

# **A RISING TIDE**

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## **THE CASE FOR A CLIMATE CHANGE DISPLACEMENT CONVENTION**

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## GLOSSARY

|                 |  |
|-----------------|--|
| CBDRs           | Common But Differentiated Responsibilities                         |
| CCDO            | Climate Change Displacement Organisation                           |
| CCDF            | Climate Change Displacement Fund                                   |
| CCDP            | Climate Change Displaced Person                                    |
| CRED            | Centre for Research on the Epidemiology of Disasters               |
| CO <sub>2</sub> | Carbon Dioxide   |
| COP             | Conference Of the Parties (to the UNFCCC)                          |
| DFAT            | Department of Foreign Affairs and Trade                            |
| EJF             | Environmental Justice Foundation                                   |
| ESTs            | Environmentally Sound Technologies                                 |
| FoEA            | Friends of the Earth Australia                                     |
| GEF             | Global Environment Facility  |
| IASC            | Inter-Agency Standing Committee                                    |
| IDMC            | Internal Displacement Monitoring Centre                            |
| IDP             | Internally Displaced Person  |
| IOM             | International Organisation on Migration                            |
| IPCC            | Intergovernmental Panel on Climate Change                          |
| ICRC            | International Committee of the Red Cross                           |
| NAPA            | National Adaptation Programmes of Action                           |
| NGLS            | United Nations Non-Governmental Liaison Service                    |
| OECD            | Organisation for Economic Co-operation and Development             |
| OHCA            | United Nations Office for the Coordination of Humanitarian Affairs |
| UN              | United Nations   |
| UNDP            | United Nations Development Programme                               |
| UNEP            | United Nations Environmental Programme                             |
| UNFCCC          | United Nations Framework Convention on Climate Change              |
| UNHCR           | United Nations High Commissioner for Refugees                      |

WHO

World

Health

Organisation

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## ABSTRACT

Climate change poses a serious threat to human security in the 21<sup>st</sup> century, with the most devastating impacts predicted to be on forced human migration. These impacts have seen (and will continue to see) a rise of a new category of refugee that is not currently defined or protected under international law: the Climate Change Displaced Person (CCDP). With projections that numbers of CCDPs could surpass 250 million by 2050, it is imperative that the global community takes action to address the current gaps in the international system. This dissertation addresses the question of whether the scope of the existing refugee regime could be effectively expanded to include protection for people who are displaced as a result of the impacts of climate change. Drawing on a number of publications by international human rights, refugee and climate change scholars, and reports by international organisations and NGOs, the findings of this research are clear. To expand the scope of the existing refugee regime would not be an adequate response to the rising CCDP crisis, particularly due to the fact that the majority of CCDPs will be internally displaced. Such a move would compromise the protection of existing refugees and potentially undermine the protection of CCDPs. The dissertation argues that the only way for the international community to provide adequate protection to CCDPs is through the establishment of a new, stand-alone convention, specifically designed to define and protect CCDPs and ensure that pre-emptive measures are taken to stem their growing numbers.

## INTRODUCTION

Climate change presents a daunting and unprecedented global threat to human security in the 21<sup>st</sup> century. The most serious human rights implications resulting from this threat are most likely to be those related to migration. Despite developments made so far in international environmental law, global carbon dioxide (CO<sub>2</sub>) emissions, the key driver of climate change, continue to rise and natural resources are being consumed at an increasing and alarmingly unsustainable rate. An increase in extreme weather events and more frequent natural disasters, along with droughts and desertification, are predicted to become the norm and climate change and environmental degradation is already contributing to a significant rise in both internally displaced persons, or IDPs (those who are forced to leave their homes but remain in the same country) and externally displaced persons, who are forced flee across state borders (Smith 2000:364). Climate change displacement is an extremely complex issue and is often inextricably linked with other major contributing displacement factors such as development, population, socio-economic pressures and political instability. According to Jane McAdam, an international refugee scholar, it is virtually impossible to say that climate change will be a sole reason for why people migrate. Rather, climate change acts a “threat multiplier” in that ‘it impacts on pre-existing vulnerabilities or stresses and exacerbates existing socio-economic factors’ (McAdam 2011a).

The United Nations High Commissioner for Refugees (UNHCR) reports that more people are now displaced by natural disasters than conflict and warns that environmentally induced migration and displacement could take on unprecedented dimensions, with predictions about the potential scale of such movement ranging from 25 million to one billion people by 2050 (UNHCR 2012b:26). The International Organisation on Migration (IOM) projects the number of Climate Change Displaced Persons (CCDPs) could reach 250 million by 2050 (IOM 2009). The number of people displaced by climate change is likely to dwarf those of traditional refugees and this movement of people, both internally and externally, in response to climate-induced events implicates human rights and humanitarian law (Leighton 2010). Despite such dire predictions, victims displaced by climate change and environmental degradation currently fall outside the scope of the 1951 United Nations Convention Relating to the Status of Refugees (hereafter referred to as the Refugee Convention) and are therefore not protected under existing international refugee law.

The Refugee Convention, its 1967 Protocol (UNHCR 2007a) and the UNHCR are the main bodies within the international refugee regime which deal with trans-border displacement. The Refugee Convention is the key international authority for defining refugees and the protection and rights that they are entitled to. At present, there is no internationally recognised term which defines those who are forced to migrate as a result of environmental degradation and/or climate change and these victims fall outside the scope of the refugee regime. While the terms “climate change refugee” and “environmental refugee” are used and preferred by many environmental human rights advocates, these definitions remain contentious and have no legitimate basis in international law. Therefore, for the purpose of this dissertation, the term “climate change displaced person” (CCDP) has been used to identify those who are displaced due to the effects of climate change. Refugees whose rights are clearly specified in the Refugee Convention will be referred to as “traditional” refugees.

While the UNHCR is legally required to assist refugees fleeing conflict or persecution, it has no mandate to assist trans-border CCDPs (UNHCR 2012b:26). It has, however, recognised the increasing number of people displaced by climate change and acknowledged some minor involvement in assisting those who have been internally displaced as a result of environmental issues (UNHCR 2012b:26). Despite this acknowledgement, the organisation is already struggling to provide assistance to over 14 million existing refugees across the globe (Chhabara 2008), and one must question its capacity to provide adequate protection to this new class of displaced persons without undermining its current core obligations. The Guiding Principles of Internal Displacement, established in 1994, provides an advocacy and monitoring framework to assist and protect IDPs, although, as is often the case with international environmental and human rights law, it is not legally-binding.

This dissertation’s central question is hence: can the scope of the existing refugee regime be effectively expanded to include protection for people who are displaced as a result of the impacts of climate change? As part of this analysis, two inter-related questions will also be examined. Ultimately, climate change displacement is a global issue which requires a collective international response. However, being the highest CO<sub>2</sub> emitters globally, do the richer, developed countries of the North have a moral obligation to lead initiatives aimed at assisting CCDPs? Furthermore, how does state sovereignty impact on efforts to foster cooperation and establish legally-binding mechanisms to address climate change and human rights issues?

In response to the dissertation’s central question, it will be argued that an expansion of current legal and policy frameworks within the international refugee regime is *not* the best way forward and could potentially undermine protection for both CCDPs and traditional refugees. The dissertation

will contend that a more comprehensive, stand-alone convention that is specifically designed to assist CCDPs and incorporates the principles of Climate Justice must be established that will grant CCDPs the categorisation and, therefore, the legal rights associated with refugee status. It will also argue that the richer countries of the North, who are the primary CO<sub>2</sub> emitters and contributors to climate change, have a moral obligation to lead efforts to establish and implement a CCDP convention, and to provide funding, technological know-how and, perhaps most importantly, refuge to the victims who are predominately from poorer, developing countries whose emissions are amongst the lowest. Finally, it will contend that state sovereignty and the national interests of states often impede global efforts to establish binding climate change and human rights agreements.

This dissertation has four chapters. Chapter 1 will present an overview of climate change trends, impacts and future projections regarding human displacement. It will examine the multi-causal nature and different drivers of climate change displacement and the impacts of climate change on IDPs and trans-border CCDPs. Chapter 2 will examine the international refugee regime in its current form and will analyse its capacity to effectively respond to the emerging global environmental displacement crisis. It will examine the difficulties in establishing a legal definition of the constitution of a CCDP and highlight the plight of IDPs and the shortfalls of current IDP protective frameworks. Chapter 3 will examine the role of states, NGOs and other international actors in addressing the inability of existing international frameworks to protect CCDPs. It will examine in the notion of 'Climate Justice' and the role of state sovereignty. The final chapter will examine various proposals for new conventions put forward by scholars. A case study examining climate change displacement in Kiribati will be included to illustrate the overall argument that a new convention is necessary and highlight the potential benefits for CCDPs.



## **Chapter 1 - The looming climate change refugee crisis**

Awareness of climate change has risen significantly over the past 30 years and global agreements have been established in an attempt to address the problem. Less attention has been paid, however, to the human rights implications and the impact it will likely have on millions of people in the future, with the biggest concern being human mobility and displacement. This chapter examines the past and future impacts of climate change on displacement and highlights the complexities faced in classifying climate change as a cause of, or contributor to, displacement. It will also examine the subsequent implications of these complexities on the current refugee regime. It will discuss the challenges that the varying drivers of climate change displacement present and the legal ramifications for IDPs and trans-border CCDPs.

### **1.1 Climate change – The greatest threat to human security in the 21st century?**

There is now a broad, scientific consensus that the world's climate is changing, caused by the combustion of fossil fuels, deforestation and agricultural practices that began during the industrial revolution. A 2007 Intergovernmental Panel on Climate Change (IPCC) Synthesis Report concluded that the observed increase in anthropogenic CO<sub>2</sub> concentrations has caused most of the observed increases in global average temperatures since the mid-20th century (IPCC 2007c:39). In 1990, the highly regarded and typically conservative IPCC released a report which indicated that average global temperatures could rise by more than 6% by 2100, and warned that the gravest effects of climate change may be those on human mobility (IPCC 1990). The IPCC predicts that as average global temperatures increase, sea levels will rise by between 40cm and 150cm by 2050, placing low lying coastal areas under serious threat (IPCC 2007a). The Millennium Assessment Report, compiled by the United Nations Environment Programme (UNEP) in 2005, warned that the earth's biodiversity is fast eroding and estimated that approximately 60 per cent of the ecosystems that support life on earth are being degraded or used unsustainably (UNEP, cited in Eckersley 2004:249). While substantial progress has been made over the last fifty years in raising awareness of environmental issues, international laws and organisations designed to mitigate climate change have ultimately been voluntary and not legally-binding.

CO<sub>2</sub> emissions continue to increase and, even if all emissions ceased tomorrow, the planet will continue to warm for decades, possibly centuries (Garnaut 2008:153). 'The State of the Climate in 2011' report, compiled by almost 400 scientists from 48 countries concluded that CO<sub>2</sub> emissions

have reached a new high, and now exceed 390 parts per million - up 2.10 parts per million from 2010 - for the first time since instrumental records began (Willett *et al* 2012:7). The threat this poses to the global commons- the oceans, the atmosphere and the planet's biological diversity is overwhelming, and the situation is now often referred to as a 'global ecological crisis' (Eckersley 2004:249). According to the Environmental Justice Foundation (EJF) there is 'unequivocal evidence that rainfall patterns are changing, surface area temperatures are rising and extreme weather events are becoming more intense' (EJF 2010). The IPCC's Fourth Assessment, released in 2007, concluded with confidence that extreme weather events such as heatwaves, floods and droughts are likely to increase and 'changes in runoff due to alterations in the rainy and dry seasons will severely impact on water availability' (IPCC 2007a). Despite the IPCC warning that the single greatest impact of climate change may be one of migration, neither the United Nations Framework Convention on Climate Change (UNFCCC) nor the Kyoto Protocol make any reference to the human mobility consequences of climate change (Burson 2010:159).

The effects of climate change are already palpable in many areas across the globe, with desertification and resource depletion posing just as much a threat as rising sea levels and natural disasters. In many parts of the world, desertification will make vast expanses of currently occupied land uninhabitable. In Africa, an estimated one million people have been displaced over the last two decades due to environmental degradation and desertification (Docherty & Giannini 2009:349). In Sudan, for example, steadily decreasing rainfall, the overgrazing of grassland, deforestation and soil erosion over the last forty years has resulted in the desert in the north, home to some 30 million of the world's most impoverished people, expanding 100 kilometres to the once fertile south (Welzer 2012:11). Since the country became independent in 1956, 40% of Sudan's forest has been lost with a further 1.3% vanishing every year and, for many regions, 'UNEP foresees total deforestation within the next ten years' (Welzer 2012:11).

Climate change displacement is often associated with smaller, island states, such as the Maldives, Kiribati and Tuvalu, and indeed the very existence of these nations is threatened by rising sea levels (Docherty & Giannini 2009: 355). Recent studies suggest, however, that the vast majority of climate change refugees expected to be affected by rising sea levels are likely to come from developing countries in Asia, with researchers estimating that 70 million people in China and 26 million people in Bangladesh could be forced to flee their homes due to rising sea levels in the coming decades (Myers, 2002:11).

