meet these normative demands) are often not fully drawn out to clearly link the ethical and practical faces of their argument. Through my own analysis in seeking to connect this link, I will argue that the formalizing nature of the human rights regime in international law is fraught with problems, including but not limited to the tension between the universal principles that guide human rights and the particularizing nature of the sovereign state and citizenship rights. These tensions will be fully discussed as Chapters Three, Four, and Five unfold, but first I will delineate an ethical frame from which we can assess the normative value of what will be necessary in terms of law and policy, in order to maintain human decency in the face of climate change displacement. As I have argued, failing to highlight the importance of making adaptation options available to potential EDPs misses the complexity of the challenge that climate change has placed on global society. The stark reality presented by increasing climate-related pressures is that most affected populations do not wish to migrate, in spite of what increasingly appears to be an almost certain necessity in many cases. Indeed, for those forced to move, the vast majority remain within their own state borders and often hold the hope that they may one day be able to return to the culture and communities they left behind (see, especially, Tremonti 2013's interview with Kiribati's ex-pats in New Zealand for first-hand accounts). For this reason, those analyses which focus primarily on the mass-migration security narrative fail to capture much of the reality of environmental displacement (see Chapter Two; also Levy 1995;

Johnson 2009; Becklumb 2010; among others), where efforts would likely be more productive supporting adaptation practices and principles, including the development of a sustainable migration plan for (potential) Environmentally Displaced Peoples.

In many ways, the reality that most EDPs do not wish to migrate grounds my first ethical principle: that they should not be made to. Of course, this in itself does not necessitate an internationally-supportable right to migrate for all EDPs. Yet, if we step back to explore some of the ethical considerations that could negate an international responsibility to assist adaptation, we might be better able to determine what – if anything – would. One of the central objections, from an ethical perspective, to a universal right to migration for EDPs might see an argument to the effect that: local practices may heighten environmental sustainability – for example, high-density living, improper irrigation, or overuse of local environmental resources – thereby levying responsibility at the local level. Indeed, one of the prominent narratives to emerge from the Hurricane Katrina disaster employed this reasoning to survivors wishing to return to the 9th Ward after the flooding subsided (especially see Cohen 2008, for an in depth analysis of this discourse as it was spun by the United States' government and supported widely in the media over the five years following the disaster). A more nuanced argument might propose that while these factors do not immediately create the conditions leading to crises, they may lessen the local environment's natural adaptive capacity, thus increasing local risk factors (see, for example, Drydyk 2013). Yet, particularly on small island states – arguably the most environmentally unsustainable landscapes in the context of forced environmental migration (as I will discuss in Chapter Five through specific case studies; also see Rakova 2009) – the increased risk by local practices and habits is minimal in almost every case, which undermines this type of reasoning. The reality of climate change is that it is global in nature and scale, and is thus affected by other peoples' local customs and habits at least as much as, possibly even more-so, than by one's own. Indeed, where one happens to live plays a large factor in the level of risk associated with the local climate and its susceptibilities: low-lying seascapes are certainly more vulnerable to flooding than mountainous regions. However, from an ethical perspective, where one happens to live is largely an extension of where one happens to be born, since most people still choose not to

migrate over long distances unless it is deemed necessary. Even where they might make this choice, it is often inhibited, restricted, or denied by domestic state policy and restrictive immigration practices. Yet, where one happens to be born is also rather arbitrary. On one hand, physically, where we are born matters. Whether you are born on the sinking island nation of Kiribati or in the agriculturally-rich Prairie Provinces of Canada will dramatically affect your ability to sustain basic human needs. However, where you are born is morally meaningless: you did nothing to 'deserve' it. This disconnect has dramatic ethical implications for EDP and potential EDP populations, and requires further consideration in order to bridge the moral and physical realities of this vulnerable group.

To clarify the problem in this gap, we can turn to the work of Joseph Carens for insight. Carens (1987) puts forth an argument that arbitrary factors such as where one is born are essentially unjust, as one did nothing to 'deserve' them. Since the country where one is born is arbitrary, yet largely determines his or her future prospects in life (for Carens, in terms of potential wealth, life expectancy, range of choices available to pursue as life goals; for us, these factors as well as a continued access to the basic necessities to sustain life), it is not 'fair' that one should be required to live within the set of parameters laid out by the chance location of her birth (Carens 1987, 256). This logic is particularly powerful in the context of climate change, where the geographical location into which one is arbitrarily born will not only limit one's access to the 'good life', but may in fact threaten his or her life itself, and often not as a result of her own practices or lifestyle. To clarify my point, it might be helpful to follow a hypothetical subsistence farmer from Tuvalu. We can call him Tuaga. Tuaga does not participate in any significant environmentally degrading practices, but his continued access to a sustainable lifestyle is increasingly threatened by rising sea levels, floods, and soil salination. Where Tuaga is only minimally participating in creating the conditions of climate change, he is experiencing their most dramatic negative effects solely as a result of the arbitrary location of his birth. Further, having received little formal education in his youth, he is not considered to be a good candidate for immigration in more environmentally-stable countries like New Zealand. Thus, Tuaga must remain on Tuvalu despite the increasing environmental challenges to his ongoing existence even though he

has little to no moral responsibility in creating this situation. In this, I would argue that is happening to Tuaga is unjust in its arbitrariness.

Drawing this logic to its full extent (and telescoping Chapter Four) one could argue that an international rights regime where the injustice of arbitrariness is not recognized highlights a substantial global moral failing: firstly, because most devastating environmental events are themselves largely arbitrary in location, scope, and impact; and secondly, because the geographical region into which one is arbitrarily born plays a significant role in determining the level of environmental risk associated with sustaining a "good" – or sustainable – life.

Thus, in recognizing this as an international ethical failing, I present what I believe can be a first principle in seeking to draw out a basic ethical framework for judging responses to climate change displacement:

In as much as the geographical location of a population is arbitrarily imposed by birth or other uncontrollable force, that population has a normative right not to be disadvantaged by its geographical positioning.

A second normative concern might consider my earlier assumption that *nations that have played little to no role in creating the conditions of climate change have a right not to be disadvantaged by them* more closely. On its face, this principle may seem riddled with problems, not least of which would be proving that a particular nation has not played a significant role in creating the conditions of climate change. The scientific, 'provable', causal links behind climate change are sketchy at best and no nation is free from all blame – we all produce carbon, methane, and other climate-changing greenhouse gas (GHG) emissions, even though some may be more culpable than others (Gardiner 2010: 3-9, 14-19). Yet, on close examination, I believe that the logic behind the principle stands, even in light of these concerns: a group of people should not be held responsible for actions they did not take, or at least, did not take alone. In as much as the global community shares a common responsibility for creating the conditions of climate change, legitimately, it should also share the risks and responsibilities associated therewith. For a clearer picture of the philosophical point here, I would like to pull us a little closer to John Rawls' work on the

difference principle (1971) and J.S. Mill's more-general contribution of the harm principle (1859b), applied in an international context.

First, Rawls' Difference Principle is based in distributive justice and seeks to justly allocate economic benefits and burdens across members of a bounded community. For our purpose, we must expand his area of focus beyond economic benefits and burdens to consider all of the benefits and burdens relating to climate change. The society in question, for us, will be global, given the global nature of climate change. It should be noted, however, that Rawls would likely not have been comfortable following this global trajectory (see Rawls 1999 in particular). According to Rawls (1999[1971], 42-43), social and economic inequalities (read: inequalities in climate change experiences) must satisfy two conditions if they are to uphold the principles of justice:

a. They are to be attached to offices and positions open to all under conditions of *fair equality of opportunity*;

b. They are to be of the greatest benefit to the least-advantaged members of society.

I will pin the first for our discussion regarding a right to migrate and instead concentrate on the second (the difference principle) here. In applying this principle to the case of climate change, all future policy decisions at the level of the state would have to be made to be of the greatest benefit to the least-advantaged. What this would mean, I believe, is that all future policy decisions would have to be made by states *as if* they themselves were in the position of the peoples who are most ill-affected by the conditions of climate change. By expanding Rawls' principle globally, I also believe it would be reasonable, from an ethical point of consideration, that it would apply to *all* policy decisions that are being made – both domestic and international (for example, Canada may be forced to re-examine its policy on projects like the Keystone XL Pipeline from a perspective that would more carefully consider the environmental fallout of continuing to support an oil-dependent economy). Perhaps more importantly, I argue that this principle should – following Rawls' (1971) veil of ignorance logic – also be applied to all policy decisions that *could be* made, adding an intergenerational component to the theory. Here, I am thinking of the multitude of policies that could be made proactively to assist in adaptation and migration efforts to

mitigate the negative effects of climate change, where some states are capable of supporting effective policy that is both geographically and temporally vast. While I am not convinced that it would be appropriate to apply this principle retroactively (as indeed there is at least some hesitation in claiming that states which actively participated in the policies and economies that fuelled anthropogenic climate change to begin with did so with full knowledge of the potential effects of their decisions), I do not believe the same hesitation applies proactively, into the future. Here an example of my reasoning at work may help to clarify the implications of my position: taking the United States as an example, in applying the difference principle as I have argued it should be applied, we might see dramatically increased support of adaptation efforts worldwide. Essentially, under the difference principle the US would be required by the principles of global justice to put itself in the position of the most ill affected populations in making *all* policy decisions, both foreign and domestic.[15] For the sake of illustration, we could take the first expected state casualty of climate change, Tuvalu, as an example of the least well-off state, likely to hold the least well-off individual, in the context of global climate change. Thus, the US would have to fully consider the position of Tuvalu in all of its policy decisions: foreign and domestic, actual and potential. Tuvalu is on the verge of being submerged by rising sea levels; yet, it is quite likely that if Tuvalu had the resources of the United States (or a number of other well-off countries) at its disposal, it may not 'sink'. Indeed, options to build expensive adaptation technologies like seawalls or even floating islands may open on its horizon (see Chapter Two for more; see also Johnson 2010; English Environment Agency 2007). Under the difference principle, I believe that the US would be required to consider this situation and make future policy decisions by including the rationale 'if you were Tuvalu, what would you have the United States do'? Further, they would then be required to *act on them* (i.e. build seawalls or floating islands) wherever possible. This would be keeping with justice as fairness, particularly in light of the arbitrary nature of geography and climate impacts discussed above. This is not to say that Tuvalu's needs would suddenly trump the domestic needs of Americans, just that they would be deemed equally worthy of legitimate consideration and force. Implied herein are both a right and a

[15] Indeed, this would be in keeping with Rawls' original position, also put forth in *A Theory of Justice* (1971[1999]).

responsibility. The right is for the worst-off to be considered in decisions that will affect them. The responsibility is for states capable of implementing beneficial global change to do so. In demanding that the most ill-affected global populations be considered in all policy decisions, I suspect we would see two significant outcomes in the context of adaptation: first, that a right to local adaptation would be recognized, and second, that this right to adapt would be financially and politically supported by states worldwide. As such, the problem of sorting out who *caused* the conditions of climate change would also be resolved, as it is the impact and not the input that motivates this approach to global justice. The key limitation on this approach would likely follow the communitarian reasoning that the demand to act on moral principles must not come at a cost too high for the initial community to bear. This logic flows from Michael Walzer's arguments in *Spheres of Justice* (1984), which will be addressed below.

A second perspective that I would argue also lends support to a normative right not to be disadvantaged by the conditions of climate change is based in the Harm Principle, originally put forward by J.S. Mill (1859b) and reconfigured by Andrew Linklater (2002) to apply more specifically in the international context.[16] Mill's principle is essentially that you are free to do as you please, so long as it does not cause knowable harm to another (i.e. the freedom of your fist ends at my face). Linklater (2002) takes these beginnings and attempts to cross-cut the traditional cosmopolitan-communitarian debate, ultimately arguing that individuals and states should seek to apply Mill's harm principle when considering global moral dilemmas (I would add, such as those posed by Environmentally Displaced Persons). He claims that *if* moral favouritism is legitimate – noting that most people are inclined to believe that it is, (in the very least with respect to our families and friends if not also to our fellow countrymen) – then it is imperative that we establish a set of non-optional duties to outsiders that would be distinguished from charity (2002, 145).

[16] Some readers may find it significant that the theoretical trajectory flowing from Carens and Rawls is quite different from that stemming from Linklater's insights. Some may critique the incorporation of such different ideological approaches to issues of ethics in global politics; however, this has been done with an eye to drawing forth the widespread ethical grounding of the principles of justice that frame climate change displacement. When drawn out to their full extent, the reader will see that the implications of each approach differ; but, rather than presenting a contradictory conclusion, can in fact inform a temporal divide that works well to advance EDP rights under the current international regime (Linklater), as well as into a more-ideal future (Carens and Rawls). These implications are discussed in detail in Chapter Seven.

Specifically, he is arguing here that moral outsiders – non-citizens – have moral standing and *rights* that must be distinguished from acts of charity. Otherwise, he points out, moral favouritism may turn into indifference towards outsiders, or even active hostility (Linklater 2002, 145). In the grounding of his argument, then, Linklater can be seen to be both representative of the current world order, and a counterpoint to my own cosmopolitan, common-humanity approach, where I remain unconvinced that moral favouritism is legitimate – especially at the level of the nation state (a topic which I will discuss in greater detail in the next chapter). For Linklater, in order to make moral favouritism "safe" for a just international community, we need to re-imagine Mill's "harm principle" on a global scale. He argues that there is a general agreement among people that it is wrong to promote the interests of one's own society (or one's own personal advantage) by exporting suffering to others, colluding in their suffering, or benefitting from the ways in which others exploit the weaknesses of the vulnerable (see also Mill 1859a, 111-124). This principle, he rightly argues, should apply beyond borders. By way of defence for the feasibility of its global application, Linklater draws attention to the growing support in the international community for the principles of fair trade, ethical investment, anti-child labour and arms sales, and ethical tourism. Based on this, he draws out three interdependent moral sentiments which are central to establishing a global ethic concerned with the problem of harm in the world: first, is a concern with inequalities of power; second, is a basic sympathy for the vulnerable; and third, is a desire to respect one of the basic human obligations: the idea that what touches all should be agreed upon by all (Linklater 2002, 146). Particularly for the case of forced environmental migrants, I believe that these three sentiments easily inform a global pre-requisite set of duties that would help to ensure their just treatment as 'outsiders with rights'.

On first read, this argument seems ideally positioned to morally negotiate a set of rights for Environmentally Displaced Persons as a vulnerable population. Indeed, Linklater himself even references environmental agreements as proof of the necessity of his argument (particularly, the Stockholm Convention on Persistent Organic Pollutants (2001) and the Rio Earth Summit (2002) which both assert that states do not have a right to pollute their neighbours or damage the global commons) (2002, 149). It is further an easy bridge to

establish EDPs as holding unequal power in resources given their tendency to be located in the Global South and, thus, being limited in their range of implementable adaptation strategies. Clearly, they are also a vulnerable population and in need of Linklater's "basic sympathy" (or, for that matter, Rousseau's 'pity' [1754]). Yet, I believe the best ground for establishing responsibility for EDP rights lies in his third principle: that what touches all should be agreed upon by all. In this, there is a moral disconnect in the causing of harm to potential EDP populations. While the West was industrializing and accelerating anthropogenic climate change, many places around the world – particularly in mind here are the small island states that are now most visibly threatened by sea level rise, and many African regions that are facing persistent drought and desertification – were not only not consulted, but were likely not even considered in the transaction. The West benefitted from industrialization, while the global climate suffered (see Shue *in* Gardiner 2010: 101-111). This was clearly a harm-inflicting operation, and should trigger special moral consideration under Linklater's principles. But does it? While a universal application of the harm principle may address many of the issues associated with the existence of forced environmental migration, it cannot clearly conceptualize the roots of the problem itself: harm has *already* been caused in this case. The transaction was completed with no immediate (environmental) harm to outlying populations, as it has only been with time that 'harm' is being experienced. Further, the argument that industrializing populations were unaware of the global damage they were participating in at the time bears some weight. Linklater's arguments alone, therefore, cannot unequivocally support a duty to override moral favouritism in the case of establishing expansive EDP rights to adaptation and migration (admittedly, this is not his intent). The problem lies in the fact that while he does extend the duty of consideration globally, his work with the concept of duty exists strictly in the framework of liberal-individualism and negative rights: one has a duty not to cause harm. This approach does not support a duty to resolve problems that arise when harm has already been caused and its effects are being experienced.

Beyond Linklater's particular arguments regarding the harm principle, this problem underpins many of the foundations of human rights discourse itself, particularly in as much as it is rooted in liberal political thought: it is accepted that negative rights and negative

duties are a requirement to uphold basic human rights; however, positive rights and duties are often either perceived as dangerous (see Isaiah Berlin's *Two Concepts of Liberty* 1969) or too far-reaching (see John Stuart Mill's *On Liberty* 1859 or Robert Nozick's *Anarchy, State, and Utopia* 1974). Yet, in the case of Environmentally Displaced Persons, negative rights fall short of establishing an effective theoretical frame sufficient to meet their needs, as negative migration rights do not exist and negative adaptation rights would prove to be ineffective given the current conditions of poverty experienced by most potential EDP populations. Where a state may positively protect the basic human rights of its citizens within its borders, environmental migrants who are forced across borders find themselves outside of this rights-based dialogue, and without the normative or legal discursive tools from which they can build effective claims for universal, positively-rooted non-citizen rights (as opposed to claims for charity), given the dominance of negative-rights liberal-individualist discourses in the international political community (Blau and Moncada 2005; also Douzinas 2007 on the similar domination of human rights discourses by Western, liberal ideology).[17] As a result, it seems likely that the full range of human rights will be restricted for forced environmental migrants, especially those seeking pre-emptive migration. In this way, Linklater's call for a global application of the harm principle alone does not stand as sufficiently meeting the needs of Environmentally Displaced Persons, despite the significant contribution his work makes to the theoretical establishment of a global relationship of responsibility. While his logic, which overlaps with much of the logic of the international community, extends EDPs a set of rights, the restrictions of his liberal discursive frame simultaneously negate the rights that its logic upholds. This shortcoming further sheds light on the larger challenge of negative human rights that is currently confining the international system, which I will discuss in greater detail in the next chapter.

Yet, despite their limitations, applying the logics of Rawls' and Linklater's arguments to the case of forced environmental migration enables us to derive a second ethical principle:

[17] Legally, as will be explored in Chapter Five, the treaty regime addressing economic and social rights includes covenants that include positive and group rights, even if these are applied in weaker form than individual negative rights.

There is a universal right not to be unequally disadvantaged or harmed by the conditions of climate change.

And thus we have what I believe are two very helpful guiding normative principles that inform an ethical baseline for judgement as to the level of success or failure of laws and policies meant to address the issue of environmental displacement.

EDP Rights

Perhaps the first step in seeking to apply these two principles would be to examine what kind of rights they might imply for Environmentally Displaced Peoples, across their various experiences. Cutting straight to the core of my argument, I expect that there are two implied rights that should be afforded to EDPs under the ethical frame I have set: a right to adapt and a (first order) right to migrate.

First, let us address the right to adapt: I believe that applying these two ethical principles to the case of potential Environmentally Displaced Peoples would trigger a right to adapt in order to attempt to correct the moral deficiencies resulting from the global participation in advancing climate change. As a negative state-centred right, this right would not be hard to meet; indeed, under most understandings of sovereignty, it already exists as states largely have the right to do as they wish within their own borders in terms of setting policy. Tuvalu has a negative right to adapt under current international law: no law, policy, or political power is stopping them from implementing adaptive policies. However, negative adaptation rights are likely to be insufficient in establishing sustainable and comprehensive moral treatment of Environmentally Displaced Persons under the ethical frame I have presented above: while Tuvalu has the negative right to adapt, this right does little in achieving sustainable adaptation projects there without 'outside' financial and/or technological support. Yet, here, we also begin to glimpse the primary challenge in establishing of a full range of EDP rights: that it is not in recognizing the rights of local populations, but is rather in activating their ability to realize these rights. While technologies, practices, and strategies exist which would address many if not all of the various challenges presented by climate change (desertification/advanced irrigation; sea level rise/dike systems or seawalls; extreme weather/advanced alert systems to name but

a few) the costs associated with successful implementation are often far beyond the economic reach of those populations that are most vulnerable to the immediate effects of climate change. As such, the full realization of these rights will require both international recognition and positive support in terms of rights and duties, as I will discuss below in the section on responsibility.

The second right I believe is required by the ethical principles I have set out is the right to migrate as a first-order right. Indeed, it must also be recognized that not all (potential) EDPs wish to invest the time and/or money required to successfully adapt their physical environments and for the same moral reasons that they should be allowed to, they should not be required to. Indeed, a population should not have to make every attempt at physical adaptation and wait until the situation is too severe to recover from before it is allowed to migrate. The same principle applies on an individual level (i.e. any individual has the moral agency and right to migrate or adapt, whether the community chooses to participate in migration or adaptation, or not). In this way, these two normative rights – one to adapt to one's changing physical environment, the other to choose migration as adaptation – are connected, but not nested. One need not – ethically speaking – attempt the first before the second becomes an option.

While I think the two ethical principles imply a right to migrate for EDPs – through both their right not to be disadvantaged by the arbitrary geographical positioning of their birth, as well as the right not to be unequally disadvantaged or harmed by the conditions of climate change – it may also be helpful to look to some of the key thinkers in the field who address the normative side of migration and belonging for further insight.[18] In this, I will build on Carens' arguments above, drawing in the more-liberal works of Thomas Pogge and the communitarian perspective of Michael Walzer. In this, I hope to establish a well-balanced (i.e. one which addresses concerns from each of the major international perspectives: communitarian, liberal-internationalist, and cosmopolitan) argument for the

[18] To date, this debate has largely been dominated by Western, white, male thinkers like those who are discussed in this dissertation. Since this chapter is aimed at exploring the dominant discourses that underpin international norms and assumptions, I have not sought to break with this tradition.

freedom of movement of Environmentally Displaced Persons within certain, morally justified parameters.

Beginning from a cosmopolitan perspective, I turn to Joseph Carens' (1987) work on open borders and free migration (building from his arguments, as discussed above). Carens (1987) draws on two key concepts originally presented by John Rawls in establishing his argument for open borders: first, that arbitrary factors are essentially unjust as one did nothing to 'deserve' them (recalled from above); and second, that the principles of justice primarily lie in equal liberty (Rawls' first principle of justice, also discussed above). He applies these principles to the topic of borders, arguing that just as arbitrary factors taint discussions of justice, so too do they taint the justice of the international system. More specifically, as the country within which one is born is arbitrary, it is not fair that she should be required to live within the set of parameters that are largely established by the chance location of her birth (Carens 1987, 256) particularly, because whether one is born in sub-Saharan Africa, Eastern Europe, or North America will greatly affect her prospects to be able to achieve the necessities required to live a 'good' life (however defined).

Building on this idea, Carens argues that in a state system such as we have, the best method to rectify the injustices that accompany the arbitrariness of birth would be to employ a policy of open borders that would enable the free migration of peoples (1987, 258). Free migration would enable people who had been disadvantaged by their original place of birth to equalize this disadvantage by moving to a 'better' or more advantaged place of residence. Ultimately, he argues, such a policy should also have the effect of spreading wealth more equitably around the globe (Carens 1987, 258). For our purposes, such an approach should re-balance any environmental hardships arbitrarily imposed by birth, thus meeting the two ethical principles laid out above, simultaneously. Those born on sinking islands or drought-ridden plains would have the equal liberty of concern to Rawls (by way of Carens) to migrate to a more-hospitable environment.

Yet, Carens rightly recognizes that the idea of open borders is an ideal. In terms of the current political realities that frame the international community, he points out some realistic concerns regarding national security: if borders were effectively open, they would

be open to everyone – including armed invaders or subversives[19] (1987, 260). Giving attention to this legitimate concern, he turns to Rawls' justification of restricting liberty only for the sake of liberty itself in order to determine when it would be justified to restrict migration. Carens expands Rawls' idea, arguing that the restriction of migration would be "justified only to the extent necessary to preserve public order … and could not be the product of antagonistic reactions from current citizens" (1987, 259).

Applying these arguments to Environmentally Displaced Persons, we immediately notice that this is a well-founded concern: "others" are highly suspect in most of today's political communities. Studies on the effects of Hurricane Katrina's EDPs, which hit New Orleans in 2005, in their new 'homelands' have revealed a dramatic increase in crime and criminal activity in these areas since their arrival (*Economist* 2006:41; Nates and Moyer 2005, 1144). One study specifically looked at Houston, Texas – which became home to between 250,000-300,000 people after Hurricane Katrina – linking 58 out of the 261 murders that took place between January and August of 2006 to Katrina survivors (*Economist* 2006, 41). The overall number of murders in the Houston area increased to over 400 by the end of 2006 – an increase from the 334 murders of 2005 (*Economist* 2006, 41). A Houston social worker linked the increase in violent activities to the frustrations felt by evacuees who wanted to return home, but could not due to financial constraints and the precarious housing situation in New Orleans: the "people yearn for the tight communities of the Big Easy, where all family members often live within a mile of one another" (*Economist* 2006, 41). Offering a common response to the increase in violence, the Mayor of Houston located the solution to this problem in a dramatic increase in the number of police officers 'on the ground'; in other words, in increasing the coercive power of the state over that of the people. Reactions such as these – as common as they are – tend to be misguided in that they primarily serve to perpetuate the perceived divide between 'us' and 'them', creating a feedback loop that increases frustration and marginalization on the part of the 'other' and resolves nothing (see Calavita 1998 on experiences in Spain; Phinney et. al. 2001 on experiences in Finland; Sam et. al. 1995 on experiences in Norway; or Rudmin 2003 on the

[19] While state security was of concern in 1987 at the time of publication, it has become a central issue in state and popular discourse since September 11, 2001, and thus of particular note.

general psychological effects on migrant marginalization; among many others). Commenting on the situation in 2006, Houston Mayor White stated: "The musicians have mostly moved back to New Orleans now … The crackheads and thugs have decided to stay here … [Furthermore, he stated proudly that] people are being arrested in record numbers … even for some minor infractions that may have been tolerated in the New Orleans area" (*Economist* 2006, 41). Even more concerning is that at the time of publication, the Federal Emergency Management Agency (FEMA)-funded housing subsidies were about to end and would only be renewed if the applicant had found employment (*Economist* 2006, 41). Problematically, many of the evacuees were elderly, disabled, or single mothers, which significantly decreased their opportunities to obtain and maintain stable employment. Not willing to take responsibility for these 'others', Mayor White decisively stated that "[t]he city simply cannot be in a position of subsidizing the nation's housing program for evacuations" (*Economist* 2006, 41). He went on to argue for the need to establish a new federal bureaucracy to co-ordinate long-term housing, education, and health care for displaced people, which would leave FEMA as 'shock troops' to be used more effectively for debris removal and temporary shelter (*Economist* 2006, 41).

This case highlights that the actual implications of these moral rights are difficult to realize given the very real constraints of community or national security and long-term or even permanent displacement resulting in social marginalization (not to mention problems arising from the sheer size of demand in some cases where receiving regions/countries would be required to integrate large numbers of people who have fled desertification, rising sea levels, or conflict over environmental resources such as water or oil). Clearly, while morally sufficient, employing free migration and open borders to the challenge of environmental displacement would have its complications.

Offering a tempered approach from the somewhat extreme cosmopolitan perspective offered in Carens' work, Thomas Pogge can be seen as representative of the more middling liberal internationalist view (albeit still cosmopolitan in its driving concern). Pogge discusses the potential role for international institutions in establishing an institutional arrangement for (more) free migration, distinguishing between 'moral cosmopolitanism' and 'legal cosmopolitanism': the former asserting that "every human being has a global

stature as an ultimate unit of moral concern," and the latter being a "commitment to a concrete ideal of a global order under which all persons have equivalent legal rights and duties, that is, are fellow citizens of a universal republic" (1992, 49). My interest here is in moral universalism, which Pogge presents as a method for establishing the basic moral principles of global politics (legal cosmopolitanism, he sets out as the mechanism through which this goal can be achieved). Moral universalism lays out three central criteria: (1) it subjects all persons to the same system of fundamental moral principles; (2) these principles assign the same fundamental moral benefits and burdens to everyone; and (3) these fundamental moral benefits and burdens are formulated in general terms so as to not privilege or disadvantage certain persons or groups arbitrarily (2002, 110-12). In many ways, then, we can understand Pogge here as applying Rawls' second principle of justice on a global scale (differing from Rawls in that Rawls envisioned a closed society). While falling short of the creation of a world state, Pogge's conception of the role of international institutions seeks to "move the global status quo towards a more cosmopolitan world order in the legal sense" (Benhabib 2004, 96). This approach is worth highlighting in its ability to balance the 'real world order' with substantial ethical criteria, but also because it helps to clarify my rationale in arguing for EDP rights as universal rights. As such, ethically speaking, these rights would not be rights for which one would have to apply or make a claim for, but rights that they would already have as humans ill-affected by the conditions of anthropogenic climate change. While Environmentally Displaced Peoples do not necessarily require open borders or free movement (indeed, for many, this 'right' would likely go unwanted or unrealized due to lack of resources), they do require ethical agency and recognition. For most EDPs, the right to migrate is not a right to migrate in the traditional sense, but is rather a function of their larger right to receive adaptation assistance, as discussed above. The right to migrate is thusly linked to the moral project of re-establishing agency to those who would otherwise be the ethical 'victims' of anthropogenic climate change. As such, applying Pogge's moral universalism makes particular sense in the context of environmental displacement because it helps us to recognize the right to migrate as a function of a larger ethical claim.

As somewhat of an aside, Pogge's use of international institutions is also an interesting approach in its applicability to the role of the UNHCR as a gateway between politically displaced peoples and their rights as non-citizens. The UNHCR was initially established to protect the interests and rights of refugees worldwide. While it has been reasonably effective as an institution (see Scheel and Ratfisch 2014, among others), the moral content which frames the policies within which it operates has significantly limited its practical prospects for EDPs.[20] For example, given the official, dated, definition of 'refugee' as a key parameter in its mandate, the UNHCR has been somewhat limited to protecting the rights of those refugees who fall squarely within this definition (CARFMS Reforms in Refugee Protection Roundtable 2010). Yet, in many ways, it can be also seen as following Pogge's principles of moral universalism: (1) it seeks to subject all "refugees" to the same system of fundamental moral principles; (2) these principles are aimed to assign the same fundamental moral benefits and burdens to everyone; and (3) these fundamental moral benefits and burdens are meant to be formulated in general terms so as to not privilege or disadvantage refugees arbitrarily (from Pogge 2002, 110-12). Yet, as a result of using a political definition to apply moral character, "environmental refugees" are not included among those whose interests the UNHCR seeks to protect, despite having similar moral requirements and often-similar political situations (i.e. being forced to migrate).[21] Indeed, EDPs were not of political concern back in 1951, when the definition of a refugee was initially established. Their exclusion from this category, however, has fundamentally limited the possibilities available for their migration, as they receive none of the benefits traditionally associated with official refugee status. This shortcoming of the UNHCR's guiding mandate also reveals a similar shortcoming in Pogge's arguments: where Pogge pointedly ensures that what he is arguing for is a moral framework, void of any specific content (thus avoiding claims of moral authoritarianism), the content of such a theory (or policy) clearly matters. While beneficial in many ways, in terms of being politically-

[20] This draws into question the purpose of the UNHCR: should it seek to maintain stability and respect sovereignty (two of the founding principles of the UN); or, should its moral dimension supersede traditional political considerations because its work addresses the needs of vulnerable peoples. This paper supports the latter approach; however, it recognizes that such expectations are not universally accepted.

[21] As mentioned, the rising numbers of Environmentally Displaced Peoples around the globe has forced the UNHCR to take some action regarding the protection of EDPs; however, they are still not afforded any protected status similar to refugees due to the definitional limitations of this legal category (discussed in detail in Chapter Five).

applicable, we can see that abstract frameworks are not enough to ensure justice (admittedly, this was not Pogge's initial intention, but rather a lesson I am drawing out).

Significantly, Pogge and Carens present their arguments within a framework of universal rights; further, the basic unit of analysis for each theorist is the individual and not 'a people'. This distinction directly challenges the absolute right of the nation state and the associated supremacy of state sovereignty within the international community. Where the nation state tends to group rights together and distribute them to 'a people' (usually delineated through the granting and denying of citizenship), our theorists have established migratory rights as both determined and claimed by abstract individuals (either through a state as a theorist such as Immanuel Kant might have them do [discussed in Chapter Four], or through international institutions as Pogge would have them do) rather than as contextualized citizens of specific states, as is the current situation. In this context, migratory rights would effectively be transferred into the realm of universal human rights and would be applicable to everyone, everywhere, as needed, rather than to some, based on their country of citizenship, as is the current practice. This cosmopolitan understanding of migratory rights is one more appropriately situated to address both the moral and practical needs of Environmentally Displaced Peoples.

This distinction between recognized normative principles and political realities is also significant in terms of its contrast to the current realities of the international community with respect to issues of migration, represented here through the work of Michael Walzer. While both Pogge and Walzer recognize the value of co-nationals, Pogge argues that within the framework of moral universalism, co-national bonds can only be used to strengthen – not weaken – other relationships (2001, 117). For example, if one is to be consistent from a moral point of view, one cannot justify granting migratory access to the employment boom in Alberta to someone from Newfoundland and not to someone from Ghana. If migratory access is to be granted to one human being, it must be granted to all human beings, equally; therefore, any co-national bond that one feels towards other members of his or her nation that would incline him to do or grant something would require that this privilege (right, or so-on) be granted to non-co-nationals as well. This principle further diminishes the

perceived value of the nation state, the very existence of which is premised on the superior worth of co-nationals over 'others'.

Walzer, on the other hand, places great value on the bond between co-nationals – like much of the current international political community – and sees this unique relationship as naturally trumping all others (with perhaps the exception of that between members of the family). Therefore, in treating membership as the central foundation for his discussion of distributive justice, he concludes: "across a considerable range of the decisions that are made, states are simply free to take strangers in (or not)" (Walzer 1984, 61). Walzer's justification of the exclusion of others is premised on the right of communities to self-determination; yet, this right is constrained in three important ways: first, there is an obligation to provide aid to those in dire need, regardless of whether there is an 'established bond' with them or not, and provided that giving aid is not 'too costly' for the aid-giving group; second, once people have been admitted as residents and participants in the economy of the community, they must be entitled to acquire citizenship status; and third, new states or governments must not expel existing citizens, even if they are viewed as alien by the rest of the population (*in* Carens 1987, 266).

Walzer's arguments, while posing some complications to Carens' arguments for open borders, are not quite as damaging to the argument for establishing the legal-moral rights of Environmentally Displaced Persons. In fact, I believe these three points could even be seen as supporting their claim. For example, EDPs are, almost always, in dire need; therefore, they would be admitted into the community on the first principle. Secondly, Walzer's moral demand regarding the necessity of offering the possibility of citizenship once one has become a participant in the economy would help to ameliorate problems of permanent or long-term disenfranchisement, political and social marginalization, and the resulting sentiments of frustration that could easily lead to violence. Finally, the third principle would work to protect the long-term interests and security of these otherwise vulnerable groups. Despite its dramatically different approach from the cosmopolitan perspective, Walzer's communitarian argument does not pose a problem to the advancement of a special set of rights for EDPs, I believe, because it is worked through a frame of justice. While I would like to say that because communitarian and cosmopolitan

frameworks converge over the issue of forced environmental migration at the intersection of justice, this point would unequivocally reveal that not establishing an absolute right to free migration is fundamentally unjust; however, this would be overstated. Yet, that said, it is important to recognize that these – otherwise very different – theoretical traditions *do* converge at the intersection of justice in the context of EDPs, which I believe highlights the moral quality of their claims to mobility rights.

Where the communitarian perspective differs vastly from its counterparts – and significantly for my argument – is that it rests the burden of proof upon those who would be seeking to claim mobility rights, rather than in a universal moral or institutional framework. Indeed, where cosmopolitan arguments would expand migratory rights to a large group of people (everyone, in most cases) – of which EDPs would only make up a small subset – the communitarian perspective would expand these rights only to those in 'dire need'. In this respect, the communitarian perspective is much closer to the current worldview espoused by most countries and international institutions with respect to status refugees. It is problematic for EDPs (and refugees) for the simple reason that it requires an insecure and vulnerable group to make their claims and prove their need. And, while a simple 'proof' may not seem to pose significant problems within a framework of justice, there is no guarantee that what is 'dire need' and what is *perceived* as adequate proof of 'dire need' will be in alignment. For example, within the current framework of the 1951 Refugee Convention, refugees fleeing political persecution should be accepted in receiving countries without difficulty, yet many are turned away as 'frauds' or 'abusers' (see, for example, Cornelius 2004; Canada's visa restrictions on Mexico [Globe and Mail 2011]; Australia's increased water patrols and redirecting of potential claimants to Myanmar [BBC 2010]; or the emerging discourse surrounding Syrian refugees on the borders of Europe; also see Chapter Six for more details). The problem does not necessarily lie in requiring refugees themselves to make claims for asylum, but rather in requiring them to make claims for asylum that would appeal to their adjudicators. Furthermore, difficulties would arise in a similar vein to the communitarian critique of open borders regarding uneven demand. In this context, countries with broader understandings of 'dire need' would likely be flooded with claim-makers, and would therefore have incentive to narrow their

definition, limiting justice for EDPs overall. Following current border-control trends, it would not likely be long before 'dire need' was so narrow a category that it restricted access to nearly every migrant seeking asylum who could not also offer economic wealth, or at least the potential for future wealth-generating capacities. Minimally, here, we can see that reform in the process of adjudicating status would be required from an ethical standpoint. This idea will be fleshed out in greater detail in Chapter Seven.

Thus, with these concerns in mind, we can see that potential EDPs should have a first-order Right to Migration as a method of environmental adaptation that goes beyond a negative-rights formation and thus requires the possibility for pre-emptive migration.

It is also significant to note that while my approach may be somewhat unique in seeking to wed these otherwise quite different perspectives, my points of consideration and even some of my conclusions are not. For example, Craig Johnson applies the capabilities approach developed by Martha Nussbaum and Amartya Sen to suggest, "people have a right to live a life that conforms to prevailing norms and expectations of longevity, shelter and nutrition" (2012, 322). Johnson goes on to argue that, based on the capabilities approach,

> affected populations have an ability to determine whether or not they decide to relocate, the terms on which they are expected to move, and the conditions under which they are accepted and integrated into new societies. Where it can be established that individual freedoms and decisions will entail unacceptable threats to bodily health and integrity (among other capabilities), states, societies and people in general have a responsibility to protect and expand the capabilities of those who are unable to do so on their own (2012, 323).

Here, Johnson (2012) implies both a right to adaptation assistance, as well as a right to migration where adaptation is incapable of rectifying the normative wrong involved in climate migration.

Similarly, Matthias Risse (2009, 293) employs the language of natural rights to build a claim that in cases where climate change has rendered people's homelands permanently uninhabitable (in our case, mainly for Imperative Environmental Migrants), an international obligation arises to provide compensation for their loss through expanded

immigration based on historical emissions and the ability to 'pay', which he derives from the ratio in each country between population and the ability of space.

Finally, Raphael Nawrotzki employs Peter Singer's Historical Principle, also building from historical emissions as the preeminent driver of responsibility to argue for a right to migration for peoples displaced by climate change events (2014, especially 73-75). He stops his argument short of open borders, but is clear that there is an international moral obligation to facilitate migration for EDPs.

Overall, there seems to be the beginnings of consensus forming in the – albeit small and emerging 'field' of studies in environmental displacement – that EDPs should have both a right to adapt, as well as a right to choose migration. The details of how these rights should play out in the international community are not, however, clear. Both rights are firmly and rationally rooted in the justice-as-fairness tradition and gain significant ethical traction from the lack of significant participation on the part of many current EDPs in creating the conditions of climate change that now demand an international recognition of these rights. Yet many thinkers turn to historical emissions as the platform on which they build their arguments (especially Risse 2009; Nawrotzki 2014, among others). This, in particular, is a point where my arguments diverge. As the chapter continues, (and, as the reader has likely gleaned) we will see that these two rights are ethically and logically connected with a series of corresponding responsibilities that are in turn demanded from the international community, both in terms of its role in creating the conditions of climate change as well as in terms of its responsibility to maintain basic universal human rights standards. First, however, I want to be clear: it is not my intention to establish a victim-aggressor dichotomy in terms of climate change victims and climate change contributors. Global society is simultaneously a victim and participant in creating and being affected by the conditions of climate change. To elaborate this significant point, the chapter now turns to a brief examination of the role risk plays in the developing discourse on forced environmental migration and adaptation.

Climate Change, Risk, and Forced Environmental Migration/Adaptation

As the global climate continues to change, so too do the benefits and risks associated with inhabiting particular landmasses, microclimates, and regions. These must be carefully considered in seeking to locate responsibility for upholding the rights of EDPs, particularly in light of critiques that employ the language of risk as limiting, or even negating the ethical legitimacy of these rights. For example, it has been argued that those parties remaining in high-risk areas should assume the burden of adaptation or migration costs (see critiques of families wishing to return home to the Ninth Ward in New Orleans after Hurricane Katrina: particularly, Cohen 2008, among others, previously discussed). Given these sorts of critiques, and their commonality in public discourse, to frame issues of environmental displacement as legitimate 'bad luck' that should trigger charitable urges rather than ethical obligations in terms of assistance is problematic (see, Calder et. al. 2011 for a detailed analysis of the relationship between natural disasters and homelessness, framed as 'bad luck' by the major Canadian media outlets). Distinguishing rights from charity is significant, and a closer examination of risk in the context of global environmental displacement will be helpful in making this distinction both clear and legitimate for EDP rights. In particular, Ulrich Beck's concept of risk society is helpful to understanding the changing nature of environmental risk, as well as negotiating a clear global frame for addressing the rights and responsibilities associated with environmental displacement (as opposed to one based at the level of the national citizen and state).

Specifically, in *World at Risk* (2009), Ulrich Beck outlines an updated version of his earlier social risk theory. Beck describes risk society as "an era of modern society that no longer merely casts off traditional ways of life but rather wrestles with the side effects of successful modernization" (2009, 8). While his definition is meant to include far more scenarios than simply the effects of climate change, the description is apt: rather than seeking further modernization around the globe, we have shifted into a period which must now attempt to deal with its effects. Modernization was achieved at the cost of a significant increase in greenhouse gas (GHG) emissions, which has accelerated climate cycles and resulted in a series of unstable shifts in local climate and weather patterns (Gardiner 2010, 5, 14-16; also see Table 1). These shifts, as mentioned, have taken on a human face in the

form of forced environmental migration. Living in a global risk society, as Beck (2009, 9) describes it, means living in a state of continuous anticipation of catastrophe (as risks themselves always exist in future events that may or may not occur, yet always threaten us). For Beck (2009, 161-2), when we are faced with global risks such as those presented by climate change, "a decoupling of the social location and the social decision-making responsibility from the places and times at which other, 'foreign' populations become (or are made) the object of possible physical or social injuries occurs." Indeed, in the context of climate change and displacement, separating these spheres lends itself to developing false insulation and isolation from the problem, and perhaps even more problematically, the solution. The quality of the current state-divided international sphere enables logics like 'we' will be all right, even if 'they' suffer; or the victimization of populations most adversely affected (particularly, Imperative Environmental Migrants from sinking island states). This faulty conceptual divergence between suffering and the responsibility for suffering in the context of global climate change runs deep, yet without practical cause. Global environmental risk threats have evolved into catastrophe on every continent in both expected (i.e. hurricanes during hurricane season) and unexpected ways (floods or droughts in areas unaccustomed to them [for example, the city of Calgary, and much of Southern Saskatchewan experienced unprecedented flooding in 2013]).

Two points can be drawn out of the quality of risk associated with global climate change: first, that the risk is neither preventable nor predictable in any reliable way. Even in what could be call "expected" climate disasters (i.e. climatic and storm shifts associated with seasonal change) are increasingly functioning with unexpected severity. It is not possible to predict whether a hurricane will impact cities like New Orleans again, with sufficient severity to displace and destroy as Hurricane Katrina did in 2005. Yet, it is also not currently possible to predict that this will not eventually become an annual event. Given the uncertainty associated with climate science (Gardiner 2010, 7-9), a clear causal link in terms of the ethics that negotiate risk and responsibility becomes somewhat entangled. Where the logic of risk might dictate that the man who inserts a fork in an electrical socket and receives a shock is 'on his own' if he chooses to do it again, returning to a habitat that is likely to experience hurricanes (like New Orleans) does not negate the traditional

responsibilities held by humanity to resolve the difficulties associated with any further natural disasters that might be experienced there in the same way. Where the man with the fork is predictably and reliable going to receive a shock every time he sticks it into the socket, the family returning to New Orleans may never experience catastrophe again. Conversely, they may experience it many times over the course of their lifetimes. Science is not at a point where this distinction can reliable be made, and so the risk associated with living in a potentially high-risk society, by my account, cannot negate traditional ethical responsibilities if and when catastrophe should strike. Until risk evolves into catastrophe, the citizen of New Orleans sits in a state of equal risk with ever other global citizen not currently in a state of catastrophe; that is the nature of global risk (following Beck 2009).

The second significant point to draw out from global environmental risk is that the risk presented by climate change is precisely that: global. In this, continuing to imagine the globe as made up of a set of self-governing states (as, in many ways, we do, particularly with regards to the two EDP rights discussed herein: migration and adaptation assistance) perpetuates the false dichotomy between "us" and "them:" the victims and the aggressors, achieving very little in the process (for one of many examples, the minimal successes of the Kyoto Protocol, which sought to address global climate change through a state-based platform of domestic ratification and implementation. Kyoto's shortcomings are discussed in detail later in this dissertation). Instead, I believe applying a cosmopolitan lens to studying and addressing global risks like climate change, as I do, begins to work towards shifting some of the fundamental beliefs of international society to reflect the realities of its increasing interconnectedness (of which, climate change is but one). This concept will be taken up in greater detail in the next chapter through a discussion of the diminishing moral value of the Westphalian sovereign state system in a global era increasingly being framed by climate change, but here I believe we can establish that:

Risk cannot effectively be used to negate the ethical standing of citizens in situations of environmental catastrophe resulting from climate change.

The global nature of Environmental Risk fundamentally frames climate change migration as a global challenge and implies the necessity of a global response.

Recognizing the global quality of environmental risk in the context of climate change as Beck (2009) describes it serves to lay some of the foundations which are needed to enable this ontological shift away from (liberal) individualism and towards a recognized commonality capable of supporting the positive EDP rights mentioned hereto (see also Birmingham 2006 arguments on Hannah Arendt's ontological grounding of human rights in a common responsibility, discussed in Chapter Four). First, global risk theory highlights the fact that national or regional factors cannot exclusively define lines of conflict and opportunities for consensus (Beck 2009, 185). Indeed, the role of private actors and Non-Governmental Organizations (NGOs) is often over-looked when focus lies solely with the state, yet these provide excellent opportunities for cross-cultural cooperation and regionally based efforts. Second, and bridging into our discussion on responsibility, when the global quality of global risk is accepted, the victim/aggressor dichotomy is disrupted, which destabilizes the stagnating effect that playing the state-bounded 'blame game' can have on attempts to remedy the damage if and when catastrophe strikes (see Beck 2009, 184). For example, too often, discussions of responsibility lie solely in state-level statistics: 'the United States expelled *x* number of tons of GHG emissions into the atmosphere last year, where Canada produced far fewer; therefore, the US shares a larger proportion of responsibility than Canada does'. While there is clear statistical evidence that exists which indicates that North America, India, and China are producing GHG emissions at a rate that exceeds the average, exclusive state-level analysis masks the variation in emissions and responsibility of sub-state actors and undervalues bottom-up approaches to global social change. For example, according to a recent study by the *Scholars Strategy Network*, climate policies in the United States have been far more effective when coupled with bottom-up initiatives (Grant, Bergstrand, and Running 2014), which suggests that the concepts of individual, intergenerational, and interspatial responsibility are not incompatible with notions of climate justice for what is arguably one of the largest 'polluter' states on the planet. Instead, as will be suggested throughout, I believe that a conceptual shift towards recognizing a common responsibility for creating the conditions climate change (acknowledging variation among emitters) better captures the global nature of this challenge. This logic further touches on another key benefit of examining the political challenges presented by global climate change through Beck's "risk society" lens: it

intellectually acknowledges a potential to move beyond the retro-active, litigation approach that is often encountered when presented with such a large-scale, serious challenge. It is my contention that shifting our understanding of the human condition to one which recognizes and values our commonality – in environmental risk and otherwise – would better support people working together to restore and reduce further risk. A fluid understanding of the challenge of global climate change, such as that presented by Beck (2009) begins to reframe the debate at the global level, allowing for equally global, fluid responses to emerge where state-based responses have fallen short. These discussions will be taken up again in Chapters Five and Six, which address international law and domestic state policies in the context of forced environmental migration; but for now, Beck's (2009) global risk will bridge us into the final piece of the normative puzzle: responsibility to uphold EDP rights to migration and adaptation, which cannot effectively be ethically negated through the application of risk theory.

Climate Change, Responsibility, and Forced Environmental Migration/Adaptation

When faced by a challenge with the scope and impact of adapting to global climate change displacement, some of the first questions posed are: who is going to deal with this? Or, whose fault is it? This is usually tied to the legal reasoning dispensed with in the previous section: that it is possible to clearly locate people or states who are 'responsible' for creating climate change, who then must also be responsible for fixing its problems. Thus far, this chapter has argued that the global complications associated with climate change are far more nuanced than the logic of traditional litigation and liability approaches are able to easily address. Assigning effective responsibility for fulfilling the adaptation and migration rights of people in the changing climate thus becomes one of the more difficult aspects of the problem of global climate change displacement. In all practicality, where peoples seek to adapt, who will pay for it? Where they choose to migrate, who will take them in?

