

Good fences don't make good neighbours

*Outlining the complexities of protecting climate displacees,
with special reference to India and Bangladesh*



<http://www.inhabitat.com/wp-content/uploads/prixpictet4.jpg>

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List of abbreviations

AIC	Asian Information Commission
BSF	Border Security Force (India)
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
EJF	Environmental Justice Foundation
GECHS	Global Environmental Change and Human Security
GHF	Global Humanitarian Fund
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICHRP	International Council on Human Rights Policy
ICRP	International Coalition for the Responsibility to Protect
IDP	Internally Displaced Person
IMF	International Monetary Fund
INGO	International Nongovernmental Organization
IOM	International Organization for Migration
IPCC	Intergovernmental Panel on Climate Change
MSF	Medecins Sans Frontiers
NGO	Nongovernmental organizations
ODA	Official Development Assistance
OECD	Organization for Economic Cooperation and Development
R2P	The Responsibility to Protect
SAFCEI	South African Faith Communities Environment Institute
SAHRDC	South Asia Human Rights Documentation Center
UDHR	Universal Declaration of Human Rights
UNCHR	United Nations Commission on Human Rights
UNEP	United Nations Environmental Program
UNFCC	United Nations Framework on Climate Change
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNSC	United Nations Security Council
UPR	Universal Periodic Review
WHO	World Health Organization

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1 Introduction

Every year climate change causes the death of over 300,000 people, seriously affects 325 million people and causes economic losses of \$125 billion (GHF 2009, p. 1). However, the most severe effects of climate change will be those on mass migration. Environmental changes such as sea level rise, desertification and an increase in tropical cyclones, just to name a few, are already pressuring communities around the globe to relocate within and across international borders. According to Norman Myers, by 2050, climate change will have produced over 200 million climate displacees (1997, p. 175). This would mean that ‘one in every 45 people in the world will have been displaced by climate change’(IOM 2008, p. 12).

1.1 Recognition of climate displacees

Bangladesh is one of many developing countries that are already suffering the consequences of climate change. Severe flooding, primarily due to rising sea levels and soil erosion are threatening the livelihoods and basic human rights of marginalized communities. In 1995, ‘half of Bhola Island, Bangladesh’s biggest island, was swallowed by rising sea levels, leaving 500,000 people homeless’ (Washington Post 2010, p. 1). Such circumstances are changing Bangladesh’s socioeconomic landscape rapidly.

In order to sustain their livelihoods, an unknown number of Bangladeshis have relocated to India, where millions of (i)llegal Bangladeshis are already residing. Over the past forty years, ‘Bangladeshi migrants have expanded the population of neighboring India by 12 to 17 million people’ due to a combination of population growth and environmental scarcity (Homer-Dixon 1994, p. 22). As of May 2010, ‘the total number of climate [displacees] in Bangladesh [stood] at 6 million out of which at least 1 million are living in Dhaka Mega City. The total number of climate [displacees] in Bangladesh is expected to be raised to 7.5 million by the end of 2010’ (Musa 2010, p. 1), and over 26 million by 2050 (Myers 1997 p. 175). These developments convey that migration into India is expected to continue at a fast rate.

As a response to these developments and ongoing political turmoil in Bangladesh, in March 2010 India hopes to have completed a 2,100 mile fence along the Indian-Bangladeshi border, restricting movement between both countries (Hussein 2009, p. 1). India argues that it barely has enough resources to provide for its own citizens let alone climate displacees and that it shouldn’t have to deal with burdens primarily caused by the developed world. Currently, 200 local and international NGOs in Bangladesh are working towards the resettlement of thousands of Bangladeshi’s but this isn’t sufficient (Musa 2010, p. 2). No international legislation exists that specifically protects the rights of climate displacees and so far, the issue has only been mildly addressed by the United Nations and larger international NGOs. ‘Neither the UN Framework Convention on Climate Change, nor its Kyoto Protocol includes any provisions concerning specific assistance or protection for those who will be directly affected by the effects of climate change’ (UNFCCC 2008, p. 1).

The United Nations High Commissioner for Refugees argues that the protection of climate displacees who have been displaced *internally* is primarily the responsibility of the state according to the Guiding Principles on Internal Displacement, and that those who have been displaced across an international border may qualify under the 1951 Refugee Convention (UNHCR 2009, p. 2). However the Guiding Principles on Internal Displacement are not legally binding and are thus *rarely* enforced and it is unlikely that those displaced across international borders will be eligible to receive protection under 1951 Refugee Convention. This is because the definition of a ‘refugee’ is extremely concise and doesn’t remotely suggest that environmental change is a valid claim to receive refugee status. Furthermore, the systematic abuse of asylum procedures and the reluctance of states to offer refugee status to ‘regular refugees’, has contributed to the crippling and delegitimization of the Convention all together. This is especially the case in South East Asia, where no countries have ratified any international refugee instruments or have enforced the Guiding Principles on International Displacement. They primarily believe the former to be Euro-centric and do not have the capacity nor resources to provide protection for their own citizens, regular refugees and IDPs¹, let alone climate displacees².

Legislation that demands the protection of millions of victims requires accountability and the provision of resources which is a path that many nation-states are unwilling to travel. What also remains difficult is that the problems that will come forth out of climate change are extremely complex, and undoubtedly remains uncharted territory for the international community. New dilemmas require new and improved remedies and the international community has yet to find an effective platform that can address these issues. As a result of international inaction and these dilemmas, the United Nations Security Council decided to take necessary measures and held their first ever debate to discuss the possible consequences of climate change, which has given grounds to look further beyond the confined notion of conventional security.

1.2 *Climate change as a nonconventional security challenge*

On April 17th, 2007 the United Nations Security Council held their very first debate on the consequences of climate change and the impact it could have on global peace and security. This unique debate provided a platform for all U.N members to express their fears and concerns regarding the effects of climate change and how the international community should proceed to tackle the issues at hand. What was significant about this meeting was that many nation representatives were divided on the question of whether the Security Council was the proper forum to address the consequences of climate change. For example, China and Pakistan argued that the Security Council had neither the

1 IDP (Internally Displaced Person).

2 In 1999, ‘India hosted more than 2,92,000 refugees; which includes more than 16,000 persons from Afghanistan, 65,000 Chakmas from Bangladesh, 30,000 Bhutanese of Nepali origin, 50,000 Chin indigenous from Myanmar and about 39,000 pro-democracy student activists from Rangoon and the Mandalay region, 1,10,000 Sri Lankan Tamils of whom 70,000 are in camps and 40,000 are outside, 1,10,000 Tibetans and around 7000 persons from other countries’ (Ramanathan 2007, p. 6). Another sources estimates that there are between 507,000 and 21.3 million IDP’s in India (Lama 2008, p.24).

professional competence nor was it the right decision making place, because climate change was primarily an issue of social and economic development and not security. However, other participants did not share this view (UNSC 2007, p. 2). The representative of Papua New Guinea argued that:

'The impact of climate change on small islands was no less threatening than the dangers guns and bombs posed to large nations. Pacific island countries were likely to face massive dislocations of people, similar to population flows sparked by conflict. The impact on identity and social cohesion were likely to cause as much resentment, hatred and alienation as any refugee crisis.'

- Robert G. Aisi, representative Papua New Guinea

According to this account it is evident that climate change and its consequences are not only social and economic in nature. Rather climate change incorporates an array of dimensions and can be classified as a *nonconventional security* challenge; a *'problem without a passport... which cannot be resolved by raising military expenditures or dispatching troops. Nor can [it] be contained by sealing borders or maintaining the status quo... (Renner 2005, p. 3 emphasis added)*. Harm is not inflicted in the traditional sense- with the use of direct violence. Instead, harm from this perspective can be identified through a steady increase in human vulnerability to external influences, - creating conditions that threaten livelihood predictability and stability- which contributes to a decrease in the quality of life and jeopardizes human security. Thus human security as a significant component of a nonconventional security challenge can be defined as:

'The condition when individuals and communities have the options necessary to avoid or adapt to risks to their basic needs and rights; have the capacity and freedom to exercise these options; and can actively participate in attaining these options' (GECHS 1999 in Barnett & Adger 2006, p. 1).

Respecting human rights is at the core of human security and they are mutually reinforcing. When human security is threatened, so are human rights and vice versa.

1.3 Climate displacement and human rights

As opposed to conventional security challenges, *nonconventional* security challenges, such as climate change and climate displacement can predominantly be identified by the threats that they pose to human rights and human security. Yet the relationship between climate change and human rights isn't direct nor one dimensional, rather it consists of two causal coexistent relationships; a cause and an effect, where the nonrealization of human rights can act as both. As a cause, the nonrealization of human rights decreases community capacity to adapt and mitigate to climate change increasing the likelihood of displacement, and as an effect, climate change and its consequences can threaten human rights progress when climate change evolves into an emergency situation. The causative factor is most significant because it suggests that human rights could play an important role in climate displacement prevention and protection strategies.

The nonrealization of human rights as a causative factor in climate change is often overlooked in mainstream literature. Climate change is commonly approached from an economic perspective, albeit there is substantial evidence to suggest that the nonrealization of human rights plays a significant underlying role in climate displacement.

According to the Stern review- an influential groundbreaking report regarding the economics of climate change- argues that the degree to which societies are at risk of climate change are dependent on three conditions; 'exposure (geographic), sensitivity and adaptive capacity' (Stern 2007, p. 94). However, underneath these economic notions, it is clear that a negation of all three conditions, particularly the latter two, are directly related to the nonrealization of human rights.

Whilst the first condition is predominantly a matter of coincidence rather than choice, community sensitivity, which is the 'degree to which a system is affected by or responsive to climate stimuli' (Stern 2007, p. 95) is a matter of human rights. The report argues that communities which are solely dependent on agriculture, vulnerable ecosystems and natural resources are more sensitive to climate change (Stern 2007, p. 96). Stern offers no further explanation for this, but it is clear that this is because there are less alternative sources of income which indicates a gap in human rights realization. In order to prosper from alternative employment, individuals require access to rights and resources, such as a loans and education. If these needs were met, climate sensitivity would lower. The report also argues that climate sensitivity is determined by food insecurity, malnutrition and health problems which have all been declared as a basic human rights. Thus better provisions to access rights to employment, education, food and health would imply lower levels of climate sensitivity.

Communities that have little access to human rights, are not only more sensitive to climate change and but will also have less adaptive capacities, which is the third condition. According to Stern, adaptive capacity refers to the 'ability to prepare for, respond to and tackle the effects of climate change' (2007, p. 95) which is by definition precarious when human rights have not been realized sufficiently. 'People will adapt to changes in the climate as far as their resources and knowledge allow' (Stern 2007, p. 97). Adverse human rights environments cripple resource and knowledge pools that are vital when it comes to adaptation. Human rights realization would reduce climate vulnerability and allow communities to adapt to climate change more successfully, reducing the likelihood of displacement.

Countless reports, such as the Stern review often overlook the importance of human rights in climate change and climate displacement scenarios. However it is questionable whether the human rights regime will be able to provide sufficient protection for climate displacees. As a *nonconventional* security challenge, climate displacement implies *nonconventional* methods of action. Whilst traditional security situations require the assistance of the Security Council and the military, climate displacement will require a much broader and unique approach that also addresses the problems within the human rights regime.

1.4 *Object of study and methodology*

This study attempts to discover new and improved pathways through which climate displacees could receive protection. Human rights language remains strong in regards to climate displacement, however considering the current context, it is questionable whether human rights instruments will be able to provide sufficient protection. This thesis will examine and evaluate these shortcomings and offers new solutions through which protection can be found.

