

‘THE HOUR WHEN THE SHIP COMES IN’: A CONVENTION FOR PERSONS DISPLACED BY CLIMATE CHANGE

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SUMMARY OF PAPER

Climate change displacement presents an urgent problem for the international community. The Intergovernmental Panel on Climate Change and the Stern Review, among many other studies, warn that the effects of climate change will cause unprecedented levels of human migration.

The most cited estimate of likely climate change displacement is 200 million climate change migrants by 2050, or one person in every forty-five displaced. While nobody knows with certainty what climate change will mean for migration patterns, there is a growing consensus that climate change will lead to major population movements over time.

Sea level rise, increasingly frequent severe weather events, and drought brought on by climate change will make many people’s homes uninhabitable. Predictions of sea level rise provide a useful case-study of the potential impacts of climate change on human settlements. It is likely that sea levels will rise by one metre over the century if greenhouse gas emissions are not mitigated. A study conducted as part of the Stern Review estimated that 146 million people live at an altitude of less than 1 metre. According to the IPCC a sea level rise of 45 centimetres would submerge over 10 per cent of Bangladesh, displacing 5.5 million people. Due to their elevation only centimetres about sea level, Pacific states such as Tuvalu and Kiribati face the prospect of complete submersion in the near future. It is a real prospect that entire nations will disappear as a consequence of climate change.

International law does not currently provide a coherent regime of protection for people who will be displaced by climate change. The United Nations Framework Convention on Climate Change and its Kyoto Protocol, as well as the non-binding 2009 Copenhagen Accord, address adaptation, but they do not contemplate the issue of displacement. Climate change law was not designed for, and to date has not adequately dealt with the issue of climate change migration. Nor would persons displaced by climate change receive protection under the centrepiece of refugee law, the 1951 Convention Relating to the Status of Refugees.

There is at present no coherent multilateral governance framework that adequately protects climate change displaced people (CCDPs). There has been no coordinated response by governments to address human displacement due to climate change. Given the nature and

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magnitude of the problem, ad hoc measures based on existing domestic regimes are likely to lead to inconsistency, confusion and conflict.

We propose a multilateral, stand alone Convention that would address the unprecedented issue of climate change displacement which is global in its causes, scope and consequences. Our proposal is based on the following principles and deals with the following matters:

- The Convention would provide a general framework for assistance to CCDPs, as well as addressing gaps in current human rights, refugee and humanitarian law protections for CCDPs.
- Most people made homeless by climate change are expected to stay within their home countries. The Convention would encompass both those displaced within States and those who cross international borders.
- Persons displaced within state borders would be subject to a framework of protection and assistance in which obligations would be shared between the home State and the international community. In the case of CCDPs who have migrated across State borders, the Convention would outline the rights and obligations of the CCDP and host State.
- The poorest countries in the world are likely to experience the most severe impacts of global warming. The Convention would provide for contributions to a fund for climate change displacement by developed State parties based upon the principle of ‘common but differentiated responsibilities’.
- We recognise that current levels of scientific knowledge create causality issues regarding the extent to which climate change contributes to a particular weather event or population movement. The Convention would adopt a ‘very likely’ standard (greater than 90% probability) to identify certain phenomena and trends as consistent with climate change, and human contribution. In addition, the Convention would address the causality issues associated with the multi-factorial nature of population movements by adopting an objective rather than a subjective approach to determining the influence of climate change on relocation patterns.
- Instead of assigning rights and protections on the basis of the individual satisfaction of definitional criteria, as in the 1951 Refugee Convention, we believe that an *en masse* designation of CCDP status is more appropriate to the characteristics of climate change migration.
- Because of the necessity of integrating complex issues of causality and evolving science into decision-making in respect of climate change migration, our proposal involves the creation of a sophisticated institutional architecture for designating a particular population as CCDPs.
- The very real prospect of entire nations disappearing differentiates the plight of small island states from other regions in which there is likely to be large-scale displacement, and requires specific consideration. We propose that the principles of proximity, self-

determination and the safe-guarding of intangible culture should be applicable to bilateral displacement agreements between small island states and host states, such agreements to be negotiated under through the Convention's organization.

Detailed articles and further information about our proposal can be found on our website:
<http://www.ccdpconvention.com>.

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