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RETHINKING THE REFUGEE REGIME: WOULD A HUMAN RIGHTS-BASED  
APPROACH TO THE ISSUE OF CLIMATE REFUGEES  
PRODUCE JUST OUTCOMES?

GORDON ROBINSON

117 Pages

Human rights-based approaches are highly useful for a myriad of issues facing the international community. However, they have yet to be utilized in practice due to norms in the international community that favor sovereignty over human rights and international cooperation. This thesis will demonstrate the utility of such approaches by applying one to the issue of climate refugees. It is estimated that by the year 2050, hundreds of millions of people around the globe will become displaced due to climate change. Because climate-related reasons are not included in the criteria for what makes one a refugee, these people will not be recognized as refugees and thus not be eligible for the same assistance and protection that other refugees are eligible for. Additionally, the current refugee regime is riddled with issues that hinder its ability to provide aid for those that seek its assistance. This thesis therefore seeks to address the question of whether a human rights-based approach would provide more just outcomes for climate refugees. One main focus of rights-based approaches is accountability. By centering the international response to the situation of climate refugees on accountability, fewer people will become displaced in the future and those who are affected by climate change will have a means to demand that their human rights be fulfilled. This thesis will utilize a counterfactual study comparing the current refugee regime with that of a theoretical human rights-based approach to

the issue of climate refugees. It finds that a rights-based approach would produce more just outcomes for all actors involved. Inferences from this may be made with regard to refugee policy as well as human rights policy.

KEYWORDS: Human rights-based approach; Climate refugees; Climate displacement; Migration; Accountability

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PRODUCE JUST OUTCOMES?

GORDON ROBINSON

A Thesis Submitted in Partial  
Fulfillment of the Requirements  
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MASTER OF SCIENCE

Department of Politics and Government

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2021

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## CHAPTER I: INTRODUCTION

As the world becomes increasingly warm due to human activity, the effects of climate change can be seen to be amplified by both the frequency as well as the intensity of climate disasters. This phenomenon may not be noticed by the average American or European, but people living in low lying countries, such as Bangladesh, the Maldives, or Tuvalu, have had their lives upturned by this steady increase in the global temperature. The UN Framework Convention on Climate Change defines climate change as “A change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods” (United Nations, 2006. NP). The citizens of the countries most affected by climate change are not only fearful that their homeland will soon be completely engulfed by the rising sea level, they are also subject to worsening tropical storms, some of which are powerful enough to completely destroy entire villages. As these disasters become both worse and more frequent, many who have spent their entire lives in these countries, whose livelihoods depend upon their village, are forced to leave due to the worsening effects of climate change. These climate refugees find themselves trapped, with their options for assistance being even more limited than say a refugee who flees their country due to political violence. Climate related disasters are not included in the definition established in 1951 in the Convention Relating to the Status of Refugees of what makes one a refugee; therefore, climate refugees are unable to be labeled as such and do not qualify for the same refugee protections that others are afforded (Betts, 2013). While many people have already become displaced due to climate related reasons (Myers, 2001), as climate change accelerates, the side effects will also accelerate, leading to even more displacement.



There is broad, scientific consensus that climate change is a direct result of human activity. This has been reported in many journals that cover topics such as climate change, as well as by many scientific bodies that are comprised of members who study such phenomenon. This includes the National Academies of Science, the Intergovernmental Panel on Climate Change, the American Association for the Advancement of Science, and many others (Oreskes, 2004). The consensus amongst scientists is that greenhouse gas (GHG) emissions released since the mid-20<sup>th</sup> century have caused the planet to warm at an unprecedented rate, with over 95% probability that this warming is due to human activity (NASA, 2021). While some argue that the Earth naturally goes through periods of warming and cooling, NASA reports that evidence gathered through ice cores, glaciers, tree rings, ocean sediments, etc., show that the current rate of warming is happening ten times faster than warming that occurred during times of historic ice-age-recovery (NASA, 2021).

Additionally, human activity is increasing the amount of atmospheric carbon at a rate of two hundred and fifty times faster than what was seen from natural sources after an ice age (NASA, 2021). When released into the atmosphere, carbon dioxide (CO<sub>2</sub>), as well as water vapor, methane, nitrous oxide, chlorofluorocarbons and others, affect the natural energy transfer that takes place between the Earth and the sun. These gasses get trapped in the Earth's atmosphere and act as a sort of greenhouse, trapping the sun's energy on Earth when it would otherwise bounce from the Earth back out of the atmosphere. This causes the Earth to warm, amongst a myriad of other effects (NASA, 2021). While all GHGs contribute to this effect, carbon dioxide is the one that scientists are most worried about. Since the Industrial Revolution began, human activity has increased atmospheric carbon by 47%, largely through the burning of fossil fuels and deforestation (NASA, 2021). In 2018, carbon emissions accounted for roughly

74% of total greenhouse gas emissions, making it the main GHG contributing to climate change (Fawzy, et al., 2020). Therefore, this thesis will consider carbon emissions the main cause of climate change and thus the main focus for limiting country's contribution to the climate crisis.

Since the Industrial Revolution, it is estimated that human activity has caused a 1°C rise in the average global temperature and that this will increase to 1.5°C between the years 2030 and 2052 if current emission rates are not reduced (Fawzy, et al., 2020). However, not all countries contribute to this increase at the same magnitude. Using data from the Global Carbon Project, the organization Our World in Data was able to calculate the percent of carbon emissions that each country is currently contributing to total emissions. They found that China is currently the highest emitter, responsible for 27% of current carbon emissions (Ritchie & Roser, 2021). The U.S. is the second greatest contributor, emitting 15% of total emissions. The European Union (EU), lumped together because emission targets are typically negotiated and set as a collaborative target between all 28 members, contributes the third greatest amount at 9.8%. The fourth greatest contributor is Russia with 4.7% of emissions, and the fifth greatest is Japan with 3.3% of emissions. However, when looking at total emission contributions since the Industrial Revolution rather than current emission levels, it is seen that that the U.S. has emitted more carbon than any other country, contributing 25% of total historic carbon emissions (Ritchie, 2019). The EU has contributed the second highest percentage at 22% of historic carbon emissions. The third highest contributor is China, responsible for 12.7% of total emissions. Japan follows in fourth with 4% and India in fifth with 3%. Clearly, there is quite a disparity in regard to state's contribution to the climate crisis. In fact, when all developed countries are lumped together, The Center for Global Development found that they are responsible for a total of 79%

of historic carbon emissions (Center for Global Development, 2015). These emissions cause a multitude of negative effects, felt most prominently by lesser developed nations.

Andy Baker describes these side effects, using predictions provided by scientists on how climate change is going to affect developing nations (Baker, 2014). These scientists say that in areas that are naturally warm, the water will dry up due to the average global temperature's steady increase. This will "prevent millions of tons of water from running off into rivers, lakes, and aquifers" (Baker, 2014. Pg. 343). As dry areas become drier and drier, the soil used for agricultural purposes will become unusable, as the increase in dryness contributes heavily to soil erosion. On the flip side of the issue, in areas of the world that are wetter, increased rainfall will lead to waterlogged soil, making it unusable for agricultural purposes. As the global temperature increases, polar ice caps will melt, which will cause sea levels to rise and coastal regions to flood (Baker, 2014). Communities directly on the coast will be wiped out, while many communities further inland will lose the ability to utilize their nutrient rich soil as saltwater slowly seeps into their fields. But the consequences of climate change are not always as obvious as these. Baker notes that cold temperatures kill off many of the pests that carry diseases harmful to human life. Currently, millions of Africans live above the malaria line, the highest point that mosquitos carrying malaria can survive. As the global temperature increases, this line will slowly get higher and higher, exposing everyone who the line passes to malaria carrying mosquitos (Baker, 2014). Clearly, the state of the environment in which one lives has profound effects on their life and human rights.

In 1972, the United Nations Conference on the Human Environment stated that "man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights – even to the right to life itself" (UN, 1972. Pg. 3). The connection

between one's environment and their quality of life was already well established in 1972, and yet industrialized countries continue to destroy the natural environment. This destruction forces millions of people from their homes and uproots their entire lives. In fact, "the available literature indicates that the climate refugee crisis will surpass all known refugee crises in terms of people affected" (Biermann & Boas, 2010). Current estimates show that by the year 2050, the world could see anywhere from 25 million to one billion people displaced due to climate change (IOM, 2008). This will wreak havoc upon the international community, as there is not currently a system in place to deal with people who become displaced due to climate related reasons. Once their numbers inevitably begin to climb, they will bring with them instability and uncertainty to the international community, which are always predecessors of conflict (Daxecker, 2011). Millions of people are going to lose their homes to climate change and not have an international order in place to help them. Some will cross state borders in hopes of finding a home in a new country and others will move to a new location in their home country. Either way, the instability of millions of people will surely cause chaos on an international scale.

One way to better deal with this issue is by utilizing a human rights-based approach (HRBA). A HRBA would be beneficial to climate refugees because such approaches ensure the fulfillment of human rights of all citizens, which have been entrenched in international law through UN documents and treaties. The definition of a human rights-based approach that will be utilized throughout this thesis comes from the Office of the UN High Commissioner for Human Rights (OHCHR). It defines such an approach as "A conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights" (OHCHR, 2006. Pg. 15). When the rights of citizens are being fulfilled and they are not consistently unsure of where they are

going to sleep, how they are going to eat, how they will provide for their children, etc., the lack of uncertainty provides for a more stable international community. It is therefore seen that while other approaches are reactionary in nature, a HRBA is proactive. By ensuring that everyone has their rights fulfilled, the HRBA acts as a proactive measure to lessen international conflict in the future. Because of this, a human rights-based approach would be a better system than the one currently in place.

This thesis will compare the current international refugee regime with that of a theoretical human rights-based approach to highlight the utility of such approaches. This will be done in order to answer the research question: “Would a human rights-based approach to climate refugees produce just outcomes?” In this thesis, I consider just outcomes to be outcomes that represent durable solutions for climate refugees and to which industrialized countries, the biggest drivers of climate change, contribute in ways that reflect their responsibility for the climate crisis. Durable solutions mainly consist of ensuring that the rights of climate refugees are fulfilled, which in some situations will require relocation into countries that are able to take in more refugees. I define such outcomes as just because they represent the idea of accountability. Scholars and philosophers alike have attempted to define justice for millennia and have come to many differing definitions (Lucas, 1972). However, the most common theme typically has to do with people receiving that which they deserve, which has strong parallels to the idea of accountability. Justice, boiled down to its core, means that when one is harmed, be it physically, mentally, financially, etc., they are provided with compensation for this harm. As it relates to climate refugees, this would mean that when they are forced from their homes due to reasons beyond their making, they would receive adequate assistance to secure their human rights. The majority of climate refugees come from developing nations and yet it is developed countries who

are the largest contributors to climate change. Climate refugees' entire livelihoods are being destroyed by developed countries, so a just outcome would at least be for developed countries to provide climate refugees with adequate assistance. Along those same lines, the notion of accountability says that because it is developed nations who cause the majority of forced displacement resulting from climate change, it is these nations who need to be responsible for providing the funding and resources to deal with the issue they have created.

This thesis will make the argument that a HRBA would be better able to handle the issue of climate refugees than the current refugee regime is able to. The current refugee regime will be examined in detail by looking into the history of refugees and discussing problems that exist within the regime. I will then offer a discussion on what a HRBA would look like in regard to a new refugee regime and establish whether or not this new regime would be more just than the current one. Under a human rights-based approach, countries are held accountable for their actions because, as the UN High Commissioner for Human Rights puts it, "rights imply duties, and duties demand accountability" (OHCHR, 2002. Pg. 5). This means that the industrialized countries which have caused climate change will have to answer for their actions by helping the people whose lives have been destroyed due to these actions. It is an approach that will actively work to correct the problems that are causing displacement in the first place and will therefore curtail the number of refugees created as well as help the people who become displaced fulfill their human rights. Rights-based regimes are highly beneficial and need to be taken into consideration when the international community is looking for a solution to a slew of international issues. This thesis is only looking at such as it applies to climate refugees, but the outcomes of this regime would be similar to those of a regime that applies a HRBA to other

issues as well and should therefore be examined in detail when looking for an international solution to almost any problem.

While a HRBA is one great way to deal with the large numbers of people that will soon become displaced due to climate change, it may not be the most politically feasible at the moment. Many countries which would likely have to take in more refugees under such an approach would be unwilling to do so because the public support for less restrictive immigration policies is simply not there. In Simon & Lynch's study on 7 countries which have all had very different approaches towards immigration in the past, they find that the most consistent theme amongst most of the citizenry in the countries studied is that there are negative feelings towards immigrants (Simon & Lynch, 1999). While this study was conducted in 1999, more contemporary studies mirror these sentiments. Van Setten, et al. conducted their own study in 2017 in which they measured support for immigrants. What they found was that the average support from members of the EU was only moderate. EU members wished to allow "a few" to "some" immigrants into their countries. If current predictions are correct, these countries may have to allow in far more than "a few" climate refugees in the future.

