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## Trapped Populations and the Right to Stay

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# **Trapped Populations and the ‘Right to Stay’**

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## Introduction

As climate change progressively worsens, some places in the world are becoming more uninhabitable. Táíwò predicts that ‘by as soon as 2070, if present trends continue, an estimated 1 in 3 humans will be pushed out of the climate niche’ (Táíwò, 2022, p. 160). These effects of climate change are unequally distributed, as the Global South is the most vulnerable to the climatic events, because of their geographical location, as well as their socio-economic conditions. Some authors predict large migration waves to follow the increasing uninhabitability of the earth, as people will be forced to move (Byravan and Rajan, 2010, Eckersly, 2015, McLeman, 2018)

These predictions of climate change causing large migration waves to have led to both policies and research focusing on preparing for these migrants. For instance, Byravan and Rajan (2010) propose that states should actively aid in migration and create favourable socio-economic conditions in the receiving state. Eckersly (2015) advocates for states to acknowledge their responsibility in accommodating climate refugees. At a policy level, the International Organization for Migration has established a dedicated unit specifically focusing on environmental migrants, underscoring the significance of this particular migrant category. (Environmental Migration Portal, 2023).

However, the actual numbers of international migration are not as large as expected, considering the rapid increase in the uninhabitability of these places in the Global South (Zickgraf, 2023). This discrepancy may partly stem from the complex and multifaceted nature of migration, with the climate factors influencing economic opportunity and conflict, making it difficult to differentiate between people that migrate for climate reasons and people that migrate for other reasons, such as economic opportunities. However, it more likely arises from people being trapped within their increasingly uninhabitable homes, because they do not have the capacity to move or willingness to leave their home. Therefore, policymakers and researchers should redirect their attention to immobility, as the ‘trapped populations’ are an urgent and underexposed problem. This thesis will examine ‘trapped populations,’ by using conceptions of Zickgraf (2019, 2023) and De Shalit (2011) and clarifying the complexities inherent in their immobility.

In this thesis, I aim to shed light on the phenomenon of immobility through a literature analysis, by asking ‘*What responsibilities do states have towards trapped populations?*’ I will argue for ‘the right to stay’ as the most protective right for the interests of the trapped

populations, as it respects the importance of a home in a person their life. Unlike obligations towards migrants, the 'right to stay' entails distinct responsibilities for the duty bearers. Rather than facilitating migration and integration, it demands preventive measures, including climate mitigation and support for sustainable adaptation.

I will start the first chapter by outlining the complexity of the migration debate, it is this complexity in establishing causality that complicates the labelling of migrants and the allocation of their rights. By redirecting attention towards the ignored issue, in research and policy, of trapped populations, I will argue in the subsequent chapter for the recognition off the 'right to stay.' By building on Oberman's (2011) account of this right, I will apply and expand upon this concept concerning its relevance to climate change. The ethical value of 'the right to stay' among trapped populations unwilling to relocate, lies in the safeguarding of their cultural heritage and attachment to their homeland. The final chapter will identify the corresponding duties and duty bearers pertaining to the 'right to stay', by using the polluter pays principle as well as the principle of reparative justice.

## 1. Literature review

Similarly, to the frame presented in politics, literature on climate migration has been dominated with alarmist predictions, with authors stating that in 2050, between 25 million and 1 billion people will be displaced, and that therefore states should prepare on a global level to facilitate large migration waves in a dignified manner (Byravan and Rajan, 2010, Eckersly, 2015). Táíwò (2022) even states that more than 3 billion people will be pushed out of their habitat in 50 years, implying that this will inevitably lead to forced migration (p. 160). These predictions have led to a focus on mobility in research and policymaking, thereby ignoring immobility.

In 2022, 32.6 million people were internally displaced due to sudden-onset climatic events (Zickgraf, 2023). An additional unknown amount of people was displaced as a result of slow-onset climatic events. This number is unknown, because of the multi-causal nature of migration making it nearly impossible to differentiate migrants based on their reasons for migrating (Kellman, 2019, p. 12). This multi-causal nature of migration will be the focus of this literature review. I will outline the debate on the different migration factors, showing how climate migration is intertwined with other reasons for migrating. While this increases the difficulty of defining people with terminology such as ‘climate migrant’ or ‘refugee’, it is also very relevant, considering those terms correspond to different rights.

### 1.1 The environmental refugee

According to international law, there are different types of obligations towards different types of migrants. This debate on the status of climate migrants is important, as it has implications for the rights they have. For example, migrants fleeing from political danger and persecution are entitled to asylum and receive the refugee status, while migrants fleeing from poverty do not (Boed, 1994). Authors like El Hinnawi (1985) think climate migrants should be called environmental refugees as “those people have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption that jeopardizes their existence and/or seriously affects the quality of their life” (El Hinnawi, 1985, pp. 4–5). Important similarity with political refugees is that environmental refugees are forced to flee as their lives are in danger as well, though not always politically. The benefit to conceptualizing climate migrants as refugees, (Byravan and Rajan, 2010, Eckersly, 2015, El Hinnawi, 1985 De Shalit, 2011), would be that according to international law, they could invoke the right to seek asylum. An additional benefit of this frame is that by using the term refugee for climate migrants, the climate crisis is given a human face, illustrating the failure of climate mitigation

and adaptation, which could potentially stimulate states to act (Felli, 2013). However, a significant challenge would be that environmental refugees do not meet the condition of political persecution inscribed in international refugee law, and this could conceivably be a reason for states not to grant them asylum (Boed, 1994). This means that in the current international law framework the climate migrant does not qualify for the refugee status and is therefore not benefitted by the ‘the environmental refugee framework’.

