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## **Dream higher than the sky and deeper than the ocean: Combining Justice and Feasibility in Climate Migration**

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### **Citation**

Daadour, S. (2022). *Dream higher than the sky and deeper than the ocean: Combining Justice and Feasibility in Climate Migration*.

Version: Not Applicable (or Unknown)

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Dream higher than the sky and deeper than the ocean: Combining Justice and Feasibility in  
Climate Migration

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30.05.2022

Wordcount: 10942

Bachelor Project: Foundations of Climate Justice

BSc: International Relations and Organizations

## Acknowledgment

Firstly, I would like to thank my bachelor thesis supervisor Dr. Jelena Belic for her encouragements and support over the last semester. Without her helpful and critical comments, this thesis would lack a lot of understanding and depth.

Furthermore, I would like to thank all the people who have continuously read my thesis and given me constructive feedback. As well as, provided emotional support when I did not know how to continue and overthought every sentence of my work. Therefore, thank you so much to Mariel Beauroyre, Elizabeth Corro, Vanessa Bolognani, Paula Lessner, Nelli Naukkarinen, Ziad Alaa Eldin and my family.

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## *Introduction*

The phenomenon of climate migration is slowly getting more attention due to the acceleration of anthropogenic climate and environmental changes. Climate migration describes the displacement of people within or across states due to the effects of climate change such the rise of sea-levels, floods, cyclones among others. The Organization for Migration in 2008 estimated that between 25 million to 1 billion people will have to migrate due to climate change by 2050 (p. 11). Predictions by the Internal Displacement Monitoring Center show that around 21.7 million people per year, in the time frame of 2008-2016, were internally displaced due to extreme weather changes (UNHCR, 2018, p. 3). However, the UNHCR report also describes that there is little to no data available on the numbers of people displaced across countries due to climate and environmental effects. This is no surprise as there is an overall lack of knowledge in regards to the effects of climate change on the phenomenon of migration and especially in regards to cross-border migration. Moreover, the existing literature on the topic of climate migration disregards important questions such as where the affected people will move to and how such migration will take place. These questions can be defined more generally as questions concerning justice. Justice in the context of climate migration aims to answer what should be owed to climate migrants and by whom. However, climate migration justice has been largely ignored by the international community which is problematic as it will strongly impact the future of these affected people. At this moment there is no legal or political framework which clearly outlines the rights and obligations of people displaced by climate change and of the international community. Thus, important issues such as, who is responsible for providing protection to those who will be displaced and by what means have been ignored. Therefore, establishing such a framework is of great importance as climate migration will affect many millions of people across regions of the world. This will not only impact affected communities but also host communities. Finding ways to establish constructive relationships between these groups is vital in order to be able to navigate these issues and minimize negative effects. Furthermore, having a legal and political framework is necessary in order to identify which rights environmentally displaced people should have and how these rights should be protected. This subsequently leads to the questions of whether an existing framework on migration should be extended to the phenomenon of climate migration or whether a completely new framework should be established. Evidently, having some kind of legal and political framework is necessary to

protect the rights and needs of environmentally displaced people, however, it first has to be established which rights are morally desirable and should be included into a legal and political framework. The importance of having morally desirable rights is deeply related to the question of responsibility such as, who is morally responsible for providing rights to people displaced by climate change and how should these rights be provided for? Moreover, in the context of climate migration it has to be examined whether communities as a whole or individuals on their own should be migrating as well as the possible implications of each of these levels in practice.

This thesis will examine what underlying conditions are needed to be able to create a morally desirable framework for climate migration. In order to create a just climate migration framework, it also has to be feasible. Considering feasibility is of great importance as without the political will of the international community, questions of justice will remain unanswered and ignored.

Furthermore, in this thesis, I will consider climate migration through the context of slow-onset disasters, specifically the rise of sea-levels which will lead to cross-border climate migration. Examining the context of sea-level rise and the consequent loss of state territory is important as the result of this phenomenon; as de Shalit (2011) describes, the permanent loss of place as is a deep infringement on one's identity and functioning which cannot be rectified. Furthermore, the breakdown of states could leave people without the ability to claim their political and civil rights to anyone. So, it is important to establish a morally desirable framework which defines who will provide these rights for the affected communities before these slow-onset disasters take place.

Therefore, in this thesis I ask the question; *Which climate migration framework is just and feasible?* I assert that creating a just and feasible climate migration framework is not possible in the short-term, however in the long-term through incremental changes, attitudes and motivations might change, allowing for a just and feasible framework. In order to answer this question, I will first examine the existing literature in the first chapter. Then I assess the importance of giving people who are displaced due to the rise of sea-levels a separate moral and legal status due to the loss that these people will experience. I continue by arguing for a procedural approach to climate migration according to which a new international organization should be created. Lastly, I discuss the feasibility of the

established justice principles and how justice and feasibility in the context of climate migration can be combined.

### ***1. Mapping the status quo of climate migration***

Climate migration is a topic that is widely discussed in the literature and public debates, however there is no consensus on how to address the need for protection of people who will be displaced and how this can be done in a just and feasible way. In this chapter, I will inspect four broader debates in the existing literature. Firstly, I will examine the lack of a consensus on a moral and legal status for people displaced by sea-level rise. In the second sub-chapter, this thesis depicts the implications of the use of the refugee status and whether applying this status adequately brings displaced people within the legal framework of the United Nations' 1951 refugee convention. Alternatively, as some academics argue, a different status could be applied and a new legal and political framework should be created. Furthermore, I will examine the existing literature in regards to procedural justice. Should people displaced by sea level rise have the right to migrate as an individual or only as a community. Furthermore, how should these vulnerable communities be included in setting up just standards for climate migration in the context of sea-level rise? Lastly, I will focus on distributive justice in regards to who is responsible for carrying the costs of climate migration and who will provide rights to those who are displaced.

Before, diving into the existing literature several terms which will be used throughout this thesis must be defined. Firstly, the term framework in this paper refers to legal and political treaties and conventions in the international system. Secondly, justice will be characterized as moral principles which determine what people are owed (Swift, 2014, p. 34). Such moral principles define rights for right-bearers and obligations for duty-bearers. Lastly, feasibility refers to what can be possible done. It is important to examine justice and feasibility together as "ought implies can" (Gilabert, 2012, p. 111). This is important as justice principles generate rights as well as obligations, however if something cannot be possibly achieved in the world then these obligations are only hypothetical. Therefore, in order to generate actual obligations, the duty-bearer must be able to fulfill these.