There have been many theories advanced that attempt to explain why public support for immigrants is so low and why some people are more or less supportive than others. Van Setten, et al.'s research confirms previous authors research that people who are in vulnerable economic positions, including people who are less educated and manual workers, are typically more exclusionist towards immigrants. This is largely because the people who fall into these categories are natives who perceive an ethnic threat from people from other countries (Van Setten, et al., 2017). Davidov & Meuleman study a different reason people may have anti-immigrant feelings: human values. What they found was that those who are more self-transcendent were far more

likely to embrace immigration, while those who are more conservative were far more likely to reject it (Davidov & Meuleman, 2012). These studies show that there are many factors at play which contribute to public support for immigration policy. Nonetheless, public support in many countries is simply not high enough to be able to conclude that a HRBA to climate refugees is feasible. Therefore, before such an approach is implemented, there must be a successful effort to build support for it. However, building public support is outside of the scope of the research of this thesis, which focuses specifically on what a HRBA would look like. It is important to study what such an approach would entail before the international community will agree to the implementation of such an approach. It is therefore the goal of this paper to demonstrate the utility of rights-based approaches by utilizing the example of climate refugees in order to show the benefits associated with such approaches. Building public support for a human rights-based approach to climate refugees is a great opportunity for future research and is critical before such an approach could be considered politically feasible.

This thesis will begin with background information on the current refugee regime in order to highlight its shortcomings in Chapter II. It will then discuss the literature that is currently available on climate change and human rights and show that the argument being made in this thesis is not currently available in other literature. Next, Chapter III will provide more in-depth information on human rights-based approaches and what they entail. Chapter IV will lay out how the rest of the thesis will be conducted and describe the specifics of using a case study to conduct such research. Chapter V will then begin the case study with a look at the current refugee regime and how climate refugees fit into that regime. Chapter VI will conduct a counterfactual case study, in which a HRBA will be applied to the issue of climate refugees. Finally, the thesis will conclude with Chapter VII, the conclusion, in which I will demonstrate



that rights-based approaches can be utilized for more issues than just climate refugees by analyzing narco refugees and how a HRBA could aid in the mitigation of this problem. The conclusion will then finish with a discussion of broader implications of the thesis as well as possible avenues of future research.

## CHAPTER II: BACKGROUND

Countries have never before been quite as connected to other countries and international actors (e.g., non-governmental organizations and intergovernmental organizations) as they are today. These connections bring with them the opportunity for communication between actors that would never before have been in communication. So why is it, that during a time when international actors are more connected than ever before, millions of people every year are displaced from their homes and find themselves trapped, with nowhere to go and nobody to turn to for help? When people are forced to leave their homes due to climate change, they are left helpless not because of a lack of international relations, but due to a lack of political will. The resources to help these climate refugees are there, but the global governance framework that is needed in order to adequately deal with the displacement of millions of people is not.

### **The Effect of Developed Countries' Actions on Developing Nations**

While climate change will eventually affect everyone in one way or another, there are certain groups of people who are far more susceptible to the effects of climate change than others. Siobhán McInerney-Lankford describes this situation when she writes that “the varied consequences of rapidly increasing climate change are already having a dramatic effect on poor and marginalized people all over the world, reinforcing existing vulnerabilities and deepening inequalities” (McInerney-Lankford, 2009. Pg. 431). These people who will be disproportionately affected are the people who also have the smallest impact when it comes to climate change. In fact, 98% of the people who are most severely affected by climate disasters live in a developing country (Baker, 2014). Industrialized countries have a far greater responsibility for climate change and their actions are destroying the lives and communities of people in the developing

world. The Intergovernmental Panel on Climate Change has also reported that 80% of the economic burden of climate change will fall to developing nations, specifically those in Africa, the Middle East, and South Asia (Baker, 2014). Climate change will therefore cause developing nations to spend millions of dollars on mitigation and adaptation for a problem that developed nations are causing.

Not only will developing nations have to spend millions of dollars in an attempt to mitigate these problems, they will also lose many millions of people who will leave the country due to the fact that their homes and livelihoods were destroyed because of climate change. These people have become known as “climate refugees.” There are a great number of definitions of climate refugees but neither the UN, nor any international organization that specializes in either refugees or climate change recognize any one definition. However, the most commonly cited definition comes from Essam El-Hinnawi, a researcher for the United Nations Environment Programme (UNEP). His definition is the definition that will be used in this thesis. He defines climate refugees as

“People who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life. By ‘environmental disruption’ in this definition is meant any physical, chemical, and/or biological changes in the ecosystem (or resource base) that render it, temporarily or permanently, unsuitable to support human life.” (El-Hinnawi, 1985. Pg. 4).

While climate refugees are typically referred to as an issue that will emerge in the future, there are already numerous contemporary cases of climate induced migration. Gulrez Azhar writes that

every single year, 700,000 people are forced to relocate due to desertification in Mexico alone (Azhar, 2017). Nunn, et al. add that every year, the sea level rises at a rate of 12 millimeters in the western Pacific (Nunn, et al., 2017). This has already led to the complete submersion of eight islands, with two more on the verge of disappearing. The Internal Displacement Monitoring Centre has reported that in 2019, there were nearly 1,900 natural disasters which displaced 24.9 million people, “three times the number of displacements caused by conflict and violence” (IDMC, 2020. NP). The International Organization for Migration points out that even as early as 1990, the Intergovernmental Panel on Climate Change was saying that the greatest single impact of climate change could very well be on human migration (IOM, 2008). Since then, there have been numerous reports detailing the numbers of refugees likely to emerge.

The most widely cited number in the available literature comes from Norman Myers, who estimates that by the year 2050, there will be approximately 212 million climate refugees (Myers, 2002). He gets this number from the 162 million people who are most at risk due to sea-level rise and the 50 million people who are at risk due to droughts, amongst other climate related impacts. This number is widely accepted amongst scholars writing about climate refugees, with citations in respected publications from the Intergovernmental Panel on Climate Change (IPCC) to the Stern Review on the Economics of Climate Change (IOM, 2008). However, even Myers himself writes that this number is tentative, as there are so many underlying factors that must be taken into consideration. Regardless, most experts predict that by the year 2050, there will be anywhere from 150 to 300 million climate refugees (Azhar, 2017), with some estimates ranging anywhere from 25 million to one billion (IOM, 2008). Azhar highlights the seriousness of the issue when speaking of the 150-300 million estimate when he

says that “if this group formed a country, it would be the fourth-largest in the world, with a population nearly as large as that of the United States” (Azhar, 2017. NP).

It is fairly uncontested within the relevant literature that climate change is going to displace millions of people in the near future. However, the brunt of this burden will be felt by people living in the developing world. The majority of authors write that the main areas where climate change will cause displacement are Africa and Asia, due to their already naturally warm weathers and their susceptibility to sea-level rise. Biermann & Boas even go so far as to estimate that over 90% of people affected by sea level rise will be from Africa and Asia. They say these two regions in particular will be affected so severely because “Asia is at a high risk of extreme weather events and sea-level rise and will also be severely affected by drought and water scarcity. Africa is especially vulnerable to drought and water scarcity, but many regions are also at high risk of sea-level rise” (Biermann & Boas, 2010. Pg. 69). In a 2018 study, the World Bank estimated that 143 million people just from sub-Saharan Africa, Latin America, and South Asia will become internally displaced due to climate change by 2050 (The World Bank, 2018). This study is the most utilized amongst researchers studying where climate refugees will be coming from, as robust projections of such are rare. The study applies slow onset climate impacts such as water stress, crop failure, and sea level rise to an estimation of future population size within these areas. Because it only looks at slow onset impacts and does not include events such as floods and hurricanes, The World Bank admits that the estimated impacts are likely lower estimates than what could actually potentially arise. The study also looks specifically at internal migration, assuming that the majority of people who become displaced in these regions will be able to migrate somewhere else in their homeland and will not have to find refuge in another region. However, because it is currently the most reliable data amongst very few studies of the same

sort, this thesis will utilize the conclusions reached to show where the majority of climate displacement will arise.

The model used in this study applies socioeconomic, demographic, and climate impact data to a 14-square kilometer grid to estimate changes in population within Sub-Saharan Africa, South Asia, and Latin America, the three locations likely to be the most affected by climate change (The World Bank, 2018). In order to address the uncertainty that comes with making future estimations, they provide a pessimistic estimation, a moderate estimation, and an optimistic estimation. Their results show that under a pessimistic estimation, the three areas together will see approximately 143 million people internally displaced due to climate change by the year 2050. Sub-Saharan Africa accounts for 86 million of these people, South Asia accounts for 40 million, and Latin America accounts for 17 million. The moderate estimation drops the number of displaced people across all three regions to between 65 and 105 million, and the optimistic estimation drops it even further to between 31 million and 72 million.

Additionally, the study looks at multiple sub-regions within each region, including East Africa, Central America and Bangladesh. The results show that East Africa will account for 10.1 million displaced people by the year 2050 under the pessimistic approach, or 6.9 million under the optimistic approach (The World Bank, 2018). Central America will see approximately 3.9 million displaced people under the pessimistic scenario, or about 1.8 million under the optimistic scenario. Lastly, Bangladesh will account for 13.3 million displaced people under the pessimistic approach or approximately 4 million under the optimistic approach. Regardless of which scenario comes to fruition, millions of people will become displaced due to climate change by the year 2050. This study looked specifically at internally displaced persons (IDPs) resulting from climate change rather than climate refugees as a whole but is important nonetheless because

it shows the magnitude of the issue in addition to providing important data on which locations will be affected most dramatically by climate change. Additionally, internally displaced persons as a whole are in a similar situation as climate refugees are in regard to options for political protection.

### **Internally Displaced Persons**

Oftentimes when people leave their homes due to environmental reasons, they are not able to leave their home country. While they have been forced out of their homes due to reasons beyond their control, they find themselves with little to no avenues of protection. People in this situation are not protected by any international treaties, like refugees are (Manou, et al., 2017). Because of this, it is important to take a look at them because of the similar situation they and climate refugees are in. The responsibility to care for IDPs comes from nation states themselves, who look to the Guiding Principles on Internal Displacement for solutions. The Guiding Principles on Internal Displacement define IDPs as

“Persons or groups who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border” (OCHA, 1998. NP).

Robert Goldman, a member of the legal team responsible for drafting the Guiding Principles, has explained that because internally displaced persons are oftentimes very different than refugees, a specific definition had to be given to IDPs in order to “address the plight of a particular group of persons who had distinct protection and assistance needs resulting from forced displacement”

(Mooney, 2005. Pg. 13). Biermann & Boas, however, critique this definition. They argue that the current regime (including the Guiding Principles) provides only marginal protections to climate refugees, leaving most of the responsibility to nation states, which “contradicts the global responsibility for the victims of climate change” (Biermann & Boas, 2010. Pg. 74). The Guiding Principles are based upon international human rights law, humanitarian law, and refugee law. However, while the Guiding Principles are based in international law, they are not themselves legally binding. They also do not mention climate change as a reason for displacement, but what is mentioned is people who are forced to leave their home due to “natural or man-made disasters” (Manou, et al., 2017. Pg. 18). Therefore, while there is no direct mention of climate change, the Guiding Principles do mention people who are forced to leave due to man-made disasters, which could easily be argued applies to climate change.

While there is no international treaty that establishes the legal obligations of states pertaining to IDPs, Africa in 2009 adopted the first ever legally binding regional instrument pertaining to internal displacement (Manou, et al., 2017). Known as the African Union’s Convention on the Protection and Assistance of Internally Displaced Persons in Africa, or the Kampala Convention, this regionally binding legal instrument is the first of its kind to highlight the connection between climate change and displacement. Building upon the definition of an internally displaced person provided by the Guiding Principles, the Kampala Convention includes in its definition of IDPs those who are “forced to flee as a result of events including natural or manmade disasters but also those who do so in anticipation or in order to avoid the effect of disasters” (African Union, 2009. Pg. 7). It also states in Article 4: “States Parties shall take measures to protect and assist persons who have been internally displaced due to natural or human-made disasters, including climate change” (African Union, 2009. Pg. 13). This



convention was held, and the definitions of IDPs were specifically written in this way, due to Africa's tradition of taking regional approaches to issues of displacement and migration (Manou, et al., 2017). It is therefore an important document for the international community to study when looking to revise the current laws pertaining to IDPs, as it is the first of its kind to connect climate change with displacement.

As seen from documents such as the Kampala Convention, small steps leading to the protection of climate displaced people are beginning to occur. However, there are still many obstacles that must be overcome before any serious progress can be made. The biggest obstacle is the 1951 Convention Relating to the Status of Refugees, as it is the cornerstone of the current refugee regime. It does not currently provide protections for refugees who become displaced due to environmental reasons, leaving such people with little to no forms of aid. Therefore, in order to ensure that environmentally displaced people receive adequate protection, it must be updated or replaced.