## **1.2 Climate migration: rights and duties**

Climate change playing a significant role in the decision to migrate is plausible. Considering that climate change progressively worsens, more areas will become increasingly uninhabitable. This will happen either by sudden-onset disasters, such as floods or storms, or by slow-onset events, such as droughts causing resources to go scarce, which could potentially result in conflict and poverty. Many authors consider migration as the most plausible and desired adaptation strategy to the increasing uninhabitability. Byravan and Rajan (2010) predict the displacement of between 25 million and 1 billion people and, as most of them would be extremely vulnerable populations, such as fisher communities, there is a significant risk of them falling below the ethical threshold. Being below the ethical threshold is defined by them as the limiting of functionings and the suffering of an unendurable burden (p. 250). Therefore, they are advocating for the allocation of special rights. These rights would entail a special ‘climate exile status’, which allows them to prepare themselves to migrate in advance of actual sea-level rise. This right would come with the corresponding duty of the receiving states to facilitate the right socio-economic conditions, for migrants to live above the ethical threshold.

Authors disagree about the grounds for allocating responsibility, some refer to the ‘polluter pays principle (Byravan and Rajan, 2010, Taiwo, 2022), arguing that large polluters such as the Global North bear the greatest responsibility. Others also base the allocation of duties on the ‘ability to pay’, arguing that that humanity has a common humanitarian responsibility towards climate migrants (Eckersly, 2015). They state the difficulty of allocating historical responsibility, as the people responsible are no longer alive and the harmful effects were not known at the time, making it a difficult measure. The concept used for common but differentiated responsibilities is widely recognized in international law, as it was the foundation for UNFCCC (1992). Many aforementioned authors think states can be held responsible as collective agents. Therefore, they plead for financial and technical assistance to

climate refugees based on capabilities as well as historical responsibility. (Byravan and Rajan, 2010, Eckersly, 2015, Taiwo, 2022, Vanderheiden, 2016).

Although I agree with the reasoning of allocation of responsibilities based on historical responsibility, I do not subscribe to what the duties entail. All the aforementioned authors have initiated their discussions from the perspective of migration and from thereon deduced state responsibilities and attached rights to movement. However, a more sensible approach would be to allocate responsibilities before individuals are forced to migrate, aiming to prevent displacement. The current international laws concerning migration and refugees offer limited prospects for climate migrants, and no prospects at all for 'trapped populations'.

### **1.3 Attachment of rights to mobility**

If climate migrants were to receive a special status with corresponding special rights, as opposed to other migrants, they should be differentiated from those other migrants that do not move for climate reasons. (Byravan and Rajan, 2010, Eckersly, 2015, Kellman, 2019). One of the main debates in the literature on climate migrants is therefore about establishing a direct causal relationship between climate change and migration. Migration, being a complex phenomenon, is influenced by a multitude of factors that pose challenges in indicating direct causation. Scholars such as Schutte et al. (2021) argue that climate conditions, on their own, exhibit a limited capacity to predict migration due to their intertwinement with socio-economic and political factors. They argue that forced migration primarily results from political instability or socio-economic factors, where climatic events might have contributed. Hence, establishing a direct cause-and-effect link between climate change and forced migration becomes difficult. While systematic evidence validating the predictive capacity of climate factors in migration remains limited, Schutte et al. (2021) acknowledge that climate change could act as a final trigger for forced migration or serve as an underlying cause amplifying other triggers, such as conflicts or poor socio-economic conditions. This statistical research of Schutte et. al (2021) acts as an example in showing the difficulty in establishing a direct cause and effect link between slow-onset climatic events and migration, because of the interaction with economic and political factors. At the same time, they do acknowledge that climate change has a significant role in pushing people out of their habitat. The fact that economic and political factors are potentially influenced by climate, but not necessarily, underscores the claim that the interaction between different reasons for migration makes it difficult to allocate a specific status to climate migrants.