### *1.1 Moral and legal status of environmentally displaced people and its application*

The lack of consensus in the existing literature on climate migration starts at the most fundamental level of how to label those who will be displaced. What should the moral and legal status of those who are displaced be? There are mainly five moral and legal categories which could be applied to people who move due to climate change, namely refugee, migrant, climate exile, environmentally displaced person and climate-induced migrant.

The term refugee refers to someone who flees their own country due to some form of persecution by the state for a temporary phase in which this persecution exists (Eckersley, 2015, p. 493). The idea is that once this pressure does not exist anymore, the person returns to their own country.

The term migrant describes a person who changes their place of residence temporarily or permanently in order to better their quality of life (Byravan & Rajan, 2022, p. 3). Alternatively, climate or environmental migrant could illustrate the environmental and climate factors which might directly or indirectly cause people to leave their usual environment and move somewhere else (Byravan & Rajan, 2022, p. 3)

Climate exile specifically refers to people who have to cross borders to another state in order to escape the effects of sea-level rise (Byravan & Rajan, 2010, p. 242). Environmentally displaced person in contrast appears to be more neutral as it describes the fact that a person is forced to move somewhere else due to environmental factors (Kolmannskog, 2012, p. 1072).

Climate-induced migrant describes that migration is taking place due to climate change, but it is rather seen as a possibility of adaptation and development than an issue which challenges the rights of those most affected by climate change (Methmann & Oels, 2015).

It is important to note that these are only some of many possible definitions and that there does not exist any consensus on the meaning of a definition, nor on which definition to use in the context of climate migration. I will introduce my own definition for those who are displaced due to sea-level rise in the second chapter of this thesis.



## 1.2 UN Refugee Convention or new climate migration framework?

Examining the term climate refugee is of great importance as there is a lot of debate in the literature on whether the United Nations' 1951 convention on refugees applies to people who are displaced due to environmental reasons. Until now, the convention does not consider climate refugees as the definition of a refugee is a narrow and exhaustive list of criteria which a refugee has to fulfill (Williams, 2008, pp. 507-508). Even though some argue that the effects of climate change and the inability of governments to adapt and protect its citizens could be characterized as persecution, Williams (2008) argues that the forms of persecution presented in the convention are different from the government-induced environmental degradation (p. 508). This is especially important as the goal and purpose of the refugee convention is very specific. Kolmannskog (2012) describes that the refugee convention survived for already 60 years which shows that it has to be flexible and should include environmentally displaced people as often the reasons for migration are multifaceted (p. 1076). For example, environmental disasters can subsequently lead to human rights violations which then again would introduce the notion of persecution and fit into the context of the convention. Eckersley (2015) in contrast decides to use the term *climate refugee* to show the parallels but also distinctions between climate and political refugees (p. 482). He argues that even though people who are forced to migrate due to sea-level rise, do not aspire to be included into the refugee definition, giving them this label might define state responsibility clearly and outline the rights of displaced people which have to be protected. The author introduces the idea that political and climate refugees flee both in order to protect themselves and save their own lives, yet the reasons for why they are displaced differ however (p. 492).

Others fear that if the refugee convention would be renegotiated in a way that it includes climate refugees that might undermine its protection for refugees all together, as the political environment in which migration takes place, does not favor the idea of giving more rights to displaced people (United Nations, 2019; Kolmannskog, 2012, p. 1077). Therefore, the term *environmental* or *climate refugee* is not favored by many people and other terms like *environmentally displaced people* or *climate migrants* are preferred. Kolmannskog (2012) uses the label environmentally displaced person (EDP) to show that the overall existing

regional, national and international legal regimes such as the refugee, humanitarian and human rights treaties should be used to protect EDP's through the creation of recommendations and guidelines (p. 1073). This same approach is taken by the United Nations (2019) as they argue the most efficient way to address climate migration is through the already existing soft and hard law regimes, as well as focusing on a human-rights approach. In the context of climate migration this would mean that the international community tries to adjust and apply existing laws and norms to the needs of those displaced due to climate change.

Nonetheless, there are also many who argue that the existing legal frameworks do not protect those who will be displaced and explore the creation of new legal frameworks. Byravan and Rajan (2022) argue that current frameworks do not protect climate migrants (p. 3). They focus especially on people, who permanently have to migrate across borders because the effects of climate change, such as the rise of sea levels, make their original environment uninhabitable. In order to clearly show that these people will have to migrate across borders and cannot be internally displaced, the authors call them climate exiles. The authors argue that climate exiles who will be permanently displaced due to sea-level rise will suffer from statelessness and consequently the lack of rights (Byravan & Rajan, 2010, pp. 241-242). This is because rights are usually tied to territorial states and citizenship, therefore people who have lost their state might lack the ability to hold someone accountable to guarantee them their rights. In contrast, Kolmannskog (2012) claims that even if climate exiles would have to permanently migrate, they would not be stateless as he describes that the definition of statelessness refers to the "denial of nationality through the operation of the law of a particular state" (p. 1074). Byravan and Rajan (2022), in order to avoid running into the issue of statelessness, advocate for the creation of either a mild or strong policy framework for climate exiles which would clearly define state responsibilities. This position connects to Shahvisi's (2020) argument that all asylum seekers should be granted citizenship to alleviate global inequalities, and be morally consistent in regards to granting citizenship (p. 183). She reasons that birth right citizenship is morally arbitrary so in that sense it can and it should be applied equally to asylum seekers to avoid discrimination between human beings. After considering the many different perspectives in regards to this issue, I argue in this thesis that a new legal and political framework should be established for climate migration and displacement due to sea-level rise more specifically, as this form of migration creates many new unprecedented issues which cannot be justly addressed through existing frameworks.

However, how such a new framework would look like to be just and feasible has to be inspected.