### **The 1951 Convention Relating to the Status of Refugees**

The modern-day refugee regime is comprised mainly of the 1951 Convention Relating to the Status of Refugees and the Office of the United Nations High Commissioner for Refugees, which was created as a means to oversee the implementation of the convention (Betts, 2013). The convention was created in the aftermath of World War II in order to deal with the refugee crisis that arose from the atrocities that took place during the war. Following the Holocaust, the international community decided that such a convention was needed in order to ensure that when states are unable or unwilling to provide for the basic human rights of their citizens, these citizens have somewhere to turn to for help. The 1951 Convention Relating to the Status of

Refugees was therefore created in order to define what makes someone a refugee and what their entitlements are so that countries would be unable to force people back to their country of origin after they leave. The definition of what makes one a refugee that was eventually settled on was:

“Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it” (UNHCR, 1951. NP).

This definition applies an incredibly narrow scope to a large and ever-increasing group of people. However, this definition is socially as well as historically constructed, and is not in any way “natural” (Kolmannskog, 2012). In 1951, refugees were people who fled from their governments for fear that their life was no longer safe in their country of origin. At the time, this definition was adequate for protecting most people who fled their countries (though still limited to European countries) because this was essentially the only reason why people were fleeing. When the convention was first enacted, it prioritized civil and political rights over socioeconomic rights due to the fact that the framers were Western countries who were in the middle of a war against the USSR. Western countries attributed socioeconomic rights to communism due to the fact that the USSR prioritized socioeconomic rights (Jackson, 2011). It failed to provide assistance to those that were fleeing their country for reasons other than political persecution. People who fled their countries due to the inability to make a living, or for any reason other than political persecution, were instead labelled as “voluntary immigrants,” and left to fend for themselves (Jackson, 2011).

The 1951 Convention on the Status of the Refugee also only applied to refugees from a European origin (Jackson, 2011). While in 1949, Trygve Lie, the Secretary General of the UN, proposed a convention expanding humanitarian protection of refugees and stateless individuals; this idea was immediately shut down by states who chose to instead promote their own interests. The original convention was created by European males for European males, a very small group of people (Kolmannskog, 2012). It was not until the 1967 Protocol Relating to the Status of Refugees that the restrictions put in place to ensure protections for only European refugees were removed, and the convention could then be applied to all refugees. However, “despite the fact that the Refugee Convention was drafted with only a particular segment of the world’s population in mind, it is applied to all of the world’s citizens, to the systematic disadvantage of people from developing nations” (Jackson, 2011. Pg. 159). Although the system was eventually expanded to include those being persecuted from nations other than European countries, it was never fundamentally changed. It is still a Eurocentric regime which was created to ease the burden on European countries by spreading refugees across all of Europe rather than consolidating them in a few.

People are now fleeing their homes for many reasons other than those given in the 1951 convention and are therefore not covered by the convention and are largely left to fend for themselves. This is the case because the reasons for displacement have changed since this definition was originally written (Betts, 2013). These new factors leading to displacement began to emerge shortly after the 1951 Refugee Convention and include generalized violence, environmental change, and food insecurity. Additionally, when the definition was first written, it was intended that it would change over time to fit the contemporary reasons for citizens leaving their home countries. Today, there are fewer repressive and authoritative countries than there

were during the Cold War era, but a greater number of fragile states (Betts, 2013). The implications of which are fewer people fleeing their countries due to an oppressive government and a greater number of people fleeing due to the extreme burden of living in a fragile state that is unable or unwilling to provide fundamental rights to their people. Because of this, “the maximum number of persons the UNHCR can currently deal with is merely a small fraction of the additional number of climate refugees that many studies predict for 2050” (Biermann & Boas, 2010. Pg. 74). Therefore, the international community must develop a new approach to the outdated refugee regime established in 1951 in order to assist those who are forced to flee their homes due to climate change.

Many people, including government officials from the Maldives and Bangladesh, have made the argument that the definition of a refugee must be changed to include more people and therefore resolve this issue. However, scholars like Kolmannskog and Betts agree that this would only open a can of worms leading to new problems. To do so would mean reopening talks of the international refugee regime altogether, which, in the current political climate, could very easily lead to fewer protections for refugees rather than more (Kolmannskog, 2012). Additionally, Betts says that while the current debate about including new causes of displacement in the definition of refugee is certainly justified, it does not solve the issue at hand (Betts, 2013). He argues that including more causes of displacement would simply be repeating the mistake made in 1951, focusing on the causes of displacement rather than the rights that people who are displaced need to be entitled to. Therefore, there is increasing consensus that the convention must be left as is. While expanding the current definition of refugees could help some in the short term, it is more important to concentrate on the rights that those who become displaced are entitled to rather than concentrating on protecting only those who meet any given definition. That way, when new

stressors which displace people emerge in the future, the definition does not have to be expanded again, and those who become displaced will still be eligible for assistance from the international community.

## CHAPTER III: A HUMAN RIGHTS-BASED APPROACH

### **Literature Review**

In recent years there has been a dramatic increase in the literature available on the relationship between the environment and human rights. A majority of scholars writing about the issue are in agreement that when one's environment is harmed, there is a good chance that the people living in this community's human rights will be negatively affected by the deterioration of their environment. Sara Aminzadeh perfectly encapsulates the issue when she writes that "climate change threatens food security, public health, property, and the livelihoods and lives of members of affected communities" (Aminzadeh, 2007. Pg. 231). Many have written similar sentiments. Toussaint & Martínez Blanco (2019), Lewis & Maguire (2016), and Christoplos, et al. (2014), delve into the interrelatedness of human rights and one's environment, while others, such as Susan Momin (2017) and Marissa Jackson (2011), discuss specifically how the rights of those who become refugees are affected. However, while some have studied the connection between climate change and human rights (Aminzadeh, 2007; Sachs, 2004; Bodansky, 2010), or applied a HRBA to natural disasters (Lewis & Maguire, 2016), or even to refugees (Momin, 2017; Jackson, 2011; Gromilova, 2014) there have been no such works which show what a human rights-based approach would look like as it pertains to climate refugees.

One set of relevant works delves into the relationship between climate change and human rights and discusses the reality of industrialized countries agreeing to such an approach to curtail climate change (Knox, 2009; Aminzadeh, 2007; Rajamani, 2010). There is a clear relationship between one's environment and their ability to fulfill their human rights, making a HRBA one of the best ways to respond to issues pertaining to the environment. This is especially clear for the portion of humanity who rely directly on access to the environment, whether that be forests,

fields, or oceans (Sachs, 2004). When climate change takes these natural resources away from those whose livelihoods depend on them, they suddenly find themselves lacking a cornerstone of their livelihoods. This makes it all the more difficult for them to fulfill some basic human rights, such as those to “the right to life, food, water, health, housing, and self-determination” (McInerney-Lankford, 2009. Pg. 436). Therefore, while the right to a healthy environment is not recognized in any of the core human rights treaties, the UN treaty bodies all recognize the link between the environment and the realization of a vast majority of human rights (Boyle, 2012). However, Christoplos, et al. describes the fact that because current climate change policies are inconsistent, marginalized populations are still vulnerable, and this vulnerability leads to resource conflicts (Christoplos, et al., 2014). Because of this, a human rights-based approach is one example of a valuable solution to the issue of climate change.

While a HRBA is one great way to curtail the negative side effects of climate change, the reality of industrialized countries agreeing to such an approach is questionable. John Knox, for example, discusses the United States’ response to HRBAs (Knox, 2009). The U.S. said that pursuing such an approach to deal with climate change would be unwise and impractical as their understanding of such an approach was that it would require states to provide remedies to people within its jurisdiction, which would make it an inadequate solution for a global issue. Knox argues that the U.S. has a limited understanding of what a human rights-based approach truly entails, and that their argument is merely meant to maintain total control of their own policies. A HRBA also requires states to care for citizens of other countries, as they are based on the understanding that not all countries provide the same amount of care to their citizens as others (Knox, 2009). Sara Aminzadeh shares similar sentiments, writing that the route the international community has historically taken has been ineffective in dealing with climate change. This is due

to the “general reluctance of states to relinquish sovereignty in order to address global environmental problems” (Aminzadeh, 2007. Pg. 259). She says that a HRBA would help those affected by climate change because it would garner more effective environmental protection by utilizing already existent monitoring and enforcement mechanisms, which are more strongly developed in the area of human rights than they are in the environmental realm (Aminzadeh, 2007). Developed countries are clearly reluctant to do anything of significance in regard to climate change, however, HRBAs are one of the best ways to combat developed countries reluctance to mitigate climate change due to the fact that they are able to hold authorities accountable (Rajamani, 2010). The enforcement of human rights treaties that takes place under rights-based approaches is a strong contender against the “glacial pace and distant promise of climate negotiations” (Rajamani, 2010. Pg. 417) that takes place under contemporary international negotiations.

HRBAs would also be useful in dealing with the loss and damage that takes place after a natural disaster, particularly because they pay specific attention to marginalized groups. Natural disasters have a disproportionate impact on marginalized people and responses to these disasters that do not recognize this only exacerbate the vulnerability of these people (Von Doussa, et al., 2008). Von Doussa, et al. therefore describe some of the responses that would be offered under a HRBA. These include emergency shelter arrangements, with attention given specifically to marginalized people, securing all relevant human rights for those affected, not only the rights limited to survival, and deploying law enforcement to areas of high risk of sexual and gender-based violence, robberies, and looting (Von Doussa, et al., 2008). Lewis and Maguire add that under a HRBA, states also have an obligation to prevent conditions which will lead to displacement if a disaster were to occur (Lewis & Maguire, 2016). After such a disaster occurs,



the state then has an obligation to minimize the negative human right impacts of the disaster, which “may include a duty to request and accept assistance from the international community” (Lewis & Maguire, 2016. Pg. 335). Lewis and Maguire then describe the specific human rights that would likely be affected by a natural disaster, including the right to an adequate standard of living, which includes the rights to food and water, the right to a livelihood, and the right to housing. Under a HRBA, the state is responsible for ensuring that their citizens are able to fulfill all of these rights. However, the state oftentimes does not understand the community they need to help as well as that community knows itself. Therefore, it is important that the community has a voice in what happens after a disaster occurs. HRBAs require states to guarantee that those that are most affected by the disaster are active participants in the design and implementation of the actions and policies that take place in the aftermath (Toussaint & Martínez Blanco, 2019). Toussaint & Martínez Blanco therefore write that such an approach could be viewed as a democratizing tool, in that it gives a voice to the marginalized communities that have long been left out of discussions pertaining to climate change adaptation. All these authors contributed valuable information to the field, however, none of them address the failures of the current refugee regime and how applying a HRBA to such a regime could help those that become displaced due to climate disasters.

The current refugee regime is outdated and unable to provide for the human rights of all those who have fled their homes. Applying a human rights lens to the issue of refugees is a relatively new phenomena, as states originally would apply humanitarian law in an attempt to alleviate the issue (Momin, 2017). However, it soon became clear that “putting the responsibility of handling refugees on the very state actors who were persecuting them made little sense” (Momin, 2017. Pg. 57). Under a HRBA, Momin explains that governments are required to

respect, protect, and fulfill the rights of refugees, making it a far more preferable approach. Furthermore, a rights-based approach to refugee law should concern itself with any action that impedes human dignity, utilizing human rights as the standard (Jackson, 2011). The rights of refugees are not the only rights that need to be taken into account, however. Gromilova describes how the population in the receiving area of refugees can sometimes be compromised by the “increased demand on services, the employment market and infrastructure” (Gromilova, 2014. Pg. 93). Therefore, it is the responsibility of the state to engage in planning and implementation with the affected population. The state must prepare the area before refugees arrive, meaning there must be an appropriate number of schools, hospitals, and jobs available. It is also imperative that the state equips the incoming refugees with sufficient knowledge and skills in order to make a living, and eventually re-establish themselves (Gromilova, 2014). Under a rights-based approach, the state is therefore held far more accountable than they are under the current refugee regime.

One of the most fundamental aspects of a human rights-based approach is the right to development. Under international human rights law, every individual has a right to participate in economic, cultural, political, etc. development. Rights-based approaches to development emphasize the fact that development efforts are not a charity on the part of the state, but rather an obligation (Broberg & Sano, 2017). Broberg and Sano argue that the most essential aspect of the right to development is the concept of rights. Because every individual has a right to development, they must also have the power to call upon their state in order to make claims to these rights. Therefore, in order to be able to make claims on a state, Broberg and Sano describe how one must be empowered, “which implies that each individual and group acquires the ability to think and act freely, to make decisions and to fulfill his or her own potential as a full and equal

member of society” (Broberg & Sano, 2017. Pg. 668). Peter Uvin similarly writes that under a rights-based approach to development, the ways in which development is pursued need to respect human rights. This means that the people who will be affected need to participate in the development conversation from start to finish (Uvin, 2007). In other words, it must ensure that the most at risk are given opportunities to participate in the development process that are not dependent on the charity of others but guaranteed through institutions and procedures. The UN backs these claims, stating that elements that are specific to rights-based approaches to development include programs that assess the ability of individuals to claim their rights as well as programs which monitor the process and outcome of development activities, which are guided by human rights standards (OHCHR, 2009). The right to development is a key piece of rights-based approaches because it recognizes people as key participants in their own development, whereas previously they have been seen simply as recipients of services that were given charitably by the state.