This difficulty to differentiate and label individuals based on their reason for migration becomes problematic when rights are attached to this label. As the reasons for migration are nearly impossible to differentiate, authors like Felli (2013) suggest allocating rights based on a general migration policy instead. She introduces the concept of ‘survival migration’, which shifts the focus from specific reasons to migrate to a broader comprehension of the various stressors that could drive individuals to depart from their homelands. She recognizes that in order to survive, humans can migrate for economic, political and climate reasons. This new label of ‘survival migration’ grants people certain rights, regardless of the label, migrant, or refugee, that they would have been given. Although this resolves the problem of rights being attached to the reason for migration, it still attaches rights to migration itself. People only have certain rights once they have moved. The linkage of rights to mobility does not consider the rights of people who do not move, but who do live in uninhabitable areas. Both frameworks of the ‘environmental refugee’ and ‘climate migrant’ do not benefit trapped populations, but instead put an academic as well as a political focus on mobility, thereby attaching rights to movement. As the inevitability of climate change causing migration should not be assumed, the following section will outline why this focus on mobility has been problematic, as it considers migration as the universally desired adaptation strategy to uninhabitability and has ignored a large group of ‘trapped populations’ (Kellman, 2019).

#### **1.4 Not everyone will move**

Zickgraf (2023) explains how the amount of people being displaced due to climate change is relatively not that large, considering the increase in uninhabitability and the rapid environmental changes in the world. Not migrating, or settling, is often seen by researchers as the natural behaviour, and therefore the group of people that do not move are considered unproblematic. Migration being seen as the abnormal behaviour explains the focus on mobility and migration-policies in research (Byravan and Rajan, 2010, Eckersly, 2015, Felli, 2013, Taiwo, 2022)

Rather than interpreting this as a good thing, Zickgraf (2023) claims that the reality of why people are not moving is much more complex and worry some. As the uninhabitability of certain regions is increasing, the natural response would be to migrate instead of staying, indicating that the behaviour of non-migrants is abnormal instead. This suggests that there must be specific reasons preventing people to move away from their home. The relationship between migration and climate change is non-linear, and this partially explains why the alarmist predictions of the large migration-flows have not come true (Kellman, 2019).

Migration is seen as the ultimate threshold for adaptation, particularly when in-situ adaptation becomes unfeasible, but this is context-specific, as it is dependent on the interaction with socio-economic processes, risk perceptions and alternative adaptation options at hand (McLeman, 2018). While certain individuals can adjust to the environmental changes, many lack the capacity to migrate, and others, though capable, resist leaving their deeply cherished homelands. When moving isn't feasible, those who cannot or will not migrate might suffer the most from climate change, stuck in places that become increasingly uninhabitable (Zickgraf, 2023). This literature review illustrated that the emphasis on mobility often results in policy recommendations and calls for human rights protections being attached to migration, thereby not applying for those who stay, even though the trapped populations are likely to suffer the most.

Additionally, studies revealed that immobility is actually the more common or preferred state (Ayeb-Karlsson, et. al, 2020, De Shalit, 2011, Zickgraf, 2019). These studies will be discussed further in the next chapter. This following chapter will introduce a new human right, namely 'the right to stay', as the most desired approach in protecting the human rights of 'trapped populations' as opposed to the frameworks of environmental refugee and climate migrant, which demand assistance in migration (Byravan and Rajan, 2012, Eckersly, 2015, Felli, 2015 Taiwo, 2022). Instead, the 'right to stay' is a right that is independent from movement and more protective of the human interests related to the importance of place.

## 2. Understanding ‘trapped populations’

### 2.1 conceptualizing trapped populations

As described in the literature review, there has long been an academic, as well as a political focus, on mobility and there have been alarmist prediction of billions of climate migrants becoming displaced and moving internationally (Felli 2013, Beine et. al. 2019). However, in the last decade, as the world is still waiting for these large movements to be realized, the focus has shifted to why people, living in uninhabitable areas, have not moved. In 2011, the notion of ‘trapped populations’ was introduced by the UK government in their foresight report on Migration and Global Environmental Change (MGEC). They defined ‘trapped populations as vulnerable populations lacking the resources to escape environmental stress, although wanting to do so. This definition later extended to include those trapped by legal protocols, borders and social barriers. (Ayeb-Karlsson, 2020, MGEC, 2011).

Similarly, to migration, immobility is just as complex and multi-faceted in nature. Not everyone is equally affected by climate change, and some might be more capable to adapt than others. Immobility is multi-causal in that it can be a matter of a lack of financial means, lack of destination, lack of (mental) health, gender or due to an ‘attachment to place’. Arguing that the ‘attachment to place’ should get more attention. This chapter aims to outline these factors of complexity and how they interact to create immobility, in order to create a better understanding of this concept. Important to note is that by using the term ‘trapped populations’ I do not indicate that these populations should be assisted in migration, to help them out of their trapped situation. Instead, they should get assistance in making their regions more habitable. I will expand on this argument using ‘the right to stay’ in the second section of this chapter.

#### *2.1.1 Immobility because of a lack of socio-economic means*

Immobility was first explained by economic reasoning (MGEC, 2011). As illustrated in the literature review, climate migration is deeply interconnected with economic misfortune and the same can be seen with immobility. McLeman (2018) writes about the different adaptation thresholds to climate change and how crossing the different thresholds is dependent on financial means. Migration is seen as the last adaptation threshold and usually the last resort. Some people might have more economic resources to adapt in-situ, which makes the need for migration less pressing. In addition, there are people who cannot adapt in-situ, nor have the resources to migrate. They have no options and are considered to be ‘trapped’. The scarcity of economic resources is frequently exacerbated by the effects of climate change. This

intensifies the necessity for migration while simultaneously limiting the actual opportunities to migrate. Termed as the "immobility paradox," this concept elaborates on the complex relationship between economic factors and migration. It creates a vicious cycle wherein impoverished communities face a stronger barrier to migration, establishing a negative correlation between poverty and migration opportunities (Beine et. al 2019, Zickgraf 2023).