### *1.3 Procedural justice in displacement due to sea-level rise*

Procedural justice describes that a process should be fair and morally desirable (Yale Law School, n.d.). Examining procedural justice in the context of sea-level rise is of great importance as the effects will be permanent. If a state territory sinks, it disappears and people will have to permanently find a new place where they can build up a life. Therefore, examining whether migration should be facilitated in the form of community-based relocation or whether individuals should migrate or be relocated on their own has to be a core factor in the debate around a framework for climate migration. Furthermore, regardless of the level which will be chosen, participation of the affected communities is necessary.

Draper and McKinnon (2018) describe that it is important to inspect the political and ethical implications of individual or community level relocation (p. 1). They argue that one crucial factor considers the welfare of those who are permanently displaced as they will face the loss of goods but also a sense of place as de Shalit depicts (p. 2). I will return to de Shalit's argument in the next chapter. They argue that the loss of individual and community goods cannot be equated. Hence, understanding the level of migration is important in order to assess what is morally owed to those who will be affected by sea-level rise. As determining the level of rights of displaced people and how these levels are interconnected impacts questions of responsibility in regards to how past and current injustices to these affected communities and people can be rectified. Another important factor which Draper and McKinnon (2018) touch upon is that community-level relocation specifically in the context of small-island states should take place in order to guarantee these communities access to territory (p. 2). However, they do not clearly express how such access to territory should look like. They also do not examine whether individual migration or relocation could also be a way to gain access to territory. As Byravan and Rajan (2010) illustrate this right to access to territory could also be in the form of the right to migrate and settle in a host country before their state territory disappears due to sea-level rise (p. 242). The considerations on the moral desirability of both levels of migration are deeply interconnected to the necessity of including these vulnerable communities into the decision-making of how climate migration should take

place. Draper and McKinnon (2018) emphasize the importance of including these communities as they have their own distinct understandings of the situation and their needs which cannot be ignored (p. 3). Similarly, the United Nations human rights council report (2018) depicts the importance of participation of affected communities especially in decision-making (p.12). However, even though existing literature describes the necessity of identifying the desirable level of migration as well as the need for participation, the ways in which this could be done in a just and feasible manner remain unanswered.

#### *1.4 Distributive justice in displacement due to sea-level rise*

There are many ways through which questions of distributive justice can be addressed. Distributive justice addresses how benefits and burdens should be fairly distributed in a society (Lamont & Favor, 2017). Particularly important in the context of climate change and migration is responsibility as those who have contributed most to the effects of climate change are industrialized countries. However, they are not the ones who will be most affected by the effects of climate change and hence will need to migrate. This unequal responsibility leads to questions of how the costs of mitigation and adaptation measures should be distributed. Existing literature tries to answer these questions by referring to principles such as the polluter pays or the beneficiary pays principle. These principles examine past emissions and the benefits developed from these to outline the responsibility of states in regards to affected communities. The PPP would lead to each state having to compensate those displaced in accordance to the amount they emitted (Eckersley, 2015, p. 485). However, the PPP runs into issues of liability and excusable ignorance which are hard to overcome as the interests of those who already have developed stand in contrast to those who are at the early stages of economic development. The beneficiary pays principle, in contrast, avoids the language of blame and tries to create a system of “paying back or paying forward” which could be translated into states who have greatly benefited from emitting greenhouse gases taking in more *climate refugees* (Eckersley, 2015, p. 487). However, with this approach we run into the issue of clearly identifying states who have unjustly enriched themselves. Other principles try to examine a clear causation chain between those who are culpable and those who are harmed by the effects of climate change and consequently are displaced (Eckersley, 2015, p. 489). Nevertheless, this is an impossible endeavor as climate change and

its effects are a complex interdependent system which lastly relies on unjust social structures which allow some to benefit while harming everyone else. A principle that tries to move away from a liability concept and instead focuses on relative capability is the ability pays principle. Eckersley (2015) depicts that the APP assumes that those who have the biggest capability should be the states taking in the most climate refugees. Hereby, capability would be measured by each state itself which would lastly turn this principle into charity as there would be no clear indicator which states would follow but it would be completely up to their own understanding of capability (p. 484). Beitz in contrast, does portray the responsibility of protecting displaced people to be with international institutions (Bell, 2004, p. 184). The global difference principle describes that international institutions should protect those most affected by climate change from inequalities. These institutions should protect the most vulnerable from inequalities that go beyond the allowed global difference which could mean if a place becomes uninhabitable that international institutions must ensure that those affected are taken care of. However, this principle does not establish the extent of the global difference. All these above presented principles are fundamental to understanding the complexity of identifying responsible actors in a just way and to create standards which are feasible in today's world.

Not only can distributive justice be examined through the lens of responsibility, but also through the rights inherent to those affected by the actions of those responsible. Beitz examines the importance of natural resource inequality for a distributive justice principle (Bell, 2004, p. 147). Beitz points towards the fact that states are interdependent which makes state borders somewhat arbitrary and should not influence the extent of the justice principle (cosmopolitan). He introduces the resource distribution principle which entails that everyone should have a fair share of the total resources available in this world. So, if a person falls under their fair share, there should be resource redistribution which could give people who are displaced due to sea-level rise the right to migrate to a place where they can enjoy their fair share of resources. However, the problem of Beitz's principles of justice is that they do not require a reduction in greenhouse gases, if states can compensate those affected with primary resources and wealth, they do not have the obligation to reduce their emissions (Bell, 2004, p. 149).

In the current debate around responsibility and distributive justice in climate migration and migration in general, there exists a security narrative which deeply affects the

international system's ability to find agreements which protect those who are displaced (Nishimura, 2015). This narrative mostly focuses on the national and public security of host states and their fear of receiving too many migrants (p. 109). Even though people have the right to avoid the effects of climate change by leaving the affected place, they do not have the right to freely enter another state and thus displaced people are dependent on state's decisions to grant entry (UNHCR, 2018, p. 11). This dependence is enforced through the fact that states are allowed to restrict these freedoms if it is in the interest of national security, public order, health etc. Therefore, in order to avoid their responsibility and not address their part in the creation of climate change and its effects, states use this security narrative (Nishimura, 2015).