In sum, the issues relevant to this research are:

1. Using human rights language to overcome the semantic and legal debate in regards to defining a climate displacee. Agreeing on a internationally and legally acknowledged definition is the primary step to ensuring their protection.
2. Analyzing the legal and political hurdles within the international community, including nation states which impedes protection for climate displacees. This will portrayed by the case of India and Bangladesh, with special reference to the 1951 Refugee Convention.
3. Examine whether the human rights system could be used to offer protection for climate displacees and if not, determine what other solutions are available in regards to handling this crisis.

In other words, this thesis will:

Explore the conceptual, legal and political obstacles which impede legal acknowledgement and protection of climate displacees and examine whether the human rights system may serve to overcome these, with special reference to Bangladeshi climate displacees in India.

Methodology

This empirical study is based on extensive literature research and a three month internship at the Environmental Justice Foundation where detailed research on the relationship between climate change, climate migration and conflict was conducted. Although this thesis does not focus on the third element, it made the issues at hand more crucial than ever. During the internship, I conducted many in-depth analyses of various cases that portrayed the relationship between, climate change, migration and conflict. One of these cases focused on Bangladeshi migrants in India- where environmental scarcities (now induced by climate change), caused Bangladeshis to migrate to India which lead to conflict with Indian communities. The case is significant because the links between climate change, migration and conflict are often disputed within the academic world and it relates to the current debate on climate displacement which is often viewed from a national security perspective. This extensive background research, contributed to a just assessment of the current situation. As the case study portrays, violence between Indians and Bangladeshi migrants have been persistent since the 1960's and this was crucial in terms of understanding the dynamics between the Indian and Bangladeshi states.

Although firstly not intended, the case study has become the focal point of this thesis, even though climate displacement is more common and at times more severe in other places around the world—such as the islands in the South Pacific, which inspired me to research this topic in the first place. The case of India and Bangladesh is crucial to this thesis for two reasons. Firstly, there are currently 200 NGOs active in Bangladesh, attempting to resettle and assist climate displacees, and are having serious difficulties in the process. This reveals how extensive and difficult it will be to handle once climate migration is thoroughly underway. This helped focus the underlying objective of the thesis. Secondly, the case confronts the human rights system with its shortcomings, which is significant because I had initially made the assumption that because climate displacement is a matter of human rights, it was best resolved with human rights instruments.

Finding information was a significant challenge and the internship experience encouraged me to be creative. At the foundation, there were limited resources to my disposal primarily because the case study wasn't that well known and other relevant information came at a price, which there was no budget for. I was able to use many academic sources from the 1970's and 1980's to establish a detailed history of conflict. Sources that were used to portray the current situation were also difficult to find. I mostly relied on limited academic articles and books, and (foreign) newspaper articles, INGO accounts and publications, and many online documentaries to get a clearer picture of the situation. References of publications and articles were often reviewed for more literature.

In order to ensure the validity of all the different sources used, I controlled and checked the information frequently against other sources. For example, foreign newspaper articles were consistently evaluated against those from the BBC. The differences in regards to the way that the information was presented was very interesting to see.

The most significant challenge in regards to analyzing the information was the novelty of the subject matter. Many sources spoke of predictions and although they were from reliable sources, some of the information could never be regarded as fact. For this reason, it was important to constantly check the information and be aware of new developments throughout the six month process.

Such uncertainties were at times difficult, but by using reliable sources and constantly reevaluating them with others, including logical thinking and looking at past crises helped overcome the majority of the unknowns.

The fact that some of the information available were based on predictions, could be regarded as one of the main weaknesses in this thesis. However, it was a risk that I couldn't help but take. It would be interesting to see how climate change and its consequences will evolve over the next few decades. During the time of this research a major controversy regarding the science of climate change also arose, which again brought into question the validity of my thesis. Although this thesis doesn't revolve around the science of climate change, but looks at the social and economic contexts- it does form the basis of many predictions.

Nevertheless, it was the novelty of climate displacement that became crucial in highlighting the shortcomings of the human rights venture. New crises present new dangers which put current systems to the test. The data on human rights primarily came from sources published by the United

Nations. Many raw, first hand documents such as charters, conventions, treaties, publications and General Assembly resolutions were used in the evaluation. These were all readily available online as well as at the human rights documentation center in Utrecht. Other academic articles and publications from well known INGOs also added substantially to the research. The most interesting source of information came from discussions with my supervisor as well as many other individuals in search for a solution that would protect victims of climate induced displacement.



http://www.oneworld.nl/uploaded_files/1klimaatverandering_in_Bangladesh.jpg

2 *Human rights and climate induced displacement*

For the last decades, climate change has been placed in a paradigm of scientific and economic discovery, yet climate change and its consequences ‘pose an immediate and far-reaching threat to all people and communities around the world and has implications for the full enjoyment of human rights’ (UNHCR 2008, p. 1). Climate change not only threatens the realization of human rights, but the stark difference of adaptation and mitigation capacity between different countries consistently highlights the grave inequalities that continue to devastate vulnerable communities. ‘The systematic denial and unequal distribution of resources at international and national levels, have left entire nations and communities residing in those nations, extremely vulnerable to climate change and climate displacement (EJF, in press).

Human rights as a global political idea was established in 1945 under the United Nations. The motivations behind the venture was spurred by the atrocities committed during World War II, which ‘outraged the conscience of mankind’ (De Wilde 2008, p.1). Human rights reflect an effort to protect the human dignity of all human beings. Its ‘spiritual source lies in the fundamental belief that the protection of human dignity and equality is a responsibility of society at all its different layers and levels’ (de Gaay Fortman in press, p.2) and the moral foundation of the human rights venture rests upon the idea that every person has a right to exist. ‘People count and in principle no individual counts more, or less, than any other’ (de Gaay Fortman in press, p. 2).

It is undisputed that climate change is an issue of human dignity and will directly threaten a number of basic human rights. Examples of rights that will be affected include: the right to health, water, food, housing, land and a clean environment, which are all linked to the right to life, (CCPR, 1966, art.6).

*‘Life might be immediately threatened on account of climate induced extreme weather events, such as heat waves, floods, storms, fires and droughts or may be threatened gradually, through depletion of food supply, diminishing access to safe drinking water, deterioration of health and susceptibility to disease’
(Stand up for your rights 2009, p. 20)*

Thus a threat to life has immediate consequences for other rights. A report submitted by the World Health Organization clearly portrays such manifestations. For example, the report stated that the right to health was at risk because of its direct correlation to the environment. Evidence showed that air, water, food and the way that communities dispose of waste and sewage and working conditions were ‘the principle exposure routes of environmental health hazards’ (WHO 1997, p.15; EJF, in press). Changes in the environment due to climate change, will put pressure on these exposure routes by increasing air and water pollution which could contaminate food produce (WHO 1997, p.15). This inevitably jeopardizes the right to safe food and drinking water. Food security will become even more precarious due to an expected intensity of droughts, floods or other forms of extreme weather resulting in crop failure (EJF, in press).

Communities will also be greatly affected by economic losses. The well-being of communities ‘is inextricably linked to ecosystems through the goods and services that ecosystems provide. This includes both marketed goods and services, such as food or forest products, and non-marketed ones such as water flow regulation, so that any reduction or degradation in supply leads to a loss of human welfare’ (UNEP 2002, p. 309). Extreme weather events and disasters can instantaneously lead to substantial economic losses, but also slow environmental change may hurt economies in the long run, jeopardizing livelihoods and threatening human rights (EJF, in press). Such threats may cause entire communities to physically relocate within and across national borders in order to sustain their livelihoods.

2.1 *The dangers of climate migration*

Mass migration will become one of the most significant consequences of climate change and it will directly threaten human rights progress. Interestingly, the nonrealization of human rights may be one of the leading causes of *regular* migration (Grant 2005a, p.4). At the primary stage of the cycle, ‘the push factors which trigger migration may include violations of economic and social rights to health care, education, and adequate housing or violations of civil and political rights’ (Grant 2005b, p. 2). It is clear that even more *basic* rights will spur climate migration. Even though there are various uncertainties specific to this new form of migration, it is likely that the dangers and difficulties involved in regular migration will be similar that of climate migration. Yet it are those uncertainties that may result in more threats to human dignity.

Although accurate migration data is hard to come by, especially in developing countries, studies have shown that when individuals are forced to relocate, they are directly vulnerable to the elements and other external shocks such as physical (sexual) attacks during their journeys. People often relocate with little possessions, whether they were forced to locate immediately or if the migration was planned in advance, which increases their exposure. Women and children are extremely susceptible to these types of occurrences, especially along international borders or during transit (MSF 2010, p. 2). Studies have also shown that it isn’t uncommon for men, women and children to die, ‘due to the difficult conditions of the journey or the violence they encountered along the way’ (MSF 2010, p.3). Once at their destinations- whether internal or within another country- their lives remain precarious. As ‘strangers to a society, migrants may be unfamiliar with the national language, laws, and practice, and so less able than others to know and assert their rights’ (Grant 2005b, p. 3). Migrants that are not directly recognized by the law either because they entered the country illegally or their status remains precarious, face higher risks of exploitation and abuse. For example, irregular migrant workers, ‘easily fall prey to extortion and are highly vulnerable to abuse and exploitation by employers, migration agents, corrupt bureaucrats and criminal gangs’ (Grant 2005a, p. 2). Women are even more vulnerable especially to sexual abuse and exploitation. The ‘more illegal a migrant, the greater is the danger of the journey, or of being exploited, or even enslaved by traffickers and unscrupulous employers’ (Grant 2005a, p.2).

It is clear that migration exposes individuals to dangers along the routes of their journeys or at their destination and that the situation is far worse for migrants that are neither recognized or protected by the law at their destination country. It is very likely that climate induced displacees will face similar risks if they are not legally acknowledged or protected. However various obstacles continually hinder this process and a lack of action oriented strategies and cooperation has been the modus operandi of response in the international community in regards to climate change in its entirety.

2.2 Realizing human rights in the midst of climate change

Traditional climate change policy frameworks

Responding to climate change has proven to be a very difficult task amongst various international organizations and states and as of yet there is no substantive framework for policy which offers coherence and consistency as to how national governments (and international organizations) should cope with the long-term political challenges of climate change' (Giddens 2008, p. 3). This section will review and evaluate three traditional approaches to climate change.

According to Nicholson & Chong (2009), there are three traditional cognitive approaches to climate change policy: managerial, economic, and institutional. The majority of policy makers view climate change as a managerial problem, 'in that it represents a failure of humanity's urge for control over the functioning of natural systems and rectifying the problem involves increasing our knowledge about this impact, discerning how best to intervene in natural processes to stem or ameliorate climate effects, and developing better technologies to allow greater mastery' (Nicholson & Chong, p. 5). However, 'there is no way that the scientific method can ever remove the central core of uncertainty that is inherent in climate processes' (Nicholson & Chong 2009, p. 7). Such scientific controversy played an important role in the political derailing of climate change action, especially for the United States (Nicholson & Chong 2009). Furthermore, an important pitfall of this approach is that technological knowledge, innovation and coping mechanisms are likely to only be accessible to a very small portion of the population. Subsequently, defining climate change as a managerial problem, 'is inadequate to deal with the social, economic and political complexities involved in climate change and inadequate to motivate the fundamental changes that are required in order to respond effectively' (Nicholson & Chong 2009, p. 8).

Policy makers who agree with the scientific consensus on climate change tend to frame climate change as an economic issue. This particular framework, 'declares that economic growth takes precedence over environmental protection, and indeed that economic growth is the primary means to achieve environmental protection' (Nicholson & Chong 2009, p. 9). From this perspective, climate change is a threat to economic growth, thus the solution should lie in its enhancement. There is substantial evidence to suggest that climate change may be a threat to national economies due to declining food production, weather emergencies and the lowering of GHG emissions- which is central to industrial development. In effect, 'economic framing of climate change can be used to motivate either dramatic action or caution in climate policy (Nicholson & Chong 2009, p. 10). The most typical policy response in this framework would be to pursue higher economic growth, however not all countries will be able to adapt to climate change in this manner.