Rights-based approaches are a great way to highlight the human side of issues that is not typically seen under different approaches. Many authors have written about this, and many others have written about how a human rights-based approach may help specific people in specific situations. While all these authors have made important contributions, the current literature is lacking studies that show what a human rights-based approach would look like if it were applied to the issue of climate refugees. HRBAs are one way in which the international community would be able to mitigate the issue, and yet it is unlikely to implement one until there has been thorough examination of such an approach. By applying a human rights-based approach to climate refugees, the benefits such an approach could bring to the table will be better understood.

## Theoretical Framework

There are many strengths which a human rights-based approach has over any other type of approach. For one, it situates rights into international law, providing citizens with a powerful backdrop with which they can hold governments accountable for the realization of their rights (Cornwall & Nyamu-Musembi, 2004). This is because under international law, countries have the duty to respect, protect, and fulfill human rights. The UNEP describes these responsibilities as:

“The duty to **respect** human rights, a negative obligation, which requires states to refrain from taking actions that would interfere with or curtail the enjoyment of human rights.

The duty to **protect** human rights against violation by third parties.

The duty to **fulfill** human rights, a positive obligation, which requires states to undertake measures to ensure the realization of rights for all members of society” (UNEP, 2015. Pg. 15, emphasis in the original).

These governmental obligations make a human rights-based approach to the issue of climate refugees preferable over others. The first duty, the duty to respect human rights, essentially boils down to a “do no harm” principle (Karp, 2020). States are required under international law to refrain from taking actions that would harm citizens of their or other countries. As it applies to the issue of climate refugees, states that adhere to a “do no harm” principle would not only refrain from taking actions that hurt citizens but would also refrain from actions which would hurt the environment. The root cause of displacement for climate refugees is environmental

degradation, and therefore states adhering to human rights law need to curtail their actions that harm the environment (Biermann & Boas, 2010). By harming the environment, they are all but ensuring the creation of future climate refugees.

The second duty, to protect human rights, highlights the interconnectedness of global actors and their responsibilities to all of humanity. Under international law, states are obliged to protect the rights of their own citizens, but clearly not all countries honor this obligation. When this becomes the case, it is the duty of the international community to step in and protect the citizens that are being ignored or persecuted by their own country (Cornwall & Nyamu-Musembi, 2004). Monitoring and accountability are therefore important aspects of a HRBA, as third parties must be aware of the situation taking place in other countries if they are to step in once the situation takes a turn for the worse. Therefore, a HRBA to climate refugees would require international cooperation. States must work together to limit their atmospheric carbon contribution, as doing so would reduce the number of people who become displaced from their homes due to climate change. This would thus protect them from human rights deprivations. This duty also requires that states interfere in another country if the ruling party of that country is harming their citizens (Karp, 2020). If people who were forced from their homes due to climate change are not being provided with assistance from their own government, international law requires that other countries step in to ensure that no human being is left without their basic human rights.

Lastly, the third duty that is required of all states under international law is the duty to fulfill human rights. This is a positive obligation, meaning that states must actively work to ensure that they are meeting this requirement (UNEP, 2015). Simply refraining from actions that would harm others is not enough. As it pertains to climate refugees, this would require that states

take action not only to lessen their carbon footprint so as to ensure that fewer climate refugees are created in the first place, but also to ensure that those who will inevitably become displaced due to climate change are having their rights fulfilled. This would require either a redefinition of refugee or a binding international framework which details how states need to properly respond to people who become displaced due to climate change. As discussed previously, climate refugees do not currently fall under the definition of a refugee. Because of this, they are often left with limited resources for help and are unable to pull themselves out of the situation that they were, at the end of the day, forced into due to the inactivity on the issue of climate change by their and other states. Because reopening talks of refugee protections could cause more harm than it would good, creating a new regime to deal with the issue is preferable.

Under international human rights law, the national government is fundamentally responsible for the fulfillment of human rights. The state is referred to as the “duty bearer” while the citizens are the “rights holders” (UNEP, 2015). The people of a state are rights holders due to human rights being inalienable, meaning that citizens are entitled to all human rights simply by being born. Duty bearers are then those who are responsible for respecting, protecting and fulfilling the rights of the rights holders. Citizens must be able to call upon a party in order to assert their right because it is impossible for there to be rights if there is not correspondingly some sort of actor who is responsible for fulfilling these rights. Under a HRBA, governments would be held for more accountable for ensuring that all human rights are being met for all citizens. While it cannot be strictly said that climate change violates human rights, as there is no identifiable duty that has been ignored by a duty-bearer, “human rights law places duties on states that are relevant to climate change” (Knox, 2009. Pg. 478). For example, a mudslide may not be a violation of human rights, but the state still has obligations to protect those that are in its

path because states have an international duty to protect human rights. Especially as they relate to climate change, as climate change is inherently a global issue. Therefore, while states may not be violating human rights when climate refugees are created due to natural disasters in their territory, they do have obligations based in international human rights law to assist them once they become displaced. Because of this, a human rights-based approach is one way to curtail the issue of climate refugees, as such approaches ensure that the state is doing everything it can to protect the lives of the most at risk.

These obligations are based in many legally binding as well as non-binding human rights documents (Jackson, 2011). When the United Nations was first created, it was established that the purpose of the UN, found in Article 1(3) of the UN Charter, is to “achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinctions as to race, sex, language, or religion” (Jackson, pg. 152). Additionally, Article 56 of the UN Charter requires that members promise to take action, both individually as well as jointly, to ensure the realization of Article 55. Article 55 of the UN Charter is as follows:

“With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

**a.** higher standards of living, full employment, and conditions of economic and social progress and development;

**b.** solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

**c.** universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion” (UN, 2021. NP).

Article 55 is meant to be the provision which forces states to adhere to Article 1(3) of the UN Charter (Jackson, 2011). These three articles put together ensure that states act cooperatively with other states as well as the UN to ensure human rights are fulfilled for everyone.

Article 28 of the Universal Declaration of Human Rights (UDHR) is another important document relating to the creation of an international organization that ensures human rights for all. The UDHR was adopted by the United Nations in 1948, essentially enshrining the human rights of all into international law (OHCHR, 2021). Article 28 states that “everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized” (OHCHR, 2021. NP). This article was introduced by the Lebanese member of the Commission on Human Rights, Charles Malik (Saunders, 2018). Malik introduced this article because he felt that it was not enough simply to list rights without also addressing the fact that in order for these rights to be achieved, there must be an international order conducive to realizing human rights. At the time of the commission, there was conflict between the USSR, who was pushing for economic, social and cultural rights, and the U.S., who was pushing for civil and political rights (Curtis & Darcy, 2012). This caused a couple day delay, as debate raged on at the commission. Eventually, Malik proposed now Article 28 in an attempt to create a provision which would allow for the realization of both sets of rights, which was met with support from his peers. The article is of utmost importance because it shows that no current order is able to provide for the human rights of all. In order for every person to realize their rights, the



international community must first work together to create a system based on cooperation between states. To do so, Article 28 must first come to fruition, as human rights cannot be achieved in an international community that continually creates mass poverty, genocide, and environmental destruction. A HRBA requires states to adhere to such laws, as it recognizes that there will be little progress made if the international community does not work together.

In 1986, the UN once again adopted a document that affirms the need for an international community that is conducive to the needs of the most disadvantaged. This new document, The Declaration on the Right to Development, has its intellectual basis rooted in Article 28 of the UDHR (Saunders, 2018). This can be seen by the statement in the declaration saying that “efforts at the international level to promote and protect human rights should be accompanied by efforts to establish a new international economic order” (UN, 1986. NP). It was recognized by all parties involved that the international order during the time was far from a system that allows for everyone to realize their human rights. Therefore, a majority of states were calling for a new order, one in which human rights were easier to access, showing that states understand the importance of access to basic human rights. However, prior to the adoption of the declaration, international bickering had caused what was originally supposed to be one covenant which encompassed all rights laid out in the UDHR to split into two (Sengupta, 2002). One included civil and political rights, while the other included economic, social and cultural rights. This did not sit well with many actors involved, as they recognized the fact that it is not possible to have one set of rights without the other as they are all dependent upon one another. As a response to this, the Declaration on the Right to Development was drawn up after years of scholarly debate in an attempt to unify the two sets of rights and highlight their interdependence. When called upon for a vote, the declaration passed with the majority. The only country that cast a dissenting

vote was the United States (Sengupta, 2002). The U.S. was in the middle of the Cold War and although it had been U.S. President Roosevelt who had fought ardently for the development of international human rights based on the freedom from want, times had changed and the U.S. chose to stick to its battle against communism rather than vote to pass such a declaration.

The Declaration on the Right to Development reaffirmed the UN's commitment to international peace and security by entrenching in international law the right for all to safe and regulated development. It highlights the fact that the UN recognizes the importance of not just promising, but guaranteeing, that citizens are involved in processes that will affect them, a cornerstone of HRBA's. Within the Right to Development, the need for an international community that is conducive to the growth and safety of all is once again highlighted. In Article 3, it articulates the need for states to "realize their rights and fulfill their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights" (OHCHR, 1986. Pg. 3). The declaration places responsibility on the state to create both national and international orders that are conducive to the realization of the right to development, recognizing that this will require changes to the current system (Curtis & Darcy, 2012). A new international order that places the utmost of importance on the lives and human rights of all is clearly needed in order to handle the issue of climate refugees. Without compliance with international human rights law, they will have nowhere to turn to for help. The international community has recognized the fact that it is not currently set up in a way that is beneficial to the most at risk's rights. Under a human rights-based approach, the international community would be centered around cooperation to ensure the realization of human rights for all, making it a preferable approach to the current regime which sees little cooperation.

## CHAPTER IV: METHODOLOGY

In order to demonstrate the utility of HRBAs, it is important to show what one would look like in practice. My research will therefore utilize a case study of climate refugees to show how such an approach could help to mitigate this issue. I will conduct a counterfactual analysis that first examines the refugee regime as it is and how climate refugees fall into the regime, and will then look at the same group, only this time with a theoretical rights-based approach being applied. Rights-based approaches are still more of a theory than they are a practice, meaning there is no one given definition of what the approach entails. Therefore, I will apply a human rights-based approach to my case study of climate refugees so as to demonstrate what such an approach could look like, were it to be utilized. Using a qualitative case study analysis is vital for research of this type, as it allows for complex theories and regimes to be studied in their entirety (Baxter & Jack, 2008). The case study is an essential aspect of this research due to the fact that it allows for all of the complexities that make up a human rights-based approach to be studied in one particular situation. This is useful because rights-based approaches are still only theoretical, meaning studies that are able to show what one would potentially entail provide new insights into practices that have great potential to better the lives of hundreds of millions of people.

A case study is the best way to go about showing the importance of a HRBA because it “allows the researcher to explore individuals or organizations, simple through complex interventions, relationships, communities, or programs and supports the deconstruction and the subsequent reconstruction of various phenomena” (Baxter & Jack, 2008. Pg. 544). In order to show that the current refugee regime must be updated, it must first be deconstructed to show all its flaws. It must then be reconstructed via a human rights-based approach, which will provide readers with an in depth look into how such an approach will be able to better handle the large

influx of refugees that the globe will soon see. Case studies are perfect for this type of research because they study contemporary phenomena in real life situations (Yin, 1981). Quantitative research methods such as experiments are unable to do this, as they separate the phenomena from the larger context that they are a part of. Even if this were not the case, due to the nature of the topic of this thesis, lab studies cannot be utilized. Because of this, a case study counterfactually comparing the current refugee regime with that of a hypothetical regime is the best way to show the strengths of a HRBA.

There are many advantages that using a case study to conduct such research provides, including the abilities to identify new variables and hypotheses along the way, develop historical explanations of the issue in question, and attaining great levels of construct validity (Bennett, 2012). Qualitative case study methods of research can provide in-depth explanations of certain phenomena while taking many variables into consideration. This is critical for a research paper of this sort, as it must highlight the interconnectedness of human rights, provide historical analysis of the current refugee regime, and show from a humanitarian perspective the need for a new regime. Throughout the history of qualitative research, there have been many definitions of what exactly a case study is. For the purposes of this thesis, I will be using the definition provided by John Gerring, who served as the president of the American Political Science Association's Organized Section on Qualitative and Multi-Method Research. Gerring defines a case study as an "in-depth study of a single unit (a relatively bounded phenomenon) where the scholar's aim is to elucidate features of a larger class of similar phenomena" (Gerring, 2004. Pg. 341). The research will use the case of climate refugees, the "single unit" in Gerring's definition, to show the benefits of a new refugee regime centered on human rights.