In this section, I will address the question of responsibility by engaging with the dominant logics that make up the international paradigm that shapes much of what is believed to be legitimate and 'possible' and what is not, in common political discourse (for more on the

metaphysical function of paradigms in defining the politically possible, see Haas 1986). Beyond the continuation of my support for ascribing a cosmopolitan approach in seeking a resolution to the challenge of environmental displacement, this section will argue that none of the three basic approaches to international politics (communitarian, liberal, and cosmopolitan) can ethically stand against the recognition of some level of international responsibility to offer assistance for reasonable adaptation attempts and allowing immigration where deemed necessary (the standards for which will vary among perspectives). While the basic overlap from each perspective is thin, as it was above in establishing the right for EDPs to migrate and/or adapt, it is significant enough to note because it highlights the rationale motivating political action in the current international system as well as the strength of my own global approach. In this, the overlap adds to our understanding, but does not give us clear picture of what a global responsibility to uphold EDP rights should look like. To develop a clearer argument, then, I turn to cosmopolitanism to draw this out, exploring three potential arguments: the causal link between emissions and responsibility, the ethical arguments for altruism, and the realization of shared interests in a common, global humanity. I tend to agree with the third as the most appropriate logic to deliver and support effective EDP rights. As a side note, I will here have to beg the reader's indulgence as we explore the cosmopolitan stream more closely, as my deeper analysis of the greater legitimacy of the cosmopolitan approach is not fully explicated until the next chapter. For now, I hope it will suffice to remind the reader of my previous argument that the global nature of cosmopolitanism better equips this theoretical approach to address the global nature of climate change. Ultimately, locating responsibility in the context of climate change and displacement, having it recognized, and acted upon is likely the largest challenge facing work on this subject, and so the full breadth of this argument will take time to unfold.

Thus far, the chapter has laid the foundations for, and implied the following:

There is a Global Responsibility to Pre-emptively address the challenge of environmental displacement, which requires implementing international adaptation assistance as well as facilitating the migration of Environmentally Displaced Persons (EDPs).

It is, however, helpful to take a closer look at the logics that support this responsibility, as I conceive it. Beginning broadly, I will explore areas of ethics overlap with respect to issues of environmental displacement that exist between each of the three dominant perspectives in international relations: communitarian/realist, liberal-international, and cosmopolitan. This is a significant step because it highlights areas of stronger ethical grounds within the dominant paradigm.

For communitarians and realists, considerations of ethical responsibility to resolve the negative impacts of climate change seem most likely to be primarily driven by a concern over state security more than one over abstract moral considerations about normative human rights (Knight and Keating 2010). Given the science of climate change and sea level rise, the increasing frequency and severity of storm events, as well as shifting drought and flood patterns around the globe, the reality of the situation is that minimally, some people will choose to relocate themselves and their families or communities, if not be outright forced to do so. Worst-case scenarios predict local, regional, or global conflict being exacerbated by, if not directly resulting from, scarcity related to climate-change events (from Chapter Two, see Levy 1995; Brown et al. 2007; Johnson 2009-10; Becklumb 2010; or the *Millennium Project*'s "Environmental Threat Matrix"). As such, even under ideal conditions, the trajectory of climate change will inevitably threaten communitarian and realist understandings of international and state security. Thus, I believe it is reasonable to propose that most realists and communitarians should agree that the international community would benefit from some pre-emptive action to protect against unregulated (read: unauthorized) climate change displacement or migration (following Walzer's 1984 analysis from above, or that of Levy 1995; Brown et al. 2007; Johnson 2009-10; Becklumb 2010; or the *Millennium Project*'s "Environmental Threat Matrix"). The realist solution to the problem would likely look and act significantly different than other solutions, particularly in terms of what I would expect to be heightened border security and more 'boots on the ground' in stressed areas, or conflict zones rather than an increase in adaptation aid or migration assistance; yet, the basic point here is that realist-rooted politics should agree that there is some responsibility motivated by self-preservation to

pre-emptively address the effects of climate change, particularly as it relates to forced environmental migration.

Similarly, liberal-internationalists should locate a responsibility to aid potential EDP populations, although responses from this approach would likely be rooted in international law over securitization, and function through multilateral agreements and international organizations over state-led initiatives. Where realists traditionally draw incentive to act from a domestic look inward, liberal internationalist incentive would be more inclined to recognize validity in international cooperation in terms of establishing a plan or agreement regarding the displacement of peoples by environmental events (for an example of liberal internationalism at work, see COP17's Climate Conference in Durban which discussed and launched the "Green Climate Fund," designed in part to assist environmentally-threatened populations adapt to their changing climates). Motivation is not so much drawn from normative claims, although human rights discourse would certainly play a role in ethical considerations, but rather derived from a place that seeks international involvement in international challenges (Knight and Keating 2010). The outcomes of approaching environmental displacement from a liberal-internationalist perspective would thus also likely reflect the current international climate and particular wills of those states involved in discussions. Fundamentally, though, I believe supporters of this broad perspective would mainly agree that there is an international responsibility to cooperate in reaching an international agreement over environmental migration due to the international nature of climate change.

Finally, the cosmopolitan perspective – although diverse – in many ways lends itself more freely to supporting a moral obligation for pre-emptive global involvement in resolving environmental displacement. Here, it is unjust to distinguish between those we choose to assist because they are within a closer circle (family, friend, community-member, co-national) and those we choose not to assist because they exist in an unknown or lesser-known circle (global citizen) (see Caney 2005). If it is right to help, it is always right to help. As such, responsibility to offer assistance and/or enable migration belongs as much to those immediately affected by the effects of climate change as it does to those who have not, or even those who have benefitted from it.

While these are neither detailed nor deep analyses of each approach (indeed, I would question the helpfulness of spending much more than the illustrative examples laid out above in advancing a better understanding of the broad approaches to international ethical motivations as the (admittedly thin) ground for consensus among the three basic perspectives in international politics begins to disintegrate in more detail), I do believe it is significant to note that there is a narrow space of agreement. Yet, much like the consensus reached in outlining EDP rights above, the matter of consensus is not sufficient to clearly state a global ethical obligation to ameliorate the conditions of climate change displacement and so I will return to the cosmopolitan perspective to build a stronger argument in support of this responsibility. The reader will recall the legitimacy of the cosmopolitan approach in the context of forced environmental migration is drawn from the global nature of the problem; however, this will become clearer as this chapter concludes and Chapter Four unfolds.

As mentioned, many populations facing the brunt of environmental activity do not wish to migrate and instead hope to be able to adapt to their changing climates. Yet, the costs and technologies of these adaptation processes are significant – often outside of the realm of possibility for local populations to afford. While arguments can be made from both the communitarian and liberal-internationalist approaches to encourage assistance, I believe the cosmopolitan perspective *requires* the offer of assistance rather than merely suggesting it. In general, there seem to be three cosmopolitan logics that speak of responsibility: the first is based firmly in the traditional causal frame, the second is rooted in altruism, and the third – which I argue is the strongest – relies on the realization of a shared global human condition.

The logic of the first approach is nicely captured by Thomas Pogge's discussion of global economic redistribution:

> As it is, the moral debate is largely focused on the question to what extent affluent societies and persons have obligations to help others worse off than themselves … but the debate ignores that we are also and much more significantly related to them as

> supporters of and beneficiaries from, a global institutional order that substantially contributes to their destitution (2002, 50).

While Pogge is specifically referencing economic destitution here, the science of climate change and the amount of carbon dioxide, methane, nitrous oxide, and other GHGs emitted into the atmosphere by the Global North would require him to also support this argument in terms of Environmentally Displaced Peoples:

As GHG-producing individuals within an affluent society, we play a role in the creation of the climate change-related environmental disasters that affect people worldwide.

Therefore, in the very least, it would logically follow that a significant portion of the moral responsibility to offer assistance to environmentally-threatened populations worldwide lies with all GHG-producing individuals worldwide, but perhaps more firmly with those in the affluent Global North, who are typically both higher GHG-producers as well as in a better position – financially, politically, technologically, or otherwise to effectively respond. Thus,

There is a Global Responsibility to assist adaptation, including migration, based on a common, if differentiated, culpability in creating the conditions of accelerated climate change.[22]

Yet, while the moral responsibility to take action and offer assistance may indeed lay more firmly with GHG producing peoples this logic does done little to affect change. Indeed, in the international community, responsibility driven from a position of guilt (again, following traditional litigation) rarely provokes positive action and when it does this action is usually insufficient or not followed-through upon to the necessary extent. More often than not, it may rectify the wrong and do no more.

Similarly, the logic of altruism – i.e. helping suffering populations because one feels it is the right thing to do – also tends to produce disappointing results driven from a position of guilt. In the context of forced environmental migration, this logic often takes the form of an

[22] I eschew the historical responsibility ascribed by many of my colleagues who explore the ethical considerations associated with environmental displacement (cf. Risse 2009; Nawrotzki 2014) largely because, as discussed, I remain somewhat unconvinced that the actions during industrialization produced knowable results. This concern clearly does not apply beyond the widespread signing of the Kyoto Protocol, where I believe the logic of culpability gains significant traction at both the state and global (individual) levels.

onslaught of charitable donations to assist populations to rebuild after they have been devastated. This reality is problematic in two ways: first, it is retroactive – while it offers assistance, it does not prevent the devastation to being with (see, also, the driving force behind the UNFCCC's Adaptation Fund, where countries are meant to contribute out of benevolent goodwill and not because they are culpable in creating the conditions and outcomes of environmental degradation). Secondly, it is problematically unpredictable. Altruistic sentiments rise and fall with mood and/or circumstances and thus do not offer a reliable form of assistance to the extent that would be necessary to make a significant impact on the lives and communities of the people ill-affected by climate change events. For example, after the 2004 Indian Ocean Tsunami, donations poured into affected states from around the world, but when a devastating earthquake destroyed much of Haiti, people suffered from what is known as "donor fatigue" and the level of financial and physical assistance was significantly less that it had been for the tsunami, and, more importantly, significantly less than was required given the circumstances (Oxfam 2011; Huffington Post 2011; see also Pakistan's subsequent 2011 flooding with minimal donations: De Sam Lazaro 2011). Where altruism worked in one scenario, it failed to replicate the financial support in the other, despite similar circumstances and levels of destruction. From a justice perspective, this is unsustainable.

The third and final cosmopolitan logic is based on achieving a cosmopolitan moment (see Habermas 2003): a moment when the global population recognizes itself as such – global – and realizes that it has as much of an obligation to assist a people 6,000 kilometres away whom it has never met as it does to assist its neighbour. Achieving this moment is a key challenge, as mentioned above, yet the practical fallout of such a success would be astonishing. Understanding that you and I are equal – no matter what circumstances separate our existences – would immediately make adaptation assistance not only the right thing to do, but also the only appropriate response. As I would do to me, so I will do to you (following Kant's famous categorical imperative, that one should ''Act only on that maxim through which you can at the same time will that it should become a universal law"). Again, the downfall of relying on shifting human understanding from individualism, or statism (as represented in the first two approaches), to universal commonality as a strategy to resolve

the current challenges of accelerated climate change is that the international community seems to be a long way from accepting or sharing in its ontological grounds. Further, this kind of cosmopolitan logic can suffer from moral (Western) superiority and cultural hegemony. As Costas Douzinas (2007) argues, different versions of cosmopolitanism have started as universalistic critiques of local injustices, only to end up as ideologies of imperial rule, throughout history. For example, critical theories of cosmopolitanism that were initially developed by the Stoics were coopted for Macedonian and Roman imperial designs, while modernist theories of cosmopolitanism and civilization were taken up in an attempt to defend French expansionist projects, among others (see Douzinas 2007). More recently, Douzinas (2007) highlights the recognition in the international community of the illegality of the 1999 NATO bombings in Yugoslavia being trumped by the 'morality' of its participation (he gives a particularly powerful argument against Habermas' justification of the bombings under the moral auspices of liberal cosmopolitanism). For Douzinas, we must be reminded of the unique ability held by rights discourse to oscillate between the vitality of modernity's promise and the violence of its practice (2007, 102). While cosmopolitanism itself is not necessarily a dangerously imperial theory, Douzinas argues that its contemporary (liberal) version, which he views as "the geopolitical framework of the new millennium," (2007, 177) is. Instead, he offers a new form of cosmopolitanism that is based on the recognition of the other as single and unique (Douzinas 2007, 294-5). Cosmopolitanism, then, becomes a radical desire of being together, based on the principle of ''the other as [a] singular, unique finite being putting me in touch with infinite otherness, the other in me and myself in the other'' (Douzinas 2007, 296). It is not about abandoning the universal ideal, but limiting "the logic of sovereignty, or nation and state" and taming "its illimitability, indivisibility and theological metaphysics" (2007, 294). Rather than being bound through weak concepts of citizenship and nationality, Douzinas argues that we are bound to each other through our "absolute singularity and total responsibility beyond citizen and human, beyond national and international" (2007, 295). He declares, "the cosmos to come is the world of each unique one, of whoever or anyone; the polis, the infinite number of encounters and singularities" (2007, 295). Traditional concepts of citizenship and sovereignty, then, serve to mask this uniqueness in 'nationality' and enable the violence of an imperialized cosmopolitan narrative.

In many respects, the points Douzinas (2007) makes are not only relevant to our discussion, but dramatically eye-opening with respect to the function of the dominant Western liberal-democratic paradigm through which EDP rights must be worked if they are to obtain legitimacy in international law. Indeed, under the Westphalian sovereign state system the singular humanity of EDPs is lost among their pleas for legal or political recognition as a legitimate displaced population: they are not people as much as they are being framed as "the other:" small groups of un-relatable 'environmental refugees'. Yet, the current system of universal human rights does not recognize them as such, largely because – as I will explore in the next chapter – it is structurally and intellectually bound up in the discourses of (liberal) citizenship and sovereignty, including nationality. Yet, even in its capacity to limit access to universal human rights, nationality also holds meaning for many potential EDP populations, especially those facing the extinction of their state and what it means to be a member thereof (for example, the 'sinking' islands in the South Pacific). As so we may be faced with a paradoxical tension between the situation of EDPs and the logic of the international regime: national cultural identity is a core desire for many EDPs (see, particularly McAdam 2011; or, Tremonti 2013), but this may be a large part of what is restraining their access to rights. Here, Douzinas' call for the recognition of the uniqueness of the singularity of humanity is exactly the ontological shift required to fulfil the rights claims of EDPs, but in many other ways it does violence to the deeply interwoven group identity that is found on small island states and throughout the – often, developing – world. In this regard, focusing on the singularity of the individual may actually collapse the interconnected group identity of many potential EDP (and other) populations. While theories of human singularity can accommodate the robust individual and all her cultural, religious, and other connections (see also Baker 2010; or Derrida 2000, 10-11), I question if it can fully account for the deeply-connected nature of identity of community expressed by, say, EDPs from Kiribati. For example, residents of Kiribati have expressed deep concerns over the loss of cultural group activities and learning as well as the splitting of closely-knit extended families if they are forced to move (see *The Hungry Tide* 2011). For them, environmental displacement is not just about individual migration rights – moving people from here to there – it is in many ways also about a loss of being: being connected with the land, with the people, and with the culture that makes them who they are. In this,

they are more than unique, singular individuals. These are unique, singular individuals embedded in a group that is facing extinction, even if its members survive. Here, liberal cosmopolitanism, in its focus on the individual, also faces the same challenge. The case of forced environmental migration serves to highlight these complications in theory, illustrating what I will argue might be a need for a denationalized, common humanity, cosmopolitan ontology that can accommodate robustly conceptualized individuals as Douzinas (2007) rightly calls for (also see Arendt 1968[1951]), but one that also makes space for group identity, disentangled from nation state in its rights-regulating hegemony. My reasoning here is not meant to rend the work from liberal cosmopolitan theory invalid; it merely seeks to highlight cautions as we move forward. This argument will be developed more carefully in Chapter Four, building from many of the conclusions of this chapter.

In conclusion, this section on responsibility has illustrated that while none of the central approaches to international politics necessarily stand opposed to offering assistance in cases of climate change threatening or resulting in displacement, a cosmopolitan approach most clearly and carefully supports the breadth of sufficient and effective assistance to populations in need. This logic is, however, also the farthest from the current *modus operandi* of the international political system. While this does not detract from the ethical quality of the arguments presented here, we will see in the following chapters that it does problematically affect its prospects of producing a viable solution to the current situation of climate change displacement. I believe that this challenge opens a large gap between ethically sustainable and politically acceptable solutions for EDPs: one that may be unsustainable under the current international regime. Yet, for now I will leave the task of bridging this divide to be taken up in Chapter Seven.

Conclusion: The Minimum Ethical Threshold

This chapter has explored many of the ethical faces of environmental displacement. While many suggestions and approaches have been explored, five fundamental ethical principles have been highlighted which will guide subsequent chapters of this dissertation as it develops:

1. All individuals have a *Right to Adapt*, in as much as the geographical location of a population is often imposed by birth or other arbitrarily forces, that population has a normative right not to be disadvantaged by said positioning. There is also a universal right not to be unequally disadvantaged or harmed by the conditions of climate change.

2. All individuals have an equal *Right to Free Migration as a method of environmental adaptation.*

3. Policies regarding forced environmental migration must emerge from a space that recognizes *common responsibility* (see Arendt 1968[1951]).[23]

4. There is a *Responsibility to Pre-emptively address the challenge of environmental displacement* that is recognized by the dominant approaches to international relations. This responsibility requires both implementing international adaptation assistance and facilitating migration.

5. There is a clear *Global Responsibility to assist adaptation, including migration*, based on global culpability in creating the conditions of accelerated climate change.

[23] The foundations for this principle have been laid in this chapter, but will be developed in the next.

In a chart, for the reader's convenience, it might look like this (Table 2):

Ethical Principles	Rights	Risks	Responsibilities
1. In as much as the geographical location of a population is arbitrarily imposed by birth or other uncontrollable force, that population has a normative right not to be disadvantaged by its geographical positioning.	EDP Right to Adapt	The risks involved in geographical positioning (and/or return to such positioning) are not ethically sufficient to negate access to these rights	Global Responsibility to Provide Adaptation Assistance
2. There is a universal right not to be unequally disadvantaged or harmed by the conditions of climate change.	First-Order EDP Right to Migrate	The global nature of Environmental Risk logically necessitates a global (and not statist) response.	Global Responsibility to Facilitate Pre-Emptive Migration

Fundamentally, this chapter has established that EDPs have a right to be supported in adaptation and migration efforts, which cannot be diluted or negated by risk or a reliance on charity, but must be supported through a recognition of global responsibility. This argument has been supported, to varying degrees, by the dominant perspectives that make up the global political paradigm within which environmental displacement is being experienced, adding support to my argument for a global recognition of EDP rights and the corresponding responsibilities necessary to actualize these rights.

As we move into the chapters on international law and public policy (Chapters Five and Six respectively) the divergence between the ethics of environmental migration and adaptation and the legal and political realities of its experience under the current international regime will become increasingly apparent; however, it is important to remember that no matter how 'unrealistic' it may seem to seek to uphold these ethical principles, this cannot detract from their ethical relevance or significance to the overall issue of environmental displacement. Indeed, it may be equally valid to question the realism of the dominant international paradigm in light of the shifting global

environmental realities we are currently facing. As such, the dissertation now turns its attention to a closer examination of the moral legitimacy of a continued adherence to the principle of state sovereignty, which complicates both migration rights and cosmopolitan responsibilities for EDP and potential EDP populations.

Chapter 4| Revisiting the Human Rights Regime: Westphalian Sovereignty and the Challenge of Forced Environmental Migration

The list of Environmentally Displaced Persons' (EDP) rights and their corresponding international responsibilities from the previous chapter is both substantive and substantial, clearly demanding a similar international response. Yet, although it is not the first of its kind in seeking revised or reframed universal rights for a vulnerable population (see, for example, the collected works of Thomas Pogge, esp. 2010; Seyla Benhabib 2004, 2005; Kristy Belton 2011; Jean L. Cohen 2008; Amartya Sen 2004; Stefan Heuser 2007, among many others), very little has been done beyond rhetorical affirmation in the international community to meet these kinds of ethical demands in the context of forced environmental migration. This chapter seeks to delve further into the roots and reasons for this continued gap between normative rights and their political realization. Specifically, it focuses on the tensions between a strong adherence to the concept of Westphalian state sovereignty in the international community, and affording EDPs the ethical considerations outlined in Chapter Three. On the surface, there are two reasons why the project needs to take a closer look at the interaction between state sovereignty under the current international regime, and the function of normative rights: first, because normative EDP rights, as I have argued for them, include a right to migration as a first-order right. As such, its full realization under the current international regime will impose a deep challenge to the principle of sovereignty, particularly in its functions of maintaining borders and control. The second reason why the project must now logically look to a closer examination of the Westphalian system of sovereign states is that this system makes up and deeply informs the political paradigm under which I am seeking to have EDP rights recognized and upheld. As such, it would be irresponsible not to explore their discursive function vis-à-vis the normative landscape of the international regime. In this task, I employ an interpretivist lens to the dominant discourses that make up the international regime, including a look back to their historical normative roots in political theory, to better understand the normative history of the Westphalian system and, through normative reasoning, offer an analysis of the kinds of normative rights it is capable – and

incapable – of supporting. This chapter particularly highlights the benefit of my approach to studying environmental displacement, and its conclusions are closely tied to my method. For example, an empirical analysis of the challenge of forced environmental migration would not likely enable this type of analysis, where interpretivism allows us to see behind some of the physical realities associated with environmental displacement, recognizing a larger structural challenge to EDP rights under the current international regime.

The chapter begins by conceptualizing how traditional human rights are conceived under the current international regime, locating the driving discursive frame as predominantly liberal in nature. Applying this analysis to my project, the chapter takes a closer look at how the framing of the human rights regime is likely to impact the realization of EDP rights. Here, the areas in which the international community is falling short are highlighted: particularly, the central role it has carved out for the state in recognizing and administering what are rhetorically referred to as "universal rights" but which, in my analysis, take on too much specificity in their filtering through the traditional state apparatus to be ethically considered as such. I will argue that, for Environmentally Displaced Peoples in particular, the dominance of the Westphalian state in the human rights regime poses significant ethical and political problems: not least of which is the potential annihilation of a number of small island states in the South Pacific region that are likely to lose their sovereign status, along with its rights-distributing capabilities, as sea levels continue to rise. In light of this argument, the chapter seeks to offer a theoretical exploration of the legitimacy of the state in the distribution of human rights in an era of global politics that is increasingly being framed by borderless risks like climate change. Ultimately, the chapter develops an argument to the effect that, as Hannah Arendt pointed out sixty years ago with reference to traditional political refugees: a continued adherence to Westphalian sovereignty lies in a state of deep tension with any set of universal rights, at its core (through securitized borders and restricted access).[24] Here, I will seek to demonstrate that the situation of Imperative Environmental Migrants (IEMs) in particular sheds new light on Arendt's insight, adding urgency and strength to her claims. Finally, the chapter concludes that for

[24] In this way, EDPs challenge the legitimacy of Westphalian sovereignty in much the same was as traditional refugees, with the addition of a causal global moral responsibility for having created the conditions of their displacement (thus exceeding Arendt's complacency arguments).

the full realization of EDP rights, the international community must actively consider an evolution of the Westphalian sovereign state system into one which can better accommodate the geographical and temporal fluidity of modern challenges like climate change. I suggest that this shift may include strategies like open borders, tiered sovereignty or notions of flexible citizenship, or minimally, a return to conceptions of citizenship rooted in republican virtue ethics. While the Westphalian system of sovereign states may not necessarily need to be abandoned, this chapter argues that deep-rooted change is necessary.

The Human Rights Regime

But, before getting too far ahead in my analysis, it is first worth laying out a clear understanding of the ways in which human rights are traditionally conceived in the international community. This will be especially helpful for when we later seek to merge ethically sustainable solutions with the current human rights frame.

A Brief History of the Sovereign State and the Emergence of Human Rights

In 1648, the Treaty of Westphalia set out the principle of state sovereignty. Meant to usher in an era of international peace, one of its key components was the principle of non-intervention: the idea that political authorities may not interfere in the internal affairs of each other (particularly targeted here was the political authority of the Catholic Church [Havercroft 2012, 121], which famously spurred Pope Innocent X to declare it "null, void, invalid, iniquitous, unjust, damnable, reprobate, inane, and devoid of meaning for all time" [Jackson 2007, 52]). Indeed, the traditional view in the field holds that after the treaties were signed in Osnabrück and Münster, "states in Europe were autonomous sovereignty entities with exclusive control over their territories, and a right to not have interference in their domestic affairs by foreign powers" (Jackson 2007, chap. 3; van Creveld 1999, chap. 2; Philpott 2001 *in* Havercroft 2012, 121).[25]

[25] More recently, debate has arisen as to whether the norm of non-intervention can actually be said to have risen in 1648. Stephen Krasner argues it cannot legitimately be said to have emerged until the end of the eighteenth century (Krasner 1999, 20). In her study of military intervention as a violation of the principle of sovereignty under

Looking to destabilize the traditional historical view of non-intervention, Havercroft (2012), argues that the emergence of the norm of non-intervention can better be viewed as the culmination of an ideological struggle that unfolded over time between conservative (i.e. Catholic) and liberal theories of authority. Using the contemporary works of Hobbes and Bellarmine, Havercroft (2012, 135) advances a convincing account of how the ideological debate between these two philosophers is more capable of grasping the "bundle of norms, institutions, and practices that we equate with sovereignty in the modern state system" than the Treaties themselves. In this vein, what I will call "Westphalian sovereignty," is meant to refer to Havercroft's bundle of norms more than the strict text of the Treaties of Osnabrück and Münster. Also following Havercroft's (2012) account, it is meant to mark the victory of liberal norms over their conservative counterparts in terms of framing the international paradigm that has evolved into the modern state system. Here, the victory of Westphalian sovereignty can be seen as discursively entrenching traditional liberal principles such as individualism, non-interference, negative rights, and the basic frame of the social contract, whereby members of the internal state, or "citizens," are beholden to follow their (representative) states, and states are in turn expected to protect the welfare of their citizens; most importantly, the 'right' to life itself (drawing from Hobbes 1660; and Locke 1689, among others). This principle fundamentally legitimizes – both politically and morally – the international political state system (see Neidleman 2012). Indeed, through a review of the historical emergence of social contract theory, Neidleman (2012) argues that the development of the discursive frame of social contract theory firmly places responsibility for the ethical treatment of peoples ("citizens") within the borders of individual states. Thus, if the system is theoretically legitimized through membership in a social contract, I believe that the logical conclusion one must reach is that the ethical legitimacy of the international system of politics fundamentally assumes that all people are citizens of some state, and will therefore receive protection by way of its power and authority (as the reader will see below, this line of thinking is supported by current international practices that see the realization of human rights play out almost exclusively

international law, Martha Finnemore agrees, arguing that in the seventeenth century no such violation was recognized; cross-border military activity was simply called 'war' (Finnemore 2003, 6-10).

through the state apparatus [see Ignatieff 2001; Ignatieff and Gutmann 2001; Valentini 2012]) .

Yet, as time passed, it became evident that this was a deeply problematic assumption: not all states were liberal and based on the same European social contract; further, not everyone was an effective citizen of some state. Conceiving human rights as being necessarily secured through the social contract was fallacious: more than anything else, the atrocities committed on the Jewish people during World War II proved this definitively. For example, in *Origins of Totalitarianism* (1968[1951]), Hannah Arendt explains how the gas chamber extermination of Jews was set in motion by first depriving them of "all legal status (the status of second-class citizenship) and cutting them off from the world of the living by herding them into ghettos and concentration camps … The point is that a condition of complete rightlessness was created before the right to live was challenged" (296). Indeed, if the state can strip human rights from humans, if human status can be so easily collapsed into political citizenship status and then extinguished, there is clearly a flaw in our understanding of what 'human rights' really means (also see the correspondence between Arendt and Jaspers on the subject [1926-1969, 409-410]). In the context of environmental displacement, I believe Arendt's analysis is particularly poignant for IEMs (although, applicable to all cases of environmental displacement): if human rights exist as a function of the power of the state, what will happen to the human rights of those whose state ceases to exist? How will they be protected? How will they be guaranteed?

In many ways, with Arendt's analysis began an insurgence in the visible complications of the human rights regime vis-à-vis the power of the sovereign state that sought to highlight a tension between the particularisms upheld by the principle of state sovereignty and the moral universalism of normative, also largely liberal, (see Douzinas 2007 from Chapter Three) human rights in international law. Coming out of the War, the Nuremburg Trials raised deeply challenging questions: who held the rightful jurisdiction for 'crimes against humanity'? If crimes sponsored by the state, which makes the law, were in fact crimes, by what standard should they be judged? Are states the highest juro-political authority, or is there some greater 'law' to which they should be held?

For the most part, the response to these sorts of questions has been middling and largely unfruitful in resolving the deeper tensions that have been raised. The adoption of the Universal Declaration of Human Rights (UDHR) in 1948 is a particularly illustrative example. The UDHR works to balance the tension between universal norms and the particular powers of sovereign authority. It enables the continuation of Westphalian sovereignty by allowing states to sign and participate, or not, in the project of universal, 'legal', human rights. In many ways, the 1948 UDHR filled the global justice gulf created by the events of WWII by highlighting that how a government treats its own citizens is a matter of legitimate international concern, and not simply a sovereign domestic issue (i.e. justice is about more than just a strict social contract relationship). Yet, the principle of non-intervention was not overthrown by the UDHR, it was just complicated. To a certain extent, the tension between the universalism implied by normative human rights (like those argued for by this dissertation) and the particularism of state sovereignty – in that each state, as sovereign in its own territory, can ultimately determine the particular 'human rights' it is willing to recognize and uphold – was resolved through states' voluntary ratification of the UDHR in their domestic structures. Yet, while most countries have chosen to do so, the very process by which universal human rights are given recognition in the international community – through the state – raises a serious question: what happens to our rights outside of the state? This question is particularly concerning for potential Imperative Environmental Migrants on the series of small island states in the South Pacific that are expected to be submerged sometime this century. Without a state to protect their rights, what will happen to them? Hannah Arendt took up this question in great detail in *The Origins of Totalitarianism* (1968[1951]), arguing that outside of the law and belonging to a particular political community, refugees are reduced to "mere naked human beings" in a "condition of complete rightlessness" (296). From her experiences as a Jew during WWII, Arendt is clear that outside of the social contract (i.e. state-regulated "citizenship"), for all intents and purposes, the guarantee of realizable rights do not exist under the modern international regime.

If Arendt is right, EDPs – especially IEMs – present a very severe ethical dilemma to the international community. As such, it is worth exploring the evolution of the human rights regime within the framework of Westphalian sovereignty.

Charles Beitz delves deeper into the discursive roots of the human rights regime through his analysis of the Universal Declaration of Human Rights. Ultimately, he argues that the UDHR is incapacitated by its lack of a grounding theory: where previous (domestic) rights instruments were grounded in God/religion or reason/'nature' (for example, The Declaration of Independence 1776 and the Rights of Man 1789, respectively), the framers of the UDHR could not reach a consensus on theory, despite agreeing on what was important to include in its content: were these rights social/political, or were they 'natural'/inherent (Beitz 2003, 36-37)? Yet, in as much as it emerged from an international paradigm based in liberalism (especially see Havercroft 2012), I think Beitz misses the UDHR's inherent grounding in liberal theory, which is evident in its predominant focus on the individual and the primacy it gives to negative rights (see Chapter Five for more, also see Mitchell et. al 1987; Howard and Donnelly 1986; Moravcsik 2000; Blau and Moncada 2005, among others).

Nevertheless, Beitz's tension is salient, if incomplete: if human rights are social or political creations then, perhaps, grounding them in the state may not pose an irreconcilable theoretical challenge: if 'we,' however defined, can formulate them, 'we' (i.e. the democratic state) can realize them. Indeed, as Seyla Benhabib argues, "modern democracies, unlike their ancient counterparts, conceive of their citizens as rights-bearing consociates. The rights of the citizen rest on 'the rights of man' … [and these] do not contradict one another; quite the contrary, they are co-implicated" (2004a, 32). Here, Benhabib is working through what she calls the "paradox of democratic legitimacy" (2004a, 35), on one hand, the tension between the promise of liberal democracy to uphold universal human rights (however defined) and the particularisms of its democratic will; and on the other hand, because democracies problematically cannot choose the boundaries of their membership democratically. This paradox, she states, (2004, 47) can never be fully resolved: the universalism of human rights and the particularism of a bounded democratic society will always remain at odds.

If, however, human rights are natural or inherent to us, then the state's authority in recognizing and administering these rights becomes wholly inappropriate from an ethical position. For example, citing Herbert Hart, Amartya Sen (2004) explains that people "speak of their moral rights mainly when advocating their incorporation into a legal system" (1955, 64). Here, Sen argues that natural rights – or, rights inherent to us simply because we are human – can be seen as the 'parents' of law, but that this is not where they originate (2004, 327). Indeed, Sen suggests that "the idea of moral rights can serve, and has often served in practice, as the basis of new legislation" where we try to bring the political into closer ethical alignment with inherent human rights (2004, 327). The driving idea is that there is something inherent to humanity that bestows humans with a right to certain treatment – no matter who, what, where, or even when, they are. For example, it is always wrong to arbitrarily deprive someone of her life. The roots for this logic often lie in some concept of a 'God' (see, especially, John Locke's second treatise 1689), or human rationality (see the Declaration on the Rights of Man and Citizen, influenced by Jean Jacques Rousseau; or, more recently, Rawls 1999). Violating one of these 'rights' is wrong because it is, was, and always will be wrong.

The debate on the proper grounding of human rights rages on with no end in sight (see, among many others, Cranston 1973, Finnis 1980, Husak 1984, O'Manique 1990, Ignatieff 2003, Beitz 2003, Sen 2004, or Tasioulas 2013 especially 8-19). Many contemporary philosophers (for example, Sen 2004 and Benhabib 2004a), however, take a somewhat middling path, arguing that the legitimate grounding of human rights may not lie exclusively in either.[26]

[26] These principles also have a long and complicated history in the literature, but can most clearly be traced back to the works of Thomas Hobbes (1651) and John Locke (1689). For Hobbes and Locke, the rights to life and liberty (a pre-cursor to autonomy[26]) exist in the imagined pre-political realm that they both call the state of nature and are carried through into their respective social contracts. Hobbes argues that man has a natural right "to use his own power, as he will himself, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own judgement, and Reason, he shall conceive to be the aptest means thereunto." (1651, 1,XIV). Locke, similarly locates a right to life as the primary natural right, of which a right to liberty and property are a subset (1689, 2.6). Insofar as these rights are understood to be natural, it follows that they are also universal – held by all humans, equally – and timeless – applicable everywhere and every-when the same. Therefore, while they exist as citizenship rights under social contract theory, their drive exceeds its political bounds in every way: the social contract is obligated to uphold these rights, not the other way around.

I have raised this debate here, not to take a stand, but to highlight some of the key tensions human rights face vis-à-vis Westphalian sovereignty. While I do believe that there is no way to effectively talk about human rights without referencing something inherently 'human' or inherently 'right', and that in this they are inherently moral, universal, and exceed the traditional bounds of citizenship, I also expect that this is somehow less relevant than how normative values shape, and are shaped by the international regime – particularly given that this project seeks to offer a pathway to the global adoption of such a set of rights. Thus, from a discursive, paradigmatic point of view, it is significant that the tensions between universal EDP rights and the Westphalian sovereign system remain unresolvable in two key ways: first, in the discursive framing of the human rights regime which is challenged to move beyond a view of rights centred on the (in)actions of the state; and second, in the tension between the negative rights liberalism of the (legal) human rights regime and the pre-emptive nature of EDP rights, as I have argued for them in Chapter Three.[27]

Immanuel Kant's work advances a similar idea of universal human rights in "Idea for a Universal History from a Cosmopolitan Point of View" (1785), 'Toward Perpetual Peace: a Philosophical Sketch' (1795–6), and 'International Right' in The Metaphysics of Morals (1797). Specifically, Kant argues that there are three distinct levels of juridical 'right': domestic law, *Voelkerrecht* (the rightfulness of relations among nations [i.e. treaty right]), and cosmopolitan right (1923[1795], 443). This third right is concerned with relations among civil persons to each other as well as organized political entities in a world republic. It is significant to note that, for Kant, cosmopolitan right is not, per say, a universal right: it is meant to extend to others in as much as they are potential participants in a world republic (1923[1795], 443). Yet, in "Critique of Practical Reason" (1788), Kant presents an argument to suggest that this may be a universalizable principle: in as much as rational nature possesses intrinsic worth, is an end in itself, worthy of respect, and is never to be used merely as a means, it bestows an intrinsic human worth to participate in such a world republic (see also Hood on Kant's inalienable rights). This is noteworthy because of Kant's rooting of cosmopolitan right in *law*. Here, it is not an abstract philanthropic 'right,' as many normative claims can be, but a juridical right within a bounded (global) political community. In this, his methodology offers a clear foundation for a tiered citizenship approach to global politics, where rights are extended based on membership in a multi-layered political community: a concept which is discussed later in this chapter. Further, following his turn to rationality, we also see traditional liberal principles take on a drive for autonomy, exceeding basic negative liberties. For Kant (1785), moral autonomy derives from one's ability to self-regulate his or her liberty. Berlin (1969) would distinguish this sort of autonomy as positive liberty – enabling one to follow her own authentic self – from the traditional negative liberties offered by liberal theory. This is significant, because negative liberties alone cannot support sufficient EDP rights, as we will see below. Overall, Kant also takes a somewhat middle road through the universal and the particular, further indicating that these need not be mutually exclusive realms in their function.

[27] This is not to suggest that the (legal) human rights regime is exclusively shaped by negative rights (for example, the International Covenant on Civil and Political Rights, the International Convention on the Rights of the Child, and the various provisions to maintain a right to life in regional human rights treaties like the European Convention on Human Rights [1950], the American Convention on Human Rights [1967], or the African Charter on Human and

Framing the Human Rights Regime: The Sovereign Actor

The reality of the human rights regime is that its history has largely risen and operated within the ideological and political constraints of the principle of state sovereignty. As Michael Haas (2008, 8) reminds us, the principle of sovereignty dictates that not only do states have unlimited power within their own borders, but that states have no right to interfere with what other governments do inside of their own borders (unless the lives of their own citizens are in danger). "The concept of human rights, thus, initially arose inside countries because of a statist concept of the world polity, namely, that the only legitimate units of international politics are national states" (Haas 2008, 8). The current human rights regime can thus be seen as having been created, in part, in reaction to the principle of absolute state sovereignty as a way to counteract the dominance of the rights of the state over the rights of the individual (see, for example, the correspondence between Arendt and Jaspers on the subject [1926-1969, 409-410]; see also Isaiah Berlin's argument that rights are not founded on reason, but on memory of horror (*in* Birminghan 2006, 2); or, Michael Ignatieff's (2001, 82) claim that "all that can be said about human rights is that they are necessary to protect individuals from violence and abuse, and if… asked why, the only possible answer is history"). Indeed, it is because of the close connection between the ideas of sovereignty, the state, and human rights, that I believe we find that the foundations of legally-recognized human rights are most easily contextualized within the social contract's citizen-state relationship of responsibility, where this relationship delineates expectations on the parts of the citizen and the state of a differentiated set of rights and duties for both. As a result, the language used to discuss these rights and duties is largely constructed from principles established in early theories of the citizen-state relationship, which were based on the liberal social contract myth that where one has a right, the state has a duty to protect it (and vice versa). This formula (rights-duty-responsibility) is what gives effect to otherwise abstract, theoretical, or moral claims to a set of "rights" (especially, see Valentini 2012).

Peoples' Rights [1981] all include positive rights provisions), but merely to suggest that the space for positive, proactive rights under the Human Rights Regime is smaller and more contested. This point will be discussed further in the next chapter.

This discursive framing of human rights vis-à-vis the sovereign actor, however, poses two significant challenges for forced environmental migrants. First, while an environmental event may be "responsible" for their displacement, it is not an "actor" in the traditional sense and thus is not easily used to distinguish a relationship of responsibility. Indeed, as I have argued elsewhere (Marshall 2015), the environment exists outside of the traditional rights-duty-responsibility triangle because, in many ways, it has been largely depoliticized in the ontology and discourse that shapes modernity.[28] It is not an 'actor' as the sovereign state is an 'actor'; therefore, those persons who require a set of migratory rights as a result of environmental events – particularly IEMs and TEMs who need to cross sovereign state borders – are conceptually unable to found their claims in traditional rights discourses because there has been no traditionally-understood failure of the citizen-state relationship.

A second complication associated with the discursive framing of the human rights regime is that environmental events and climate/weather patterns are not controllable by human forces. As a result, we cannot determine when and where environmental events will take place. Environmental events are arbitrary and, as discussed in the previous chapter, can largely be equated to instances of "bad luck" in theoretical terms. This point, coupled with the fact that while a state may have a responsibility to protect the welfare of its own citizens given pre-established citizen-state relationships of responsibility, it has a very limited set of duties towards the citizens of other states under the current international regime (largely, not threatening their immediate lives) leads to a challenge: in domestic situations where environmental events displace persons within their own borders, we can understand the state as having a duty to protect the immediate welfare of its own citizens; however, when environmental events displace persons across borders, the situation becomes more complicated without an effective, entrenched international "insurance program" (i.e. legal framework or international treaty) and "insurance provider" (i.e. an

[28] The rootedness of the Western political tradition in Christianity is well explored, as is Christianity's framing of the environment and environmental issues as subsidiary to human activity and authority; indeed, as part of a protectorate regime (for example, see Gottleib 2006; for a critical review of 'green' biblical passages, see Frohlich 2013). Yet, this framing deeply depoliticizes and deactivates the environment vis-à-vis human authority – particularly that authority assigned to the sovereign state, negating the ability for climate change to 'act' as an equal to the state within our dominant ontological understanding. As I have argued elsewhere (Marshall 2015), this is a fundamentally flawed way to conceptualize climate change which significantly limits both the conceptual and practical access of EDPs to what should be their legitimate rights (the right to migrate and the right to adapt).

enforcement body). Instruments such as the 1951 Refugee Convention and organizations such as the UNHCR have served these purposes to protect the rights of political refugees where there has been a breakdown of internationally-recognized relationships of responsibility, but do not act in this capacity for environmental displacement.[29] Indeed, the UNHCR has explicitly stated that it cannot take responsibility for Environmentally Displaced Persons because its resources are already overextended with the growing number of political refugees (Brown 2008:14; CARFMS Reforms in Refugee Protection Roundtable 2010). I will leave the practicalities associated with this challenge for later chapters; however, from a theoretical perspective, the fact that this organization feels an obligation to demarcate its responsibilities from those of protecting EDPs lends some credence to the ethical reasonableness of EDP claims for refugee-like protection (also see Lister 2014, who argues from a legal perspective that cross-border Environmentally Displaced Peoples are refugees in all but legally-recognized name). The reader will note that UNHCR's reasoning, above, for separating EDP rights from those of refugees (in practical matters, at least) is not a principled one; it is strictly practical. To this end, I argue that it reveals more about flaws in the system and its current structuring than it does to any lack of substance in EDP ethical protection claims.

Thus, in these two substantial ways, Environmentally Displaced Persons find themselves caught between human rights theory and practice, challenged to effectively ground their rights claims in either due at least in part to what I argue is an ontological misconception of the relationship between humans and their environment: where the ethics of EDP rights seem almost intuitive, the discursive and paradigmatic frame of the international regime under Westphalian sovereignty deeply challenges the 'legitimate' formulation of these rights in meaningful (i.e. legal) ways.

Framing the Human Rights Regime: Liberalism and EDP Rights

As the reader has likely gleaned thus far, much of the work on forced environmental migration has come from within the dominant liberal paradigm (see Nawrotzki 2014;

[29] Again, the UNHCR has been involved in natural disaster recoveries such as the earthquake in Nepal out of need; however, their official mandate does not recognize EDPs as falling under their protection purview.

Lister 2014; Johnson 2012; Frisch 2012; McAdam 2009, 2010; Nine 2010; Risse 2009), and likely for good reason: beyond their logical arguments, accounts from this perspective easily borrow the ontological grounds to build a case for climate change migration ethics that can conceptually translate into a set of 'legitimate', or commonly-recognized rights. While the goal of my work aligns with that of my colleagues, I, however, see a challenge in their strength that I believe ultimately undermines the universal ethical drive of the project: it relies on liberal democratic values and institutions to sustain the robust rights of the universal 'individual' in global society. In this way, as Costas Douzinas (2007) has argued, liberal democratic values can become the de facto and uncritical hegemonic force of human rights regime (especially see his argument about way in which the liberal cosmopolitan regime places the Westerner in a role of saviour of the victims of violence and human rights failings, thus undermining the universal project that cosmopolitanism seeks to uphold). Here, I recognize a sort of cosmopolitan liberal democratic paradox, similar to Benhabib's paradox of democratic legitimacy (2004, 35) that is worth further exploration. The reader will recall Benhabib's paradox as highlighting the ethical tension, on one hand, between the promise of liberal democracy to uphold universal human rights (however defined) and the particularisms of its democratic will; and on the other hand, the ethical tension that is drawn into focus because democracies cannot choose the boundaries of their membership democratically. At the global level, I believe we see this play out between the particularisms of the sovereign state and the universal human rights democracies are comfortable believing they uphold. This strain may be, as she suggests, unresolvable and forever doomed to exist in a state of tension; yet, I would like to explore this un-resolvability further – and in the context of the global – as I believe it may be indicative of deeper problems in the approach of liberal theory (and thus, the current foundations of the human rights regime within which I seek ethical standing for EDPs) altogether. While the thrust of this dissertation is not one which seeks to ascribe liberal rights to EDPs, and thus may avoid the full challenge presented by Benhabib's paradox, in as much as its methodology seeks to ascribe realizable rights for EDPs it is important to fully explore the conceptual and discursive landscape of the human rights regime to understand the bounds within which conceptually realizable human rights are tied. In many ways, the easier justification of EDP (and human) rights, I believe lies in democracy

and the democratic value of a self-determining community (see, particularly Rawls' *Law of Peoples* 1999); however, I am concerned by the inward-looking nature of liberal democracies' inability to sustain a robust global ethic, such as that which I have argued is required for the just treatment of EDPs.

More specifically, the recognition and realization of EDP rights as I have argued for them face a deep challenge in the centrality of negative rights to the human rights regime (see Blau and Moncada 2005 for more on the ways in which negative rights dominate the human rights regime). Problematically, building on Benhabib's paradox and concerns over democratic legitimacy (read: sovereign authority legitimated by the democratic community), negatively conceived rights are all that can be legitimately supported by the global community, without undermining the legitimate authority of the democratic will.[30] Where negative rights allow political communities to do as they do without interference, positive rights demand further responsibilities, interfering with the domestic democratic will, and thus become conceptually suspect at the global level (i.e. in terms of human rights). An excellent example here might be the Treaty of Westphalia and its banishing of papal authority (i.e the dominant universal moral authority at the time) from domestic political powers (see Havercroft 2012).[31] Yet, at the same time, in as much as the dominant conceptualization of human rights is limited to their negative constructions, so too will be the realization of rights – including EDP rights – under that regime.[32] For example, as I have foreshadowed, under the current human rights regime EDPs can already be said to have a right to adapt and a right to migrate, but these – as negative rights – advance the ethical status of EDPs very little, if at all, without a corresponding responsibility to facilitate their realization, without a positive framing, or without the possibility for autonomy (following Charles Taylor's [1985] conceptualization of autonomy as building from positive

[30] See footnote 27 for more on the short list of tension-creating positive rights treaties in international law.

[31] Obviously, this is but one possible conceptualization of the way in which the Treaty of Westphalia reshaped the relationship between political power and moral authority, where a full analysis (which is beyond the scope of this project) would see a more complex story emerge.

[32] The reader here may object with the example of the International Covenant on Economic, Social and Cultural Rights, which entered into force in 1976. While I will expand upon these sorts of critiques to my argument in Chapter Five, I will briefly say here that this area of international law is complicated, and has only recently seen substantial gains made in terms of enforceability on the legal front (see Gauri and Brinks 2010). For the most part, where successes have been seen, these have largely been the exception, and not the rule.

rights, ensuring access and ability). A right to emigrate is meaningless without a right to immigrate; a right to adapt means little without the means and ability to do so. This second layer – autonomy – is essential for EDPs; however, it is also one that is not easily supported by the traditional negative rights, liberal discursive framing of the international political community and, by virtue thereof, the human rights regime itself. That said: EDP rights, as I have called for them, could still be uncomfortably rationalized under the dominant regime. To fully explore the tension between the 'intuitiveness' of EDP rights on one hand, and the lack of international recognition on the other (Lister's 2014 piece on environmental "refugees" exemplifies this tension, but it is a common thread through the sub-field of the ethics surrounding EDPs), I would like to start within the liberal negative rights regime, and then offer a critique from outside of the dominant tradition.

Under traditional liberal theory, I think EDP rights can be potentially conceived of as natural rights and thus universal in their 'naturalness' (or, pre-political nature) because they exist outside of political society and beyond the confines of emerging from a democratic social contract.[33] As thinkers like Robert Nozick (1974, 30-33) or, looking further back into the tradition, John Locke (1689) would agree (extrapolating from his discussions of the right to life, liberty, and – particularly – property, in the Second Treatise on Government), natural rights are about guaranteeing individual liberty against infringement by the state: in the context of Environmentally Displaced Peoples, about guaranteeing liberty against the disadvantages of membership in a particular and arbitrarily-determined political society.[34]

[33] There are, of course, other ways in which these sorts of rights can be conceived of under the liberal tradition (Johnson's 2012 use of the capabilities approach is a good example of another path), but I believe the conceptual roots of 'natural', or pre-political liberal rights provides the most insight into the tension between human rights and liberal rights, as I see it. That said, beyond the illustrative capacity involved in this depiction, this frame is largely unhelpful. Here, the reader should also recall the concerns I have previously raised regarding the depoliticization of the environment in conceiving EDPs and climate change displacement. Thus, while helpful in envisioning the extension of rights to EDPs under the liberal regime, I caution against the use of naturalized or depoliticized models of environmental migration as incomplete.