Framing climate change as an institutional problem views the problem at hand as a collective issue and ‘the chief impediment to global action is the free rider problem³’ (Nicholson & Chong 2009, p.11). As of yet, international regimes have failed to tackle this. Given the fact that climate change as well as its consequences are globally intertwined, this approach implies that no actor should work alone if dramatic effects are to be achieved. The ‘structuring of an effective global solution will require coordinated action amongst a range of actors to distribute the costs *relatively equally*’ (Nicholson & Chong 2009, p.12 emphasis added). However it will be difficult to convince or coerce everyone to cooperate and contribute justly. An institutional approach is far more sensible than the former two, however all three traditional approaches fail to address the root of the problem and do not offer concrete solutions.

A human rights approach to climate change

In today's context it is hard to ignore the ongoing influence of human rights in every dimension of life. As mentioned above, climate change is already threatening access to basic human rights for many marginalized communities around the world. Nicholson & Chong (2009) perceive climate change consequences as a *cause and effect* of the nonrealization of human rights. Thus logically speaking, if the absence of human rights through law is one of the main drivers of climate vulnerability and climate migration, ‘strengthening human rights becomes an element in any strategy to reduce migration through addressing its underlying causes...’ (Grant 2005a, p. 4). However, the repercussions of climate change can also be understood ‘as the product of the *exploitation of the weak by the powerful*’ (Nicholson & Chong 2009, p. 14). Which suggests that the underlying factors which determine the severity of climate change consequences are much more complex than an absence of human rights.

2.3 *Human dignity and human rights: Protecting climate displacees through the human rights system*

Although human rights are often perceived as the most significant aspect of the United Nations, as it has attempted to influence the way that governments, societies and individuals perceive the value of life; it is human dignity that connects the UN's three pronged mission.

1. to maintain ‘international peace and security’;
 2. ‘develop friendly relations among nations and promote social progress’, and;
 3. develop better standards of living and promoting human rights.
- (United Nations, 2010).

3 Climate change is by nature a public good and the only way to tackle the issue is if all countries collaborate to make an effort to reduce carbon emissions. However, there is no international legislation that can enforce cooperation, which means that certain countries who are unwilling to reduce emissions for the sake of their economy cannot be enforced to do so. This means that they will be ‘free riding’ with the rest- who are willing to reduce emissions-, by using more than their fair share. In regards to climate change this will be counterproductive to the efforts of all other countries, because in order for emission reduction to be effective, all countries must participate.

Human dignity as a three-pronged mission

The most significant of principles that constitute the very foundation of the United Nations and its mission is that of *human dignity*. *Human dignity* 'refers to the inherent worth of each and every human being, simply as an innate consequence of human existence (de Gaay Fortman, 2004, p. 3). Every human being is of worth and matters, simply because they were born. *Human dignity* is a matter of being rather than having, and hence implying that it cannot be taken away' (de Gaay Fortman 2004, p. 3).

The protection of human dignity comprises three distinct missions: human development, human security and human rights, which are naturally interlinked. Human development as the endeavor to create a socioeconomic perspective for everyone (freedom from want), refers to the idea that life should consist of more than a struggle to survive and that individuals should be able to 'acquire certain options in their lives' (de Gaay Fortman 2004, p. 6). Human security refers to the notion that people should be protected against violence and other abuses (freedom from fear), whilst human rights refers to the 'protection of fundamental freedoms and basic entitlements by state law, entailing a functioning state, the rule of law, and good governance' (de Gaay Fortman 2004, p. 6). In all cases the socioeconomic context plays a vital role in protecting human dignity.

All three dimensions were incorporated into the United Nations venture. International development was to be pursued by both the UN's own specialized and development agencies and the International Financial Institutions (the World Bank and the IMF). Security was to be administered by the Security Council, and international justice through United Nations Charter bodies and various Treaty Bodies which had the responsibility of setting up and monitoring human rights standards (de Gaay Fortman, in press). *Human dignity* became a token of international responsibility which was to be achieved through these three compartments.

However, in the course of the time since the establishment of the United Nations, it has become apparent that protecting human dignity requires predominantly the commitment of the nation state through which law is used as the primary means of realization. Yet, because national law is implemented differently throughout the world, according to the needs, culture and history of different populations, there remain explicit inequalities in regards to implementation. Nevertheless, in respect of standard-setting and monitoring of compliance human rights tend to overshadow the remaining dimensions, and continues to play the dominant role in the international community. Notably, however, human rights alone cannot uphold the mission of achieving universal human dignity.

Categories of human rights

The principle of *human dignity* is woven through three categories of rights established by the human rights venture, of which two are directly represented by international covenants- the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These 'two covenants together with the UDHR form the International Bill of Human Rights' which was adopted by the General Assembly in 1948 (Sepuvelde et al 2004, p. 5). All countries which joined the United Nations automatically subscribed themselves to the principles and regulations of the UN Charter and the UDHR (Sepuvelde et al 2004, p. 5).

The first category of rights, which are protected through the ICCPR are considered classic rights based on *liberty*, and entail ‘an obligation for the state to refrain from certain actions...or a duty to achieve a given result’ (Sepuvelde et al 2004, p.7). These rights require substantial investments by the state, which do ‘not merely have the obligation to respect these rights, but must also guarantee that people can effectively enjoy them’ (Sepuvelde 2004, p.7). Civil and political rights include amongst others: “Protection against discrimination, life, liberty and security of persons...effective legal remedy and due process, equality before the law...citizenship and participation in political decision making, seeking asylum in case of persecution, freedom of conscience and...expression of one’s thoughts,.. and freedom of peaceful assembly and association” (de Gaay Fortman in press, p.4).

The second category of rights which are also protected by a self-named covenant are often referred to as, social rights based on *equality*. Whilst civil and political rights can be readily applied simply through legal implementation, economic, social and cultural rights require resources and progressive realization (Sepuvelde et al 2004, p.9). This category of rights include, ‘the right to a decent standard of living with adequate food, clothing and shelter, access to public health and education, work, and cultural participation’ (de Gaay Fortman in press, p. 4)

Although third category rights are not represented by a separate covenant, these rights have been included in the previous two covenants. Collective rights includes those rights that are based on *solidarity*, such as; ‘the right to development, the right to peace and the right to a clean environment’ (Sepuvelde et al 2004, p. 13).

Even though a clear distinction is made between three different sets of rights, it must be noted that all of these rights are *interdependent* and *interrelated*. For example:

A man and his fellow community members may collectively have the right to a clean environment⁴, free from pollution and deadly toxins, and a denial of this right directly inflicts on their right to an adequate standard of living and right to health⁵, which in effect jeopardizes their right to life, liberty and security⁶.

These covenants were to become the first of multiple human rights treaties with the aspiration to protect human dignity through fundamental rights. However, the actual implementation of human rights as legal standards remains a challenge for the international community. Although human rights standards have effectively materialized as a legal venture through numerous treaties with individual supervisory committees, mechanisms, and reporting and documentation procedures, ‘implementation has always been dominated by international relations’ (de Gaay Fortman in press, p. 5). Despite international efforts, states remain the most influential portals through which human rights are either realized or denied.

4 An example of a third category, “solidarity right”.

5 Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights.

6 Articles 6 and 9 of the International Covenant on Civil and Political Rights.

2.4 *Legal and Political Implications*

Whilst the moral language of human rights is strongly rooted within the international community, it must be noted that the UN Charter, UDHR and human rights treaties which preach these morals, remain weak in terms of legal enforcement and have significant shortcomings. The most important obstacle of human rights realization is the state itself, which cannot be forced to comply with human rights standards, even though the international community has begun to prioritize the protection of individual human rights over that of state sovereignty.

State Sovereignty and the Responsibility to Protect

In international law, individual human rights and state sovereignty are two principles which often come into conflict with one another. State sovereignty is a principle which emerged through modern state building and was enshrined by the treaties of Westphalia in 1648 and Utrecht in 1713. At the time, the 'primordial notion of sovereignty was conceptualized around two core components of the notion of the states: the territory and the population' (Dacyl 1996, p. 136). The relationship between the state and these two components evolved throughout the French Revolution, when 'revolutionists claimed that any abuse of state power in relation to the populace constituted a violation of the first social contract between the ruler and the population (Dacyl 1996, p.137). The debate shifted in the eighteenth century from the sovereignty of a population to that of territory. During this time, 'a non-intervention principle and a principle of equality of states within the international arena were conceptualized' (Dacyl 1996, p. 137). Thus while the early stages of the sovereignty discourse 'emphasized the ability of political authority to exercise effective control over a given territory and matters taking place within this territory [domestic jurisdiction], as well as an active role in the balance of power system, the later discourse focused on freedom from *any* external inference' (Dacyl 1996, p. 138 emphasis added). These traditional state principles became an important component of the UN Charter in 1946 (Flawith 2009) and The Draft Declaration on Rights and Duties of States in 1949⁷ and were often invoked in order to 'prevent external scrutiny of human rights abuses committed within their territory' (Dacyl 1996, p. 138). However, in time, scholars began questioning whether:

'The sanctity of the sovereignty principle can be upheld in the 'global village', where events and processes in distinct parts of the planet are increasingly linked together; where transnational companies undermine a nation-state's monopoly over decision-making in issues of vital national importance; where the separation of 'foreign' and 'domestic' policy domains gradually breaks down; where environmental pollution questions the very meaning of national borders...' (Rosenau 1980, 1992a and b; Weiss and Chopra 1992; Krasner 1992; Goldmann 1988 in Dacyl 1996, p. 139).

7 According to the Draft Declaration,1949 'every state was to have the right to independently exercise its legal powers (Article 1), the right to jurisdiction over things and persons within its territories (Article 2), the right to equality in law amongst other states (Article 5) and the right to self-defense (Article 12). These state rights were contrasted with a set of duties, the most important of which being the duty to refrain from intervening in the internal affairs of other states (Article 3) and the duty to settle disputes with other states through peaceful means (Article 8)' (Minkinen 1997, p. 34).

It was globalization itself that gave impetus to the idea that individual and collective human rights should be elevated 'to the principle of international relations, on an equal footing with the sovereignty principle' (Dacyl 1996, p. 139).

In 2001 such a transformation was stimulated by a rapport called 'The Responsibility to Protect' published by the *International Commission on Intervention and State Sovereignty* which questioned whether state sovereignty 'must yield to protection against the most egregious violations of humanitarian and international law, including genocide, ethnic cleansing and crimes against humanity' (ICRP 2010, p. 1).

The *Responsibility to Protect* incorporates three significant aspects, which were clearly identified by former U.N. Secretary-General Kofi Annan;

"I believe that we must embrace the responsibility to protect, and, when necessary, we must act on it. This responsibility lies, first and foremost, with each individual State, whose primary raison d'être and duty is to protect its population. But if national authorities are unable or unwilling to protect their citizens, then the responsibility shifts to the international community to use diplomatic, humanitarian and other methods to help protect the human rights and well-being of civilian populations. When such methods appear insufficient, the Security Council may out of necessity decide to take action under the Charter of the United Nations, including enforcement action, if so required" (Kofi Annan 2005, p. 35).

At a World Summit in 2005, the *Responsibility to Protect* was adopted by all participating member states in accordance with Charter regulations (Gierczyk 2008, p.7). In September 2009 these notions were taken note of during the first resolution on the *Responsibility to Protect* by the General Assembly, after they had been reaffirmed by the current Secretary General, Ban Ki Moon earlier that year (ICRP 2010, p.3).

What this demonstrates is a global transformation that continues to emphasize that the protection of human dignity through fundamental rights has become a superior priority to that of protecting state sovereignty, implying that states not only have rights but also responsibilities. However, the *Responsibility to Protect* remains *recommendatory rather than legally binding*. Under 'international law, approval by the General Assembly has a different consequence from a treaty that becomes effective through a required number of ratifications' (Gierczyk 2010, p.8).