What makes immobility even more complicated, is the relationship between mobility and immobility. Zickgraf (2023) writes about 'how some migrate, so others can stay'. In instances where climate change significantly reduces economic opportunities in an area to the point of rendering it uninhabitable, part of the community might seek economic resources elsewhere to support and sustain those who remain behind. This reciprocal movement might become the only viable option for the community affected by the diminishing economic prospects due to climate change. Financial remittances allow big parts of the community to stay and are often used as investments for sustainable adaptation of the community back home to the effects of climate change. Zickgraf (2019) writes about a case study of Senegal, where the men work across the border in Mauritania as fishermen. By sending money back, their community in Senegal can adapt their houses to the coastal erosion caused by climate change, or build new houses further into the mainland, allowing big parts of the community to stay (pp. 5-8).

Other than financial means, it could be the lack of a social network that prevents people from moving away. Social contacts in the destination lead to accommodation and job opportunities, which are essential for surviving in the new state. Additionally, the presence of structural barriers, such as strict border controls and the lack of immigrant-friendly policies in many states, adds to the challenges of migrating. Moreover, many states already grapple with issues of overpopulation in their cities, as everyone is pulled to the urban areas, making migrating less attractive. These collective factors contribute to significant insecurity, leading individuals to choose for non-migration despite the adverse conditions they face. (Zickgraf, 2023)

### *2.1.2 Immobility because of personal barriers*

However, socio-economic factors do not fully explain immobility. Looking at the data, Ayeb-Karlsson et. al (2020) discovered that people living in the same socio-economic circumstances, made distinct choices regarding migration. This observation indicates that the comprehension of immobility extends beyond solely attributing it to a lack of socio-economic resources. Zickgraf (2021) wrote on how gender impacts the decision to migrate, as women often feel the pressure to stay home and take care of the house, family, and community. Her research has shown that women and children have a higher mortality rate in sudden-onset

climatic events, as they will not be the first to leave. A report published by Human rights watch (2022) showed that other marginalized groups that have a higher mortality rate in such events are elderly and the disabled, as migrating is too great a difficulty for them.

Besides physical health being a large contributor to immobility, attention has also shifted to mental health. Ayeb-Karlsson et. al (2020) wrote an article on how mental health problems can trap vulnerable populations even further. In their research, they also challenged the typical image of ‘trapped populations’ as rural communities living natural resource-based livelihoods. In their research, people that were first mobile, were pushed out of their rural homelands due to climate change and were forced to migrate internally to cities. There they became immobile or ‘trapped’. Besides urban areas having decreased economic opportunities, as cities are becoming more overpopulated, they also are a breeding ground for mental health problems. It is often a combination of multiple factors surrounding stress and insecurity (pp. 1-2). The environmental stress they had to endure back home, in combination with the loss of land and the increasing economic insecurity in the city, has led to feelings of hopelessness and emotional apathy. Evidently causing high rates of anxiety, depression, bipolar disorder and many more, trapping them in urban areas where the life quality continues to deteriorate. Particularly interesting responses in this research were, that beside the feelings of economic insecurity, the interviewees would frequently mention feelings of loss of belonging and community, to which they attributed many of their mental health problems (pp. 11-14). This shows that the research of Ayeb-Karlsson et. al (2020) already suggest the importance of place and its connection to a person’s wellbeing, as it was the feelings of missing one’s home and the corresponding loss of belonging and community that led to feelings of anxiety and depression.

### *2.1.3 Immobility because of an attachment to place*

The research of Ayeb-Karlsson et. al, (2020) that showed how people had lost feelings of belonging and their community by losing their place, also shows the importance of place. It is this fear of losing everything connected to this place; one's identity, sense of belonging, and community cohesion, that often serves as a significant reason for individuals choosing to stay. Many communities, although capable of migrating, opt to remain in their homeland due to a strong attachment and emotional connection to their place of origin. Whether this attachment is spiritual or political, it leads to people being unwilling to migrate, even when there are planned relocation programs initiated by the government. Examples are the elderly of certain communities in Vietnam, whose lands are flooding, but who choose to stay as ‘it is their

home', even if the government organises plans for them to move (Zickgraf, 2019, p. 10). Another example is the Tuvaluan people from a small island state, that cannot leave their ancestor's land for spiritual reasons (Beine et. al, 2019, p. 2).