[34] To pause momentarily to address the critique that although we are born arbitrarily into a society, we do not arbitrarily remain there (this reasoning can trace its conceptual social contract roots to Plato/Socrates in the Crito, where Socrates, although unjustly convicted and sentenced to death, accepts his sentence because he chose to live there his entire life; or to the legal right to emigrate (Art. 13 [1948]) under the Universal Declaration of Human Rights) and, as such, there is no universal duty to resolve the complications of remaining in an environmentally-vulnerable area. This line of reasoning is, however, flawed. First, because it misses the political realities of the

Because the tension between liberal democratic legitimacy and universal human rights comes to a head in seeking a universal right to free migration for EDPs, it provides the most fertile ground for exploration. As argued in the previous chapter, under the current international regime, this right would necessarily take on positive hues because it demands entry into another political community, thus superseding their sovereign authority. In exploring the quality of the right to universal free migration for EDPs, I would like to turn to the discussions of natural (human) rights in Hobbes' *Leviathan* (1660) and Locke's *Second Treatise* (1689). I have chosen the works of Hobbes and Locke as my foundation not only for their canonical authority in shaping the liberal regime, but also for their participation in founding the modern concept of the social contract rising out of a theoretical state of nature, which has become a dominant principle in shaping the current international and human rights regimes. Significantly, there are other, I believe, more appropriate, ways in which these rights could be grounded, which I will discuss below; however, my dissertation also seeks to argue that these rights can be grounded using the logic and discourse of the dominant ideological regime that founds and upholds the modern Westphalian state system: liberal individualism. This argument will be particularly helpful for the reader when Chapter Seven seeks to apply EDP rights in the modern context. Problematically, as we will see, the full force of the discursive logic that upholds the moral legitimacy of the system, also serves to undermine its locating of moral authority in the sovereign state in the context of EDP rights to migrate and adapt. This paradox, I argue, reveals an inherent flaw in the logic of employing individualism as the grounding theory of a global world.

Looking back to the historical works of Hobbes and Locke, we see that both theorists, to differing degrees, agree that humanity has a short set of natural rights that exist by virtue of being human and thus require no political authority to recognize: the right to life and the

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high costs of migration (economic, as well as personal), making it much less accessible and thus less of a functional 'choice' to impoverished populations (who comprise most environmentally-vulnerable peoples). Secondly, it missed the political reality that while one technically has the liberty to leave, she does not have the liberty to arrive. Problematically, there is no universal political right to immigrate (see Benhabib 2005, 674; as well as Chapters Five and Six of this project). Finally, this line of reasoning fails to understand the supra-political nature of environmental destruction in the context of climate change: it is fundamentally global and takes no notice of political boundaries (as the reader will recall from the last chapter).

right to liberty (*Leviathan* 1, XIV; *Second Treatise* II.6). Both theorists agree that the right to life (which Hobbes would call survival) is primary and all other rights must serve its purpose (*Leviathan* 1, XIV*; Second Treatise* II.6). Further, their treatises agree that even after the social contract is formed, and political society is conceptually brought into structured existence, the state *must* support this right in order to maintain its moral and political legitimacy; otherwise, the social contract and the legitimacy of the political community fails (*Leviathan* 2, XXIX especially 1-3; *Second Treatise* XIX.222). The principle I would like to highlight here is that the state (through which I argue, the Westphalian sovereign state system, as the state is its foundation) gains its primary legitimacy in its ability to uphold the individual's right to survival under traditional liberal theory. As such, I further argue that all state and international policies that stand in the way of the bare minimum natural right to survival under liberal theory could not only be considered unjust by its own account, but actually call into question the legitimacy of the sovereign state system, again by the logic of this theoretical approach. Therefore, in as much as migration is a method of environmental adaptation that is required for survival, as it will be for most IEMs, TEMs, and to varying degrees, PEMs, particularly those whose states are potentially 'sinking', *environmental migration is, under the liberal logic that underpins the Westphalian state system, a universal right that must be upheld by all states seeking liberal democratic legitimacy*. While in many cases, I believe it could be argued that this rationale alone does not lead to a universal right to free environmental migration, as most states can account for environmental migration challenges within their own borders and the confines of the social contract, the fact that global society is on the verge of potentially losing entire states to the conditions of climate change fundamentally undermines the strength of this logic. In as much as even a single state will be unable to maintain the basic right to survival for its citizens, I argue that the logic of the entire system is destabilized in its founding contractual agreement and thereby loses much of the logical strength of its moral legitimacy. If the logic of the social contract can fail for one, it could fail for all (see, by way of parallel, Beck [2009] on the global nature of risk vs. catastrophe discussed in the previous chapter, where the globe equally faces the risks of climate change even where we may not equally face instances of environmental catastrophe). Indeed, in light of what seems to be a pending reality, I would propose that in order to maintain its moral legitimacy, the Westphalian

state system must consider adopting an unequivocal universal right to free environmental migration. Yet, even here we would be presented with another paradox: if universal free migration is not supported (as it currently is not), the logic underpinning the legitimacy of liberal social contract state will fail; if it is allowed, the logic of the Westphalian system – that states must remain sovereign over their domestic borders in order to protect the inherent individual rights of their citizens – will fail. Fundamentally, I think what we can see here is that the combination of negative-rights liberal theory and Westphalian sovereignty serves to undermine itself in the context of environmental displacement in a way that has been previously un-encountered by the human rights regime.

This point is crucial in crafting the conclusions of the dissertation, and so I believe it is worthy of careful consideration from a deeper place in the literature. Here, I would like to turn primarily to the work of Hannah Arendt and the similar tensions she draws from the conditions of post-World War II Jewish statelessness. There are two key contributions that I would like to take on board this project, as I believe they will help to clarify my points. First, Arendt's discussion of the inherent problems in the "inward looking," as I have called it, nature of the modern liberal state. Second, and helpful in moving us beyond the shortcomings of the individualism of the Westphalian system and Benhabib's crippling paradox for the future of EDP rights, is her general ontological grounding of human rights in common responsibility (from Birmingham's 2006 analysis).

Arendt also returns to Hobbes in her critique of sovereign authority vis-à-vis modern human rights. Focusing on his understanding of power as the "present means to secure the future" (1651, X,1), Arendt argues that his logic reduces everything to a transaction of power: "Therefore, if man is actually driven by nothing but his individual interests, desire for power must be the fundamental passion for man" (1968[1951], 139). Equality, too, is reduced to an equal struggle for power, stripping it of all worth for Arendt: here, "the individual has no inherent dignity worthy of respect; instead, worth is dependent upon power, which is determined solely in the eyes of others" (*in* Birmingham 2006, 8). In principle, this approach excludes the idea of a common humanity; instead 'humanity' is only capable of being understood as the sum total of all its private individuals. In this, the liberal discursive frame can be devastating to common experiences such as forced

environmental migration, as its focus on the individual is not only fallacious in this case, but also crippling to attempts to build a common ethic (as I attempt in this dissertation) in that it recasts all experiences of displacement as individual experiences and to enabling political agency for EDP populations vis-à-vis the international regime. When coupled with nationalism and stark sovereign borders, these pose an almost insurmountable challenge for efforts to cobble together a common ontological approach to human rights, as is required by the clear global responsibility for resolving environmental displacement, following my arguments of Chapter Three. Recognizing the common risk presented by environmental displacement in conjunction with the common responsibility for its creation (in terms of GHG emissions, especially), it follows that the subsequent rights it demands must also be supported in common.

Indeed, Arendt rejects the inherent individualism of traditional liberal approaches, but I believe she would also be likely to reject much of the critical cosmopolitan left (see, particularly Costas Douzinas, also Jacques Derrida) for its focus on the unique singularity of humans. Instead, Arendt offers an understanding of humanity that is rooted in plurality and a common experience of 'beginning', that is, in our natality (see both *The Human Condition* and *Origins of Totalitarianism*, also Birmingham's 2006 discussion thereof 12-17). Having already addressed the shortcomings of the liberal individual approach, I would like to look more closely at the distinction between Arendt's plurality and the singularity of thinkers like Derrida and Douzinas. For Derrida in particular (from whom many thinkers in this stream draw), human singularity is what makes the individual an individual – not an atomised individual as can be the case with liberal individuals, but a unique, unrepeatable, individual from which no overarching narrative can be effectively drawn due to the absolute singularity of every person and every event. This is what distinguishes the living from the dead (see Derrida 2002, especially 73). Here, universality can only exist in the realm of the dead (Derrida 2002, 73). Arendt, on the other hand, sees space for a common humanity without negating the unique quality of individual humanness. She roots her understanding of humanity in plurality, where each individual and activity is autonomous but not utterly 'unique' (see 1958, especially 7). For Arendt, there are two central features of action, which found humanness: freedom and plurality. Here, 'freedom' does not mean

the ability to choose among a set of possible alternatives (following the liberal tradition), but rather the capacity to begin, to start something new, to do the unexpected (1958, 177). All human beings participate in this capacity simply by virtue of being born. In this, we are not cripplingly unique or singular; neither are we the perpetual un-understood other; instead, we have a basic common experience from which we can draw and in which we can share. Yet, simultaneously, we are each novel and different in ourselves and our autonomy: we are not the same and cannot be reduced to the same, yet, we are not entirely different at the same time. Arendt, unfortunately, does not offer much detail on her understanding of a common humanity and how this grounds her theory of human rights. Indeed, this lack of specificity has led others to critique her for taking an anti-foundational approach to the topic, or being unable to offer any philosophical justification of her theory (see, in particular, Benhabib 2001, 1996, 82; Villa 1999, 199-200; or Canovan 1992, 198-199). Peg Birmingham (2006), however, disagrees. She argues that Arendt founds her discussion of human rights on the predicament of common responsibility, where we can feed "the desire [that is] met only in a public space with an irreducible plurality of others with whom we promise our pleasures rather than assert our needs" (Birmingham 2006, 126). This approach is fundamentally different that the need-based liberal approach that dominates the current international regime and has a tendency towards understanding EDPs as the unfortunately (largely passive) victims of 'bad luck'. Yet, it also speaks to many of the concerns I have raised thus far: especially the injustice of having to request admittance rights in a language that is appealing to one's adjudicators, and the injustice of lacking adaptation and migration assistance for potential EDP populations. Not only are these 'needs' being largely ignored under the current international regime, but the basic ethics of recognizing commonality is also wholly absent. Here, Arendt's understanding of freedom offers an active political space within which we can understand EDPs as making political claims for their rights and recognition: in other words, it conceptually restores political agency to a group that has been dispossessed of its autonomy by an international regime predicated on negative rights and state sovereignty. Birmingham continues: "raising the question of whether human beings are so shabby that they can only give assistance when spurred and, as it were, compelled by their own pain when they see others suffer," as is indeed the case when EDPs are compelled to make pleas for charity, "Arendt claims that it

is pleasure and not pain that is the intensified awareness of reality. Such pleasure emerges from a passionate openness to the world and love of it, while joy, springing from pleasure in the other, gives rise to dialogue (2006, 130) and the necessary space to be recognized as political.

Here, it is selflessness, the opposite of Hobbes' selfish individual, which founds the possibility of ethical human rights, such as those demanded by this dissertation. Here, we remain different, foreign, estranged, but we can also recognize the value of the other through our gratitude to the event of common natality in the public space (Birmingham 2006, 131). This predicament, maintaining gratitude for what remains "ineradicably alien", becomes Arendt's, albeit fragile, guarantor of a 'right to have rights' (Birmingham 2006, 131). Through this discursive framing of common responsibility, I argue the universal right to free migration for Environmentally Displaced Peoples gains traction outside of the liberal individualist tradition: not because we pity them, or feel their pain, but because we can share in their humanness and its inherently political, active, and autonomous nature. While their experiences may seem foreign and 'other', (although, following Beck's 2009 analysis of global risk, I have argued that they are not), this does not break the commonality between us or effectively deny EDPs a right to have rights: to publicly exist and be recognized as they are, for the autonomous, plural individuals that they are. In this, the EDP rights I call for are not individual rights, but neither are they group rights: following Arendt, they are truly *human* rights, which I have attempted to show are capable of supporting both while simultaneously restoring the political agency of EDPs and potential EDPs that is so deeply challenged under the liberal human rights regime.

Conceptualizing 'Legitimate' Displacement: Refugees, Receiving States, and the 'Right to have Rights'

Thus far, I have sought to justify a common right to free environmental migration; however, given the scope of my project, it is also important to give full consideration to the other side of the equation: potential receiving states. As discussed in the previous chapter, the reality of the current international regime is that states are simply free to take in 'outsiders', or not (as explained by Walzer 1984, 61). This brings us full circle back to the problematic

housing of human rights – from a discursive background – in the state. Returning to Tuaga, our potential EDP from Tuvalu, even if I can rationally claim that Tuaga has a common right to free migration, if all Tuaga has in hand when he arrives at Australia's borders is his argument, and Australia remains unconvinced, Tuaga essentially has nothing. In other words, the reality of the current sovereign state system is that a right is not a right unless it has been recognized as such by the person (state) from which you are claiming it (see, Heuser 2007; Haas 2012; also Arendt 1968[1951]). Ethically, this is problematic, at best; yet, this is the reality of the international human rights regime under current international structures: if a state does not sign-on and ratify an ethical human rights principle, the principle has no force or effect within its borders – no matter what its ethical standing may be. Even more problematic is the reality that even if a state voluntarily chooses to participate in normatively-rooted international law agreements, this does not guarantee that it will always choose to act in accordance with them. For example, despite having signed and ratified the 1951 United Nations Convention Relating to the Status of Refugees, Japan has accepted a remarkably low number of refugees and asylum seekers, particularly in comparison with other states (Knight 2009). The May 2002 "Shenyang Incident," where five North Koreans sought asylum in the Japanese Consulate General in Shenyang only to be removed and relocated by Chinese police, immediately presents an example of the ultimate power of the state in terms of recognizing and thus giving effect to the so-called "right" to seek refuge (Isozaki 2002). Indeed, according to Knight (2009), Japan accepted just 508 refugees from the 7,297 applications made between 1982 and 2009 (see also Ando 2013 on the politicization of data in Japan to re-frame refugee discourse in support of decreasing the number of accepted refugees). Significantly, Japan is not alone in these concerning trends (see Wayne Cornelius' *Controlling Immigration* 2004, or Chapter Six). Cases like these raise important questions over the quality of human rights in the face of principles like state sovereignty: if a right is supposed to be universal, (i.e. 'common') how can a state choose not to uphold it? Again, we see the complication stemming from the lack of a clear foundational theory supporting the UDHR, as raised by Charles Beitz (2003). The fact that the necessary content of the UDHR was clear provides an argument to the latent grounding of the human rights regime in commonality; however, without clearer theoretical foundations, the UDHR remains in this position of constant tension with the principle of

Westphalian sovereignty. The reality is that, from an ethical standpoint, a state cannot 'choose' to ignore human rights; but, from a political standpoint many human rights violations are often ignored as minor infractions in the absence of a recognized international authority capable of effective enforcement. It is, however, likely that larger infractions, like those of World War II or the Rwandan genocide, would receive recognition and be upheld through forceful intervention in the international community, as there is substantial historical evidence of this. It is also likely that the most dramatic case of environmental displacement – Imperative Environmental Migrants (IEMs) set to lose their sovereign state to rising tides – would also receive recognition of their right to life under the modified logic of the United Nations *Convention Relating to the Status of Refugees* (1951) (see, especially, Lister 2014; also, Gemenne 2015). While one may initially be tempted to determine the issue resolved here, claiming, for example, that international law holds many of the necessary protection regimes to satisfy the challenge of environmental displacement *qua* environmental displacement (and not as a 'threat multiplier') (for example, see McAdam 2012),[35] the clarity with which we can see a need for the inclusion of broad EDP rights in a universal (common) human rights regimes reveals itself through a careful look at the obscuring of less-visible configurations of displacement: Pressured Environmental Migrants (PEMs), usually classified as mere "economic migrants" with no special rights, Imperative Environmental Migrants that will become part of the growing number of IDPs, and Temporary Environmental Migrants (TEMs). If the moral reasoning stands to protect IEMs as forced environmental migrants, then this must also extend to protect PEMs and TEMs by virtue of their being displaced under the same moral framework that assigns responsibility broadly to carbon producing individuals (see, for example, Nawrotzki 2014 on the historical connection between anthropogenic climate change and industrialization and how this underpins a global moral responsibility to accept immigration for climate migrants; or, Reuveny and Moore 2009, especially 476, on the 'polluter pays' justification for recognizing global climate change responsibility). This is significant because while IEMs are likely to receive special migratory status under current

[35] While I do not necessarily disagree with McAdam's (2012) assessment, my work suggests that she does not do enough to effectively frame environmental displacement as an ethico-political issue that demands recognition under the international regime as such, despite her efforts to raise the normative issues surrounding climate change migration.

international human rights regimes by virtue of being stateless (as the reader will recall from Chapter Two and will also be discussed in greater detail in Chapter Five), TEMs, and especially PEMs, are much less likely to be recognized as displaced moral agents.

In light of all of this there seems to be one clear conclusion: in order to guarantee universal environmental rights to migration, the discursive power of the Westphalian sovereign state system must shift away from a focus on negative rights and the power of the state. It is inherently at rational odds with the rights and realities surrounding environmental displacement. Indeed, much like the cosmopolitan moment discussed in Chapter Three, and Arendt's common dialogue discussed above, it seems that the failure of the system, coupled with a global shift towards a common understanding of humanity may in fact enable the most immediately-positive results, both in terms of enabling a better understanding of the global nature of climate change, as well as being more likely to produce effective adaptation results for EDPs. If we truly are 'all in this together', I believe it is logical to expect more leaders acting proactively rather than waiting until participation in a solution is non-optional. Further, in a sovereign state-less global society (or even, a global society with vertically integrated sovereignty as discussed by Pogge 1992) the negative rights discussed above would likely be sufficient in securing justice for EDPs, as their positive implications would no longer be a complicating concern (as, indeed, this right would now be one to free migration).

Of course, one of the biggest critiques to this approach will be its lack of political palpability: states are not seeking to cede their sovereignty. This critique may be matched closely by concerns over the practical details of *how* such an arrangement might work. I will, however, leave this second concern to others, as it is not central to the drive of this project (for interested readers, some potential responses may include the following: Thomas Pogge 1992, Al-Hakim 2007, or Cabrera 2012). For our purposes, where sovereignty is threatened, states seem willing to do everything within their power to protect it: in the context of climate change, for example, Kiribati and the Maldives are seeking to purchase land from another state to combat the threat to their sovereignty from

sea level rise.[36] The desire for sovereignty exhibited by states (indeed, also by groups not [yet] recognized as states) could be associated with the realist desire for power following Hobbes' (1660) logic. If the international community is in fact zero-sum, then it certainly makes sense that the kind of trust required to open political groupings indefinitely would be undesirable, at best, and likely impossible to arrange. While I would not argue against at least a certain amount of motivation arising from this logic, I do not, however, believe it is capable of capturing the complexity of (Westphalian, liberal, democratic) sovereignty. Instead, I would argue that the primary motivator in this attraction to maintaining the principle of sovereignty as a key organizing factor is likely better captured through the lens of a people seeking to maintain autonomy over their particular identities; in other words, it may more-accurately reflect a concern over the power of self-determination (see Benhabib 2005; also, Arendt on Freedom). In a world where sovereignty has been used to recognize and validate identity and culture, it is clear why a nation would not easily part with this power. To be stateless, is to be vulnerable to the point of extinction, as Arendt has so poignantly pointed out (particularly, from *Origins of Totalitarianism;* see also Benhabib 2001, 2010; Birmingham 2006; Butler 2012 for discussions of Arendt on this point). Thus, within the current state system, EDPs – particularly Imperative Environmental Migrants – find themselves in a truly difficult position, on the verge of potential extinction, which is only made more difficult in light of the clear ethical violation of their "right to have rights" (i.e. their right to have space to be political and make claims) by the inherently unjust organization of the Westphalian system of sovereign states.

To illustrate this point, I would like to explore the logic of the 'refugee' vis-à-vis the social contract state. Much of this analysis buttresses my previous points on the tensions between universal human rights and the principle of state sovereignty, but I believe it is also important to explore these tensions in the context of current international law, as we begin to build a bridge between political theory and the realities of the international political community. In helpful and significant ways, through a close examination of the

[36] The full implications of this attempt will be discussed in Chapters Five and Seven.

theoretical foundations of the Refugee Convention, [37] we will better illuminate the tension-causing intersection of the kind of common human rights sought by this dissertation and the principle of state sovereignty.

Ultimately, the adoption of the Refugee Convention into international law, along with the Universal Declaration of Human Rights (UDHR), complicated the issue of "state sovereignty" *à la* the 1648 Treaty of Westphalia by what I would argue can theoretically be seen as a revival of the idea of individual sovereignty in the international realm, which we call "individual human rights." After the adoption of the UDHR and the Refugee Convention, it was no longer possible to simply talk about state relations, leaving issues affecting the individuals residing within states to be dealt with domestically. From this point forward, the international regime was morally required to balance the rights of the individual with the sovereign rights of the state.

However, from a theoretical perspective, these individual human rights still often run into conflict with the remaining rights associated with state sovereignty – especially in the case of migration, and even more acutely in the case of vulnerable refugee-like populations such as Environmentally Displaced Peoples. On one hand, the political "refugee" exists as a function of a *Leviathan*-esque social contract failing (following Hobbes 1660, discussed above): had her citizen-state rights been sufficiently protected, the "refugee," as we understand her, would not exist. In the context of the provisions of the Refugee Convention, this failing is most likely to have occurred on the part of the state to which the refugee had once belonged as a citizen; otherwise, the person in question would have been required to return to her country of citizenship for protection rather than make a claim for refugee status in another state. Here we see that when one's state of citizenship fails to uphold the basic human rights associated with the social contract (i.e. the right to life) the bonding relationship of citizenship between the individual and the state is effectively broken, leaving these citizens as refugees (see also Arendt's 1968[1951] discussion on this point, above). Following this logic (and that of Hobbes' *Leviathan*), as an individual legitimately outside of the authority of his or her state, we see that the individual's

[37] This term is meant to include the United Nation 1951 Convention on the Status of Refugees, the 1967 Protocol, and Resolution 2198 (XXI).

sovereign rights now have equal (theoretical) authority to those of the state even though the physical power of the state still fundamentally holds the individual in awe. Theoretically then (yet not always in practice), one's individual rights are no longer subjected to, or protected by, the absolute power of the sovereign state, once the citizen-state relationship of responsibility from which we derive rights and duties has failed (see Bosanquet 1958, especially 286).

Yet, a single individual cannot exist without a state in practical terms (at the very least, she requires a plot of land upon which to live, if not the protection of the state apparatus within which to thrive [see Valentini 2012 on the state as the guarantor of rights because it is the only entity with the power to do so, following the human rights motto that 'ought implies can']); therefore, the individual must now seek entrance into another state apparatus and submit herself to another state's sovereign authority to re-enter a rights-bound political relationship. However, tensions arise in that other states do not have the same responsibilities to the displaced individual as they do to their own citizens, or as the refugee formerly had with his or her state of origin: there is not yet a social contract relationship to bind either party to the other through some function of responsibility, thus there are no citizenship rights on the part of the individual nor any substantial duties on the part of the state (or vice versa). This reality is problematic in that – in terms of the basic functions of the social contract, which ground the principle of sovereignty – the state has no obligation to accept outsiders, nor any duty to grant them a set of rights (see Walzer 1984, especially Chapter Two; also Chapter Three's discussion on this point). Any acceptance on the part of the state, and any granting of rights that would go along with such acceptance, is almost assured to be theoretically motivated solely by either a perceived benefit on the part of the state, or an inclination towards benevolent charity arising from pity. Indeed, Rousseau uses pity to ground his theory of human rights, arguing that it is pity of suffering in others that balances and limits the drive of Hobbesian self-preservation. Pity, for Rousseau (1755), takes the place of natural law in the state of nature but it does not come from a place of reason: indeed, it is so 'natural' and 'innate' for Rousseau that "even the Beast sometimes shows evidence of it" (Part 1, Par. 36). Yet, pity lacks power. It cannot be relied upon to uphold rights in the modern era. We are not

conditioned to be piteous; we are conditioned to be self-interested. Natural man, with all of his inherently reliable pity, is dead. Indeed, as Arendt has argued,

> Man of the twentieth century has become just as emancipated from nature as eighteenth-century man was from history. History and nature have become equally alien to us, namely, in the sense that the essence of man can no longer be understood in terms of either category (1968[1951], 298)

In "Organized Guilt and Collective Responsibility" she goes on to argue that the modern world is characterized by our increased knowledge of other cultures and peoples, but that this knowledge, instead of following the popular cliché that the more we know about each other, the more we will like about each other, has led to an increased knowledge of the evil potentialities in men (131 *in* Birmingham 2006, 6). Clearly, pity cannot be relied upon to uphold the right to exist; neither is remaining stateless a viable option for the refugee. Thus, we can crudely draw out the dilemma caused by the tension between the primacy of state sovereignty and the condition of statelessness: from a human rights perspective, neither having to 'sell' oneself, nor having to rely on the piteous charity of another is ethically sound; yet, the stateless person has few salient political options. Mending this gap, the UDHR lays out a right to emigrate (Art. 13), a right to asylum under certain circumstances (Art. 14), and a right to a nationality (Art. 15). It does not, as mentioned, recognize any right to immigrate (for more, see Benhabib 2005, 674). For most stateless persons, international instruments such as the 1951 Refugee Convention are meant to return them to a condition of rights, inside of another state; however, for Environmentally Displaced Persons, no such superseding protection exists.[38]

Yet, even with these types of conventions in international law, the moral reality is that any universal migration rights, like those of refugees, are ultimately realized at the discretion of the state under the current Westphalian system. While this initially seems to fly in the face of the 1951 Refugee Convention (which purports to delineate a set of rights for humans outside of the traditional citizen-state relationship), the rights afforded therein are only truly realized through the power of the state as long as the principle of state sovereignty as

[38] This will be discussed in greater detail in Chapter Five.

the ultimate political authority is maintained. What good is the refugee right of entry should one be indefinitely detained at the border of the country in which she is seeking asylum? May 2002's "Shenyang Incident" (Isozaki 2002) highlights my point: as long as sovereign state dominance is strictly maintained, a right is not a right without the recognition of it as such by a mechanism capable of putting it into effect (i.e. the state; also see Ignatieff 2001; or Valentini 2012). Yet, this logic is fundamentally at odds with the ethical requirements of EDP rights as human rights, which as I have argued are logically legitimate but do not effectively translate into legitimate migration rights under the Westphalian system. As such, it is my conclusion that the Westphalian system conceptually cannot support the full ethical demands of EDP rights. Again, we are left with the paradoxically-rooted choice of dramatically revising the Westphalian system, or letting its moral legitimacy fail.

Easing the Tension: Moving Forward on Common Ground

And so, if the Westphalian system of sovereign states is incapable of effectively supporting EDP rights to migrate and adapt (which I have argued are legitimate rights under the logic of the liberal system, as well as in their own right), then the obvious question emerges: what to do. In keeping with my methodology to build from points of consensus in the face of otherwise dramatic gaps between ethics and reality, I would propose two possible conceptual routes forward for the reader's consideration: tiered sovereignty or flexible notions of traditional liberal citizenship, or a deep reconsideration of the notions of citizenship and political obligation that emerge from outside of the liberal tradition.

Tiered Sovereignty/Flexible Citizenship

I accept that one of the primary challenges in proposing an ethical solution to a real-world problem is finding one that meets the expectations of one factor without failing to recognize the constraints of the other. In this light I believe a concept like tiered sovereignty or flexible citizenship (whether you approach the issue from a top-down or bottom-up perspective) offers a manageable approach to establishing universal non-citizen mobility rights as a function of the state. In this, states could remain effectively sovereign, which is politically palpable, and non-citizens would be granted universal mobility rights,

which is ethically appealing – particularly in the case of environmental migration. It is not an ideal, but rather a workable response. Maintaining the status quo, as has been argued throughout, is not. In initially building this argument, the works of Immanuel Kant and Seyla Benhabib will be particularly helpful.

Immanuel Kant's work on Perpetual Peace provides fertile ground from which one can build a clear understanding of the way in which flexible citizenship is able to bridge universal mobility rights with the particularisms – of particular concern here, cultural identity – of states in a sovereignty-bound international community. His work distinguishes between the right to be a permanent visitor, which he calls *Gastrecht*, from the temporary right of sojourn, which he calls *Besuchsrecht*. This distinction illustrates an extension of the citizen-state relationship, where the right to be a permanent visitor is a subset of the citizen-state relationship in that it requests citizenship and full political participation, where *Besuchsrecht* does not. Instead, *Besuchsrecht* is a legal-moral right that is acquired by all humans in their capacity as humans. *Gastrecht* goes beyond this basic legal-moral right and its granting or denial is therefore left to the will of the state sovereign. As such, Kant's "principle of hospitality" widely grants non-citizens the right of entry into another country's borders, clarifying that the term hospitality "is not a question of philanthropy but of a *right*" (1923[1795], 443, emphasis added). In other words, his understanding of hospitality is not based on kindness or virtue, but is instead viewed as a right belonging to all human beings in as far as they are viewed as potential participants in a global political community. This right cannot be given or taken away based on the beneficence or malevolence of a nation, its people, or its government, but neither is a state's domestic 'right' to compose its own citizenry completely dismantled. Minimally, here, Temporary Environmental Migrants (TEMs) would easily find temporary membership, and all categories would have the right to be given the opportunity for long-term inclusion – which is more than they currently hold.

Significantly, Kant's principle of hospitality is situated at the boundaries of the polity, which enables it to occupy the space between civil rights, claimed by citizens within a state, and human rights, which are universal among all humans regardless of state (Benhabib 2004, 27). Borders still exist, as does respect for the principle of state sovereignty. Rights are still

claimed through states, but are not limited to existing solely in the capacity of the citizen-state relationship. Mobility rights, here, exist between all humans and all states simultaneously, and can be expanded – but are not necessarily so – into traditionally-understood citizen-state relations through the will of particular states and their citizens.

Kant's use of these concepts is significant to understanding rights outside of the traditional citizen-state relationship, which is helpful in constructing a set of non-citizen *rights*, as opposed to charitable or humanitarian requests, for EDPs. As EDP rights currently stand, they rely on humanitarian goodwill and/or charitable financial donations from other states or organizations – which is ethically insufficient to uphold their moral status as human beings. Kant's distinction between an overarching and universal right to mobility and the right to citizenship simultaneously enables the free migration of persons in need, while reserving the decision to formally admit any environmental migrant to participate in a specific political community for that community alone. In this, it politically tempers the extremes of free migration and automatic inclusion, and anti-migration and state-sponsored exclusion, and seems well-positioned to address the immediate human rights concerns and sovereignty 'needs' of all parties involved.

Building on Kant's distinction between citizen and non-citizen rights, where everyone by virtue of being human is entitled to non-citizen mobility rights akin to 'permanent visitor' status and only a select group are granted citizenship rights that enable full political participation within each political community, Seyla Benhabib's (2004, 221) idea of porous borders – a concept which falls short of open borders and free migration, but clearly challenges dominant conceptions of the sovereign state, may hold potential. In *The Rights of Others* (2004), Benhabib turns to democratic theory and a re-examination of current democratic practices to establish a framework for realizing the rights of "others." She draws attention to the ways in which the conception of citizenship has shifted over time to include a more fluid understanding of the term, citing the opening line of the American Constitution and noting that 'the people' of 'we the people' "is not a self-enclosed and self-sufficient entity" (Benhabib 2004, 212). In fact, she argues that conceiving of any nation in such a homogenous manner is entirely inaccurate in the face of global processes of migration and economic, cultural, and social integration. From this already-integrated

global community, Benhabib I believe rightly argues that integration on a political plane would not be a short step, but an effective one in terms of securing the rights of others. In this light, she ultimately calls for a global democratic ethic and the creation – along the line of Kant's previous arguments – of a cosmopolitan federation (Benhabib 2004, 221). Most compelling among her arguments are those regarding the precarious relationship between citizenship and democracy, where "[t]he unity of the *demos* ought to be understood not as if it were a harmonious given, but rather as a process of self-constitution, through more or less conscious struggles of inclusion and exclusion" (Benhabib 2004, 216). Here, the concept of self-constitution ties in the core principles of democratic self-governance: that those people who are subject to the law should also be its authors (Benhabib 2004, 217). Benhabib asks: "How can democratic voice and public autonomy be reconfigured if we dispense with the faulty ideals of a people's homogeneity and territorial autochthony?" (2004, 217). She suggests that the new reconfiguration of the democratic voice, including 'flexible citizenship', would give rise to subnational as well as transnational modes of citizenship (drawing here from Aihwa Ong's *Flexible Citizenship* 1999). Yet Benhabib simultaneously recognizes the link between democratic self-governance and territorial representation: a point the significance of which other thinkers like Carens and Pogge seem to have missed. "Democratic laws require closure precisely because democratic representation must be accountable to specific people" (Benhabib 2004, 219). Benhabib (2004, 219) also draws attention to the importance of contentious dialogue between 'the *demos*' and other representative bodies about the limits of their jurisdiction and authority. And, in this spirit, she puts forth the idea of implementing porous borders, including (i) first-admittance rights for refugees and asylum seekers, (ii) the maintenance of the right of democracies to regulate the transition from first admission to full-membership, (iii) subjecting the laws that govern naturalization to human rights norms, and (iv) rejecting the claim of sovereign people not to permit naturalization and to bar the eventual citizenship of 'the other' (Benhabib 2004, 221). Yet, at the same time, I am unconvinced of the level of closure sought by Benhabib. Is the state the most effective tier for sovereignty? Here Pogge's (1992) arguments about vertically-integrated sovereignty offer a slightly different view, with the potential to simultaneously meet many of Benhabib's key concerns. Under a vertically-integrated sovereignty, authority would be dispersed – largely downward – to

the smallest political unit possible, but one that includes "all persons significantly and legitimately affected by decisions of this kind" (Pogge 1992, 67). Such an arrangement would be better suited to address the shifting demands of global politics (like, for example, environmental displacement) than one that maintains a state-only mode of organization. Global issues could be dealt with globally, and local ones, locally. The state, I have argued, is not in fact an effective location for (democratic) decision-making where we are regularly faced with cross-border concerns, but a global sovereignty might be. Yet, while Benhabib's (2004) porous borders or Ong's (1999) flexible citizenship would be able to functionally address many of the concerns raised by the issue of environmental displacement, their maintenance of a (revised) Westphalian state system significantly limits the impact of their arguments in the context of environmental displacement. Further, this approach is also caught up in the individualism that problematizes the foundations of human rights, as discussed, and thus cannot entirely move past its own limitations.

Yet, Benhabib's work could be useful in highlighting a few key points that will be helpful in theorizing a 'way forward' for Environmentally Displaced Peoples. The first is that any solution will require an open dialogue between current state apparatuses and some form of international body (be it a global government, a cosmopolitan federation of states, a super-state, or an international institution), as well as one within (and possibly below) states themselves. Thus far in the dissertation it has been established that EDPs have a right to receiving a special set of rights, as EDPs. As will become more evident as the dissertation progresses, the current political realities of the global community will require further attention, and perhaps a revised international framework, in order to ensure these rights are maintained vis-à-vis sovereign nation states. However, it has also been established that, while not homogenous or with a single driving force, there is an element of truth to the communitarian claims of the prioritizing of the nation in terms of self-determination and identity. Walzer, Carens, Kant, and Benhabib (among others) all recognize, on some level, the right of the nation with respect to restricting the access of 'the other' – but where they have placed limitations on this right has also been extremely significant. On a national level, there may be a need for policy frameworks set to deal with situations as they arise. Yet, such policy frames would have to exist on both ends of the immigration process: states

– operating within an international framework of justice that has been built upon the cosmopolitan/individual rights foundations previously discussed – would benefit greatly from having a policy framework to relieve the consequences of environmental disasters within domestic nations, but would also benefit from establishing a policy framework that would facilitate the integration of EDPs choosing to migrate into new communities. As we saw in the example of Katrina survivors in Chapter Two (Cohen 2008), displacement is trying on the best of us, and the psychological fallout of such an event does not require that one cross another nation's border in order to exist. Furthermore, no country or region is immune from environmentally-displacing events, and every country would benefit from establishing such a proactive approach, both in the context of its own citizens as well as non-citizens who have been forced from their home countries.

Benhabib's turn to democratic dialogue as foundational to her theory is also helpful. It seems that if we are to shift domestic levels of toleration towards the non-citizen 'other', we would benefit greatly through a re-examination of the dominant citizenship regime, or our understanding of what citizenship *means*. In this, reconfiguring the current citizenship regime towards one rooted more strongly in the principles of deep democracy and open democratic dialogues, may enable populations to embrace a policy of increasingly open borders towards othered migrant populations. So too might one rooted in republican ideals, discussed below, or could be drawn from Arendt's (1994) notion of common responsibility vis-à-vis liberal individualism, discussed above. The current citizenship regime, especially as it is portrayed through the media and popular discourse, has taken a disturbing turn towards cultural protectionism and inward-looking nationalism, which further enables us to turn a blind eye to issues of international justice like the normative rights of forced environmental migrants.

Coupling porous borders with a semi-flexible, or tiered concept of citizenship, I believe we could see the global community in a better position to effectively address the immediate practical demands of the EDPs, as well as meet many of their cultural, religious, language, or other social and ethical needs, as their numbers grow. This is significant, because once it is recognized that environmental migration is inevitable, the ethical and cultural matters associated with cross-border and cross-cultural movement will be drawn into finer focus.

Reconsidering Citizenship and Political Obligation

For those less-convinced by the merits of an alternative (or eliminated) form of state sovereignty and borders in securing EDP rights, I believe there is also substantial potential in reframing our understanding and expectations of citizenship: particularly, what we expect from citizenship duties and obligations. For this, I turn primarily to the works of Joseph Raz and Philip Pettit, building from the civic republican concept of citizenship offered by historical philosophers such as Plato, Machiavelli, and Rousseau. The driving logic here is that, with a shift in our accepted understanding of citizenship from a liberal conception focused on obedience to the rule of law, towards one rooted more firmly in republican theory, this more-robust form of citizenship may be able to compensate for the ill-conceived isolating qualities of the principle of sovereignty. In other words, a republican form of citizenship may be able to simulate an Arendtian global political society within a traditional-conceived sovereign arrangement.

First, it should be noted that while I use the term "republican" here in reference to this reconfigured citizenship, it is not republican in a traditional sense (indeed, traditional republican forms of citizenship often invoke expectations of closed-borders and small communities – and not the type of open migration called for by this dissertation). Instead, it comes from a place of republican spirit and seeks to apply some of the thinking and lessons to a global arrangement (similar to Martha Nussbaum's 2008 concept of a globally-sensitive patriotism). This building of a globalized republican-esque citizenship begins with a basic tenant of liberal citizenship (for more, see Kymlicka 1995), which holds that above all else political obligation is rooted in the rule of law (importantly including equality before the law). I do not wish to dispute this premise here, although I do believe there is room for critique, but rather pause to reconsider the position of obligation. Where traditional liberal conceptions of citizenship tend to place great importance on negative duties, while remaining wary of positive duties (see, for example, Isaiah Berlin's famous *Two Concepts of Liberty* 1969), I would like to take a moment to consider the benefits and validity of a concept of citizen that roots obligation and duty in a positive manner. Joseph Raz (2006, 1004), for example, offers the idea that membership duties would benefit from being understood as duties that citizens have to react to injustice perpetrated by or in the

name of their community. In this, one would have a duty to ensure the moral wellbeing of the community and to contribute to its proper functioning (Raz 2006, 1005). In the context of this topic, in as much as EDPs have a set of special, normative, rights, it would be our obligation to ensure that our government adopt all policies necessary to support and enable the full use of these rights. We would be obliged to do so not only because it is 'right', but also because the ethical honour of our international reputation (i.e. our state) is at stake (hence the republican leanings of this approach). As Philip Pettit (1993; and, particularly, 1996) explains, the republican concept of citizenship is uniquely positioned to be able turn obligation inward, so that it arises from the people and not the rule of law, thus avoiding the domination of their liberty. Here, I would like to raise two points as to the value of such a vision of citizenship in an international community challenged by the global risks presented by climate change: first, that this drive of ethics comes from within the autonomous individual (where the ethical validity of a claim is recognized and demanded by the people because it is *right* and not because they must or because it is in their immediate, tangible, benefit). Here, where a population feels it is obliged to uphold ethically-rooted policy positions without supporting or understanding them (I, like many republicans, would argue that the key to finding ethical support is through education and understanding), policies fail to maintain the initial ethics that drive them: for example, see the turning tide against refugee claimants including in countries that were initial sponsors of the 1951 Refugee Convention. Australia, in particular, has implemented policies to turn away claimants before they can legitimately make a claim on their sovereign soil, which clearly counters the spirit of the Convention, despite being a signatory (see BBC 2010a; or, BBC 2010b).[39] If the people followed the principles of the Convention because they believed in them, I expect this would not be a problem. The second point to which I would like to draw attention is that this approach to citizenship would negate the challenge I have previously risen about the ethical weaknesses of relying on charity to maintain EDP rights and assistance. What I mean here is that a republican conception of citizenship would be able to sustain long-term, predictable assistance because it would recognize and support something akin to a 'cosmopolitan moment' (from Habermas 2003), or an Arendtian notion

[39] Liberal democratic states along the North Atlantic have implemented similar policies of "refugee interdiction," (see Kernerman 2008) also discussed in Chapter Six.

of common responsibility and political agency (1994; 1968). In this, global republican virtue would conceivably be in a position so as to sustain outward participation in acts of goodwill. In other words, guilt would not lynchpin assistance, a sustained commitment to improving the global political community would. Furthermore, in this regard, acts of goodwill would shift from the private sphere into the public sphere, as the driver of republican citizenship is inherently linked to public recognition and action: if you would do it in your private life because it is ethically-sustainable, then (barring any particular detriment to the polity) it is right and necessary to do in public life as well. Thus, we would have sufficient state-sponsored ethics that are capable of superseding the current limitations and inward-looking ethics of the principles of sovereignty.

The second key allowance of republican-rooted notions of citizenship is that they offer stronger support for positive rights. As the reader will recall, the principle of state sovereignty poses particular challenges for positive rights, such as the right to migrate into a country (where the negative right to emigrate is less-complicated). Republicanism, in its focus on public life has more political space for a public supporting of these rights (see Foster 2009; Arendt, discussed above). The republican ideal is thus potentially able to negate the otherwise-necessary challenge of the principle state sovereignty as a guiding principle in the international political community; however, this would only stand in the face of having achieved a cosmopolitan moment, a common ontological understanding of human rights, and breaking down the false dichotomy between 'us' and 'them' in the context of anthropogenic climate change migration. Otherwise, it is more likely that states would continue to act in an inward-looking, individualist manner following the liberal tradition, as discussed above. Again, Arendt's work on a 'right to have rights' is helpful in understanding how what could be understood as an impossible undertaking under the current international regime (offering robust common rights to EDPs as laid out in the previous chapter) can be interwoven with an ontological shift in our understanding of humanity and human rights, reshaping the possible through this overlay. Arendt significantly opens space for commonness in her work, building from natality (1951, 1994; also Birmingham 2006), which offers ground from which we can build human rights without falling into Douzinas' (2007) critique of the imperial tendencies of moral liberal

cosmopolitanism. It is the public nature of natality that brings us into the desire for publicness and recognition as humans worthy of dignity, and creates space within which to be political and make active claims on humanity (see especially Birmingham 2006, 12-17). This is the same dignity that must be recognized in potential EDPs in their struggle for agency against the rising tides of climate change, and it is one that cannot be justly ignored and cannot be left to states to regulate. Indeed, as Arendt argues, "the right to have rights, the right of every individual to belong to humanity, should be guaranteed by humanity itself" (1951, 298). Even if all else remains bounded, the notion of responsibility must extend past borders to guarantee the continued humanity of EDP and potential EDP populations.

Conclusion

This chapter has identified the key challenges presented by the concept of state sovereignty to the realization of Chapter Three's normative rights of Environmentally Displaced Peoples. It has argued that the current grounding theory of the Westphalian international community – liberalism – is fraught with complications in terms of advancing sufficient EDP rights and maintaining the basic tenets of global justice. The chapter has further highlighted that the roots of this tension run far beyond its environmental facets. Fundamentally, it has argued that universal human rights discourse and its particularistic application through the state do not easily stand together without substantial loss, usually on the part of normative human rights, nor do they clearly support the conditions of environmental displacement in the way that I have framed it through Chapter Three's considerations of rights, rights, and responsibilities. As such, it is the conclusion of this chapter that this tension likely demands further attention and international consideration if we are to obtain strong principles of global justice. I have made an attempt to demonstrate that the most-direct way to actualize the full potential for EDP rights would be to dispense with the principle of Westphalian state sovereignty altogether. Instead, I have suggested that grounding our understanding of human rights in an Arendtian commonality might be more appropriately positioned to account for the global ethico-political nature of environmental displacement; however, given the political complications associated with this proposal, the possibilities for flexible citizenship and even a republican-rooted

cosmopolitan recasting of standard (state-framed) citizenship have also been offered for consideration, as these would require less-dramatic changes to the current world order. While these alternatives may not offer the same degree of ethical robustness, I have proposed that they nonetheless help to support the advancement of EDP rights globally and are thus worthy of careful consideration. Overall, this chapter has argued that there is a severe gulf between the normative reasoning laid out in Chapter Three and that of the current international political community. While I have argued that the ethics to support a discontinuation of the principle of state sovereignty are clear, the political rationale (and thereby, the political motivation) are not, as the reader will see through Chapters Five and Six on the current state of the international legal regime and domestic public policy in the context of EDP rights, respectively. Moving through these next two chapters, the dissertation looks more closely at the current political realities shaping the international community. This is not meant to detract, however, from the ethical conclusions of this and the previous chapters. Indeed, Chapter Seven will return to the ethical conclusions reached herein in seeking a politically-viable, but ethically-sound policy framework for the future of EDP rights in the global community.

Chapter 5| International Law and Convention: Assessing Existing Frameworks for Addressing Environmental Displacement

The human rights tradition is fundamentally rooted in the international and domestic legal state traditions (Donnelly 2014). Indeed, when one engages with the discourse of human rights, it is almost always vis-à-vis the legal tradition, whether visible or veiled. Logically, then, it is understandable that much of the ethical face of the debate surrounding global climate change and its impacts (which seeks to provide rights to EDPs) turns to international law as the primary mechanism to transform normative theory into empirical practice (see, for example, the work of Norman Myers, Andrew Simms, Jane McAdam, the International Organization for Migration, or the US-based Refugee Policy Group; also, Lister 2014; Bates 2002). But, we must pause to consider the merits of the international legal domain in empowering Environmentally Displaced Persons (EDPs) and securing their ethical status, as I have argued for it in Chapter Three. The necessity of this point of consideration is particularly salient because, as Michael Ignatieff (2002) explains, the spirit of international cooperation has rapidly and significantly declined since its peak in the 1990s, leaving less space for normatively driven growth and expansion. Indeed, Ignatieff (2002) argues that since the events of September 11, 2001, many states have followed the lead of the United States, by focussing their legal and policy efforts on maximizing state security, at the cost of both domestic and international human rights. As such, instead of a robust system for the application and implementation of normative human rights, scholars like Ignatieff have argued that much of this aspect of international law has become somewhat hollow: sentiments without realizable meaning (see, also Leucea 2014 on the way in which the concept of human security is challenged by international norms like state sovereignty to be actualized in particular, domestic instances, thus remaining most helpful only as a general guiding principle). At the same time, others argue that the human rights regime is not being hollowed out, merely that its focus is shifting away from the state as its absolute guarantor. For example, Oomen and Baumgärtel have noted the rise in 'human rights cities', which they define as "an urban entity or local government that explicitly bases its policies, or some of them, on human rights as laid down in international treaties, and

thus distinguishes itself from other local authorities" (2012, 1). Here, we see a localizing of the human rights regime in the city, where cities have taken it upon themselves to uphold selected international human rights principles. Significantly, these are not abstract, theoretical cities: Edmonton, Alberta, Canada; Eugene, Oregon, USA; Vienna, Austria; Barcelona, Spain; Kati, Mali; and Kaohisung, Taiwan have all described themselves as official human rights cities. Building from the work of Emmanuel Lévinas (1982), Jacques Derrida has also advanced the notion of 'cities of refuge' (see also Eisenstadt 2003), arguing that

> Insofar as it has to do with the *ethos*, that is, the residence, one's home, the familiar place of dwelling, inasmuch as it is a manner of being there, the manner in which we relate to ourselves and to others, to others as our own or as foreigners, *ethics is hospitality* (2001:16; see also 1999, 50).

The idea of a city of refuge can also be seen as having been put into practice through the International Parliament of Writers' (IPW) Network of Cities of Asylum, which was established to provide refuge for persecuted writers following the Salman Rushdie Affair (see Baker 2010, 90-91). Between these two movements it is clear that despite its nominal organization in the sovereign state (esp. see Valentini 2012) the human rights regime is also being experienced in new and exciting ways that are expanding and reshaping the traditional divide between normative and legal human rights, as they exist at the state level.

Yet, at the same time, the full force of the human rights regime is still largely rooted in the power of the Westphalian international system and the dominance of the principle of state sovereignty, as the reader will recall. Indeed, despite these advances, for the most part, the principle of state sovereignty still compels the thrust of global politics as the primary mechanism through which most normative human rights are practically realized at this time (see Donnelly 2014; Ignatieff 2002). Even more problematic for cross-border Environmentally Displaced Peoples (EDPs), and as will be discussed in Chapter Six, the normative human rights of 'others' (non-citizens) has also dramatically declined in policy priority in nearly all states worldwide since September 11, 2001 (see, among others,

Barkdull et. al 2012; Human Rights Watch 2004; International Council on Human Rights Policy 2002).

Given this foundation, rights-based international law is deeply challenged by the primacy of domestic state policy in the realization of normative values; however, it remains significant to examine for a few reasons. First, international law is often cited as the solution to extending migration and adaptation rights to EDPs in the literature (for a recent example, see Lister 2014; Martin 2010; or Moberg 2009, among others). The impetus of this claim stands at odds with my thesis – that under the current international regime[40] international law is *not* the best footing to extend EDP rights in the immediate future – and thus must be addressed. Second, as mentioned, international law currently houses – nominally, at least – the body of comparable, comprehensive, and internationally recognized universal human rights that Chapter Three has established as necessary for the status of EDPs to move forward effectively within a framework of justice: especially, for this project, the *Universal Declaration on Human Rights* (1948); the *1951 Convention Relating to the Status of Refugees*; the *1954 Convention Relating to the Status of Stateless Persons*; and, United Nations' *Guiding Principles on Internal Displacement* (1998). Table 3 has been constructed to list the primary instruments addressed in this dissertation, noting both their scope and relevant content. This body of treaties, laws, and conventions largely serves as the legal foundation most EDPs currently have access to in building their rights claims. Therefore, it must be closely examined to see where it is capable of meeting their ethical demands and where gaps require further attention.