The *Responsibility to Protect* and the human rights system have strong moral language, and together they may play a role in climate displacee protection. A focus on human rights semantics, human security and human development as opposed to those interests solely relevant to the state are crucial in climate change debates.

The next chapter will examine how human rights thinking and language can help contribute to the debate on how to define a climate displacee, which is the first step to ensuring awareness, vital for future international protection.

3 *Conceptual and Legal Complexities of Climate Induced Migration*

The process of documenting and predicting climate migration will remain a challenge, especially in developing countries where the complexities and possible dangers involved with climate migration is expected to unfold in the next few decades. It is hard to predict how climate migration will proceed, at what rate and what will compel communities and individuals to move. Yet this knowledge is essential when trying to secure a definition for victims of climate induced displacement, which is needed in order to provide legal acknowledgment and protection. The definition must be clear, inclusive and operational. Currently there is no internationally recognized definition of a climate displacee. What remains difficult is that the conceptual dimension regularly overlaps the legal in that certain terms and definitional elements have real legal significance.

The following section will provide analytical insight in regards to these overlapping stumbling blocks and evaluate how *pertinent* they are when viewing these dilemmas from a human rights perspective. Human rights language may help clarify exactly who and what is at stake, and keeping the human being centre stage diverts the focus from pure semantics and legal obstacles to that of fundamental rights and new innovative possibilities.

3.1 *Paths of Migration*

Many academics have debated over how climate induced migration will proceed (Bates 2002; Smith & Vivekananda 2007, 2009; Docherty & Giannini 2009; IOM 2008; Geest et al 2010). Contrary to popular thinking, climate displacement will initially remain problematic in developing countries and ‘the majority of people who are most vulnerable to environmental change, will never make it to the west’ (Geest et al 2010, p. 108). This is because climate migrants will be amongst the poorest and most of them will ‘lack the resources and the contacts to migrate internationally’ (Geest et al 2010, p. 108). From the analysis it is also clear that climate induced migration will not consist of concise linear movements; rather the rate and scale of climate induced migration will most likely be dependent on the type of environmental change and the level of community adaptability. In collaboration with a forthcoming report of the Environmental Justice Foundation still in press, this thesis identifies three most common climate migration paths:

The first scenario describes a situation where gradual environmental degradation may simply force vulnerable communities that are dependent on agriculture or animal husbandry to move from one community to another to maintain their lifestyle or to adopt harsher survival strategies (IOM 2008, p.22; Smith & Vivekananda 2007, p.15). Migration isn’t necessarily the primary response, ‘rather it is resorted to when other means of adaptation (such as selling livestock) are insufficient to meet their needs and often when their communities or governments have proven incapable of giving assistance’ (IOM 2008, p. 22). Studies also show that migration usually doesn’t take place without the presence of adequate (financial) resources or social networks that migrants may use for support (IOM 2008, p. 22). ‘Families that will most likely have to migrate will be lacking the resources necessary for long

distance migration, therefore it is likely that migration will remain in border or regional' (Geest et al 2010, p. 109). However, in cases where communities live along porous borders, across border migration will not be uncommon. As people hope that 'a new land will offer better prospects' (Smith & Vivekananda 2007, p. 15). When this strategy is exhausted, individuals may choose to migrate to urban city centers in search of cash-economy employment (Smith & Vivekananda 2007, p.15; 2009, p.9). In some cases, migrants will move to urban centers directly. In the third scenario, sudden natural disasters may lead to the direct mass displacement of communities, but 'even in the most extreme, unanticipated natural disasters- migrants, if they have any choice, [will] tend to travel along pre-existing paths- to places where they have family, support networks, historical ties, and so on' (IOM 200, p. 23). In the worst case, mass displacement could result in the establishment of refugee settlements which may cause numerous problems' (EJF in press).

3.2 *Voluntary or forced migration*

The primary underlying conceptual complexity revolves around whether climate displacees should be categorized on the basis of whether their movement was voluntary or forced. Bates (2002) amongst others use this distinction and divides environmental refugees not only across a continuum in regards to forced or voluntary movement but also distinguishes between which type of disaster or environmental issue would cause voluntary or forced displacement. Acute environmental disasters would *force* migration and slow environmental degradation would induce *voluntary* migration. These classifications are essentially based on the 'transformation of the environment to one less suitable for human occupation...' (Bates 2002, p. 469).

From this perspective, it is essentially *timing and the amount of social and financial resources* that is used as a threshold to determine whether the migration is defined in economic terms (voluntary) or if it is a matter of forced displacement. The amount of financial and social resources will determine whether communities have the ability to migrate *prior* to environmental disaster. Relocating before the environment becomes unsuitable for human life is perceived as voluntary which implies that movement will be categorized as economic. Economic migrants are not regarded as victims in need of external assistance, which means that these migrants will not be eligible to receive protection. However, the fact that economic migrants are actually able to relocate, gives them a much greater advantage as opposed to those whose migration is classified as forced. Migration that is identified as forced, often will imply that families didn't have *enough* resources to migrate, prior to environmental disaster. Even more in danger are those that aren't physically able to relocate in time. Their situation will remain extremely precarious unless new legislation is established to protect their rights.

In both cases the classification disregards the fact that in general, the communities that will be affected by climate change will be amongst the poorest and most marginalized. This type of classification regards voluntary (economic) migrants as better equipped to face these challenges, when in fact both groups will be needing assistance- albeit one much more than the other.

What is also significant here is that this type of classification perceives migration as a matter of choice or a lack thereof. Forced migration caused by sudden, extreme environmental change implies a lack of choice, whereas families that migrate due to slow environmental change do 'have room to negotiate when, where and how they migrate' (Bates 2002, p. 473). Yet again- in reality, it is absurd to speak of *choices* when in both cases of voluntary and forced displacement, peoples personal and economic livelihoods are at stake. In developing regions, personal and economic livelihoods essentially refers to the absolute bare minimum that one requires in order to survive. The struggle to maintain these basic livelihoods through adaption mechanisms such as migration readily implies that basic human rights aren't being met. It is often the case, that the interrelated necessities of food, water, shelter and economic opportunities to support these needs are hardly available or are at risk *prior* to migration. If communities had the resources and capacity to adapt to climate change, they may be less in need of external assistance.

These critical observations support the fact that this type of classification remains irrelevant from a human rights perspective, because all human beings that migrate due to climate change by force or voluntarily, were and will be deprived of their rights *prior* to migration and at their destinations and are thus entitled to protection. However, from a legal perspective the matter at hand is slightly more complicated because according to international law, these types of classifications have legal implications.

Legal Implications: migrant or refugee

Whether climate migration is perceived as forced or voluntary has legal weight in international law, where people who move voluntarily are defined as *migrants* and people who in general have no choice but to move are identified as *refugees and IDP's*. Thus, this is 'not just semantics- which definition becomes generally accepted will have very real implications for the obligations of the international community under international law' (IOM 2008, pg. 13).

In international law there is an inherent difference between a migrant and a refugee. They are both recognized and protected by international conventions⁸, however refugees are offered more protection than migrants, due to the circumstances in which they left their country of origin. The concept of a refugee became well known after the 1951 Refugee Convention which laid out the definition, legal acknowledgement and protection of this particular group of vulnerable people. In regards to this new form of mass migration, the literature (UNCHR, amongst others) often debate whether victims of climate displacement should be regarded as a refugee. This because environmental change is not identified as a plausible cause to claim refugee status according to the 1951 Convention. According to the 1951 refugee convention a refugee is defined as a person;

⁸ The International Convention on the the Protection of the Rights of all Migrant Workers and Members of Their Families recognizes nine types of migrants, most of which receive certain protections in the host state. For example, in general terms the convention refers to a 'migrant worker' as a 'person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national.' (1990, art. 2). According to the IOM, there are currently 'about 192 million people living outside their place of birth, which is about three per cent of the world's population' (IOM 2010, p.1)

'who owing to 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' (Convention Relating to the Rights of Refugees, 1951, art. A.2)

It would be difficult to include environmental change into this definition without derailing its entire meaning because it is based on the three clearly described conditions. The individual *must* have fled due to persecution, crossed an international border, and it has to be too dangerous in their home country to return.

Refugees and IDPs

Studies have shown that climate change will primarily affect poorer families who will most likely remain within their country of origin because they lack the social and financial resources needed for intercontinental migration (IOM 2008; Geest et al, 2010). Thus most victims of climate induced displacement will remain within their countries under the surveillance and protection of their home state. People that are displaced due to any number of reasons within their country are generally referred to as IDP's (Internally Displaced Persons). 'Internally displaced persons have many of the same needs as refugees in terms of protection, but since they have not crossed international borders, they are not protected by the 1951 Convention or by the UNHCR's statute' (Sepulveda et al 2004, p. 351). In fact, 'there is as yet no single international agency of international treaty that focuses on internal displacement. As a result, the international response to internal displacement has been selective, uneven and, in many cases, inadequate' (Sepulveda et al 2004, p. 351). The state is primarily responsible for the protection of IDP's. However, it is questionable whether countries who have a large number of IDP's have the resources and political will to provide for them. Furthermore, 'sovereignty and the principles of territorial integrity and non-interference in the internal affairs of states present significant challenges to the protection of IDPs and delivery of humanitarian assistance to them' (IHRC 2010, p. 1). Refugee protection mechanisms face similar difficulties. In theory, climate displacees could receive protection under the Guiding Principles of Internal Displacement, however considering the magnitude of the problem and lack of legal enforcement of the guidelines, this would not be sufficient.

It is also questionable whether victims of climate induced displacement should be able to receive protection under the 1951 Refugee Convention. Broadening the definition could 'potentially undermine the international legal regime for the protection of refugees whose rights and obligations are quite clearly defined and understood' (UNHCR 2008, p. 9). More individuals may fall through the cracks if the system demands countries to accept more and more refugees. The refugee system is already overburdened and developed countries continue to find ways to avoid providing asylum. This particular problem, amongst others, in regards to the 1951 Convention, will be more thoroughly reviewed in chapter four.

3.3 *Defining climate displacees with human rights language*

It is unlikely that solutions will be found within the 1951 Refugee Convention and the Guidelines of Internal Displacement. However, two regional instruments shed some light on the situation. These are: The Convention Governing the Specific Aspects of Refugee Problems in Africa and The Latin American 1984 Cartagena Declaration of Refugees. In both their definitions of refugees, they describe them as, 'people forced to flee due to events seriously disturbing public order' (1984 Cartagena Declaration of Refugees). Thus considering the context in Africa and Latin America, victims of climate induced displacement have more rights to protection on these continents than the rest of world. However, at the same time, these continents will not have the resources to provide sufficient protection. Thus it is vital that the international community continues to seek appropriate solutions.

Climate induced migration can be identified as a matter of human rights. Individuals forced to relocate due to climate change have systematically been denied access to human rights and these rights will continue to be disregarded until further action is taken. In order to highlight this, this thesis suggests that human rights language could help identify victims of climate induced displacement:

Climate displacees are people who have been forced to relocate, internally or across international borders, for whom it has been made impossible to return to their place of origin due to reoccurring environmental disasters and/or changes in the environment which directly threaten their entitlement positions.

Using human rights language, *climate displacees* can be identified as people who have had no choice in their decision to relocate due to the fact that they have been deprived of their basic human rights. In many cases, environmental disasters and degradation occur in the same places, often populated by marginalized people, who should not be forced to return. No distinction is made between internal and external movement, because climate change is a process that is further reaching that mankind's creation of national borders. All countries, more so developed than developing, have contributed to climate change which means that the state of origin and the international community are equally responsible for living up to these standards and providing assistance for victims. The choice to eliminate the word 'climate change' from the definition and replace it with 'environmental' is because it remains difficult to make a distinction based on scientific evidence between natural or human induced environmental disasters or degradation. This is because '(1) extreme events are usually caused by a combination of factors and (2) a wide range of extreme events is normal occurrence even in an unchanging environment' (IPCC 2007, p. 696). Assistance must be directly implemented and not derailed due to disagreements in regards to scientific research.