As this literature review has shown, there are many important debates in regards to the creation of a just and feasible climate migration framework. Addressing all of these in-depth expands beyond the scope of this thesis. Therefore, I will mainly focus on the necessity of a moral and legal status as well as on a procedural approach towards the phenomenon of displacement due to sea-level rise. Examining these two debates within the context of climate migration is important as they are the fundament to all the other above introduced debates.

## ***2. The power of a moral and legal status***

### *2.1 Anthropocentric climate change exile: a new moral and legal status*

As depicted in the literature review, there is no consensus on the moral or legal status of those who will be displaced due to climate change in general and more specifically due to the rise of sea-levels. In this thesis, I will refer to people who are displaced due to sea-level rise as *anthropocentric climate change exiles (ACCE)*. The term *climate exile* has been already used to emphasize that people are displaced across borders due to the effects of climate change and sea-level rise (Byravan & Rajan, 2010, p. 242). I argue that this term adequately depicts the permanency of this type of displacement and how the majority of people displaced by sea-level rise will not have the possibility to return to their state territory if it disappears. Furthermore, the label of *climate* or *environmental refugees*, which is inherently problematic as shown in the previous chapter, can be replaced and the needs of

those displaced by sea-level rise can be targeted. Therefore, the status of *climate exile* presents an adequate alternative.

However, I argue that it is morally important to not only include the fact that people are permanently displaced across borders but also that humans are responsible for climate change and its consequences (IPCC, 2022). This is necessary as statuses matter because they define responsibilities and duties (Eckersley, 2015, p. 482; Williams, 2008, p. 514). Hence, already showcasing the responsibility of humans and particularly states in the status of those who are displaced assigns states the obligation to protect these displaced people. Therefore, choosing the term *ACCE* is beneficial as it depicts that humans are at fault, they are the ones who are responsible for the acceleration of climate change and its devastating effects. Furthermore, climate change has largely been caused due to the use of fossil fuels, however, some states, especially industrialized ones, have benefitted vastly from the excessive usage of natural resources including fossil fuels. Therefore, climate change has not been produced equally by all human beings. Due to these reasons, I claim that the status *ACCE* is adequate for people displaced by the rise of sea-levels.

## *2.2 The necessity of a separate status for ACCE*

One might question the importance of creating a separate status for people who are displaced due to the effects of sea-level rise. In order to understand the necessity of a separate status, the harm that is created by the loss of state territories and the possible rights which emerge out of this status have to be examined and discussed. The loss of territory which many small-island states and states with low lying delta regions might face creates harm on fundamental levels. An important way through which this loss leads to harm, is the loss of a sense of place (de Shalit, 2011, p. 310). De Shalit (2011) argues that displacement due to the rise of sea-levels depicts one of the harshest forms of environmental injustices, as this form of displacement is permanent, there does not exist the option of return in the future (p. 310). As the author shows one's place and self-identity are closely related and intertwined (p. 319). A place becomes associated with one's community, memories and experiences. Furthermore, regardless of one's relationship to that place, one has the ability to shape and criticize the political and social system (pp. 317-318). Therefore, it can be said that a place plays a crucial

role in interpreting and understanding one's environment and experiences. De Shalit (2011) uses the concept of *functionings* of Amartya Sen to further explain the impact of this form of displacement (p. 311). Due to the possible loss of territory people have to ensure their own safety and satisfy their basic needs (p. 312). The necessity of finding such security negatively impacts one's functioning of a sense of place, of a place that one can call home and one's ability to freely create an identity. Due to these reasons, de Shalit (2011) comes to the conclusion that displacement due to sea-level rise has such grave impacts that it should be prevented as adaptation measures such as relocation cannot compensate for the loss of a sense of place (p. 325). He clearly identifies that states are responsible for prevention and that they must take measures to ensure the well-being of peoples' functioning of a sense of place.

However, it remains questionable whether it is still possible today to prevent the rise of sea-levels. As climate change is logarithmic and many of its effects only become visible after many decades, it is debatable whether the melting of the ice caused by historic emissions can still be stopped (Byravan & Rajan, 2010, p. 245; IPCC, 2022). Therefore, I argue that it is important to assess whether there might exist an alternative through which people might be able to develop a sense of place for a different place without being able to rectify the loss of the original sense of place. Currently, people who migrate and are displaced might receive refugee status and be allowed to stay within a state, as long as their original place is not safe for them. However, the emphasis is on the temporariness of this stay (Eckersley, 2015, p. 493). This affects refugees' ability to integrate and become part of the host society, they only partly have the ability to shape and criticize the political and social structures as they do not have the same rights as citizens. Therefore, by only being allowed to stay temporarily it becomes a lot harder to effectively integrate into the host community and develop a sense of community, in other words to create a new sense of place. This phenomenon is even more exacerbated in the case of people who are displaced due to sea-level rise as they do not have the option to return in the future. Thus, giving these people rights in the form of citizenship which can enable them to create a sense of place for this new home is fundamental.

Furthermore, giving people who are displaced due to sea-level rise citizenship and its associated rights might also prevent harm caused by loss of rights. Byravan and Rajan (2010), as already mentioned in the previous chapter explain that the loss of state territory might lead to the collapse of a state and its political institutions (p. 242). In that case, it would be questionable whether people would still have the possibility to claim their rights to someone or whether they would practically become stateless and hence have no way to protect their



basic needs and rights. The harm that would be associated with statelessness and a lack of rights is extremely grave. As Hannah Arendt already said in 1973 'statelessness can lead to a person lacking the right to rights' (Shahvisi, 2020, p. 189). The inability to claim rights to anyone would lead to the exclusion of these communities from the global order and put people into a position of complete dependence on states and other people as our world today is organized through territorial states (Risse, 2009, p. 292). Hence, it can be said that the loss of rights would also harm peoples' ability of self-determination and ability to do what they value (Wyman, 2017, p. 358).

Overall, this leads to the main question of whether the rise of sea-levels would only lead to the loss of territory or also to the loss of everything that has been developed and accumulated on the territory by the people (Wyman, 2017, p. 363). For example, would communities lose the knowledge, cultural practices and traditions which have been cultivated in a state and on its territory or do these things move with the people and therefore do not get lost? It is important to question this possible loss, as in the case that this heritage is related to a territory, the harm that would be caused is immense. This similarly, relates to de Shalit (2011) as the ability to live one's heritage and the way one has been taught is an important functioning that is also associated with one's sense of place and identity.