To do so, I will utilize a counterfactual analysis, a type of research that is able to highlight the relationship between two events by showing how one caused the other. David Lewis, the most prominent author of counterfactual analysis says that at face value, counterfactual analyses are “statements about possible alternatives to the actual situation” (Lewis, 1973. Pg. 558). This thesis will be showing how a HRBA is one possible alternative to the current refugee regime, and how adhering to such an approach would cause more just outcomes. This makes a counterfactual analysis the best way to approach such a topic. Jonathon Bennett, another prominent author of counterfactual analysis, breaks down such approaches even further by writing “in its roughest, strongest form it says that c caused e, where c and e are individual events, means that e depended counterfactually on c, that is, that if c had not occurred, e would not have occurred” (Bennett, 1987. Pg. 368). Under Bennett’s definition, “c,” as it applies to this thesis, would be applying a HRBA, whereas “e” would be more just outcomes. Such analyses have been used by many researchers, including Salvatore Di Falco & Marcella Veronesi, who utilized a counterfactual analysis to study the best strategies for adjusting to long term changes in temperature and rainfall in the Nile basin of Ethiopia by estimating the impact of engaging in various agricultural practices (Di Falco & Veronesi, 2013). Using a counterfactual analysis aided them in showing the outcomes of several agricultural practices, which allowed them to identify the best adaptation strategies out of the ones they tested. This thesis will therefore utilize a counterfactual analysis to show how just outcomes were created due to the implementation of a hypothetical HRBA to the issue of climate refugees.

This research will be done using an illustrative case study method due to the vast complexities that the refugee regime entails. An illustrative case study is best used “to describe a situation or a phenomenon, what is happening with it, and why it is happening” (Hayes, et al.,

2015. Pg. 8). This thesis will delve into the intricacies of the history of the refugee regime as well as what it looks like and how it affects others contemporarily. It will focus greatly on what is currently being done under the regime and why it is unable to help millions of people who could be argued are refugees and should therefore receive protections under the regime. The basis of this thesis is that the current refugee regime does not adequately provide protections for those that seek its assistance and provides little to no protections for those that fall outside the definition of refugee, but who desperately need the help of the regime. An illustrative case study is therefore the best type of case study to conduct for this type of research, as it can describe why any given phenomenon is (or is not) happening (Hayes, et al., 2015). Lynn Davey similarly suggests of illustrative case studies that “the product is a sharpened understanding of why the instance happened as it did” (Davey, 1990. Pg. 1). This makes it a preferable approach to the topic of this thesis, as it is looking to explain the outcomes of a rights-based approach.

## CHAPTER V: CASE STUDY: THE CONTEMPORARY REFUGEE REGIME

### **A Brief History**

While Chapter II has already provided relevant background information for the modern-day refugee regime, in order to have a better understanding of the complications of that regime, it is important to go further back and examine the history of responses by the international community in regard to refugees prior to the 1951 Convention Relating to the Status of Refugees. The most crucial part being that the system has been made up of a series of responses to issues at hand, rather than proactive measures to ensure issues do not come about. This is how the international community dealt with issues relating to refugees prior to the 1951 convention and is how they are still dealing with this issue under the current regime.

The word “refugee” has French origins, as the first people to be recognized as such were the Huguenots, a group of French Protestants (Porzucki, 2015). In 1685, King Louis XIV revoked the Edict of Nantes, a proclamation which was issued in 1598 by Henry IV which ended the French Wars of Religion by granting recognized tolerance of Protestantism under a Catholic rule (Columbia College, 2021). With this proclamation revoked came royal decrees banning emigration from France accompanied by serious punishments for those who attempted such (Barnett, 2002). Still, 200,000 Huguenots, 1% of the French population, fled the country to the Netherlands, England, Denmark, etc. This marked the beginning of mass refugee movements in Europe, which led to an early notion of a refugee “regime.” However, this regime was based on the state system established by the Treaty of Westphalia, a system based upon the notion of sovereignty. Refugees (although the term was hardly used during this time period) were for the most part free to enter into new countries, but each state applied their own set of laws to these people, ignoring the global nature of the issue (Barnett, 2002). The refugee regime, if it can even

be called that as there were no international laws or bodies pertaining to refugees at the time, applied laissez-faire approaches to those who entered their territory. They did not distinguish between immigrants and refugees and largely let just about anyone in, as they recognized that if they have the resources to travel, they will likely improve the country by bolstering the population as well as bringing with them their wealth.

This largely non-political nature of the regime began to shift due to the French Revolution in 1789 when those who opposed the Revolution became the prosecuted, resulting in the execution of the royal family in 1793 (Finnsson, 2018). Knowing there was a threat of execution in France, much of the French aristocracy found refuge in Austria, as Austria and the monarchy in France had close ties. However, Austria was not the only country willing to help. Prussia, Russia and England all decided to help the aristocracy fleeing France in order to “protect the balance of power in Europe by quashing the new French Republic’s increasingly hegemonic goals” (Barnett, 2002. Pg. 2). What once had been a regime based upon sovereignty suddenly took on a new dimension as it had the potential to shift the power dynamics in Europe. This was seen all throughout the nineteenth century, which became a period of political revolutions. Political dissidents were fleeing their countries in numbers never seen before and there was still no international system or body tasked with handling the migration of such large numbers of people. Many countries began implementing strict restrictions as to who was allowed into their territory, but others, such as England and Switzerland, continued to allow in all who sought refuge (Barnett, 2002). Certain countries pressured England into adapting more restrictive policies, representing a shift from a regime based upon sovereignty to one based on international communication and cooperation. While there was still no established refugee regime, whispers of one began to appear due to European nations attempting to maintain a balance of power.



It was not until the twentieth century that an actual system was put in place to deal with the issue of forced migration. This system came about due to the Russian Revolution of 1917, which led to over one million people fleeing Russian territories (Triola, 2014). The aid provided for those who fled came solely from donations from public and private organizations, which lacked any sort of organization. Due to this lack of organization, the Joint Committee of the International Committee of the Red Cross and the League of Red Cross Societies held a conference on February 16<sup>th</sup> of 1921, in which they established a League of Nations High Commissioner for Refugees, originally meant to be a temporary agency, tasked with coordinating the assistance of refugees fleeing from Russia (Feller, 2001). While the agency was originally only meant to be temporary, it still represents the first time the international community officially recognized refugees as a global issue. Dr. Fridtjof Nansen, the first appointed High Commissioner, did not provide a definition of what made one a refugee, but rather defined them based on their country of origin and group affiliation (Barnett, 2002). He also created Nansen passports, legal documents given to refugees which allowed them to be recognized as such and therefore travel more freely. No country was obligated to take in refugees who carried these passports, but all agreed to recognize them as valid forms of identification. This perfectly encapsulates the problem that was facing the High Commissioner for Refugees, as states were willing to recognize refugees but far less willing to take them in or do anything to stop people from becoming refugees.

Dr. Nansen created many institutions relating to the protection of refugees, including the Intergovernmental Committee on Refugees, the Office of the High Commissioner of the League of Nations for Refugees, and the Nansen International Office for Refugees (Triola, 2014). Through the collaboration of these organizations came the 1933 Convention Relating to the

International Status of Refugees, which was the first international document to lay out the principle of non-refoulement, which prohibited states from forcing refugees back to their country of origin when their life was still in danger there.

Although Dr. Nansen created several organizations to assist with the influx of refugees at the time, there was still little international cooperation among states on how to help refugees. For example, the second High Commissioner for Refugees, James McDonald, actually ended up resigning in 1935 in protest of the international community's refusal to deal with the main instigator and cause of refugees at the time, Germany. He realized that in order to deal with the issue of refugees, there had to be a level of international cooperation that he simply was not seeing. He also recognized that his efforts to help refugees were hindered by the fact that it was up to the nation to decide whether or not to allow in refugees, seriously impeding the power of the HCR.

World War II was then the next significant period of upheaval, as 30 million people were left displaced (Barnett, 2002). At the end of the war, the League of Nations was disbanded, but the United Nations Relief and Reconstruction Agency (UNRRA) was implemented to deal with the millions of now displaced people. The UNRRA ultimately failed a few years later due to Cold War tensions, and the International Refugee Organization (IRO) was therefore established in 1948 to take over where the UNRRA left off. Its primary job was to resettle refugees in new countries, but it soon became clear that it would be unable to resettle all who had become displaced by 1950, the year it was set to dissolve (Triola, 2014). There remained 1.25 million refugees in Europe in 1950, which led to the UN General Assembly's decision to create a permanent, independent institution to look over refugee affairs (Barnett, 2002). The United Nations High Commissioner for Refugees (UNHCR) was established as a permanent institution

under the control of an executive committee, working alongside the General Assembly. It was provided with a small budget of \$300,000 to assist the 1.25 million refugees that remained (Triola, 2014). In July of 1951, The United Nations Convention on the Status of Refugees was signed and, along with the UNHCR, became the most fundamental aspect of today's refugee regime.

### **Problems with the Contemporary Refugee Regime**

The contemporary refugee regime is riddled with issues that prevent it from providing care to all those who need it. For starters, the regime applies an incredibly narrow definition to the word refugee, leaving many millions of people who are in need of assistance without the care they need. However, even those who meet the definition and are being cared for under the refugee regime are not receiving the level of care that they should be. For this reason, the argument that the definition of "refugee" needs to be expanded so as to provide aid to more people does not hold up, as the refugee regime as is can hardly support the few million people who meet the requirements to be considered a refugee. Problems with the modern refugee regime include a lack of international cooperation, funding that comes almost entirely from voluntary donations, and an unwillingness by the Global North to take in refugees.

The problems with the modern refugee regime began as early as its inception in 1951. Different states had different ideas as to what the new organization would look like in terms of its scope and mandate, and all wanted theirs to be the one to stick. The U.S., for example, wanted only a temporary agency with restricted authority and narrow functions (Betts & Milner, 2019). France wanted the organization to have great organizational capacity and a steady source of predictable funding. The UK pushed for refugees to be the responsibility of host states. India and

Pakistan, after having dealt with the displacement of 10 million people due to Partition, argued that the new organization must be both strong and permanent, with “global responsibilities and the ability to raise funds for relief assistance” (Betts & Milner, 2019. Pg. 2). Although states like India and Pakistan had dealt with severe refugee issues in the past, their calls fell on deaf ears and the UNHCR instead reflected the interests of more powerful states, in particular the U.S. The UNHCR was to be reliant on states, as it lacked political autonomy. The only guaranteed financial support it originally received came from the UN, and this funding was only allowed to cover administrative expenditures that related to the functioning of the office. Any other expenses had to be covered via donations from voluntary contributors, making it almost entirely dependent on states and organizations that could afford to donate to its cause. This essentially makes it impossible for the voices of smaller and less developed nations to be heard, even though it is these nations who are dealing with the brunt of the issue. Even more, when the UNHCR was being created, Western states successfully attempted to limit their obligations to refugees by articulating a very sparse set of legal commitments (Bradley, 2019). They made many of the core dimensions of the regime, such as taking in refugees, moral obligations rather than legal ones. Because of this, Western states portray the bare minimum they do in regard to refugee protection as an act of generosity, rather than an obligation that they must fulfill due to international laws. This allows these states to continue to do the bare minimum and still appear to be doing a whole lot.

This is an issue that the international community has been unable to fix, as there is no treaty body or committee meant to ensure that states are fulfilling the rights outlined in the 1951 convention (Betts & Milner, 2019). This means that states hold almost all control over both allowing refugees into their territory, as well as the rights that refugees receive once they are in

the territory of the state. There is a clear “rights versus responsibilities” dilemma within the modern refugee regime, as the 1951 Convention lays out rights that refugees are privy to and yet there is a serious lack of accountability when it comes to upholding those rights (Field, 2010). This is partly the fault of the 1951 Convention, as while it lays out the rights of refugees, it does not lay out the duties that states have towards refugees. Because of this, many refugees find themselves in a state that is unwilling or unable to provide them with the assistance that they need. The Global North is a large contributor to this issue, as they do everything in their power to keep refugees in the Global South by only admitting incredibly small numbers of refugees into their territory every year. In fact, “60 percent of the world’s refugees are hosted by just 10 states in the Global South, while 85 percent of the world’s refugees are hosted by low- and middle-income countries in regions of refugee origin” (Betts & Milner, 2019. Pg. 6). The states that are hosting the vast majority of refugees have nowhere near the resources that the Global North has, making the holding of millions of refugees financially cumbersome to these states. Because of this, the states that are accepting refugees seek to limit the costs associated with such by creating refugee camps, areas with poor living conditions where refugees are thrown into like cattle (Bradley, 2019). Rights violations are inevitable when the flow of refugees continues to these areas that cannot support them (Field, 2010). It is common for refugees to not be able to work or receive an education while they are in a refugee camp, meaning their lives are essentially put on hold while they are there. Common problems within refugee camps include military attacks on the camps, separation of families, sex trafficking, and rape of women and children. These problems are not likely to end if individual states continue to hold responsibility for the protection of refugees and their rights. States that are neglecting refugees will only start to

implement more restrictive barriers to their territory, making it all the more difficult for refugees to receive help.