Creating a clear and operational definition is the first step to providing protection for climate displacees. However, it is not uncommon for the process to end here, as with most human rights treaties and conventions, there are no guidelines that inform states exactly how to implement these standards and laws. Human rights language remains strong, but human rights instruments lack enforcement mechanisms. Many states do not have the capacity and/or political will to protect the rights of their citizens, and it is those states that are most vulnerable to climate change.

The next chapter will examine the array of political and contextual obstacles that are likely to deter the creation of a legal framework that protects the rights of climate displacees. The case of India and Bangladesh will be used to portray the contextual inadequacy in regards to human rights implementation, with special reference to the 1951 Refugee Convention which is often used as a blue print for new legislation to protect climate displacees.



<http://static.guim.co.uk/sys-images/Society/Pix/pictures/2009/08/06/climate-change-bangladesh.jpg>

4 *Good Fences don't make good neighbors*

Evidently, climate displacement is directly related to human rights in various ways and the previous chapter confirmed that human rights language can triumphantly decipher and overcome the semantic debate in regards to defining a climate displacee. Therefore, climate displacees might benefit from effective protection through the human rights system. In search of a legal solution, decision makers often base their suggestions on the standards and regulations established by the 1951 Refugee Convention. However they tend to disregard the fact that the Convention currently faces many obstacles in regards to implementation, which is a common ailment within the entire human rights venture. The numerous problems experienced with the Convention conveys that the human rights system may in fact be too weak and procedurally incompetent to tackle the issues at hand. A case study regarding Bangladeshi climate displacees and how India has chosen to respond to its neighbor's dilemma, portrays this problem more in depth.

4.1 *The case of India and Bangladesh*⁹

Historically, migration has been practiced as a way of adapting to various circumstances, which has occasionally included changes in the environment. Today, many individuals and communities practice similar strategies, however it is expected that global warming will significantly increase migration. In the past, migration into India from Bangladesh occurred in short, instantaneous bursts often as a result of a particular event, but environmental change has led to sustained and uninterrupted migration (Alam 2003, p. 423). Land and water scarcity 'in the rural areas of Bangladesh, caused by rapid population growth, environmental change and unequal resource distribution and development [have caused] widespread landlessness, unemployment, declining wages and income' (Alam 2003, p. 422). As a result many Bangladeshis continue to relocate either directly to India, or to overcrowded city slums in Dhaka (Islam 2010, p. 1) and then onto India.

Climate change in Bangladesh

According to a study by the World Bank, Bangladesh tops the list of countries that are most vulnerable to climate change (2010, p. 1). With 'over 60% of its land less than 5 meters above mean sea level, Bangladesh is the most vulnerable country in the world to tropical cyclones and the sixth most vulnerable to floods' (EJF 2009, p. 15). According to climate models, it is estimated that the mean temperature and precipitation levels in Bangladesh will rise significantly over the next century (Agrawala et al 2003, p. 13). These predictions remain worrisome, because excess water is already a significant problem in Bangladesh (EJF in press). Virtually 'all of Bangladesh lies within the combined delta of the three major rivers: the Ganges, the Brahmaputra-Jamuna and the Meghna' which tend to flood on a frequent basis (Alam 2003, p. 431). Flooding is caused by recurring tropical cyclones which 'originate in the deep Indian Ocean and tracks through the bay of Bengal where the shallow

⁹ Parts of this section are derived from a forthcoming report by the Environmental Justice Foundation (in press) of which I made a contribution to during my internship.

waters contribute to huge tidal surges when [they] make landfall' (Agrawala et al 2003, p. 14). The surges may reach up to 15 meters in height and given that 'over two-thirds of the country is less than 5m above sea level and densely populated, storm surges contribute to flooding and loss of life and livelihoods far beyond the coast' (Agrawala et al 2003, p. 14). Besides the country's geographic exposure, Bangladesh's high population density, low economic performance and relatively uneducated and illiterate public, will reduce the country's ability to adapt to climate change (Agrawala et al 2003, p. 49). As a last resort individuals and communities will continue to relocate in order to sustain their livelihoods.

India's response

India has a long history of coping with migration and has functioned as a sanctuary for many migrants and refugees in the region fleeing from environmental disasters, conflict and political persecution. On a daily basis, people from 'Bangladesh, Nepal, Sri Lanka, Tibet, Myanmar and Pakistan', risk their lives by crossing over into India in search of a better life (Mahajan et al., p. 2). However, India has been quite selective on the basis of nationality and ethnicity in offering refuge. In general, Bangladeshi migrants are more scrutinized than any other migrant group in the country. It has been argued that this could be based on ethnic and religious differences (Chimni 2000), but it is most likely because Bangladeshis often enter the country illegally and governments have systematically failed 'to identify, detect and deport them' (AIC 2006, p. 1). No one knows how many Bangladeshis are residing in India. Estimates vary between five and twenty million (AIC 2006, p. 1; Alam 2003, p. 423), but the government of Bangladesh continues to proclaim that 'there are no Bangladeshis in India' (AIC 2006, p. 1). A former Indian governor has referred to Bangladeshi migration as a 'silent demographic invasion' (Sinha 1998).

What is unsettling is that Bangladeshi migration has 'generated a host of destabilizing political, social, economic, ethnic and communal tensions in many states and union territories of the country' (Alam 2003, p. 423). In places like Assam, a history of violence has been recorded up until this day between Bangladeshi migrants and the Indian communities, adding to mounting hostilities (Routrey 2008; Bhaumik 2010). In order to address these issues and curb migration, India built a 2,100 mile fence along the Bangladeshi border. The fence is longer than the 'US/Mexico border fence, the Israel/Palestine wall and the old Berlin wall put together' (Hussein 2009, p. 1). Although the project was an initial reaction to avert habitual illegal migration, human trafficking and to keep out the political violence from Bangladesh- climate migration has made the project a real urgent matter for India (Friedman 2009, p. 1).

The fence has become a major source of tension between the two nations and a symbol of hostility and violence. Between 2000 and 2007, 'more than 700 Bangladeshis and an unknown number of Indians were killed' next to the fence with most deaths occurring at the hands of the Indian Border Security Force (Hussein 2009, p. 1). In the year 2009 alone, '96 Bangladeshis have reportedly been killed by the BSF. In addition to this, 79 Bangladeshis have been injured and 25 abducted, 92 have been missing' (Odhikar 2009, p. 58). 2010 human rights reports continue to document more deaths, abductions and cases of torture around the border areas (Odhikar 2010, p. 1).

Although the Indian government has made well intended attempts towards the realization of human rights in comparison to surrounding nations- they have systematically refused to ratify and adopt the 1951 Refugee Convention and 1967 Protocol which are often suggested as stepping stones or guidelines in climate displaced protection strategies (UNHCR 2008, p. 1). Most countries surrounding India, such as Sri Lanka, Bangladesh, Pakistan, Nepal, Myanmar and Laos have also refused to ratify either refugee protection instruments (UNHCR 2008, p. 1). There are many practical reasons as to why countries in the region, especially India, have not ratified the convention and protocol. India continues to proclaim that the refugee problem is an unfair and unshared burden that affects developing countries more than developed countries (former Indian permanent representative to the United Nations in Gorlick 2006, p. 69).

4.2 *Dilemmas of the 1951 Refugee Convention*¹⁰

Even though the world is ‘experiencing a global decrease in the number of refugees, there are a growing number of voices suggesting that the international system of refugee law is dysfunctional’ (Gorlick 2006, p. 66). Many of these issues relate to an increasing inequality of responsibility sharing in regards to refugee protection. According to Hathaway:

‘The Refugee Convention speaks about the importance of sharing, but incorporates no mechanism to make it happen. Northern states each year spend at least \$12 billion to process the refugee claims of about 15% of the world’s refugee population, yet contribute only \$1-2 billion to meet the needs of 85% of the world’s refugees who are present in comparatively poor states’ (1999, p. 11).

Thus many developing countries ‘argue that there is little value in becoming party to the international refugee instruments’ (Gorlick 2006, p. 69). According to the former Indian permanent representative to the United Nations:

‘It has to be recognized that refugees and mass movement are first and foremost a ‘developing country’ problem and that the biggest ‘donors’ are in reality developing countries who put at risk their fragile environment, economy and society to provide refuge for millions’ (in Gorlick 2006, p. 69).

The developing world currently hosts over two-thirds of the world’s refugee population (Ninette 2007, p. 404) and their stay is ‘by no means temporary. Some 90 percent of all refugee situations are protracted, with 6.2 million refugees in exile for over ten years, and nearly half of that number for more than twenty years’ (UNHCR in Ninette 2007, p. 404). The costs of providing assistance for refugees are overwhelming and developing countries have very limited resources which means that many refugees are denied admission or are removed (Ninette 2007, p. 406). Large influxes of refugees are difficult to manage and are often followed by environmental damage. In other instances

10 Although this thesis does not directly suggest that climate displaceds should receive protection under the 1951 Refugee Convention, the dilemmas that the Convention is currently facing gives us significant insight in regards to how new legislation that protects the rights of climate displaceds will be perceived and treated in the international community.

'poorly resourced and managed refugee camps which can be used to channel guns, drugs and human trafficking pose a threat to the security of surrounding communities' (Ninette 2007, p. 405). Thus, out of necessity and security considerations, many developing countries which have made a commitment to the refugee instruments have begun restricting asylum to refugees, in spite of mandatory regulations.

Developed countries, party to the 1951 Refugee Convention and 1967 protocol also continue to restrict asylum policies even though they have more resources to provide protection. Restrictions are largely motivated by 'economic pressures, security considerations, migration management objectives, racial prejudices, and a reluctance to admit those who are perceived to be unable to integrate' (Ninette 2007, p. 404). Developed countries attempt to reduce the flow, predominantly from the developing world, by imposing 'visa restrictions; bolstering border controls, including air and seaport regulations; restricting access to determination procedures, including the right to appeal, limitation on access to legal aid, legal council, and UNHCR personnel; and interdiction on the high seas' (Gorlick 2006, p. 71).

Clearly such restrictions are in breach of the mandate; however there are no adequate mechanisms which can enforce countries to abide by the instruments' standards. There are certainly no enforcement mechanisms for those countries who have not ratified the Convention and there are no methods which can coerce countries to become a member either.

4.3 *The protection of 'regular' refugees in India*

India's refusal to become a member of the refugee instruments came forth out of the idea that the Convention was Euro-centric and it was unsuitable in regards to the refugee context in the developing world. The Indian government claimed that the instruments were primarily 'designed to deal with individual cases and not with situations of mass influx' and 'mixed flow', common to the region (Sabha in Saxena 2007, p. 248). Most importantly Conventions imply requirements and Indian policy makers were 'worried about the expected financial burdens that accompany Convention obligations when it could not cater to the socioeconomic needs of its own millions' (Saxena 2007, p. 249).

Nevertheless, displacement and sudden influxes of refugees are very common and have played a significant role in shaping the country's history and politics. India has a long history of hosting refugees from many countries in the region. In 2009, the UNHCR mandate documented 185,323 refugees, of which 12,440 had officially been assisted (UNCHR 2010, p. 25). The UNHCR is active in the region and regularly assists Indian partners in providing services to refugees, despite India's status in regards to the Convention.