Furthermore, the loss of territory does also lead to the loss of the ability to fulfill one's basic needs. The territory of a state provides people living in that territorial state with a share of the resources of the earth, the destruction and disappearance of that territory endangers the "sheer place in which humans live" (Risse, 2009, p. 283). This loss is problematic due to several reasons. As Risse (2009) explains, it can be argued from an egalitarian ownership perspective that the resources of earth are a common good, hence no one has the right to exploit those in a way denies others access to resources and takes away from their ability to provide for their own basic needs (pp. 286-288). This consequently necessitates that not only current people but also future generations must have access to resources which is a strong argument for the protection of earth's resources. However, it can also be argued that regardless of one's ability to satisfy basic needs, all people have symmetrical claims to resources and therefore no one's ability to access resources should be undermined (Risse, 2009, p. 288). It is apparent, that resources around the world have not been equally shared and benefitted from, and that the excessive usage of some, especially industrialized states has led to climate change. Consequently, now it endangers the ability of

other states and people who have contributed less to climate change to have access to resources. Specifically, in the case of sea-level rise and the possible disappearance of state territory the harm of a lack of access becomes apparent. If island-states as well as states with low-lying delta regions lose their whole or parts of their territory then they are denied the possibility to access resources and as the global order currently operates through territorial states people would effectively be excluded from the global order (Risse, 2009, p. 290). To avoid this harm, states have the obligation to offer those most affected by sea-level rise the option of relocate. It is important to note, that the rise of sea-levels are slow-onset disasters, therefore the effects of the rise and the loss of territory will happen gradually. However, this does not mean that affected people should have to wait until it becomes unbearable to live on the territory but rather should be allowed to migrate even before they lose access to resources (Byravan & Rajan, 2010, p. 242; Risse, 2009, p. 293). This is necessary, in order to enable people to fulfill their basic needs as well as to actively participate in the global order. Furthermore, as already established above, not all states have equally contributed to the issue of climate change, so industrialized states especially have majorly contributed to the destruction of those peoples' territory and so have the obligation to compensate them with access to resources which in the case of the loss of territory is only possible through relocation (Risse, 2009, p. 294). Lastly, by offering relocation states would be able to ensure that everyone has access and can migrate, therefore avoiding inequality between affected citizens and their level of privilege (Shahvisi, 2020, p. 187).

As has been shown in this chapter, the loss of state territory leads to harm which impacts fundamental aspects of a person's life and self. Therefore, it is just to counteract and prevent this damage by offering people who are affected by the rise of sea-levels the right to relocation and citizenship. A first step towards acknowledging the importance of these rights is by giving people displaced due to sea-level rise a separate status. However, the question remains, how the world can justly achieve providing those rights to people affected by sea-level rise. This question I will turn to in the next chapter.

### ***3. A new global context for climate migration***

#### *3.1 Procedural approach to ACCE*

The current international system consists of international organizations (IO's) which provide both forums for interstate cooperation and the creation of legal frameworks like the United Nations' 1951 convention on refugees. In order to establish which framework would be just and feasible for *ACCE's*, the global context in which a climate migration framework would operate needs to be inspected on moral grounds. Arguably the most important international organization is the United Nations (UN) with a 193 member-states it represents the main forum for interstate cooperation today. This is the case as it provides a forum for discussion of almost any topic of global relevance and it is able to do so as it includes many specialized agencies and organizations within the overall system, such as the UN High Commissioner for Refugees (UN HCR) and international organization for migration (IOM).

##### *3.1.1 Colonial history of the United Nations*

The UN's creation and history took place in the context of colonialism, as it was founded in 1945 in an era where many states around the world were still under the colonial rule of a few European states or had just gained independence. The presence of colonialism was still very evident in the UN structures even after former colonies gained formal independence. This is the case as people like Jan Smuts, a white supremacist and a key player in the creation of the apartheid system in South Africa, were writers of the preamble of UN Charter (Mazower, 2009). This is problematic as their ideas of superiority were consequently enshrined in the preamble of the UN.

Furthermore, the UN continued the legacy of the League of Nations' (LoN) mandate system by taking it over and turning it into the Trusteeship System (TS). The Mandate system of the LoN was created in order to administer the former colonies of the Austro-Hungarian and Ottoman empire (Anghie, 2001, p. 523). The TS was supposed to assist states in the transition from colonies to independent states, meaning that they were still under the continuous supervision and protection of former colonizers (The United Nations and

Decolonialization, n.d.). This TS operated until 1994 when Palau, the last state under this system gained independence. Hence, as the TS only ceased to function 28 years ago, the UN until very recently operated in an explicitly unequal and colonial manner. Even though the TS does not work today anymore, it is still a UN organ, enshrined in the UN structure, showing how difficult it is for the UN to abandon colonial structures from the past (Hanhimäki, 2008, p. 27).

### *3.1.2 Implications of the UN colonial history*

Even though in the last decades increased participation in the UN by developing states has become possible to some extent, the already existing inequalities between former colonial powers and the rest of the world have not been overcome. This is furthermore reinforced by the existence of the UNSC in which each of the 5 permanent member states have the ability to veto against any proposal that does not align with their own interests. Therefore, making proposed change to the UN system almost impossible.

In the context of climate change, these existing structures are especially problematic as former colonial powers are also those who have contributed immensely to climate change, arguably making them the most responsible for the effects of climate change. States such as island-states and states with low-lying delta regions who will be the most affected by the rise of sea levels, lack the ability to stand their ground equally to those who have the largest responsibility but also the majority of power in the UN. Such power imbalances are problematic as they cause developing states to be both at the will of and dependent on industrialized states causing a lack of freedom especially as they will shoulder the burden of climate change (Carens, 1987). This, is further exacerbated by the fact that power as Forst argues for, is an important step in achieving justice as it gives people agency (Owen, 2012, p. 137). Furthermore, these global structures lead to the reality that fear from migrants and the unwillingness to protect displaced people especially in Europe and the US takes precedence over the needs and rights of *ACCE* (Nishimura, 2015, p. 109).