In terms of the number of refugees that a country takes in, Turkey has provided assistance to the greatest number of refugees over the past ten years (Christophersen, 2020). Since 2010, they have taken in 4.3 million refugees. While Turkey is larger than many other countries that are taking in great numbers of refugees, they are finding it difficult to provide protection and decent living conditions for the 5.1% of their population that is comprised of refugees. However, the refugees who find themselves in Turkey are unable to move on to European countries where they would receive a better quality of life due to Turkey signing an agreement with the EU in 2016. This agreement prohibits refugees from moving from Turkey to the EU. While Turkey has taken in the greatest number of refugees, in terms of the percentage of the population of a country that is made up of refugees, Lebanon takes a clear lead over Turkey with 21.8% of its population being made up of refugees (Christophersen, 2020).

Lebanon's population consists of 6 million people, with approximately 1.5 million refugees from Syria. The number of refugees could actually be higher than this, but it is difficult to know, as the Lebanese government ordered that the UNHCR stop registering new refugees in the country in 2015. This is most likely due to the fact that if a refugee is registered, they are able to renew their residency in Lebanon without a local sponsor and they do not have to pay the \$200 annual renewal fee that Syrians who are not registered have to pay (Janmyr & Mourad, 2018). Lebanon is in urgent need of assistance with these refugees, as the country is recovering from a civil war that lasted from 1975 until 1990. Not only that, but the political situation in Lebanon is also disastrous. Mass protests led to the Prime Minister resigning in 2020, there is high unemployment, the value of the currency in Lebanon has dropped by 85%, and recent surveys

show that over 50% of the population lives below the poverty line (Christophersen, 2020). This number is even greater for refugees, with 83% of them living below the extreme poverty line. In a rational world, developed countries who have the resources to care for people who have become displaced from their homes would take in a majority of these people. However, out of the ten countries which take in the most refugees in proportion to their population (Lebanon, Jordan, Turkey, Liberia, Uganda, Nauru, Malta, Djibouti, Sweden, and Sudan), only two of them are considered developed nations (Sweden and Malta). Turkey is considered by some, such as the CIA World Factbook, to be a developed nation, but is considered by many others, such as Dow Jones, Financial Times Stock Exchange Group and Morgan Stanley Capital International to be a developing nation (Investopedia, 2019). Even worse, Liberia, Uganda, Djibouti, and Sudan all fall onto the UN's "Least Developed Countries" list (UN, 2021), and Liberia in 2018 was named the poorest country in the world by USA Today, using GNI per capita as measurement (Harrington, 2018). Some of the poorest nations in the world are taking in the greatest percentages of refugees largely due to the fact that they are geographically close to refugee starting places. Because of this, refugees are living in conditions in which many of their human rights are being violated. Refugees are a global issue, and the response to this issue must also be global in nature if the international community is serious about aiding refugees.

In order to adequately deal with a global issue, it is imperative that the international community works together. As has been seen, states are not working with one another in order to most effectively help aid refugees. The UN recognized that there must be international cooperation when they drafted the 1951 Convention, which includes in its preamble, "the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature

cannot therefore be achieved without international co-operation” (UNHCR, 1951. NP). Similar statements have been made in numerous international treaties, as was covered in Chapter III. It may come as a surprise therefore, that while the international community clearly understands the importance of international cooperation, there seems to be very little of it taking place. Countries where refugees first land and apply for asylum have an obligation to not force them back to their country if they are still at risk of persecution, but there is no obligation for other states to help with the costs of providing asylum (Betts & Milner, 2019). Because of this, many developing nations are forced to take on the financial burden of millions of refugees that the Global North is not willing to accept or compensate developing nations for, which causes the poor living conditions for refugees described previously. Responding to the issue of developing nations being forced to cover the brunt of a global issue, former UN High Commissioner for Refugees and now the UN General Secretary, António Guterres said in 2015, “It is my conviction that the best way to do this is through genuine international cooperation and equitable burden and responsibility sharing. In fact, if there is one Protocol that is yet to be drafted to complement the 1951 Convention, it is one on international solidarity and burden sharing” (Guterres, 2015. NP). If there is ever to be a successful refugee regime, sharing the burden of refugees must be an essential aspect of it.

The current refugee regime is based predominately upon what Western states hope to get out of it, as these states can donate far more money to the regime than the states which are hosting refugees. The regime therefore bends to their will in order to continue receiving donations. Even though the refugee host states know far more about what is needed to help refugees, Western states are largely in control of the regime. Because of this, states in the Global North fight to keep the majority of refugees in the Global South, even though the states which



are currently home to the most refugees are for the most part developing, impoverished nations. This unsurprisingly leads to poor living conditions for refugees. In order to solve this issue, there needs to be far more international cooperation. Many treaties and such reflect the fact that in order for progress to be made, states need to work together. However, this is only lip service, as states are clearly not working together to ease the burden on less developed nations. Thus, expanding the regime to include climate refugees would simply not be enough. The refugee regime is clearly flawed, and adding millions of more refugees would only place a heavier burden on states in the Global South that would take them in. Therefore, a new regime is needed altogether.

## CHAPTER VI: COUNTERFACTUAL CASE STUDY: APPLYING A HUMAN RIGHTS-BASED APPROACH TO THE ISSUE OF CLIMATE REFUGEES

International norms play a critical role in shaping the development of the global community. Norms guide the activity of states by providing incentives for acting in a certain way, such as getting rid of nuclear weapons, taking action on climate change or not harming innocent civilians. However, this does not mean that every state actively adheres to every international norm. This is partly due to the fact that while the world is more connected than it has ever been, sovereignty is still one of the most fundamental norms of the international community, making it difficult to hold states accountable for acting in a way that is not concurrent with the norms of the time. This is one of the reasons a human rights-based approach would be more effective in dealing with the issue of climate refugees. HRBAs provide a vision of what ought to be and then develop laws and customs that will get the community to that vision. This clearly differs from what takes place in the international community today, as seen by two current international norms: human rights and caring for refugees.

At least one of the nine binding treaties that stemmed from the Universal Declaration of Human Rights has been signed by every member state of the UN, suggesting that all 193 member states are committed to the international human rights norm (UN, 2021). However, this is clearly not reality, as gross violations of human rights are committed by UN member states on a regular basis. Similarly, there are currently 146 members to the Convention Relating to the Status of Refugees and 147 to the Protocol Relating to the Status of Refugees (UNHCR, 2021). This insinuates that the majority of the international community is committed to helping refugees, when in reality we have seen that most states do the bare minimum to provide aid, leaving only a select few developing nations with the brunt of the burden. Clearly, there is an

accountability issue when it comes to adhering to international norms. States are selective in the norms that they adhere to and in order to implement a rights-based approach, the norms that are being followed would need to shift.

There are many different forms that a rights-based approach to climate refugees could take. There is not a unifying definition of what a HRBA is or what exactly it would look like. The important thing is that the approach is centered around human rights. Bierman & Boas (2010) developed a framework for an international response to the issue of climate refugees, which I will be utilizing in this case study. However, their framework is not centered around human rights, so I will utilize the framework they have created and add onto it in order to develop a human rights-based framework. The framework they have created is realistic and draws heavily on trends of UN membership and past participation in UN committees. I will first discuss the framework they have created and will then go into how the new regime will be funded before laying out what exactly the new regime will entail. Lastly, I will discuss why developed nations would agree to such a regime.

The most fundamental aspect of a HRBA to climate refugees must be that it is centered around the human rights of all who are involved. In many cases, this will require the relocation of people who live in an area that is likely to be affected by climate change. To do so, there will first need to be a great deal of international cooperation, making the UN the best agency to establish such a regime. Biermann & Boas recommend establishing a Protocol on Recognition, Protection and Resettlement of Climate Refugees to the United Nations Framework Convention on Climate Change (UNFCCC) (Biermann & Boas, 2010). By doing so, the protocol would be able to build upon the support of the UN member states who are parties to the UNFCCC, which is currently every single member state of the UN. This way, the protection of climate refugees

would be tied to the climate regime, which would provide the new protocol with top-tier scientific developments, including new science that is able to show which areas are the most at risk for climate disasters relating to climate change (Biermann & Boas, 2010). Biermann & Boas also recommend that the protocol provide for an executive committee which works under the authority of the Conference of the Parties to the UN Climate Convention. This committee would have a list of locations where the population is at risk of being displaced due to climate change. In order to determine these areas, the committee would also need a scientific body working under them that is tasked with determining which areas need to be placed on this list and providing scientific advice to areas affected as well as to the executive committee. Once placed on the list, the location would receive “specific rights and support mechanisms, including financial support and voluntary resettlement programs over several years” (Biermann & Boas, 2010. Pg. 78). Lastly, Biermann & Boas discuss where the funding for such a regime would come from. They ultimately decide that the most realistic way to fund the protection of climate refugees would be to create a new fund, rather than siphoning off money from other environmental funds. Industrialized countries have also committed under the Climate Convention to reimburse developing nations full incremental costs of mitigation programs. They are obliged under the climate convention to assist vulnerable countries in adaptation costs, with special rights given to the least developed countries (Bierman & Boas, 2010). Biermann & Boas recommend that this be extended to the protection of climate refugees.

## **Funding**

Such an ambitious regime will clearly require a good amount of funding. Biermann & Boas discuss three different ways their regime could potentially be funded, through “general

development funding agencies, environment-related funds, or a new funding agency to be created especially for climate refugees” (Biermann & Boas, 2010. Pg. 80). They decide that general development funding agencies, such as the World Bank or the United Nations Development Programme would not be an appropriate funding mechanism, as these agencies get their money from voluntary contributions from countries and currently do not have enough money even to fund their current purposes (Biermann & Boas, 2010). Environment-related funds would also be insufficient to cover the costs of this regime due to the fact that including climate refugees with general environmental funding schemes “might blur the specific moral link between climate refugees and potential donor countries, and hinder claims for compensation, liability and responsibility from industrialized countries” (Biermann & Boas, 2010. Pg. 81). Therefore, they propose the creation of a *sui generis* funding mechanism that is specific to financing the protection of climate refugees, the Climate Refugee Protection and Resettlement Fund, to which states can voluntarily contribute aid (Biermann & Boas, 2010).

The source of this money has already been written into international law, but once again, is very loosely adhered to. Article 4.4 of the Climate Convention requires that industrialized countries financially assist the most vulnerable countries in meeting climate change adaptation costs and article 4.9 gives special attention to the least developed countries in regard to financial assistance (UN, 1992). Industrialized countries have also committed under the 1990 London Amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer to reimburse developing nations the agreed full incremental costs of climate change mitigation programs (The London Amendment, 1990). The new regime is essentially one large, comprehensive adaptation and mitigation program to climate change, as climate refugees are a direct result of climate change. This means that it would fall under the jurisdiction of all of these.

Climate refugees are an issue that must be dealt with immediately and seriously, as the influx of approximately 212 million refugees has a high potential of wreaking havoc around the globe, with the brunt of this being felt by developing nations. While Biermann & Boas recommend simply “extending the principle of reimbursement of full incremental costs to the protection and resettlement of climate refugees” (Biermann & Boas, 2010. Pg. 81), HRBAs involve the empowerment of international actors. Therefore, if the new regime is to be effective, it must mandate that countries contribute a set amount of money to the Climate Refugee Protection and Resettlement Fund, rather than relying upon inconsistent aid passed off as “charity” or “alms-giving” initiatives from developed nations. The amount required from each country will be based upon their contribution to the climate crisis, measured by their carbon emissions. Whether this is based upon a country’s current emission rates or total, historic carbon contribution will be left up to the executive committee to decide. Determining which is more important would require an entire philosophical discussion on the topic, which is out of the scope of this thesis and better left to the new regime to establish. However, the countries that are currently emitting the most carbon and the countries that are responsible for the greatest percentage of historic carbon emissions are largely made up of the same group of countries, only in different orders. The following section will often refer to state’s contribution to atmospheric carbon, but the content of the section would not be any different if either of these approaches were applied over the other. Requiring states to contribute to the new regime based upon their contribution to the climate crisis will provides an incentive to countries to lessen their carbon footprint, as this would decrease the amount of funding required from them. The funding mechanisms therefore act in a proactive manner, consistent with rights-based approaches.

Because HRBAs also work to lessen the inequalities between nations, not all nations will have to contribute to this fund. Many developing nations simply have not contributed to the climate crisis as drastically as developed nations have and because of this, will not have to pay to mitigate a problem that they did not cause. It should be emphasized that developed countries are already obligated under international law to provide this funding to developing nations, so the funding of this regime is not drastically changing anything in the international community. The only difference is that under the new regime, the laws that require developed nations to fund climate change mitigation programs will be more strictly adhered to, and rather than sending the money directly to a state in need of assistance, states will be sending the money to the executive committee of the Protocol on the Recognition, Protection and Resettlement of Climate Refugees. This money will then be used to implement the new regime and provide aid to countries as needed. The new regime is not ending a state's ability to send money directly to countries in the form of foreign aid, it is simply adding an additional requirement. This way, the new regime ensures that all countries in need of aid are receiving the assistance that they need.