A significant impact of climate change is the increase and severity of severe weather events and natural disasters (Kolmannskog 2009:36). Experts predict that natural disasters have, and will

continue to increase in number and intensity. A UNHCR report shows that in recent years there have been over 350 natural disasters recorded annually compared with 133 in 1980 (UNHCR 2012b:2). Since 1988 the World Health Organisation (WHO) has been collaborating with the Centre for Research on the Epidemiology of Disasters (CRED) and maintaining an Emergency Events Database. Its research has shown that the occurrence of recorded natural disasters has doubled from approximately 200 to over 400 per year over the last two decades (Emergency Events Database 2012). In 2012, the UNHCR released the sixth version of 'The State of the World's Refugees' publication, which covers the period between 2006 and 2011. The publication focussed on displacement caused by climate change and natural disasters and highlighted the normative gaps in the protection of people forced to cross state borders as a result of these phenomena (UNHCR 2012b:26). Natural disasters displace millions of people every year and the number of displaced could multiply in the decades ahead as the effects of climate change intensify (UNHCR 2012b:2). A 2008 study undertaken by the Organisation for Economic Co-operation and Development (OECD) analysed the impacts of climate change on port cities around the globe and concluded that sea-level rise and an increase in storm surges (taking into account subsidence, population growth and urbanisation) could place 150 million people at risk by 2070 (OECD 2008). The study noted that exposure rises most rapidly in developing countries, due to increased urbanisation and the trend towards development moving increasingly into areas of high and rising flood risk (OECD 2008).

Despite the scientific consensus that climate change is likely to affect human movement, great difficulties lie in measuring its expected effects on migration and displacement, and empirical research in this field remains in relative infancy. In 2008, an expert group was established under the humanitarian forum Inter-Agency Standing Committee (ISAC) to address the need for basic answers to inform policy, advocacy and operations (Kolmannskog 2009:37). Using a typology derived from the work of the UN Secretary General on the Human Rights of Internally Displaced Persons on the constitution of CCDPs, the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Internal Displacement Monitoring Centre of the Norwegian Refugee Council were able to analyse the number of people displaced by Climate Change, determining that millions are already displaced due to climate-related disasters each year (Kolmannskog 2009:37). The IOM's International Dialogue on Migration, which, in 2012, focused specifically on climate change, environmental degradation and migration, reported that despite the recognition that environmental drivers play a significant and increasingly determinative role in migration phenomena, the empirical evidence remains scarce and requires reinforcement (IOM 2012:10). Lonergan (1998:9) highlights the difficulties and complexities in determining what role the "environment" plays as a cause of, or contributor to, population movement, and notes that authors' interpretations of "environment" remain broad and ill-defined'.

One important factor to consider when attempting to define clear categories of CCDPs is the speed, or urgency, of the environmental stressors which cause displacement. Whether displacement is triggered by sudden onset change, (such as cyclones and floods) or slow-onset change (such as sea level rise and desertification) is of particular relevance as I will later discuss, as it is a determining factor for existing and future legal frameworks within the international refugee system.

## **1.2 A tipping point: the multi-causal nature of climate change displacement**

One of the main complexities of the climate change displacement paradigm rests in the fact that it is almost impossible to say that the impacts of climate change will be the *sole* reason why people will be forced to migrate. The vast majority of CCDPs will be from poorer, developing countries where other major contributing factors, such as development, population and socio-economic pressures, political instability and civil war, will be compounded. According to McAdam (2011a), in the majority of cases, it is likely that climate change will act as a “tipping point” that may not otherwise have been reached were it not for the added impacts of climate change. In the context of humanitarian and human security issues related to climate change, the possibility of mass-migration and/or violent conflict resulting from biophysical or ecological disruptions has been widely discussed (O’Brian *et al*, 2008:13). The multi-causal nature of climate change displacement is a crucial factor which must be taken into careful consideration by policy makers when dealing with this issue. As Meze-Hausken (cited in Barnett & Adger 2007:648) notes ‘people rarely migrate for environmental reasons alone, so understanding the way climate change may induce more migration also requires understanding the way it will interact with other factors’. It is important to recognise that environmental degradation is socially and spatially constructed and that only through a broader understanding of the environment in the political and cultural context of a particular region or country can the “role” it plays as a factor in population movement be properly understood (Lonergan 1998:8).

Population growth is one crucial compounding factor to consider when analysing the likely impacts of climate change displacement on third-world countries. The United Nations Population Division released a report in 2006 which projected that the global population will likely increase by 2.5 billion over the next 43 years, increasing from 6.7 billion in 2006 to 9.2 billion by 2050 (UN 2007). The report emphasised the disproportionate nature of population growth and highlighted the fact that the majority of the population increase will be absorbed in less developed regions, whose populations are projected to rise from 5.4 billion in 2007 to 7.9 billion in 2050 (UN 2007). In stark contrast, population growth amongst the more developed regions is expected to remain largely unchanged at 1.2 billion, and were it not for the projected net migration from developing to

developed countries (which is expected to average 2.3 million persons annually) it would have actually declined (UN 2007).

Developing countries are particularly vulnerable to the direct impacts of climate change due to a variety of factors, including heavy dependence on agriculture and ecosystems, rapid population growth, low health levels and concentration of millions of people in slum and squatter settlements (Stern 2006: 242). Droughts, desertification and flooding often lead to crop failure and loss of livestock which can have devastating effects on the livelihoods of some of the world's most vulnerable people, leading to loss of income and food shortages which, in turn, often leads to increased food insecurity and a rise in commodity prices. Crop failures due to natural disasters were a contributing factor to the food crisis of 2007-08, during which time over one billion people - a sixth of the world's population - were left hungry (World Bank 2011:3). Barnett & Adger (2007:641) highlight the stark contrast in dependence on agriculture between developed and third-world countries, citing United Nations Development Program (UNDP) figures relating to East Timor. They note that while agriculture represents 1 - 2% of the workforce in many industrialised countries, in East Timor, some 85% of the population are dependent on agriculture as their sole or main source of income. They add that the majority of the population are 'engaged in subsistence farming so that 46% of rural people live below the poverty line of US\$0.55 per day' (UNDP, 2002, cited in Barnett & Adger 2007:641). Figures cited by Nicolas Stern show that the rural sector contributes to 21% of the GDP in India, 39% in Malawi, whilst in South Asia and sub-Saharan Africa, 61% and 64% of people respectively are employed in the rural sector (Stern 2006:242).

In April 1997 the IPCC published its conclusions on the impacts that climate change is expected to have on differing regions of the world and the highly varied levels of vulnerability amongst them, taking into account both direct impacts and the capacity of each region to deal with them. The assessment cited Africa as the continent most vulnerable to the impacts of climate change, owing to its widespread poverty, population pressures as well as political instability and violent conflicts in many regions (IPCC 1997:6). These added pressures create immense challenges for many African states to implement adaptive measures aimed at minimising the negative effects of climate change and 'under the assumption that access to adequate financing is not provided, Africa is the continent most vulnerable to the impacts of projected changes because widespread poverty limits adaptation capabilities' (IPCC 1997:6). The report found that a reduction in precipitation could be detrimental to the hydrological balance of the continent and disrupt various water-dependent socio-economic activities, particularly in the Sahel and southern Africa, and estimates that by 2020, between 75 and 250 million people in Africa will not have sufficient access to safe drinking water (IPCC 1997:6). In

January 2012, the international aid agency Save the Children warned that more than 13 million people in the Sahal region were at risk of famine due to poor rains, soaring food prices and a 25% decrease in food production (Save the Children 2012). Furthermore, the potential for conflicts to arise over scarce resources and for poor socio-economic conditions to worsen as the effects of climate change increase should not be underestimated. Smith & Vivekkananda (2007:9) argue that climate change and violent conflict present countries and communities with a two pronged issue and contend that 'the two parts are mutually reinforcing: many of the countries predicted to be worst affected by climate change are also affected or threatened by violence and insecurity'. The conflict in Darfur, where the drought in the 1970's strained the coping mechanisms of the settled and nomadic populations of the region, is a notable example (Soderbergh 2011:10). The humanitarian disaster and 2011 famine in Somalia is another case in point. While drought has recently been experienced in several countries throughout the Horn of Africa, Somalia has been the worst affected country due to conflict, lack of central governance and the dangers faced by aid groups (Jones 2011). The fact that the impacts of climate change exacerbate key displacement contributors has been recognised globally. At the 2010 Sixteenth Conference of the Parties (COP 16) UNFCCC, William Lacy Swing, Director General of the IOM succinctly emphasised the crucial linkages between climate change displacement and extenuating factors, stating that:

in the future, we may be facing an increase in population flows that the world is presently ill-equipped to tackle effectively. While climate change is not the only driver of such movements, it is likely to be one of the major ones in the decades to come. (cited in IOM 2012:15)

The issue of climate change displacement is multi-faceted, with socio economic factors, political instability and population pressures adding to its complexity. It is clear that for any mechanisms designed to deal with the problem to be effective, these many factors must be taken into account.

### **1.3 The different drivers and forms of climate change displacement**

I call on you to Just as the compounding factors that are likely to be exacerbated by climate change are inherently complex, so too are the different forms of displacement that are likely to take place. The UNHCR acknowledges the fact that climate change and global and socio-economic trends will not only cause displacement to increase over the next decade, but also that displacement will take on new and different forms (UNHCR 2012b:5). In the short term, the majority of those expected to be displaced by climate change are likely to be internally displaced (*O'Brien et al* 2008:25). However,

many people will also be forced to cross international borders and, given the current gaps in the international refugee system, will have an uncertain legal status (Kolmannskog 2009:43).

To gain a clearer understanding of the different forms of displacement and migration likely to occur, it is useful to categorise both the *drivers* and the speed or urgency of climate change displacement causes, as well as the different *kinds* of CCDPs themselves. Piquet (2008:15) cites recent studies which distinguish between migration drivers as '1) the increasing frequency and intensity of slow onset disasters, such as drought and desertification; 2) rapid onset disasters such as floods and cyclones and 3) incremental changes driven by sea-level rise' (Piquet 2008:15). Lonergan (1998:8) cites useful definitions proposed by El-Hinnawi (1985), who also categorises the victims of displacement in three groups; those temporarily displaced by a natural disaster, such as a cyclone or flooding, who will likely return to their original habitat; those permanently displaced due to permanent changes in their habitat, such as dams or lakes; and those who are permanently displaced due to a desire for an improved quality of life because their original habitat can no longer provide for their basic needs (El-Hinnawi 1985, cited in Lonergan 1998:9). Whist very similar in their definitions, El-Hinnawi's second category (regarding people permanently displaced by projects such as the construction of dams and lakes) is highly relevant due to its link to development, of which the legal ramifications regarding state liability will be discussed in chapter 2. One example of displacement caused by development is the Three Gorges Dam hydropower project in China, which displaced more than 1.2 million people and gained notoriety for its detrimental environmental impacts, human rights violations and resettlement difficulties (International Rivers Organisation 2012).

Both El-Hinnawi's and Piquet's categorisations are highly constructive because the speed of the cause of displacement is a determining factor where adaptation frameworks are concerned and the degree of the imminence of harm is a major point of contention for policy makers. O'Brien *et al* (2008:25) suggest that the vast majority of those displaced by hydro-climatic disasters in developing regions will remain in their country of origin because 'people tend to return to re-establish their lives after such disasters'. This trend doesn't necessarily reflect the direct needs or desires of those displaced, however. In the case of sudden onset disasters, such as cyclones or flooding, for example, if people were to flee across an international border, it could, in some cases, be considered to be sufficiently safe to return to their home country before a refugee claim could be processed (McAdam 2011a). It is also important to note that the tendency to return to the place of origin is, in some cases, likely to be influenced by the fact that many victims of climate change displacement in

poorer regions do not have the financial means or social networks required to relocate to lower risk areas and the people who fall into this category are perhaps the most at risk.

Slow-onset change presents an even more complex predicament for policy makers. Firstly, slow-onset change is likely to produce the largest movement of people in the long term and may be more likely to be permanent, particularly when related to rising sea-levels (UNHCR 2012b:26). Secondly, as McAdam contends, a lack of urgency is a common argument put forth by decision makers when dismissing refugee claims (McAdam 2011a). Small island nations such as Tuvalu and Kiribati, for example, are under threat of disappearing altogether due to sea level rise within 20-50 years (Docherty & Giannini 2009: 355). In cases such as these, permanent trans-border migration will inevitably become the only option for the entire population of these countries. However, because of the importance placed on the speed or urgency of the situation, climate change refugees from these islands 'would need to wait until the country is virtually uninhabitable before being afforded protection through one of the international human rights-based international mechanisms' (McAdam 2011a). The UNHCR notes that displacement caused by environmental degradation and slow-onset disasters will lead to increased trans-border migration if no options are available for internal relocation, and adds that when armed conflict and violence are triggered by a shortage of essential resources due to drought or desertification, for example, displacement of varying duration may occur (UNHCR 2012b:26).

This chapter shows that climate change is multi-causal and displacement will effect an unprecedented number of people, taking on a multitude of forms, both in the long and short term, demonstrating that a "one size fits all" policy will be far from sufficient in providing protective measures for CCDPs. It illustrates a crucial need for additional legal and policy frameworks to provide more specific adaptive and protective measures for CCDPs which will accommodate the various forms of displacement that are projected to occur.



## **Chapter 2 – The shortcomings of the existing refugee regime**

This chapter examines the existing refugee regime and demonstrates that CCDPs do not fit any current definitions of displaced persons defined within the Refugee Convention. It highlights the resourcing shortages that are already challenging the UNHCR's efforts to protect and resettle traditional refugees. It examines the shortfalls of current protective mechanisms for existing IDPs and also demonstrates the precarious predicament faced by climate change IDPs, particularly those whose governments are unable or unwilling to provide adequate protection.