One might question whether treaties such as the UNFCCC and specialized organizations such as the UN HCR or IOM present part of the problematic structures of the UN. Especially as the UNFCCC refers to the notion of equity by introducing “the common

but differentiated responsibility” principle (UN, 1992). Therefore, acknowledging that not all states contributed equally to the problem of climate change. However, I argue that even though this treaty establishes this notion of equity, it still cannot provide justice and equality for *ACCE*. This is the case, as the UNFCCC does not define how states have to fulfill their responsibility. It allows states to define their own national strategies, decreasing the ability of others to hold these states accountable. Moreover, organizations such as the UN HCR and IOM do not take decisions themselves but rather try to protect migrants and refugees through existing treaties. However, these treaties leave states with a large discretionary power to determine the entry of those who are displaced (UNHCR, 2018). Practically, these organizations do not have enforcement mechanisms to counteract developments such as the currently dominant security narrative. Thus, those who are actually affected do not have the power to influence these structures to decrease the impact of existing power structures.

Due to these factors, I take a deterministic perspective in this thesis which points towards the fact that the moment of creation of an organization determines its future structures and operation. So, I argue that it is impossible in the present context and IOs, to make use of an existing treaty or to create a new framework which addresses climate migration in a just manner due to the colonial history of these organizations. This is the case, as any framework in this current system, would misrepresent certain groups or even misframe the voices of some groups and communities by excluding them from the dialogue (Owen, 2012, p. 135) Therefore, I argue that in order to address *ACCE* in a just way, we need a new IO for climate migration which is not embedded in a colonial history and follows the principle of participatory parity. It is important to note that I do not advocate for the abolishment of the UN, but for a new organization which could create a precedence for other organizations to become a truly participatory parity forum.

### *3.2 Creating a new International Organization for ACCE*

As discussed above, the current international system does not address climate migration and the needs and rights of *ACCE* in a just way. Therefore, we need a new IO which is truly based on the principles of participatory parity. This I will argue can be achieved through a process of decolonialization and the reliance on the all-affected principle.

Before, examining the structures needed in order to arrive at the principle of participatory parity, this principle must be explained. The concept of participatory parity consists of the recognition of basic respect (that each person is treated equally with respect and dignity) and respect for difference (acknowledging the value of different realities and experiences) (Hourdequin, 2019, pp. 451-452). I argue that the first principle of recognition, basic respect will be fulfilled through the process of decolonization. Hourdequin assumes that this principle of equality is something that is already given, however I argue that due to existing power structures of neo-colonialism which exist through linguistic, cultural and economic imperialism of the west, this fundamental principle is only expanded to some people and not to everyone. Therefore, once the process of decolonization is taking place and hence the awareness towards our common humanity rises, this first principle can be fulfilled. The second principle, I argue will be similar to the first principle achieved through the process of decolonization and the inclusion of all those affected, leading to the ability to create constructive dialogue on the situation of *ACCE* and eventually establish a just legal framework for the situation of *ACCE*.

### *3.2.1 Process of decolonization*

As I argued before, the problem of existing organizations is that they perpetuate colonial structures and consequently make a process of decolonialization impossible. It is important to note that I do not refer to the formal process of decolonization when states gained independence, but to neo-colonialism, the existing linguistic, cultural and economic imperialism of the west. In order to establish an organization in which participatory parity is possible, firstly underlying structures of discrimination have to be dismantled. This is important, as currently the lack of considerations in regards to the needs and rights of these marginalized communities allows for the deepening of global inequalities and the discrimination against these vulnerable communities. The inability to express their own voices and influence decisions affecting themselves, represents a lack of power. As Forst, introduces, one of the most fundamental factors needed for justice is power (Owen, 2020, p. 159). Power according to Forst, is the equal standing between people, the ability to shape and influence structures of rules and decision-making. So, the lack of power describes a lack of agency and ability to influence decisions taken over one's life. Therefore, it is important to dismantle these unequal power structures.

Through this process of decolonization, blindness towards the circumstances of other human beings will dissolve (Owen, 2020, p. 151). This blindness is created through structures of domination which require a clear differentiation between yourself and the other. The person dominating another person does not perceive them as a human being, they are othered and presented as inferior in order to be able to justify and legitimize one's actions of domination. It is important to note, that this process through which we will see each other as equal human beings has to happen for both those holding power and those who have been marginalized. The process of domination is one that perpetuates itself, even though the oppressor believes themselves to be so different from the oppressed, the oppression takes place in constant interaction and relation to the other. What is needed is the reconstruction of human relations and the social sphere. During the process of decolonization and the dismantling of these structures of oppression, people will realize that all humans are morally equal and even though each human being is an individual agent, fundamentally we all share a common humanity (Owen, 2020, p. 154). This common humanity exists regardless of one's place of birth and position in society which are random and based on luck.

The permanent displacement of people due to the rise of sea-levels is inherently dependent on the environment in which a person lives. The effects of sea-level rise as well as climate change do not only disproportionately affect developing states but also the poor and most marginalized communities of the world. So, for many people around the world their place and environment in which they live is not something that they choose but rather the place they were born into through no fault of their own. Therefore, it follows logically that becoming an *ACCE* is not an individual choice but rather based on external and systematic factors which individual people hardly influence. So, whether or not a person is affected by climate change and sea-level rise is based on decisions and actions taken by other states and people who do not have to carry the consequences. Following this logic, the process of decolonization would lead to the realization that the protection of *ACCEs*' is the only just solution to the effects of sea-level rise. Furthermore, in the context of climate change many of its effects are uncertain and will only become apparent in the course of this century. This uncertainty enhances the logic that the protection of people who become *ACCE* is just as in the future one might also be in this situation. This argument is closely related to Rawls' thought experiment of the Veil of Ignorance through which he aims to establish principles of justice for the basic structure of society (Höffe, 2013, p. 15). In this thought experiment, he

imagines self-interested people that are unaware of their own position in society, their talents, abilities, intelligence and wealth. As they do not know their own position in society, he argues this group of people will arrive at justice principles of equality, in order to not disadvantage themselves. The argument that through the process of decolonization, people will become aware of the need for protection for people who will become *ACCE* is related to Rawls's argument to the extent that one's own uncertainty about the future is similar to the veil of ignorance in which people do not know their position in the future. However, my argument emphasizes that these principles can also be created through a conscious and collective process after the formation of a society.