### **The New Regime**

In order for such a regime to take place, states must first make good on the promises they made under international human rights laws to work with one another in order to provide human rights to all people. Because sovereignty is one of the most fundamental norms of the international community, states have not been fulfilling this obligation as much as is needed in order for a human rights-based approach to work effectively. Therefore, the sovereignty norm that currently exists will need to be supplemented by a new global norm of international cooperation. Chapter III discussed the documents that already exist which bind states to

cooperate with other international actors, and it is these documents to which the UN would hold states accountable under a HRBA.

The new regime to climate refugees will focus a great deal on planned resettlement and migration, which would clearly require a great deal of international cooperation. However, even a report from The World Bank stated that if utilized correctly, migration can be an effective climate change adaptation strategy (World Bank, 2018). Under the new regime, the populations of areas that are put on the list of being in danger of climate related disasters and/or economic turmoil due to climate change will be privy to voluntary resettlement programs over the course of many years. In order to determine where they will be resettled to, the executive committee will need a body working under them that is tasked with evaluating the economic conditions of states that are able to take in refugees as well as any political, cultural, religious, etc. threats that refugees may face in this state. The states' contribution to the climate crisis will also be used to determine the number of refugees they take in as a way of holding states accountable for the refugee crisis their actions are creating. This will again be measured by the states' contribution to atmospheric carbon, as this is the main cause of climate change. Countries that have contributed the most carbon will therefore have to take in a greater percentage of total refugees than they have in the past, as HRBAs ensure accountability. While these countries will have to take in more refugees, they will not be taking in all climate refugees. Many climate refugees will be able to be resettled to a location in their home country or a neighboring country that is not threatened by climate disasters.

The amount of support each contributing country provides to the new regime will therefore be a balance between monetary funding and taking in refugees. The UN body responsible for evaluating the conditions of refugee receiving countries will establish both the



number of refugees that each contributing country will take in and how much each country will pay into the fund. While developing nations that do not emit much carbon will not have to pay into the fund, they will likely have to take in refugees. However, the fund will cover the costs associated with this and the UN body will ensure that all refugee host states only take in a number that they are able to manage. If for any reason these developing nations are opposed to taking in refugees, they can communicate this concern to the UN body, who will evaluate the causes of the concern and potentially adjust the number of refugees this country takes in accordingly. Because the total number of climate refugees that will emerge in the future will not all come about at once, the UN body will adjust the numbers it establishes for monetary contribution and refugee intake on a yearly basis. However, the scientific body will already be aware of locations likely to be affected by climate change, so the chances of climate change displacing people in a location that has not already been taken into account when deciding the contribution needed from states are unlikely. If such a situation did arise, the regime would use its current funds to settle the refugees and then increase the amount of funding required from each country the following year to make up for the unforeseen loss.

States' contribution to the new regime is two-fold, represented by the number of refugees they take in and the money they contribute to the fund. To come up with these numbers, the UN body will first establish how many refugees each contributing state would take in and how much funding is required from each state if these aspects were based solely on that country's carbon emissions. Each of these aspects, before accounting for other factors, represent half of each countries' contribution to the regime. The UN body will then establish how many refugees each country will actually be able to take in based upon the number and size of communities within the country in which refugees will be able to safely be resettled in. This may lead to a decrease in

the total number of refugees that a country will take in if there are not many suitable locations within the country for refugee resettlement. The new regime therefore allows room for fluctuation in the number of refugees a nation takes in. For example, as discussed previously, China is currently the world's greatest carbon emitter. This means that under the new regime, it would be expected to take in far more refugees than it has in the past. However, in 2019, 26,455 people from China applied for asylum in other countries, while only 353 people from other countries applied for asylum in China (World Data, 2021). This is cause for concern, as thousands of people attempting to find refuge from their country is a sign that they are unsafe within that country. While 26,455 people only represents 0.002% of the Chinese population, the figure is still a red flag that China is potentially not as suitable as other locations for refugees. The new regime would obviously not resettle refugees in a country in which they were unsafe, or where they would not be likely to have their rights fulfilled. This is not to say that China is an unsafe country, as this would be a dangerous generalization made from one statistic, but it is something that the UN body that evaluates the conditions of a country will have to analyze before deciding to send refugees to the country. If the body found that the number of communities available within China allowed for fewer refugees to be settled in the country than the initial number based solely on carbon emissions required, China would make up for this by increasing the amount of money it provides to the fund, as each of these factors make up half of a country's contribution to the regime. If the number of refugees able to be resettled in China were to theoretically come out to zero, the new regime would not settle any refugees there and China would then only be contributing half of what other nations are. It would therefore have to compensate for this by doubling the other aspect of its contribution, the funding, essentially bringing its total contribution to the regime back up to the same level of other nations.

There currently exists great disparities in the amount of carbon emissions each country is responsible for. This would imply that countries like the U.S. and China, since they are responsible for a far greater amount of atmospheric carbon than other nations are, would have to take in a significantly larger number of refugees than other nations would. This likely would not be the most efficient way to distribute the climate refugees, as in many cases it would be more cost effective, eco-friendly, and socially easier for the refugees themselves to be resettled to a location in their home or neighboring country. It will therefore be the task of the UN body to decide the most efficient way to distribute the refugees. If the body decides that the most efficient distribution would include, for example, the U.S. only taking in say 20% of the number of refugees it would be required to take in if carbon emissions were the only factor, it would then make up for this 30% decrease by increasing its total funding to the regime by the same amount. The countries that are responsible for the greatest amount of atmospheric carbon also understandably have the highest GDPs, so expecting them to contribute most significantly to the regime would not be unrealistic. Additionally, if a contributing country would like to take in fewer refugees, it will have the ability to decrease the total number it takes in and increase the amount of money it contributes if another country, or group of countries collectively, increases the number of refugees they take in by the same amount. Likewise, if a country would like to decrease the amount it contributes to the fund, it would have to make up for this by taking in more refugees, and other nations would then decrease the number of refugees they take in and increase their funding. This would only be able to happen if a country taking in more refugees has enough safe space in the communities available for refugees, but it allows states to have more of a say in the ways in which they contribute to the regime. This would increase international cooperation, which would improve the wellbeing of the regime overall.

The amount that a country is able to increase or decrease their contribution in one aspect is thus dependent upon all countries' contributions. If, for example, a majority of the countries that are contributing to the new regime wanted to increase the number of refugees they take in so as to decrease the amount of funding they contribute, they would only be able to increase this number by a very small amount and only if another country or group of countries agreed to take in fewer refugees and make up for the funding lost from the other countries. It should also be noted that a 1% increase or decrease in either of the aspects of a state's contribution will not equal the same number for all countries. States like the U.S. and China have emitted far more atmospheric carbon than other nations who will be contributing to the regime, so both the base number of refugees they will have to take in as well as the funding they are required to provide to the Climate Refugee Protection and Resettlement Fund will therefore amount to greater quantities than those of other nations who are contributing to the regime but are responsible for less carbon emissions. Say for example that the U.S. wanted to decrease their funding to the regime by 1%. 1% of the U.S.'s contribution to the fund will be far greater than say, 1% of Italy's contribution to the fund, who is responsible for far less atmospheric carbon. Therefore, if a state like the U.S. or China wanted to increase or decrease one aspect of their contribution, it would likely require a small group of countries to make up for the other aspect. While many industrialized countries are not willing to take in as many refugees as is needed under the current refugee regime nor provide developing nations with significant aid, they will have to reduce the amount of carbon they emit if they wish to contribute less than what is required from them under the new regime. The new regime will therefore help to put an end to the climate change crisis and proactively help to create fewer refugees in the long run by putting pressure on these nations to end their environmentally degrading practices.

In regard to where specifically refugees will be resettled, the body that is responsible for analyzing conditions of receiving countries will decide, while adjusting the numbers to account for countries agreed upon increase or decrease in either aspect. Additionally, the population that is looking to be resettled will also have a say in the matter. One of the key norms of HRBAs is the participation and inclusion of the affected population in decision making (Christoplos, et al., 2014). The voices of those most affected by climate change have largely been ignored in the past, which is one of the reasons for the lack of human rights support for these people. HRBAs therefore act as a democratizing tool by providing a voice to the previously voiceless. Under the new regime, there will be another body under the executive committee that is tasked with maintaining communication between the population that is under threat of climate crises and the state in which this population is located. If the state refuses to cooperate, the population will still have this UN body to communicate with, which will help to mitigate the issue of state non-compliance. Nobody knows the values and history of a community, nor the human rights violations or simply lack of certain rights, better than that community. The best way to help this community is therefore to give them a voice in the design and implementation of the program. The body for communication will have UN agents working in the community itself, in constant communication with the population about their human rights and what they hope to receive from the new regime. This could entail further work in certain human rights areas, or their wish for where they would like to be transitioned to, be it somewhere else in their country or a new country altogether.

The body working to identify locations ready for immigrants will work closely with the communication body to settle migrants in areas that are safe and stable for them, while listening to the concerns and desires of the refugees that are being resettled. In some cases, only the

coastal regions of a country will be affected by climate change to a degree that requires relocation of the native population, while areas more inland will still be suitable for human life. In this situation, the population will likely be moved more inland, or to a neighboring country, as this will allow the displaced people from these locations to remain in an area comprised of people who share a similar background and to whom they can relate with. The body will also work to keep communities together, to ease the stress that accompanies relocation. Refugees will therefore largely be grouped by country of origin if they have to move to a new country. In many cases, the most practical location to settle refugees will be somewhere else in their home or neighboring country. Relocating displaced persons to a nearby location will also require less carbon usage than relocating them to a country further away, which would require long, possibly multiple, plane trips. Planes emit a significant amount of carbon, so relocating refugees in areas close by will reduce the carbon emissions required for the relocation aspect of the new regime. While many refugees will also be relocated to countries further away, and will thus require carbon consumption, the regime as a whole acts to lessen nations' carbon emissions. Therefore, while the new regime will require the use of some carbon, it will reduce the total carbon emitted on a global level.

When refugees are settled into a country, that country typically provides them with some sort of financial aid to help them in the process. Because it would be unjust to developing nations to move refugees into their country and then expect them to cover these costs, the fund established for the new regime will cover the financial aid provided to refugees in nations that are not serious carbon emitters. It will not cover the benefits for refugees who migrate to the nations who are contributing the most carbon, as this would require these countries to contribute more money to the regime, which would then essentially be sent back to the country, making it

an unnecessary step. However, the one situation in which this may occur would be if disparities existed in the amount of assistance that different countries are providing refugees settled in their territory. For example, refugees that are settled in China may receive less assistance than those settled in the United States. If such a situation arises and the disparity is severe enough that those settled in a high-carbon-emitting country are not able to fulfill their human rights, the executive committee will push the country to increase the aid it provides, as this aid is key to the realization of human rights. If it fails to do so, the amount of funding it is required to send to the committee will increase and this money will then be used to provide aid to the refugees in the area. This money would not be factored into the country's total contribution to the regime and would thus not decrease the total number of refugees they take in. A country would therefore not be able to decrease the number of refugees they resettle by withholding aid.

While the scientific body that works to locate areas in danger due to the climate crisis will have access to and will utilize top tier scientific practices in order to locate areas in need of assistance, it is possible that some areas be overlooked. If this happens, it is the responsibility of the state itself to communicate with the committee in order to establish whether or not this area is in need of assistance. However, history has shown that states do not always have their citizen's best interests at heart. In the situation in which the state does not recommend that an area in their territory be placed on the list, it is up to other states to communicate with the scientific body to recommend that this location be added. Chapter III discussed a state's obligation to respect, protect, and fulfill not only their own citizen's rights, but also those of citizens of other nations. This comes from state's duty, based in international human rights law, to protect the human rights of all of humanity through international cooperation. This duty will also extend beyond merely recommending locations to the UN and will also require states to communicate with the

UN body any knowledge they have of another state violating the rights of environmental refugees in their territory. This applies to refugees who are still in their homeland as well as refugees who have already migrated to a new country. However, because there will be UN agents working closely with these communities, it is unlikely that the executive committee will be unaware of rights violations taking place within these areas.