Through an analysis of these guiding instruments in conjunction with recent case law and arbitration, and international and regional conventions, this chapter will explore and offer an assessment of the ability of international law to support what I have argued are EDP rights to migration and adaptation at the global level. Reinforcing the conceptual conclusions of the previous chapter, it will be argued that while international law is appropriately framed in its universalism to support EDP rights (especially, the right to adapt and the right to migrate), its current authoritative position in the international

[40] By "international regime" I am referring to both the body of international law and current international political climate (rooted in Westphalian sovereignty), which together shape the "international".

regime – largely, under that of the Westphalian sovereign state – as well as the predominance of the negative-rights based approach to law,[41] ultimately incapacitates its ability to meet the robust ethical demands presented by forced environmental migration. The chapter begins with an analysis of the most commonly referenced instrument in the literature on forced environmental migration: the *United Nations Convention Relating to the Status of Refugees* (1951), and the optional Protocol (1967), hereafter referred to collectively as the Refugee Convention, primarily because of its centrality in the literature that seeks to frame Environmentally Displaced Peoples as "environmental refugees" (Lister 2014; Becklumb 2010; Brown et. al. 2007; Conisbee and Simms 2003; Bates 2002; Myers esp. 2001, 1993; Suhrke 1992, 1993, 1994, among others). My analysis concludes that the potential to legally frame EDPs as refugees is extremely limited, and, thus, setting this instrument aside as limited in its current form for the advancement of EDP rights, the chapter proceeds to engage in an in-depth examination of the possible piecemeal legal responses to environmental displacement. The main body of the chapter is divided in order to clearly acknowledge and address the specific needs arising from the different circumstances that define each type of Environmentally Displaced Person: Imperative (IEMs), Pressured (PEMs), and Temporary (TEMs), as discussed in Chapter Two. Thus far in the dissertation, these subcategories have not centred in my discussion because of my conceptual focus on the universal, normative rights, risks, and responsibilities that frame the ethics of environmental displacement in general. Here, however, the project begins to move towards a more specific analysis of the particular characteristics of the various experiences of environmental displacement, and the kinds of rights each type of EDP might need in order to meet the normative demands associated with their specific form of displacement, as I have called for them. Overall, the chapter argues that while IEMs may find themselves in a position to make some successful rights claims under current international law, TEMs and – especially – PEMs are unlikely to achieve due recognition of their rights, in large part due to the nature of Westphalian sovereignty and negative-rights liberalism and their impact on the capacity of international law to meet the normative ethics of environmental displacement. Finally, the chapter concludes by highlighting the

[41] Again, not exclusive: see footnote 27.

limited prospects that can responsibly be held for the recognition of a comprehensive set of universal rights for Environmentally Displaced Persons to be enshrined in the international legal regime, and turns in Chapter Six to an exploration of domestic state policy to bridge the gaps between what I believe we can understand as an ethics of environmental displacement and the realities of its experience.

It should also be noted that, as a political theorist, my analysis of these laws will likely differ from that of a trained human rights lawyer and thus I will draw in secondary legal analysis where possible. This is not to detract from the significance of my analysis, however, as I believe it serves to highlight and reinforce the conclusions of Chapter Four – that the current international regime is deeply challenged to meet the needs of EDPs – while simultaneously noting legal opportunities for EDPs as they currently exist. This analysis simultaneously critiques and builds on the legal status of EDPs under international law, which will be helpful in constructing Chapter Seven's framework response. Secondly, this chapter will not address all possible aspects of international law that might be applied to the case of environmental displacement (for a detailed and comprehensive analysis, I would turn the reader to McAdam 2012, or Cournil 2011 for a less-comprehensive but strong overview of position of cross-border EDPs in international law); instead, it seeks to highlight some of the most politically and paradigmatically significant principles, laws, and conventions and the ways in which they shape and are shaped by the dominant characteristics of the liberal international regime, in keeping with the methodological approach of the project. The purpose of the chapter, thus, is to provide the reader with a clear picture of the legal landscape of the international regime, as it will likely affect the future realization and recognition of EDP rights.

International Law and Environmental Displacement: Minimal Protection in an Unprepared World

This section begins by dispensing with the arguments that seek "refugee" rights for Environmentally Displaced Peoples from a legal standpoint. It then moves on to address existing conventions in terms of the current list of potential rights for EDPs by experience (Imperative Environmental Migrants, Pressured Environmental Migrants, and Temporary

Environmental Migrants). This list of internationally-recognized legal rights, while short, is significant in that it illustrates how states have taken steps to resolve many of the tensions between normative values and domestic sovereignty by signing on and, in most cases, ratifying these principles. The central challenge, however, is that new international laws or any significant revisions of current laws would again have to proceed through this process to take effect, which, for reasons discussed in greater detail in Chapter Six, is unlikely to expand migration or adaptation rights under the international (anti-immigration) atmosphere that is increasingly shaping the international realm. Indeed, I strongly suspected that if the ratification process were taken up today, the international understanding of a refugee would contract rather than expand to include new forms of recognized displacement.[42] For example, there is a clear trend towards the contraction of refugee rights under the current international political regime, which makes it unlikely that this type of right would be legally expanded should the convention be revisited: see 2002's Shenyang Incident in China, or Canada's visa restrictions on Mexico, both of which are discussed in Chapter Six (see also Cornelius 2004; or White 2011 for an analysis of how global securitization is specifically impacting and restricting climate change migration).

The 1951 Refugee Convention and Environmental Displacement

Cutting straight to the core of my argument, Environmentally Displaced Persons are not recognized by the Refugee Convention, as it is written. Neither are they likely, by my analysis, to receive recognition of EDP migration rights under expanded political, legal, or conceptual reasoning: under the 1951 Refugee Convention, a refugee is firmly defined as a migrant who has a

[42] Briefly, as it will be discussed in greater detail in the next chapter, by way of evidence for this suspicion I would cite contracting domestic policy around otherwise widespread normatively-rooted migration principles like that of refugee protection. For example, while maintaining its official commitment to the 1951 Refugee Convention, Canada has implemented a designated safe country list as well as the addition of visa restriction that are arguably both targeted at restricting the number of potential refugees that are physically able to make a claim for status. By limiting the pool of claimants, countries like Canada can effectively reduce the number of refugees it accepts through processes in domestic policy while maintaining its commitments under international law. See Chapter Six for more detail and references; also see Kernerman (2008) for an in-depth theoretical analysis of the ways in which "liberal democratic states go to great lengths to block access to their refugee determination processes from the vast majority of refugees by interdicting them before they reach their borders" (230-1).

> well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, [who] 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; 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.

Politically, while by the end of the 20th century this definition had been somewhat extended through practice to include people who "are forced to move for a complex range of reasons including persecution, widespread human rights abuses, armed conflict and generalized violence," according to the United Nations High Commissioner for Refugees (UNHCR), the official definition legally stands as it did in 1951 (Black 2001, 1). Further, while the logic of the convention could conceivably be used to expand the definition to favour EDP migration rights (see Lister 2014), relying on this possibility is problematic on two points. First, as mentioned, it is highly unlikely that individual states will exercise their political wills to expand its interpretation (see White 2011, Chapter Six). Second, relying on the state's charitable goodwill to extend special EDP migration rights is ethically insufficient in terms of upholding justice for EDPs, as discussed in Chapter Three. From a strictly legal perspective, as it stands, the 1951 Refugee Convention does not seem to include any interpretive potential to include Environmentally Displaced Persons under its umbrella of protection (see, for example, the recent rejection of a refugee claim under environmental conditions by the New Zealand High Court: Teitiota v. New Zealand High Court, Case Number 3125). And finally, from a theoretical perspective, as the reader will recall, having been grounded in a traditional, negative-rights, liberal social contract framework that recognizes states as the protectors of their citizens and as the sole transgressors of human rights triumphs and abuses (see Belton 2011; also the previous chapter's discussion), there also seems to be little interpretive room for expansion, as the environment conceptually holds no legal status as an actor capable of causing displacement. Instead, humans and human-led institutions (i.e. states) are understood by the dominant discourse as capable of violating, upholding, failing to uphold, or rectifying human rights issues such as refugee status, recognized (and thereby legitimated) instances of displacement, or situations of statelessness in the international consciousness (see

Belton 2011; Heuser 2007). Here, in as much as climate change is not conceptualized as an actor, it does not produce refugees. Thus, politically, legally and theoretically, there is little room to expand refugee rights into "environmental refugee" rights.

These challenges play out in many ways, but perhaps most clearly in the decision of Justice Priestly of the New Zealand High Court to deny 'environmental refugee' status in New Zealand to Ioane Teitiota and his family from Kiribati (see Teitiota v. NZHC 3125 2013). Citing James Hathaway's Ontario, Canada decision (*The Law and Refugee Status*: Butterworths, Ontario, 1991) and *The Refugee in International Law* (Goodwin-Gil 2007, 36), Priestly notes that the 1951 Refugee Convention defines "persecution" (a factor fundamentally required for legal refugee status) as "the sustained or systemic violation of basic human rights demonstrative of a failure of state protection" (Teitiota v. NZHC 3125 2013, 8). He further notes that this definition is applied in both Canada and the United Kingdom, thereby legitimizing its international value (Teitiota v. NZHC 3125 2013, 8). Significantly, Priestly acknowledges that the definition of "refugee" is not actually limited to the 1951 Refugee Convention understanding, but merely describes "a person driven from his or her home to seek refuge, esp. in a foreign country, from war, religious persecution, political troubles, natural disaster etc." (Teitiota v. NZHC 3125 2013, 9). As such, for Justice Priestly, the legal trouble in extending refugee status protection is not in accurately applying "refugee" to the quality of displacement experienced by EDPs, but rather in the politicized, state-centered understanding of "persecution": an act which relates to state action/inaction and *not* to non-state entities like the environment.

This strict definition of "refugee" as an inherently political creature poses significant problems for people who have been displaced by environmentally related disasters and are seeking protected migratory status, as it does not – and I believe cannot, as framed – afford them the possibility of being officially recognized as legitimate subjects of forced (cross-border) migration (also see McAdam 2012, especially Chapter 2; or, Marshall 2015 on the depoliticization of environmental migration and how this serves to sever certain legal claims). As such, under current international law, any Environmentally Displaced Person is excluded from the possibility of claiming the rights and privileges associated with official refugee recognition: for example, the right to enter into the sovereign space of another

state when it is necessary for one's continued survival. Domestic immigration policies such as humanitarian grounds for immigration or family reunification have served to fill some of these gaps, but these have not been implemented in a sufficiently comprehensive manner so as to be able to account for the full range of environmental displacement experiences (i.e. IEM, TEM, and PEM) or afford a sufficient set of migratory rights to EDPs. These types of policies will be discussed in detail in the next chapter.

That said, some academics and human rights lawyers have argued for and/or proposed a new international convention to specifically address the emerging challenge posed by Environmentally Displaced Peoples to the international community in terms of migration (see CRIDEAU and CRDP's 'Draft Convention on the International Status of Persons Environmentally-Displaced Persons' 2010; Docherty and Giannini 2009; Nelson 2009; or 'A Convention for Persons Displaced by Climate Change' 2010, discussed further in Chapter Seven's framework resolution). Moreover, not all EDPs require refugee-like status in order to meet their needs as displaced persons. In fact, the current majority of Environmentally Displaced Persons are internally displaced and therefore also fall under the Internally Displaced Persons (IDP) protection regime. While classification within existing international legal regimes can exist for Environmentally Displaced Peoples (see McAdam 2012; Cournil 2011) – as it does in the case of EDPs who are also IDPs (see Koser 2011) – the fundamental challenge is that, unlike the widely-recognized group of politically displaced persons, there is not a series of overlapping protection regimes that is designed to adequately meet the needs of the entire group. By this, I am referring to the overlapping jurisdictions of IDP protection laws, refugee law, and asylum law that have been specifically designed to meet the various circumstances of politically displaced persons.[43] Instead, EDPs are left to piece together a protection regime from laws and principles that were not originally intended to protect them *as* Environmentally Displaced Persons. Just as the particular circumstances affecting the political displacement of refugees, IDPs, and asylum seekers determine the rights and privileges assigned to each forced migrant, so too would the particular experiences of environmental displacement play a significant role in

[43] This statement is not meant to indicate that there are not significant challenges and failings in the current body of forced migration international legal regime, merely that there is a regime that was specifically designed to meet their needs as politically displaced persons.

determining which legal apparatus could, or does currently hold the potential to house a set of rights which is adequately suited to meet their needs as displaced persons. With this in mind, I will now examine a series of international laws and agreements in the context through which they may be applied to each experience of environmental displacement, with the prefaced understanding that the absence of a cross-border protection option (i.e. one similar to the 1951 Refugee Convention) seriously disadvantages the prospects for building a comprehensive global protection regime for Environmentally Displaced Persons.

Group 1: Imperative Environmental Migrants

The reader will recall from Chapter Two that Imperative Environmental Migrants are the most likely group to be displaced across borders and/or experience statelessness due to the immediacy of their anticipated migration needs. These people have been or will be permanently and irrefutably displaced from their homes and/or livelihoods primarily as a result of environmental factors. The most illustrative example of this type of potential EDP is the resident of one of many 'sinking' island nations, especially those located in the South Pacific like Tuvalu, Kiribati, the Maldives, or the Republic of the Marshall Islands. Indeed, the Intergovernmental Panel on Climate Change (IPCC) has indicated that for many island nations the unavoidable "rapid sea level rise that inundates islands and coastal settlements is likely to limit adaptation possibilities, with potential options being limited to migration" (IPCC 2007, 733). As such, IEMs seem to have the most immediate and clear demand for a special migration protection regime, which may be similar to that of currently-defined "refugees," as statelessness likely resides in their future.

Under currently recognized international law, Article 1 of the *1954 Convention Relating to the Status of Stateless Persons* (hereafter referred to as the Convention on Stateless Persons) defines a stateless person as "a person who is not considered a national by any state under the operation of its law." As such, if a state were to be considered extinct, any affiliated citizenship status with that state (and the access to rights held therein) would also conceivably be terminated, as there would no longer be a state of which a person could be considered a "national" (UNHCR 2009a, 1). For those peoples who are recognized as "stateless persons," the Convention on Stateless Persons sets out minimum standards of

treatment. For example, it requires that stateless persons have the same rights as citizens in terms of freedom of religion and the education of their children, as well as – at minimum – the same treatment by a state as other non-nationals (UNHCR 2010, 3; Art. 7.1). Further, it seeks to reduce the level of vulnerability of statelessness, requiring that states provide stateless persons identity papers and travel documents, thereby upholding their UDHR right to freedom of movement (UNHCR 2010, 3). The Convention on Stateless Persons further recognizes that "protection as a stateless person is not a substitute for possession of a nationality," and therefore requires that states facilitate the assimilation and naturalization of all stateless persons in their territory (UNHCR 2010, 3; Art. 32). Significantly here, the existence and careful framing of this instrument brings into focus the importance of the sovereign state in accessing human rights, under the current international and legal regimes (see also Benhabib 2005; Belton 2011; Heuser 2007; Cohen 2008 from the previous chapter). In mandating access to a nationality as a pathway to rights, the Convention on Stateless Persons reinforces the housing of human rights in the state apparatus and not in a common humanity, following Arendt (1951). This reality stands in ongoing tension with the normative arguments presented thus far in the dissertation, and so I highlight it here as a challenge in forging sound ethics within the current political and legal realities. This tension will be carried forward and addressed in Chapter Seven's offered Resolution Framework.

The *Convention on Stateless Persons* outlines a stateless person's rights in detail; however, Articles 2, 7.1, 31, and 32 are most applicable in the context of environmental displacement and so I will focus analytic attention here. While these Articles are fairly comprehensive in nature, I will argue that they fall short of upholding EDP rights, particularly the right to adaptation assistance and the right to effectively choose migration (likely because this is not their primary goal, again highlighting the need for specifically-targeted legal rights for EDPs).

Beginning with Article 2, which states that "Every stateless person has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order" (*Convention on Stateless Persons* 1954) we can see that this Article seems to work well

towards integrating the stateless person into a new political community. It is, however, problematic for EDPs, particularly IEMs, on two points. First, this Article is discursively rooted in a concern over the host state and not over the ethical requirements of the displaced person, and second, it is fundamentally focused on the individual and does not accommodate any *prima facie* cultural or group requirements for stateless persons en masse (as will likely be the experience of many Imperative Environmental Migrants once the destruction related to persistent sea level rise reaches a tipping point). It is clear from the framing of this Article that the domestic realm is fundamentally meant to (or, accepted to) trump the international in terms of jurisdiction, allegiance, and responsibility. While this discursive frame serves the current liberal-dominated international regime well, it is problematic in effectively extending suitable universal human rights to EDPs, as discussed in the previous chapter. Furthermore, all former allegiances and responsibilities of the stateless person are severed in favour of the new state under this Article's protection, seemingly negating the possibility for dual or tiered citizenship and all its ethical benefits. Granted, this is likely a result of the traditional way in which statelessness has occurred, politically; however, the gap sheds light on the way in which environmental statelessness will present new ethical challenges to the international community. In the shedding of former allegiance, the political connection between the former (memory) and present state as well as any special consideration for the preservation of the stateless person's former identity would be lost (see Miller 2011 or Nussbaum 2008 on the value of the political to citizenship and identity, and how abstract ideas of citizenship/group identity typically fail to uphold meaningful political action or engagement). Beneficially, the impetus of Article 2 may assist in integrating new populations, especially when coupled with Article 32 which specifically seeks to facilitate integration; problematically, however, it falls short of providing space for cultural sensitivity, group rights, or group identities which are of particular concern to EDPs given the special circumstances involved in the submergence or literal "loss" of their state and statehood (see Penz 2010; or Tremonti 2013). When this concern is coupled with the environmental responsibilities that are shared by the international community in facilitating the climatic changes that cause Imperative Environmental Migration, the ethical gap is clear: more than just a loss of territory, small island nations are facing a loss of citizenship, political autonomy, and national identity in

the traditional landed sense. The framing of this Article in the negative-rights, liberal individualist tradition negates the recognition of the value of group rights (rights held by a group of people because they are a group, and not as a result of the sum total of the individuals in that group) of the lost nation state (see, particularly Kymlicka 1995) is especially concerning because, as Chapter Three has laid out, the loss of EDPs' right to culture and political autonomy is ethically insupportable. Even where a right to culture is acknowledged, under Articles 22 and 27 of the Universal Declaration of Human Rights, it maintains the state-centered framing that underpins the human rights regime: Article 22 is guaranteed "through national effort and international cooperation," and Article 27 guarantees the negative right for everyone to "freely participate in the cultural life of the community." There is no clear guarantee to ensure access to culture beyond the state, or outside of its negative-rights expression (also see McAdam 2012, 121-8 for a specific analysis in this regard to the case of Tuvalu).

In keeping with the negative-rights, liberal individualist tradition that frames much of the current international regime, Article 7.1 of the Convention on Stateless Persons outlines that "Except where this Convention contains more favourable provisions, a Contracting State shall accord to stateless persons the same treatment as is accorded to aliens generally." Here, the stateless person is afforded no new nationality or immediate citizenship status, rights, or offer of belonging in the receiving nation, nor is she to be treated in any manner other than that of any other immigrant. While this does not necessarily indicate lesser treatment, it does discursively distinguish between primary and secondary residents in the new nation in terms of membership and is therefore unable to correct the unjust (in terms of culpability) stateless status of the EDP by offering some form of immediately inclusive membership and rights. Again, the way in which environmental displacement holds different ethical requirements for the international community than are demanded by traditional political displacement is highlighted here. As it stands, current international law is not sufficiently adapted to meet these new demands and must be redressed with EDPs in mind as we move forward into what has the potential to be a new era of international migration.

Article 31 of the *Convention on Stateless Persons* lays out that "Contracting States shall not expel a stateless person lawfully in their territory, save on grounds of national security or public order." Here, it is indicated that the principle of non-refoulement stands, provided that the host state does not make a claim against 'national security' interests or public dissent – two terms which have historically been, and continue to be, problematically manipulated by states in favour of their own interests over those of more universal, ethical quality (for example, the trial and execution of Socrates in Ancient Athens, the 2003 deployment of US troops in Iraq, or the expulsion of the Roma in Italy and Spain). The reader will recall that this perspective (often aligning with the communitarian perspective) unfairly places the burden of proof on 'outsider' populations, offering states a quick exit from commitments to international ethical principles in favour of domestic state (economic or security-driven) policy.

Perhaps most helpful for Environmentally Displaced Peoples, Article 32 ensures that "the Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings." This Article is aimed at easing population integration, yet, similar to Article 2, it falls short of offering sufficient sensitivity to the special circumstances of the potential loss of state status for an entire community (again, in the context of a global responsibility for that loss) and does not make room for special group rights, which are particularly significant in the case of EDPs given the ethical circumstances of loss and the subsequent responsibilities of the international community previously discussed. As such, one can recognize the benefit of the principle, but should also pay attention to the unique position Imperative Environmental Migrants will be in, from a justice perspective. As such, while helpful, this Article also comes as a double-edged sword: a guarantee for integration, but at the potential cost of historic cultural and group rights.

The primary tensions within the reality of statelessness lie firmly in the lack of a citizen-state relationship that provides for a specialized set of rights that are exclusively granted to (individual) citizens. Non-citizens are typically afforded rights as (individual) aliens, as seen in the *Convention on Stateless Persons*, yet these rights do not ensure equal status vis-

à-vis "citizens" and maintain the distinction between what is discursively positioned as the 'true population' (citizens) and 'immigrants' or 'outsiders' (this point is particularly salient in recent years, where anti-immigration sentiments have taken hold in states worldwide: see, for example the spread of such sentiments through the United States, highlighted through Arizona's passing of the *Support our Law Enforcement and Safe Neighbourhoods* Act (SB1070) in 2010; the 2005 racialized riots in France; the anti-Roma laws in Spain and Italy; or numerous other examples). SB1070, in particular, made it a misdemeanour crime for an alien to be in Arizona without documentation and required that state law enforcement officers attempt to determine a person's immigration status during every "lawful contact," including stops, detentions, arrests, or any case where there was "reasonable suspicion" that the individual in question was an illegal immigrant. Given the broad scope of this bill, the American Civil Liberties Union has argued that it would be difficult to challenge any contact as being unlawful, which has raised significant critiques of racial discrimination and increased violent encounters between law enforcement and racial minorities (ACLU 2013). Laws like these mark a concerning trend in both the discursive and legal framing of the 'other' around the world as unwanted and, often, illegal. Much of this problem enters a conceptual dialogue with the concerns raised by Hannah Arendt in *Origins of Totalitarianism* (1951) from the previous chapter, where she notes that the first step in the extermination of Jews under the Nazi regime was their diminution to second class citizen status and the 'illegalization' of their existence, which led to a condition of complete rightlessness (296). While the Convention on Stateless Persons does not, and would not, support the pathway described by Arendt, it does not – indeed, cannot, under an international regime dominated by the principle of Westphalian sovereignty given the state's ultimate authority over migration – do enough to ensure it is avoided. Even second-class citizenship, a far cry from Arendt's ultimate end, is ethically unacceptable.

Shifting focus outward, where the Convention on Stateless Persons does not acknowledge group rights in the context of statelessness and migration, Article 15 of the *Universal Declaration of Human Rights* (UDHR) (1948) purposefully grants everyone the right to a

nationality.[44] This makes substantial strides to avoid the shortcomings of the Convention on Stateless Persons. Nationality is recognized as being of primary importance because it offers inclusion and a means through which one can access his or her rights as an included member (see, for example, Portugal's Nationality Law, Switzerland's Nationality Law, or Britain's Nationality Law, all of which lay out access to citizenship, the rights of territorialized citizens, and the rights of citizens in other states). Yet, the UDHR does not – indeed, cannot, under an international regime dominated by the sovereign authority of the state – specifically delineate which state must secure this right. The absence of this information makes the realization of the right to a nationality particularly difficult for any person outside of a citizen-state relationship. Without a state through which to make such rights claims, the process of securing one's basic rights can become strained, if not disregarded, in favour of domestic priorities such as "security," and, often cloaked therein, the economy – which the reader will recall I have argued is ethically unacceptable (also see Arendt 1951 on this point). Problematically, this is likely to be the experience awaiting many Imperative Environmental Migrants, given the current standing of the international legal regime in an international political environment that favours domestic politics above global ethical goals. On this point, Conventions that focus on individualized relocation like the *Refugee Convention* or the *Convention on Stateless Persons* are fundamentally unable to meet the full range of ethical requirements set out by Imperative Environmental Migrants. A clear example of the shortcomings of international law in protecting the full range of EDP rights, particularly the pre-emptive migratory and adaptive needs of IEMs, is evident in the cases of relocation that have already occurred in Vanuatu and the Carteret Islands, as well as and analysis of the projected displacement that will affect Kiribati and the Maldives.

Relocating Imperative Environmental Migrants Under the International Legal Regime: the cases of Vanuatu and the Carteret Islands; and Kiribati and the Maldives

[44] This provision is also located in the Convention on the Rights of the Child arts 7-8 (full right for children), and the American Convention on Human Rights art. 20 (full right for all). Furthermore, the Inter-American Court of Human Rights has decided several cases on the art. 20's right to a nationality. While there is no precedent-setting (*stare decisis*) in international law, their judgments have been influential for other international courts and decision-makers. See in particular, their August 28, 2014 judgment in Case of Expelled Dominicans and Haitians v. Dominican Republic, especially pages 83-87 on the general legal obligations arising out of a right to a nationality, including reduction of statelessness.

As the disappearance of a state due to the loss of territory, or the permanent exile of a population (or a significant segment thereof) or government is without precedent, it is difficult to predict what will become of the world's first stateless population resulting from climate change. That said, there are indications that it is not a process that will transpire smoothly and without substantial political and ethical complications.

In August 2005, the government of Canada, through the Canadian International Development Agency (CIDA), funded a relocation project on the island of Vanuatu. In response to persistent flooding of the inhabited regions of the island, the residents of the village of Lateu were permanently relocated to higher ground in the interior of Tegua, one of Vanuatu's Northern provinces (Environmental News Service 2005; CIDA 2010a). While initially functional in that the residents were relieved of the chaos of constant flooding, the assistance of the Canadian government was designed and enacted as a single event, as is often the case with 'charitable' donations: a one-time offer to assist relocation. With no indication on the part of the Canadian government to offer sustained assistance to Vanuatu, as "CIDA does not maintain a significant assistance program in Vanuatu and there are no long-term projects planned in this country" (CIDA 2010b), it seems that the full scope of the assistance project will ultimately remain unfulfilled as the long-term impacts of flooding on the island have been left unaddressed. As sea levels continue to rise and arable land is increasingly lost to salination and flooding, it is only a matter of time before life on Vanuatu will once again be unsustainable. Problematically, while the Canadian government and CIDA have recognized Vanuatu's need for assistance, their involvement in the project has fundamentally been framed as an act of charity. Yet, as charity, this form of assistance is unreliable, at best, as the reader will recall from Chapter Three. The charitable nature of the project is in keeping with the overall frame of the international community, where responsibility is demarcated through borders and states. No international responsibility is carried forth into the future and the full range of the ethical demands of EDPs on Vanuatu will remain fundamentally unrecognized, despite their relocation. This is a troubling – although, not entirely unexpected – indication of the future of EDP rights under the current international regime. Where it may be, and is expected to be, recognized that assistance is necessary, this assistance will likely follow the trajectory of the relocation project on

Vanuatu given its rootedness in the discourse of liberal internationalism. Under this regime, states offer one-off packages of humanitarian aid when and where they deem it necessary. These tend to be minimal, unclear, and short-sighted in their application: failing to address the root causes of environmental displacement and its long-term nature; blind to its ethical face and demands. The Carteret Islands provides yet another example of the shortcomings of adaptation assistance under the current international regime and the domestic limits of responsibility.

In April 2009, inhabitants of the Carteret Islands in Papua New Guinea began relocating away from lands ill-affected by climate change onto land donated, charitably, by the Catholic Church in Tinputz (Solomon Times 2009). According to a survey conducted by a local Non-Governmental Organization (NGO) created by a group of elders on the island, "Tulele Peisa," given the new availability of land to the approximate 180 families, eighty families wished to move immediately and fifty families preferred to move in the near future. Twenty families had already relocated, following the initial five elders, and thirty families remained unsure about relocating (Rakova 2009; Solomon Times 2009). Extrapolating from this survey, I believe we can draw two conclusions: first, that when facing persistent flooding, there is a generalized political will among the population to relocate to a more stable region. Second, when coupled with the literature emerging from small island nations that clearly indicates adaptation – and not cross-border migration – is their plan for the future (see *Threatened Island Nations Conference* 2011; *Refugees of the Blue Planet* 2006; McAdam 2010). I believe we can conclude that relocation within the nation, as a large group, is preferred to individual, or cross-border, migration. Whether this is indicative of a clear desire to maintain national unity as a cultural, political, or other group identity is yet unclear; however, both of the existing cases of environmental relocations highlight this as an important local concern. Together these insights highlight two considerations that are likely to frame a significant portion of the debate for Imperative Environmental Migrants into the future: they don't want to move, and they do not want to lose their culture or their group identity. For example, the reader could look to the presidential addresses from the President of the Maldives, Mohamed Nasheed, in 2012 [Burgess 2012] and more recently, from the President of Fiji, Epeli Nailatikau, during his

state visit to Kiribati in February of 2014 [AFP News 2014], both of which clearly indicate that local adaptation is preferred to cross-border migration, but that should the latter be necessary, their people wish to remain intact as a group. Ethically, this dissertation has argued that the responsibility to meet these concerns lies with the international community, but on a practical level, the full implications of this responsibility as yet remain unrealized. One-time land donations and offers of humanitarian aid are insufficiently cognizant of the full range of challenges presented by environmental displacement to be considered as having met this responsibility.

It is also significant that neither population in these brief case studies (nor any other, to date) was relocated outside of its native nation state, and thus did not lose its citizenship status, rights, or national identity. True statelessness resulting from the deteriorating environmental conditions associated with climate change have yet to emerge for any population; it is, however, predicted to occur within this century (see IPCC 2007; Black 2001; Myers 1997, among others). This condition is undesirable for a number of reasons, the most compelling of which is the lack of a secure set of rights for any population with this status (see above, also Arendt 1951), but it also raises ethical concerns over the uncertainty of where or how a large group would be relocated, or potentially with whom they would be relocated (i.e. *en masse*, familial, or individual migration). From interviews with potential environmentally stateless populations (McAdam 2011; also see Tremonti 2013; *Refugees of the Blue Planet* 2006), avoiding a condition of statelessness is much preferred by potential EDPs. This logic further holds in light of the ill-adapted international legal regime, which, as we can see, holds few if any substantial rights for cross-border EDPs. Yet, there are few creative options in interpreting international law that may avoid a condition of statelessness for potential EDPs, outside of dramatic and expensive domestic adaption attempts.

Legally, three instruments in international law could be invoked over the issue of statehood: the *Convention on the Rights and Duties of States* of 1933 (referred to as the Montevideo Convention), the *International Law of the Seas Convention* of 1982, and the *Island of Palmas* arbitration of 1928. While, as mentioned, there is no clear legal precedent for loss of an entire territory or the displacement of an entire population, the continued

viability of the sovereign statehood and political autonomy of such a people is fundamentally drawn into question under the current principles of international law. In his judgement for the *Island of Palmas* case, Justice Huber states that "sovereignty in relation to a portion of the surface of the globe is the legal condition necessary for the inclusion of such portion in the territory of any particular state" (2 RIAA 829, 838 (1928)). In other words, sovereignty and land are inextricably linked under international law: if a state loses its land, it seems likely that it will also lose its statehood.

Yet, there is potential for some interpretive legal reasoning. For example, it is possible that under international law, the statehood of a people would not cease to exist if the loss of habitable land or exile of a population were only temporary. Under the Montevideo Convention, states must hold (a) a permanent population, (b) a defined territory, (c) government, and (d) have the capacity to enter into relations with other states (Art. 1). The Montevideo Convention does not, however, set minimums in terms of the size of the population on the physical territory that would be required to uphold legal status, thus leaving space for some interpretation (see Rayfuse and Crawford 2011; Crawford 2006, 52; Franck and Hoffman 1976, 331-386). These legal parameters bring into question whether a temporary loss of land usage would render a state null and void, or if exceptions could be made on a case-by-case basis. An extreme example might see a rotating contingent of people (even one or two) to account for the required population nucleus for statehood, in a single dwelling, surrounded by the sea.

A second possible approach to the maintenance of statehood in the face of rising waters is found in an expansionist interpretation of the *International Law of the Seas Convention* (1982). Under this Convention, a state's sovereign territory may not necessarily need to be defined exclusively by its dry land, but rather could be mapped out through a series of maritime zones including internal waters, a territorial sea, an exclusive economic zone, a continental shelf, and, where the geomorphic conditions exist, an extended continental shelf (Articles 8, 17, 56, and 77). Potentially, therefore, it may be possible to expand the "defined territory" required by the *Montevideo Convention* to include underwater territorial land. Returning to our extreme example, we might now see our population nucleus

dwelling in a raised structure, or even on a constructed floating island, should seawaters rise to a level that completely submerges a state's habitable territory.

As there is no precedent for either claim, and as such, the legal result is questionable; however, under strict definition, it does seem likely that statelessness would ensue – minimally, on a temporary basis (i.e. it may be restored upon a re-emergence of dry land and the return of a permanent population, should this become possible). However, if such a situation were to be permanent – as is expected in the case of many small island nations in the South Pacific – the status of statehood would likely be revoked under current international law. Indeed, the decision in the *Island of Palmas* arbitration seems to be rather definitive on this point:

> Although municipal law, thanks to its complete judicial system, is able to recognize abstract rights of property as existing apart from any material display of them, it has none the less limited their effect by the principles of prescription and the protection of possession. International law, the structure of which is not based on any super-State organization, cannot be presumed to reduce a right such as territorial sovereignty, with which almost all international relations are bound up, to the category of an abstract right, without concrete manifestations (*Island of Palmas Arbitration [Netherlands v United States] 1928, 2 RIAA 829 [839]).*

Should the loss of sovereign status ensue, the rights outlined in the Convention on Stateless Persons could then accurately be invoked by the displaced inhabitants of these states (UNHCR 2009a, 1); however, as discussed above, it is unlikely that this Convention will be able to offer substantial ethical protection for EDPs in its current form.

The UNHCR (2009a, 2) has further identified two options under current international law which could help potential EDP states avoid a condition of statelessness, should their land become uninhabitable: first, territory elsewhere could be ceded to the affected state to ensure its continued existence. If other states agreed that this relocation constituted the same state, a condition of statelessness would not arise (UNHCR 2009a). The second possibility is that union with another state could occur: here, the *1961 Convention on the Reduction of Statelessness* and the *Draft Articles on the Nationality of Natural Persons in*

Relation to Succession of States would provide for specific safeguards to prevent a condition of statelessness (UNHCR 2009a).

While neither of these strategies gains much traction in its current application, both Kiribati and the Maldives have engaged in attempts to purchase land from another state, seeking to extend their sovereignty beyond its current borders. To date, this option has assumed financial purchase in its application, and not donation, cession, annexation, or the like. The level of 'union' or sovereign integration in both of these cases remains unclear, but it seems both states are looking for relocation options within the bounds of sovereign state status.

The Maldives is a nation composed of 1,192 islands, 200 of which are home to about 380,000 people. In 2008, the Maldivian government began a campaign to buy land from a nearby state. Its primary targets were India and Sri Lanka due to the cultural, climatic, and cuisine similarities between the nations, further indicating that maintaining the same, or at least a similar cultural identity is an issue of concern for potential EDP populations (see also *Threatened Island Nations Conference* 2011; Burgess 2012; AFP News 2014).[45] The Maldivian government also pursued the possibility of purchasing land from Australia due to its vast amount of unoccupied territory, as a second option (Ramesh 2008; Doherty 2012). Despite a general lack of response, the Maldives was joined in February of 2009 by Kiribati, in seeking to purchase land from another state unto which their people could be relocated. As of 2009, both countries had established funds for this purchase by redirecting revenue from the tourist economies on their islands and were awaiting offers of land for sale (Miadhu News 2009), but were simultaneously pursuing other options. For example, with 14 uninhabited islands already lost to rising sea levels, the Maldives commissioned the construction of a series of floating islands in March 2010, to be built by the same company that constructed much of Dubai (Dredging Today 2010; Doherty 2012). Kiribati is considering the same, at an estimated cost of $2 billon USD (Ross 2013). These bits of artificial land are designed to rise with increasing sea levels, but their longevity in

[45] It is, however, likely that the level of importance given to this issue by the government would decline as living conditions deteriorate. Should this be the case, it must also be recognized that the political decisions of the government cannot be used to detract from ethical standing of the initial claim.

the context of continuing climate change remains uncertain, as does the legal status of a state which may eventually come to exist entirely on such artificial contraptions (from above, with respect to an expanded interpretation of sovereignty through the *Law of the Seas Convention* and its ability to shift the current standing interpretation of the Montevideo Convention put forth by Huber in the *Island of Palmas* arbitration). In 2013, Kiribati finally succeeded in securing 6,000 acres of land in Fiji for a reported $9.6 million USD, but has yet to relocate its population (Marau 2013). Indeed, the purchased land is currently being used to grow crops as a method of extending Kiribati's food security beyond the island's current (insufficient) level of agricultural sustainability that has been deeply challenged by increasing salination of the soil (*The Jet* 2014). Even if the government should choose to relocate its population, the continued legal status of the state and political autonomy of the people fundamentally remain unclear under international law.

From initial legal reactions to these pursuits, attempts to purchase land as a precaution against large-scale flooding resulting in un-inhabitability may meet further challenges in a distinction made in international law between purchased land (i.e. being a "property owner") and reconstituting another nation (see Hollis 2008; or McAdam 2009; see Nine 2010 for the ethical implications of legal property rights due to climate change, under traditional liberal theory). While nations may be able to secure a sufficient quantity of land in another state, this purchase would not necessarily give them sovereign rights, or the right to dictate their own laws and practices, under the Montevideo Convention (especially see Article 1, discussed above). Instead, the purchaser state would likely only hold property in another state in the same way an individual "owns" property in Canada: you have the right to live on that land, provided you abide by the laws of the state and pay your taxes. What nations like the Maldives and Kiribati are attempting to do is much more complicated in a legal sense, despite being practically alike in terms of acquiring an area of dry land upon which their residents can live: land ownership and sovereign authority are fundamentally different legal concepts. In order to re-establish the 'nationality' of a land mass, historically, international law recognizes a very limited number of methods for states to acquire territorial sovereignty: conquest, discovery, occupation, accretion, cession,

or prescription (Hollis 2008; where conquest and discovery are no longer considered valid means of acquisition of territory, and occupation is only a ground for acquisition of territory if the land is *terra nullius* (the property of no state) and other criteria are satisfied. Furthermore, there is arguably virtually no *terra nullius* left to claim). Accretion (the expansion of existing land masses through geological changes), while technically possible, does not cleanly apply to the current situation of 'sinking' island nations. This reality leaves the possibility for cession – where another state would essentially give up land, in return for money or by signing a treaty, to the distressed nation – or prescription, where the distressed state would hold control over a territory peacefully for a sufficient period of time so that territorial sovereignty becomes recognized, even if there were no otherwise legal foundation for doing so. Historically, the Louisiana and Alaska Purchases, and Hong Kong's shifting sovereignty to the UK after the First and Second Opium Wars were acts of cession. However, typical cession agreements have failed to be reached in recent history, likely as a result of nations not wishing to permanently part with their land, resources, or the associated perceived international sovereign power (see Beaulac 2003). This trend seems unlikely to change in the near future, limiting the prospects for cession to 'sinking' states. Further complicating the option of cession is the question of what would become of the current local residents and their nationalities – would they be forced to move, or join the 'new' community?

The prospects for prescription also remain very unclear. Could distressed nations even find themselves in a situation where this is a possibility? For example, if Kiribati moved its population onto the 6,000 acres purchased from Fiji, might they be able to make a claim for sovereignty after some time? Or, would having initially purchased the land negate a possible claim for prescription? Australia's outback also seems to hold an option for prescription in that it is largely uninhabited and thus 'available' for population relocations; however, Australia is also well known for having strong anti-immigration sentiments in recent years (BBC 2010a; BBC 2010b), and the outback region is further a particularly inhospitable environment. Together, these points raise questions of the long-term viability of such a move, particularly for islanders relocating to desert conditions. It seems that only time will tell, as there are no clear legal precedents for either arrangement; yet, at the time

of writing, the prospects of sinking island nations fully acquiring another, legally recognized, sovereign nation remain minimal.

The second suggestion from the UNHCR (2009a, 2) is that distressed nations seek a union with another, more climatically-stable, state. Such an arrangement would likely take place in the form of a multilateral agreement between the two states, before significant flooding had displaced the population. Politically, there are a few possibilities as to how the new government could be organized, spanning the range from assimilation to an asymmetrical federal situation with dual citizenship status, where new residents would have a set of recognized responsibilities to the new state (for example: taxes, obedience to the law, and the like) while simultaneously maintaining a set of rights as new citizens within a recognized distinct society (for example, language, culture, religion, health care, permanent residency, social security, and education). The first set of responsibilities would recognize the new union between states, where the second set of rights would seek to given recognition to their distinct status as a sub-set "national" population (perhaps such an arrangement might look similar to that between Canada and First Nations' governments, or the province of Quebec). Other, less recognizable, possibilities might include shifting sovereignty into a tiered arrangement (see Pogge 1992), or employing some configuration of 'flexible citizenship' (see Ong 1999, or Benhabib 2004). There is a real possibility here for balancing the needs and demands of all parties; however, it is unlikely that any of these arrangements will come to fruition without a shift in the framing and functioning of the current international regime. This point will be expanded in detail in Chapter Seven.

On a policy level, labour migration schemes set to gradually introduce a new population into an existing population seem to be fairly amenable under the constraints of the current international regime (see, for example, New Zealand's arrangement with the South Pacific island states of Kiribati, Tuvalu and Tonga to grant residence to 75, 75, and 250 labour migrants respectively each year under the Pacific Access Category, or numerous temporary foreign worker programs worldwide). However, while "family" categories in immigration policies remain available for use, these programs are fundamentally directed at individual immigrants, and not groups or nations. Again, we see a failure to uphold any substantial

form of the group or cultural rights that this dissertation has argued are ethically owed to EDP populations.

Finally, from an ethical standpoint, a union between two nation states marks an important attempt to meet the needs of both the receiving and migrating nations in that it recognizes that there are differences between the two population sets. Imperative Environmental Migrants are not typical migrants. They are not primarily seeking new opportunities or even political refuge. In its extreme, this group of potential migrants quite literally has no option but to move or die. As such, I have argued that it is not fair to expect them to give up their national identity and the cultural, religious, linguistic, or domestic practices that go along with it and fully assimilate into another national group, particularly given the role of the international community in creating their situation of potential statelessness. Furthermore, I have also argued that responsibility for ensuring that the ethical demands associated with Imperative Environmental Migrants are met should not solely fall upon one state (or even a handful of states) quite simply because responsibility for the causes of global climate change and the reason that migration is necessary in the first place do not lie solely with one state (or handful of states). Thus, no state should be overly burdened in accepting and maintaining a vulnerable population, keeping with Pogge's (2001) principles of moral universalism. The use of a labour-migration strategy in particular not only offers refuge from distressed land, but also offers the beginnings of a sustainable livelihood in the new state for migrants. Of course, questions as to the quality of work, pay, and livelihood (the more elusive social and cultural rights of the UDHR) must be asked during such a process, but given the dire straits many of these states are likely to find themselves in, overall, it initially seems to be a promising durable solution for many smaller island nations worldwide.[46] Furthermore, the UNHCR has expressed support for such an approach and is willing to assist states that are prepared to participate in such a program (UNHCR 2009a).

Yet, as mentioned, there is also important, if muted, space in international law that houses positively-rooted rights (particularly economic, social, and cultural rights, but also some civil and political rights: for example, see the International Covenant on Economic, Social

[46] The full prospects of such a strategy will be discussed in greater detail in Chapters Six and Seven.

and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Rights of the Child, and the various provisions to maintain a right to life in regional human rights treaties like the European Convention on Human Rights [1950], the American Convention on Human Rights [1967], or the African Charter on Human and Peoples' Rights [1981]). Within this body, there is a particularly clear area to build from: the right to life. Under international law, the principle of the right to life also informs the conceptualization and treatment of EDPs. McAdam (2012, 55-63; 220-222) highlights this right because of its widespread inclusion across instruments like the UDHR, Article 6 of the International Covenant on Civil and Political Rights (ICCPR), Article 6 of the Convention on the Rights of the Child (CRC), and in all regional human rights treaties (i.e. Article 2 of the European Convention on Human Rights, Article 4 of the American Convention on Human Rights, Article 4 of the African Charter on Human and Peoples' Rights, and Article 5 of the Arab Charter on Human Rights) (2012, 55). She notes that an analysis of the UN Human Rights Committee suggests that there are five central criteria to trigger right to life protection, which, significantly, includes an obligation to take positive measure to protect it:

1. The risk to life must be actual or imminent
2. The applicant must be personally affected by the harm
3. Environmental contamination with proven long-term effects may be a sufficient threat, however there must be sufficient evidence that harmful quantities of contaminants have reached, or will reach, the human environment
4. A hypothetical risk is insufficient to constitute a violation of the right to life
5. Cases challenging public policy will, in the absence of an actual or imminent threat, be considered inadmissible (McAdam 2012, 57).

This principle shows immense promise for triggering IEM protection – pre-emptive protection – under international law not only for its widespread regional and international adoption, but also because of it interpretive content. For many IEMs, particularly those on sinking island states, there will come a time when the threat posed by the environment is

imminent, and all applicants will be directly affected by the harm in this regard. Limitations of the right to life clearly include the extent to which it is pre-emptive, as this will be complicated by the lack of clear predictability of climate change (as the reader will recall), as well as by the complications presented by state sovereignty and domestic public policy (acknowledged and reinforced through the fifth criteria); however, the proactive, positive nature of this principle is significant in its focus and expected outcome, as McAdam (2012, 55-59) argues is substantial given its international, regional, and domestic iterations.

Overall, in the case of Imperative Environmental Migrants, it seems that the most immediate option to ensure protected status is to work pragmatically with domestic states and their immigration policies, and to make full use of multilateral agreements and organized migration programs, rather than seeking to reinterpret existing international legal frameworks such as the Refugee Convention or the Convention on Stateless Persons as neither of these instruments appear to hold significant potential to meet the ethical or cultural requirements of EDPs in their current form. While international law may hold some possibility to expand the interpretation of state sovereignty, it remains unclear as to how this might play out in the absence of any legal precedent. Furthermore, the ongoing maintenance of the sovereign state system poses significant ethical challenges for the realization of migration rights for Environmentally Displaced Persons under international law, thus raising questions as to the wisdom in such pursuit under the current international regime.

Group 2: Pressured Environmental Migrants

The reader will recall that Pressured Environmental Migrants (PEMs) are migrants who, as a result of the slow-moving but devastating processes of climate change, are no longer able to participate in effective subsistence lifestyles and are thus strongly pressured to migrate away from their homeland to more hospitable climates in order to sustain their basic living requirements for food, water, and shelter. Without stretching interpretation too far, there are two facets of international law that could be applied to Pressured Environmental Migrants: human migration and protection law, and environmental protection law. Under

the first approach, the laws generally require states and international organizations to protect the human rights of displaced persons. Under the second, states are required by international laws and agreements to prevent and protect against environmental degradation and disaster, wherever possible. As such, they may also offer domestic protection to potential Imperative Environmental Migrant populations in their plight to avoid displacement. However, in both approaches, there is a significant institutional gap between what are normatively, legally, and institutionally recognized as a set of rights for internally displaced (environmental) migrants and the set of rights which are actually available to be accessed by this group of vulnerable migrants due to a lack of political will to classifying them as Internally Displaced Persons (IDPs) and not economic or general internal migrants.

Beginning with the human rights aspect of international law, it is first important to note that Pressured Environmental Migrants can be displaced both within their own state and across state borders. The majority of PEMs will, however, likely remain within their current national borders, where there is an existing legal framework through which they can theoretically access a set of rights as Internally Displaced Persons,[47] even though the framework may not be tailored to meet their full range of ethical demands as internal EDPs. When Pressured Environmental Migrants cross borders as (environmentally) displaced persons, they largely do so extra-legally or as economic immigrants, if possible, as there is no framework designed to recognize a set of international environmental migration rights.

Environmentally Displaced Peoples who remain within their own state's borders largely qualify as legally-recognized Internally Displaced Persons under the *United Nations Guiding Principles on Internal Displacement* (1998). This instrument identifies IDPs as "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 [...] natural or human-made disasters, and who have not crossed an internationally recognized State border" (United Nations Guiding Principles on Internal Displacement 1998). As such,

[47] Access to rights as IDPs is not, however, likely to be the primary reason why internally displaced EDPs will not cross borders (where financial considerations, documentation, and border security play larger roles).

people fleeing from long-term flooding, desertification, or any other significant environmentally-changing event would qualify to receive status protection.

However, as with all aspects of international law, tensions quickly arise in discussions over definitions. In 2005, a panel of experts on internal displacement commissioned by the UK government recommended that the IDP concept should be limited to persons displaced by "violence" because the causes and remedies of conflict-induced and disaster-induced displacement were different, making it "confusing" to include both concepts within the IDP definition (Castles et. al. 2005, 12). Some governments have also purposefully avoided classifying persons who have been uprooted by natural disasters as IDPs. For example, in Aceh, Indonesia, the government chose to label those people who had been uprooted by the 2004 tsunami as "homeless," presumably to distinguish them from the more politicized "conflict IDPs" which the government had barred from accessing protected status (Couldrey and Morris 2005, 28).[48] In the United States, the federal government offered every possible description of those persons uprooted by Hurricane Katrina in 2005, with the exception of IDPs. They described them as "refugees," "evacuees," and finally "disaster victims," likely due to the negative association of "IDPs" with people displaced by conflict elsewhere, particularly in the developing world (Cohen 2006, 2008). The leading organization responsible for monitoring the number and condition of IDPs worldwide, the Internal Displacement Monitoring Centre (IDMC), does not include people uprooted by disasters in its statistics either, despite clearly acknowledging that they are also IDPs (Cohen 2008). Not dissimilarly, in 2005 the UNHCR made it clear that while it would serve as the lead agency for the protection of "conflict IDPs" under the United Nations' new "cluster approach," its role would not extend to those people who were uprooted by natural disasters except "in extraordinary circumstances" (UNHCR 2007).