### *3.2.2 The all-affected people principle*

In order to reach the principle of participatory parity it must be assessed who will be included into this new IO. This question can be put into the context of the larger debate around whether climate migrants should be granted individual or collective rights. Firstly, it must be established that today's world is becoming ever more globalized and that people's actions in one state territory have major impacts on people in other state territories. This becomes extremely evident in regards to climate change which does not follow the logic of borders through which our global order operates today. Therefore, people are affected by decisions and actions that are taken in other parts of the world without having the ability to influence these. Due to these factors, I argue that the concept of a demos should be expanded to the global level in this IO. Goodin (2007) discusses that a demos is supposed to consist of people who have 'interlinked interests' (p. 49). These interests have been assumed to be between people who share the same nationality or territorial proximity, but as already stated climate change makes people dependent on each other beyond state borders. If we consider this new IO as a demos, it is vital to define which people have the right to be part of it. Goodin (2007), explains that even if a demos takes decisions through democratic procedures, but the demos itself, so "the groups of people making collective decisions..." is not created in a just way, then logically their decisions cannot be just (pp. 40&43). Furthermore, establishing the composition of a demos is so fundamental because the people who create the laws should also be the authors of these same laws (Bernhabib, 2004, p. 216). Thus, if the demos of this IO is not established in a just way, then those who will be the most affected by



the rise of sea-levels and climate change will still lack the power to influence laws and narratives which are currently taken by other people for them. So, similarly to now, they would not be the authors of the laws and decisions which they are subjected to. Therefore, in order to uphold peoples' agency and ability to influence their own circumstances and the things they value, all those who are affected by climate change and the rise of sea-levels should be included (Goodin, 2007). Due to the loss associated with the rise of sea-levels and the disappearance of state territory, I argue that it is not enough to include representatives of affected communities as this can lead to the misrepresentation and the inability of individuals to voice their opinions and concerns. This is important, as it is questionable whether individual and collective rights could substitute each other and allow for an either-or approach (Draper & McKinnon, 2018). Therefore, I argue that this new organization should allow for the participation of individuals as well as communities to make sure that all those affected are included.

#### ***4. Feasibility in the context of a new international organization***

As this thesis does not only address the necessity of a just climate migration framework but also a feasible one, it is important to examine the feasibility of creating such a new international organization as a first step towards a legal framework for *ACCE*. Feasibility is concerned with whether principles of justice can be put into practice (Gilbert, 2012, p. 111). Only if these principles can be applied to the real world, they can create actual obligations on duty-bearers (p. 13). It is important to note that feasibility does not necessarily describe that specific justice principles must be applicable to the real world immediately. Justice principles can still be feasible if they only might become suitable to the real world in the future (p. 120). Realizing that feasibility is suitable for longer timeframes allows to consider that the international system is socially constructed and can be amended and changed overtime. In this chapter, I will focus on three aspects of feasibility in the context of *ACCE*. I will address the current political unwillingness of states to live up to their obligations in regards to climate change in general and specifically towards *ACCE*. Furthermore, I will examine the argument that it would be more beneficial to reform current organizations rather than creating new ones. Lastly, I will turn to the question of how such a new organization would be created.

#### 4.1 Political unwillingness

A major issue in regards to establishing a just IO for climate migration is the unwillingness of states especially of those who benefit the most from the exploitation of the environment and people, to engage with the rights and needs of *ACCE* (Nishimura, 2015, pp. 118-119). In today's world it seems unlikely that the sentiment towards migration especially in the affluent western world would change soon, leading not only to the acknowledgement of the necessity of a framework which protects *ACCE* but the creation of a completely new IO. I acknowledge this argument and I agree that currently motivating states and other stakeholders to create a new IO does not seem realistic. However, as already described above feasibility does not have to be only considered from a short-term perspective. It can also be assessed from the point of view that long-term attitudes and motivations of stakeholders can change. Firstly, this could be the case as political institutions consist of people who change over time. Current young generations are the ones who will be taking over political institutions and organizations who will have different ideas than previous generations. Research shows that young people today are much more aware of global inequalities and connect much more easily with people who live very far away from them (Gilbert, 2012, p. 144). This might be the case as they grew up in an already globalized world and so with an understanding of a world that is much smaller and closer than it used to be. Furthermore, social media really allows for the ability to connect with people far away and understand the struggles of others.

Even though it might not seem realistic today that such an organization would be put in place, it must be said that it is important to establish justice principles which clearly identify what ought to be done to create a world that protects people affected by climate change. Only if we raise awareness about what is at stake in regards to climate change and more specifically in regards to the rise of sea-levels can we advocate for changes that will allow for the creation of a just IO in the future (Gilbert, 2012, p. 246).

However, a problem in the context of *ACCE* and in climate change in general is that we only have a very limited time frame in which we can create protection for those affected. Raising awareness and trying to move towards a future where a just IO which can create a just legal framework is possible will take a lot of time, which we currently do not have.

Therefore, it might be necessary to make trade-offs and try to achieve *ACCE*'s protection through existing international organizations for the time being.

#### *4.2 Reforming current international organizations*

As we are running out of time and we have to act quickly in order to prevent many of the adverse effects of climate change, it might be more beneficial for the time being to reform already existing international organizations to include *ACCE* into existing legal frameworks. A possibility of doing so might be through creating amendments in current climate change treaties which identify actions that states need to take to protect *ACCE*. This might be for example through establishing a multilateral system which clearly outlines that states must help relocate *ACCE* and ensure their access to basic resources. Such a system could be included into climate treaties through the principle of 'common but differentiated responsibility' in the UNFCCC which obliges states to take actions to minimize, prevent and adapt to the effects of climate change (United Nations, 1992, Article 3). As well as through the precautionary principle which could be used to advocate for the relocation of *ACCE* before state territories disappear due to the rise of sea-levels. Similarly, Article 2 of the Paris Agreement also calls states to take actions which increase adaptation towards climate change effects and to take the principle of equity and 'common but differentiated responsibility' seriously (UN, 2015, Article 2). This is already being done in the context of Kiribati which is one of the island-states which is threatened by the rise of sea-levels (Risse, 2009). Furthermore, the Intergovernmental Panel on Climate Change (IPCC) which is the United Nation's organ for establishing the science around climate change as well as regional organizations can advocate and push for the inclusion of all affected communities and people. For example, the IPCC has already realized the importance of not only including states and non-governmental organizations into the system, but especially also scientists and communities all over the world (IPCC, 2022). Through the inclusion of these affected communities' incremental changes which long-term speaking can allow for the establishment of a just IO on climate migration could be promoted. This is the case as those who get to make the decisions have the power to determine the course of actions (Goodin, 2007). Therefore, the inclusion of all those who are affected by climate change which over time will be the whole world population though to different extents will increase the possibility of dialogue and empowerment for marginalized groups. These groups will then be able to push