De Shalit (2011) conceptualizes these feelings as 'sense of place'. He writes that places constitute self-identity, by carrying memories and other values that are considered as special to the community. Places can become 'part of how people identify themselves' (p. 317). If people do not have a relationship with their environment, they will feel isolated. How people relate to their environment is unique for each individual, they can perceive the relationship in a political sense, like citizenship, in a more emotional sense, connecting it to friends, family and memories or in a spiritual sense. If harm is done to a place, then people perceive harm to their 'sense of place', which harms their self-identity. It is this unique value, that makes many people consider these places as 'incommensurable', making them impossible to replace. This perspective extends far beyond mere economic reasoning, as the distinct value attached to these places does not solely encompass 'material possessions.' In fact, De Shalit (2011) argues that the cash compensation that is often offered to victims of environmental displacement is unsuccessful in compensating for the loss of the 'sense of place' (p. 317). As the value of a place, that is unique per person, cannot be expressed in material value. The argument follows that individuals and communities with such a significant attachment to their homeland will choose not to migrate, even if doing so would potentially enhance their socio-economic conditions, as the places they can migrate to, will never have the same value.

Here, the difference with refugees or temporarily displaced people, is that although they are far from their place, the place still exists and therefore they can still have a 'sense of place' and a corresponding sense of belonging (De Shalit, 2011, p. 316-317). People experiencing permanent loss of their places, like the Tuvalu people with their island states, also experience the loss of 'sense of place' (Beine, 2019). In the case of trapped populations, who experience permanent environmental changes around them, there can be feelings of 'Solastalgia'. The term was coined by Albrecht et. al (2007) and essentially means 'the feeling of homesickness when people are separated from a loved home' (p. 95). Characteristics are 'the loss of ecosystem health and corresponding sense of place, threats to personal health and wellbeing and a sense of injustice and/or powerlessness'. (p. 96). As shown in the empirical research done by Albrecht et. al (2007), this 'Solastalgia' could lead to severe mental health issues and loss of identity and belonging as places are connected to people their wellbeing.

As the 'place' used by De Shalit (2011) is quite ambiguous, I find it necessary to define this concept further. What becomes clear from De Shalit (2011), is a place should be valued and constitute self-identity. The specifics of what are valued in such a place, I concluded from the responses of the empirical interviews done by Albrecht et al, (2007). They add in their definition that 'Solastalgia' happens when a person misses their 'loved home'. During interviews people defined a 'loved home' as well as the 'sense of place' as connected to family, friends, and history (p. 97). Other interviews, done by Ayeb-Karlsson et. al (2020), revealed that people saw their home as where they'd belong (pp. 11-12). I would therefore say that a place in this case can be defined as a loved home, connected to a community (family, friends, history, and culture), and connected to a sense of belonging. A place is incommensurable, and its value is unique for each individual. However, De Shalit (2011) does add that in order to claim the incommensurability of a place and its constitutive function in forming ones identity in a 'morally accepted manner', the relationship between the place and the person must not be 'exploitative of the environment and the humans-beings in this place.' (p. 320).

Although the policies and rights that were outlined in the literature review, such as assistance in migration and labels like environmental refugees (Byravan and Rajan, 2010, Eckersly, 2015,) might benefit trapped populations dealing with economic constraints, they do not account for the protection of a place and its corresponding social and emotional significance. 'Sense of place' is connected to a sense of belonging, identity, home, and community. Harm to a place or its loss, can lead to harm in humans their self-identity. The importance of these interests was illustrated in this chapter by empirical research done by Ayeb-Karlsson et. al (2020) and Albrecht et. al (2007), and theoretical arguments of De Shalit (2011), showing the connection of people their wellbeing to their 'sense of place'. We should therefore opt for a right that protects these specific interests, namely 'the right to stay'.

## **2.2 'the right to stay'**

I will argue for the 'right to stay' as the most adequate right to do justice to 'trapped populations'. The 'right to stay' is defined by Oberman (2011) as the 'human right to stay in the home state, which entitles people to receive development assistance without the necessity of migrating abroad' (p. 257). Although he referred to the context of poverty, I argue this would fit well in the context of climate change, also considering the complexity of (im)mobility. Applying this concept to climate change, development assistance could involve supporting adaptation measures aimed to increase the resilience to the negative impacts of

climate change. The duties that correspond with the ‘right to stay’ are distinct from other human rights, like the ‘right to life’ for example. Duties corresponding with this latter right would not be limited to adaptation but could also be assistance in migration (Byravan and Rajan, 2010, Eckersly, 2015,). However, as extensively discussed in the paragraph above, assistance in migration does not benefit the human interests connected to the ‘sense of place’. The duties corresponding to the ‘right to stay’ would be distinct from those to other human rights as it focusses lies on preserving and increasing the habitability of the homes of ‘trapped populations’ to allow people the choice to stay, and therefore only encompasses adaptation and mitigation. Chapter 3 will go more into depth on the duties and the normative principles I use to allocate them.