In India, the primary legislation for the protection of foreigners is the Foreigners Act of 1946¹¹. The Act mainly deals with illegal entrants, but not specifically with refugees. In regards to the treatment of refugees and foreigners, protection is mainly instigated by the high courts which have

11 The Foreigners Act 'deals with the matters of entry of foreigners, their presence therein and their departure therefrom' (SAHRDC 1997, p. 4). The 'provision lays down a general obligation that no foreigner should enter India without the authorization of the authority having jurisdiction over such entry points. It is mainly intended to deal with illegal entrants and infiltrators' (SAHRDC 1997, p.4).

consistently upheld human rights standards.¹² They exercise these standards through a ‘creative interpretation of article 21 of the Indian constitution which guarantees the right to life and liberty to all persons and not merely to citizens’ (Katju 2001, p. 2). In many instances the decisions of the high courts have ‘affirmed the right to protection against refoulement, the right to seek asylum, voluntary repatriation, the right to life and personal security in the country of asylum, and the right to equality and non-discrimination’ (Saxena 2007, p. 255). Thus, the judiciary continues to incorporate human rights standards into their courthouses to protect the rights of refugees, which are mainly derived from the Indian constitution and ratified human rights conventions such as the ICCPR, ICESCR, CEDAW, and the UDHR.

Essentially, the Indian judiciary has become a lone activist and ‘has introduced refugee law into the legal system through the back door, as it were, since the executive has shut the front door’ (Katju 2001, p. 1). Even though the judiciary has made meaningful strides towards the protection of foreigners and refugees, there are thousands that will never have the opportunity to present their case. Only a small percentage of cases ever physically reach the high courts. Protecting the rights of refugees according to human rights standards will only be effective if incorporated into national legislation and implemented effectively. However the Indian government shows no signs of doing so and there are no mechanisms through which this can be enforced. The Universal Periodic Review, which is an inter-state reporting procedure, failed to mention this problem in 2008 (UPR 2008, p. 2). This failure exemplifies the inadequacy of the involved states and the human rights venture in remaining aware, alert and on top of things, especially in regards to the developments unfolding in the region.

4.4 *Responding to Bangladeshi climate displacees in India*

India’s actions in regards to the treatment of refugees consists of many contradictions and inconsistencies. Although the judiciary treats those of foreign nationalities according to human rights standards, one cannot undermine the significance of the barbed wire fence along the Bangladeshi border. The former conveys benevolence, whilst the latter conveys indifference. Saxena (2007) argues that India hardly refuses refugees at its borders and cases of mass refoulement are rare (p. 248). However, India’s decision to barricade itself from its neighbor contradicts this statement. The fence sends a clear message to the outside world and substantiates India’s refusal to accept any more migrants, refugees and/ or climate displacees from Bangladesh.

In many countries, and especially in India, - refugee protection tends to be regarded as ‘an essential appendage of its foreign and domestic policy and politics’ and the country has often acted on the basis of security (Saxena 2007, p. 251, 249). For many nation-states, climate displacement is regarded as a matter of national security. Currently there are 6 million Bangladeshi climate displacees on the move, and it has been predicted that this number will increase to 7.5 million by the end of 2010

¹² See *Chairman Railway Board v. Chandrimadas & Ors* 2000 and *National Human Rights Commission v. State of Arunachal Pradesh*.

(Musa 2010, p.1). A mass influx of displacees is an overwhelming challenge in terms of management and provisions when countries have limited resources. In regards to national security, it has also been documented that Bangladeshi migrants have frequently come into conflict with the Indian population, especially in Assam where violence has resulted in perpetual unrest and instability. Thus India's response to these developments is sadly relatively justifiable. However, the government of Bangladesh is also ill-equipped to deal with the problem. According to the Finance Minister of the Bangladeshi Government:

"We are asking all our development partners to honor the natural right of persons to migrate. We can't accommodate all these people – this is already the densest country in the world."

- (Abdul Muhith in Musa 2010, p.3)

Because the majority of countries in the region will be confronted with similar problems, it is vital that protection mechanisms come forth from elsewhere. Climate displacees have a right to protection that can only be achieved with the assistance from the developed world. However, because many countries continue to restrict asylum policies in regards to regular refugees and migrants, a new mandate that specifically addresses the needs of climate displacees will most likely be insufficient and disregarded in a similar manner. The fear of climate displacement is likely to cause governments to restrict their policies more extensively. However, according to *the responsibility to protect*, able countries have a responsibility towards those populations residing in states, where governments are either unable or unwilling to protect their own citizens from harm.

5 *The quest for remedies*

As this study has shown, there is concrete evidence to suggest that the consequences of climate change can be perceived as both a cause and effect of the nonrealization of human rights. Yet, it would be hasty and foolish to assume that the solution could be found in the human rights system. While in chapter three it clearly appeared that human rights language can be used to overcome the ongoing debate in regards to defining of a climate displacee, from the case study in chapter four- with special reference to the 1951 Refugee Convention, it became evident that human rights instruments will be inadequate in providing remedies. Framing the climate displacement dilemma as an issue of human rights unequivocally confronts the human rights system with its own shortcomings.

5.1 *Complexities of creating international legislation for climate displacees*

The previous chapter outlined the complexities of current refugee instruments that are often used as blue print for a new legal framework that specifically addresses the needs of climate displacees. In regards to those difficulties alone, it is likely that many nation-states will not adhere to a new legal framework even if that obliges them to comply with strict guidelines and provide those in need with more resources. It is plausible that a new framework will be administered in a similar manner as the Conventions on Statelessness and the Guiding Principles on Internal Displacement. Both are hard to enforce because their frameworks do not tackle problems directly and neither have supervisory bodies who monitor convention regulations- thus many nation-states do not abide by them. However, a lack of supervision and monitoring is not the sole reason as to why such frameworks fail. The South East Asia case conveyed that certain human rights instruments aren't customized according to the socioeconomic context of particular regions. Countries such as India have consistently argued that current refugee instruments aren't applicable nor feasible in the region and unless this structural human rights defect changes, it is to be expected that none of the surrounding countries will ratify similar legislation intended for climate displacees.

It is also important to note that the procedural nature of human rights instruments is not really apt to deal with problems as complex as climate change. Human rights 'entails both rights and duties, and for human rights to have meaning, one must identify a right-holder and a duty-bearer as to permit an actionable claim' (McInerney-Lankford 2009, p. 431). This is problematic for two reasons. Firstly, due the scientific controversy of climate change, it is extremely difficult to directly assign responsibility to developed states for instigating climate change. Even if this claim was established and agreed upon in the international community, there are no mechanisms within the human rights venture that can directly allocate accountability to the states in question and coerce them into providing compensation to the victims.

Even if legislation was created more problems are bound to surface. Firstly, there are no mechanisms which can coerce states into ratifying human rights law. Secondly, if legislation was ratified by all nation states, the countries most vulnerable to climate displacement will not have the required resources to effectively implement the laws in order to provide protection. Legislation solely provides a state with guidelines, but with absolutely no means or resources that will enable states to adhere to them, even though this is considered mandatory once ratified. Furthermore, it is unlikely that states will be able to implement laws effectively in the midst of emergency situations. Governments of countries in crisis will by definition not be able to meet the demands of their citizens. In cases where citizens feel their government has failed them, most human rights treaties *do allow* states as well as individuals to present complaints on an individual or inter-state basis. However it is extremely unlikely that those most at risk residing in marginalized communities will find the means to access such procedures (ICHRP 2008, p. 5), even if assisted by INGOs. Furthermore, creating human rights conventions will be completely useless without well functioning governments and in some cases rising sea levels will cause entire states to disappear underneath the ocean. By law, a nation-state cannot exist without a defined territory.

Thus, framing climate displacement as a human rights issue directly confronts the human rights venture with its own flaws. If the system were effective, new legislation that protects the rights of climate displacees would not be necessary. The most well known covenants, such as the ICCPR already obliges state parties:

“To respect and ensure rights to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (1966, art. 2.1).

Furthermore, the principle of *non-refoulement*, embedded in human rights law as ‘an absolute and general ban on returning people to places where they risk certain ill-treatment’ (Kolmannskog 2008, p.28) should also in theory directly provide protection for climate displacees. If current human rights conventions cannot provide protection for climate displacees due to an array of structural and legal shortcomings it is apparent that solutions must be found beyond the realm of human rights.

Nevertheless, because human rights language remains influential in the international community, it is crucial that basic principles of human rights are kept alive within the search for new solutions. Climate change is an equity challenge, which should not result in climate apartheid, ‘where the rich and powerful control the wealth of the world to their benefit- to the detriment and disregard of the poor and the natural environment’ (SAFCEI 2009, p. 1). Keeping the underlying principles of human rights centre stage would direct the international community to propositions defined by justice and equality. Such a mindset encourages states to continue to take responsibility in regards to climate change and its consequences because it would be unjust but also ineffective not to do so.

'The world is one and we are all connected. No one individual, group or nation exists in a vacuum. Actions in one part of the world produce consequences in another. Destroy our ecosystem in one place, and we are destroying ourselves everywhere' (Garcia-Delgado 2008, p. 1).

Failing to respond to climate change could also call into question the *legitimacy* of the state and the international community. Legitimacy 'is based on the people's conviction that the way power is exercised over them and the way they are being ruled are right, and hence that they are morally bound to obey' (de Gaay Fortman & Klein Goldewijk 1999, p. 118). Legitimacy in practice can be defined as a process where public interest and the common good are the focal point. Thus, societies themselves determine whether the institutions that govern them are legitimate or not by examining whether they make decisions that are beneficial to the common good. This is often conveyed by the outcome of the legitimacy process. For example, the consequences of climate change confronts the legitimacy of various nation-states who have failed or have been unable to make decisions that are of best interest to the societies they govern. Climate change will also put the international community to the test. If international institutions, such as the United Nations, fail to address climate displacement- which will be of interest to many societies around the world- their legitimacy could be put into question. Such an outcome could be disastrous, as it would imply that in times of emergency there will be nowhere to turn to.

In order to overcome this, the United Nations, INGOs and governments must build on the *Responsibility to Protect* which recognizes that the international community has a responsibility to those populations living in adverse human rights environments, whose state does not have the political will and/or resources to provide protection in times of need. This will strengthen the legitimacy of the United Nations (which has become precarious due to their shortcomings), governments and other institutions because they will be operating on the basis of global public interest.

5.2 *A global initiative: the responsibility to protect*

In 2005 at the United Nations World Summit, 'world leaders unanimously agreed that states have a responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity' (Kikoler 2009, p.2). However this mission is still in its early stages and remains a 'political commitment' that encompasses no legal obligations. R2P can be perceived as a moral appendage to the United Nations and may provide the means through which states can be coerced into compliance and held accountable for their actions in dire situations. The notion of R2P is innovative and confronts nation-states with their own malpractices and/or shortcomings in regards to the responsibilities they have towards the people they govern.

However, the Responsibility to Protect has never been applied in cases of environmental or climate change disasters.

"Contrary to attempts by French Foreign Minister Bernard Kouchner to apply R2P to natural disasters in the wake of Cyclone Nargis, R2P does not apply to natural disasters per se or to a great many human security threats facing populations, including climate change, HIV/AIDS, coups d'état or individual human rights violations. Rather, it applies to a narrow subset of crimes that the international community has recognized as particularly egregious" (Kikolar 2009, p. 3)

Yet in the near future there may be substantial evidence to create a strong case that would enable the international community to apply the *Responsibility to Protect* to address the consequences of climate change. According to one source, if climate ‘displacements are not organized in advance or negotiated with receiving and transit countries, they could lead to violent disturbances and humanitarian disasters’ (Collectif Argos 2010, p. 15). Earlier climate agreements such as the Rio Declaration on Environment and Development (1992) already recognized that nation states ‘have common but differentiated responsibilities’ in regards to environmental change and that developed countries should ‘acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command’ (principle 7). Thus, this new way of approaching global problems has woven itself through a few international agreements, but it has only recently been developed and requires improvement.