### **2.1 The UN Refugee Convention and the UNHCR – A brief introduction**

The Refugee Convention, its 1967 protocol and the UNHCR are currently the key instruments for defining refugees and the protection and rights that they are entitled to (Smith 2010:364). The UNHCR was established on December 14<sup>th</sup> 1950 by the United Nations General Assembly. While it was originally established with a three-year mandate to complete its work and then disbanded, its mandate has been routinely extended (UNHCR 2012a) The UNHCR is now one of the world's principle global humanitarian agencies and is represented in over 100 countries (Smith 2010:366). It is mandated to lead and co-ordinate international action to protect refugees, asylum seekers and stateless people, and to resolve refugee problems worldwide (UNHCR 2011). Its mandate also includes ensuring long-term protection and 'has supervisory responsibilities for making sure states meet their obligations under the convention' (Betts 2009:2). In 1951, the UN Refugee Convention - the legal foundation for helping refugees and the basic statute guiding UNHCR's work - was adopted (UNHCR 2012a). The convention was designed to protect the rights of people displaced in the aftermath of the Second World War prior to 1 January 1951 (Smith 2010:365). In 1967, due to the continuing growth in refugee populations across the globe, a Protocol to the Convention was adopted which extended the protection 'without reference to the date of the events generating refugee status' (Smith 2010:365). Today there are 144 states who are party to the convention and Protocol.

At present, the Refugee Convention, its 1967 Protocol (UNHCR 2007a) and the UNHCR protect almost 15 million recognised refugees, yet CCDPs are excluded from this protection (Biermann & Boas 2010:259). Under the current Convention, the legal definition of a refugee is a person who:

owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his

nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable, or owing to such fear, is unwilling to return to it. [Article 1A(2), as amended]

Within this definition, as will be demonstrated, no obvious provision for CCDPs exists and therefore these victims cannot legally be afforded refugee status.

## **2.2 Difficulties in establishing a legal definition of a ‘climate change refugee’**

At present, there is no internationally recognised term which defines those who are forced to migrate across state borders as a result of the effects of climate change and/or environmental degradation. The terms “climate change refugee” or “environmental refugee” are used and preferred by many environmental human rights advocates. These terms were popularised by UNEP and Agenda 21, implemented in 1992 at the United Nations Conference on Environment and Development, where several references were made to “environmental refugees” (Biermann & Boas 2010:256). Ultimately, however, these terms remain contentious and have no actual basis in international law for several reasons which I will examine.

The Refugee Convention’s first prerequisite of being ‘outside one’s country of nationality or former habitual residence’ applies only to scenarios in which forced migration results in the crossing of state borders. While there will be many cases where climate induced displacement will require the crossing of state borders, the vast majority of CCDPs are, or will be, *internally* displaced. Under the Refugee Convention, these victims remain unprotected (Williams 2008:508). Several intergovernmental agencies, including the UNHCR and IOM, reject the term “environmental refugee” or “climate refugee”, preferring to use the term “environmentally displaced person”, believing that the term “refugee” should remain limited to trans-boundary flight, mainly because the Refugee Convention is ‘restricted to persons who cannot avail themselves of the protection of their home state for fear of persecution’ (Biermann & Boas 2010:256). While the UNHCR has recognised the rising numbers of CCDPs and has had some involvement in assisting IDP’s displaced by natural disasters, it states that fundamental differences between the externally displaced and internally displaced raise major points of contention (UNHCR 2012b:26). One frequently raised argument is that those displaced by climate change could still theoretically rely on the protection of their national government, therefore differentiating them from traditional refugees whose states are often the source of persecution, leaving them ‘unwilling to avail himself to the protection of that country as required under Article 1A’ (Williams 2008:510). To place both groups together under the

same heading would, it argued, ‘further cloud the issues and undermine efforts to help and protect either group and to address the root causes of either type of displacement’ (UNHCR 2010). The UNHCR also cites a fear of a reduction in protection for traditional refugees as a key reason for its opposition to expand the Refugee Convention and notes that it already finds itself stressed in handling the 14.3 million traditional refugees in the world (Chhabara 2008).

The second stipulation under Article 1A - that there must be a ‘well-founded fear of being persecuted’ and that the reasons for persecution are limited to ‘race, nationality, religion, membership in a particular social group or political opinion’ (Convention Relating to the Status of Refugees, Article 1A) - is more open to interpretation, but again, no clear provisions for CCDPs exist. Ultimately, traditional refugees and CCDPs face the same predicament in that they are forced to relocate due to external and largely unmanageable factors (Williams 2008:504). Essentially, however, CCDPs are distinct from other migrant groups, such as those displaced due to political instability or minority groups at risk of genocide. Biermann & Boas (2010:259) argue against an expansion of the current refugee regime and, in their reasoning, outline four key differences between traditional refugees and trans-border CCDPs- (1) the eventual return to their home country is often not possible (2) the special moral and possible legal responsibility of the rich countries in the North (3) the collectivity of the flight and (4) the broad predictability of their plight - and stress that global governance architecture must take all four of these aspects into consideration (Biermann & Boas 2010:259). They go on to suggest that the term “refugee” *should* be used due to the powerful moral connotations of societal protection that are connected to it, because ‘by using this term, the protection of climate refugees will receive the legitimacy and urgency it deserves’ (Biermann & Boas 2010:259). They argue that the IOM and the UNHCR prefer to use the term “environmentally displaced persons” because of the legal rights that the intergovernmental system bestows upon “refugees” (Biermann & Boas 2010:256).

While resistance by the UNHCR and IOM to define victims of climate change displacement as refugees might appear to contravene their fundamental humanitarian ideologies and principles, one must consider the legal ramifications and subsequent responsibilities that would result from such a move. It is the most pragmatic approach afforded to these organisations under the current international refugee regime and such resistance is certainly valid and reasonable. The current system is already struggling to protect existing refugees and, taking into account the fact that more people are already displaced by environmental impacts than conflict, it would very likely be to the detriment of both traditional refugees and CCDPs if both groups were placed under the same mandate. Having said this, Biermann & Boas’ argument that the term should be applied to the latter

is also one of merit. This dissertation will contend that trans-border CCDPs should be afforded the same legal rights as refugees, but that this is not possible within the current system.

Some scholars argue that those externally displaced by climate change or environmental degradation *do* sufficiently fall within the mandate of the Refugee Convention, under article 1A. They suggest that displacement due to climate change *could* fit the criteria by falling within a social context, arguing that government-induced environmental degradation linked to development is a form of persecution and that such persecution is taking place for reasons of environmental refugees' membership in a social group (Cooper 1998:505). The case of the desertification of the African Sahel is one such example, where it is claimed that the governments of the Sahel region could have intervened and sought to prevent the environmental disaster, but failed to enact policies and programs to curb population growth, improve agricultural techniques, or heighten food production (Cooper 1998:507). The 1986 Chernobyl nuclear disaster, which subsequently resulted in thousands of deaths and the permanent displacement of tens of thousands of people, similarly demonstrates the Soviet government's apparent disregard for safety and the environment, with its failure to quickly and effectively respond to the emerging crisis, as does the 2011 nuclear disaster in Fukushima, Japan. The aforementioned Three Gorges Dam project in the Hubei province in China is yet another case which could be considered to fit within this definition of "social persecution". While there is undoubtedly some academic merit to this argument, in these cases displacement has been predominately internal. Williams argues that even if one were to adopt the most liberal approach to treaty interpretation, it is 'unlikely to be accorded any significant credibility given the object and purpose of the agreement and the narrow applicability of the Refugee Convention intended by the parties' (Williams 2008:508).

CCDPs fall outside the scope of the existing refugee regime and to expand the mandates of the Refugee Convention and UNHCR could potentially subvert protection for both CCDPs and traditional refugees. A stand-alone CCDP convention is therefore necessary to address the current gaps in international law for CCDPs.

### **2.3 The point of no return? The predicament faced by IDPs**

The vast majority of people displaced in the context of climate change in the near future are likely to remain within their country of origin and internal displacement 'remains one of the most significant challenges facing the humanitarian community' (Holmes 2008:3). Ultimately, states are primarily responsible for providing protection and assistance to their citizens in cases of internal displacement, however, in many instances, states are unable (or sometimes unwilling) to provide

such protection, even in cases where the state was responsible for the displacement in the first place. The ability to migrate or mobilise is often highly dependent on resources and networks, and climate change is likely to have a negative impact on peoples' resources, thereby increasing vulnerability and reducing mobility options (Kolmannskog 2009:39). While there is no convention for IDPs equivalent to the Refugee Convention, there are several bodies of law under which they are protected. IDPs are protected by International Human Rights law and domestic law, and in situations involving armed conflict, they are protected by International Humanitarian law (International Committee of the Red Cross [ICRC] 2012). The Guiding Principles of Internal Displacement, which are based on these two bodies of law, provide the normative framework for addressing displacement within a country (Kolmannskog 2009:39). For the purposes of these Principles, IDPs are defined as:

persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border. (UNHCR 2004)

Unlike the Refugee Convention, the Guiding Principles of Internal Displacement include a clearly stipulated provision for people who are internally displaced by environmental disasters. One may therefore assume that IDPs displaced by natural disasters and who are not protected by their home state are instead immediately recognised and afforded adequate protection under international humanitarian frameworks. A number of factors, however, may undermine protective measures and mechanisms which, whilst being effective for other categories of IDPs, are less conducive to dealing with displacement caused by environmental impacts. This point will be demonstrated focussing on three key arguments: 1) The current system is pushed to the limit and the unprecedented number of people projected to be internally displaced by environmental factors may undermine the protection of both climate change IDPs and traditional IDPs; 2) current mechanisms are premised on resettlement rather than adaptation or "preventative" migration; and 3) the non-binding nature of current humanitarian laws allows states to impede on the provision of outside humanitarian assistance.

As is the case with the international refugee regime, the systems and frameworks in place for IDPs are already hard pressed to deal with those displaced by conflict or persecution (Bradley & McAdam 2012:1). Factors such as a lack of political support for local integration, insufficient resettlement opportunities, persistent insecurity and lack of development and infrastructure in return communities mean that many IDPs must wait decades to access a safe and dignified solution to their

displacement (Bradley & McAdam 2012:1). These pressures are likely to be magnified, as an increase in the number and severity of natural disasters, combined with slow-onset impacts of climate change, force more and more people to move from their communities of origin to other places within their home state.

The UNHCR reports that the vast majority of people who relocate within their home country move to urban areas, often to informal sites unsuitable for housing such as mountain slopes, areas prone to flooding or sea surges and other weather-related risks (UN Human Rights 2011). In turn, rapid urbanisation can cause a multitude of secondary negative impacts such as food insecurity, increased pressures on housing and employment in cities, increased food prices and a reduction in agricultural output, particularly in Africa and Asia (UNHCR 2012b:22). Outbreaks of water-borne diseases, such as cholera, diarrhoea and malaria, are prevalent in makeshift settlements due to insufficient infrastructure and sanitation. On World Habitat Day in October 2011, the UN Special Rapporteurs on Housing, Raquel Rolnik, and on IDPs, Chaloka Beyani, highlighted the fact that close to one third of the global population currently resides in slums and unplanned settlements which are often located in areas exposed to serious environmental risks and hazards, warning that:

there is a dangerous combination of rapid urbanisation, much of it to precarious, unplanned areas, and an increased frequency and intensity of climate-induced disasters. This will likely affect many societies in a profound way. States and the international community can no longer afford to ignore the specific vulnerabilities of informal settlers to climate-induced disasters, and the increasing risks they face. (UN Human Rights 2011)

Almost three years after the January 2010 earthquake which devastated the impoverished nation of Haiti, over 400,000 displaced residents continue to live in tents and poorly constructed houses scattered around the capital of Port-au-Prince. Many of these makeshift shelters lie at the base of deforested mountains - some more than 8,000 feet high – placing these IDPs at extreme risk of mudslides in the event of storms or hurricanes, weather events which Haiti is highly prone to (CNN 23<sup>rd</sup> August 2012). Nine months after the earthquake, a cholera outbreak killed more than 7,000 people and sickened more than 500,000 as a result of contaminated water sources and a lack of sanitation. In August 2012, tropical storm Isaac struck the nation, leaving 19 dead and severely damaging temporary shelters and, in the wake of this most recent natural disaster, the Haitian government and various NGOs are warning of another potential outbreak of cholera (CNN 23<sup>rd</sup> August 2012).

It is clear that current IDP frameworks and the UNHCR are already struggling to protect and resettle existing IDPs. Unless significant improvements are made to the current system, the safety and fate of millions of IDPs, whatever the cause of displacement, remains dangerously precarious. The establishment of separate frameworks and mechanisms for climate change IDPs would help to ease this burden and avoid undermining the current systems in place for existing IDPs. Internal displacement caused by conflict and human rights violations is typically resolved ‘through the pursuit of three “durable solutions”: local integration, resettlement or voluntary return’ and it is widely assumed that resettlement marks the end of mobility for IDPs (Bradley & McAdam 2012:1). On the contrary, many IDPs remain “on the move” even after the circumstances which led to their displacement have been resolved, therefore subverting the standard durable solutions. For instance, many may periodically return to their places of origin while maintaining permanent residence in a resettlement country or become migrant workers in other countries (Bradley & McAdam 2012:1).

In the context of climate change displacement, the standard durable solutions framework, essentially premised on return and resettlement, is clearly at odds with the reality of the predicament that climate change IDPs are likely to face. Resettlement following natural disasters can be extremely challenging and, in many cases, support services afforded to IDPs are insufficient. National and international attention often wanes once the immediate threat has subsided and in many instances, following the end of a natural disaster, IDPs are afforded too little support for too short a period of time to allow them to adequately readjust and resettle (Holmes 2008:3). Pledges of monetary support by states are often not met or fall well short of initial amounts promised. In cases where IDPs displaced from areas vulnerable to sudden onset disasters such as flooding, mudslides or riverbank erosion, *do* wish to return to their homes (and currently many do), voluntary returnees are at risk of further disasters (as illustrated in the example of Haiti). This means that a responsible durable solutions policy would need to promote permanent resettlement elsewhere instead of return (Bradley & McAdam 2012:3).