As such, and as Cohen (2008) describes in her report to the Brookings Institute, there is a significant institutional gap between what are normatively, legally, and institutionally recognized as a set of rights for internally displaced environmental migrants and the set of

[48] As the reader will recall, there is increasing evidence that tsunamis can be linked to climate change where temperature changes in ocean currents disrupt otherwise stable ocean fault lines, or cause underwater avalanches (see "Climate Change And Tsunamis: Ice Melt May Cause Underwater Avalanches" 2013).

rights – or the lack there of – which are actually available to be accessed by this group of vulnerable migrants. While there may be a functional set of rights available to internally displaced environmental migrants, they have typically not been accessible to this population due to a lack of political will in classifying them as IDPs.[49] Even more problematically, this gap has led to practical fallout including, but is not limited to: sexual and gender based violence; discrimination in access to assistance on ethnic, caste and religious grounds; recruitment of children into fighting forces; lack of safety in areas of displacement and return areas; and inequities in dealing with property and compensation (for examples of cases, see Cohen 2008). Clearly, this gap indicates a significant area of concern for the future of environmental displacement rights and requires attention from both policymakers and ground-level activists in order to avoid significant human rights failings in the future. As such, it will receive significant attention in Chapter Seven of this dissertation, which is designed to offer a politically-minded proposal for the future of environmental migration rights.

Under the second facet of international law and agreement – that which focuses more on the protection of the physical environment – the UNHCR locates potential challenges for states at three primary levels: (1) States have an obligation to mitigate the effects of climate change; (2) States have an obligation to reduce the risks created by, and vulnerabilities caused by, climate change; and (3) States have an obligation to protect individuals displaced by the effects of climate change (UNHCR 2009b).

Firstly, states have an obligation to mitigate the effects of climate change. Indeed, all state parties to the *United Nations Framework Convention on Climate Change* (UNFCCC) and its Kyoto Protocol have committed themselves to reducing the emission of greenhouse gases (UNHCR 2009b, 5). The UNFCCC, which took effect on 21 March 1994 and has been ratified by 195 countries, commits all Parties to cooperate with each other to aid adaptation to climate change in areas affected by drought, desertification, and flood (Art. 4(1)(e)). It further calls upon developed countries to help address the consequences of climate change

[49] It should be noted that in as much as achieving IDP status for EDPs who are also IDPs would signify an advance in the state of EDP rights, IDP status was not designed for EDPs and as such should not be regarded as a full "win" in that it cannot anticipate and address the specific ethical demands of all forms of environmental migrants – particularly cross-border migrants and those who choose not to migrate.

in developing countries that lack the resources to do so on their own accord (UNFCCC Art. 4(1)(e); Longden et.al. 2012). These mitigation measures are aimed at slowing down and eventually stopping climate change and its destructive consequences (the latter of which the reader will recall is now beyond the realm of current scientific possibility). As such, if and when these measures are effectively enacted, it is likely that they would have an important preventive effect on displacement. However, enforcement mechanisms and, therefore, assurance that such mitigating effects will be realized, are severely lacking in the international community. The UNFCCC, while ratified, is non-binding and therefore has no legal force or effect, which only widens the gap between normative international law and its effects for EDPs and potential EDP populations (Longden et. al. 2012). Following on its heels, and perhaps learning from some of the shortcomings of the UNFCCC, the Kyoto Protocol, which entered into force in 2005, marked the world's first legally binding agreement on climate change. It is aimed at setting specific targets for greenhouse gas reductions in thirty-seven industrialized countries and the European community, the first commitment period of which ended in 2012. With many European States meeting or exceeding their targets, the first round of Kyoto can still not be said to be a complete success (UNFCCC 2013). Belarus, Kazakhstan and Ukraine have stated that they may withdraw from the Protocol or not put into legal force the Amendment with second round targets. Japan, New Zealand, and Russia participated in Kyoto's first-round but have not taken on new targets for the second commitment period. Canada withdrew from the Kyoto Protocol in 2012 and the United States failed to ratify the Protocol to begin with (UNFCCC 2013; Clark 2012). In all, the collective reduction of developed countries during the first round accounts for a mere 2% cut in GHG emissions (Clark 2011). If the carbon footprint associated with the imports of these states is included in the data, however, the overall carbon emissions for developed countries would actually increase by 7% over this time (Clark 2012). With such dismal findings from a legally-binding agreement, it is clear that the preventive character of these agreements needs to be further strengthened in successor, or similar, agreements, which should focus on enforcement. Considering that climate change does not stop at borders but concerns all states – some, particularly in the developing world, more than others – and is a common heritage, such mitigation obligations should be enhanced in any further international environmental agreements

(see UNHCR 2009b, 5). While the Kyoto Protocol and UNFCCC provide good initial frameworks for addressing the challenges and potential methods for amelioration and/or resolution to the effects of climate change, neither includes a sufficient enforcement mechanism so as to be able to supersede the jurisdiction of state sovereignty, even where states have agreed and ratified their commitments domestically. As such, states like the United States and Canada have been able to back out of Kyoto's requirements after signing the legally-binding Agreement by simply declaring that meeting their Kyoto targets would be too costly for their domestic economy (UNFCCC 2013; Suzuki 2011). Until international environmental law and agreements have the capacity to enforce their directives, it seems that William Forster Lloyd's 1833 theory of the 'tragedy of the commons', where each individual attempts to extract as much possibly from the commons for personal gain, leaving the problems associated with depletion for someone else to rectify, will continue to hold true – particularly in terms of mitigating the consequences of climate change. States worldwide have consistently demonstrated that in the context of environmental protection, domestic economic concerns tend to take priority over other commitments (again, particularly illustrative is the long list of countries above, which have decided not to commit to a second round of Kyoto reductions). Therefore, it seems that in order to convince a state to push forward restrictive environmental legislation, illustrating the economic benefits of such legislation will be an important consideration in almost all cases (for a particularly illustrative example, see the United States' rejection of its Kyoto commitments and subsequent passing of the less-constraining Clean Air Act [1990 amendment]).

This extant reality, however, fails to recognize the ethical and logical gap in its reasoning: the striking difference here between what has been framed as international environmental law and international human rights law is fallacy (see Blau [2005] on the way in which liberalism undercuts the environment as a basic human right through, for example, the privatization of the commons). If, for example, a state ratified human rights commitments to not exterminate a portion of its population (even if it did not ratify such a principle, for that matter), and then decided that profits could be made by reneging on its human rights commitments, the international community would – at least – raise concerns. Further, it is

likely that the violating state's sovereignty would be breeched in order to protect the targeted population. Under environmental law, despite scientific and historic evidence that environmental destruction leads to widespread destruction, a state reversing its decision to uphold its own *ratified* and *binding* commitments meets little or no repercussions (see, for example, Canada's recent rejection of its legally binding Kyoto commitments [CBC News 2011]). It would certainly not result in a breach of sovereign borders under today's international regime. This sort of distinguishing is both a logical and ethical fallacy at its core. Distinguishing between state violence resulting in widespread death, and widespread death resulting from state policy is distinguishing without difference. The fact that such reasoning stands in today's international regime is indicative of the inappropriate value given to the principle of state sovereignty over human (environmental) rights: under no ethical or political reasoning would state action leading to death stand; yet, it seems increasingly likely to stand in the case of EDPs, likely because the environment is a third party. Clearly, the nesting of international law under the power and jurisdiction of domestic state sovereignty needs to be more carefully evaluated to avoid these types of logical gaps.

The second principle located by the UNHCR in international agreement, notes that states have an obligation to reduce the risks created by, and vulnerabilities caused by, climate change. Specifically, the UNHCR looks to the *Hyogo Framework for Action: Building the Resilience of Nations and Communities to Disasters*. Essentially, *Hyogo* sets out that the reality of climate change must be accepted to the degree that it has developed thus far: its environmental and human impacts are already felt and will increase in impact and severity in the future. This fact demands that the international community take measures to reduce the adverse effects of climate change by seeking methods to mitigate the impact of natural hazards through a reduction of vulnerabilities, or enhancing resilience capacities or adaptation measures. The *Hyogo Framework for Action* lays out five priority areas for attention, to be focused and improved upon over a ten-year span (2005-2015):

1) Make disaster risk reduction a priority: Ensure that disaster risk reduction is a national and a local priority with a strong institutional basis for implementation.

2) Know the risks and take action: Identify, assess, and monitor disaster risks – and enhance early warning.

3) Build understanding and awareness: Use knowledge, innovation, and education to build a culture of safety and resilience at all levels.

4) Reduce risk: Reduce the underlying risk factors.

5) Be prepared and ready to act: Strengthen disaster preparedness for effective response at all levels (see, also Horekens 2007, 252).

It is further complemented by human rights obligations which are directly relevant for addressing instances of environmental displacement: for example, the reduction of disaster risks and vulnerabilities by setting up alarm and evacuation system has been defined by the European Court of Human Rights in *Budayeva et al. v Russian Federation, 2008* as a human rights obligation. If a disaster is foreseeable and the state is able to prevent the ensuing threats to the life and property of persons, it has to take appropriate actions in terms of meeting its human rights obligations under the right to life and/or the protection of privacy and property (*Budayeva et al. v Russian Federation, 2008*). Interestingly, though, according to McAdam (2012) under *Budayeva et al. v Russian Federation* the state's burden is less onerous when the disaster is natural, rather than human-induced. McAdam (2012, 92) importantly uses this case to highlight the deeper challenge of legal liability in this context (indeed, with regards to environmental law in general), in that it is quite difficult to meet the burden of proof for negligence. Further, litigation, as a method to resolve issues of environmental displacement is even more problematic in its retroactive approach: harm must have been caused before a party can enter into litigation (McAdam 2012, 92). For most EDPs, I argue that this approach (as the reader will also recall from Chapter Three's discussion of the harm principle) is both inappropriate and unhelpful in securing their necessary, positive/proactive migratory rights.

Yet, again, while *Hyogo* provides an excellent initial strategy that is designed to be able to ameliorate the severity of the fallout of environmental disasters, its enforcement capacity is negligible. Indeed, the UNHCR (2009b, 5) suggests that states should take the *Hyogo*

Framework for Action into greater consideration than they currently are. Given its current standing in the international regime, the positive effects that implementing this framework would create are left up to the benevolent will of each individual state to choose implementation for the sake of its people over other state matters such as security or the economy. Again, the prognosis of states making such a choice is not promising: for example, one could look to the current state of New Orleans in the United States. The U.S. is generally considered to be a wealthy country by most measurable standards, in good political order, and has the technological capabilities of taking effective measures to prevent future environmental disasters such as the failure of the levee system that led to the destruction of the Ninth Ward of New Orleans during Hurricane Katrina (Hee Go 2012; Ross 2007). To date, in a geographical area that has proven to be particularly vulnerable to hurricane activity, critics maintain that the United States' government has failed to effectively rebuild the levee system so as to prevent future flooding related to hurricane storms (for a full list of failings, see levees.org; see also Cohen 2008; Ross 2007; Hee Go 2012). As this case illustrates, enforcing risk prevention falls often to domestic political pressure and/or political will – with no guarantee that either will be successful in soliciting effective action (for example, shortly after Katrina's floods resided and the rebuilding of the city began, political will began to turn against the county as citizens of other states complained that New Orleans' disaster, while unfortunate, was too expensive and not the responsibility of the United States, with the implication that it should be left for the city of New Orleans to resolve with its own tax dollars [see, for example, New York Times 2005]). Clearly, some enforcement mechanism in the international community would significantly benefit the maintenance of the guiding principles established in international environmental law and agreement.

Finally, the third principle – that states have an obligation to protect individuals displaced by the effects of climate change – faces similar challenges. The reality of climate change and environmental degradation is that mitigation and ex-ante adaptation measures are often insufficient to prevent individuals from becoming displaced or otherwise affected by the negative consequences of climate change (see, for example, the experiences of Vanuatu or the Carteret Islands). As such, adaptation measures must therefore also specifically

address the protection of, and ensure assistance for, those who are displaced (UNHCR 2009b, 5). States, as the primary duty bearers of citizens' rights, are theoretically bound by human rights law to protect the rights of those affected by environmentally-displacing events (rooted in the *Universal Declaration on Human Rights*, 1948; see, also, Dobson and Valencia 2013). The *Guiding Principles on Internal Displacement*, as discussed, play an important role in addressing the protection needs of those displaced by the effects of climate change (E/CN.4/1998/53/Add.2). Further, the *United Nations Operational Guidelines on Human Rights and Natural Disasters*, adopted by the Inter-Agency Standing Committee in 2006, offers comprehensive guidelines for states with populations facing environmental displacement due to disaster. It is fundamentally a human rights-based approach to providing disaster relief, laying out seven guiding principles which include, among others, tiered responsibility for disaster relief (for example, if the local state cannot or fails to provide such relief, the responsibility then falls upon the international community), and highlighting the important role for UN agencies, international, and national NGOs in providing relief after a natural disaster (IASC, IDP Policy, 44; Brookings-Bern 2008, 8-9).

This framework applies to all disaster-affected persons, including Internally Displaced Persons; however, based on past instances of Pressured Environmental Migration, it is most likely that this group of migrants will not find states willing to apply the term "disaster" or "IDP" to their circumstances – despite any evidence which may exist to the contrary (see Brookings-Bern 2008; also see Cohen 2008 on United States' resistance to officially recognizing IDPs in their own borders, previously discussed). In cases where local relief is not possible and cross-border migration becomes necessary, Pressured Environmental Migrants are also likely to find themselves most vulnerable in that the circumstances surrounding their displacement are difficult to clearly distinguish as "environmental." It is more likely that cross-border migrants in this category will find themselves classified by the state as economic migrants, with little or no recourse in the international community to make a claim of necessary migration to another state, and internal environmental migrants will likely be denied special recognition all together

(Castles et. al. 2005; Cohen 2006; Cohen 2008; Couldrey and Morris 2005). This is a significant challenge for all Pressured Environmental Migrants.

It is worth highlighting the weight given to NGOs and other non-state actors in providing disaster relief from a human rights perspective (Brookings-Bern 2008, 1; 8-9): while there is no direct mention of motivation, this focus of the *Operational Guidelines on Human Rights and Natural Disasters* raises questions over the true capacity of the state in providing sufficient disaster relief in the face of widespread climate change. Is the 'problem' too big, or is the nature of the state incapable of operating from a human rights-based place of policy motivation? It may be neither, but it is worth consideration. Problematically, disaster victims have no relationship of responsibility with these non-governmental actors, either. Might this complicate their future rights claims? Instruments like these function to further highlight the tension located by this dissertation, particularly in Chapter Four, between normative human rights and the sovereign power of the state. This tension will re-surface in full view in Chapter Seven, where the dissertation will seek to provide a framework for policy action on the issue of securing normative environmental migration rights.

Overall, the legal and policy-oriented frameworks which speak most readily to the situation of Pressured Environmental Migrants all suffer from the same short-coming: despite a functional set of theoretical legal rights, there lacks a legitimately-recognized enforcement mechanism which would be able to make these rights available to be claimed in reality, where state domestic political priorities often trump international commitments – especially those 'softer' commitments like social, economic, and cultural rights. This challenge is by no means unique to the issue of environmental displacement; indeed, it is felt in most ethical aspects of international law and agreement. However, the lack of enforceability must be recognized as a major impediment in ensuring that the rights of Environmentally Displaced Persons are met, and action in terms of enforcement must be taken to ensure states accept responsibility for providing the global environmental security called for in Chapter Three.

Group 3: Temporary Environmental Migrants

Temporary Environmental Migrants make up the group of forced environmental migrants which tends to receive the most attention in the international media, due to their immediate, visible destitution, having survived a one-off extreme environmental event (such as a hurricane, tsunami, or other natural disaster). As a result, this group also tends to be a primary target of domestic and international charitable donations and government-sponsored relief funds. That said, Temporary Environmental Migrants are also the most vulnerable of EDPs in that their displacement tends to be less predictable, and more abrupt and devastating in the destruction of personal goods, homes, and often the loss of family, friends, or neighbours.

States find themselves particularly constrained in the unpredictability of when and where displacing environmental events will occur as well as how severe the long-term effects will be. In fulfilling their obligations under international law, states encounter a particular dilemma in the context of evacuations or relocations away from danger zones: on the one hand, states have a duty to take measures to protect the right to life of its citizens under the Universal Declaration of Human Rights (UDHR). Such an obligation can also include the need to temporarily evacuate people in order to save their lives or to relocate them away from danger zones (art. 3 UDHR 1948). This action may even include prohibiting people from returning to their homes, possibly on a permanent basis, as long as their safety and lives would be at risk there. According to international human rights law, if a state fails to protect the lives of its citizens, this would amount to a human rights violation if competent authorities knew, or should have known, about the danger and had the capacity to take life-saving measures (art. 3 UDHR 1948; UNHCR 2009b, 7). Yet, accurately and pre-emptively determining the severity and longevity of an environmental event is incredibly difficult. The other side of international human rights law dictates that persons displaced by natural disasters or other effects of climate change have the right to freedom of movement (art. 13 UDHR 1948). This right includes the ability to freely decide whether to remain in or to leave an endangered area and the right to freely choose to return to one's home, to relocate elsewhere in the country, or to locally re-integrate (art. 13 UDHR 1948). Therefore, in addition to having the responsibility to relocate populations which are inhabiting a danger

zone, states also have a duty to respect the decisions of their people and abstain from exerting any coercion, whether direct or indirect, to influence their choice. States must balance this line by providing true and accurate information that will enable populations to make a free and voluntary decision regarding their evacuation or relocation to safer areas.

Where affected populations agree or desire to be evacuated or relocated, the two human rights obligations would not conflict. However, difficulties arise when people oppose such measures even though the political authorities concerned deem them to be necessary in order to protect the lives of their citizens. Under international law, forced evacuations and relocations are not absolutely prohibited: the right to freedom of movement can be limited under certain conditions by the state in order to take life-saving measures. This could become a more significant principle as nations begin to lose habitable land to the persistent threat of climate change (for example, persistent flooding or drought). In these cases, states may be forced to relocate resistant portions of the population. In doing so, the following general requirements must be followed by the state, according to the UNHCR:

> 1. Laws must provide for the limitation of the freedom of movement through evacuation, relocation, or prohibition of return. Such laws must be accessible in the particular areas that will be affected by their implementation and need to be understandable. This process enhances transparency and understanding, and allows the population to prepare themselves for such events;
>
> 2. The actual evacuation, relocation, prohibition of return must exclusively serve the goal of protecting the safety of the persons concerned; and
>
> 3. The evacuation, relocation or prohibition of return must be necessary and proportional to this end and only be resorted to if there remain no other less-intrusive measures available to the state. Thus, whenever possible, the free consent of the persons being relocated must be sought before ordering such measures. In the case of evacuation, Temporary relocation must not last longer than absolutely necessary. Where forced relocation would be permanent, return can only be prohibited if the area of return is indeed an area with high and persistent risks for life or security, the remaining resources are inadequate for the survival of returnees, the enjoyment of basic human rights cannot be guaranteed, all other available adaptation measures are exhausted, or the situation in the area of return can no longer be alleviated by protective measures (UNHCR 2009b, 7).

Both the UNHCR (2009b) and Norwegian Refugee Council agree that if these conditions are not adhered to, the forced displacement of persons becomes arbitrary, which is prohibited under international law and, as argued in Chapter Three, is unethical. Even if these principles are adhered to, the displacement is still considered to be forced and can therefore only serve as an adaptation method of last resort.

Yet, while the law is fairly clear as to the obligations of the state when a known environmental disaster is inevitable and the state has the resources to facilitate relocation, complications arise when one or both of these functions does not exist. The reality of environmental events makes them difficult to predict with sufficient accuracy and far enough in advance (see, for example, the 2004 Indian Ocean Tsunami which was brought on with almost no warning due to a tectonic shift in the ocean floor, or the on-set of Hurricane Katrina in 2005, where citizens were not given sufficient warning to safely and fully evacuate New Orleans). Beyond this difficulty, which science is arguably moving towards improving, lies the economic, political, geographical, and security complications associated with various nations in the developing world. Essentially, even if a state had advanced warning as to the location and severity of an approaching environmental event, a large portion of states worldwide would find themselves constrained to effectively implement evacuation programs as a result of one or more of the aforementioned challenges faced by the so-called developing nations of the world. For example, evacuations could be stymied by any one of the following fairly-common difficulties: a corrupt or dysfunctional government; a lack of sufficient funds to facilitate a large-scale relocation project; a lack of economic stability necessary to economically integrate a relocated population (for example, supplying new jobs to maintain the livelihoods of the relocated population); or, a lack of liveable and/or safe geographical space necessary to relocate a large population. As such, despite the clear and fairly comprehensive protective requirements of states in cases of environmental emergency, the practical impediments of implementing such prescriptions seem to be the major roadblock for Temporary Environmental Migrants.

A further point for consideration is whether there might be an argument to mandate participation in an international insurance fund, or, minimally, in the current UNFCCC's

Adaptation Fund. As states are obligated to protect the lives of their citizens from known dangers, or those dangers which they *should have known about* under Article 3 of the UDHR, it could be argued that the increased risk for climate change disasters is now well-documented globally and states *should* know that there is a higher likelihood of their populations being ill-affected (particularly states that are geographically susceptible to storm activity, drought, and rising sea levels). In this vein, mandating pre-emptive recovery and disaster relief for their citizens may not be too far of a stretch.

Yet, insurance schemes are closely tied to discussions of risk in a way that is challenging for forced environmental migrants. The theoretical problem presented by risk, as opposed to catastrophe (the reader will recall Beck's [2009] distinction from Chapter Three), is that it is unlimited in size and scope: how do you possibly protect against it? We can't just build seawalls around all of the oceans and weather-proof bubbles over all land, can we? Whether hyper-insulating bubbles may be a possibility for the future, or are left strictly to science fiction, Beck's concerns over protecting against risk are well taken. Indeed, Beck offers the concept of insurance as one possible protective option, specifically noting that incalculability does not imply un-insurability, as there is no sharp divide between insurable and uninsurable risks (2009, 133-4). Drawing closer links to the specific case of environmental displacement, Peter Penz (*in* McAdam 2011, 167-171) presents an assessment of the potential for a global environmental insurance fund that would operate in a similar fashion to that of the current Workers' Compensation Funds in place around the world. Essentially, his idea is that while private insurers may not be ready to take on the task of protecting against the unpredictability of climate change processes and events (a point with which Beck would disagree), a global fund through which states would pay contributions (perhaps based on their current levels of GHG emissions) could be established so that if and when environmental risk should evolve into catastrophe, there would be funds available to repair the damage and replace necessary infrastructure. Penz's approach cleanly applies to Temporary Environmental Migrants, and could easily be broadened to meet the needs of Imperative and Pressured Environmental Migrants on sinking islands and low-lying states by also supporting pre-emptive adaptation strategies such as the construction of seawalls, dike systems, or at the extreme, floating landmasses.

Similarly, advanced irrigation and agricultural practices could assist those peoples suffering from the effects of desertification. His ideas in this vein are particularly interesting in their quasi application through the United Nations Framework Convention on Climate Change (UNFCCC)'s Adaptation Fund. Pinning our discussion of rights for a moment, this fund, while not an "insurance" fund, seeks to finance concrete adaptation projects and programmes in developing countries that have signed onto the Kyoto Protocol. It is currently financed from a share of the proceeds from Clean Development Mechanism projects (2% of certified emission reductions from each project) as well as through voluntary pledges of donor governments. The fund totalled $171 million (US) as of December 31, 2013 (World Bank 2013). Countries seeking to make use of funding must apply, in English, through accredited agencies. Once they receive endorsement, project applications are reviewed by the Adaptation Fund's Board. Thus far, $58.33 million (US) has been disbursed for projects, including developing the climate resilience of farming communities in drought prone areas of Uzbekistan, reducing vulnerability to climate change in Northwest Rwanda through community based adaptation, and a project to enhance the adaptive capacity and increase the resilience of small-scale agriculture producers in Northeast Argentina, among many others (Adaptation Fund 2014; climatefundsupdate.org 2014).

In the context of Penz's scheme and the ethical considerations laid out thus far in the dissertation, there are two key shortcomings of the current Adaptation Fund: first, is the mechanism of voluntary donations; and second, is that it is not universally framed, as only Kyoto countries are eligible for participation. Indeed, the voluntary nature of fund donations (outside of the 2% from emissions reductions) is ethically and practically unsustainable. Ethically, it reduces claims for adaptation assistance to those seeking charity and not those of *right*; practically, the amount of capital currently being raised is not enough to sustain long-term financing for what will likely be an increasing number of large-scale projects into the future. For example, according to a study conducted in the UK, the construction of a basic seawall costs – on average –about £5000-6000 per meter (approximately $8500-$10,250 USD as of July 2014 [English Environment Agency 2007]).

Only a handful of countries currently contribute,[50] raising significant concerns over the Fund's future effectiveness if its voluntary structure continues.

The insurance model, while it holds some potential in the current international climate, ultimately fails, on its own, to live up to the robust ethical expectations I have argued are necessary of a potential solution. Simply put, the insurance model waits until catastrophe has occurred before stepping in to offer assistance (this is another way in which it differs from the current UNFCCC's Adaptation Fund). In this way, Penz's insurance fund could be made available to states that find themselves threatened by the slow-moving, more predictable processes of climate change such as desertification or rising sea levels so as to be better able to invest in adaptive structures and strategies such as more sophisticated irrigation systems or stronger/higher sea walls. As argued, here we can see why it is significant to understand climate displacement as an ethico-political challenge in which we are all simultaneously victim and aggressor, with shifting roles as history and geography have and will continue to dictate.

Finally, I believe it is important to acknowledge the role that international charity plays for this group of forced environmental migrants. On one hand, international charity fills a much needed gap in terms of immediate post-event relief for medical recovery, relocation, and rebuilding major services and institutions. On the other, it is dangerously unpredictable, unreliable, and too easily exhausted. For example, when floods devastated approximately one-fifth of Pakistan in 2010, many international organizations found themselves without the necessary financial support to effectively assist the nation in recovering, and without the international goodwill to raise more money. Excuses were given to the effect that people were "tapped out" because they had recently donated to the earthquake relief in Haiti. Indeed, the US State Department reported that a nationwide text messaging campaign raised a mere $12,000 - $13,000 for Pakistani relief, where a similar campaign had raised $30 million only a few months earlier for Haiti's earthquake recovery (Feldman 2010). These amounts prove to be even more troublesome in light of the fact

[50] Belgium ($1.58m), Finland ($0.07m), France ($0.05m), Germany ($13.88m), Japan ($0.01m), Monaco ($0.01m), Norway ($0.09m), Spain ($57.06m), Sweden (59.38m), Switzerland ($3.27m), as of December 2013 (climatefund.org)

that over 21 million people were left injured or homeless as a result of the flooding in Pakistan – more than the combined total of individuals affected by the 2004 Indian Ocean tsunami, the 2005 Kashmiri earthquake, and the 2010 Haitian earthquake (Tweedie 2010). Overall, it is clear that relying on international charitable donations to ameliorate the effects of significant environmental events is an entirely insufficient means to deal with the issue of temporary environmental displacement as a result of a one-time severe environmental disaster. Instead, the international community is in need of a framework designed to remove the unpredictability of spontaneous environmental events and their resultant reliance on charitable donations. It needs to be recognized that such events will occur unexpectedly, and a fund built from the recognition of global responsibility and capable of relieving their devastating effects – similar, if not expanded directly from the UNFCCC's Adaptation Fund – must be perpetually in place for emergencies if we are to uphold the ethical requirements of EDPs. The particulars of this idea will be fully developed in Chapter Seven of this dissertation, as a potential piece of the effective resolution puzzle.

Locating General Principles for Addressing Displacement in International Law

While the particular experiences (Imperative, Pressured, and Temporary) of forced environmental migration may not receive adequate attention in international law under the current human rights regime, there are some general principles that hold potential in guiding our treatment of EDPs across all categories. Most notable is the UNHCR's set of guidelines for addressing general displacement, which seeks to ensure that in all cases of (environmental) displacement, states risk a violation of international law if the situation of displacement lasts longer than necessary for the immediate protection of the displaced individual. Under this principle, states 'must' act to make any and all solutions to environmental displacement realizable as well as sustainable. The UNHCR (2009b, 8-9), which has consistently, although not always successfully, sought durable solutions for refugee populations worldwide, offers some of the main elements of sustainability in cases of general displacement which hold insight for addressing potential instances of environmental displacement as well:

a) *Providing information on the process of relocation, consulting with and ensuring the participation of affected communities*: These measures help displaced people make a free decision whether to return, integrate locally where they had been displaced or evacuated to, or to relocate and integrate elsewhere in the country. In cases where return is not an option, the UNHCR notes that forced relocations should be avoided, as these have a tendency to be unsustainable; instead, it rightly advocates that affected populations should be empowered with a sense of ownership in the process of finding a solution to their situation. Overall, the information that is presented to potential migrant populations must be true and accurate, consultation processes must be truly representative, and participation must be inclusive and possible from the very beginning if the relocation is to be successful.

b) *Safety*: Both return areas and relocation sites should be safe from effects of secondary hazards and recurrent disasters and should therefore be selected only after a careful analysis and risk mapping have been undertaken jointly with the affected population.

c) *Recovery of land and property upon return, including thorough settlement of property and land disputes:* All internally displaced persons should have access to mechanisms for property restitution or compensation, whether or not they opt for return or another durable solution. In cases where return is prohibited, compensation for lost or damaged property must be ensured in order to meet international human rights obligations.

d) *Physical needs*: Provision of proper housing and services such as health care or education is essential. Durable solutions must also be culturally acceptable in order to be effective. Access to public services must be ensured, through the provision of new documentation in cases where existing documentation is lost or destroyed during displacement.

e) *Livelihoods:* Continued access to livelihoods is essential. If access to former livelihoods is not possible, the creation of new livelihood opportunities is vital.

f) *Participation:* Equal and full participation opportunities in public affairs, in particular in new settlements, is important to allow displaced peoples to fully integrate in the new area of settlement.

The reader will note that many of these principles reinforce the primary findings discussed throughout this dissertation. In this, they can be seen as providing the beginnings of a functional framework for future action and international agreement, particularly in that they have already received international legitimation through the UNHCR. Meeting these

guidelines, however, remains a significant, yet meaningful challenge for states facing all instances of environmental displacement. These guidelines set out principles which would ensure that not only are the immediate needs of EDPs met, but also that they have legitimate opportunities to re-establish themselves and their communities in instances of displacement with minimum hardship being encountered in the process. They do not, however, address the right of a population to choose not to migrate, or the right to migrate as a group, which are substantial ethical rights as laid out in Chapter Three. As such, measures to assist adaptation projects would need to be added to make this a comprehensive framework for all Environmentally Displaced Persons. Devising a revised set of guidelines capable of meeting both the practical and ethical requirements of EDPs will be the task of Chapter Seven.

In cases of cross-border displacement among any of the categories, it has been made clear that the *1951 Refugee Convention* will not apply in contexts beyond its current political definition to include "environmental refugees." The principle of non-refoulement, however, would still apply to cross-border EDPs, as would human rights law, as it is applied to aliens (McAdam 2012, especially Chapter 2). However, neither of these legal sets provides displaced persons with a right to enter into or stay in another sovereign nation. In principle, cross-border Environmentally Displaced Persons could turn to the protection of their own states; however, it must be recognized that in extreme disaster scenarios, one's state of origin may be unable to advocate to other states for assistance on behalf of its affected citizens as, indeed, one's state may no longer legally or functionally exist. Here, though, international law holds some potential for creative interpretations of the *Montevideo* and *Law of the Seas Conventions* to extend sovereignty and/or statehood beyond its traditional territorialized understanding. There may also be cases in which displacement relates to a certain unwillingness to protect, or to prohibited discrimination. In cases such as these, a normative gap could be considered to exist if both the country of origin and the host country obstruct, deny, or are unable to ensure the basic human rights of displaced peoples. By my reading, there may also be room here for the *Responsibility to Protect* (2001), which enshrines the principles of internationalism and upholds universal human rights over the powers of domestic state sovereignty, to extend consideration to

EDPs who remain IDPs and uphold their rights. However, as discussed, this instrument holds little legal or political weight under the current international regime (see, especially, Gray 2000, 45-9). As such, we again see the need for an overarching enforcement body which is specifically oriented towards protecting the rights and needs of Environmentally Displaced Persons *as* Environmentally Displaced Persons – particularly given that this task has been overtly rejected by current bodies which may be functionally and immediately capable of such a task (i.e. the UNHCR and IDMC).

Yet, it must also be recognized that the general trends under the international regime are not absolute. Two regional refugee instruments exist that expand the traditional interpretation of "refugee" under international law: The Organization of African Unity (OAU) Convention, and the Cartagena Declaration. The OAU Convention understands refugees as people who are displaced by "events seriously disturbing the public order," which has raised questions as to whether this may include natural disasters or other environmental processes (Edwards 2006; Kälin 2010; also see Hathaway 1991). Edwards (2006) in particular is unconvinced that the OAU Convention would lead to this interpretation in practice, despite her confidence in its legal standing. She cites the fact that States rarely declare their intent to act in pursuant with their OAU Convention obligations in accepting or rejecting refugee claims and suggests that – at most – the general practice of hosting Environmentally Displaced People could be seen as contributing to the development of temporary protection on humanitarian grounds under customary law, rather than under treaty (Edwards 2006, 227). McAdam (2012, 49) tends to agree, holding little faith in regional conventions to consistently provide reliable protection for EDPs. According to Walter Kälin (2011, 88-89), the same challenge would likely apply to the Cartagena Declaration. Citing Article III, which interprets "refugees" as having "fled their country because their lives, safety, or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disrupted the public order," Kälin (2011, 88-89) highlights the difficulty in pinpointing climate change as the primary motivator in a sufficiently meaningful way so as to be able to consistently and reliably extend refugee rights to EDPs. McAdam (2012, 49) pinpoints the key difference between the 1951 Refugee

Convention and regional instruments like the OAU Convention and the Cartagena Declaration (and their primary failing as potential EDP protection instruments) in that while the former "assesses the risk of potential future harm, both regional instruments seem to require evidence of an *actual* threat; protection is premised on having already been compelled to leave because of it." In this, she argues (2012, 49) that the ability of these agreements to offer pre-emptive migration protection is limited. By my own analysis, the framing of both of these regional instruments further serves to illustrate a point I have previously made in the dissertation: that the challenges discussed by Edwards, Kälin, and McAdam, I believe, stem from the depoliticized (or, naturalized) conceptualization of the environment in international law, where legitimate displacement here is understood primarily as a social contract failing that has resulted in (politically-framed) civil disorder (see also Marshall 2015). In this, Human Environmental Migrants stand to benefit from an expanded interpretation of the 1951 Refugee Convention in their political framing (see Kälin 2011), where EDPs – as I understand them – would not. This analysis, I believe, further underscores the necessity of the ethico-political framing of forced environmental migration offered by this project.

Conclusion

Ultimately, this chapter's analysis of the various routes available to Environmentally Displaced Persons in international law has revealed significant gaps between the substance of the law and the reality of its application, which I have argued is due in part to the discursive and paradigmatic framing of the international regime around Westphalian sovereignty and the domination of negative-rights liberalism. In the context of environmental displacement, the current state of international law fails to sufficiently uphold the basic necessities of Environmentally Displaced Persons, who have often turned instead to sporadic international charity from NGOs, foreign governments, and church organizations in hopes of maintaining their basic living requirements as human beings. Where laws and agreements do exist in a sufficiently comprehensive form so as to be able to provide a protection regime for EDPs, enforcement mechanisms are noticeably lacking, and thus the immediate rights of EDPs could, or could not, be met depending on the states involved and the level of international attention and support received by the displacing

environmental event. There is a noticeable lack of political will to offer protective status to environmental migrants of any definition, as well as a significant list of practical impediments facing less-developed states should they eventually seek to offer such status to EDPs. Overall, the role of the state as the primary distributor of rights is particularly problematic, especially given states' consistent lack of action in protecting against instances of environmental displacement, and more acutely in the likely possibility that the international community will soon see the disappearance of the first state to rising sea levels. Without a state through which island residents may seek protection, where will they be left? Even beyond all of these complications lie those intangible tensions presented by notions of national identity: saving it, protecting it, and possibly integrating it within another nation state. Numerous examples have been presented in the chapter, all of which seem to indicate that assistance for Environmentally Displaced Persons will be unpredictable, at best. Taken together, none of these realities are sufficient from an ethical or practical standpoint when one confronts the likely existence of a minimum of 50 million EDPs, more and more of whom will be crossing borders seeking relief over the next decade.

Fundamentally, I have highlighted five gaps between the needs of EDPs established in previous sections of this dissertation and the principles and realities of the international legal regime:

1. International law offers little functional choice for those who wish to seek local environmental adaptation over migration.[51] Where the concept of special international migration rights is well-entrenched (although yet to be successfully applied in the context of environmental displacement), there is no precedent from which to build an argument in terms of advancing a rights-claim for mandated adaptation assistance.

[51] Paragraph 14 of the Cancun Adaptation Framework (the first inclusion of human mobility on an internationally agreed climate adaptation decision) "Invites all Parties to enhance action on adaptation under the Cancun Adaptation Framework, taking into account their common but differentiated responsibilities and respective capabilities, and specific national and regional development priorities, objectives and circumstances, by undertaking, inter alia, the following: …(f) Measures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at national, regional and international levels." Significantly, the reader will note the invitation, rather than demand.

2. International law, for the most part, fails to adequately account for the group rights required to support national identity. Indeed, most of the principles that offer special migration rights do not exceed individualism in scale. Group rights, which help to protect culture and identity, are not easily accommodated or addressed in the context of international migration law beyond ad hoc responses to crisis.[52]

3. International law fails to protect cross-border environmental migrants who wish to (especially, pre-emptively) migrate. Indeed, as was evident in the New Zealand High Court Case (3125[2013]) over environmental refugee status, while there may be a recognized need to migrate away from an environmentally-threatened state, this does not entitle the migrant to special status under current international law. Traditional migration routes remain the only options immediately available.[53]

4. International law lacks an enforcement mechanism capable of prioritizing its content over that of particular domestic political wills. Where substantial, binding, international environmental agreement does exist in a capacity so as to be able to assist in the plight of EDPs the lack of an effective and timely enforcement mechanism has failed to produce sufficient results (particularly illustrative: the Kyoto Protocol, or [without imminent threat] the principle of a right to life).

5. International law suffers from a lack of clear definition, particularly evident in the case of Environmentally Displaced Peoples.

[52] McAdam (2012, 106-108) rightfully classifies group-based responses like the relocation of Montserratians by the United Kingdom in 1997 due to a volcanic eruption, or the widespread halt on involuntary returns to areas affected by the 2004 Asian Tsunami as "ad hoc humanitarian schemes," which, by my analysis, leaves them as helpful but insufficient responses from an ethical perspective as they do little to guarantee migration rights or adaptation assistance.

[53] NZHC 3125 states that pursuant to Article 6 of the *International Covenant on Civil and Political Rights,* there were "no … 'substantial grounds' for believing the applicant or his family would be in danger of being subjected to arbitrary deprivation of life" (2013, 32)

Moving forward, I argue that each of these gaps must be addressed if international law is to serve as an appropriate platform for the future of environmental migration and adaptation rights.

Yet, there may also be a silver lining in this otherwise bleak outlook. As this chapter has demonstrated, where existing international law applicable to environmental displacement has gaps between intention and implementation and unreliable enforcement mechanisms, domestic public policy and multilateral agreements seem to hold some potential in filling these gaps on a short-term basis, and thus take steps towards constructing a more comprehensive, global solution – at least until the international can be retrieved from the limitations of a strict adherence to the principles of Westphalian sovereignty. Indeed, states that are reasonably facing future large-scale environmental displacement have begun to turn to these policy mechanisms as a method of buttressing their international law and human rights claims. While success in this attempt remains uncertain, hope is maintained in its possibility. There is no indicator that domestic political will cannot work with the principles of international law to provide a future set of internationally-recognized environmental migration and adaptation rights.

That said, this chapter has fundamentally sought to demonstrate that while there may be potential in international law to outline a set of rights capable of protecting the basic needs of Environmentally Displaced Persons, this potential has not yet been clearly realized, let alone been crafted into a viable durable solution for each of the three groups of Environmentally Displaced Persons. While some EDPs have benefitted from charity, this form of relief too has yet not been moulded into a trustworthy framework that can be relied upon in cases of displacement. If the status of EDPs is to be advanced in the near future, it seems that the most likely forum through which this will be done will be through bilateral, multilateral, or regional agreements in which states are the primary actors, and no party is acting in the capacity of benefactor. While international agreement seems unlikely, as does international goodwill – particularly given the increasing prominence of anti-immigration sentiments worldwide – it is my belief that localized, or regional agreements hold significant potential in terms of benefitting all parties involved (despite the ethical unreliability produced by such an approach), and making real, substantial

progress in meeting the immediate needs and challenges presented by instances of environmental displacement in the current international regime. It may not be the ideal response, but turning to domestic policy does hold some immediately-realizable potential for EDP assistance. This argument will be taken up in Chapter Six as we move forward, which addresses domestic state policies and their potential to found a comprehensive international framework to support EDP rights. This is not, however, what I believe to be the ideal response to supporting robust universal EDP rights, which the reader will recall is a shift away from an international community heavily encumbered by a commitment to Westphalian state sovereignty. The ideal response would see, along the lines of my critique in this chapter, a global community guided primarily by a concern for the wellbeing of its inhabitants, and not one pushed and pulled by the individual wills of its domestic states. Here, NGOs in particular may be able to occupy some of the rights-distributing space currently occupied by the state, diversifying its authority in the human rights regime. Reconciling the ideal with the current realities of the international regime will be the task of Chapter Seven.

Chapter 6| Domestic State Policies and Practices: Successes and Failures

Thus far in the dissertation, we have looked closely at the various aspects of global climate change and their impacts on migration. We have considered many of the ethical facets underpinning global and local migration and adaptation responsibilities, as well as an international responsibility for global risk management. Some of the most prominent global challenges to meeting these responsibilities have been highlighted as the lack of consensus on the definition of who a forced environmental migrant is, the lack of a clear international legal framework or code of practice to protect the rights of these vulnerable populations, the lack of internationally recognized responsibility or an international convention to establish a well-designed global adaptation fund for populations seeking not to migrate, and finally, the general lack of global planning capable of proactively facing the inevitable ongoing and future environmental challenges that will be presented by accelerated climate change. Thus far, we have looked closely at many of the negative aspects, challenges, and international failings associated with the processes of global climate change. This chapter will begin to map a way forward by analysing some of the local, domestic, and regional/continental policy successes – both major and minor – that have already impacted the global political landscape in terms of addressing the challenges of climate change (see Table 4). Through this analysis, it will be argued that despite the current absence of comprehensive protection in international law, or a global consensus on the definition and understanding of what forced environmental migration fully entails, an early recognition of the prominence and widespread nature of environmental displacement has led some states to adapt existing immigration policy to meet some of the needs of Environmentally Displaced Persons (EDPs). In some cases, states have even created new immigration policy altogether. Ultimately, it will be argued that domestic public policy provides a workable, if limited, platform to bridge some of the gaps in international law and global climate change responses, within the framework of the Westphalian sovereign state system. It does not, however, provide the needed global platform for the full realization of EDP rights, as they have been presented throughout this project. Indeed, in their current state, almost all domestic policies relating to EDPs are unable to exceed the

limitations of the negative rights discourse that dominate the international and human rights regimes, and international law. Yet, important successes have occurred at this level in the area of adaptation where they have generally fallen short in the international realm. A careful analysis of adaptive principles and policies will illustrate that migration is not the only possibility for many cases facing the challenge of severe climate change, thus broadening the list of viable options available to the international community in terms of meeting its responsibilities, as I have argued for them. This chapter will seek to address these research areas, laying the final groundwork for the dissertation's framework resolution, which will seek to bring the domestic successes of this chapter into the global realm of universal rights. Ultimately, I will seek to illustrate, through this chapter and the next, that while domestic policy can be used in the short-term to advance EDP rights under the Westphalian sovereign state international order, diversifying or dispensing with sovereignty will be required to fully realize the overarching goals of this dissertation project.

As such, this chapter leads with an acknowledgement that the principle of state sovereignty dominates today's international sphere, and therefore shapes the current realities of climate change displacement and adaptation procedures. This introductory note is followed by the main body of the chapter, which is separated into two sections: the first examines the qualities, strengths, and weaknesses of regionally-organized domestic migration-related policy responses to global climate change, and the second examines the qualities, strengths, and weaknesses of regionally-organized domestic state policies that seek to respond to both local and international adaptation practices, policies, and principles. The chapter has been organized on a regional/continental basis due to the striking similarities found in approach, goals, and outcomes of domestic public policy that exist in world continents. It focuses on Western states for two central reasons: the first is practical – these states show substantial evidence of having addressed issues relating to climate migration where others do not.[54] The second reason is methodological: as this project is particularly concerned with the normative challenges presented by the liberal-

[54] A notable exception here is the legal framework offered by the OAU Convention, discussed in the previous chapter. A robust policy framework to support this legal advancement, however, is still lacking which is why the OAU Convention does not center in my analysis here.

democratic paradox to the case of environmental displacement, the interpretivist approach I take would suggest a focus on the norm-setting hubs of forced migration discourse. In this case, Western, liberal-democratic states. Yet, despite taking this approach to policy research, in bridging the current international regime with the normative conclusions of the project, Chapter Seven will see a call for a shift away from (Western, liberal-democratic) state-based norms and towards a global organization of these sorts of normative principles.

It is hypothesized here – and will be examined more closely as the chapter progresses – that the similarities between regional states stem from the geographical nature of certain environmental events in combination with the geopolitical positioning of responding and requesting states for migration and adaptation assistance. For example, European states[55] typically face the need to address challenges relating to the slow-moving processes of climate change (i.e. desertification) and Pressured Environmental Migrants, given their proximity to the states of Africa which are in turn commonly experiencing these types of events. The United States, on the other hand, has typically had to face challenges relating to quick moving, one-off environmental events (i.e. hurricanes) and the demands of Temporary Environmental Migrants, given its proximity to the island nations of Central and South America, as well as its own domestic geographical positioning and the now largely annual onslaught of devastating and displacing environmental storm events in this region. From this logic, the chapter has located three general, regional policy regimes which either address or could be adapted to address the demands of accelerated global climate change: North American, European, and Oceanic. As mentioned, other regions have not centred in my analysis – Asia in particular – due to a noticeable lack of advances in considering EDPs in terms of immigration or adaptation assistance, perhaps due to strong anti-immigration sentiments (see Cornelius 2004), or a lack of immediate encounters with EDPs. Finally, the chapter offers an analysis of the successes and challenges of the Nansen Initiative, a state-based policy-driven regional approach to addressing the challenges of climate change and displacement. Given the expected conclusion of the initiative in

[55] Europe is unique in that it also has a formal regional political body, the European Union, to address these challenges.

October 2015, insights here should offer a clear picture of the current policy landscape for EDP rights and recognition. The chapter concludes with a highlighted list of policy successes, challenges, and failures that will be used to found the resolution framework of Chapter Seven. As the reader will recall from previous arguments, it is my position that the global community requires state policies and practices that are both proactive and adaptive so as to be able to support the evolving impacts of global climate change. This logic will be employed to judge the merit and quality of existing domestic state policies and practices as we encounter them on a regional basis. It should also be noted that regional responses will not only be judged for their ability to successfully address the challenges of global climate change within a state or region, but these policies and practices will also be evaluated generally in order to effectively determine their ethical and practical merits on a global scale, in keeping with the methodological approach of the project.

A Note on State Sovereignty

Before beginning the policy analysis of this chapter, it is first important to acknowledge a shift in treatment towards the concept of state sovereignty between this and other chapters. Thus far in the dissertation, the principles of state sovereignty and non-intervention have been critiqued and challenged for hindering the progress of environmental displacement rights and adaptation assistance, yet here I will offer little in terms of a critique of the principles of Westphalian state sovereignty. The shift in the use of, and interaction with, the principle of sovereignty in this chapter stems from a simple but important need to engage in a closer examination of current empirical and political realities. Where we have been primarily concerned with what 'should be' thus far, it is now time to look more carefully at 'what is'. This is not to say that the normative character of the dissertation has been abandoned, merely that the turn towards empirical reality should be acknowledged. The normative arguments of the dissertation will return to a more central position in Chapter Seven where the resolution framework will seek to formally join these with the political and empirical realties of global politics and environmental displacement. The tension between these two central concerns of my work highlights itself in the principle of state sovereignty, where, as detrimental as it may be to EDPs normatively, the reality of global politics makes it impossible to realistically address the

impacts of global climate change on migration and adaptation without acknowledging – and to some extent, accepting – its dominant position in the current international sphere. A troubling reality is that whether it serves the best interests of global politics, or not, the current international regime is deeply rooted in the history and primacy of the principle of Westphalian state sovereignty in its daily political functions. For this reason, the thrust of my critique will be temporarily suspended for clearer policy analysis, to be returned to in the next chapter.

Policy Models

In exploring the Westphalian model, state-centered approach to studying the evolution of public policy surrounding the issue of climate migration, it is first prudent to step back and look at some historically significant policy decisions that have framed general migration – and, more specifically, debates over displaced peoples in regions around the world. These broader trends will be helpful in creating a general understanding of migration and policy trends regarding displaced peoples, and will assist in filling in some of the gaps in political knowledge that exist as a result of the emerging nature of forced environmental migration. As such, the following regional policy models are meant to be illustrative of *trends* and not conclusive of the full range of policy and possibilities in each region. Some regions have been more directly affected by forced environmental migration, which has led to the formation of a clearer policy regime towards the issue, where other regions are only peripherally addressing these concerns, if at all. In cases where specific environmental migration or adaptation policy is lacking, this dissertation will seek to extrapolate likely policy content based on past attitudes and approaches to the issue of vulnerable migration – particularly those of a humanitarian nature – and general political attitudes towards the environment.