An important clarification is that the ‘right to stay’ does not exclude the ‘right to move’ as one cannot exist without the other. ‘The right to stay’ is essentially inherent to the ‘right to free movement’ (Oberman, 2011). As climate change forces people to move away from their home state, the choice to not move, or to stay, is taken away from them. This makes climate migration forced movement as there is no option to stay. Protecting the ‘right to free movement’ should also mean giving people the freedom to stay. ‘Right to stay’ is therefore an inherent element of ‘right to free movement’. However, they can only have the option to stay, if their place does not become uninhabitable, leading to the duties of mitigation and adaptation to climate change.

The value of a place can be expressed in the range of functionings or freedoms that people associate this place with. De Shalit (2011) uses a framework of functionings to explain how human’s their freedom is restricted by climate change. He starts by using the framework of Amartya Sen, who conceptualized freedom as functionings and considers inequality to be some people not being able to achieve certain functionings. Looking at functionings means ‘being sensitive to what people value doing or being’ (De Shalit, 2011, p. 311). Research that was outlined in the first section of this chapter, shows how people value their community and home and how the ‘sense of place’ is connected to their being (Ayeb-Karlsson et. al, 2020, Albrecht et. al, 2007). These functionings are therefore tied to a place or a community. De Shalit thinks people should have the freedom to sustain genuine opportunities for functionings. ‘Everyone should be free to choose a life one has a reason to value’ (De Shalit, 2011, p. 311). Oberman (2016) conceptualizes the functionings with the term ‘life options’. Life options could be who you want to marry, job opportunities, where you want to live. Humans should thus be free to pursue all the life options they want (pp. 2-3). Oberman (2016)



considers freedom of movement a human right, as it allows for these life options to be pursued. As restriction of movement would limit a person's freedom to decide over one's life. However, just as restriction of movement limits a person's freedom, so does forced movement as it eliminates the option to stay, and thus also eliminates the 'life options' or functionings connected to their home. Similar to Oberman (2016), I consider the 'right to stay' a human right, as it is about granting people the freedom to pursue a life, they have a reason to value (pp. 4-5). The 'right to stay' is vital in protecting the functionings or 'life options' connected to a place, such as community, home, belonging and identity and all other things associated with the 'sense of place'.

### 3. Who bears the duties of the ‘right to stay’ and why?

Chapter 2 outlined the complexity of immobility and showed that immobility is just as multicausal in nature as mobility is. Each individual carries different reasons not to move or to move and this is usually a combination of socio-economic barriers (cannot) and place attachment (will not). However, what does become clear from the research presented above, is that many people would like to stay in their place of origin, for reasons such as sense of belonging, home, and community, while improving their life quality. (Albrecht et. al, 2007, Ayeb-Karlsson et. al, 2020, Beine, 2019, De Shalit, 2011, Zickgraf, 2019). But as regions are becoming increasingly uninhabitable, populations are becoming increasingly trapped. Granting them the ‘right to stay’ could benefit their interests connected to the ‘sense of place’, but to ensure this, other actors would need to protect this right. The following chapter will go further into duties that directly and indirectly, namely adaptation and mitigation, correlate to this right and the normative principles I use, such as polluter pays principle and reparative justice, to allocate them.

#### **3.1 The understanding of uninhabitability**

##### *3.1.1 The duty of adaptation*

Just as Oberman (2011) connected the duty of in-situ adaptation in the context of poverty to ‘the right to stay’, I will connect the duty of sustainable adaptation to the ‘right to stay’ in a climate change context. As mentioned in chapter 2, this right demands in-situ adaptation, instead of adaptation in the form of migration, to respect the human interests connected to the ‘sense of place’. As climate change is happening now, urgent action is needed to ensure regions remain habitable, so ‘the right to stay’ could be exercised if a person’s wishes to do so. An essential attribute of these duties would be that they need to be preventative, or at least be executed before the line to permanent uninhabitability is crossed and the only viable option to survive becomes migration (De Shalit, 2011, p. 325). This is what sets apart the obligation associated with ‘the right to stay’ from duties linked to other human rights. Obligations related to the right to life and health, for example, would encompass migration, which is not desirable for all ‘trapped populations’. It is therefore relevant to conceptualize uninhabitability, to understand which regions necessitate assistance in adaptation and what the adaptation should aim to protect. The difficulty with defining uninhabitability is that its definition can be subjective, just like the meaning of a place is unique for each individual. First, I present a narrow, more absolute conception, using Caney (2010) his human rights framework, to then

add on this conception with a more broad, subjective perception of uninhabitability using De Shalit (2011) his framework of functionings.

### *3.1.2 minimal threshold of uninhabitability*

I will first outline Caney (2010) his more narrow conception of human rights violated by climate change. He presents three basic human rights, that are minimalistic enough to be considered universal and absolute. According to him, every human has the right to life, the right to health and the right to subsistence, and no one should fall below this moral threshold (p. 164). However, these rights face violations due to climate change. Specifically, the right to life, especially among marginalized groups, faces threats from sudden-onset climatic events like tornadoes or floods, while slow-onset climatic events as droughts lead to famines (Zickgraf, 2019). Furthermore, the right to health, encompassing both mental and physical aspects, suffers violations due to ongoing environmental stress and the loss of belonging experienced by these groups. This persistent stress contributes to mental health conditions like depression, subsequently leading to physical diseases such as cardiovascular diseases or diabetes (Ayeb-Karlsson et. al, 2020, pp. 1-2). Lastly, the right to subsistence encounters violations through the decline in economic opportunities and the deterioration of agricultural lands, contributing to the aforementioned famines and economic degradation. I take Caney (2010) his moral threshold, as a minimal threshold of habitability. Claiming that a region displaying environmental changes due to climate change that threaten human's their life, health, or access to subsistence, should be considered on the path of becoming uninhabitable.