The *Responsibility to Protect* encompasses three stages- that of prevention, reaction and the rebuilding of countries post-disaster. In regards to climate displacement, the way that R2P works reflects the manner in which climate displacement will proceed and evolve. Different regions will find themselves at different stages simultaneously. For example, in some fragile areas of the world prevention mechanisms are well underway, predominantly in developed countries, such as the Netherlands and the United States.

Yet in Bangladesh, the situation has evolved beyond prevention and NGOs have been forced to react by relocating communities and providing them with shelter and other basic services. In the far corners of the world, some nations have already reached a crisis state. For example, many islanders from the South Pacific are currently watching their homelands sink beneath the waves and need to find land suitable for relocation. However this is extremely difficult as the case of the Carteret Islanders convey, whose homeland is expected to be completely uninhabitable within the next five years (Eckels, 2008, p.1).

As a response;

“the government of Papua New Guinea has organized an evacuation plan that will begin this year [2008], and continue through 2020. Many of the locals do not want to leave their home, but their efforts to combat higher tides and larger waves have not helped protect their islands. A sea wall has been built and mangroves have been planted to no effect. The evacuation plan will help Carteret islanders relocate to Bougainville. However, many of the refugees are reluctant to do so due to recent political strife on that island. The relocation is voluntary, and while some have gone willingly to Bougainville, some are choosing to stay on Carteret” (Eckels, 2008, p. 1).

Complex situations will not be rare in the midst of climate change and it is crucial that the Security Council takes a leading role, with the ability intervene and provide resources as well as advice on how to manage such emergency situations. These cases will not be unique, as many well intended governments will struggle with finding sufficient solutions with limited land and resources. Land that has disappeared underneath the ocean will be lost forever and cannot be regained without large

sums of money and engineering expertise. These cases also reflect a moral dilemma- how should governments respond to those families that have a right to choose to stay on their homelands regardless of the dangers they will face? Such questions and many more moral dilemmas will haunt decision makers in their quest for finding remedies.

5.3 *Looking beyond the realm of human rights*

Finding remedies to address climate displacement at a point where the situation has reached far beyond the stage of prevention will become one of the most daunting challenges for the next century. Still, many nations question whether the Security Council is the appropriate forum to address these issues. Although in some cases, the *Responsibility to Protect* will not be able prevent further displacement, its moral conviction and simple strategy structure could become very significant in addressing these dilemmas. Yet the acknowledgement of international responsibility in regards to finding remedies for individuals not under their state jurisdiction, and that have nothing to offer in terms of foreign policy, will initially not be met with honest devotion.

It is important to note that R2P should not be regarded as an extension of the human rights mission. Rather, R2P in the midst of climate change, suggests that the United Nations mission of achieving human dignity should not only be addressed by human rights solutions, but should include the dimensions of human security and human development as well. This would imply further involvement of the Security Council and international development agencies such as the World Bank and the IMF.

As mentioned above, the Security Council already plays a role within the final stages of the R2P strategy, however they should become more involved by extending their responsibilities for international security to those concerning human security. Their role would be to lead the international community in the quest for possible remedies for climate displacees.

A new fund needs to be created in order to manage and delegate the financial the costs of assistance, relief and relocation. This could be overseen by an appendage to the Security Council that will need to recognize its mandate in this particular situation. Relief and development agencies must be incorporated into these strategies in close connection to local partner organizations of the countries in question. These organizations need to refocus their programs to that of climate sustainability, climate change awareness and adaptation strategies in fragile communities. The UNHCR which often extends its mandate to IDPs and stateless persons will not be able to meet all the demands on its own.

Funding should come primarily from national governments but also from large corporations, civil society and private donors. Each government should be required to donate a percentage of their GDP to this fund, who will allocate the funds to development and relief agencies depending on the stage of crisis. Funds for development have not decreased even in times of financial crisis. In 2009, excluding debt relief and humanitarian aid, official development assistance (ODA) from members of the OECD's Development Assistance Committee in real terms rose by 6.8%. In the same year 'bilateral aid for development programs and projects rose by 8.5% in real terms' (excluding debt relief

and humanitarian aid) (OECD 2010, p. 1). Donors continue to make pledges in order to increase aid in the future (OECD 2010, p.3). With international encouragement, developed countries should continue extending their funds responsibly.

In emergency situations, the security council would be required to intervene with the help of the military in order to make sure that operations function as well as possible. Situations that have reached stadium two and three in accordance to the Responsibility to Protect present the greatest challenge. People that have been forced to vacate areas of land that upon return can no longer support human life should be eligible to relocate. This stage is one that is extremely complex as there are various considerations to be made. Nation-states that possess large plots of available land should be required to give that land for habitation. However, it would be a difficult and an extremely complex logistical operation to relocate millions of people onto new land without causing more environmental damage and perhaps conflicts with host societies. It would also be hard to determine which people should live where and whether nation-states should relocate in its entirety, as it may threaten the sovereignty of the host state. Countries that don't have extra land available could choose to donate money to such operations.

Nevertheless, all available solutions are confronted with one sole obstacle - that of accountability. In order for the international community to take action, developed countries which have the necessary resource should take responsibility. However, for many communities around the world, the situation has already reached a crisis state and governments cannot wait for developed countries to take responsibility. The Security Council must lead this endeavor in accordance with the *Responsibility to Protect* clause in connection with development agencies in order to create strategies relevant for each stadium to manage this crisis successfully.

TO THE RESIDENTS OF THE CITY OF
A M S T E R D A M
WITHIN THE NEXT FEW YEARS
MILLIONS OF PEOPLE ARE GOING
TO HAVE TO LEAVE THEIR HOMES
BECAUSE CHANGES IN THE WORLD'S
CLIMATE WILL DESTROY THE BASIS
FOR THEIR LIVELIHOODS - UNLESS
WE IN EUROPE, WHO ARE RESPONSIBLE
FOR AROUND 21 PERCENT OF THE
WORLD'S TOTAL ENERGY CONSUMPTION
RADICALLY CHANGE OUR BEHAVIOUR
I DECLARE THE CITY OF
A M S T E R D A M
A CLIMATE REFUGEE CAMP.
PLEASE WELCOME AND GIVE HOME TO
ALL WHO HAD TO LEAVE THEIR HOMES.
WWW.HERMANN-JOSEF-HACK.de

<http://www.hermann-josef-hack.de/media/archive/584.jpg>

Literature

- Agrawala, S., Ota, T., Ahmed, A.U., Smith, J., & Aalst, M. van., 2003. *Development and climate change in Bangladesh: focus on coastal flooding and the Sundarbans*. Paris, France: OECD.
- Alam, S., 2003. Environmentally induced migration from Bangladesh to India. *Strategic Analysis Institute for Defense Studies and Analyses*, 3, pp. 422-438.
- Annan, K., 2005. In larger freedom: towards development, security and human rights for all, Report of the Secretary-General, *Position document elaborated by the Ad Hoc Secretariat of UBUNTU Forum and the World Campaign for the Reform of International Institutions*, pp. 1-43.
- Assam Information Commission, 2006. *Bangladeshi migrants: the problem beyond frontiers*. [online]. Available at: <http://www.sicassam.in/news/bangladeshimigrants.html> [Accessed 10 March 2010].
- Barnett, J. & Adger, N.W., 2006. *Climate change, human security and violent conflict*. [online] GECH News GECHS International Project Office, University of Oslo.
- Bates, D.C. (2002) Environmental refugees? Classifying human migrations caused by climate change. *Population and environment*, 23, pp. 465-477.
- Bhaumik, S., 2010. India militant group threatens Bangladeshi migrants. *BBC News*, Calcutta [internet] 7 January. Available at <http://news.bbc.co.uk/1/hi/8444889.stm> [Accessed 10 March 2010].
- Cartagena Declaration on Refugees*. 1984. Cartagena, Colombia.
- Chimni, B.S., 2000. *International Refugee Law*. New Delhi, India: Sage Publications.
- Collectif Argos. 2010. *Climate refugees*. Massachusetts, USA: MIT Press.
- Convention Governing the Specific Aspects of Refugee Problems in Africa*. 1969. Addis Ababa: African Union.
- Convention Relating to the Status of Refugees*. 1951. Geneva: United Nations.
- Dacyl, J. W., 1996. Sovereignty versus human rights: from past discourses to contemporary Dilemmas. *Journal of Refugee Studies*. 2. pp. 136-165.

- Docherty, B. & Giannini, T., 2009. Confronting a rising tide: a proposal for a convention on climate change refugees. *Harvard Environmental Law Review*, 33, pp. 349-403.
- Dolcemascolo, G., 2004. *Environmental degradation and disaster risk*. [online]. Asian Disaster Preparedness Center. Available at <http://www.unisdr.org/eng/risk-reduction/sustainable-development/Environmental-Degradation-and-Disaster-Risk.pdf> [Accessed on 20 July 2010].
- Eckels, H. J. 2008. Climate change refugees forced to leave Carteret Islands. *Digital Journal*. Available at http://www.digitaljournal.com/article/248946/Climate_change_refugees_forced_to_leave_Carteret_Islands. [Accessed 2 August 2010].
- Flawith, F., 2009. Climate change: a crisis for state sovereignty. *The Sydney Globalist*, [internet], 12 August. Available at <http://thesydneyglobalist.org/archives/613>. [Accessed 24 January 2010].
- Friedman, L., 2009. How will climate refugees impact national security?: the border between Bangladesh and India may offer a preview of how climate change could destabilize national borders. [online]. *Scientific American*. Available at <http://www.scientificamerican.com/article.cfm?id=climate-refugees-national-security>. [Accessed 20 July 2010].
- Gaay Fortman, B., de., (in press). Unknown.
- Gaay Fortman, B., de., 2004. In search of a new paradigm: development interventionism from a human dignity perspective. In *The development of religion. The religion of development*, pp. 19-29. Eburon.
- Gaay Fortman B., de., & Klein Goldewijk, B., 1999. Where needs meet rights, economic, social and cultural rights in a new perspective. Geneva, Switzerland: WCC Publications.
- Garcia-Delgado, V., 2008. *Climate justice: fighting climate adaptation apartheid*. [online]. World Alliance for Citizen Participation. Available at: <http://www.civicus.org/new/content/monthcolintro30.htm> [Accessed 14 July 2010].
- Geest, K., Vrieling, A. van der., & Dietz, T., 2010. Migration and environment in Ghana: a cross distance analysis of human mobility and vegetation dynamics. *Environment and Urbanization*, pp. 107-124.
- Giddens, A., 2008. *The politics of climate change: national responses to the challenge of global warming*. London, United Kingdom: Policy Network.

Gierycz, D., 2008. *The responsibility to protect; a legal and rights-based perspective*. Norwegian Institute of International Affairs. Oslo: Nupi.

Global Humanitarian Forum .2009. *Human Impact Report: Climate Change - The Anatomy of a Silent Crisis*. Geneva: Global Humanitarian Forum.

Gorlick, B., 2006 (Mis)perception of refugees, state sovereignty, and the continuing challenge of international protection pp. 65-89. In Bayesky, E.F. (ed.) 2006. *Human Rights and Refugees, Internally Displaced Persons and Migrant Workers*. The Netherlands: Koninklijke Brill NV.

Grant, S., 2005a. *International migration and human rights*. [online] Global Commission on International Migration. Available at <http://www.gcim.org/attachements/TP7.pdf>. [Accessed 20 June 2010].

Grant, S., 2005b. *Migrants' human rights: from the margins to the mainstream*. [online]. Migration Information Source. Available at <http://www.migrationinformation.org/Feature/display.cfm?id=291>. [Accessed 20 June 2010].

Grant, H., Randerson, J., & Vidal, J., 2009. UK should open border to climate refugees, says Bangladeshi minister. *The Guardian*. Available at <http://www.guardian.co.uk/environment/2009/nov/30/rich-west-climate-change>. [Accessed 2 August 2010].