North American Model

North America[56] – especially Canada – is one of the regions lacking a clear policy regime towards environmental migration, but one in which clear extrapolations can be made from past attitudes and behaviour. I have nevertheless included it in my analysis here because Canada is traditionally a 'receiving state'; but more importantly, because Canada has largely eschewed acknowledgement of its own PEM population in its Northern Territories.

In North America, the refugee-immigration debate is most often thought of from a bilateral perspective, involving admission quotas and sanctuary rights. However, it is important to realize that much of the response to refugee flows has in fact been multilateral, and has taken place through the machinery of international organizations with the assistance of related Non-Governmental Organizations (NGOs). The principal multilateral agency involved is the UNHCR, an organization to which Canada and the United States contribute on an ongoing basis (Stoett 1994, 31; UNHCR 2013).

Given the lack of geographical proximity to multiple areas with steady or persistent environmental migration flows, it is reasonable to expect the North American Model to follow general international trends on the issue of forced environmental migration, which, as indicated above, will likely follow influence from, or direct action by, the UNHCR. As such, a blanket shift in immigration policy specifically aimed at addressing the needs of forced environmental migrants is not expected to emerge from this region. Instead, an analysis of the North American model is most helpful in offering insight into particular aspects of environmental migration – especially that with which it has the most direct experience: temporary displacement. Canada shows some interesting historical trends with regards to expanding and contracting humanitarian migration policies that can be used to extrapolate anticipated future behaviour towards expanding environmental migration protective rights, while the United States offers specific policy options in granting temporary protected status to groups displaced internally and cross-border by environmental disasters and intense storm events. Each country will be discussed in turn.

[56] While I use the term 'North American Model' it should be acknowledged that I do not include Mexico in my study due largely to a lack of EDP-related policy advancements in this state, but also for convenience. Instead, I look only at policy relating to EDPs in Canada and the United States.

Canada

Of all of the countries studied in this project, Canada appears to be most out-of-touch with the impacts of climate change on global migration. Conducting a media analysis of forced environmental migration over three years in Canadian newspapers, Murray (2011, 97) discovered fewer than forty references to climate refugees or environmental migrants from 2008-2011. Of the major Canadian NGOs, she found that only one of the leading environmental NGOs, the Suzuki Foundation, made even cursory references to climate change refugees and environmental displacement during this timeframe (Murray 2011, 97). Further, a search of the four primary political parties' platforms or policy statements found that only the Green Party made a reference to environmental refugees, where it vaguely promised to "advocate for the inclusion of environmental refugees as a refugee category in Canada and accept an appropriate share of the world's environmental refugees into Canada" (*in* Murray 2011, 97), without offering any substantial analysis of the challenges presented therein. The lack of presence this topic has in the Canadian political, media, and popular landscapes is inexcusable, especially for a country directly experiencing the effects of global climate change on human settlement in the arctic and the resulting pressure that is being placed on its citizens. Yet, it seems unlikely that Canada has simply 'missed' the issue: indeed, a look at the few existing government statements and documents on climate change and displacement seem to indicate an uploading of responsibility to the UNHCR and the United Nations, rather than a willingness to take on this challenge in a meaningful way. For example, Ian Glen, the former Canadian Associate Deputy Minister of Citizenship and Immigration, told the 45th Executive Committee of the Office of the UNHCR in Geneva that

> Canada understands the limitations of existing instruments... We believe, nevertheless, that at this point the 1951 Convention remains the best tool for the protection of the most vulnerable and the most threatened. This does not mean that Canada is not concerned by the plight of persons displaced en masse within their own country as a result of war or catastrophe ... however, UNHCR involvement in such situations should be on a case-by case basis, under the authority of the Secretary-General. (Statement by Ian Glen, Associate Deputy Minister, Citizenship and Immigration, to the 45th Executive Committee of the Office of the United

> Nations High Commissioner for Refugees, Geneva, Monday, October 3, 1994).

This position has largely been maintained, where, in a recently-updated publication from the Library of Parliament, Canada's focus is argued to center on current legal obligations rather than seeking to expand these to meet the acknowledged growing pressures. Specifically, Becklumb's background paper for the Library of Parliament on climate change and forced migration (2013[2010], 2) notes that "[n]one of the various streams in Canada's humanitarian immigration program – the refugee stream, a stream for humanitarian and compassionate cases, and cases where people are admitted temporarily when it is 'justified in the circumstances' – recognizes climate migrants." In the brief section on "Canada's Future Role," emphasis is given to the undesirable high costs of living in a country like Canada, and the benefits of repatriation; not, as one may expect, to bridging these gaps for environmentally displaced immigrants. The two largest active roles that Becklumb locates for the Canadian government in the future of forced environmental migration are development assistance, where developing countries are unable to adapt to changing climate conditions, and the primary goal for long-term benefit is given as reducing national greenhouse gas emissions (2013[2010], 4). The primary recommendation is particularly disappointing as reducing greenhouse gas emissions will be scientifically insufficient to produce meaningful change given the current state of global warming, as the reader will recall.

Coupling these directions with Canada's broader refugee and migration policy trends does not bode well for hopes of global leadership in expanding environmental migration rights, despite the country's popular global designation as an immigration-friendly state. Canada is often depicted as a country that is relatively open to accepting new types of migrants; however, this image does not always fit cleanly with reality (see, particularly, the recent treatment of Syrian refugees). Further, where it has broadened immigration practices to support vulnerable migrants, its motivations have not always been based in altruism. Indeed, Canada signed both the 1951 Refugee Convention and the 1967 Protocol during a period of prosperity and economic growth when many of its traditional sources of immigration had dwindled, and an immediate need for labour prompted the exploration of

new immigrant resources (CIC 2006). This marked a significant shift in policy as, prior to 1967, Canada's immigration policy specifically discriminated against non-white immigrants (Kelley and Trebilcock 1998; CIC 2006, among others). Canada confirmed its commitment to accepting refugees in the 1976 Immigration Act, formally recognizing a need for distinct, humanitarian consideration which moved beyond the Convention definition to include "displaced and persecuted" people who could be processed as part of a designated class of vulnerable migrants (Murray 2011; CIC 2006). As such, a historical precedent to politically expand formal, legal definitions to meet changing humanitarian demands on global migration can be said to exist in Canada; however, as mentioned this shift also conveniently coincided with a domestic need for labour – inexpensive, non-European (white), labour – muddling the possibility to denote a clear policy trend (CIC 2006). At the same time, while this convenience may overshadow some of the beneficence of the policy shift, the precedent still stands. Recently, Canada has also made temporary admission allowances for people (Temporary Environmental Migrants, in this case) who were already in residence at the time of the 2004 Indian Ocean tsunami and following the Haitian earthquake of 2010 (Martin 2010, 82-83).

Yet, it still seems that climate migrants do not play a prominent role in the current government's migration policy considerations. In 2009, the Harper government engaged in a discursive reframing of general immigration and refugee policies, calling Canada's refugee system "broken," which was in turn used to justify the imposition of visa requirements on visitors from the Czech Republic and Mexico (*Globe and Mail* 2011). More recently, these visa requirements have been lifted for Czech citizens because, according to Jason Kenney, now minister of Social Development, Employment and Multiculturalism and formerly the minister of Citizenship and Immigration:

> We had a huge wave of unfounded refugee claims from the Czech Republic between 2007 and 2009. The good news is that our reformed refugee system has radically reduced the number of fake claims coming to Canada, for example, from the European Union (Associated Press 2013).

For those wishing to visit from Mexico, the refugee-related addition of a visa requirement will be upheld, but reframed as resulting from "serious" security concerns over "Latin

American criminality," according to Kevin Menard, a senior special assistant to Chris Alexander, the Minister of Citizenship and Immigration (*in* Bell 2013). Citizenship and Immigration Canada has further reported that the number of asylum seekers accepted to Canada declined by a dramatic 56 per cent between 2005 and 2008 (Curry 2009). During the same period, the number of people allowed into Canada as temporary workers – a strategic, economic category – increased from 90,000 to 192,000 (Swan 2009). While minimal rights and recognition are offered to temporary foreign workers, this category provides a unique niche in that it is able to supply labour where there are shortages, without having to offer the full range of citizenship rights and privileges to the labourers on the part of the state. This policy approach – increasing immigration emphasis on temporary workers, while restricting access to both vulnerable migrant status and traditional citizenship routes – further seems to be well-supported by the public. An opinion poll conducted in July 2009 found that 56 per cent of Canadians felt that the refugee determination system should be changed to make it more difficult for people to make "false claims" (Angus Reid 2009).[57]

More recently, Canada – which is second only to the United States in the number of people it accepts for resettlement annually – saw the passage of the Protecting Canada's Immigration System Act in June 2012. The Act was the culmination of a series of bills introduced between 2009 and 2012 to reform the Canadian asylum system and curb human smuggling. It introduced a series of restrictive procedural requirements that aim to deter the so-called "false" claims for refugee or asylum status, particularly from those arriving in large groups or by using the services of human smugglers (UNHCR 2013). Politically, Canada has also introduced an assisted voluntary return and reintegration programme to facilitate these processes and reduce the number of status peoples residing "unnecessarily" in the country (UNHCR 2013).

Taken together, the historical trends in immigration expansion and contraction that mimic demands for labour, coupled together with the relative silence on the issue of climate

[57] As the reader will recall, this dissertation holds that it is ethically problematic to demand that a vulnerable migrant group make claims for acceptance based on their adjudicator's terms, or subject to political spin over the legitimacy of their situation of vulnerability.

migration, does not suggest that Canada will be a leader in environmental migration policy change, despite its having a sizable indigenous population of Pressured Environmental Migrants in its Northern regions. The case of Canada does, however, shed light on the clear link between domestic needs for labour and expanding immigration categories. This link will be further explored in other cases; however, it is one that is particularly ominous for the most vulnerable categories of forced environmental migrants, who are almost exclusively low-skilled and poorly-educated by Western standards. It is also illustrative of Canada's participation in two larger, global discursive trends: the first, which produces and accentuates a distrust of the legitimacy of general refugee and vulnerable migrant claims; and the second, which legitimates a prioritization of security and economic concerns over those of a humanitarian nature. Given the historical propensity to shape of immigration policy with economic auspices – despite concurrent discursive concerns over security – this seems to be at least related to, if not the driver of, the true reason for shifts in Canada's position on migration policy and practice. Again, this does not bode well for the future of environmental migration rights here, and clearly points to Canada – at least under the current political regime – being an unlikely candidate to be a leader in the next wave of humanitarian migration policy reform.[58]

The United States

The United States has had more direct, visible involvement with the issue of climate migration than Canada. As such, it offers more specific information in piecing together a policy regime for environmental migration in North America. Yet, at the same time, the political discourse surrounding the broader issue of migration and refugees in the United States mimics that of Canada (or, vice versa). Together, these discursive frames form a more-accurate account of the state and future of environmental migration reform in North America as a whole. This trend, however, does not mean that valuable policy lessons and ideas cannot be drawn from this region. The United States has made specific use of immigration and other domestic policy in the context of environmental displacement. Most

[58] This is not to imply that humanitarian action for the benefit of EDPs is not possible in Canada, as Ministers can take individual action in response to humanitarian appeals; it is rather meant to comment on the unlikelihood of a future precedent-setting policy role for Canada in the context of environmental displacement.

illustrative, the mass displacement that occurred in the South after Hurricane Katrina in 2005 was distinctly a case of temporary (internal) environmental displacement. This event spurred disaster relief policy reform that is particularly worthy of review given its conception in response to a displacing environmental disaster. The United States has also made use of the Temporary Protected Status category in its immigration policy to allow foreigners whose home states have experienced destructive environmental events in nearby states (for example, Honduran or Nicaraguan migrants after 1998's Hurricane Mitch) to remain on US soil.[59] Together, these policies shed light on all three aspects of environmental displacement – imperative (IEM), pressured (PEM), and temporary (TEM) environmental migrants – and frame a clear direction for the future of the environmental migration policy regime in the United States.

In the United States (US), internal migration is largely framed in policy and the media as a rational choice process that is related to economic and demographic changes (Hall 2009). There are currently no internal migration policies addressing the vulnerability of Internally Displaced Peoples (IDP) – environmental or otherwise – or their adaptation resilience (Meyer Lueck 2011, 53). That said, the US Disaster Policy regime, primarily made up of the Robert T. Stafford Disaster and Relief Act of 1988, its amendments, and the Post-Katrina Emergency Management Reform Act of 2006, help to frame the IDP debate in the US and have significant implications for the future recognition of environmental displacement as a legitimate migrant category in US policy. Under the Stafford Act, the Federal Emergency Management Agency's (FEMA) role is to support state and local governments in the event that a disaster overwhelms their capacities (Public Law 100-707 [1988]). Once the President declares a federal disaster, housing, economic, and health assistance is then offered to local governments and affected populations. The Post-Katrina Reform Acts extended FEMA's authority to provide housing assistance beyond the three months laid out in the Stafford Act, as well as outside of the geographical location of the initial disaster area (Public Law 93-288 [2013]). Although still focused on short-term, local recovery, these changes dramatically expanded the federal government's assistance in disasters by

[59] Canada also saw an increase in immigration from these regions following Hurricane Mitch; however, most immigrants were not granted special status and entered the country under the "family class" immigration category, or through adoption (Garcia 2006).

creating a case management function within FEMA, the National Disaster Housing Strategy, and the National Disaster Recovery Framework. Yet, while seemingly comprehensive at first glance, this disaster relief policy regime suffers significantly from a lack of cohesion. According to Meyer Lueck (2011, 53-6), the real effects of the disaster relief policy regime on IDPs in the United States demonstrate a disjointed, almost backwards approach that is very limited in its potential scope to extend protection to Environmentally Displaced Peoples. By laying primary responsibility at the local level, with federal disaster declaration only being bestowed when local and state governments are "overwhelmed," small-scale disasters with displacing effects as well as slow-onset displacement are likely to be overlooked. Indeed, as the fallout of Hurricane Katrina's displacement in the United States revealed, this has been exactly the case. The reader should recall the Brooking's Institute's exposé on the United States' efforts to avoid labelling Katrina survivors as IDPs, where US government officials "settled on every possible description of those uprooted by Hurricane Katrina except IDPs" (Cohen 2008). They described them as "evacuees" or "disaster victims" – even "refugees," despite the obvious misuse of the term – because, according to Cohen (2008), in the American government's view, IDPs were people displaced by conflict elsewhere in the world. Further, Meyer Lueck (2011, 55) notes that "the case management function, the National Disaster Housing Strategy and the National Disaster Recovery Framework have little to no discussion of environmental migration," which can be seen as indicative of the limited scope of the overall disaster relief policy regime – particularly in light of its emergence in a post-Katrina context. Like Canada, US policy has adhered to an almost stubborn refusal to rhetorically adopt a new iteration of migration in evolving domestic migration policy regimes. Instead, traditional frames rooted in economic considerations dominate the debate.

The American approach to immigration follows a similar trajectory. As mentioned, the United States does make space for temporary environmental migrants in its immigration policy regime. Yet, much like its domestic disaster relief policy regime, the cross-border component exports responsibility to initiate proceedings to states facing disaster. Politically, this is not a problem as the principle of sovereignty is upheld; however, ethically, this approach is ultimately lacking. Fundamentally, the position of the United

States is that the responsibility of neighbouring and more distant states receiving the displaced, or hosting foreigners who cannot reasonably be returned, should come in support of, rather than in opposition to, that of the State of nationality. In other words, if the local state does not recognize an emergency, the emergency effectively does not exist. There are many political reasons that may lead to an environmental disaster being overlooked, most of which lie outside of the scope of this dissertation; however, what is significant is that 'disaster emergency' is framed politically in the context of international security and domestic sovereign politics rather than as a humanitarian, or ethical case worthy of international consideration. This point will be further illustrated as the chapter develops, but it is important to recognize here that this framing fundamentally leads to complications for Environmentally Displaced Persons given the domestic propensity to frame issues of population movement benignly: no state seeks to draw attention to the fact that it cannot effectively manage its own population (despite occasionally having to do so when the scale of disaster is too large). Ethically, the size of the displacing disaster should not be a consideration in providing assistance or initiate special migration status. Further, as discussed in Chapter Three, exporting the decision to declare a disaster to the state denies the individual agency of EDPs and potential EDPs, which is ethically unsustainable. This rationality is also reflected in The U.S. Temporary Protected Status mechanism. In 1990, Temporary Protected Status (TPS) was enacted as the statutory embodiment of safe haven in the USA for those who do not meet the legal definition of refugee, but are nonetheless reluctant to return to potentially dangerous situations. According to the US Immigration and Nationality Act, the nationals of a foreign state can be granted status if three conditions are fulfilled:

1. there has been an environmental disaster in the foreign state resulting in a substantial, but temporary, disruption of living conditions;
2. the foreign state is unable, temporarily, to handle adequately the return of its own nationals; and;
3. the foreign state has officially requested such designation.

TPS can be issued for periods of 6 to 18 months and be extended for the same amount of time if the displacing conditions do not change in the designated country, for a fee of $465 –

a significant amount of money for low-income, displaced families (Senate Hearing on Comprehensive Immigration Reform J-113-4, February 13, 2013). In applying for TPS, cut-off dates and registration deadlines have been implemented "to reduce the potential of a magnet effect, whereby people would take advantage of TPS to gain entry into the United States" (Temporary Protected Status 2013). Feeding from these concerns, TPS designation is a temporary benefit that does not lead to lawful permanent resident status or give any other immigration status.[60] Problematically, moving from TPS to a more permanent residence status has encountered significant difficulties, as illustrated by the precarious situation of tens of thousands of Hondurans and Nicaraguans who were granted TPS in the aftermath of Hurricane Mitch in 1998 and remain politically disenfranchised and in limbo despite having lived and worked in the US for well over a decade (Sabaté 2013). Yet, beyond its shortcomings, the TPS mechanism does one thing that other policies in North America fail to do: it makes specific mention of natural disasters as migration-inducing events that require special consideration in terms of migration policy (Temporary Protected Status 2013). The permanence of temporary status is highly problematic for many reasons (permanent disenfranchisement and an inability to thrive, to name a few); however, it does provide some footing into the discursive battle for recognition and should thus be noted here.

Overall, the North American policy model largely lacks insight and leadership in advancing the recognition of climate change as a driver of human migration with ethical implications for responsibility. This is not particularly unexpected for three reasons: first, due to the deep-rootedness of immigration policy in economic considerations; second, due to the continuing hope in North American culture that climate change is (a) not our responsibility, and (b) does not demand a fundamental change in lifestyle and politics; and third, due to the dominance of security discourse in all migration debates, particularly since September 11, 2001. Where protection is offered it is, again, expectedly, offered from a position of negative rights: TPS in the United States does not offer immigration, or even a pathway to immigration, but rather a mere stay on deportation for foreign TEMs. Domestic TEMs are

[60] The Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S.744), if passed, would have seen this condition change to grant a path to residency for those who have been living in the United States for 10 years or more (Sabaté 2013).

treated differently, but following the social contract construction of citizenship rights, in no way different from any other citizen. In other words, in no way that gives recognition to their ethical demand for a specialized set of rights. From this analysis of the policy and discourse connected to the issue of environmental displacement, North American states seem most likely to maintain the status quo in terms of immigration reform and are unlikely to initiate substantial international (or domestic) recognition of environmental displacement as a politically legitimate form of humanitarian migration, demanding special status.

European Model

There are ultimately two somewhat distinct approaches to climate change displacement in Europe: the Nordic approach, and that of the rest of the continent. Since 2007, the topic of environmental migration has clearly been on Europe's political and policy radar. A report prepared by the European Commission to the European Council, stated that "Europe must expect substantially increased migratory pressure" in the coming decades, highlighting the need for European policies to address the issue (Solana 2008). This sparked a flurry of activity, including a Council of Europe report to explore legal options in addressing environmentally induced migrants coming to Europe (Acketoft 2008; Ivanov 2009), empirical research supported by the European Commission such as the "Environmental Change and Forced Migration Scenarios project" (Jäger et al. 2009), and European-supported research and policy endeavours such as the Foresight Project on Global Environmental Migration (UK). Yet, despite this attention in policy research and general political discourse, no clear policies have emerged that are suitable to offer migration-related protected status; countries in Europe still admit Environmentally Displaced Persons under family reunification statutes, asylum provisions, or labour market provisions (where they admit them at all). In fact, the sense of urgency and demand for action can even be said to be *decreasing* as the number of global environmental migrants continues to rise. In May of 2013, Geddes and Somerville published a policy brief for the Migration Policy Institute, Europe, in which they categorically declared that "increased migration to Europe as a direct result of environmental change is very unlikely," marking a

significant change from the European Union (EU) approach of 2008 (2013, 1). EU policy seems to reflect this shift in approach, as most responsive policies were located/added around 2007-8 and have since dwindled to nearly nothing. Nordic countries have lead the charge with the most specific policy implications for Environmentally Displaced Peoples; however, even these tend to be only well-suited to providing temporary protected status.

Nordic Policies

Nordic countries seem to be alone in extending specific environmental migration rights in Europe. Finland and Sweden lead the group, with the most widely regarded approach; however, even here, the extension of rights stands largely as a temporary mechanism.

Specifically, the Finnish Aliens Act offers protection to foreign nationals already in Finland who cannot return safely to their home country because of an environmental disaster: "aliens residing in the country are issued with a residence permit on the basis of a need for protection if . . . they cannot return because of an armed conflict or environmental disaster" (Kolmannskog 2009, 4). Yet, while environmental migration protection is offered in Finland, the Aliens Act emphasizes that the preferred option in environmental disasters is internal relocation and international humanitarian aid. This approach, while respecting state sovereignty and national citizenship-related responsibilities, does not offer the ethical agency demanded by EDPs to make their own migration decisions. Similarly, the Swedish Aliens Act [Chapter 4, Section 2] includes the recognition of individuals who do not qualify for refugee status, but have a need for protection. Specifically, it refers to a person who

> has left his native country and does not wish to return there because he or she has a fear of the death penalty or torture is in need of protection as a result of war or other serious conflicts in the country—is unable to return to the native country because of an environmental disaster" (Aliens Act, 2005, 716).

Most recipients of this status are assumed to need only temporary protection, but the Swedish rules foresee that some persons may need permanent solutions (Kolmannskog 2009, 4). It is, however, required that there is no alternative to relocate to a safe area within the home state – again, following a similar trajectory as the sentiments of the

Finnish Aliens Act. The application of this special protection category can be restricted if Sweden's absorption capacity is deemed to be overwhelmed; however, this restriction is only meant to apply in exceptional situations, as a solution to the capacity problem should first be sought through international, and in particular, European cooperation. This approach is nevertheless ground-breaking in the international community, where EDP claims seem to face a greater likelihood of being denied elsewhere (see, for example, Ioane Teitiota's denied claim for refugee status on environmental grounds in New Zealand [NZHC 3125).

In a slight expansion of the Finnish and Swedish Aliens Acts, the ongoing proposal for a new Aliens Act in Norway recognizes the need to be able to grant (possibly temporary) residence permits to applicants who come from an area affected by a humanitarian disaster, including a natural disaster (Kolmannskog and Myrstad 2009, 10). This proposal goes beyond current legislation in that it would potentially offer immigration access to environmental migrants arriving in Norway, where prior legislation was meant to exclusively apply to foreign nationals already in the country.

Finally, Denmark has agreed to grant humanitarian asylum to single women and families with young children from areas where living conditions are considered to be extremely difficult, for example due to famine or drought. Unfortunately, this granting of asylum is reserved entirely to discretion, which, as discussed, is ethically insufficient, let alone gender-biased (Kolmannskog and Myrstad 2009, 10).

Overall, Nordic countries offer specifically-outlined policies for environmental migrants; however, these (currently) only apply to foreign nationals already in the country of application, seeking a right not to return. While Norway's proposed changes to the Alien's Act and Denmark's discretionary granting of asylum do extend these limitations, they do not exist in written, legal policy and thus are unable to offer reliable protection. Where asylum is granted, in Sweden and Finland, it is temporary and meant to be taken only as a last resort. Thus, while recognition is given to the connection between environmental factors and migration in Nordic migration policy, not much else has been revolutionized.

The European Union Model

As mentioned, temporary protection could be activated in European immigration policy in cases of mass displacement following an environmental event. While this policy approach is geographically concentrated in the Nordic countries, it largely stands alone and cannot be said to be representative of the region as a whole. Expanding our lens to look at a broader European approach, we see a different story unfold: one that holds a promising future for expanding EDP rights in European policy as few as five years ago, but which has contracted in on itself to squeeze out all but the faintest hope.

Advancing the 'golden era' of environmental migration recognition in Europe circa 2007-8, the Belgian government voted in favour of promoting international recognition of environmental refugee status at the United Nations in 2007 (Chope 2009). While there was a differential response among various member states, the formal EU bodies took up the issue: in 2008, the European Parliament adopted a declaration to "organize legal protection for the victims of climate events" (Chhabara 2008) and in 2009, the Council of Europe stated that "the protection of people compelled to move due to climate and environmental factors is of paramount importance" (Chope 2009). In 2010, the Action Plan on the implementation of the Stockholm Programme (2010-2015) promised that the European Commission would produce a communication specifically on the effects of climate change on immigration in the European Union. Yet, nothing materialized from these initially promising developments. As time went on, the project was eventually folded into the larger framework of the Global Approach to Migration and Mobility (GAMM): where, according to Geddes and Somerville (2013, 3) it was given relatively little attention.

Compared to its auspicious beginnings, the current state of EDP recognition and accommodation in European policy is rather meagre indeed. GAMM and the EU's development cooperation do provide some important possibilities to support countries affected by adverse environmental changes and serious environmental events. For example, GAMM lays out goals including strengthening countries' policy frameworks on the protection of Environmentally Displaced Persons, enhancing governments' capacities to respond to disasters and medium and long-term environmental change, and increasing the

resilience of local communities (Kraler et.al. 2012). Lingering, though, is the obvious question of political will – particularly given the broad nature of these goals. Despite the GAMM's inclusivity of environmental factors as triggering necessary support in terms of aid and protection, this communication (similar to a white paper in Canada) clearly marks a significant downgrade for the future of special recognition for environmental migrants in European policy from where it seemed to stand in 2008.

The EU's "Temporary Protection Directive" offers a more specific frame, establishing temporary protection during 'mass influxes' of certain displaced persons, where 'mass-influx' refers to situations where large numbers of people are suddenly displaced and where it is not feasible to treat applicants on an individual basis (2001/55/EC of 20 July 2001). Thus, while there is currently neither a distinct instrument specifically covering 'environmentally displaced individuals' nor provisions under existing instruments that could be interpreted as extending individual protection to third-country nationals affected by environmental events, in case of a massive environmental displacement following a natural disaster, it seems that the temporary protection mechanisms under the Temporary Protection Directive (2001/55/EC) could – in theory – be activated. Unlike its counterpart, the Qualification Directive, its personal scope is not limited to persons in need of international protection in the strictest sense (for example, "refugees" under the 1951 Refugee Convention or persons under subsidiary protection). Not only are the circumstances by which Temporary Protection may be activated not understood to be an exhaustive list, but individuals displaced following a serious environmental event also may be argued to "be at serious risk" or to have become victims of "systematic or generalised violations of human rights" (Kraler et.al 2012, 4). Again, this approach stands out as significant, where similar arguments for special status have been dismissed elsewhere (for example, New Zealand). Yet as a political mechanism of burden sharing within the EU requires a Council decision on the activation of the directive, the Temporary Protection Directive is limited in its responsive capabilities. Further, it is does not provide individual protection, but provides collective protection to a group to be defined on a case-by-case basis by the Council (Kraler et.al 2012, 4). This may be a double-edged sword where, on one hand we see the individual agency of EDPs being downgraded below ethically suitable

standards, but where – on the other hand – the unique group quality of EDPs (especially IEMs from small island states) could be officially recognized as morally or legally legitimate.

On the first point, the EU is notably lacking a protection mechanism for individual victims of environmental disasters. According to Kraler et.al. (2012), it may be possible to amend the updated Qualification Directive (2011/95/EC) by expanding the scope of subsidiary protection and, in particular, the notion of "serious harm" to include natural disaster situations. Using subsidiary protection would have the advantage of being able to use an established protection status with a clearly defined set of rights. Like the TPS of the United States, the amended subsidiary protection instrument would likely be renewable and thus exclusively "temporary." As such, while it may be able to address the needs of some environmental migrants (particularly, Temporary Environmental Migrants), it is not suited as a comprehensive solution.

Existing legislation in EU Member States further provides different forms of humanitarian status grants, which leaves scope to grant legal status to Environmentally Displaced Peoples. An example of the consideration of environmental factors in humanitarian status grants can be seen in Denmark, which granted residence permits on humanitarian grounds between 2001 and 2006 to families and destitute Afghans from certain areas in Afghanistan where drought was particularly severe and who would have been placed in a vulnerable situation had they been returned (ICMPD 2006, 33). In addition to, or as an alternative to humanitarian status, some Member States provide for discretionary status grants on the grounds of state interest. This status could also be invoked by individuals affected by environmental disasters who are unable to return or who have been admitted on such grounds – if the state is interested. In the majority of cases, national protection status is granted to persons unable to return: a principle grounded in the EU's Return Directive (2008/115/EC). This directive requires Member States to suspend a return decision should return not be possible. It also explicitly allows Member States to withdraw a return decision and grant residence status to migrants. Kraler et.al. (2012) argues that a future direction for the Return Directive should consider "establishing a mechanism to define additional cases, including serious environmental events in which removal should

be suspended complementing the grounds currently listed under the relevant provisions of the directive." The EU currently has no policy in place to address migrants affected by slow-moving climate change (i.e. Pressured Environmental Migrants). Theoretically, an arrangement like the EU's Schengen Agreement, which allows EU citizens free movement within participating Member States, might provide interesting possibilities to expand the migration possibilities available to EDPs. This concept will be further explored in Chapter Seven.

Fundamentally, on a policy level, it is clear from Geddes and Somerville's analysis that "decision makers have responded to concerns about migration linked to environmental change reactively, generally avoiding the issue, and wherever possible reducing its priority within international discussions" is apt (2013, 3). Even where governments have been forced into a policy decision – in instances when a natural disaster has led directly to migration – policymakers have placed their responses within a framework of "one-off efforts," carefully avoiding setting any precedents (Geddes and Somerville 2013, 3). From a review of European political party statements and platforms, the issue of climate-induce migration does not seem to garner much attention, except among the Green and a few far-right parties, which does not bode well for seeking comprehensive policy responses emerging in the European context in the near future (Schmedding 2011, 7). Again, similar to the North American context, where policies give recognition and protection to EDPs, especially TEMs, these are strictly in a negative-rights context and offered as a stay on deportation rather than in conjunction with a pathway to citizenship. More promising, but still clearly fitting with the larger anti-immigration trends of current policies, the EU frameworks on development cooperation and humanitarian aid, as well as the framework for cooperation on migration with third party countries, highlight the fight against climate change and strengthening the resilience of local communities against environmental degradation as one of the priority areas of the EU's development cooperation activities. As such, it seems that since 2008 the issue of environmental migration may not have been 'forgotten', but rather re-focused to discourage migration in favour of supporting local adaptation assistance. Possibly, this shift may have been exacerbated by the 2008 global financial crisis' impacts in the region.

The Oceanic Model

In many ways, however, the Oceanic approach has shown the most promise in establishing a special set of EDP mobility rights. Australia and New Zealand have both made surges towards instituting special recognition for IEMs and TEMs: politically acknowledging a broader range of EDP in their immigration policies than their North American or European counterparts. Most likely, this is a result of the geography of the Oceanic region being extremely susceptible to rising sea levels and the many 'sinking' islands that neighbour these states. While the topic is still clearly polarizing in domestic politics and media coverage, the Oceanic countries seem best poised to set a new trend for the future of EDP politics, largely given their geographic location and inability to avoid setting policy trends in this regard.

Australia

Beginning with the least promising of the two large receiving states in the region, Australia seems to be the most resistant to shifting the narrative on climate migration, despite its geographic location. Politically, Australia's stance on the issue of climate refugees has been somewhat ambiguous, moving from obstinate to progressive, and back again.

In 2001, Australia established legislation that came to be known as the Pacific Solution. This policy was designed to stop asylum seekers from reaching Australian shores, thereby pre-emptively negating claims for refugee status or asylum. Among its exclusionary tactics was the excision of outlying territories from its migration zone, thus evading the obligations attached to hearing refugee claims on Australian soil (Murray 2011, 96). Unfortunately, the UNHCR seemed to support the Pacific Solution as, along with the International Organization for Migration (IOM), it processed asylum seekers to Australia in third countries such as Nauru and Papua New Guinea. "States increasingly view refugee rights and non-refoulement as inconvenient obstacles when they have decided that it is time for refugees to go home" (Barnett and Finnemore 2004, 75). Scott Watson (2006, 13) characterizes Australia's refugee humanitarianism as "refugee resettlement and non-violation of international obligations", where refugees were resettled elsewhere: violating the spirit, but not the letter of the law (also see Kernerman 2008, 230-248 on this kind of

"remote migration control" at play in Western liberal democratic states bordering the North Atlantic). The Pacific Solution was clearly a success as the number of refugee and asylum seekers who reached its borders dropped by 75 per cent between 2000 and 2005 (UNHCR 2006).

More specifically, "climate refugees" have featured in political party campaign debates over the last decade: the former Liberal government of John Howard expressly doubted that Tuvaluans faced a significant threat in the near future and therefore denied them the right to resettle in Australia (a request granted by neighbouring New Zealand). In 2007, the Howard government was replaced by the Labor government of Kevin Rudd, which ran a campaign pledging to allow climate refugees into the country (Berzon 2006). Under Rudd, Australia announced a new policy to support Pacific islanders abandoning their villages and farmland to rising seas: the Australian government would provide help with the internal relocation of refugees on the islands (Berzon 2006). Months later, in October 2009, the Australian Green Party called for a new visa category for climate change refugees, and a group of Australian lawyers publicly called for a Convention for People Displaced by Climate Change (Nelson 2009). Yet, hand in hand with these steps towards recognition, has come significant anti-immigration propaganda. For example, in 2007, a government MP warned Australians that if they do not populate Australia's underdeveloped north, they will "face invasion by Asian refugees driven south by climate change" (Squires 2007). Rudd's pledge to recognize and assist climate refugees remained uncertain until the party replaced Rudd with Julia Gillard in 2010. Once in office, Gillard quickly implemented an anti-immigration platform, attempting to redirect all new refugee claimants to East Timor (BBC 2010a). This action, of course, left those looking for a continuation of Rudd's earlier pledge unfulfilled. Rudd's brief return to Prime Minister in June 2013 saw no further discussion of climate refugee rights in a political climate hostile to the immigration of vulnerable populations. September 2013 saw the election of Tony Abbott, who campaigned centrally on a platform that included a promise to "repeal a much-loathed carbon tax and to take strong measures to halt the upsurge in illegal immigrants floating up to Australian shores in rickety boats" (McParland 2013). Neither of these political moves bode well for the expansion of migration rights in the current political climate of Australia; however, the

amount of political and media attention received is indicative that the debate over special climate migration rights is likely far from over, despite its current standing.

New Zealand

New Zealand, on the other hand, has been much less resistant to extending migration assistance to nearby 'sinking' island nations (although, not necessarily because they are sinking). Tuvalu, for example, already has a diaspora population in New Zealand of over 3,000 – more than one third of the total population of the island (Gemenne and Shen 2009, 11). Ultimately, there are three projects that hold potential to extend migration rights to EDPs that are rooted in New Zealand's policies. First, is a labour-migration scheme; second, is a pre-emptive mass-migration agreement, and third, is a "climate refugee" claim recently heard in the New Zealand High Court. This last development is particularly significant, in that it will have far-reaching and immediate implications for the future of refugee-like rights for environmentally-induced migrants worldwide.

New Zealand's Pacific Access Category (PAC) is a labour migration scheme that formally admits up to 75 citizens of Kiribati, 75 citizens of Tuvalu, and 250 citizens of Tonga to be granted residence in New Zealand each year ("Quotas" 2013). The category designates space for labour migrants specifically from small island nations, so as to advantage their immigration into New Zealand. Conceivably, by ensuring new immigrants have secured employment, this will ease their transition into the new society. Yet, while there are many benefits associated with such a strategy in expediting the migration of Imperative Environmental Migrants from small, 'sinking' island states, there are a few concerns to take notice of as well. First, this migration strategy is unapologetically a *labour* migration strategy – it is not, and cannot be seen to be, a humanitarian effort. New Zealand does not recognize any variation of climate "refugee." Secondly, but along the same vein, critics argue that its emphasis on labour qualifications means it is more concerned with economics than with vulnerable migrants (Williams 2008, 508). Indeed, migrants must have a long list of qualifications to be eligible, including proficiency in English and a standing offer of employment (see s 1.40 Pacific Access Category for more detail). Further, statistics seem to indicate that this program has not been a huge success, as many of these

spaces remain unfilled each year (Gemenne and Shen 2009, 11; Jäger et al 2009). Yet, despite these shortcomings, such a scheme may be beneficial for the long-term integration of migrant populations: it has the benefit of ensuring gainful employment and at least a minimum level of political inclusion. Further, once admitted, migrants can apply for Family Sponsorship to bring additional family members into New Zealand. As such, it may have migratory benefits beyond those immediately apparent, as well as the potential to protect and maintain some element of local culture by relocating individual (ethical) agents somewhat en masse.

The second advancement made in New Zealand's policy is its precedent-setting agreement of 2005 to accept the 11,600 citizens of Tuvalu in the event that the island was overwhelmed by rising sea levels ("World Urged to Prepare" 2005). While New Zealand cannot be expected to accept all displaced islanders into its borders, it seems unlikely that should other islands be submerged by rising sea levels, New Zealand would not extend such an arrangement beyond the constraints of that reached with Tuvalu. Of course, being the world's third smallest state population-wise, it is easier to make an agreement with Tuvalu, than it would be to make one with other labour-migration scheme partners like Kiribati (100,000+) or Tonga (127,000+). Yet, despite this promise of reprieve, there still remain many questions which have yet to be seriously considered: at what point would this agreement be initiated? How 'bad' does the situation need to become before Tuvaluans can enter New Zealand? Will there be any integration assistance – particularly in terms of gainful employment and/or training? This last question is especially troubling given the unfilled quotas in the current labour migration scheme between Tuvalu and New Zealand: if employable Tuvaluans are limited in number according to New Zealand's standards, what implications does this hold for the upwards of 10,000 new, conceivably-'unemployable' arrivals? When this agreement is set alongside the current labour migration strategy, it raises questions about the seriousness of the offer. If New Zealand were truly expecting to accept the population of Tuvalu into its country within the next half-century, why are more steps not being taken to adequately prepare the citizens of both nations to join? A *Factivia* media search on news sources in the region from 2005-2013 indicates no discussion of this agreement beyond its 2005 announcement, with no mention of it on the New Zealand

government/immigration website, nor any mention of other migration strategies on the part of Tuvalu (for example, a land purchase). Together, these elements raise significant concerns that need to be addressed, moving forward. That said, this agreement is precedent-setting in that it holds ethical implications for other 'sinking' islands in the region. Indeed, since this agreement was struck, the President of Fiji has offered a similar promise to the residents of Kiribati, declaring "you will not be refugees" (AFP News 2014).

Finally, New Zealand is also the first state worldwide to consider a legal claim for refugee status resulting from environmental causes. In 2013, the New Zealand High Court heard the case of Ioane Teitiota, who sought to overturn a decision by immigration authorities who refused him refugee status twice on the grounds that his claim fell short of the legal criteria set forth in the 1951 Refugee Convention; particularly, the fear of persecution or threat to his life (NZHC 3125 [2013]; Perry 2013). His appeal argued that he and his family would "suffer serious harm if forced to return to Kiribati because rising sea levels caused by climate change mean there [is] no land to which he could safely return" (Perry 2013). Specifically, his claim explains how high tides breach seawalls and rising sea levels contaminate drinking water, which kills crops and floods homes (Perry 2013). The High Court initially reserved judgement, leaving much of the world in suspense, but the appeal was ultimately denied, citing among other reasons, the importance of sovereignty and the high-stakes implications of providing the first legal decision on this issue (NZHC 3125 [2013]; Perry 2013; ABC News 2013): "The history of the last 3,000 years of human kind records huge movements of people, driven in some cases by overpopulation or scarce resources … But the globe is currently divided between independent sovereign states which would certainly resist unimpeded migration across state boundaries" (NZHC 3125 [2013]; Perry 2013). The judgement went on to declare that "On a broad level, were they to succeed and be adopted in other jurisdictions, at a stroke, millions of people who are facing medium-term economic deprivation, or the immediate consequences of natural disasters or warfare, or indeed presumptive hardships caused by climate change, would be entitled to protection under the Refugee Convention" (ABC News 2013; NZHC 3125 [2013]). While the hardships of EDPs were acknowledged, the principle of sovereignty was once again upheld: "It is not for the High Court of New Zealand to alter the scope of the

Refugee Convention … Rather that is the task, if they so choose, of the legislatures of sovereign states" (ABC News 2013; NZHC 3125 [2013]). While it is likely that many states breathed a collective sigh of relief with the passing of this judgement, environmental advocates' hopes were shattered as another opportunity for the advancement of EDP rights and recognition was lost to the tragedy of the common's lowest common denominator dilemma. June 4, 2014 saw the re-emergence of this issue when a family from Tuvalu looked to the New Zealand Immigration and Protection Tribunal for climate refugee-like status. Yet, while the tribunal granted them leave to remain in New Zealand, Jane McAdam (2014) notes that the decision was based purely on humanitarian and discretionary grounds – likely based on the quality of life for their two children if the family were forced to return to Tuvalu – rather than on any domestic or international legal obligation (NZIPT 501370-371 [2014]). In this, the Tribunal avoided laying any precedent for 'climate refugees' while granting the family a stay.

Overall, the Oceanic policy model tells a similar tale of promise leading to eventual inaction, much like that of Europe. Australia's retreat from once-promising advances in climate migration recognition is indicative of a larger global trend away from expanding humanitarian aid, to one dominated by security concerns, anti-immigration sentiments, and collapsing support for protection migration. New Zealand's public policy has been beneficial, at least in appearance, but seems to lack sufficient follow-through and support systems to make policies like the PAC fully functional: again, a discursive maintenance of the negative-rights regime has curbed the full potential of these policies. In total, this region brings many ideas to the global debate, but lacks sufficient results to be used as a global policy model. These policies, however, serve well as a foundation for the dissertation's upcoming resolution framework.

Expanding Regional Policy: The Nansen Initiative

The Nansen Initiative was designed to develop a state-led, intergovernmental response to what it recognizes as a protection gap for Environmentally Displaced Peoples (Nansen 2015). It was launched in 2012 by Switzerland and Norway with the goal of building consensus around a Protection Agenda to address the needs, specifically, of cross-border

EDPs, specifically building from a series of intergovernmental and civil society consultations in the Pacific, Central America, the Horn of Africa, Southeast Asia, and South Asia (Nansen 2015). In this, their research provides an excellent counter-balance to my own, which focuses on the state and its domestic policies. The results of their consultations are currently being consolidated, and are planned for global intergovernmental consultation in Geneva, in October 2015 (Nansen 2015). While it is early to offer a conclusive analysis of the project's success, to date, the research conducted by the Nansen Initiative serves to highlight some significant trends that seem to reinforce many of the findings and insights of this dissertation. While the conclusions of this global project have yet to be released, there are five noteworthy points of significant overlap in their initial findings:

- First, the causes and consequences of climate change are complex, nuanced, and difficult to clearly conceptualize, understand, and predict.
- Second, local populations bearing the brunt of the effects of climate change are concerned by the prospects of disaster risk reduction (which I have address primarily as adaptation).
- Third, migration is almost exclusively understood by potential EDPs as a method of adaptation, and not as something desirable or opportunistic.
- Fourth, where migration is likely inevitable, populations are almost exclusively seeking planned relocation, as a group and not on an individual, ad hoc basis.
- Fifth, there are inadequate protection measures in current international law and domestic policy to meet the anticipated needs of (potential) Environmentally Displaced Peoples.

While there are obvious variations among regional concerns and preferences (see Nansen 2015 for more information)[61], these areas of overlapping concern are significant. Even more-so, I believe, is the point that many of these initial areas of concern overlap with those highlighted in my research at the state level, which I believe reinforces the critical some of the suggestions of my project and the extent to which the international community

[61] I have not chosen to reiterate the initial findings of the project here in detail, as they have not yet been finalized.

needs to rethink its understanding of the environment vis-à-vis human rights and migration.

Conclusion

From this chapter, particularly in the scope of the larger dissertation, two things are clear: first, (slow and minute) progress is being made at the domestic political level in terms of building recognition for Environmentally Displaced Peoples; and second, that this is the level of political authority with the clearest and most immediate ability to impact change in the area of climate migration rights under the current international regime (again, likely related to the prominence bestowed upon the state under the Westphalian sovereign system).

This chapter has collected and analysed the current and emerging political policies that address the question of climate migration rights. From this data, we can locate what I believe are three general trends that are likely to continue into the future:

1. Geopolitical location matters most in terms of domestic recognition
2. Economic labour migration strategies are most-easily adaptable, as they simultaneously address admittance and economic integration – both of which seem necessary for long-term success under the current (capitalist) international regime.
3. International anti-immigration sentiments are among the largest challenges to advancing EDP migration rights at the domestic policy level.

The first is fairly certain: areas with the most developed policies are those most immediately faced with an influx in potential forced environmental migrants. New Zealand and Australia have participated in the most political consideration of the threat (despite their differing responses), with Europe having moved away from addressing the issue as predicted numbers began to indicate a decreased likelihood of the arrival of forced environmental migrants seeking asylum en masse. This trend is also significant because it highlights the quality of recognition being given to EDPs in international and domestic politics: again, as has been the case in much of the early academic literature, there is a very

narrow definition of EDPs as "climate refugees" that is dominating discursive public policy worldwide. In all but exceptional cases, this framing narrows the category to offer permanent status only to those peoples who have literally and completely lost all land to live on. In terms of this dissertation, this working definition will, at best, likely only include Imperative Environmental Migrants; even then, this may be reduced to those currently living on low-lying small island states like Tuvalu or Kiribati. The other end of the political recognition spectrum offers strictly-temporary protection for survivors of major storm events and other disasters, and would likely cover most if not all EDPs falling into my third categorical definition of Temporary Environmental Migrants despite their framing as pseudo-refugees in policy documents and the literature. Nowhere do Pressured Environmental Migrants receive status, as they have not been recognized as anything beyond labour migrants in the current political climate. This is concerning, moving forward, as this second category of EDP is by far the largest in number with an equal ethical claim to protection.

The second general trend is that labour migration schemes may be the most politically attractive to host countries, while offering both admittance and economic integration for EDP populations. New Zealand is currently the only country to employ a functioning labour migration scheme with what could be argued is an eye towards environmental migration; however, many countries worldwide are familiar with the concept, albeit in term of seasonal migration. This point is particularly true in North America where temporary foreign worker programs are already in place and could be adapted with relative ease. Furthermore, this plan is both pre-emptive and robust, and therefore worthy of further consideration on a policy level – although, temporary labour migration would not itself be a suitable strategy in this context. It is not, of course, without problems, as discussed above, but with proper implementation, including funded training programs for willing and able potential EDPs, it does hold significant potential to alleviate the threat of mass-displacement and the negative consequences and impacts on both displaced populations and host states. Finally, it leaves agency in the hands of individual EDPs and thereby offers an ethical robustness not seen elsewhere.

Some of these models are working well, but they will likely only function effectively in a minimal migration context without closer consideration and planning on the part of potential receiving states. State-to-state bilateral or multilateral agreements, such as that struck between Tuvalu and New Zealand, allow for pre-planning, slower migration, and carefully monitored integration. This type of arrangement is clearly preferred over mass, disorganized migration on the part of host states and displaced populations, as it is better suited to ease integration while remaining sensitive to cultural protection and individual autonomy.

The third trend is both the most global, and the most concerning. In each region potential immigration reforms that could have significantly advanced EDP rights have been abandoned or left stagnant due to rising anti-immigration propaganda and general sentiment. Should this trend continue, the future of advanced EDP migration rights would remain uncertain, at best.

It is further clear that while regional trends do seem to be emerging, there is no regional cooperation in terms of producing and putting into effect a single policy or policy regime to date. As such, the current state of EDP migration policy is filled with gaps. Ideally, one of two things will happen to reduce and/or fill these gaps: first, states will converge on a regional basis to develop a policy regime best suited to the geopolitical state of their region (i.e. Oceania is most prone to Imperative Environmental Migrants, Africa / Europe is most prone to Pressured Environmental Migrants, and North America is most prone to Temporary Environmental Migrants). From here, bridges could be made globally. Secondly, and this may be more important than the first, international organizations need to step in to fill the gaps left by state policy. The IOs currently responsible for displaced persons and vulnerable migrants are self-described as incapable of addressing issue due to a lack of funding to broaden their scope. This needs to change to ease the transition from broken policies scattered around the world into a coherent policy regime capable of addressing the full-range of climate displacement.

Noticeably absent from the policy literature on environmental displacement is a detailed examination of the way in which NGOs, INGOs, and IOs are advancing protection at the local

level. Also absent is a concerted attempt to maintain group rights and recognition of the indigenous identities of displaced populations: while all regional approaches seem to hold some recognition of the nature of environmental displacement as occurring in large groups, none give much overt concern to group rights in migration, likely due to the domination of Western liberal-democratic voices in setting the policy agenda.[62] Even the agreements struck with Tuvalu and Kiribati to relocate the population en masse should their islands be submerged hold no clear statement on to the continued political autonomy of the nation, or the group rights of its people. Both of these areas of study require closer attention from the international community, moving forward. They will also be addressed in more detail in the final chapter of this project.