### *3.1.3 uninhabitability from the perspective of restriction of functionings*

While I used Caney (2010) his conception to show that climate change violates basic human rights, I would like to take a broader look on why climate change also restricts people their freedoms. The perception of a place being uninhabitable might exist among its inhabitants even if it does not threaten the minimal threshold presented by Caney (2010). Numerous communities and cultures regard places as more than mere land for economic exploitation; these spaces often hold emotional and spiritual significance. Referring back to De Shalit's (2011) argument in the earlier chapters, the 'sense of place' forms an integral part of an individual's identity. And harm to a place, could mean harm to a person's 'sense of place', which could mean harm to a person wellbeing. Albrecht et. al, (2007) showed an example in their empirical research on 'Solastalgia', of how women in Australia were unable to be outside to garden, due to the increasing droughts (p. 97). Although these droughts did not directly affect their health, life and subsistence, as they had the economic means to import

food, it did decrease their perception of habitability in their region, and the corresponding feeling of ‘Solastalgia’, the feeling of powerlessness and homesickness, lead to their mental well-being declining. Another observation that could be made from this example is that the perception of habitability is connected to the opportunity to exercise functionings that are connected to a place. De Shalit describes functionings as what ‘people value doing or being’ (De Shalit, 2011, p. 311). In this case, people valued being outside to garden and were restricted by climate change to do so, which decreased their perception of habitability and their wellbeing. A common response was even that gardening had been seen as part of the traditions and part of the identity of women in the community. (Albrecht et. al, 2007, p. 97). Thereby further illustrating the connection between a place and self-identity, and the harm of the increasing uninhabitability.

It is therefore important to look at adaptation in a broad sense, both to protect human rights, and to protect functionings that people value, as they are important in determining the perception of habitability and the kind of adaptation that is necessary. The adaptation would have to go further than protecting life, health and subsistence, but would also need to protect important functionings that are connected to the ‘sense of place’, such as cultural heritage, community cohesion or traditions connected to a person’s identity, such as gardening. In this example of droughts, assistance in adaptation could take the form of smart irrigation systems or knowledge on drought-resilient crops, both to protect the right to subsistence and the functioning of gardening. Important to emphasize is that the duty to assist in adaptation, so people are allowed to exercise their ‘right to stay’, should extend to protect what people value doing or being, as it is these specific functionings that are tied to a place, that make that place incommensurable (De Shalit, 2011, p. 321).

#### *3.1.4 The duty of mitigation*

Since places are incommensurable, duty-bearers should not act after the damage has been done, since rectifying permanent uninhabitability or compensation for a lost place is not possible. Instead, they have ‘a duty to prevent displacement and environmental injustice’ (De Shalit, 2011, p. 325). Without mitigation of climate change, adaptation can only go so far, and regions can become permanently uninhabitable. Therefore, the duty of mitigation is necessary in order to exercise this ‘right to stay’ in the long term. Then the question remains of who ought to bear this duty of adaptation and the duty of mitigation that correspond to the ‘right to stay’. The following section will delve deeper into this question using the polluter pays principle.

### **3.2 Allocation of the duties**

For the trapped populations, the need for mitigation and assistance in adaptation to cope with the increasing uninhabitability is essential in allowing them to exercise their 'right to stay'. Therefore, the corresponding duties to this right should be assistance in sustainable adaptation and mitigation. I argue that these duties entail a responsibility in the form of liability. The duties of adaptation and mitigation will be allocated on the basis of the polluter pays principle. I add on this principle with the notion of 'reparative justice', as I argue that both climate change and the weakened resilience of the global South are the fault of industrialization and colonization.

#### *3.2.1 Polluter Pays Principle*

According to the 'polluter pays principle', responsibility for mitigation and adaptation of climate change should be based on cumulative historical emissions. This would put the responsibility on the Global North, as they have polluted the most. They can therefore also be considered liable for the 'loss and damages' of climate change, which refers to the weak resilience of the Global South to climate change. These are often permanent losses or damages to the place from climatic events that are too much for the affected people, communities, or nature to handle and recover from, affecting the habitability (Eckersly, 2015, p. 483). Cumulatively, western countries have emitted the most, which is why they are more developed. According to the calculations of Byravan and Rajan (2010), western countries, have made the most significant contribution, because of the logarithmic characteristic of Global warming. Meaning the first emissions that made these countries developed, were also the most harmful (p. 244).