Voluntary return, which is ultimately viewed by governments, the UNHCR and other international actors as the “preferred” solution to displacement, will be a less viable - if not impossible - solution for many of those displaced by natural disasters or other climate change phenomena, particularly where slow-onset climate change impacts are concerned (Bradley & McAdam 2012:1). The UNHCR warns that the long-term effects of climate change are likely to trigger large-scale population movements, both internally and across state borders (UNHCR 2012b:26). Where sea-level rise is concerned, for instance, movement is often likely to be pre-emptive - in anticipation of changes that may ultimately render continued habitation of a territory untenable – rather than in the nature of

traditional refugee “flight” (Bradley & McAdam 2012:3). Due to the importance placed on the speed or urgency of the situation within the current system, inhabitants from islands under threat of disappearing altogether ‘would need to wait until the country is virtually uninhabitable before being afforded protection through one of the international human rights-based mechanisms’ (McAdam 2011a). Displacement brought on by slow-onset climate change impacts creates a need for durable solutions which focus on pre-emptive responses, early adaptive measures and ultimately, in some cases, trans-border migration of entire populations. This will be discussed in more detail in the case study in chapter 4.

While states themselves are ultimately responsible for protecting internally displaced citizens, there have been many instances where states have either been unable or unwilling to provide such protection. One must take into consideration the crucial fact outlined in chapter one: that the countries likely to suffer the most from the impacts of climate change are poorer, developing nations and that existing pressures such as political instability and civil war are often exacerbated by climate change impacts. One such example is when Cyclone Nargis struck Burma in 2008, devastating the Irrawaddy delta region and leaving much of the region under water, killing an estimated 130,000 people and displacing 2.5 million (Asia Pacific Centre for the Responsibility to Protect 2008:2). Not only was the Burmese government incapable of responding to the disaster effectively or in a timely manner, it was apparently also unwilling, and the country’s military regime allowed only limited humanitarian access. During that crucial period, ‘it appears that the Myanmar/Burma military was more focused on the constitutional referendum than the delivery of assistance to the Irrawaddy delta region’ (Asia Pacific Centre for the Responsibility to Protect 2008:2).

This chapter demonstrates that CCDPs do not fit the existing definition of the Refugee Convention. While some scholars argue that CCDPs displaced by disasters caused by their home state could, theoretically, apply for refugee status on the basis of social persecution, this argument is widely contested and only applies to a small percentage of CCDPs. Great difficulties lie in establishing a legal definition of a “climate change refugee”. A new legally-binding CCDP convention should entitle CCDPs the same legal protection afforded to traditional refugees without having to legally classify them as such. Due to the sheer scale of the number of people likely to be internally displaced by climate change, and considering the current constraints on the UNHCR, a new convention must also incorporate provisions specifically tailored for climate change IDPs. This will be discussed in more detail in chapter 4.



## **Chapter 3 – Climate Justice, state sovereignty and the roles of other international actors**

Climate change is a global problem which ultimately requires a global response and international solidarity. However, research shows that while developed countries are considered the chief contributors to climate change, it is the poorer, developing countries that will bear the brunt of its effects. A new CCDP convention must take into consideration this underlying factor and form a plan of action that is fair and just. This chapter discusses the importance of “Climate Justice” and examines how the sovereign state system may hinder the incorporation of such ethical obligations. It will analyse progress made so far in efforts to raise awareness of, and address, climate change displacement by institutional organisations and NGOs.

### **3.1 Climate Justice and the North/South divide regarding causes and effects of climate change displacement.**

It is a well established fact that richer, developed countries of the North have contributed overwhelmingly to CO<sub>2</sub> emissions and that poorer, developing countries, which are predicted to bear the brunt of the effects of climate change, have contributed the least (Miranda *et al* 2011:17). Climate change presents a serious threat to socio-economic development in developing countries which have fewer mechanisms of protection available and the least means to cope with its impacts (Global Humanitarian Forum 2009, cited in Leckie *et al* (eds) 2012:479).

In 2007, China, an emerging economy striving to lift its population over the poverty line, overtook the US as the world’s overall highest emitter of CO<sub>2</sub> (Vidal & Adam 2007). In terms of per capita emissions, however, the US and Australia are still by far the largest emitters (Union of Concerned Scientists 2012). Figures show that the United States, with approximately five per cent of the world’s population, accounts for over 20% of global emissions (UN 2007). According to a 2007 UN report, the 19 million inhabitants of New York State alone have a higher carbon footprint than 766 million people living in the 50 least developed countries, with the latter accounting for less than 2% of global emissions (UN 2007). Despite this, the US and Australia have been amongst the most reluctant states to impose measures to reduce CO<sub>2</sub> emissions (Hamilton 2007:42). Attempts to attribute rights and responsibilities would require states to accept responsibility for environmental damage and thus recognise the consequent economic, social or political costs (Williams 2008:517). Geographical and cultural proximity also plays a role and, as Williams (2008:524) notes, ‘it is not

always easy to convince states of the urgency and severity of such situations when it is not their own populations directly and immediately affected (or even sometimes, when it is).’

The factors mentioned above have significant normative implications regarding ethics and justice, and lead to the question: do the richer, industrialised countries of the North have a moral obligation to take the lead in establishing, implementing and funding a CCDP convention that incorporates climate change mitigation and adaptation measures, provision of technological know-how and, perhaps most importantly, refuge, where necessary to permanently displaced victims in the future? Momentum is building around an important idea - supported by a multitude of human rights organisations and NGOs including the Global Humanitarian Forum, Environmental Justice Foundation, Friends of the Earth, and the Environmental Justice Society (EJS) - that could prove a promising way forward in dealing with disparities regarding the causes and effects of climate change and ensuing displacement, that being “Climate Justice”. While those who subscribe to the realpolitik school of thought might find such a notion simplistic and idealistic, Climate Justice offers a comprehensive, pragmatic and ethical approach for states and the international community to acknowledge Common but Differentiated Responsibilities (CBDRs) and to cooperate and address the issue of climate change. Most importantly, it takes into account disparities regarding cause and effect of climate change and advocates for the highest CO<sub>2</sub> emitting countries to lead efforts aimed at mitigation and adaptation, stating that:

the concept of Climate Justice recognises that the world’s poorest countries have contributed least to the problem of climate change and acknowledges that although we all have responsibilities to act, because the world’s richest economies have contributed and continue to contribute to the problem, they have a greater obligation to take action and to do so quickly. (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:479)

The Global Humanitarian Forum has collaborated with a range of organisations and individuals to shape a shared agenda for Climate Justice and has developed eight “Key Points on Climate Justice” :

- 1) States must take responsibility for the pollution they cause;
- 2) States must act according to capability and capacity;
- 3) Benefits and burdens must be shared equally;
- 4) Human rights must be respected and strengthened;
- 5) Risks to vulnerable populations must be reduced to a minimum;
- 6) Solutions must be integrated;
- 7) The international community must act in an accountable and transparent manner; and
- 8) Action must be taken immediately (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:479). Below is a summary of these points.

States and corporations must take responsibility for the pollution they cause. The principal of “polluter pays” was first outlined at the Rio Declaration on Environment and Development in 1992 and has been transposed into a range of ‘legal instruments in a number of jurisdictions and contexts’ (United Nations Department of Economic and Social Affairs Division for Sustainable Development [UN DESA DSD] 2012:11). While the principle was originally developed and applied mainly in response to direct environmental hazards caused by toxic pollution, the principle has evolved to now focus on encouraging polluters to reduce their CO<sub>2</sub> emissions and their environmental impact rather than to sanction polluters after the fact (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:480). When emissions reductions are not achieved, the principle calls for polluters to compensate for any negative effects locally and elsewhere caused by their contribution to overall emissions (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:480). The successful implementation of the principle on the whole, however, has been undermined by ideological differences to its practical application and in some cases this has led to the ‘development of parallel systems that are not based on the polluter pays principle, such as in the case of waste disposal supply chains’ (UN DESA DSD 2012:11).

A scientific consensus suggests that in order to avoid catastrophic effects of climate change, global temperatures must not rise more than 2 degrees Celsius (IPCC 2007b:37). In order for this to be achieved, industrialised countries must aim to aggressively reduce CO<sub>2</sub> emissions. Emerging economies, such as China, India and Brazil, must aim to increase development without reproducing the per capita emissions of industrialised states today. Poorer, developing countries, which currently emit well below the sustainable level, should not have to aim to reduce emissions at present. Rather, they should be allowed to increase living conditions even if this means increasing emissions in the short term (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:481). It is therefore crucial that industrialised states assist with funding and the transfer of technological know-how to allow impoverished states to develop in the most sustainable way possible. The equality of all human beings is a universally accepted principle and thus the benefits and burdens associated with climate change, and efforts to devise a solution, should be allocated in an equitable way (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:482). Industrialised countries whom have benefited (and continue to do so) from emissions in the form of development and socio-economic wealth have an ethical obligation to share benefits and technologies with poorer, developing countries and some progress is being made on this front. The Global Environmental Facility (GEF) has been facilitating the transfer of Environmentally Sound Technologies (ESTs) to developing countries to assist in sustainable development since its inception in 1991 (GEF 2012). The GEF has a mandate from the Conference of the Parties (COPs) to the UNFCCC to finance the transfer of ESTs and is now

the largest public-sector funding source for these technologies, supporting EST transfer activities in almost 100 developing countries (GEF 2012). ESTs have significant potential for improving environmental performance and include 'know-how, goods and services, and equipment, as well as organisational and managerial procedures' (GEF 2012).

Climate change is already undermining many fundamental basic human rights, such as rights to food, water and shelter, rights to health and life, and most importantly in the case of climate change displacement, rights associated with culture, migration and resettlement (UN Human Rights 2009). In 2008, Mary Robinson, former UN High Commissioner for Human Rights stressed the need for developed countries to realise this ethical responsibility, declaring that:

we must not lose sight of existing human rights principals in the tug and push of international climate change negotiations. A human rights lens reminds us there are reasons behind economics and enlightened self-interest for states to act on climate change. (Robinson cited in EJF 2008:8)

In October 2012, Robinson established the "The Mary Robinson Foundation – Climate Justice" as a centre for leadership, education and advocacy for justice for those particularly vulnerable to the impacts of climate change (Coulter 2012:1).

Increased unpredictability and severity of weather patterns results in highly complex and volatile risks (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:483). The forum's Human Impact Report notes that currently, some 4 billion people live in areas vulnerable to the impacts of climate change and over the next decade, approximately 500 million people will inhabit areas of extreme risk, including mass loss of life and livelihood (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:483). It is therefore crucial that mitigation of these risks is placed high on the agenda of governments and other international actors. The only viable way to combat global climate change is with an integrated approach in which there is an obligation to pursue multiple tracks in parallel: emissions must be mitigated to stem the root cause of climate change and adaptive measures must be taken to deal with the unavoidable impacts of climate change (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:483). Neither mitigation nor adaptation measures alone will suffice- both are equally crucial. The forum notes that in many cases, mitigation and adaptation can be jointly carried out. Rainforest and mangrove plantations, for example, may act as carbon sinks which also help to prevent disaster-exacerbating land or coastal degradation (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:484). A CCDP convention must incorporate this principle and place emphasis on both mitigation and adaptation measures.

The forum emphasises the need for the participation of people everywhere with fair, accountable, transparent and corruption-free procedures, stating that:

global solutions require a climate of confidence at all levels. On the individual level, each person should do his or her honest best to re-use, reduce or recycle, and should hold governments to policies and actions that do the greatest good for the greatest number. On the government and global levels, promises need to be kept. Procedural justice is necessary for those affected by climate change. (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:484)

Awareness raising and access to information are critical components for addressing climate change (UN High Commissioner for Human Rights, cited in Leckie *et al* (eds) 2012:227). Transparency and corruption-free procedures to implement conventions and agreements are vital, and mutual accountability and deliverable pledges foster confidence in political agreements, reducing the gap between global aspirations and global action (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:484).

While tackling climate change is an extremely complex endeavour, the steps which must be taken are clear: emissions must be drastically reduced, sustainable development to reduce socio-economic vulnerabilities must be promoted, preventative measures against climate threats (including disaster risk reduction) must be invested in and wide dissemination of relevant technologies, particularly ESTs, must be ensured, as 'the knowledge and means to tackle the problem are available today. There should be no further delay' (Global Humanitarian Forum 2009 cited in Leckie *et al* (eds) 2012:485). Climate change mitigation must go hand-in-hand with adaptation measures to avoid catastrophic effects of climate change. Owing to the vast disparities regarding the cause and effects of climate change, it is understandable that the focus is often placed on problems which arise from climate change rather than the root causes. However, in order to mitigate future problems, it is imperative that a CCDP convention incorporates the principles of Climate Justice. The richer states of the North, who are also the world's primary emitters, must carry the primary financial burden and lead international efforts to provide aid, resources and refuge to those affected by their emissions. The positive effects of such an approach would be twofold: firstly, states would be encouraged to lower their emissions or bear the financial consequences, which will ultimately result in less future climate change displacement, and secondly; existing CCDPs would be provided with improved support services from states that are more equipped financially to provide aid, resources and refuge.