Overall, this chapter has argued that domestic policy offers the best immediate opportunities to advance EDP migration rights around the world, under the current international regime. While collaboration and coordination are lacking, it is maintained that this political sphere offers the most direct route to resolution and advancement, short of a deep reconfiguration of the Westphalian sovereign state system. Again, while domestic policy provides a route forward for EDP rights, it is not the ideal or most comprehensive route. Instead, dispensing with the fundamentally-flawed concept of Westphalian state sovereignty in the context of environmental migration rights would clear a broad enough path for the full recognition of the ethical status and rights demanded by this dissertation for EDPs. That said, a pragmatic approach might see these extremes meet. Wedding these two contentious claims sets the project's next, and final, task.

[62] The Nansen Initiative breaks with this trend in its added focus on potential 'sending' states.

Chapter 7| Challenges and Opportunities: Navigating a Route Forward

The dissertation has thus far highlighted some of the key ethical, legal, and public policy challenges associated with internal and cross-border experiences of environmental displacement. Migration has been framed throughout as a legitimate adaptive response to climatic pressures exerted at local, regional, and global levels. In this, both non-migratory adaptation and migration – choosing to remain, or choosing to leave – have been understood as issues of autonomy, and not mere policy, following the project's ethico-political frame. This dissertation has been clear that Environmentally Displaced Peoples (EDPs) are more than statistics and potential migrants; they are individuals and groups of people with life goals, expectations, hopes, failures, and all that is entailed in *being* human. In this, they are the same as non-Environmentally Displaced Peoples. Following Kantian or Arendtian logics, nothing about their conditions of displacement, as we have seen, marks them as suitable for treatment as anything less than human beings *just like us*. Politically, in as much as we choose to commune (whether for the sake of individual preservation and advancement, following Hobbes' arguments in *Leviathan*, as a requirement of our humanity, following Aristotle's considerations in *Politics*, for the mutual benefit of all, following Rousseau's reasoning in *Social Contract*, or for a deep desire for recognition and belonging, following Hannah Arendt 1968[1951], Amy Gutmann [Ed.] 1994, or Jürgen Habermas 2003) we have a basic ethical responsibility as human beings to recognize this humanity in others. In as much as we believe we have a right to determine our own future – a right to autonomy – we must recognize this right in EDPs as well: the only 'difference' between an EDP and a non-EDP is the unjust arbitrary misfortune of geographical location. There is no logical reasoning through which EDPs could be denied this right without some level of hypocrisy, if we choose to uphold it for ourselves (as we do). Yet, as we have seen throughout this project, EDPs and potential EDP populations are being denied the right to continued autonomy in almost every way. They receive no special recognition, little international policy and legal consideration, and minimal assistance in their fight against the encroaching conditions of climate change on their political and personal autonomy. As

this dissertation has argued, the gap between ethics and politics in the face of mass environmental displacement is untenable. Change must come.

The full ethical implications of this gap in the context of environmental displacement have been expressed in Chapters Three and Four, where the relationship of responsibility was established: essentially, Greenhouse Gas (GHG) producing individuals (and, through them, also their states)[63] have an ethical obligation to ameliorate the negative impacts of the conditions of climate change that they helped to accelerate. Tied together, GHG producers have played a role in stripping the autonomy of individuals now facing the direct impacts of climate change in their local communities and are thus ethically obligated *at minimum* to support those populations in dire need.[64] Chapter Three has, however, argued that the dire need approach is not sufficient to fully support the range of environmental displacement as a function of climate change, instead setting out five ethical demands moving forward (also see Table 2):

1. All individuals have a *Right to Adapt*, in as much as the geographical location of a population is often imposed by birth or other arbitrarily forces, that population has a normative right not to be disadvantaged by said positioning. There is also a universal right not to be unequally disadvantaged or harmed by the conditions of climate change.

2. All individuals have an equal *Right to Free Migration as a method of environmental adaptation.*

3. Policies regarding forced environmental migration must emerge from a space that recognizes *common responsibility* (see Arendt 1968[1951]).[65]

4. There is a *Responsibility to Pre-emptively address the challenge of environmental displacement* that is recognized by the dominant approaches to international

[41] One could also make an argument that states have perpetuated the conditions of climate change through economic policies and participation in international trade (Chen and Woodland 2013).
[64] See Chapter Three's discussion of Michael Walzer (1984) and the dire need approach as having established the necessary, but not sufficient, basic moral threshold for initiation an international response.
[65] The foundations for this principle have been laid in this chapter, but will be developed in the next.

relations. This responsibility requires both implementing international adaptation assistance and facilitating migration.

5. There is a clear *Global Responsibility to assist adaptation, including migration*, based on global culpability in creating the conditions of accelerated climate change.

While some of these ethical demands may be easier to meet than others, I have argued that the first two are non-optional minimum standards with direct public policy implications that need to be immediately addressed. More broadly, Chapter Four has illuminated some of the deeper tensions between the granting and actualization of human rights under the current international regime. It particularly focused on the mechanism of Westphalian state sovereignty and its entrenched individualism as an obstruction to the advancement of EDP rights. These challenges were illustrated in Chapters Five and Six's examination of the laws and policy governing environmental migration.

This chapter brings together the ethical, legal, and policy findings of the dissertation in an attempt to build a framework for global action that is set to mitigate the current ethical and political shortcomings surrounding the issue of climate change and displacement. The chapter is strategic in its construction, providing individual analyses of the potential responses to the challenges of both ongoing and pending environmental displacement, the best of which are then used to build the overall framework response. The individual analyses are divided into two sections: the first addresses potential adaptation support strategies, and the second seeks to compile and analyse a list of migration schemes. Most of these responses are drawn from previous chapters, but will be revisited here against a backdrop that simultaneously considers the ethics of forced environmental migration from Chapters Three and Four, as well as the political and legal constraints of international law (Chapter Five) and domestic policy (Chapter Six). Each potential response will further be analysed in terms of its potential impact on what I have located as the three primary forms of environmental displacement (imperative, pressured, or temporary), thus providing a comprehensive view of the benefits and challenges of the approach. From here, the chapter

will turn to its culminating offering: building an ethically-sound policy framework for global action moving forward.

Strategic Responses

Adaptation

While the bulk of the dissertation has focused more closely on the nuances of migration as a method of adaptation to climate change, I would like to first take a step back to look at the broader approaches to environmental adaptation as these will undoubtedly affect the landscape of options requiring migration as a method of adaptation. As the reader will recall, the majority of potential forced environmental migrants would choose to remain in their current location, given the option (see, especially, Nansen 2015). This fact does not, however, negate the moral requirement to make the choice to migrate a viable option for each individual experiencing the negative effects of climate change. This section will look closely at the first set of responses, and will be followed by an equally important section on strategies to enable ethical migration. To begin, we should dispense with the most common response to the issue of climate change:

Stop GHG Emissions

As the science behind climate change clearly laid out in Chapter One, stopping GHG emissions (even beyond merely reducing them) will not be sufficient to avoid environmental displacement in many low-lying regions around the world, despite the popularity of claims indicating otherwise (see Horner 2007 for a balanced discussion of the topic; or *Climate Refugees* 2010). There is good evidence to indicate that within the next fifty years, almost all landmass within one meter of current sea levels will be submerged, including most, if not all, of the island nations of Kiribati, the Maldives, Seychelles, Torres Strait Islands, Tegua, the Solomon Islands, Micronesia, Palau, the Carteret Islands, Tuvalu, and likely more than a quarter of Bangladesh (see Carr 2011; Mathez et. al. 2009; Lovgren 2004; among others). The latest report from the Intergovernmental Panel on Climate Change (IPCC), a scientific intergovernmental body that operates under the authority of the United Nations (via United Nation General Assembly Resolution 43/53), unequivocally

states that a *minimum* of 15% of current Pacific Island States will be extinct by a one meter rise in sea levels (IPCC 2014). As a result, this level of sea rise would displace between 1.2 and 2.2 million people from the Pacific Region alone (IPCC 2014). Up to a six meter rise is, however, expected in long-term forecasts over the next two thousand years (IPCC 2014; see also Carr 2011), which will fundamentally reshape the landscape of the globe, as we know it. Further, there is nothing to indicate that this rise will be temporally incremental (IPCC 2014). In other words, we could see a two or three meter rise in sea levels in the next 200, 500, 1,500, or 2,000 years: there is no way to predict exactly how the climate will respond to current conditions and ongoing GHG emissions. That said, all of this data is based on *current climate conditions* – with no further emission increases (IPCC 2014; Carr 2011). More importantly, there is nothing we can do now to 'stop' it. Reducing GHG emissions will not be able to avoid the cross-border displacement of well over 1 million Imperative Environmental Migrants from small island states in the South Pacific alone – not including the higher populated low-lying regions of larger states such as Bangladesh, or the more difficult to predict number of internally displaced EDPs and Pressured Environmental Migrants – most of whom have no desire to relocate and every ethical reason to remain.

Yet, reducing GHG emissions may be able to slow the displacement of these otherwise fated populations and it may be able to mitigate the impact of encroaching sea levels on landmasses with higher elevation. While the latest research indicates that many of the world's ice sheets are melting at unprecedented rates – for example, 2012 saw a record 97% of the surface of the Greenland ice sheet experience melting [National Snow and Ice Data Center 2012], and the Antarctic ice sheet has lost an average of 159 billion tons of ice annually since 2010, alone accounting for an approximate 0.45 mm rise in sea levels *every year* [European Space Agency 2014] – a reduction of GHG emissions may be able to slow these processes. To be very clear, though, it will not stop them. Slowing these melts could however have an enormous impact: if, for example, the Greenland Ice Sheet melted, scientists estimate that sea levels would rise about 6 meters. If the Antarctic Ice Sheet melted, sea levels would rise by about 60 meters (National Snow and Ice Data Center 2014). These numbers account for a dramatic difference in comparison to the current rate of sea level rise, illustrating that efforts to reduce GHG emissions are not entirely futile

(indeed, a 60 meter rise in sea levels would submerge much of the planet, functionally ending life as we know it).

The key challenge in managing GHG emissions related to climate change is that it operates on a feedback loop that is difficult to predict. For example, a study conducted by William Neff, a senior research scientist from the Co-operative Institute for Research in Environmental Sciences at the University of Colorado, found that what seems to have caused the record melt of the Greenland ice sheet in 2012 was an outbreak of forest fires in Siberia and North American in June and July of 2012 (Neff et. al. 2014). Those two air masses reached the Greenland ice sheet just before the melt event, indicating a direct correlation in terms of cause and effect. This finding is further supported by research from 1889 (the last comparable record melt of the Greenland ice sheet) where the melt can be directly tied to drought and an outbreak of summer forest fires in the Northwest United States and Canada (Neff et. al. 2014; see also Keegan forthcoming 2014). The results of studies like these clearly indicate that what may have started as a human processes contributing to a warming climate are being carried on through the climate loop. This reality has two implications that need to be addressed. First, it is crucial to recognize that barring any unlikely scientific 'miracles', we cannot stop climate change; we can only mitigate its impacts – in our case, through local adaptation support and effective migration schemes. Secondly, even if the current processes cannot be stopped through our individual or public wills, this does not negate the ethical responsibilities owed to those people experiencing the negative impacts of climate change that are the result of the historical processes (i.e. industrialization) that we have, and continue to benefit from. As such, we have an ongoing ethical responsibility to mitigate the impacts of climate change wherever possible (see also Chapter Four's discussion of Hannah Arendt's arguments about common responsibility [1994]). It is possible to reduce GHG emissions, and it is likely that these reductions will mitigate the full range of impacts climate change will have on displacement. Therefore, *we have a global responsibility to reduce GHG emissions wherever possible.*

Insurance Scheme/Adaptation Fund

A second response to climate change adaptation is approached through a lens concerned over the funding of local projects. Two strategies in this stream seem to hold significant potential: an international insurance scheme, and an institutionally sponsored Adaptation Fund (following the United Nations Framework Convention on Climate Change's Adaptation Fund). Beginning with an insurance fund this scheme could be used to provide financial assistance to adaptation projects, ideally to avoid permanent displacement for Imperative Environmental Migrants and rebuild infrastructure and housing after extreme storm events. As the reader will recall, Peter Penz (2011, 167-171) is a proponent of this idea, arguing that while private insurers may not be ready to take on the task of protecting against the unpredictability of climate change processes and events (a point with which another proponent of the insurance model, Ulrich Beck [2009, especially 133-4], would disagree), a global fund through which states would pay contributions could be established so that if and when environmental catastrophe takes place, there would be funds available to repair the damage and rebuild necessary infrastructure. As argued in Chapter Three, this approach could be broadened to include funding pre-emptive projects like the construction of seawalls, dike systems, or floating islands, and thus be of benefit to potential Imperative and Pressured Environmental Migrants (IEMs and PEMs) as well. The second, more mainstream approach to a global adaptation fund can be found in the United Nations Framework Convention on Climate Change's (UNFCCC) Adaptation Fund. While not an "insurance" fund, the Adaptation Fund seeks to finance concrete adaptation projects and programmes in developing countries that have signed the Kyoto Protocol. It is currently financed from a share of the proceeds from Clean Development Mechanism projects (2% of certified emission reductions from each project) as well as through voluntary pledges of donor governments. The fund totalled $171 million (USD) as of December 31, 2013 (World Bank 2013), with a total of $58.33 million (USD) having been disbursed for approved projects thus far (climatefundsupdate.org 2014).

As has been demonstrated throughout this dissertation, effective adaptation efforts – including the proven strategy of building seawalls (see Marco Island, Florida, USA or Marseilles, France) – are often far beyond the financial reach of states more acutely affected

by the conditions of climate change. As such, a global fund or insurance program would indeed be necessary to support IEMs in their adaptation attempts to avoid migration, if projects such as these are to have any meaningful success. A global adaptation fund could also be used to reduce or relieve the pressure to migrate on Pressured Environmental Migrants – particularly those feeling pressured to move as a result of drought or desertification – with financial support to build advanced irrigation systems and ensure continued access to basic life necessities (minimally: shelter, food, and water). For Temporary Environmental Migrants (TEMs), a global adaptation fund could effectively be employed for emergency disaster relief in conjunction with current disaster relief funds and domestic policies to supply temporary housing, food, and water, as well as to rebuild devastated areas.

Overall, an international adaptation fund that functions in all three capacities would be ideal. Such a fund has the capacity, if structured well, to offer solutions to the full range of physical and ethical requirements associated with internal environmental displacement, yet be flexible enough to allow for political autonomy, cultural sensitivity, and local adaptability if, for example, funds were distributed primarily as guaranteed, untied aid. A well-structured global adaptation fund may also be able to support the requirements of potential cross-border EDPs seeking to remain in their homelands in that it would open adaptation opportunities to states that would otherwise be financially unobtainable. The specific components of a well-structured fund will be discussed below, in the final framework solution.

Problematic, of course, would be finding enough states to contribute consistently and generously (very generously). The fund would also have to guarantee access beyond the dire need principle to avoid the unpredictability of 'charity' and the ethical shortcomings thereof (as discussed in Chapter Three, from Walzer 1984). There is a further ethical argument to support mandatory contributions, as states benefit from the industrial processes that created and continue to create the conditions of climate change which are now threatening sustainable access to a 'good' life for EDPs and potential EDP populations (in terms of both physical needs like food, water, and shelter, as well as ethical/political requirements of non-interference in others' individual and group autonomies). As such, it

can be argued that some form of compensation for these losses is required under the principles of basic liability (see Coleman and Mendlow 2010). Further, under Article 3 of the UDHR, states have an obligation to protect citizens from dangers: including those deemed knowable, which I have argued include climate change dangers. It could be argued that regular contributions to an adaptation fund could be considered as sufficient in terms of fulfilling this obligation. Central challenges to establishing an effective global adaptation fund might include a lack of mandated participation in such a scheme, without which there is no way to guarantee sufficient access to the funds required to make an insurance scheme for climate adaptation work under the Westphalian system, which is further compounded by diminishing international political will towards humanitarianism (see Ignatieff 2002). Instead, it is more likely that we will see a continuation of the current UNFCCC's Adaptation Fund, with all of its shortcomings, under the current international regime.

Overall, while the concepts of an international insurance scheme, similar to Peter Penz's (2011, 167-171) Worker's Compensation design, or to the UNFCCC's Adaptation Fund, are promising, I believe the practical challenges in an international community still rooted in the principles of Westphalian sovereignty with states operating largely under an individualist ideology where the relationships of responsibility and duty move from the border, inwards, are likely too great to overcome. As such, this dissertation has sought to give sufficient evidence that within the current state system, this plan will persistently fall short of producing meaningful and reliable change. That said, the strategy is revisited in the framework building section of this chapter to fully expose its normative and policy value outside of these contemporary political limitations.

Civil Society

The role of civil society in the literature on forced environmental migration is infrequently examined (see Lipshutz and Mayer 1996; IOM 2014; Gil *et.al*. 2013; Jah 2013) and largely overlooked. Yet, similar to a implementing a global Adaptation/Insurance Fund, making better use of existing civil society, particularly NGOs and their ability to work at the sub-state level, is promising (especially see Jah 2013). There is an extensive body of work that has been completed on the usefulness of NGOs in working with and around current

governments, as well as their ability to share expert knowledge, skills, and materials with local populations in a way that is conducive with indigenous culture, knowledge, and practice (see, for example, Werker 2007; BPD 2013; Hanyama 2013; Hansen and Henitz 2006; Spitzeck 2011; specifically in the context of climate change, see Bicknell et.al. 2009). These processes can happen in both helpful (when NGOs work closely with local populations) and hindering (when NGOs uncritically apply Western standards and strategies on non-Western communities) ways (see, for example, Banks and Hulme 2012; Reimann 2005, among others). Yet, they provide insight into working at the sub-state level in either case.

A key challenge to the work of NGOs and civil society, outside of the legitimate concerns raised over Western ideological domination by post-development theorists (in the context of environmentalism, see particularly Helena Norberg-Hodge's work, or that of Wolfgang Sachs), is that it is unreliable, and rests largely on charitable good will and the particular support of the organization in question. For an example of both of these failings, one could look to the conditions of Haiti after the devastating earthquake in 2010. A 2011 report by OXFAM assessing the situation in Haiti one year after the disaster indicates that there was no coordination between donor agencies (particularly, Clinton Bush Haiti Fund and the Haiti Interim Recovery Commission) as they jostled for power in IDP camps, and no effort on the part of the Haitian government to take control of reconstruction (OXFAM 2011). According to the report, Haiti's recovery was significantly delayed as a result of the failure of NGOs to work together, or with the government (OXFAM 2011). Oxfam, however, has also been criticized for exploiting the situation in Haiti for its own fundraising efforts (Huffington Post 2011). Indeed, this critique is supported by a study conducted by the Disaster Accountability Project – a nonpartisan, non-profit organization dedicated to improving disaster management systems through policy research and advocacy – which states that:

> The fact that nearly half of the donated dollars still sit in the bank accounts of relief and aid groups does not match the urgency of their own fundraising and marketing efforts and donors' intentions, nor does it convey the urgency of the situation on the ground. This may be a

> disincentive for future giving by individuals and other governments (Ben Smilowitz, DAP's Executive Director, 2011).

Funds raised are not being put to effective use. When this information is coupled with the experience of 'donor fatigue', as was the case for the Pakistani flooding that occurred a few months following the earthquake in Haiti, limited funds become even more restricted as donations dry up (De Sam Lazaro 2011).

Ethically, this example highlights the shortcomings of relying exclusively on civil society and NGOs in particular to meet the growing needs of EDPs, which the reader will recall from earlier in the dissertation. With effective co-ordination and a universally-mandated approach to aid, there is clear potential to deliver assistance through the NGO model; however, without these substantial changes, the NGO model's ability to consistently and sufficiently relieve EDPs and potential EDPs of their immediate and upcoming challenges, without falling into the problems of Western domination and paternalism, remains highly suspect.

The concept of norm entrepreneurs (Finnemore and Sikkink 1998; also see Barkin 2010, especially 113-115) also operates at the level of civil society. This study of the role of norms in shaping International Relations, primarily put forward by the literature on social constructivism, assumes that norms lie behind actors' preferences and interests. Martha Finnemore and Kathryn Sikkink (1998) offer a theory to study the life cycle of such norms in gaining international traction and implementation. They argue that norms proceed through three stages in the international: emergence, cascade, and internalization (1998, 896). Norm entrepreneurs – those responsible for beginning the three-stage process – play a significant role in the first state, norm emergence, as they cultivate the initial norm. Indeed, as Finnemore and Sikkink argue: "Norms do not appear out of thin air; they are actively built by agents having strong notions about appropriate or desirable behavior in their community" (1998, 896). They are critical to the process of internationalizing a norm in that they call attention to issues or even "create" issues by using language that names, interprets, and dramatizes them (Finnemore and Sikkink 1998, 897). In other words, they frame the debate in such a way that it has international significance and appeal. Here we can see the benefit a norm entrepreneur may have for forced environmental migration and

the important shift in the conventional understanding of human rights and common responsibility that is required to support their rights, as argued in this dissertation (also see Birmingham 2006). This notion will be carried forward to the broader framework resolution at the end of this chapter for further discussion. In as much as the arguments of this dissertation rely on a global normative shift for implementation, norm entrepreneur theory seems to hold significant potential in understanding a pathway to advance global EDP rights.

Importantly, Finnemore and Sikkink also note that international norms should work their influence through the filter of domestic structures and domestic norms, which has the ability to produce important local variations in terms of compliance and interpretation (1998, 893):

> Even in situations where it might appear at first glance that international norms simply trump domestic norms, what we often see is a process by which domestic "norm entrepreneurs" advocating a minority position use international norms to strengthen their position in domestic debates. In other words, there is a two-level norm game occurring in which the domestic and the international norm tables are increasingly linked (Finnemore and Sikkink 1998, 893).

This point is significant in that it makes important space for local variation and input, avoiding, at some extent at least, the problems of Western domination and empire that have been levied on NGOs and universalist (cosmopolitan) ethical theories (see Norberg-Hodge 1991; and Douzinas 2007). The norm entrepreneur approach has, however, been critiqued for suggesting that norm entrepreneurs make a conscious effort to change society, where, as Hopf (2002) argues, normative social change may actually happen more through accretion and unintended efforts. If Hopf is correct, then a global shift in the understanding of human rights and responsibility may have to wait for what I have called a 'cosmopolitan moment' (following Habermas 2003) to support the full range of EDP rights.

In all, the possibilities for adaptation are numerous and readily available, but these require more international support financially, through knowledge sharing, and through a

coordinated, ethically-motivated civil society, if measurable progress is to be made in advancing the universal rights of Environmentally Displaced Peoples.

Migration

From this dissertation, migration opportunities for EDPs and Potential EDPs seem to lie primarily in the following areas: land purchase, border-free movement, expanded concepts of citizenship and sovereignty, a new treaty regime in international law, regional migration schemes, category-specific immigration exemptions, temporary protected status, labour migration schemes. The benefits and challenges of each opportunity will be discussed in turn, before turning to the final resolution framework that draws its conclusions from this and the above list.

Land Purchase

The idea of a large-scale land purchase is one of great interest. Conceivably, a state could purchase a plot of land onto which it could move its people, thus possibly maintaining their political autonomy, as the reader will recall. Indeed, in many ways, this provides an ideal response for many small island nations whose primary concerns currently lie in the continued viability of their statehood and indigenous way of life (see 2010 Presidential Address from the Republic of the Marshall Islands; 2012 Presidential Addresses from Kiribati and Tuvalu; 2013 Presidential Address from Kiribati; 2014 Presidential Address from Fiji). The real challenge highlighted in this dissertation is that it is very unclear as to whether the continued political autonomy of the state *would* be maintained if its territory were lost. Indeed, under international law it seems that it would not (particularly from the *Island of Palmas Arbitration* 1928), but this conclusion is murky at best. The reader will recall that the *Island of Palmas Arbitration* (1928) concluded that "sovereignty in relation to a portion of the surface of the globe is the legal condition necessary for the inclusion of such portion in the territory of any particular state" (2 RIAA 829, 838); in other words, that the legal status of sovereignty is inextricably tied to physical territory. Yet, when interpreted through the Montevideo Convention (1933) it may be possible to extend this understanding. One will recall that under the Montevideo Convention (1933), states must

hold (a) a permanent population, (b) a defined territory, (c) government, and (d) capacity to enter into relations with other states (Art. 1). The Montevideo Convention, however, does not set clear minimums in terms of the population of the physical territory that would be required to uphold legal status, thus possibly leaving space for interpretation (see Rayfuse and Crawford 2011; Crawford 2006, 52; Franck and Hoffman 1976, 331-386). Together, these principles in international law bring into question whether a temporary loss of land usage would render a state null and void, or if exceptions could be made on a case-by-case basis. Perhaps, should the initial territory of the state be lost, newly acquired territory through land purchase or nominal cessation, may be able to reinstate legal sovereign status. If, however, the political autonomy of the state and its people were not maintained, the ethical value of the land purchase in terms of maintaining autonomy would be lost. Again, we must remember that one of the key challenges in the issue of forced environmental migration is that its challenge far exceeds the numerical and statistical shuffle of people around the globe, which often frames the policy documents and literature surrounding environmental displacement (see, for example, Murray 2011; Acketoft 2008; Ivanov 2009; Geddes and Somerville 2013; or, on the topic, Hall 2009; Meyer Lueck 2011, especially 53). EDPs and potential EDPs are human beings, with equal moral status to non-EDP populations, and thus we must not merely find a place for them, but find a *suitable* place for them, in an era of accelerated climate change. In this, the maintenance of political autonomy, publicness, and community is essential (see also Arendt 1968[1951], from Chapter Four).

Further considerations include finding available and suitable land to purchase (where an island people would not be well-served having to relocate to, for example, the desert conditions of the Australian outback), and the fate of peoples residing on the newly-purchased land: would they be required to migrate or 'join' the newly-positioned state? Either demand would be ethically problematic.

While land purchases have been made (for example, Kiribati in Fiji, see Caramel 2014) none of these issues has been decisively resolved as of yet (Kiribati is using its 6,000 acres for agricultural purposes in hope of extending its food security [Office of the President, Republic of Kiribati 2014]). An in-depth media analysis of Pacific Region newspapers from

January 2005 through June 2014 (which I conducted through Factivia) revealed a concerning trend: in statements made by threatened island nations, especially Tuvalu and Kiribati where relocation agreements have been made with other states, it is clear that hopes remain for continued political autonomy; yet, statements made by potential receiving or 'selling' states – particularly Fiji, whose President has stated that "if all else fails" the citizens of Kiribati "will not be refugees," (Liljas 2014) – make no such commitments. Both sides recognize the desire to migrate with dignity, should migration be necessary; however, it seems that sending and receiving states may differ in their understanding of what this means. As such, the only conclusive statement that can be made on the viability of proceeding through land purchases in an effort to combat the full range of ethical and practical challenges presented by climate change is that its outcomes remain unclear.

A land purchase would further be of no significant benefit to Pressured Environmental Migrants or Temporary Environmental Migrants, as PEMs are not threatened by the physical loss of land and only its agricultural viability, which can most often be re-established inside of their current state; and, while TEMs face challenges from a loss of land, the unpredictability of their displacement negates the benefit of a land purchase, unless all states wished to purchase 'emergency' land, which is unlikely, if not impossible. Further, Pressured and Temporary Environmental Migrants are not facing the prospect of a loss of political autonomy, which is the (potential) primary benefit of a large-scale land purchase, as discussed.

Open Borders

The concept of open borders is largely carried forward as the conclusion of Joseph Carens' (1987) work on global justice, and alluded to in this dissertation as the other end of the migration pendulum of Westphalian state sovereignty. While it is clearly a possible response to addressing the challenges of forced environmental migration in that an open border arrangement would enable free migration around the global, it should also be recognized that it is not the *only* possible response. Other options include a repositioning of sovereignty, possibly following Pogge's (1992) concept of tiered sovereignty, or a

reconfiguration of current modes of citizenship, both of which are also discussed below. However, unlike these other strategies, open borders and free migration would immediately resolve many of the challenges faced by potential EDP populations.

In as much as critics will argue that an open borders approach is unfeasible and undesirable due to what they argue is an inevitable and problematic interruption between political life (where borders are necessary) and the abstract universal of an unknowable 'humanity' (see Miller 2011; Nussbaum 2008; Benhabib 2004, 2001, among others), the benefits to Environmentally Displaced Persons are substantial from both practical and normative viewpoints. Both Imperative Environmental Migrants and Pressured Environmental Migrants would benefit significantly, as they could move individually or as a group based on their self-identified most important factors (cultural, environmental, economic, etc.). Temporary Environmental Migrants would benefit from having an option to move before an expected disaster where, for example, the likelihood of experiencing destructive storm activity was high based on past occurrences. They would also benefit from being able stay and integrate into their new community rather than linger as a 'temporary visitor' and second-class citizen (following the experiences of the United States' Temporary Protected States, from Chapter Six [Sabaté 2013]). No further special categories for immigration, protected status, or ethically problematic requirements for vulnerable migrant populations to make their pleas for help in a language that appeals to their adjudicators would be required. Indeed, an open border arrangement would eliminate nearly all of the migration-related complications facing EDP and potential EDP populations. If coupled with a well-constructed adaptation plan that is suited to meet the ethical demands of EDPs, I believe nearly all of the concerns raised in this dissertation would be met, with the exception of ongoing political autonomy at the state level for small island states facing extinction. This idea will be carefully explored below, in the dissertation's final framework offering.

That said, it is also true that an open border arrangement is unlikely to reshape the international landscape anytime soon. There is not much to respond to on this point, other than to say that it is not an impossible future and therefore cannot be disregarded simply as a result of its deeply challenging nature. Coupled with a norm entrepreneur approach

discussed above (see Finnemore and Sikkink 1998; Barkin 2010, especially 113-115), radical change in this direction may become increasingly 'possible', that is, on the borders of politically achievable.

Critiques of the political meaninglessness of deterritorialized citizen identification and rights (see, for example, Miller 2011, or Nussbaum 2008) are also quite relevant and should be addressed in the context of an argument for open borders. Indeed, as Miller (2011, 2) – a communitarian –argues:

> Citizenship is a political idea – the relationship that holds between co-citizens must be a political relationship, whether or not it involves institutions of government in their familiar form – whereas the idea of global citizenship is essentially apolitical. Whatever merits it may have in other regards, it is damaging if it comes to be seen as a substitute for or alternative to our political relationships.

Martha Nussbaum (2008, 80-81), a cosmopolitan, similarly argues that:

> the denial of particular attachments leaves life empty … the nation-state, including a strong form of national sovereignty, is an important good for all human beings … Any decent world culture should promote the continued sovereignty and autonomy of (liberal and democratic) nation-states and protect the rights of citizenship associated with them.

From these brief examples, we can take note of two points: first, concerns over the loss of the political in an expansion to the global span the theoretical landscape from cosmopolitanism through communitarianism, thus demanding careful attention. Second, and this is more extrapolated than explicit, there is an expectation in this body of literature that the level of political connection at the national level cannot be duplicated at the global level (see also Benhabib 2004; 2006 on her rejection of open borders for porous borders with first-admission rights for refugees and asylees). That is, we cannot connect with our fellow global citizens in the same meaningful way that we can connect with our national compatriots.

In response to this line of critique, I would like to raise two points: first, there is nothing inherent to the concept of open borders that necessitates a loss of 'localized' citizenship. For example, while Carens seems suspect of national citizenship in his 1987 article on the justification of open borders, he is not actually interested in disbanding the concept in its entirety. Here, we can see some of his suspicions as to the legitimacy of nationalized citizenship (and, significantly, the benefits held therein):

> Prohibiting people from entering a territory because they did not happen to be born there or otherwise gain the credentials of citizenship is no part of any state's legitimate mandate. The state has no right to restrict immigration (Carens 1987, 254)

His suspicions are also evident when he argues that: "To assign citizenship on the basis of birth might be an acceptable procedure, but only if it did not preclude individuals from making different choices later when they reached maturity" (Carens 1987, 262-263). From these two arguments, I believe we can conclude that there is something concerning, and for Carens, unjust, about the way in which the privileges of national citizenship are arbitrarily assigned by birth. One logical expansion of this concern would be to eliminate the assigning of privilege (in this, the dissertation is particularly concerned with an access to human rights and the national resources that are, and are made to be, available for local adaptation attempts) at the national level. Arendt makes this move away from the state, which the dissertation follows in its framework conclusion, in her assigning of a right to have rights based in humanity (1968 [1951]). Carens, however, does not. Instead, he concludes that national citizenship and open borders are compatible. I quote him at length:

> Does it follow that there is no room for distinctions between aliens and citizens, no theory of citizenship, no boundaries for the community? Not at all. To say that membership is open to all who wish to join is not to say that there is no distinction between members and non-members. Those who choose to cooperate together in the state have special rights and obligations not shared by noncitizens. Respecting the particular choices and commitments that individuals make flows naturally from a commitment to the idea of equal moral worth. (Indeed, consent as a justification for political obligation is least problematic in the case of immigrants.) What is not readily compatible with the idea of equal moral

> worth is the exclusion of those who want to join. If people want to sign the social contract, they should be permitted to do so (Carens 1987, 270).

Thus, for Carens we can say that the current one-time assigning of citizenship rights is what is problematically unjust, and not the concept of national citizenship itself. If we could easily change our citizenship status to be aligned with another nation, there would be no deep theoretical problem. On this point I must part ways with Carens, as I argue that the justice of the problem lies clearly in the assigning of citizenship rights at the national level. Here I would like to return to Hannah Arendt and the literature on her concept of a 'right to have rights'. In *Origins of Totalitarianism*, Arendt argues that:

> The fundamental deprivation of human rights is manifested first and above all in the deprivation of a place in the world which makes opinions significant and actions effective. Something much more fundamental than freedom and justice, which are rights of citizens, is at stake when belonging to the community into which one is born is no longer a matter of course and not belonging no longer a matter of choice, or when one is placed in a situation where, unless he commits a crime, his treatment by others does not depend on what he does or does not do. This extremity, and nothing else, is the situation of people deprived of human rights. They are deprived not of the right to freedom but of the right to action; not the right to think whatever they please, but the right to opinion … We become aware of the existence of a right to have rights (and that means to live in a framework where one is judged by one's actions and opinions) and a right to belong to some kind of organized community, only when millions of people emerge who had lost and could not regain these rights because of a new global political situation (1968[1951], 177).

The reader will recall from Chapter Four that, for Arendt, the human race has a *unitary* origin that is drawn from the common experience of our natality: of 'beginning' (see, also Birmingham 2006, especially 6-17). From here, Arendt argues that there is a universal basis for human rights, which cannot legitimately be tied to citizenship status, or the sovereign nation state (Arendt 1968[1951]; also see Birmingham 2006). This realization comes as a result of the horrors of World War II and the expulsion and extermination of the Jewish population, referred to above, but simultaneously holds significant implications of EDPs under the current international regime.

And so we have what may be the most productive tension in this dissertation on human displacement resulting from the conditions of climate change: on one hand, human rights, including the universal right free migration for Environmentally Displaced Peoples established in Chapter Three, cannot (indeed, should not) be legitimately tied to the state and must instead be universally grounded. On the other hand, the populations that are seemingly most immediately threatened by climate change – small island states – are also most attached to the continuation of the sovereign statehood and its exclusive identity and culture (see recent Presidential addresses from Kiribati and Tuvalu, especially). The final framework offered in the latter half of this chapter will seek to ease this tension through a closer look at universal citizenship and Arendt's (1994) common responsibility, both as the delivery mechanism for human rights.

Returning to the second point, that there is a common expectation that the level of political connection at the national level cannot be duplicated at the global level (Nussbaum 2008, Miller 2011 from above, also see Benhabib 2004; 2006 on her rejection of open borders for porous borders with first-admission rights for refugees and asylees). That is, the idea that we cannot connect with our fellow global citizens in the same meaningful way that we can connect with our national compatriots. Without returning us too far to Chapter Three's cosmopolitan-communitarian debate, I will just argue here that this approach is overly-narrow and too strongly tied to the myth of national identity. In as much as Ernest from rural Saskatchewan is expected to 'identify' with Clover from urban Toronto, when in all likelihood they have very little in common beyond the myth of being 'Canadian', I do not recognize any logical reason that the national identity myth could not be altered to be more inclusive, expanding political identity and obligation outwards (also see Kant 1795; Kleingeld 2012; Appiah 2006, among others).

On a practical matter, for those concerned over a dramatic increase in the number of migrants (see Myers 2001; Homer-Dixon 1994; Suhrke 1992, 1993, 1994; Levy 1995; Brown et.al. 2007; Johnson 2009; Becklumb 2010; or the Millennium Project's "Environmental Threat Matrix"), or the diminishing of the unique quality of their nationhood (especially, see Walzer 1984), Carens is clear that the concept of open borders would

> threaten the distinctive character of different political communities only because we assume that so many people would move if they could. If the migrants were few, it would not matter … [further,] most human beings do not like to move … they only move when life is very difficult where they are (1987, 270).

Finally, it must also be remembered that opening international borders does nothing to ease or ensure the integration and acceptance of environmental immigrants, making it an insufficient solution on its own (see Genier and Kirisci 2014; Bauböck 2011). This shortcoming may be supplemented with the addition of a robust Adaptation Fund, as will be discussed in the final resolution framework.

In all, the concept of open borders as a potential resolution to the challenge of forced environmental migration holds a lot of potential for EDP populations; however, it is also one of the least immediately implementable under the current international regime which stands as its greatest flaw for advancing EDP rights in a timely manner.

Expanding Conceptions of Citizenship

A revised citizenship scheme would be beneficial to all varieties of Environmentally Displaced Peoples, but especially to those currently engaged in a relationship with Western-style democratic states. This approach clearly sets citizenship as the vehicle through which one is granted and accesses his or her rights, and the state as the guarantor of these rights. In my assessment, there are three basic strategies that could be used to improve access to citizenship rights, sharing them beyond borders. The first would be a dual-citizenship strategy that could be pre-emptively offered to EDPs and potential EDP populations *in advance* of their displacement. Dual citizenship strategies are already common, particularly among Western states, making this strategy more integration-ready than other, more radical approaches like open borders. The second potential alteration to the structure of citizenship could be achieved through a shift in sovereignty from a state-only level, to one that is tiered (see Pogge 1992). Such a shift in sovereign authority (similar to a federal arrangement) could be coupled with the rights and responsibilities of citizenship as well, thus integrating 'global citizenship' into traditionally structured national citizenship rights and responsibilities, and perhaps local or regional modes of

citizenship as well. The final strategy that I believe may be appropriate to address the demands of forced environmental migration and ethics is a deterritorialized form of citizenship. While there are many ways that this concept plays out in the literature (see Sassen 2000, 2002; Benhabib 2001; Angeli 2013:165-176; Basch et. al. 1994; Soysal 1994; Jacobson 1996; Torres 1998; or Torres, Inda, and Miron 1999), I am particularly interested in the use of memory as a mechanism to maintain citizenship, and potentially, political autonomy in a deterritorialized context (in mind, for IEM on 'sinking' island states). As each approach is laden in important nuances, I will examine them in more detail.

Dual Citizenship: The possibilities for dual citizenship are expansive, including dual nationality, plural citizenships, or federal citizenship (see, respectively, Spiro 2002, 19-33; Schuck 2002, 61-99; Beaud 2002, 314-330 *in* Hansen and Weil eds. 2002). The granting of national citizenship typically follows one of three paths: naturalization, *jus soli,* or *jus sanguinis*. Naturalization is the legal process by which citizenship is granted to non-citizens (usually, immigrants). The requirements for naturalization vary by state, but often include a minimum residency term, a pledge to obey national laws, and possibility the demonstration of local linguistic or cultural knowledge. The second category grants citizenship status by soil (i.e. if you are born on the soil of the country, you are granted citizenship status there); the second, by blood (i.e. if one or both of your parents are citizens of the state, you will be granted status there as well). By their nationality laws, examples of states operating by the first include Tuvalu, Mexico, Venezuela, Fiji, or Brazil. Examples of *jus sanguinis* states include France, Italy, Greece, Turkey, Bulgaria, Lebanon, Armenia and Romania. The United States, Canada, Israel, Greece, Ireland, and Germany all offer pathways to citizenship that follow a mix of both approaches. Citizenship status, however acquired, is highly coveted because of the rights associated with it, and the precarious nature of statelessness, as discussed throughout this dissertation (also see Arendt 1968 [1951]; Heuser 2007; Belton 2011; among others). The debate over the values and challenges of dual citizenship status is extensive (see Neuman 1995; Spiro 1997; Aleinikoff 1998, among others; also see the 2014 passing of Bill C-24 in Canada, which provides "for the revocation of citizenship of dual citizens who, while they were Canadian citizens, engaged in certain actions contrary to the national interest of Canada, and

permanently barring these individuals from reacquiring citizenship"). For the purposes of this dissertation, I would like to focus specifically on the potential benefit of the maintenance of dual citizenship status for EDPs, particularly those of 'sinking' small island states. Here, once an EDP is granted access to another state, and eventually, citizenship status therein, the function of dual citizenship would serve to maintain an important political tie to her homeland and thus potentially maintain the political autonomy of the state. The benefit here is that this practice may be able to assist in the legal continuation of sovereign status of the state as sea levels rise and peoples are displaced (following an expanded interpretation of the Montevideo Convention 1933), as well as maintain cultural and political ties that are clearly important to potential EDPs whose states are facing extinction (see recent Presidential addresses from Tuvalu and Kiribati especially; Nansen 2015; Tremonti 2013; among others). While dual citizenship status is not revolutionary, and would not in itself offer any special protection, I raise the possibility of its benefits here primarily because it would demand an exception in many states that do not allow for this practice. For example, from their constitutions, Kiribati (1980 revision) generally does not allow for dual citizenship; neither do Norway, Fiji, Japan, and a number of other countries. It is a small, but significant, conciliation that could be offered by the international community to migrating EDPs. It should, however, also be recognized that this approach to resolution is a dominantly Western approach, and therefore may be limited in its ethically legitimate application (i.e. there would be clear elements of Western political culture domination in demanding the adoption of dual modes of citizenship worldwide).

Tiered Citizenship and Sovereignty: In 1992, Thomas Pogge wrote an interesting, if now somewhat dated, article on "Cosmopolitanism and Sovereignty." In it, he argues for

> governmental authority – or sovereignty – to be dispersed in the vertical dimension … persons should be citizens of, and govern themselves through, a number of political units of various sizes, without any one political unit being dominant and thus occupying the traditional role of the state (Pogge 1992, 58).

The benefit of such an arrangement is that it is, to Pogge, better suited to be able to support cosmopolitan rights and layered identities: in as much as we can identify simultaneously as

being “Edmontonian,” “Albertan,” “Canadian,” and “Human” we can understand the rights and responsibilities of each layer and appropriately support them. As such, while a human rights claim like that associated with forced environmental migration does not make much sense at the local level – as migrating locally typically would not resolve the human rights deficiency – it does make sense at the global level (and, for those driven by a concern over state security or community unity, at the national or more-local levels). By dispersing sovereignty and citizenship vertically, we would be able to support the global nature of such claims while also addressing their local, national, and regional qualities. In this, the nature of the need would determine its jurisdiction.

This revision to sovereignty and citizenship offers a unique approach to the challenge of forced environmental migration in the international community in that it does not eliminate state sovereignty: it merely decentralizes its power (in what I would argue is a more appropriate direction, along with Pogge 1992). The benefit to EDPs and Potential EDPs is threefold: first, they would maintain some level of ‘citizenship’ and rights potentially beyond the physical existence of their states; second, introducing a global tier of sovereignty would added much needed international institutional support for the universal migration rights claims of EDPs (unlike the current situation, where there is very little institutional support for global rights beyond the United Nations, and even this is subsumed to the individual wills of states through Westphalian sovereignty); third, the maintenance of multiple tiers of citizenship and political authority may also be able to assist in the continuation of culture, autonomy, and identity beyond the physical existence of ‘sinking’ island nations. In this, I believe a tiered citizenship strategy may offer an appropriate continuation of sovereignty outside of the Westphalian model, which should be carefully considered, moving forward.

Deterritorialized Citizenship: Finally, the concept of deterritorialized citizenship holds implications for the continuation of culture and autonomy, particularly for those EDPs of ‘sinking’ small island states. While the body of literature that addresses citizenship and territory typically tends to address issues of transnational migration and not the absolute loss of territory to which one’s citizenship is tied (in general, see Benhabib 2001; Angeli 2013, 165-176; Basch et. al. 1994; on Post-national Citizenship, see Habermas 2001; Soysal

1994; Jacobson 1996; Torres 1998; or Torres, Inda, and Miron 1999; on Denationalized Citizenship, see Sassen 2002), I believe it is not a stretch too far to make. Citizenship is often framed as a single concept and experienced as a unitary institution, but, as Saskia Sassen (2002, 9) points out, "citizenship actually describes a number of discrete but related aspects in the relation between the individual and the polity." Indeed, as Sassen suggests, much of the literature on deterritorialized citizenship addresses the distinctiveness of these relations through analyses of the formal rights, practices, and psychological dimensions of citizenship that serve to highlight the tension between citizenship as a formal legal status and citizenship as a normative project or an aspiration (see Ong 1996; Bosniak 1998). This is a tension that also grounds much of my dissertation. Legal citizenship status is not sufficiently guaranteed to support the wide range of legitimate normative claims. For example, the reader will recall Hannah Arendt's discussion of the revoking of legal citizenship status as the first step to the extermination of the Jews in Nazi Germany: the gas chambers, she argues, were set in motion by first depriving them "of all legal status (the status of second-class citizenship) and cutting them off from the world by herding them into ghettos and concentration camps … [where] a condition of complete rightlessness was created before the right to live was challenged" (1968 [1951], 296). Clearly, the housing of human rights in legal (national) citizenship status is not sufficient to uphold the moral worth of individuals (at least, under the current international regime). In this, deterritorialized citizenship, or rights that are not directly tied to the legal status one holds in her current state, holds some potential for moving forward into a new environmental era where the link between territory and legal citizenship status in as much as it frames access to rights will be challenged to its core.

The difficulty in applying deterritorialized citizenship as a 'solution' to 'sinking' states is its abstractness. What do we do when something goes 'wrong'? Under the current international regime governed by the principles of Westphalian sovereignty, claims must be made to other states when the rights associated with one's citizenship status are abused (see Chapter Four for more). The literature in this regard tends to understand citizenship as expanded through ties – real or imagined – out from the state, to nationals living in other countries (see, particularly Basch et. al. 1994). Importantly, *a* state to which appeals can be

legitimately made still exists. From a post-national perspective, the literature (particularly, Sassen, Soysal, and Habermas) argues that human rights should be accounted for on universal and not particularistic criteria (such as ethnicity or legal citizenship status). While this is a line of reasoning supported by the dissertation, under the current international regime, the practical considerations of this endeavour remain deeply challenged without universal institutional support (see also Pogge 1992, above). Yet, it should also be recognized that these tensions exist in an international environment where deterritorialization has not occurred in a physical and complete manner (for example, through the submergence of a state). I raise here, for future consideration, the possibility of deterritorialized citizenship in its most absolute form: the continuation of citizenship through memory. What I have in mind here is, if a state (Tuvalu, for example) was to be submerged and its population dispersed around the globe: would there be space for continued citizenship in terms of its rights and authority *outside* of a physical state? I suspect that, abstractly at least, there would. The relationship between politics, time, space, and memory is exceptionally interesting (see, especially, Boyarin 1994), if still emerging. Pivotal for the dissertation is the relationship between epistemological reality and memory: while not tangible, memory is both powerful and political. In *Re-Mapping Memory* Boyarin rightly argues that "our reified notions of objective and separate space and time are peculiarly linked to the modern identification of a nation with a sharply bounded, continuously occupied space controlled by a single sovereign state, comprising a set of autonomous yet essentially identical individuals" (1994, 2). Thus, if we complicate the model of a one-dimensional arrow of time along which we move through or within a separate, three-dimensional space, we can begin to conceive of "past" events being truly effective in the present, and outside of the traditional bounds of the nation state (1994, 2). I highlight this challenge to traditional conceptions of space-time citizenship (i.e. in understanding citizenship as a concept only applicable here and now) because it offers a way to move forward, beyond the Westphalian nation state, without a necessary loss of identity and 'meaningful' political connections, as is the usual critique (see Benhabib 2004; Miller 2011; Walzer 1983, among others). Following Boyarin (1994), I believe it may be possible to transcend the traditional limitations of Westphalian sovereignty critiqued throughout this dissertation through the use of political memory. Effective use, would,

however, require a dramatic and deep epistemological re-visualizing of not only the international regime, but also one of human interaction with space and time itself. In this, its immediate applicability to advancing the rights of EDPs would be necessarily limited.

While there are many potential trajectories that this line of thinking could take, I think it is most significant to discuss the concept of continued national identity in a post-state context, as it serves to flesh out some of the deeper issues that underlie the dissertation. There is a tension that lies between the desires of 'sinking' island citizens to maintain their national identities, and the universal, and *political* quality of the kind of universal human rights called for in this dissertation. Abstract universal human rights, the kind that are not substantial and politically grounded (much like those we have under a Westphalian system that gives recognition to particularistic domestic state policies over universal norms) do little to advance the full ethical range of EDP rights and expectations. To support these rights to the extent that they are realizable, I have argued that the global community needs to move past the era of national identity, towards one that is grounded in a common humanity (perhaps similar to Arendt's [1994] concept of common responsibility). The impetus to facilitate this shift is tangible and present in the realities of forced environmental migration. A reframed ontological understanding of the human rights regime, including a shift to global identity, is discussed below in the dissertation's framework resolution. Supporting this shift is a key factor in successfully advancing the full ethical quality of EDP rights in a politically manageable way.

A New Treaty Regime

While the formation of a new international covenant or convention on the migrant status of Environmentally Displaced Peoples may seem unlikely to unfold in the near future given, among other factors, the contracting space for vulnerable international migrants, the emergence of a new treaty regime or, more accurately, set of regionalized treaty regimes seems somewhat more likely. Indeed, as discussed, many of the areas in international law that are ripe for advancement fall at the regional treaty level (for example, the OAU Convention or Cartagena Declaration regarding refugee-like rights, or the right to life considerations found in regional human rights treaties like the European Convention on

Human Rights [1950], the American Convention on Human Rights [1967], or the African Charter on Human and Peoples' Rights [1981]). As such, while yet unclear, the potential to advance EDP migration rights at this level should not be discounted.