An objection to using this principle to allocate responsibility would be 'excusable ignorance' as these states did not know the harmful effects of climate change until the UNFCCC in 1990 (Eckersly, 2015, pp. 485-486, Vanderheiden, 2016). However, as stated in the introduction of this section, I do not solely base the allocation of responsibility on this principle alone. I argue that although they might have been ignorant about the harmful effects of climate change, they cannot be considered ignorant about the damages done by colonization, as they were apparent at that time. I argue that there exists a direct causal relationship between the incapacity of these 'trapped populations' to adapt and the exploitative colonial history of developed countries (Byravan and Rajan, 2012, Taiwo, 2022).

### *3.2.2 Reparative Justice*

In the beginning of this thesis, I outlined the complexity of immobility, mainly the interaction between the negative impacts of climate change and the lack of socio-economic resources. It is this scarcity of socio-economic resources that has diminished the resilience of populations, where resilience denotes the capacity to adapt and rebound from challenges, ultimately resulting in the entrapment of these populations (UNFCCC, 2022). Although it is true that the global South has a geographical disadvantage when it comes to climate change effects, resilience is very dependent on ‘financial resources, legal possibilities and a social status towards people in the receptive communities.’ (Taiwo, 2022, p. 163). The unequal distribution of the burdens caused by climate change parallels a similar uneven allocation of its associated benefits (Byravan and Rajan, 2010, p. 246). Taiwo (2022) characterizes this phenomenon as the "ecologically unequal exchange" (EUE) (p. 164). This concept underscores that while the Global South has contributed minimally to climate change, it is experiencing the most severe negative consequences. Moreover, Taiwo (2022) highlights that the wealth accumulation in the Global North has historically relied on the extraction of both energy and biophysical resources through colonizing the South, a process ongoing since the industrial revolution, further undermining the resilience of the Global South (pp. 164-166). This signifies that the Global North has significantly benefited from the exploitation of resources from the Global South, thereby contributing to the latter's reduced resilience.

The Global North is liable on two accounts for the situation of trapped populations. For one, they have a large share in creating the climate crisis, based on the polluter pays principle, and therefore they have a responsibility in taking the lead in mitigation (Byravan and Rajan, 2010, pp. 247-252, De Shalit, 2011, p. 325). And secondly, based on the principle of reparative justice, as former colonizers, they are liable for the decreased resilience of the Global South to climate change, making them responsible in building this resilience back up through adaptation practices (Taiwo, 2022, pp. 157-160). According to a report of the UNFCCC (2022) assistance in adaptation could, include resilience building, financial Support, technology transfer and capacity building. Furthermore, these adaptation practices should protect the functionings that tied to the place, namely what people value doing or being, as these are at the essence of the value of the place, and thus essential in protecting the ‘right to stay’.

One might object that by using the polluter pays principle to allocate responsibility, current large polluters, like China, are increasingly carrying a larger share and thus responsibility, as

they are soon passing the US in yearly aggregate emissions. At the same time, they argue that they have a 'right to develop' and that they do not have the same colonization history (Eckersly, 2015, pp. 485-486). However, I argue that they can be considered liable for climate change as well, as China is becoming a large contributor to climate change, which cannot be ignored for mitigation to be effective. Additionally, China has engaged in forms of neocolonialism, similarly to the Global North, which makes them responsible as well for the decreased resilience of the Global South (Insaideo, 2016). Therefore, I expand the duty-bearers to being the Global North plus large current polluters and neo-colonizers, such as China.

## Conclusion

This thesis delved into the discourse around climate change-induced (im)mobility. I first examined the causal relationship between climate change and migration. Recognizing that the focus on mobility overlooks alternative options and lacks consideration for the 'trapped populations,' leading to undesirable policy recommendations solely focusing on assistance of migration.

However, an analysis of the concept of immobility revealed socio-economic and personal reasons for staying, with the attachment to place as the most significant reason to argue for the 'right to stay'. The 'right to stay', drawn from Oberman's (2011) conceptualization and expanded upon, is the best approach to protecting the freedoms connected to the 'sense of place' valued by 'trapped populations, which make a place incommensurable. Its duties encompass development assistance to strengthen resilience against climate impacts and mitigation of climate change, where the allocation is based on historical responsibility and reparative justice. These adaptation practices should protect the general human rights as well as the 'functionings' that give the place its value. Most importantly, by respecting the 'sense of place', the right to stay is distinct from other human rights protecting life and health, as it does not encompass assistance in migration. Crucial to mention is that it does not negate the 'right to move', as the freedom to choose to stay is inherent in exercising free movement.

This thesis is a strengthening of the normative argument of a global call to stop fossil fuels and assist in adaptation, and might be considered limited in its political feasibility, as I have not discussed enforcement mechanisms. Therefore, I recommend further research on the practical potential of this right. Another limitation could be the ambiguity of the conceptualizations, such as place, functionings and habitability. However, these concepts are purposely vague, as their meanings are subjective, which does not make them less important for my argument. Nevertheless, this thesis provides a new perspective on the situation of climate (im)mobility and might redirect the attention of both researchers and policymakers to the pressing and complex issues of 'trapped populations'.



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