### 3.2 The sovereign state system: moral obligations versus national interests

A major hindrance to the effectiveness of the current refugee regime and, most likely, to the establishment of an effective CCDP convention may lie in the issues and limitations that state sovereignty and national interests present. The reluctance of certain states to contribute to a solution to address climate change, whether financially or legislatively, results partly from the difficulty in relating past CO<sub>2</sub> emissions of richer, industrialised countries to current or future impacts of climate change. Furthermore, states typically reject claims of legal liability towards possible victims of climate change and today it is already the case that 'the refugee regime is under constant pressure from industrialised countries that seek restrictive interpretations of its provisions' (Biermann & Boas 2010:260).

The Kyoto Protocol, adopted by the UNFCCC in 1997 before coming into effect in 2005, aimed to stabilise the concentration of greenhouse gas emissions, and called on developed countries to reduce their 1990 emissions levels by 5.2 percent by 2010 (UNFCCC 2012). The UNFCCC incorporated the notion of CBDRs- which, in line with the aforementioned principles of Climate Justice, places a heavier burden on developed nations to act to mitigate climate change- into the negotiations (McManus 2009). The resultant exclusion of developing countries, namely China and India, in the Kyoto Protocol's emission limitation requirement was a key point of contention (Betsill & Corell 2008:44). Negotiations were marred by the reluctance of certain states, particularly the US and Australia, to meet these conditions for fear of economic costs (Hamilton 2007:42). Australia, despite having the highest and fastest growing per capita emissions amongst the Organisation for Economic Development and Cooperation's (OECD) countries - a staggering 28 tonnes per person (Garnaut, 2008:153) - would only commit to non-binding targets and agreed to limit its emissions to 108% of 1990 levels by 2010 (Lowe 2005:187). It was argued that being a net exporter of energy puts Australia in a unique position and any moves to drastically cut emissions were not in the national interest (Hamilton 2007:42). A great deal of debate centred on differences in the nature of the commitments of industrialised countries. While some participants, including members of the European Union (EU), small island states and NGOs, argued for legally-binding targets and timetables aimed at reducing emissions, the US, backed by Australia, Japan, Canada and New Zealand, pushed for voluntary targets 'aimed at *stabilizing* emissions without any clear timetable (Betsill & Corell 2008:44). In the end, the US and Australia failed to ratify the protocol, although the latter later did so after a change of government in 2007. The Kyoto negotiations did not result in any legally-binding targets and although a compliance committee was established, the protocol itself lacked institutional structure to aid in implementation (Karns & Minst 2009:98). It was hoped the subsequent UN Climate Change Conference in Copenhagen in 2009 would agree on a framework for

climate change mitigation beyond 2012, however it too was undermined by similar problems and a resolution was unable to be agreed upon (Burson 2010:159). The failure of the Kyoto Protocol and the Copenhagen Accord to reach legally-binding global agreements to address climate change demonstrates just how problematic securing international cooperation to deal with climate change related issues can be (Burson 2010:159).

It is not only climate change mitigation efforts that are undermined by state sovereignty. Under the current refugee regime, states can, and often do, exercise their sovereign right to refuse to cooperate with international refugee agreements. It can be argued that the US and Australia also have a lacklustre record in terms of commitment to international human rights standards. The US signed, but has never ratified, the Refugee Convention and has a history of resisting or placing conditions and exceptions on international treaties that could be deemed to go against national interest (Karns & Mingst 2010:492-493). Such ambivalence towards commitment to the international refugee regime by the US greatly undermines international progress financially and symbolically because when 'international institutions clash with a sole superpower that controls essential financial resources, it makes a difference' (Karns & Mingst 2010:492-493). If the world's hegemonic nation will not at the very least commit to binding targets, incentive for other nations to do so is undoubtedly undermined.

Australia has demonstrated a reluctance to cooperate with efforts to relocate vulnerable Pacific Islanders under threat from climate change impacts. In the case of Tuvalu, where 11,000 residents are under serious threat of climate change and rising sea levels, attempts made to establish a relocation scheme with neighbouring Australia were unsuccessful due to Australia's view that the issue was long-term and a natural phenomenon (Banham 2006). The Australian government maintained that 'despite mounting data to indicate otherwise, there was no evidence to suggest Pacific Island populations were in any imminent danger of being displaced by rising sea levels' (Williams 2010:515). This case demonstrates not only the importance of "urgency" when dealing with issues of displacement due to the effects of slow-onset climate change, but also difficulties that arise when states argue, despite the scientific data, that changes in climate are not anthropogenic. It could be argued, for example, 'that a hurricane can be a natural phenomenon or a result of anthropogenic climate change and therefore, according to the IPCC, identifying causation can be scientifically challenging' (Docherty & Gianinni2009:366). It also demonstrates that while displaced islanders should have the opportunity to be relocated to more secure locations, states are highly unlikely to formally cede territory to them (Bradley & McAdam 2012:1).

The Australian government's decision in August 2012 to resume off-shore processing of asylum seekers and refugees (a move which breaches of the Refugee Convention by sending refugees to a third country) has also drawn condemnation from human rights groups (Rouke 2012). If the number of refugees that are currently reaching Australia has driven the government to breach its obligations under the Refugee Convention, one must wonder how the government will react to the inevitable influx of CCDPs, considering its geographical proximity to South East Asia and Pacific Island Nations, two of the regions most under threat by climate change and permanent displacement. Under the current regime, Australia and other high emitting states have been able to act with relative impunity. Under a CCDP convention that incorporates the principles of CBDRs and Climate Justice, however, Australia (and New Zealand), being the primary CO<sub>2</sub> emitter(s) in the region, would be legally obligated to provide the financial and logistical resources required to assist efforts for climate change mitigation and adaptation, as well as the resettlement of CCDPs from the poorer countries in the region.

It is not only industrialised countries that have refused to provide refuge to CCDPs. Up to 20 million people have already fled to India from impoverished Bangladesh, a low-lying nation especially vulnerable to different natural and climate-induced disasters such as storm surges and cyclones (McAdam & Saul 2010). India has responded by constructing a 2.5 metre high barbed wire barrier along its border in an attempt to stem the increasing flow of refugees from Bangladesh. Unless an international treaty recognising CCDPs is endorsed by India, 'the barrier will mean climate change refugees from Bangladesh will not be able to flee there' (Chhabara 2008). It is important to note that India is not a signatory to the Refugee Convention and thus its actions are not in breach of international law. A first step in forming a new CCDP convention must therefore be to strongly encourage states to sign, ratify and abide by the existing Refugee Convention.

Ultimately, without accountability there is no driver prompting states to act and comply with international agreements concerning climate change or CCDPs. As such, a CCDP convention would need to seek to gain full international cooperation, be legally-binding and hold accountable the highest CO<sub>2</sub> emitters, with failure by states to comply resulting in punitive action such as sanctions. As previously argued, it must also incorporate the principles of CBDRs and Climate Justice to ensure a fair distribution of burden. The lack of success of past efforts to establish binding international agreements aimed at climate change mitigation demonstrates the massive challenges that will likely be faced in the establishment of an international agreement to address climate change displacement.



### 3.3 Developments to date and the role of international organisation and NGOs

International awareness and concern in regards to human mobility related to the impacts of climate change is slowly gaining momentum. NGO and international organisation engagement on the issue has greatly risen since the mid-2000s and there has been a dramatic increase in literature written on the topic (McAdam 2011b:6). The National Adaptation Programmes of Action (NAPA), established by the UNFCCC to provide a process for Least Developed Countries (LDCs) to identify priority activities that respond to their urgent and immediate needs to adapt to climate change, has been a positive step forward (UNFCCC 2012). The aim of NAPA is to ensure the principles of 'stakeholder participation, country driven-ness, multidisciplinary input, complimentary to other projects and cost effectiveness' (Environment & Conservation Division 2007, cited in Leckie *et al* 2012:373). As of December 2008, the UNFCCC secretariat had received NAPAs from 39 LDCs, including Kiribati, (UNFCCC 2012) which will be discussed in the case study in chapter 4. Some progress is being made in addressing the predicament of climate change IDPs, particularly concerning those displaced by natural disasters and the issue of urbanisation. The United Nations International Law Commission is currently working to develop a text which may serve to provide the basis of the development of a binding international law on the protection of victims of natural disasters (UNHCR 2012b:26). In December 2009, High Commissioner for Refugees, António Guterres, devoted his annual Dialogue on Protection Challenges to refugees and IDPs living in urban areas, outlining a key aim to foster cooperation with new partners, especially municipalities (UNHCR 2012b:22). The High Commissioner made a commitment to evaluate UNHCR's programmes for refugees in multiple cities with an aim to progressively implement the new policy worldwide (UNHCR 2012b:22).

A number of NGOs are also working to highlight and address the climate change displacement issue, with many doing so in partnership with the UNHCR. For 25 years the UNHCR has held annual interactive consultations as part of the UN Non-Governmental Liaison Service (NGIS) at the International Conference Centre in Geneva (NGIS 2012). The consultations provide an important forum for NGOs to raise issues and exchange views with the UNHCR (NGIS 2012). In 2012, the event attracted more than 430 NGOs from 86 countries and touched on the topic of people displaced by climate-related events, examining potential ways to address the protection concerns of people displaced both internally and externally by natural disasters and climate change (NGIS 2012). Participants, which included delegates from the Kenya Red Cross Society, the World Wide Fund for Nature (WWF), the Norwegian Refugee Council and the Division of International Protection of the UNHCR, highlighted the challenges and good practices from the perspective of affected populations and national actors responding on the ground, including the management of the environmental

impacts of humanitarian operations (NGIS 2012). Other institutions and NGOs actively involved in efforts to address climate change and displacement include the IOM, UNDP, Oxfam, Christian Aid, and World Vision (McAdam 2011b:6). These high profile NGOs have a worldwide presence that is not influenced by individual states, arming them with the capacity to potentially assist in overseeing and regulating the execution of a CCDP convention and the incorporation of Climate Justice. An example of the active involvement of NGOs in Climate Justice campaigns is demonstrated by the NGO Friends of the Earth Australia (FoEA), which has been working with Pacific Island communities to raise awareness of the pending effects of climate change on Australia's nearest neighbours (Flannery 2012:1). The organisation has been heavily involved in a Climate Justice campaign which began in 2002 and focuses on vulnerable communities, particularly in the Pacific Islands region (Flannery 2012:1). The organisation is also supporting the Tulele Peisa ("sailing the waves on our own"), a local community organisation in Papua New Guinea that is trying to relocate the whole island community of the Carterets to nearby Bougainville because of the impacts of climate change (FoEA 2012).

This chapter contends that a CCDP convention must ensure that climate change mitigation and adaptation efforts are carried out in unison. In order to address the North/South disparities regarding the primary causes and likely effects of climate change, Climate Justice and the recognition of CBRs must be incorporated into the foundation of a legally-binding CCDP convention. NGO's and international institutions should play an integral role in both raising awareness of the issue of climate change displacement and helping to oversee the fulfilment of obligations by states. The involvement of NGOs will assist in ensuring transparency and accountability, and in doing so help to remove the obstacles that state sovereignty may present to the implementation and effectiveness of a CCDP convention.

## **Chapter 4 – The requirements of a CCDP convention**

This chapter addresses the central question of whether the refugee regime in its current form could potentially be amended and expanded to include provision for trans-border CCDPs and the implications of doing so. It briefly examines proposals for possible new independent conventions put forward by several scholars and the commonalities they share as well as the areas in which their views contrast. A case study illustrating the predicament faced by Kiribati is included to demonstrate the shortcomings of the existing refugee regime and the advantages of a stand-alone CCDP convention.

### **4.1 Could the mandate of the Refugee Convention be expanded to include CCDPs?**

Extending the mandate of the current refugee institutions to also protect CCDPs is one possible political response to the looming climate change displacement crisis. Some scholars, such as Hathaway (2005) and Cooper (2005) have suggested extending the scope of the Refugee Convention to include those forced to cross international borders as a result of long-term climate change impacts or natural disasters. For this to be made possible, however, the first requirement would be to afford CCDPs legal refugee status. As previously stated, the UNHCR is of the opinion that granting CCDPs refugee status could potentially undermine the current refugee regime and the protection of those who, in its current form, are clearly defined and understood to meet the criteria (UNHCR 2009:149). Furthermore, the UNHCR claims that implying a linkage between environmental degradation, climate change and migration, and persecution that is at the root of a refugee fleeing a country of origin and seeking international protection, would cause confusion. This owes to the fact that environmental factors, whilst often contributing to the prompting of trans-border movement, 'are not grounds in and of themselves, for the grant of refugee status under international law (UNHCR 2009:149).

It is clear that the reasons for contemporary mass migration have changed in the 60 years since the Refugee Convention was established, with environmental factors increasingly coming into play. For this reason, many scholars advocate expanding the interpretation of its mandate (Lopez, 2007:182). Aurelie Lopez cites James Hathaway (2005), who contends that a fixation with literalism has resulted in insufficient attention being paid to the duty to read and interpret texts, such as the definition

outlined in the Refugee Convention, in line with the context, object and purpose, therefore subverting the potential for treaty law to play a genuinely transformative role in the international system (Lopez, 2007:182). Cooper (2005 cited in Lopez 2007:183) advocates revising the definition of a refugee in legal terms, proposing the expansion of the current refugee definition to include:

any person who owing (1) to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, or (2) to degraded environmental conditions threatening his life, health, means of subsistence, or use of natural resources, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself the protection of that country. (Cooper 2005, cited in Lopez 2007:183)

In theory, an expansion of the wording and scope of the existing definition of a refugee to also include provision for CCDPs appears to be a very logical and pragmatic approach. However, the reality is that there are mitigating factors that will limit the effectiveness of such an approach. One commonly raised argument is that owing to the refugee definition requiring the crossing of international borders, such an expansion of the current definition would exclude the vast majority of CCDPs who will be internally displaced. Furthermore, the multi-causal nature of migration and the complexity in identifying a uniquely environmental push factor in many cases, ultimately renders the recognition of climate change refugees meaningless (Lopez, 2007:183). Some scholars contend that the interpretation that CCDPs fall within the current mandate has the potential to 'water down' existing protection for traditional refugees, contending that 'such an expansion of the current refugee definition might result in the potential devaluation of the current protection for refugees' (Keane 2004:214). As the Refugee Convention was constructed for a specific purpose, and the constitution of 'environmental' refugees is still not clearly defined, any attempt to alter the agreement would undoubtedly be met with widespread resistance on an international front (Williams 2008:510).