for organizations which are established on the principle of participatory parity. The inclusion of all those affected will present the necessity of finding practical ways of taking decisions. Nevertheless, it might also become easier over time to make joint decisions as climate change will affect everyone on earth and thus might increase states interest to finding real solutions for these issues. However, it remains questionable whether it will not already be too late at that point.

Even though using existing IO's and treaties for the time being is more feasible than creating a new just IO, there are also many issues which current IO's might not be able to overcome. Current IO's and treaties are based on state cooperation and power politics which might even make it difficult to achieve better protection for *ACCE* in already existing international treaties.

#### *4.3 The establishment of the new international organization*

Some might question why and how people would advocate for a new international organization if they become more included into the structures of existing organizations. As already argued before, even if institutions make decisions through democratic procedures, if its creation process and its demos were not created in a just manner, the organization will not become just over time (Goodin, 2007, p. 43). Therefore, the need for a just IO will not disappear in the future.

Regarding the second question of how such an organization could be established, I will similarly to Gilabert (2012) differentiate between two aspects of feasibility, namely accessibility and stability (p. 240). Accessibility refers to how it is possible to get to a political outcome, in this case how to get to a just IO for *ACCE*. Stability addresses whether this political outcome is sustainable and can survive overtime.

Accessibility in the context of *ACCE* and those affected by climate change in general would be achieved through incremental steps which increase the inclusion of all affected groups in already existing organizations. This would allow those groups to influence decisions at the global level in a way that over time increases the global feasibility set and hence allows for the establishment of a new just IO which addresses the need for protection of *ACCE* and climate migrants. I am aware of the fact that to a certain extent, a lot of marginalized and indigenous communities are being included already into negotiations, however lastly, they

only have an advising role but not the ability to actually be part of the decision-making (Hanhimäki, 2008, pp. 27-28).

Furthermore, their possibility to influence decisions at the global level might also empower developing states as well as groups who have not been seriously considered in the creation of the UN to push for a new organization. As has been seen in the past but also currently the mobilization of people through protests and upheaval plays an important role in creating change (Gilabert, 2012, p. 260). Examples here fore are the creation of the ‘third world’ and the ‘non-aligned’ movement in the time frame from the 50s to the 70s (Prashad, 2008). However, it is also important to note that such movements often face internal struggles which are hard to overcome due to its members’ diversity especially as such a movement would likely include the majority of the world. Therefore, it is hard to say whether this would actually create accessibility to a new just IO. The accessibility to such an organization might increase when the current young generation takes over as they seem to be more akin to enable change and push for a more equal system, however this remains speculative for now (Gilabert, 2012, p. 144).

In regards to stability feasibility is a lot easier to achieve. As our international system today is made of IO’s, it is not hard to imagine that a new IO once set up would be able to survive in the international system over a long time (Gilabert, 2012, p. 241). Especially if it enables an equal relationship and global order between states and people.

Considering the complexity of achieving feasibility, I argue that in the short-term it is incredibly difficult and might not even be possible to fully achieve justice and feasibility in the context of *ACCE*. In the long-term and through many incremental changes the global feasibility set might increase and it could become easier to achieve justice and feasibility together. Furthermore, if states and people realize over time that their long-term interests are not exponential economic growth but the survival of human beings and the planet earth they might be motivated to push for an IO which includes all affected people equally.

## ***Conclusion***

In this thesis, I have argued for the establishment of a new international organization which will address the need for protection for *anthropocentric climate change exiles*. In order

for this organization to be able to justly address the needs and rights of *ACCE*, firstly the organization will go through a process of decolonization to create equality between the members of this forum and it must include all those who are and will be affected by the rise of sea-levels and climate change. Once this equality has been achieved, the concept of participatory parity can be used in this forum and the recognition of the diverse participants can be cherished. Overall, my answer to my research question '*Which climate migration framework is just and feasible?*' introduced at the beginning of this thesis, is that a just and feasible climate migration framework can only be achieved in the long-term through many incremental changes which alter the attitudes and motivations of people.

Lastly, it is important to discuss the limitations of this thesis as well as recommendations for future research. Firstly, in this thesis I rely on the assumption that change is possible which is the very foundation of this work. However, future research will have to elaborate further on the possibility of feasibly pushing the transformation on the global level. Secondly, due to time and space constraints, I was not able to discuss all the important debates around climate migration in my own argument. Similarly, this thesis is also quite narrow as it only focuses on *ACCE*. Therefore, academia should focus in the future on the implications of having a new international organization especially in regards to questions of distributive justice but also specifically in regards to how a new climate migration framework could look like to ensure a just approach to climate migration. Especially, in the context of distributive justice, the question of relocation relates to questions of territory and how best relocation can fit into the concept of the territorial nation-state of today. The disappearance of state territory due to the rise of sea-levels might require redefining the definition of a state, but that is for future research to find out. Furthermore, other forms of displacement due to climate change must be discussed, as different types of displacement will entail different needs and forms of protection which this paper was not able to cover.

Overall, this thesis has tried to fill the literature gap in regards to the need for a new just and feasible climate migration framework specifically in the context of sea-level rise. The aim of this paper was to form innovative ideas through which the rights of all stakeholders of climate migration can be ensured and we are able to move beyond the deadlock in which international agreements on climate change can only be just or feasible.

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