Regional Migration Schemes

A regional migration scheme, perhaps similar to the operation of the Schengen Agreement in signatory European states, also holds substantial potential to meet many of the ethical and physical demands of Environmentally Displaced Peoples. Under this scheme, free movement would be enabled among member states – ideally on a regional basis – which would enable migrants to move freely in their regions to similar economic, cultural, climatic, and political areas, as needed. Here, rather than a bilateral agreement for migration between two states (like those existing between New Zealand and Tuvalu, or Fiji and Kiribati), migrants would be free to move with their families in two important ways that are not supported by current state-level agreements: first, they would be free to move before being displaced, and second, they would be able to move according to their own autonomous wills, maintaining the full power of their individual dignity. Here, forced environmental migrants would not be victimized as a form of 'refugee', but merely one among many migrating peoples. The lack of required (EDP) status also holds significant potential in that it does not require the migrant to make a claim that resonates with his or her adjudicators (a challenge facing current vulnerable migrant claims, as discussed in Chapter Three).

Such a scheme could be supplemented with rebuilding efforts for disasters that produce Temporary Environmental Migrants, programs and allowances for cultural maintenance and support of post-territorial group identities, and integration and employment assistance, including skills training.

Indeed, some potential regional groupings for open migration are already revealing themselves: particularly, in Europe and the South Pacific. Europe's Schengen agreement could easily be tailored to offer added assistance to environmental migrants, and the increasing level of communication and cooperation over the common threat of climate change and rising sea levels in the South Pacific has already laid sufficient groundwork for

the emergence of a similar migration scheme (see, for example, the annual meetings of the Pacific Islands Forum from 2005-2013, which have increasingly focused on climate change adaptation and assistance, as determined through an extensive media analysis in the region from January 2005 through June 2014). The level of economic integration and free trade in North America under the North American Free Trade Agreement marks it as another potential area for open migration; however, the highly securitized borders – particularly between Mexico and the United States – would be a substantial challenge in implementing such a scheme. Africa, East Asia, the Caucuses, and South America could make up other regional groupings based on economic, political, and cultural similarities; however, none of these regions have shown particular efforts towards integration or cooperation on the issue of environmental displacement or migration, and so lie at the periphery of this dissertation and beyond its research focus.

In many ways, regional migration strategies take the concept of open borders (see, particularly, Carens 1987), and make them workable on a small scale, under the current international regime. In this, there lies great potential as migration is enabled in a policy-friendly way.

Category-Specific Immigration Exceptions

Specialized immigration categories and/or exemptions for Environmentally Displaced Peoples, similar to those of Sweden, Denmark, and Finland, offer another potential resolution, moving forward (Swedish Aliens Act Chapter 4, Section 2; Finnish Aliens Act; see also Kolmannskog 2009, 4; Kolmannskog and Myrstad 2009, 10). This approach would not alter the current sovereign state system, and thus be among the more straightforward options in terms of immediate implementation. Immigration exemptions, however, could be significantly limited in their use of what will likely be narrowly-defined categories of Forced Environmental Migrants. In hinging on a definitional granting of rights, EDPs receiving recognition and rights will be limited to those covered by the definition. As argued, it is likely that not all EDPs will be included, with Pressured Environmental Migrants particularly at risk of exclusion given the striking similarities between them and economic migrants. This likely shortcoming is problematic in that PEMs make up the

largest proportion of current EDPs (Black 2001). Secondly, by basing the granting of status on a specific understanding of what an Environmentally Displaced Person 'looks' like, this requires vulnerable migrants to make claims that suits their adjudicators, and not necessarily the truth. The ethics underpinning this, as the reader will recall, are deeply problematic.

Beyond the benefits and downsides of using a definitional immigration category, any protected status would also need to be coupled with disaster re-building (mainly for Temporary Environmental Migrants), programs and allowances for cultural maintenance and the continuation of post-territorial group identities, and integration and employment assistance/skills training to be fully effective in advancing sufficient EDP rights.

Temporary Protected Status

The granting of Temporary Protected Status, similar to the TPS program (1990) in the United States, or the European Union's Temporary Protection Directive (2001/55/EC) would work well for Temporary Environmental Migrants if it were to be coupled with a sufficient rebuilding efforts and assistance at the initial disaster site. Such status would see temporarily displaced peoples relocated and given living assistance on a temporary, ad-hoc basis (Temporary Protected Status 2013; see also Senate Hearing on Comprehensive Immigration Reform J-113-4, February 13, 2013). Given the nature of storm activity and migration this response is appropriate if limited in its application to those who are temporarily displaced, and displaced on domestic soil. Any Temporary Protected Status must, however, also be coupled with timely rebuilding efforts to avoid ongoing 'temporary' status, as has been the experience of Hurricane Mitch Survivors in the United States since 1998 (see Sabaté 2013). Further, Temporary Protected Status would be substantially more beneficial if new immigrants could be admitted under its protection.

It is further possible that Temporary Protected Status could be offered to ease the integration of Pressured Environmental Migrants and Imperative Environmental Migrants as well (following the European Union's Temporary Protection Directive [2001/55/EC]). For example, Protected Status and assistance could be offered to incoming environmental migrants on a temporary basis, until they are able to integrate more fully, or relocate to

another area/state where they might integrate more easily (see Bauböck 2011).[66] In this vein, Protected Status could be offered for a period of one to three years, to ease the integration and employment challenges of immigration. Yet, while this strategy would be able to ease the migration process, without effective integration or facilitated return, this approach would not be able to offer a durable solution for Environmentally Displaced Peoples. It this, Temporary Protected Status alone will not serve as a mechanism to resolve the challenge of environmental displacement. Further, if return is the ultimate goal, this approach would be equally ineffective without internationally-assisted rebuilding and/or adaptation efforts at the initial site of environmental deterioration/destruction.

The second key challenge, similar to that faced by the previous two approaches, will lie in the definitional challenges of category-specific immigration exemptions and the ethical demands for the maintenance of post-territorial cultural and group identities, as discussed above.

Labour Migration Schemes

A labour migration scheme, possibly similar to New Zealand's *Pacific Access Category*, but tailored to prioritize migrants from threatened areas, holds great potential in that it is both pre-emptive and functionally suited to facilitate economic integration. Here, potential EDPs could be targeted to migrate under conditions of employment – where employment would be established prior to migration (following s.140 of New Zealand's Pacific Access Category). Once the migrant is relocated – and, usually after a designated period of time – she can apply to bring her family through existing family-immigration categories or possibly through a newly-created expedited family-immigration category for migrants from significantly threatened areas (as would be my recommendation). A key challenge in this otherwise promising strategy is that if such a program was not coupled with sufficient at-home training – prior to migration – few migrants would be likely to qualify for the necessary condition of employment (see Chapter Six for more on the shortcomings of the Pacific Access Category; also Williams 2008:508; Gemenne and Shen 2009:11; Jäger et.al.

[66] This would stand against the popular Third Safe Country policy that currently guides international refugee and asylum law, and thus likely be more difficult to implement.

2009). As it stands, most potential EDPs are unskilled labourers or dependants (Black 2001). This approach is also challenged by the nature of labour migration schemes, which are better suited for a long-term, slow feed of immigrants who have time to integrate economically before applying to bring their dependants. Climate change, however, does not always occur at a slow-moving pace (see Carr 2011; IPCC 2014). As such, this program would be of little benefit to many Imperative Environmental Migrants or Temporary Environmental Migrants, as it currently exists in policy.

Clearly, there are many potential pathways to resolution that address the key challenges of forced environmental migration as laid out in this dissertation. Moving forward, I will bring these together to design a comprehensive strategy to meet the full range of EDP considerations in a politically manageable but ethically demanding way.

Resolution Framework

With all of the above in mind, I would like to propose a two-tiered response strategy designed to meet the immediate political constraints of the current international system, but without compromising the robust ethical requirements of Environmentally Displaced Peoples established in this dissertation. As such, this section is framed to offer short term policy recommendations within a broader, long term reframing of the international regime: one which is suited to meet the changing physical, social, and political realities of the globe as its continues to experience climate change. It should be noted, however, that I believe the full impact of the resolution framework offered here will only be met if *both* strategic sets are implemented. That is, the short-term recommendations offered here will not be sufficient to meet the ongoing challenges of the ethics of climate change and migration; deeper, global systemic change is also necessary if we are to keep with the basic principles of justice that have driven this dissertation.

Immediate Recommendations

Drawing from the bulk of the dissertation, my list of immediate recommendations is as follows:

1. Reduce Greenhouse Gas Emissions

2. Support Adaptation Assistance

3. Maximize current opportunities for Protected Migration Status (including the development of new regional treaty regimes, Labour-Migration Schemes, Category-Specific Immigration Exemptions, and Temporary Protected Status)

4. Incorporate Civil Society more Fully in Adaptation and Migration Strategies

These four steps will work to ease the immediate impacts of climate change on displaced populations in the following ways:

Reduce GHG Emissions

From my previous critiques, the reader will know that reducing GHG emissions will not effectively 'stop' climate change, as many have argued or implied (see, among many others, IPCC 2014; Carr 2011; Mathez 2009; Lovgren 2004; *Climate Refugees* 2010). The current climate loop is such that the earth is on track to see a one meter rise in sea levels over the next few decades (Carr 2011), whether emissions are stopped or not. That said, reducing GHG emissions may be able to slow or reduce the full impact of some of the disasters, as discussed above: while Tuvalu is almost assured to become uninhabitable as a result of rising sea levels, reducing emissions may add five or ten years to its habitability. Further, the full force of shifting ocean currents may yet be avoided, which may reduce the quantity and severity of climate change displacement for many potential EDPs (see NASA 2004, or Chapter One for more on the specific effects of shifting ocean currents). As such, this is an immediately necessary, but not sufficient, policy action that needs to be taken by the international community *in its entirety*.

The lingering question, of course, is by how much. Unfortunately, a decisive response lies beyond the scope of this dissertation; however, we could look to the Kyoto Protocol, despite its discussed shortcomings (see, particularly, Clark 2011; Clark 2012), for an indication as to where we might begin. Kyoto initially employed a strategy that sought to collectively reduce GHG emissions by 5.2% below the emission levels of 1990 by 2012 (UNFCCC 2014). As this was a collective goal, the individual assigned emissions amounts varied among countries, from an 8% reduction across fifteen EU countries to an allowed

10% increase for Iceland (among Annex 1 countries) from 1990 levels (UNFCCC 2014). Developing countries were assigned emissions targets as well; however, they were not legally bound to meet these targets given their developing status (UNFCCC 2014). Problematically, many countries either dropped out of the Protocol or did not choose to participate in the second round of reductions that began in 2012 (see Clark 2011; Clark 2012; UNFCCC 2014; or Chapter Five). An approach, like Kyoto's, that takes the status of development into consideration is beneficial in many ways, particularly in that the GHG emissions are to a large extent what allowed the West to industrialize at the rate it did, without which countries may have otherwise been consigned to the ongoing conditions of poverty that exacerbate climate stresses. Industrialization has enabled a wider range of effective adaptation strategies that can be used to mitigate the effects of climate change. That said, allowing successful countries to increase their emissions is an ill-advised approach, particularly given the dire consequences of continued GHG emissions and their resulting effects on global warming (see Mathez et. al. 2009). Every country must be expected to participate in GHG reduction in order for this strategy to be effective, and fair (with possible leniency or lower reduction targets for developing countries). As this dissertation has repeatedly argued, we are all in this together; no one is exempt from the causes and no one is exempt from the consequences.

Support Adaptation Assistance

There are numerous adaptation strategies that could be effective in warding off the immediate challenges of climate change, including advanced irrigation systems for areas experiencing prolonged drought, the construction of seawalls or dike systems to address persistent flooding, or the utilization of advanced housing construction strategies such as flexible walls designed to shift with strong winds, or houses raised on stilts to avoid sea swells and other related storm activity. Yet, among these and others, the affordability of effective implementation is often outside the reach of peoples most acutely affected by the negative effects of climate change. Thus, in many cases, where there is a possibility for effective adaptation, it is unaffordable. The international community must immediately fund these adaptation strategies to avoid the injustices of forced environmental migration,

as discussed throughout the dissertation, but also for the simplicity of the response. While many states may not give recognition to the immediate ethical quality of this demand – which, does not detract from its validity, only the ease of its immediate implementation – the political challenges of mass migration and integration should resonate widely on a policy level. Avoiding these challenges would best serve the interests of all involved, whichever position they may come from (also see Chapter Three's discussion of the convergence of the dominant theoretical perspectives on this topic). Given that local adaptation is the only clear alternative to forced migration for many EDP populations (as, indeed, most potential EDPs do not wish to turn to migration as a method of adaptation unless localized adaptive attempts fail and migration becomes necessary for survival), the international community must assist these efforts. Adaptation assistance is essential to the resolution of climate change and forced migration; as such, it also forms a large part of the broader resolution frame, discussed below.

Maximize Current Migration Protection Schemes

As discussed, potential also lies in maximizing access to labour migration schemes, similar to, but expanded from New Zealand's Pacific Access Category (PAC); maximizing category-specific immigration exemptions following Nordic and American trends.

Regional Treaty Regimes: The possibilities for a new or revised regional treaty regime in international law are substantial in their ability to recognize both positive, pre-emptive migration rights as well as to potential facilitate group-based migration. There is currently no precedent for such a treaty in the specific context of environmental displacement; however current regional human rights treaty regimes like the OAU Convention, the Cartagena Declaration, the European Convention on Human Rights [1950], the American Convention on Human Rights [1967], or the African Charter on Human and Peoples' Rights [1981] serve as basic examples which could be honed to support EDP rights. Under the logic of the current international regime, advancements here may be slower or more laborious than, perhaps, those available under a labour-migration scheme; however, there is no reason to believe that these would be untenable, either.

Labour-Migration: The reader will recall from Chapter Six that the PAC is a labour migration scheme that formally admits up to 75 citizens of Kiribati, 75 citizens of Tuvalu, and 250 citizens of Tonga to be granted residence in New Zealand each year ("Quotas" 2013). The category designates space for labour migrants specifically from small island nations, thereby advantaging their immigration into New Zealand. By ensuring new immigrants have secured employment, the PAC (theoretically, at least) eases their transition into the new society. It is, however, challenged by a long list of eligibility criteria that leaves many spaces unfilled each year (see s1.40 Pacific Access Category; Gemenne and Shen 2009, 11; Jäger et al 2009).

An adapted strategy might be set internationally to prioritize workers from threatened states over other potential labourers, as the PAC prioritizes migrants from certain Pacific Islands. Yet, rather than merely listing eligibility criteria, a well composed labour-migration program might seek to support the skills and training it seeks through local language and skills training at home, prior to migration. A labour-migration scheme shows potential in its ability to balance prioritized migration to vulnerable populations with sustainable economic integration and what many islanders have raised as a concern for migration with dignity (especially see McAdam 2011). Under this scheme, environmental migrants would initially arrive in a condition of trained employment, and could later bring their families through an expedited family category under the broader immigration policies of each state (which themselves could be further tailored to prioritized potential EDP populations). In this, targeted pre-emptive migration could be used to avoid large-scale displacement and the chaos of forced migration as sea levels continue to rise and states become increasingly submerged. Again, like international support of adaptation assistance, making room for potential EDPs and supporting their training would be of benefit to both EDPs and receiving states: rather than creating and then having to support refugees, the international community should choose to create and integrate future citizens, where immigrant populations choose or are forced to migrate as a result of the processes of accelerated climate change. This could also make EDPs a more-attractive migrant group to countries like Canada and the United States, where the reader will recall that there is a

clear trend between expanding immigration categories typically and a domestic demand for labour.[67]

Immigration Exemptions: Although the above criteria are designed to avoid a condition of forced migration for environmentally-threatened populations, this will not always be possible given the science of climate change (see, especially Carr 2011). As such, it is important that immigration exemptions, perhaps similar to those provided in Sweden and Finland's Alien Acts (see Kolmannskog 2009; or Chapter Six for commentary) or the United States and European Union's provision of Temporary Protection (see Temporary Protected Status and 2001/55/EC respectively), are made more readily available to EDP populations. These must, however, be more inclusive than either of the above strategies, so as to allow for the granting of protected status to EDPs who are not already on domestic soil. In other words, these must enable migration, and not merely delay deportation in order to be effective.

Incorporate Civil Society

Civil society is already playing a valuable, if under-resourced and under-recognized, role in managing the conditions of climate change and forced environmental migration (Lipshutz and Mayer 1996; IOM 2014; Gil et.al. 2013; Jah 2013). The advantages of civil society's ability to bridge the international with the global, particularly in terms of adaptation but also in terms of impacting migration policies, are numerous, as discussed above. As such, the international community would likely benefit by fully incorporating civil society wherever possible, moving forward.

Here, it is also important that civil society make space to support emerging norms (following Finnemore and Sikkink's 1998 work on norm entrepreneurs and emerging international norms), especially those that could help to reframe the international community's understanding of the human rights regime in a more appropriate direction, following the arguments of Chapter Four. As mentioned, this long-term ontological shift is

[67] While the 'attractiveness' of potential environmental migrants has not been a concern of this dissertation, it does recognize that this factor will likely be of concern to some readers.

essential to supporting the full range of EDP rights that are called for in this dissertation. As such, it is discussed in detail, below in the broader framework.

Broader Framework Recommendations

These four immediate actions are necessary, but not sufficient for the full support of EDP rights. They must be nested in a long-term strategy that maximizes adaptation assistance and enables ethical environmental migration through:

1. A non-optional adaptation assistance program which acknowledges capacity, capability, and culpability;

2. An end of the Westphalian sovereign state system, and the ushering in of an era of more free migration or open borders – minimally, for Environmentally Displaced Peoples, if not for everyone;

3. And an ontologically-rooted reconceptualising of the Human Rights Regime that also frames forced environmental migration as an ethico-political challenge to the global community.

Moving from here to there, the international community might be well-served to explore the full range of options offered by expanded dual and, eventually, deterritorialized modes of citizenship and sovereignty, as discussed above. These may be able to offer support of the political autonomy that is so important to the citizens of states currently facing extinction as a result of climate change, thereby maximizing their ethical standing as equal members in the international community with an Arendtian 'right to have rights' (1968 [1951], 177). Following this path may offer incremental change capable of advancing effective rights for EDPs. More specifically, I will offer a detailed description and argument for each of the three principles.

Adaptation Assistance

More than just the immediately required adaptation assistance called for above, I have also sought to establish in this dissertation that EDPs have an ethical right to sustained and predictable financial and technological assistance from the international community.

Helpful here would be an international insurance scheme, with mandatory minimum contributions based on capacity, capability, and perhaps culpability. It would have to far-exceed the current United Nations sponsored Adaptation Fund in two ways: first, through mandatory donations and second, in its application process. The reader will recall from Chapter Three that the United Nations Framework Convention on Climate Change (UNFCCC)'s Adaptation Fund seeks to finance concrete adaptation projects and programmes in developing countries that have signed onto the Kyoto Protocol. It is currently financed from a share of the proceeds from Clean Development Mechanism projects (2% of certified emission reductions from each project) as well as through voluntary pledges of donor governments. The fund totalled $171 million (US) as of December 31, 2013 (World Bank 2013), with voluntary donations having been made by Belgium ($1.58m), Finland ($0.07m), France ($0.05m), Germany ($13.88m), Japan ($0.01m), Monaco ($0.01m), Norway ($0.09m), Spain ($57.06m), Sweden ($59.38m), and Switzerland ($3.27m) (climatefund.org). Countries seeking to make use of funding must apply, in English, through accredited agencies. Once they receive endorsement, project applications are reviewed by the Adaptation Fund's Board. Thus far, $58.33 million (US) has been disbursed for projects (climatefundsupdate.org 2014).

The current Adaptation Fund falls short on two points: first, on the fact that donations are voluntary; and second, that it is not universally framed, as only Kyoto countries are eligible for participation. The voluntary nature of fund donations (outside of the 2% from emissions reductions) is ethically and practically unsustainable. Ethically, it reduces claims for adaptation assistance to those seeking charity and not those of *right*; practically, the amount of capital currently being raised is not enough to sustain long-term financing for what will likely be an increasing number of large-scale projects into the future. For example, the reader will recall that the construction of a basic seawall costs – on average – about £5000-6000 *per meter* (approximately $8,500-$10,250 USD) (English Environment Agency 2007). Furthermore, only a handful of countries currently contribute, which raises concerns over the Fund's future effectiveness. Secondly, in order to address demands of EDP rights, as EDP *rights*, any adaptation assistance program cannot be limited to certain citizens of certain states that have agreed to certain terms, as is the current limitation in

only supplying funding to Kyoto-compliant states. In order to address the universal nature of environmental migration rights as they have been established in this dissertation, any adaptation assistance must be universally open with no restrictions on claims outside of evidencing basic environmental adaptation goals and threats.

As such, it is my proposal that a universally accessible, mandatory contribution-based adaptation fund be established immediately, and developed into a fully funded robust program over time. There are a few ways in which mandatory contributions could be determined. The first might be through a percentage of GNP, similar to the contribution structure of the Millennium Development Goals that are currently rated at 0.07% of GNP from economically advanced countries (UN Millennium Project 2007). A starting point may be to dedicate a portion of these standing contributions to a climate change adaptation fund; however, I believe that long-term goals should see this contribution equally met in the context of stand-alone climate change adaptation donations, if not exceeded.

Over the longer-term, the international community should be working towards expanding this limited financial aid approach into one that can better support the ethical findings of the dissertation. This more robust approach may involve a weighting of the conditions of each states' capacity, capability, and – perhaps – culpability, in the context of climate change. While culpability may be the clearest to delineate at the state level based on national policy and statistics, the reader will recall that it also serves to mask important variation at the sub-state level. Thus, while it is a real and measurable consideration, it may be less helpful in conceptualizing what I have argued must be a *global* commitment to environmental adaptation. As such, a focus on capacity, in terms of the geography and infrastructure of potential receiving states, and capability, in terms of which states are able to donate technology or financial support may prove to offer more robust results. This approach also leaves important space for states to individualize their responses according to their own domestic political will – which will be particularly important in the short term, under the current Westphalian state system. For example, State A, which is financially stable and technologically advanced may be able to distribute its mandatory contributions over all of the potential contribution factors by opening immigration to an appropriate number of EDPs, and donating technological insight, and financial aid to fulfill the

remainder of its obligation. State B, on the other hand, may not hold a reasonable level of financial stability or technological advancement to afford financial donation or prompt technological support; however, it may have larger amounts of unoccupied land suitable for group-based relocation. Working out specific formulae does not fall into my area of expertise, and so I will leave it to those who are otherwise talented; however, the basic premise should be clear: adaptation assistance in the context of climate change must be understood beyond a mere contribution of financial aid to fully capture the multifaceted nature of the conditions of climate change displacement. Further, we must move beyond the concept of payer-states and receiving-states: all states would have to be contributors, and all states would have to have the option of making use of the Fund. Obviously, more would be expected of larger, more capable states, in terms of offering assistance based on the basic principles of justice as fairness (and, here, possibly including culpability as a rational driver, as most capable states are also the most culpable states in terms of expelling GHG emissions).

Overall, a robust, non-optional Adaptation Fund is necessary, but not sufficient to deal with the full range of disasters experienced by the conditions of climate change. For example, while an easily accessible fund for financial aid, knowledge, and/or migration may be able to relieve many of the stresses experienced by pressured and imperative environmental migrants, it cannot hope to predict and avoid extreme storm events and thus holds limited potential for Temporary Environmental Migrants (it could, however, still offer the technology and funding to develop early warning systems and impact-resistant infrastructure, thus mitigating the impacts of extreme weather events).

The structure of this Fund also importantly creates space for a sharing of knowledge and technological strategy that would simultaneously benefit from an increased role for NGOs and Civil Society in their capacity to work simultaneously at the local, state, regional, and global levels. Therefore, overall, I believe a non-optional adaptation fund is key in the future success of advancing EDP rights on a global scale.

Free Migration/Open Borders

The second key factor will be opening borders to enable freer, if not free, migration to all EDPs. As discussed above, the benefits associated with an open border or free migration scheme for EDPs and Potential EDPs are numerous, including the ability to move freely at a time that makes sense to the migrating individuals or groups, to a place that makes sense for them as well. Ethically, open borders would resolve most of the complications and challenges presented by climate change in the context of forced migration. When coupled with a robust adaptation assistance program, like the one discussed above, I believe nearly all EDPs and Potential EDPs would be able to secure access to a set of ethically-sound rights capable of meeting their needs and treating them with the dignity and autonomy they deserve as human beings.

Of course, this global arrangement is quite different than the one we use today. As such, the road from here to there will be long and, likely, arduous. Yet, while this strategy will take time to fully implement, if we begin now it could be in place before sea levels surpass the one meter mark and the first states are submerged. To begin, it would be helpful to start with expanded labour migration programs, where borders are essentially available to be open to any potential EDP seeking to migrate through a labour program. As mentioned above, the program would have to include sufficient job training and job placement assistance, evolving it from current strategies like New Zealand's Pacific Access Category. Further, it must be an open program, fully available to anyone seeking to make use of this pathway to facilitate environmental migration. While successful integration cannot be guaranteed, I believe this strategy provides EDPs and potential EDPs with a solid foundation upon which they can build, as well as support a migration with dignity that is of great concern to small island peoples.

From this beginning, I believe it should follow that the international community initiate a strategy to move through a period of dual, nested, and/or deterritorialized citizenship, for the benefits discussed in this chapter, as well as to open migration pathways to those EDPs and potential EDPs unwilling or unable to migrate through a labour scheme. This approach would be well-suited to accommodate what will likely be a second wave of

environmentally-driven migration. In this anticipated second wave, I would primarily expect to see those people who do not wish to leave their homelands migrating out of necessity. In comparison to the first wave, the willing migrants, this second wave would likely be large in number and older in age given studies like that of Tulele Peisa's on the Carteret Islands or CIDA's experiences on Vanuatu (Rakova 2009; Solomon Times 2009; CIDA 2010b; also discussed in Chapter Five). As sea levels continue to rise, those unwilling to migrate during the first phase are increasingly likely to find themselves unable to maintain their lifestyles. Employing a strategy that enables the maintenance of some form of revised citizenship (in mind: dual, nested, or deterritorialized; however, other or better possibilities may emerge over time) may reduce the resistance to such a move. I would also expect that this second wave of migration would include an older demographic, including those people unable to participate in the labour migration scheme of the first wave, or those without family to facilitate their migration. Further, because older generations tend to be more attached to tradition and homeland (see, for example, Andrade 2008, on the loss of tradition in island cultures over time), they will also likely make up a portion of this unwilling migratory group. As a result, I believe that migration at this stage, in its decoupling from the Westphalian sovereign state system that is tied to territory and state borders, would be better able to maintain the political autonomy of the globally-situated individual, thus supporting migration with dignity and autonomy.

Finally, in what I would anticipate would be the third phase, the international community would see free migration, minimally for EDPs who have this right as a function of their right to survival (from Chapter Four; see also Hobbes 1660 and Locke 1689 on this right as a natural right under liberal theory). If free migration were to be restricted to EDPs and potential EDPs, the system would require a third-party, impartial adjudicator to determine status. This would avoid the ethical deficiencies previously discussed of demanding that a vulnerable population plead their case to what are often self-interested states or the remnants thereof (see also Castles et. al. 2005; Cornelius 2004). It is the recommendation of this dissertation that the categorized definitions set out in Chapter Two are employed during such a process, particularly to ensure that Pressured Environmental Migrants receive status as well. The reader will recall that these categories include: Imperative

Environmental Migrants, who have been or will be permanently and irrefutably displaced from their homes and/or livelihoods primarily as a result of environmental factors (especially, those from low-lying, small island states); Pressured Environmental Migrants, who are strongly pressured to migrate as a result of the slow-moving but devastating processes of climate change (especially, desertification); and Temporary Environmental Migrants, who experience short-term forced migration resulting from a one-time severe environmental event. Ideally, an era of open borders for all migrants would be implemented instead of a restricted version for EDPs only, or shortly implemented thereafter, as this would provide a comprehensive solution to the range of challenges presented by forced migration in an era of accelerated climate change (when coupled with a robust adaptation assistance program).

While these demands are substantial, they are not necessarily immediate in their nature. In this, there is time to make the shift before the one meter sea level rise threshold is reached and populations begin to be permanently displaced. There is not, however, time to delay the foundations of this shift, as time is the only remaining variable in the equation driving forced environmental migration. As such, the third pillar of my broader resolution framework looks to ground the ontological shift that is necessary to support the full range of EDP rights.

Ontological Foundations of Human Rights Revisited

As discussed in Chapter Four, the current human rights regime is fraught with logical flaws and paradoxes, the most challenging of which is the impossible situation created by seeking positive and pre-emptive human rights under Westphalian state sovereignty (where the system inherently lends itself to support negative rights – which are ethically insufficient for EDPs – by way of the principle of non-intervention). In order to remedy these, at least in the context of reimagining the human rights regime in a fashion capable of supporting EDP rights as outlined in this dissertation, the international community needs to shift towards a establishing a more-inclusive understanding of its foundation and sphere of responsibility: from the individual/citizen to humanity. Arendt's discussion of common responsibility and the common experience of natality (1958), as discussed in Chapter Four

(also see Birmingham 2006) offers one possible pathway to support universal *human* rights, and not just liberal democratic rights and the processes of empire tied thereto (see Douzinas 2007; also Norberg-Hodge 1991 and Sachs 1992). These are the kind of cosmopolitan rights called for by this dissertation: rights that supersede traditional political bounds and imagined pockets of power. In this, they also differ significantly from traditional liberal cosmopolitan rights in that there are not meant to be guaranteed by the state or political institutions (as Kant, Pogge, or many others in the canon of the field would have them guaranteed). Instead, Arendt envisions these rights as (frighteningly) guaranteed by humanity itself (1951, 298; Birmingham 2006, 8). This is an important shift in its move away from the inherent shortcomings of the Westphalian state system and the housing of rights in the state and political (i.e. particularistic) institutions. It is a challenging shift in that it demands a trust in other, flawed, human beings: a challenge of which both Arendt and myself are very much aware.

Following Arendt, but taking a somewhat different path, I look to re-imagine the ontological understanding of the human rights regime. Like Arendt, I do not think its grounding in the nationally-situated liberal individual is sufficient to uphold sufficiently robust human rights (1968[1951]). The focus on the individual does not effectively account for global systemic change, such as that characterized by global climate change. It does not adequately account for the common nature of the problem, and thus cannot entirely conceptualize the common nature of the solution. While Arendt astutely characterized the refugee as resulting from the conditions of modernity, I believe the nature of global climate change will add an additional layer to her analysis: where the challenges associated with the nation state, sovereignty, and its particular wills remain the same, I think we will see that the nature of the refugee is taking on a new face. With the expected physical elimination of the first state outside of the human conditions of warfare, a new era of forced migration will be upon us. This will demand a deeply considered revisiting of what it means to be a forced migrant. As this dissertation has argued, the discursive framing of the nature of displacement is fundamentally different than that expressed by Arendt – environmental displacement does not operate as a function of state power, despite being constrained and challenged by it. Indeed, Environmentally Displaced

Peoples are disadvantaged in many of the ways discussed by Arendt – most significantly, in the potential of being stateless and without rights – but their displacement also follows a path that is interwoven with, but somehow separate from, political power. In this, I argue that EDPs are doubly disadvantaged vis-à-vis their political counterparts: the discursive frame of the current human rights regime neither understands, nor recognizes the conditions of their displacement.

While Arendt's grounding of a 'right to have rights' (1968[1951], 177) is helpful, if somewhat obscured (see Benhabib 1996), in restoring political agency to EDPs, I cannot help but wonder if coupling it with a citizenship rooted in alternate spaces of sovereignty might help to further elaborate the nature of the challenge of environmental displacement as it is being, and will be, experienced. While Arendt is right to be highly suspicious of national forms of citizenship and its power to enable and disable access to human rights in the context of political refugees (a point with which I fully agree), this approach does not adequately capture the attachment to national identity expressed by the citizens of threatened island nations (see, especially Nansen 2015). Where national citizenship is problematic for all of the reasons addressed by Arendt in *Origins of Totalitarianism* (additionally, in Chapter Four of this dissertation), I would argue that there might yet be some needed space for the maintenance of national identity outside of the traditional Westphalian sovereign structure. To make it 'safe', we may need to look at the granting of tiered citizenship – and, significantly, rights – as deterritorialized forms of identity. Here, simultaneous layers of identity and citizenship could function together, and be guaranteed – following Arendt – outside of institutionally-limited state structures. I envision this guarantee as stemming from the common responsibility located in Chapter Three, which is similar to, but importantly different from Arendt's location of this common responsibility, in that the global community is further challenged by its complacency in the acceleration of the conditions of climate change through GHG emissions, in the context of environmental displacement. In this, we (including EDPs) have a right to have rights, which must be guaranteed by humanity itself, but one that may be able to accommodate some institutionalization through layered sites of sovereignty, using tiered citizenship as the vehicle through which these rights can be realized. Fundamentally, the ontological ground

follows Arendt: as humans we have a right to have rights that cannot legitimately be tied to nationality or the state (as it currently is); yet, the practical implication of using layered citizenship and identity are meant to enable the continuation of national identity outside of the nation state. What I am calling for here is something akin to a grounding of human rights in a deterritorialized conception of human membership (citizenship) that is simultaneously played out on multiple fields of identity and places of public belonging. It is a complex approach, but one that is conceptually designed to account for the complex nature of the challenge of global climate change and displacement.

Secondly, as we have seen throughout, this ontological shift from a statist to global understanding of responsibility for protecting the rights of the vulnerable must be coupled with a reframing of our understanding of the environment and how it actively participates in the displacement of peoples. Applying an ethico-political frame to the challenge of forced environmental migration, rather than one which perpetuates the misconceived notion that climate change is 'natural' and environmental displacement thus results from 'bad luck,' negating responsibility, will enable a clearer conceptualization of the ethical challenge at hand and reinforce the necessity of an Arendtian ontological shift as we move into an era of migration increasingly being driven by the processes of climate change.

Conclusion

This chapter has revisited the key findings of the dissertation in building a nested framework response to the challenges of forced environmental migration in an era of accelerated climate change. It has highlighted four immediate responses that I have argued must be politically embraced by the international community in the very near future if mass displacement and human injustices are to be avoided: reduce greenhouse gas emissions, support adaptation assistance, maximize the potential of existing migration schemes, and incorporate civil society more fully in adaptation and migration strategies. I have however also argued that these responses will not provide a sufficient response outside of deeper, structural changes that must occur alongside their implementation. The long-term structural changes argued for in this chapter include implementing a non-optional adaptation assistance program that acknowledges the capacity, capability, and

culpability of each state. From this shift, the chapter has argued the international community must move towards implementing an end to the Westphalian sovereign state model, instead ushering in of an era of more free migration or open borders: minimally, for Environmentally Displaced Peoples, if not for everyone. Finally, I have argued that these moves must be supported by what will be a challenging ontologically-rooted reconceptualising of the human rights regime from one rooted in liberal individualism and an understanding of human rights as guaranteed by the state and/or the international community of (sovereign) state powers, to one rooted in an Arendtian understanding of a human right to have rights, guaranteed by humanity itself. The chapter has highlighted that from this ontological shift in understanding the human rights regime, the addition of a tiered, yet deterritorialized, conception of membership or citizenship may be able to assist in the continuation of (previously-national) identities that are significant to those populations unjustly facing the extinction of their nation state. While over the long-term the end of national citizenship would likely bring about the end of national identity, this is a shift that would progress through many phases, not all of which can be accurately predicted and should not necessarily be avoided at any cost. The key offering underlined in arguing for a re-grounding of the human rights regime is that given the expected end of some states and their ability to remain sovereign and offer human rights to their citizens, it is ineffectual and inappropriate to hinge human rights on the sovereign state in an era of migration increasingly being framed by the conditions of climate change. This dissertation has argued that the age of the sovereign state in its rights-distributing capacity is nearing the end of its legitimacy from most theoretical standpoints: more than just demanding new legal or policy responses, the conditions of climate change have necessitated a revisiting of the entire international regime as we know it.

Conclusion

Forced Environmental Migration is not a new phenomenon; but as we have seen, it is clearly exhibiting new qualities and new experiences in an era increasingly being framed by the conditions of climate change. These new experiences have brought new ethical demands and considerations along with them, which have thus far been largely unacknowledged or underexplored in the academic, legal, and policy fields studying climate migration. This dissertation has sought to draw attention to these gaps, arguing that Environmentally Displaced Persons (EDPs) ethically deserve a special set of migration and adaptation rights that the global community has a responsibility to uphold (see Table 2). It has argued that this responsibility directly results from the complicity of humanity in creating the conditions of climate change that are now causing environmental displacement. Further, the dissertation has suggested that pre-emptive migration rights and adaptation assistance for EDPs are matter of basic global justice, drawing from a range of perspectives across the field of migration theory by way of support. Yet, the dissertation has also revealed that the realization of these rights faces deep challenges on all fronts: theoretically, legally, and politically.

On a theoretical level, it has argued that EDP rights are fundamentally positive rights in their nature, which puts them in tension with the current international human rights regime that has been dominated by negative rights and liberal individualism. As a result of this tension, it has argued that the international and human rights regimes are deeply challenged in seeking to ensure that EDP rights are fulfilled by anything other than the arbitrary goodwill of the state. Chapter Three suggested that this is an unjust position that cannot be upheld by any ethical standard. Yet, even more troubling, the project has also put forward the argument that the nature of this tension runs deeper than its expression in the context of forced environmental migration. Indeed, Chapter Four has illustrated how the tension between universal positive rights and the Westphalian international regime runs so deep that it begins to destabilize the ethical legitimacy of the system itself. Indeed, in as much as Westphalian sovereignty upholds the principle of non-intervention, there is no way to guarantee what I have argued are necessary positive human rights for EDPs, or

anyone else (especially highlighted was a noticeably absent right to immigration under the current human rights regime). Yet, by liberalism's own logic, the project has also demonstrated that Environmentally Displaced Peoples have a right to migration that should supersede the legitimate moral authority of the state. And so, the reader was presented with a paradoxical tension under the current international regime: while migration ethics under the conditions of climate change demand the guarantee of positive rights, this guarantee cannot stand in the face of the Westphalian sovereign state and the principle of non-intervention. Ultimately, Chapter Four argued that either our ethics or our international political regime would be destabilized under the weight of forced environmental migration. The project chose to follow an ethical arc, but in a way that sought to balance ethics with practical applicability and meaning to the real people suffering under the conditions of climate change. Fundamentally, it has recognized that no matter how strong Tuaga's, our hypothetical EDP from Tuvalu, ethical claim to adaptation and migration rights are, these are ultimately meaningless unless they can actually enable his adaptation or migration under the current international regime.

Where Chapter Four came from a place of significant theoretical analysis which could be critiqued as being disconnected from the realities faced by EDPs (see, for example, similar critiques from Black 2001 and McAdam 2012), Chapters Five and Six sought to bring praxis to the project in a meaningful way. In particular, Chapter Five examined the current state of international law as it relates to Environmentally Displaced Persons and their rights by reviewing key international legal instruments that relate to the conditions of sovereignty and statehood, the rights of stateless persons, refugees, and those who are internally displaced, as well as some of the agreements that shed light on the status of climate change and adaptation as it is understood in international law. Its analysis was detailed, revealing that while there is space for positive growth, the current state of international law is not one that can easily accommodate special recognition or rights for people who are displaced primarily by environmental events. Part of the reason for this incapacity, it argued, is due to the lack of a clear definition of EDPs, as Chapter Two clarified; but, perhaps its larger challenge might stem from what Chapter Four has argued is an inherent flaw in the international system: that it cannot adequately guarantee positive, or pre-emptive rights.

Recognizing the necessarily central role of the state in securing access to human rights (following Hannah Arendt's 1968[1951] poignant analysis that to be stateless is to be vulnerable to the point of extinction, as well as the arguments of Chapter Four) under a human rights regime that is confined to its Westphalian expression, Chapter Six offered a critical overview of the current state of domestic policy that relates, or could relate, to Environmentally Displaced Peoples. Its regional organization was reflective of the geographic nature of climate change in that certain regions are more susceptible to certain types of environmental events, and thus tend to produce certain types of EDPs. For example, North America tends to see more Temporary Environmental Migrants resulting from severe storm events – especially hurricanes – where Europe tends to see more Pressured Environmental Migrants given its proximity to Africa and the prominence of drought and resulting periods of famine there. Oceania, on the other hand has most closely considered the experience of what this dissertation has labeled Imperative Environmental Migration (IEM), given its proximity to the 'sinking' islands of the South Pacific. While the chapter is clear that these regional trends are just that – trends – and not illustrative of any sort of exclusivity on the part of climate change (indeed, we have seen extreme storm events and slow-moving but devastatingly persistent processes of climate change occur worldwide: for example, the 2004 Indian Ocean Tsunami, recent floods in Bangladesh, or the melting of the Polar Regions), a clear regional pattern has emerged in terms of offering protection to the varied experiences of environmental displacement. From a universal human rights perspective, the overlapping nature of these policy regimes offers some protection, where different types of EDPs can received some protection in different regions; however, when applied in the context of the realities of the international community, policies like the Third Safe Country policy have substantially diminish its value.

Together, then, Chapters Five and Six revealed that while advancements have been made relating to the status and recognition of EDPs and their rights in both the legal and policy fields, these fall short of providing a clear set of rights or recognition, or even a sufficient overlapping human rights regime (unlike that argued for by McAdam 2012), from an ethical perspective. In response, Chapter Seven sought to draw together the substantial policies and laws that exist in the international regime in a way that is meaningful to the

ethical concerns presented in Chapter Three. Ultimately, it argued that in order to guarantee the full range of EDP rights that are called for by this dissertation, the Westphalian system cannot be upheld as it currently stands. Yet, the dismantling of the regime need not be the first dramatic step: instead, the project argued for a nested approach that would see immediate global efforts to reduce greenhouse gases; to support adaptation assistance wherever possible; to maximize migration schemes; and to fully incorporate civil society in all future adaptation and migration responses. However, it also argued that these efforts would need to be coupled with a longer-term strategy to address some of the deeper, systemic shortcomings of the international political community. Chapter Seven suggested that one possible route to resolution might see the implementation of a non-optional adaptation assistance program, an end of the traditional Westphalian system of political governance and an opening of borders – especially for EDPs if not for everyone – and an ontological reframing of the human rights regime to more carefully acknowledge our common human experiences and responsibilities, beyond borders. This last shift, as the project suggested throughout, should be coupled with an ethico-political framing of the challenge of forced environmental migration itself, if we are to fully conceptualize the complexity and nuances of its nature. While this second set of demands was substantial, it was also presented as necessary, following the conclusions of Chapters Three through Six. Fundamentally, the project revealed that the experiences of forced environmental migration have shifted the political and ethical realities of the international community. Deep-rooted changes must be made if we are to keep pace in an ethically meaningful way.

Overall, this dissertation provided an argument for significant international change emerging from an ethico-political consideration of forced environmental migration. In this, it has offered layered conclusions in that they apply both to the issue of forced environmental migration and adaptation as well as to the quality of the international system itself. This outcome was tied to the methodology of the project, which employed interpretivism as a lens through which the field could gain deeper insight into the full range of challenges presented by forced environmental migration. In its ability to step back and analyse the functional power of ideas in shaping and reshaping political realities (see

Parsons 2010, 87), this methodological approach located potential sites for change that would not likely have been recognized by other methods of inquiry. While these arguments for rights and systemic challenges could have been presented separately, together they offer what I believe to be a comprehensive review of the global ethics of climate change and migration, including adaptation, which is not currently found elsewhere. For example, the anticipated condition of statelessness for many citizens of small island states like Tuvalu or Kiribati will, in many ways, mirror the condition of statelessness discussed by Hannah Arendt in *Origins of Totalitarianism* (1951). Her analysis was ground-breaking sixty years ago, when she unabashedly argued that the international human rights regime was all but useless in protecting human rights under the Westphalian sovereign state, which reduced all universal rights to particularized citizenship rights. This condition has not changed. Instead, it is being experienced again in a new context, which offers new insights into the roadblocks presented by Westphalian sovereignty to the rights of displaced peoples. Environmentally Displaced Peoples, unlike their political counterparts, experience two new points of ethical consideration that can be seen to complement and expand Arendt's analysis: first, they experience a very clear-cut common responsibility for their plight; and second, they demonstrate a uniquely group-like quality in their existence. First, where Arendt argued for a general "right to have rights" that should be "guaranteed by humanity" itself (1968 [1951], 177, 298), she did so in a context that still somewhat lack clarity and a driving commonly-experienced need. The conditions of environmental displacement, and – particularly – environmental risk, as Beck (2009) has framed it, necessarily, clearly, and immediately comes from a place of common humanity in a way that, in my view, traditional political human rights do not. Where traditional human rights and displacement center on the Westphalian state, as Chapter Four has discussed in detail, environmental displacement is inherently global in both cause and effect: we all have played a role in creating the conditions of climate change to varying degrees, and we all face an immediate risk of being negatively affected by its consequences. While the political myth of a stable state can intellectually isolate people from some regions in the world against forming a connection with what it means to be a 'refugee' under today's international regime, this is not the case for forced environmental migration. It is, actually, being experienced *everywhere*. Thus, the conditions of climate change and forced

migration potentially offer further insight into the core of what Arendt was getting at. In this, I believe an opportunity is presented here for political theorists to capitalize on, moving forward.

The second key difference highlighted by EDPs – especially Imperative Environmental Migrants from 'sinking' island states – in the international human rights regime is the relationship between vulnerable migration and group rights, particularly in the context of the UDHR's cultural rights (1948, especially Art. 22, also Art. 27). Again, Arendt's analysis captures some of this idea in that her work in *Origins of Totalitarianism* was motivated from a space the recognized the extermination of a particular cultural group: the Jewish peoples of Europe during World War II. But, the crux of her critique does not lie in establishing cultural rights (indeed, the opposite could be more accurately stated). Instead, she critiques the international human rights regime for its liberal leanings towards a limited support of individual, negative rights (see, especially, Birmingham's 2006 analysis). For EDPs, however, we see that access to the continuation of culture is an issue of deep significance for them. Where Arendt may be correct that group (citizenship) rights often serve exclusionary purposes, creating an 'us' verses 'them' dichotomy, the issue of environmental displacement – again, particularly in the context of the expected extinction of a handful of small island states – raises new ethical considerations: for EDPs, cultural rights are both dangerous *and valid.* In as much as those particular segments of the EDP population did very little to create the conditions of climate change that are now threatening the extinction of their state, its sovereign status, and all of the cultural and identity rights that are tied thereto, this dissertation has argued that it is not ethically sustainable to disregard their concerns over culture. Simultaneously, the project has also argued that a right to culture (i.e. self-determination following Walzer 1984 or Benhabib 2004) cannot stand as the ultimate determiner of belonging or access to rights. In this, the conclusion reached is in many ways similar to Arendt's, but the pathway followed is substantially different and holds very different implications for the understanding of culture in critical analyses of universal human rights. Here, I believe a second opportunity for further study arises from the conclusions of this dissertation: locating an ethically appropriate, non-exclusionary, non-territorial, position for culture and difference in

guaranteeing universal human rights. Indeed, this challenge also holds significant implications for political science in general as it is derived from a basic critique of the legitimacy of the organization of the political community itself. If indeed some of the claims in this dissertation are valid, then the ethically-necessary reorganizing of the "political" away from its current focus on the state will have implications which span the field, and will affect much more than the issue of forced environmental migration.

Finally, in light of emerging bottom-up, policy driven projects like the Nansen Initiative (2015), this dissertation offers a deeply critical consideration for both future research designs and conclusions: if the international regime is, as I have argued, challenged to conceptualize environmental displacement as an ethico-political problem, then perhaps the challenge exceeds exclusively prescriptive policy-level responses. As I have argued, these will be important, particularly in the immediate future; however, it may also be helpful for those studying the complexities of environmental displacement to re-examine and critically engage with some of the systemic challenges I have discussed here. This will be particularly useful, I believe, in seeking rights and recognition for EDPs whose experience does not lie within the increasingly recognized, but narrowly-conceived, forms of environmental displacement that mirror the conditions of cross-border political refugees.

Politically and legally, this dissertation has sought to raise clear opportunities to create stable access to ethically-sustainable rights for peoples displaced by environmental events – whether directly, or in concert with other displacing factors. Indeed, as discussed in the introduction, from a practical point of consideration it would be nearly impossible to isolate the environment as the key-displacing factor for most EDPs (with the possible exception of IEMs on sinking islands when the land no longer exists as a result of rising sea levels). Making room in domestic legislation and international law to allow for this inherent ambiguity will be one of the key challenges for studies in environmental migration. The list of policy recommendations presented in Chapter Seven offers one of what could be many pathways forward, and while it is not exclusive in its conclusions, its drive to include the ethical status of EDPs at the center of its analysis, in many ways, is. Too often solutions from policy or legal backgrounds have failed to centrally consider the ethics implied by their solutions. This is an absence that I have argued cannot stand for EDP

rights, particularly given the active role of humanity in initially creating the conditions of displacement.

Therefore, while offering a comprehensive resolution framework driven by detailed and diverse analyses of key ethical, legal, and policy considerations, this dissertation cannot be seen as the final conclusive document on forced environmental migration. Even at a basic level, the changing nature of this emerging phenomenon negates this possibility. It has, however, aimed to offer sufficient groundwork for practitioners, lawyers, ethicists, and policymakers to advance the current state of EDP rights in a meaningful way. In this, it is hoped that the project has offered some new insights into both the immediate challenges presented by forced environmental migration, as well as opened space for further discussion of some of the deeper inherent challenges of the international human rights regime. While it is clear from this project that there is much more work to be done, it should also be clear that there are pathways capable of supporting the full range of EDP rights in a way that maintains basic human dignity and advances the state of global justice. The challenge will be in following these pathways in a way that is politically meaningful and possible. This dissertation has offered substantial critique, but it has also carried with it substantial hope for the future of EDP rights in the international community: hope that we can recognize the needs of others; hope that we can meet those needs; and hope that we can meet the challenges of climate change in a way that brings us together rather than divides us. Climate change, like all significant challenges of an era, has the potential to do both. It is fundamentally my belief that an immediate, thoughtful, human response to this challenge will be capable of supporting the former over the latter, but, as with all trials that come to define an age, only time will tell.

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