Ultimately, the Refugee Convention was established sixty years ago in response to the escalating refugee flow in post-war Europe and therefore its applicability remains limited and its aim is to protect those facing the type of persecution based upon one of the reasons explicitly set out in Article 1A(2) (Williams 2008:508). Given that the Refugee Convention was established decades before awareness of climate change and CCDPs arose, the agreement would require extensive modification to accommodate this new problem and would not be in the best interest of CCDPs, particularly those internally displaced. Instead, a specifically designed mandate must be established that will offer CCDPs the protection and rights that are currently afforded to traditional refugees.

## 4.2 Existing proposals for a New Stand-alone Convention

The vast majority of environmental human rights scholars agree that there is a need for a new, international convention designed specifically to protect the rights of CCDPs. Proposals for possible new instruments to protect CCDPs have been developed by Williams (2008), Biermann & Boas (2010), Docherty & Giannini (2009) and Hodgkinson, Burton, Anderson & Young (2009). All of the proposals identify and agree that CCDPs do *not* fall within the scope of the Refugee Convention and also cite the scale of the climate change displacement problem as justification that a new agreement of some kind is essential (Hodgkinson *et al* 2010:289). Opinions differ, however, on exactly what form a new agreement should take.

Williams (2008:517) argues that the most effective solution to address the current inadequacy of legal responses is to negotiate a new international agreement that would seek to specifically recognise the plight of CCDPs and to provide a framework for their protection. She acknowledges, however, that concerns for state sovereignty, disagreement as to the definition of a CCDP and extending protection for IDPs, would likely undermine and prevent the formation of such an agreement, contending that:

the notion of attributing international rights and responsibilities in respect of displaced persons cuts to the very heart of state sovereignty and thus would likely prove a contentious issue upon which to achieve universal (or as close to universal so as to make worthwhile) agreement. (Williams 2008:517)

Taking into account the obstacles presented by state sovereignty and also acknowledging the reluctance of the US to agree to the most basic of commitments via the Kyoto Protocol (Williams 2008:517), Williams therefore proposes the formation of regional agreements to deal with climate change displacement under an international umbrella agreement linked to the UNFCCC and drafted as a post-Kyoto agreement (Williams 2008:517).

Docherty & Giannini (2009:150) argue for an instrument which would form institutions to 'implement the provisions, including a global fund, a coordinating agency, and a body of scientific experts'. They believe a new agreement should also aim to protect the economic, social and cultural rights of CCDPs and be legally-binding (Docherty & Giannini 2009:150). They contend that an independent CCDP convention has the advantage of being able to combine multiple regimes into one specialised instrument, allowing it to reflect the underlying issues raised by the CCDP problem and fill the current legal gaps with the specificity states and communities need (Docherty & Giannini 2009:397).

Hodgkinson *et al* (2009) propose a convention which would provide a general framework for CCDPs, address gaps in the international regime of refugee rights protections and set out a framework which incorporates a mechanism to protect both internal and external CCDPs. Their proposed convention would create a Climate Change Displacement Organisation (CCDO) consisting of four core bodies: an Assembly, a Council, a Climate Change Displacement Fund, and a Climate Change Displacement Environment and Science Organisation, as well as the formation of a Climate Change Displacement Implementation Group to facilitate resettlement (Hodgkinson *et al* 2011:11). Along with Docherty & Giannini (2009:395), they oppose the idea of linking any new agreement to the UNFCCC, reasoning that the Committee's sole concern is to address climate change and that its structure and institutions are not designed to deal with displacement and that 'it does not discuss duties that states have to individuals or communities, such as those laid out in human rights or refugee law' (Hodgkinson *et al* 2010:292).

McAdam (2011a) also argues for a new convention and emphasises that for a new agreement to be effective, it is essential that international, regional and national responses are informed by a bottom-up approach, taking into account the desires of affected communities and responding appropriately to different situations. She stresses that local involvement increases transparency and accountability. She also strongly advocates managed international migration for populations vulnerable to slow-onset climate impacts, contending that doing so would provide a more secure mechanism for enabling people to migrate 'without having to artificially present as people in need of international protection' (McAdam 2011a). The benefits of managed migration will be further examined in the case study on Kiribati.

As this chapter demonstrates, extending the current scope of the Refugee Convention to include CCDPs is not a practical approach. Not only would it likely undermine the protection for traditional refugees, the sheer scale and complex nature of the climate change displacement issue requires a specialised solution. While proposed prescriptive mechanisms vary, it is clear that a "one size fits all" policy response is not going to be effective. The complex nature of the issue and the many forms in which displacement will occur necessitate a stand-alone CCDP convention which is firmly based on the principles of Climate Justice. It is imperative that the convention be flexible in scope, to enable integrated solutions to be tailored for each country and community's specific needs. This dissertation contends that a new CCDP convention must be legally-binding and reflect the underlying issues raised by the CCDP problem as stipulated by Docherty & Giannini. The possible limitations that state sovereignty may present as outlined by Williams are highly relevant and a great deal of

effort must be made to overcome these in order for the convention to successfully fulfil its purpose. The convention should be an overarching international authority that has regional and national branches and is informed by a bottom-up approach, as proposed by McAdam. The Climate Change Displacement Organisation (CCDO) and its four incorporated bodies outlined by Hodgkinson *et al* would form a solid structural basis for the workings of the convention. This dissertation contends that this proposed convention should incorporate mitigation, adaptation and managed migration (outlined by McAdam) in unison.

The following case study demonstrates how the proposed CCDP convention could be applied to assist the nation of Kiribati.

### **4.3 Case Study: Kiribati – A sinking nation**

Kiribati is one of many Pacific Island nations whose inhabitants are under severe threat of climate change induced displacement. The nation, which comprises 33 atolls located in the mid-Pacific Ocean and the phosphate island of Banaba, is particularly vulnerable to the effects of climate change and rising sea levels, with an average elevation of less than two metres above sea level (DFAT 2012). The atolls form three groups – the Gilbert, Phoenix and Line Islands which are spread out over 3.5 million sq km of ocean, and have a total land area of about 800 sq km (Environment & Conservation Division 2007, cited in Leckie *et al* 2012:373) and (DFAT 2012). The population of Kiribati is just over 100,000 and its capital is Tarawa, the most populous atoll (DFAT 2012). Kiribati's per capita CO<sub>2</sub> emissions are 0.3 tonnes – minute when compared to Australia's per capita emissions of 28 tonnes (UN Data 2012). This clear disparity between the two states regarding emissions, and the subsequent consequences, highlights the importance of the inclusion of the principles of Climate Justice and the necessity of regional branches in a CCDP convention.

As is the case with many island atoll states, Kiribati's economy faces significant constraints, including its small size, remoteness and geographical fragmentation, a harsh natural environment with infertile soils and limited exploitable resources (DFAT 2012). Kiribati's economy relies heavily on fishing licence fees and remittances from Kiribati citizens employed abroad, mainly as seafarers (DFAT 2012). Growing unemployment and an expanding population is a major concern for the government of Kiribati (McAdam 2011a). Urbanisation is rapidly increasing and some areas have an average population density of 135.1 people per sq km - greater than that of Hong Kong, but without high rise buildings - and the majority of the population live a subsistence lifestyle (McAdam 2011a). Kiribati, already experiencing severe population and socio-economic pressures, will very likely reach the "tipping point" described by McAdam (2011a) as the impacts of climate change compound its

already vulnerable position. Rising sea-levels are leading to the inundation and erosion of key areas of land and storm surges are contaminating the fresh groundwater lens, which is vital for survival (Environment & Conservation Division 2007 cited in Leckie *et al* 2012:373). Most of the land in urban Tarawa sits less than 3 metres above sea level and the island has an average width of only 450 metres, rendering retreat adaptation options untenable (The Climate Change Portal of the Office of the President of Kiribati 2012). In the short-term, citizens will likely be internally displaced and forced to move to safer areas. Inevitably, however, it is very likely that the entire population of Kiribati will eventually have no other option but to relocate altogether.

The existing refugee regime's sole focus is on the resettlement of refugees and does not incorporate actions to mitigate the root causes of climate change displacement. A new CCDP convention would therefore present a distinct advantage in that its design would not only protect CCDPs but also help slow and reduce climate change impacts. The Climate Change Displacement Environment and Science Organisation, as well as Climate Change Displacement Implementation Groups proposed by Hodgkinson *et al* could work independently or, if a legally-binding post-Copenhagen agreement could be established, in unison with the UNFCCC.

Important steps are already being taken to begin the process of adaptation to the impacts of climate change. The Kiribati Adaptation Program (KAP) has been enacted by the Kiribati government, with the support of the Global Environment Facility (GEF), the World Bank, the UNDP and the Japanese Government (The Climate Change Portal of the Office of the President of Kiribati 2012). KAP aims to support measures that reduce Kiribati's vulnerability to the effects of climate change and sea level rise by raising awareness of climate change, assessing and protecting available water resources and managing inundation (The Climate Change Portal of the Office of the President of Kiribati 2012). The program encourages local participation with representatives from each of the inhabited atolls involved in identifying key climatic changes that have taken place over the past 20-40 years along with proposed coping mechanisms to deal with these changes (The Climate Change Portal of the Office of the President of Kiribati 2012). A CCDP convention would support such initiatives which are tailored to the nation's specific requirements and encourage local participation. Additional funding from a Climate Change Displacement Fund, would also assist in its continued execution. Climate Justice would dictate that the high emitting countries of the North would be obligated to contribute a large proportion of financial aid to such a fund, possibly based on each state's emission levels.

While such adaptation efforts may go a long way in helping to ease the impacts of climate change and delay the forced migration of civilians, longer-term solutions must also be established. McAdam, who has focussed a great deal of her research on climate-induced displacement in Kiribati



and has spent a considerable amount of time consulting with members of government as well as civilians, believes managed migration could potentially be the most effective mechanism to address displacement in Pacific Island nations where slow-onset change will inevitably lead to trans-border displacement (McAdam 2011a). McAdam notes that the President of Kiribati, Anote Tong, has been very vocal in promoting “merit-based migration” or “migration with dignity”, in which citizens (particularly the young) could apply for overseas working visas in advance (McAdam 2011a). Tong is keen to skill up the population of Kiribati as a means of providing citizens with labour skills to be of use abroad and contribute at home in the meantime if they are unable to migrate (McAdam 2011a). In her research, McAdam found that many younger citizens of Kiribati are keen to migrate abroad. At the World Environment Conference in New Zealand in June 2007, Tong outlined this plan and highlighted the importance of taking pre-emptive action, stating:

we want to begin that [migration] now, and do it over the next twenty, thirty or forty years, rather than merely, in fifty to sixty years time, simply come looking for somewhere to settle our one hundred thousand people because they can no longer live in Kiribati, because they will either be dead or drown. We begin the process now, it’s a win-win for all and very painless, but I think if we come as refugees, in fifty to sixty years time, I think they would become a football to be kicked around. (Tong, cited in Wilson 2008)

McAdam outlines several benefits of a managed migration system: population pressures can be alleviated on the island; more citizens can remain for longer than if everyone were forced to stay put (a common desire amongst many older civilians whom she interviewed); remittances from migrants could contribute to further adaptation funding in Kiribati; and perhaps, most importantly, it would ‘allow younger people to move to other countries, earn a living, send remittances back home and be seen as valued contributors to their new country, rather than being seen as charity cases’ (McAdam 2011a).

As this case study demonstrates, mitigation and adaptation measures must (and can) be implemented together with the involvement of citizens and take into account unique cultural and geographic factors. A “one size fits all” approach to deal with climate change displacement is not an effective path to consider, as the issues faced by individual nations are unique and diverse. Many Pacific Island nations, like Kiribati, are threatened by slow-onset climate change, the impacts of which have a high probability of eventually rendering these nations entirely uninhabitable. Early implementation of managed migration systems may provide a means for inhabitants of these nations to retain a certain amount of control over their relocation and for the process to be one of resettlement rather than refugee flight.

This case study also highlights the fact that, unlike the current refugee regime, a CCDP convention could fully incorporate mitigation, adaptation and managed migration measures specifically tailored to states' individual needs. It would place the important focus that is required on pre-emptive action that could, in turn, help to reduce the number of CCDPs and assist in prolonging forced migration. The new convention would also help to fund and assist initiatives such as KAP, which, importantly, encourages the involvement and participation of the governments, communities and citizens of the states concerned. Unlike the Refugee Convention, a CCDP convention would be dual-focused, in that equal emphasis would be placed on mitigation and response.

## CONCLUSION

Climate change presents a grave threat to human security in the 21<sup>st</sup> century and the most serious human rights implications resulting from this threat are very likely to be those related to forced displacement. The lives and livelihoods of hundreds of millions of people are at stake, and the vast majority of the victims will be from already vulnerable, developing countries. The problem requires a global, integrated response. The multi-causal nature of climate change displacement discussed in chapter 1 illustrates the extreme complexity of the problem. Rather than being a sole cause of displacement, climate change is likely to exacerbate pre-existing vulnerabilities such as population pressures, socio-economic factors, poverty and political instability, acting as a tipping point which may not otherwise have been reached.