Guiding Principles on Internal Displacement. 2005. New York: United Nations.

Guler, C. 2009. The climate refugee challenge. [online] International relations and security network. Available at <http://www.isn.ethz.ch/isn/Current-Affairs/Security-Watch/Detail/?ots591=4888caa0-b3db-1461-98b9-e20e7b9c13d4&lng=en&id=98861>. [Accessed July 21 2010].

Environmental Justice Foundation. (in press). *Climate change, migration and conflict*. London, U.K: Environmental Justice Foundation.

Environmental Justice Foundation. 2009. *No place like home: where next for climate refugees?* London, U.K: Environmental Justice Foundation.

Hathaway, J. 1999. Keynote address New Delhi workshop on international refugee law. *Indian Journal of International Law*.

Harmeling, S. & Vuaghan, K., 2008. *Climate change adaptation in developing countries: what the G8 has to deliver*. [online]. German Watch. Available at www.germanwatch.org/klima/g8adapt08.pdf. [Accessed 14 July 2010].

Homer-Dixon, T. F. , 1994. Environmental scarcities and violent conflicts: evidence from cases, *International Security*, pp. 5-40.

Hussein, D., 2009. Fencing off Bangladesh: India's 2500-mile border fence ins meant to keep out smugglers, but simply living on the boundary is a dangerous business. *The Guardian*, [online], 5 September. Available at <http://www.guardian.co.uk/commentisfree/2009/sep/05/bangladesh-india-border-fence> [Accessed 24 January 2010]

Icelandic Human Rights Center. 2010. *Internally displaced persons (IDP's)*. Available at <http://www.humanrights.is/the-human-rightsproject/humanrightscasesandmaterials/humanrightscasesideasandfora/Undirflokkur/Internallydisplacedpersonsidps/> [Accessed 11 June 2010].

International Coalition for the Responsibility to Protect. 2010. *An introduction to the Responsibility to Protect*. [online]. Available <http://www.responsibilitytoprotect.org/index.php/about-rtop>. [Accessed 18 Juni 2010].

International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. 1990. General Assembly, United Nations.

International Covenant on Civil and Political Rights. 1966. New York: United Nations.

International Covenant on Economic, Social and Cultural Rights. 1966. New York: United Nations.

International Council on Human Rights Policy. 2008. *Climate change and human Rights: a rough guide*. ATAR Roto Press SA: Versoix, Switzerland.

International Organization for Migration. 2010. *About Migration*. [online]. Available at <http://www.iom.int/jahia/Jahia/about-migration/lang/en>. [Accessed 21 July 2010].

International Organization for Migration. 2008. *Migration and climate change*. Migration research series, no. 31. Geneva: International Organization for Migration

Islam, S., .2010. *Migrants flooding Dhaka slums face 'inhuman' conditions, doctor says*. [online]. Thomson Reuters Foundation. Available at http://www.alertnet.org/db/an_art/60167/2010/02/9-151833-1.htm. [Accessed 29 May 2010].

Kang, K., 2008. *Climate change, migration and human rights: address by ms. Kyung-wha Kang Deputy High Commissioner for Human Rights Office of the United Nations High Commissioner for Human Rights*. [online]. United Nations. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9162&LangID=E>. [Accessed 23 May 2010].

Katju, M., 2001. India's perception of refugee law. [online] *ISIL Year Book of International Humanitarian and Refugee Law*. Available at <http://www.worldlii.org/int/journals/ISILYBIHRL/2001/14.html>. [Accessed 13 June 2010].

Kokiler, N. 2009. Responsibility to protect. In *International Conference, Protecting people in conflict and crisis: responding to the challenges of a changing world*. September 2009. Available at <http://www.rsc.ox.ac.uk/PDFs/keynotepaperkikoler.pdf>[Accessed 20 July 2010].

Kolmannskog, V. O., 2008. *Future floods of refugees: a comment on climate change, conflict and forced migration*. Oslo, Norway: Norwegian Refugee Council.

Lama, M. P., 2008. Internal displacement in India: causes, protection and dilemmas. *Forced Migration Review*, 8, pp. 24-26.

Mahajan, D., Sharma, D., Jayashri, Vivekanandan, Talwar, S., & Ganeshan, S., 2009. Climate change induced migration and its security implications for India's neighborhood. In *15th Conference of Parties to the United Nations Framework Convention on Climate Change*. Copenhagen, Denmark 7-18 December 2009. Department for International Development & The Teri Resource Institute. [online] retrieved on 09/03/2010, available at http://www.teriin.org/events/CoP15/CC_Migration.pdf

McInerney-Lankford. 2009. Climate change and human rights: an introduction to legal issues. *Harvard International Law Review*, pp. 431-437.

Medecins Sans Frontiers. 2010. *Sexual violence and migration: the hidden reality of sub-Saharan women trapped in Morocco en route to Europe*. [online]. Available at <http://www.doctorswithoutborders.org/publications/article.cfm?id=4349&cat=special-report>. [Accessed 23 May 2010].

Minkinen, P. 1997. The ethos of state sovereignty: a critical appraisal. *Human rights review*, January-March, pp. 33-51.

Musa, A. R. M. A. (2010) Latest news on climate displacement in Bangladesh. Displacement Solutions. Available at <http://displacementsolutions.org/?p=547>. [Accessed 30 July 2010].

Myers, N. (1997) Environmental refugees. *Population and environment*, 19, pp. 167-182.

Nicholson, S., & D. Chong. 2009. Framing climate change: how a human rights approach affects climate policy. In *ISA-ABRI Annual Conference Pontifical Catholic University*. Rio de Janeiro, Brazil July 22, 2009.

Ninette, K. 2007. *International refugee protection challenges and opportunities*. Oxford, U.K. Oxford University Press., pp. 401-439.

Organization for Economic co-operation and Development. 2010. *Development aid rose in 2009 and most donors will meet 2010 aid targets*. Available at http://www.oecd.org/document/11/0,3343,en_21571361_44315115_44981579_1_1_1_1,00.html. [Accessed 18 July 2010].

Odhikar. 2010. *Human rights monitoring report*. [online]. Available at http://odhikar.org/documents/2010/English_Reports/January_2010_English.pdf [Accessed 10 March 2010].

Odhikar. 2009. *Human rights monitoring report*. [online]. Available at http://www.odhikar.org/documents/2009/English_report/HRR_2009.pdf. [Accessed 11 March 2010].

Protocol Relating to the Status of Refugees. 1966. United Nations General Assembly.

Ramanathan, U., 2007. *Human rights in India, a mapping*. [online]. International Environmental Law Research Centre. Available at <http://www.ielrc.org/content/w0103.pdf>. [Accessed 11 July 2010].

Renner, M., 2005. Security redefined. In: L. Stark, ed. 2005. *State of the World 2005: redefining global security*. Worldwatch Institute, pp. 3-19.

Rio Declaration on Environment and Development. 1992. Rio de Janeiro, Brazil: United Nations conference on environment and development.

Routrey B.P., 2008. *Violence in Assam: battle for the Bodo heartland*. [online]. IPCS Issue Brief Institute of Peace and Conflict Studies, New Delhi India. Available at [http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/SHIG-7KXJ2D-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/SHIG-7KXJ2D-full_report.pdf/$File/full_report.pdf). [Accessed 20 July 2010].

Saxena, P. 2007. *Creating legal space for refugees in India: the milestones crossed and the roadmap for the future* Oxford University Press, pp. 246-272.

Sepuvela, M., Banning, T. van, Dudmundotter, G.D., Chamoun, C., & Genugten, W.J.M. van., 2004. *Human rights reference handbook*. Ciudad Colon, Costa Rica: University of Peace.

Sinha, S.K., 1998. *Illegal migration into Assam, a report submitted to the president of India* [online]. Available at: http://www.satp.org/satporgtp/countries/india/states/assam/documents/papers/illegal_migration_in_assam.htm. [Accessed 10 March 2010].

Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.). 2007. *Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*. United Kingdom and New York, USA: Cambridge University Press.

South African Faith Communities Environment Institute. 2009'. *South Africa: faith leaders condemn climate 'apartheid'*. [online]. Available at <http://www.cafod.org.uk/news/south-africa-2009-12-09>. [Accessed 14 July 2010].

South Asia Human Rights Documentation Centre. 1997. *Refugee protection in India*. [online]. Available at http://www.hrdoc.net/sahrdc/resources/refugee_protection.htm [Accessed on 12 June 2010].

Smith, D., & Vivekananda, J., 2009. *Climate change, conflict and fragility: understanding the linkages, shaping effective response*. London, U.K: International Alert.

Smith, D., & Vivekananda, J., 2007. *A climate of conflict: the links between climate change, peace and war*. London, U.K: International Alert.

Stand up for your rights. 2009. *The human side of climate change, human rights violations and climate refugees*. Stand up for your rights: Amsterdam, The Netherlands.

Stern, N., 2007. *The economics of climate change, the Stern review*. New York, U.S.A: Cambridge University Press.

United Nations. 2010. *UN at a glance*. Available at <http://www.un.org/en/aboutun/index.shtml>. [Accessed 31 July 2010].

United Nations Framework on Climate Change. 2008. *Climate change, migration and displacement: who will be affected?* [online] UNFCCC. Available at <http://unfccc.int/resource/docs/2008/smsn/igo/022.pdf>. [Accessed 14 July 2010].

United Nations General Assembly. 2009a. *Follow-up to the outcome of the millennium summit*. [online]. United Nations 63rd session. Available at <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/N09/342/21/PDF/N0934221.pdf?OpenElement>. [Accessed 16 July 2010].

United Nations Environmental Program. 2002. *Human Vulnerability to Environmental Change*. [online]. Available at http://www.unep.org/geo/geo3/english/pdfs/chapter3_vulnerability.pdf. [Accessed 14 April 2010].

United Nations High Commissioner for Human Rights. 2010. *2009 Global trends, refugees, asylum-seekers, returnees, internally displaced and stateless persons*. [online] Available at http://oppenheimer.mcgill.ca/IMG/pdf/HCR_Global_trends-2.pdf [Accessed 21 July 2010].

United Nations High Commissioner for Human Rights. 2009. *Forced Displacement in the Context of Climate Change: Challenges for States Under International Law*. [online] Available at <http://www.unhcr.org/4a1e4d8c2.html>. [Accessed 23 June 2010].

United Nations High Commissioner for Human Rights. 2008. *Resolution 7/23 human rights and climate change*. [online]. Available at http://www2.ohchr.org/english/issues/climatechange/docs/Resolution_7_23.pdf. [Accessed 23 May 2010].

United Nations Security Council. 2007. *Security Council holds first ever debate on impact of climate change on peace, security, hearing over 50 speakers 5663rd meeting*. [online]. United Nations. Available at <http://www.un.org/News/Press/docs/2007/sc9000.doc.htm>. [Accessed 12 June 2010].

Universal Periodic Review Monitor. 2008. *Universal Periodic Review, 1st session India*. International Service for Human Rights: Geneva, Switzerland.

Washington Foreign Post Service. 2010. In flood-prone Bangladesh, a future that floats. [online]. Available at <http://voiceofsouth.org/blog/2007/09/28/future/>. [Accessed 21 July 2010].

Wilde, M., de. 2008. 'On philosophy and human rights'. *Krisis, Journal for Contemporary Philosophy*. 3, pp. 1-2.

World Bank. 2010. *Bangladesh: economics of adaptation to climate change study*. [online] Available at <http://beta.worldbank.org/content/bangladesh-economics-adaptation-climate-change-study>. [Accessed 29 May 2010].

World Health Organization. 1997. *Health and the environment in sustainable development: five years after the earth summit*. [online] Available at http://whqlibdoc.who.int/hq/1997/WHO_EHG_97.12_eng.pdf. [Accessed 23 May 2010].