It is clear that CCDPs are currently not protected under the existing refugee regime and this must be addressed with urgency. This was demonstrated in chapter 2 which examined the refugee regime in its current form, highlighting the difficulties and complexities that lie in legally defining victims of climate change displacement as refugees. Trans-border CCDPs clearly fall outside the Refugee Convention's definition of a refugee which requires the prerequisite 'fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion'. While some scholars contend that, in cases where states have contributed to displacement, citizens could theoretically apply for refugee status on the basis of social persecution, this argument is largely contested and only includes a very small proportion of CCDPs. The plight of climate change IDPs remains precarious, and although states are legally required to protect their citizens in cases of displacement, they are often unable, and sometimes unwilling to do so.

In response to the dissertation's central question, it is clear that the solution does *not* lie in an expansion of the scope of the existing refugee regime to include protection for CCDPs. The definition of a refugee under the Refugee Convention should not be altered and the mandate of the UNHCR should not be expanded to include CCDPs for several key reasons.

First and foremost, the UNHCR's capacity is already severely stretched in terms of funding and resources and it is already struggling to provide protection to over 14 million existing refugees whose rights are clearly defined within the Refugee Convention. To expand the mandate of the UNHCR to include provision for CCDPs would potentially undermine existing protection mechanisms that are in place for traditional refugees. Furthermore, the Refugee Convention deals solely with

trans-border displacement, while the overwhelming majority of CCDPs will be *internally* displaced. The sheer and unprecedented scale and complex nature of climate change displacement instead requires the establishment of a stand-alone CCDP convention, tailored to deal specifically with this unique problem.

Secondly, this dissertation demonstrates that a “one size fits all” policy will not be an effective means of dealing with the problem, as the nature of climate change displacement will take on many forms, over different time scales, and a plethora of factors must be taken into consideration including: existing socio-economic and political factors and the population pressures of states; whether climatic change will be rapid or slow onset; whether the displacement is internal or trans-border; whether displacement is temporary or permanent; and the capacity of individual states to be able and/or willing to provide protective mechanisms to their citizens. Chapter 4 outlined various proposals put forward by climate change displacement scholars for a new convention aimed to deal with the global problem. All of the proposals identified that CCDPs do *not* fall within the definition of the Refugee Convention or the scope of the UNHCR. While opinions differed on the specifics of a new agreement, all concurred that the expansion of the existing regime was not a viable option and contended that the sheer scale of the climate change displacement problem was justification that the establishment of a new convention is crucial.

Thirdly, the overwhelming disparity regarding the cause and effects of climate change and resultant displacement discussed in chapter 3 demonstrates that recognition of CBDRs and Climate Justice should form the foundation of a CCDP convention in order for it to be effective and just. Richer, industrialised nations, whose CO<sub>2</sub> emissions have overwhelmingly contributed to climate change, must take the lead in the establishment, implementation and funding of a CCDP convention.

There are several requirements that must be incorporated for a CCDP convention to be effective. Most importantly, it is imperative that it is legally-binding and states will be held to account for non-compliance. As discussed in chapter 3, state sovereignty and national interests have proven to be a major obstacle in past attempts to mitigate climate change. Such obstacles will most likely present a major challenge to efforts to form a truly comprehensive, legally-binding CCDP convention. The CCDP convention must incorporate international, regional and national responses that are informed by a bottom-up approach that encourages the involvement and input of displaced citizens and communities, which, in turn, assists in increasing transparency and accountability. It must carefully consider the multi-causal nature and case-by-case variances regarding climate change displacement, such as those outlined by El-Hinnawi and Lonergan in chapter 2. The integration of mitigation and adaptation efforts must be implemented and carried out in unison to help reduce the severity of

climate change impacts and delay forced migration. As demonstrated in the case study on Kiribati, mitigation and adaptation efforts help to provide both a better present, and potentially a better future, for CCDPs. Pre-emptive managed migration measures will greatly assist CCDPs, particularly those threatened by slow-onset change as the Kiribati case study also illustrated. Paramount importance must be placed on enabling CCDPs to migrate with dignity and managed migration is one of the key tools that can make this possible.

Finally, due to the crucial fact that the overwhelming majority of CCDPs are likely to be internally displaced, a CCDP convention must include provision for climate change IDPs with assistance and funding provided by a Climate Change Displacement Organisation (CCDO) and Climate Change Displacement Fund respectively. As discussed in chapter 3, to encourage adherence to a new convention, NGOs and other organisations have an important role to play as watchdogs to oversee the distribution of resources by organisations such as a CCDO and to also ensure the implementation of action plans.

While the CCDP issue is complex, and one cannot claim to have every answer to a problem we are still learning about, what this dissertation makes clear is that an expansion of the existing refugee regime would potentially hinder, rather than protect, CCDPs. This dissertation contends that the factors outlined above hold the key to the successful establishment of a new convention. It is apparent that without some form of protection, the situation that CCDPs are likely to face could result in a global humanitarian catastrophe. The sooner that states can act in solidarity to fulfil their moral and, hopefully, in the future, legal obligations, the more likely it is that we can stem this “rising tide”.

## REFERENCES

Anderson Cooper 360, 'Sean Penn talks about risks for Haiti', interview with Sean Penn & Anderson Cooper, CNN, available at: <http://ac360.blogs.cnn.com/2012/08/25/sean-penn-talks-about-risk-for-haiti/> , accessed 27<sup>th</sup> August 2012.

Asia Pacific Centre for the Responsibility to Protect, 2008, 'Cyclone Nargis and the Responsibility to Protect', Myanmar/Burma Briefing No. 2, 16<sup>th</sup> May, 2008, available at: [http://www.r2pasiapacific.org/documents/Burma\\_Brief2.pdf](http://www.r2pasiapacific.org/documents/Burma_Brief2.pdf) , accessed 21<sup>st</sup> August 2012.

Banham, C, 2006, 'Ministers Remain Unmoved by Threat of Rising Sea Levels' *Sydney Morning Herald*, 6<sup>th</sup> January, available at <http://www.smh.com.au/news/national/ministersremain-unmoved-by-threat-of-rising-sea-levels/2006/01/05/113687573236.html#>, accessed 26<sup>th</sup> May 2012.

Barnett, J & Adger, N, 2007, 'Climate change, human security and violent conflict', *Political Geography* 26 (2007) 639-655.

Betts, A, 2009, *Protection by Persuasion: International Cooperation in the Refugee Regime*, Cornell University Press, New York.

Betsill, M & Corell, E, (eds) 2008, *NGO Diplomacy: The Influence of Nongovernmental Organizations in International Environmental Negotiations*, The MIT Press, Cambridge.

Biermann, F & Boas I, 'Global Adaption Governance: The Case of Protecting Climate Refugees' in Biermann, F, Pattberg P & Fariborz Z (Eds.) 2010, *Global Climate Governance Beyond 2012*, Cambridge University Press, Cambridge, pp. 255-269.

Bradley M & McAdam, J, 2012, 'Rethinking Durable Solutions to Displacement in the Context of Climate Change', Brookings–LSE Project on Internal Displacement, May 2012, available at: <http://www.brookings.edu/~media/research/files/papers/2012/5/14%20displacement%20bradley%20mcadam/05%20displacement%20bradley%20mcadam.pdf>, accessed 10<sup>th</sup> August 2012.

Burleson, E, 2010, 'Climate Change Displacement to Refugee' *Journal Of Environmental Law And Litigation*, 25.19. 2010, available at: [http://works.bepress.com/elizabeth\\_burleson/18](http://works.bepress.com/elizabeth_burleson/18), accessed 15<sup>th</sup> March 2012.

Burson, B, 2010, 'Securing Meaningful International Agreement on Climate Change Related Displacement and Migration: The Refugee Convention as a Window on International Burden (Responsibility) – Sharing in an Involuntary Movement Context', pp.159-173, in Leckie, S, Simperingham, E, & Bakker, J (eds), 2012, *Climate Change and Displacement Reader*, Earthscan, New York.

Chhabara, R, 2008, 'Policy: Climate Change Refugees Seek a New International Deal,' Climate Change Corp, ClimateChangeCorp-Climate News for Business, available at: <http://www.climatechangecorp.com/content.asp?ContentID=5871> , accessed 22<sup>nd</sup> February 2012.

The Climate Change Portal of the Office of the President of Kiribati, 2012, *Climate Change in Kiribati, Strategies, Adapting to Climate Change*, available at:

[http://climate.gov.ki/Kiribati\\_climate\\_change\\_strategies.html#apm1\\_2](http://climate.gov.ki/Kiribati_climate_change_strategies.html#apm1_2) , accessed 4<sup>th</sup> October 2012.

Cooper, J, 2005, *The Rights of Refugees under International Law*, Cambridge University Press, Cambridge, p.182, cited in Lopez, A, 2007, 'Protection of Environmentally Displaced Persons in International Law', *Environmental Law Review*, Volume 37, Issue 2, 2007, pp.365-409 in Leckie, S, Simperingham, E, & Bakker, J (eds.), 2012, *Climate Change and Displacement Reader*, Earthscan, New York.

Coulter, C, 2012, 'Law vital to climate justice, forum told', *IrishTimes.com*, Thursday, October 11, 2012, available at:

<http://www.irishtimes.com/newspaper/ireland/2012/1006/1224324957044.html>, accessed 11<sup>th</sup> October 2012.

Department of Foreign Affairs and Trade (DFAT), 2012, *Kiribati Country Brief*, available at:

[https://www.dfat.gov.au/geo/kiribati/kiribati\\_brief.html](https://www.dfat.gov.au/geo/kiribati/kiribati_brief.html) , accessed 28<sup>th</sup> September 2012.

Docherty B & Giannini T, 2009, 'Confronting A Rising Tide: A Proposal For A Convention On Climate Change Refugees,' *Harvard International Law Review*, (33 Harv. Envtl. L. Rev. 349) accessed 11<sup>th</sup> April 2012.

Eckersley R, 2004, *The Green State: Rethinking Democracy and Sovereignty*, The MIT Press, Cambridge and London.

Environmental Justice Foundation, 2009, *No Place Like Home: Where Next for Climate Refugees?*, EJF, London.

Emergency Events Database, *WHO Collaborating Centre for Research on the Epidemiology of Disasters (CRED)*, available at: <http://www.emdat.be/disaster-trends>, accessed 5<sup>th</sup> September 2012.

Fabra, A, 2002, 'The Intersection of Human Rights and Environmental Issues: A Review of Institutional Developments at the International Level', Joint UNEP-OHCHR Expert Seminar on Human Rights and the Environment 14-16 January 2002, Geneva: Background Paper No. 3, available at: <http://www2.ohchr.org/english/issues/environment/environ/bp3.htm>, accessed 24<sup>th</sup> March 2012.

Flannery, W, 2012, 'We Can't Walk on Water: Small Island Communities, Climate Change and Human Rights', *Right Now: Human Rights in Australia*, August 27<sup>th</sup>, available at:

<http://rightnow.org.au/topics/%E2%80%9Cwe-can%E2%80%99t-walk-on-water%E2%80%9D-%E2%80%93-small-island-communities-climate-change-and-human-rights/>, accessed 1<sup>st</sup> September 2012.

Friends of the Earth Australia (FoEA) 2012, *Climate Justice: Our climate campaign in 2012, 'Forced Climate Migrants'*, available at: <http://foe.org.au/forced-climate-migrants> , accessed 18<sup>th</sup> September 2012.

Garnaut, R, 2008, *The Garnaut Climate Change Review*, Cambridge University Press, Melbourne.

Global Environmental Facility, 2012, 'Technology Transfer for Climate Change', Areas of Work, GEF, available at: [http://www.thegef.org/gef/Technology\\_Transfer](http://www.thegef.org/gef/Technology_Transfer) , accessed 11<sup>th</sup> October 2012.

Hamilton, C, 2007, *Scorcher: The Dirty Politics of Climate Change*, Black Inc. Agenda, Melbourne.

Hodgkinson D, Burton T, Anderson, H, & Young L, 2009, 'Copenhagen, Climate Change 'Refugees' and the Need for a Global Agreement', *Public Policy*, available at: [www.ccdpconvention.com/documents/Copenhagen\\_And\\_CCDPs.pdf](http://www.ccdpconvention.com/documents/Copenhagen_And_CCDPs.pdf) , accessed 18<sup>th</sup> April 2012.

Hodgkinson D, Burton T, Young L, Anderson H & L Young, 2010, "'The Hour When The Ship Comes In": A Convention for Persons Displaced by Climate Change', *Monash University Law Review*, Volume 36, Issue 1, 2010, pp. 69-120, in Leckie, S, Simperingham, E, & Bakker, J (eds.), 2012, *Climate Change and Displacement Reader*, Earthscan, New York.

International Rivers Organisation, 2012, 'Three Gorges Dam', available at: <http://www.internationalrivers.org/campaigns/three-gorges-dam>, accessed 19<sup>th</sup> July 2012.

International Organisation for Migration, 2009, Compendium of IOM's Activities in Migration, Climate Change and the Environment, IOM, April 2010.

International Organisation for Migration, 2012, 'Climate Change, Environmental Degradation and Migration', International Dialogue on Migration, No. 18, IOM, available at: [http://publications.iom.int/bookstore/free/RB18\\_ENG\\_web.pdf](http://publications.iom.int/bookstore/free/RB18_ENG_web.pdf) , accessed 8<sup>th</sup> May, 2012.

Intergovernmental Panel on Climate Change, 1990, *First Assessment Report*, IPCC available at: [http://www.ipcc.ch/publications\\_and\\_data/publications\\_ipcc\\_first\\_assessment\\_1990\\_wg1.shtml](http://www.ipcc.ch/publications_and_data/publications_ipcc_first_assessment_1990_wg1.shtml) , accessed 12<sup>th</sup> April 2012.

Intergovernmental Panel on Climate Change, 2007a, *Fourth Assessment Report*, IPCC, [http://www.ipcc.ch/publications\\_and\\_data/ar4/wg2/en/ch8s8-4-2.html](http://www.ipcc.ch/publications_and_data/ar4/wg2/en/ch8s8-4-2.html) , accessed 14<sup>th</sup> May 2012.

Intergovernmental Panel on Climate Change, 2007b, *Climate Change 2007 - The Physical Science Basis*, Contribution of Working Group I to the fourth assessment Report of the IPCC, Cambridge University Press, Cambridge.

Intergovernmental Panel on Climate Change 2007c, *Climate Change 2007: Synthesis Report*, An Assessment of the Intergovernmental Panel on Climate Change, IPCC, available at: [http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4\\_syr.pdf](http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr.pdf) , accessed 11<sup>th</sup> September 2012.

Intergovernmental Panel on Climate Change, 1997, 'Special Report: The Regional Impacts of Climate Change: An Assessment of Vulnerability', Summary for Policy Makers, IPCC, available at: <http://www.ipcc.ch/pdf/special-reports/spm/region-en.pdf> , accessed 13<sup>th</sup> July 2012.

International Committee of the Red Cross, 2012, *War & Law*, available at: <http://www.icrc.org/eng/war-and-law/protected-persons/refugees-displaced-persons/overview-displaced-protected.htm>, accessed 27<sup>th</sup> August 2012.



Jones, B, 2011, 'What has caused the East Africa crisis?', *CNN*, 20<sup>th</sup> July, 2011, available at: [http://articles.cnn.com/2011-07-20/world/somalia.famine.explainer\\_1\\_somalia-foreign-aid-workers-bakool?\\_s=PM:WORLD](http://articles.cnn.com/2011-07-20/world/somalia.famine.explainer_1_somalia-foreign-aid-workers-bakool?_s=PM:WORLD) , accessed 4<sup>th</sup> September 2012.

Karns, M & Mingst, K 2009, *International organizations: the politics and processes of global governance*, Lynne Rienner Publishers, Boulder.

Keane, D, 2004, 'The Environmental Causes of and Consequences of Mitigation: A Search for the Meaning of 'Environmental Refugees','' *Georgetown International Law Review* 16:209-223.

Kolmannskog, V, 2009, *Climate Changed: People Displaced*, Norwegian Refugee Council pp.36-54, in Leckie, S, Simperingham, E, & Bakker, J (eds.), 2012, *Climate Change and Displacement Reader*, Earthscan, New York.

Leckie, S, Simperingham, E, & Bakker, J (eds.), 2012, *Climate Change and Displacement Reader*, Earthscan, New York.

Leighton, M, 2010, 'Climate Change and Migration: Key Issues for Legal Protection of Migrants and Displaced Persons', The German Marshall Fund of the United States, June 2010.

Loneragan, S, 1998, 'The Role of Environmental Degradation in Population Displacement', *Environmental Change and Security Project Report*, Issue 4, Spring, 1998, pp. 5-15.

Lopez, A, 2007, 'Protection of Environmentally Displaced Persons in International Law', *Environmental Law Review*, Volume 37, Issue 2, 2007, pp.365-409 in Leckie, S, Simperingham, E, & Bakker, J (eds.), 2012, *Climate Change and Displacement Reader*, Earthscan, New York.

Lowe, I, 2005, *Living in the Hothouse: How Global Warming Affects Australia*, Scribe Publications Pty Ltd, Melbourne.

McAdam, J, 2011a, 'Do Climate Change 'Refugees' Exist?' UNSW Law Professorial Lecture, 29<sup>th</sup> July, 2011, Sydney, Australia, available at: [http://wn.com/Do\\_Climate\\_Change\\_'Refugees'\\_Exist?\\_Prof\\_Jane\\_McAdam](http://wn.com/Do_Climate_Change_'Refugees'_Exist?_Prof_Jane_McAdam), accessed 14<sup>th</sup> April 2012.

McAdam, 2011b, 'Climate Change Displacement and International Law: Complementary Protection Standards', UNHCR Legal and Protection Policy Research Series 2011, available at: <http://www.unhcr.org/refworld/pdfid/4e09a3492.pdf> , accessed 24<sup>th</sup> September 2012.

McAdam, J & Saul B, 2010, 'Displacement with Dignity: International Law and Policy Responses to Climate Change Migration and Security in Bangladesh', University of New South Wales Faculty of Law Research Series, no. 63.

McManus, K, 2009, 'The principle of "common but differentiated responsibility" and the UNFCCC', *Climatico Special Features*, November 2009, available at: [http://www.climaticoanalysis.org/wp-content/uploads/2009/12/kmcm anus\\_common-responsibilities.pdf](http://www.climaticoanalysis.org/wp-content/uploads/2009/12/kmcm anus_common-responsibilities.pdf) , accessed 29<sup>th</sup> September 2012.

Miranda, M.L, Hastings, D.A, Aldy, J.E &, Schlesinger, W.H, 2011, 'The Environmental Justice Dimensions of Climate Change', *Environmental Justice*, Volume 4, Number 1, 2011.

O'Brien, K, Sygna L, Leichenko, R, Adger, W.N, Barnett, J, Mitchell, T, Schipper, L, Tanner, T, Vogel, C & Mortreux, C, 2008, 'Disaster Risk Reduction, Climate Change Adaptation and Human Security: A Commissioned Report for the Norwegian Ministry of Foreign Affairs', GECHS Report 2008:3, University of Oslo, pp. 15-35, in Leckie, S, Simperingham, E, & Bakker, J (eds.), 2012, *Climate Change and Displacement Reader*, Earthscan, New York.

Roy, D. C, 2010, 'Vulnerability and Population Displacements Due to Climate-Induced Disasters in Coastal Bangladesh', Centre for Geoinformatics (Z\_GIS), University of Salzburg, Hellbrunnerstrasse 34, A-5020 Salzburg, Austria.

Piquet, E, 2008, 'Climate Change and Forced Migration', Research Paper No. 153. Evaluation and Policy Analysis Unit, UNHCR, cited in Leckie, S, Simperingham, E, & Bakker, J (eds.), 2012, *Climate Change and Displacement Reader*, Earthscan, New York.

President Anote Tong, in Wilson, D, 2007, 'Climate Change...Nobody Is Immune', *Islands Business*, available at:

[http://www.islandsbusiness.com/islands\\_business/index\\_dynamic/containerNameToReplace=MiddleMiddle/focusModuleID=18087/overrideSkinName=issueArticle-full.tpl](http://www.islandsbusiness.com/islands_business/index_dynamic/containerNameToReplace=MiddleMiddle/focusModuleID=18087/overrideSkinName=issueArticle-full.tpl) , accessed 28<sup>th</sup> September 2012.

Rouke, A, 2012, 'Australian refugee plan criticised by human rights groups', *The Guardian*, Monday 13<sup>th</sup> August 2012, available at: <http://www.guardian.co.uk/world/2012/aug/13/australian-refugee-plan-criticised> , accessed 25<sup>th</sup> September 2012.

Simon, M, Miller B & Morris, S, 2012, 'Isaac threatens to bring more destruction, cholera to Haiti', CNN, August 3<sup>rd</sup> 2012, available at: <http://news.blogs.cnn.com/2012/08/23/isaac-threatens-to-bring-more-destruction-illness-to-haiti/>, accessed 25<sup>th</sup> August 2012.

Smith, R.K.M, 2010, *Textbook on International Human Rights*, Fourth Edition, Oxford University Press, Oxford.

Soderbergh, C, 2011, 'Human Rights in a Warmer World: The Case of Climate Change Displacement', Working Paper, Lund University Publications, available at: <http://lup.lub.lu.se/record/1774900> , accessed 17<sup>th</sup> July 2012.

Stern, N (ed.), 2006, *The Economics of Climate Change: The Stern Review*, Cambridge University Press, Cambridge, p. 442.

UNHCR, 2004, *The Guiding Principles of Internal Displacement*, available at:

<http://www.unhcr.org/43ce1cff2.html> , accessed August 4<sup>th</sup> 2012.

UNHCR, 2009, 'Climate Change, Natural Disasters and Human Displacement: A UNHCR Perspective', 14<sup>th</sup> August 2009, pp.144-154, in Leckie, S, Simperingham, E, & Bakker, J, (eds.), 2012, *Climate Change and Displacement Reader*, Earthscan, New York.

UNHCR, 2012a, *About Us*, UNHCR website, available at:

<http://www.unhcr.org/pages/49c3646cbc.html> , accessed 26<sup>th</sup> July 2012.

UNHCR, 2012b, 'The State of the World's Refugees: In Search of Solidarity', available at: <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=4fc5ceca9>, accessed 12<sup>th</sup> April 2012.

Union of Concerned Scientists: Citizens and Scientists for Environmental Solutions, 2012, *Global Warming Science and Impacts: Each Country's Share of CO<sub>2</sub> Emissions*, available at: [http://www.ucsusa.org/global\\_warming/science\\_and\\_impacts/science/each-countrys-share-of-co2.html](http://www.ucsusa.org/global_warming/science_and_impacts/science/each-countrys-share-of-co2.html), accessed 18<sup>th</sup> September 2012.

UN Human Rights, 2009, Office of the High Commissioner for Human Rights, 'Human rights and climate change Overview', available at: <http://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRClimateChangeIndex.aspx>, accessed 12<sup>th</sup> October 2012.

UN Human Rights, 2011, Office of the High Commissioner for Human Rights, 'Who bears the brunt of climate change? The poor, as usual', UN experts on housing and internal displacement, available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11453&LangID=E>, accessed 9<sup>th</sup> July 2012.

United Nations Department of Economic and Social Affairs Division for Sustainable Development, 2012, 'Sustainable Development in the 21st century (SD21)', Review of implementation of Agenda 21 and the Rio Principles Synthesis January 2012, UN DESA DSD, p.37, available at: <http://www.uncsd2012.org/content/documents/194Synthesis%20Agenda%2021%20and%20Rio%20principles.pdf>, accessed 12<sup>th</sup> October 2012.

United Nations Non-Governmental Liaison Service (NGLS), 2012, 'UNHCR's 2012 Annual Consultations with NGOs: Strategic cooperation to better protect refugees' available at: [http://www.un-ngls.org/spip.php?page=article\\_s&id\\_article=3997](http://www.un-ngls.org/spip.php?page=article_s&id_article=3997), accessed 18<sup>th</sup> September 2012.

United Nations, 2007, Press Release POP/952, Department of Public Information, News and Media Division, New York, available at: <http://www.un.org/News/Press/docs/2007/pop952.doc.htm>, accessed 5<sup>th</sup> July 2012.

The United Nations Office for the Coordination of Humanitarian Affairs and the Internal Displacement Monitoring Centre (OCHA), 2009, *Monitoring disaster displacement in the context of climate change: Findings of a study by the United Nations Office for the Coordination of Humanitarian Affairs and the Internal Displacement Monitoring Centre*, Norwegian Refugee Council, available at: [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/12E8C7224C2A6A9EC125763900315AD4/\\$file/monitoring-disaster-displacement.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/12E8C7224C2A6A9EC125763900315AD4/$file/monitoring-disaster-displacement.pdf), accessed 27<sup>th</sup> March 2012.

United Nations Framework Convention on Climate Change, 2012, *National Adaptation Programmes of Action (NAPAs)*, UNFCCC, available at: [http://unfccc.int/national\\_reports/napa/items/2719.php](http://unfccc.int/national_reports/napa/items/2719.php), accessed 1st October 2012.

UN Data, 2012, *Country Profile: Kiribati*, World Statistics Pocketbook/United Nations Statistics Division, available at: <http://data.un.org/CountryProfile.aspx?crName=Kiribati>, accessed 29<sup>th</sup> September 2012.

Vidal, J & Adam, D, 2007, 'China overtakes US as world's biggest CO<sub>2</sub> emitter', *The Guardian*, Tuesday 19<sup>th</sup> June 2007, available at: <http://www.guardian.co.uk/environment/2007/jun/19/china.usnews>, accessed 12<sup>th</sup> September 2012.

Welzer, H, 2012, *Climate Wars: Why people will be killed in the 21<sup>st</sup> century*, Polity Press, Cambridge.

Willett, K.M, Dolman, A. J, Hall, B. D. & Thorne P.W, Eds., 2012: [State of the Climate in 2011], Bull. Amer. Meteor. Soc., 93 (7), S1–S264, available at: <http://www1.ncdc.noaa.gov/pub/data/cmb/bams-sotc/climate-assessment-2011-lo-rez.pdf>, accessed 12<sup>th</sup> July 2012.

Williams, A, 2008 'Turning the Tide: Recognising Climate Change Refugees in International Law', *Law and Policy*, Vol. 30, No. 4, October 2008, pp.502-529.

The World Bank, 2010, *Boom, Bust and Up Again? Evolution, Drivers and Impact of Commodity Prices: Implications for Indonesia*, Trade Development Report, Jakarta, available at: [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/01/07/000333037\\_20110107015936/Rendered/PDF/588310v1010WP01sum1english112302010.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/01/07/000333037_20110107015936/Rendered/PDF/588310v1010WP01sum1english112302010.pdf), accessed 25<sup>th</sup> July 2012.