States also have an obligation to respect their citizen's rights, meaning that they must refrain from taking actions that would interfere with the rights of their citizens. As was demonstrated in Chapter III, there is an immense relationship between the environment and human rights. Because of this, the new regime would ban states from partaking in activities that blatantly harm a community of climate refugees' environment. For example, there is an 85-mile stretch of land between New Orleans and Baton Rouge known as "Cancer Alley," which is home to 14 major manufacturing companies that produce chemicals, plastics, fertilizers, etc. (Singer, 2011). One local man describes flames that burn chemical waste leaping from 200-foot-high stacks and says that "strange odors and a fine mist fill the air" (Reed, 1991). These companies have brought with them disastrous health implications for the local communities. One study found that people who get their drinking water from the Mississippi river (located within Cancer Alley) are twice as likely to get rectal cancer than those who get their water elsewhere (Singer, 2011). Another study found that residents who live within one mile of one of the chemical facilities are 4.5 times more likely to develop lung cancer than those who live further away. People who live within Cancer Valley describe having many health issues, varying from rashes, respiratory illnesses, reproductive issues, as well as headaches. Their rights to health, water and sanitation, life, and an adequate standard of living are all being violated due to these companies setting up facilities near their community. The new climate refugee regime would ensure that



states honor their duty to respect human rights, as well as their duty to protect against rights violations from third parties by banning states from allowing activity like this to take place in or near a community of migrants. Ideally, states would be banned from allowing this kind of activity near any human population, this thesis is specifically looking at how a HRBA would affect climate refugees.

Lastly, states have a positive obligation to fulfill their citizen's human rights. For states that are home to populations under threat of climate disasters, this means they must work with UN agents as well as the community in question to undertake measures that will help to fulfill rights for the people of these communities. While this includes cooperating with the UN to help get the population to a safer location, it also includes actively working to provide the citizens of these locations with human rights that have previously not been fulfilled. These rights are laid out in multiple international human rights documents, which will be utilized to enforce the new regime. Receiving states must also actively work with the UN agents in the area as well as the immigrants that are migrating to their country to ensure the realization of all human rights for these people.

Under a HRBA, the roles of the recipients of rights and the state are transformed from the citizens being passive recipients of assistance to being an "active rights-holder who can put forward demands" (Broberg & Sano, 2017. Pg. 671). Therefore, the state becomes a duty-bearer, who the citizens are able to make demands upon. This is seen in the new regime through the citizens of states having the ability to communicate with their state any concerns they have relating to the realization of their rights. This is of course aided by the presence of the UN agents, who will serve as a middleman in the communication between the two parties. If a migrant has a concern relating to the realization of their rights, they will be able to communicate

directly with a UN agent, who will then report to the communication body, which will work with the executive committee in order to establish an appropriate response to the concern. If the state is unwilling or unable to address the issue, the UN will step in and do all that is in their power to resolve the issue. The new regime therefore empowers climate refugees to demand the fulfillment of their human rights and requires that nations fulfill these demands, making it a far more just regime than that which currently exists.

### **Why Would Developed Nations Agree to Such a Regime?**

The majority of countries are, at the end of the day, self-serving and will act in ways that serve their own interests over those of others. Why then would nations, especially developed nations who will be contributing the greatest amount of funding to the new regime, agree to such an approach that is meant to help “others?” While the new regime taken at face value may seem to only aid developing nations and people who will become displaced due to climate change, it has a myriad of positive implications for developed nations as well. Developed nations are likely to argue that taking in more refugees will harm their economy, an argument which has been made by many politicians who seek to restrict the number of migrants coming to their country. For example, on August 14, 2019, The U.S. Department of Homeland Security finalized the “Public Charge” rule, which advises immigration officials to reject the application of migrants seeking to remain in or enter the U.S. if they have received, or are judged likely to receive, any of an array of public benefits related to need (Department of Homeland Security, 2021). This stems from the enduring belief that influxes of immigrants are harmful to the local economy and are draining to social security programs. However, this belief is rooted in xenophobia and has been disproved by a great many studies (Coleman & Rowthorn, 2004; Sherman, et al., 2019;

Dustmann & Preston, 2004; and Hong & McLaren, 2015; Card, 1990). In the following analysis on the effect that increased immigration has on a country, the U.S. specifically will be discussed in order to provide a focus for the analysis. While most developed countries will likely take in more refugees under the new regime, the U.S. was chosen because it is one of the countries that contributes the most atmospheric carbon and will therefore have to take in a great deal more refugees than it has previously, making it a great country to look at when discussing the effect increased immigration has on a country. It is also the country with the most data available pertaining to the topic, although the data available is still extremely limited. This will allow for the most robust discussion and will therefore provide the most insight into the effect that immigrants and refugees have on a developed nation's economy.

One of the most significant ways in which foreign-born people contribute to the U.S. economy is through their higher-than-average workforce participation rate. Sherman, et al., using data from the U.S. Bureau of Labor Statistics, found that in 2018, foreign-born adults had a 65.7% labor force participation rate, higher than the 62.3% participation rate of native-born adults (Sherman, et al., 2019). The same gap appears when looking specifically at refugees. Between the years 2009 and 2011, refugees of working age in the United States had a 67% employment rate while the native-born working age population had only a 60% employment rate during this same period (Capps, et al., 2015). Evans & Fitzgerald additionally analyze the workforce participation rate of refugees compared to the native-born U.S. population and find similar results (Evans & Fitzgerald, 2017). However, their results indicate that it takes some time for the refugee employment rate to surpass that of the native-born population. After the first 2-3 years of being in the country, they found that refugees are employed at a 10% lower rate than their U.S. born counterparts. It takes about six years for refugees to surpass the employment rate

of the native-born population and after 17-20 years of living in the country, refugees are employed at a 7% higher rate than U.S. born citizens are. Therefore, while refugees are employed at rates lower than the native population during their first years in the country, they more than make up for this the longer they stay. While one who is in favor of stricter immigration laws could use these statistics to argue that immigrants are stealing the jobs of the native population, a National Academy of Sciences panel of experts push back at this argument, saying that “immigrants appear to be taking low-skilled jobs that natives are either not available or unwilling to take” (National Academies of Sciences, Engineering, and Medicine, et al., 2015. Pg. 266). This is due to the fact that there has been a substantial shrinkage in “U.S.-born, younger, less-skilled working-age population, owing to the aging of Baby Boomers; higher educational attainment among the U.S.-born; and a fertility rate below the replacement rate for the U.S.-born” (National Academies of Sciences, Engineering, and Medicine, et al., 2015. Pg. 266).

One of the most cited works in the literature available on the impact of immigration on native employment is economist David Card’s 1990 analysis on the effect of the mass influx of Cuban refugees to Florida in 1980, known as the Mariel Boatlift. 125,000 Cubans arrived in Miami from May to September of 1980, and of those 125,000, 50% stayed permanently in Miami (Card, 1990). The results of Card’s study mirrored the academic consensus that immigration has little to no negative effects on the local labor market. In fact, there was a 7% increase in the labor force, largely in less-skilled occupations. Importantly, there were also no observed negative effects on native less-skilled workers. Both the wages of native less-skilled workers as well as the unemployment rate remained remarkably stagnant after the influx of refugees. The only fluctuation in the wages of non-Cuban less-skilled workers following the

mass immigration of Cubans was observed between 1979 and 1981, when there was a temporary increase in relative wages. Apart from this, there was no observed impact on the employment rate or wages of lesser-skilled native workers. Rather, Card's analysis shows that Miami rapidly absorbed the Cuban refugees into their workforce (Card, 1990). While Card's study has been incredibly influential in the literature pertaining to the effect that immigration has on labor markets, it has also been subject to criticism from authors who argue that his results were due to errors in how the study was conducted.

The most cited study amongst those that critique Card's analysis comes from George Borjas, who has been described as the leading skeptic of immigration amongst economists. Borjas argues that because the refugees who came to Miami were disproportionately "high school dropouts," a more accurate analysis of the effect that the influx of refugees had on the Miami workforce would entail analyzing the effect this had specifically on the population of Miami residents who similarly lacked a high school degree (Borjas, 2015). Additionally, in Card's study, he used four cities, Los Angeles, Houston, Atlanta, and Tampa Bay- St. Petersburg as control cities with which he compared the effects that the influx of refugees had on Miami. Borjas critiques Card's choice of cities, saying that they were partly chosen based on their similar employment trends after 1980, whereas a more accurate study would choose cities based upon their employment trends prior to the influx of refugees. Borjas therefore conducts his own study into the effect that the Cuban refugees had on the Miami labor market, in which he specifically looks at how non-Hispanic men with no high school degree between the ages of 25-59 from Miami were affected. To do so, he calculated the "average log weekly wage of high school dropouts in Miami each year between 1972 and 2002" (Borjas, 2015. Pg. 9). His results show that prior to the influx of refugees, the wages of non-Hispanics from Miami with no high

school degree were about 0.1 log points below that of workers in the rest of the country. However, by 1985, 5 years after the Cuban refugees arrived, this gap had widened to 0.4 log points. This means that whatever caused this decrease in the relative wages of low-skilled workers in Miami did so by approximately 30%. Borjas then establishes four new cities to use as placebos, based upon their similar employment trends to Miami prior to 1980. The four cities he uses are Anaheim, Rochester, Nassau-Suffolk, and San Jose. After comparing their post 1980 employment trends with those of Miami, he finds that the relative wages of lesser-skilled workers in Miami decreased by 35% after the influx of refugees compared to these other four cities, who did not experience a refugee influx. He concludes by saying that the influx of refugees therefore did have a negative effect on the local labor market, as seen by the decreased wages experienced by non-Hispanic Miami residents with no high school degree. However, other authors have since responded to Borjas' study, saying that his results were similarly due to errors in how his study was conducted.

One such study was conducted by Peri & Yasenov, who reexamined the original Mariel Boatlift study conducted by Card and utilized a new econometric technique known as the Synthetic Control Method (SCM) to more accurately discover the effect that the Cuban refugees had on the local labor market (Peri & Yasenov, 2017). They say that this technique is better able to measure the effect because rather than comparing it to the labor market of any single city, which can create errors in the observed results due to many differing economic conditions observed within different cities, it instead creates an "optimal" control group which Miami can be compared to. This synthetic city is created by "minimizing the pre-1979 difference with Miami for a given set of relevant labor market characteristics" (Peri & Yasenov, 2017. Pg. 3). They then analyzed the effect that the influx of refugees had on lesser-skilled (lacking a high

school degree) workers in Miami, as well as smaller sub-groups who could be affected in various ways due to their different skills and attachment to the labor market.

Their results show that when compared to the synthetic control city, there was no significant difference in the wages (annual, weekly or hourly) nor the employment rates of non-Cubans without a high school degree in Miami after the Mariel Boatlift. The same conclusion is reached when they look specifically at non-Cubans in the bottom 15<sup>th</sup> and 20<sup>th</sup> wage percentile. They then analyze the impact of the Mariel Boatlift on all 27 possible subgroups that can be created using gender, ethnicity, and age as additional dimensions to the population of Miami residents without a high school diploma. The results show that very small subgroups of people exhibited very large fluctuations in wages, both positive and negative, between 1972 and 1991. Additionally, these fluctuations are not nearly as large after 1979. To reconcile their results with Borjas', they then reproduce his study using the same data set and sub-group that he analyzed, non-Hispanic men who were between the ages of 25 and 59 and who lacked a high school diploma. They found that of all the subgroups studied, the one that Borjas looked at was the one that most strongly validated his conclusions. They critique his usage of only this particular subgroup, as it only looks at a very narrow age group and compares their wages and employment rates to only two years prior to the Mariel Boatlift. Only utilizing two years of data "can be risky and may result in selecting a control group which does not mimic the 1972-79 labor market behavior of Miami" (Peri & Yasenov, 2017. Pg. 5). They therefore conclude that looking at the employment rate and wages of a very small group of people does not accurately represent the effect that the Mariel Boatlift had on lesser-skilled native residents of Miami, as fluctuations in small subgroups are exceedingly common. This makes it difficult to conclude that the decrease in wages noticed in 1985 in Borjas' study was a result of the influx of refugees. Additionally,

their study utilized a more accurate technique of measuring effects on the labor market and found no such decrease in the wages of lesser-skilled native workers after the Cuban refugees arrived.

Another study, conducted by Clemens & Hunt, found that the decrease in wages that was found in Borjas' study was actually very likely due to the fact that in 1980, not only was there an influx of Cubans in Miami, there was also a significantly large influx of black Haitians (Clemens & Hunt, 2017). Approximately 15,000 Haitians sought refuge in Miami in 1980, and they continued coming to Miami all throughout the early 1980s. Almost all of them lacked a high school degree and 6,150 of them were male, which raised the number of black people in the subpopulation studied by Borjas' by 36%. Both Haitian blacks as well as native-born U.S. blacks who lack a high school diploma had lower wages than non-blacks who lacked a high school diploma. However, Haitians still had significantly lower wages than U.S. blacks during this time, with the average household income of the newly arrived Haitians being \$5,521 per year and the average household income of all other black men in Miami being \$17,415 per year. Clemens & Hunt additionally found that "the fraction of blacks is much higher in the post- than pre- Boatlift years in Borjas' Miami sample of prime-age, male, non-Hispanic workers with less than high school, while there is no such difference in Card's Miami sample of non-Cuban workers with high school or less, nor in the control cities favored by either Card or Borjas" (Clemens & Hunt, 2017. Pg. 1). Their study found that because the wages of black people is far lower than that of non-blacks, this large influx in the number of black people in Miami in 1980 was the cause of the noticed decrease in wages of lesser-skilled workers found in the Borjas study, not the influx of Cuban refugees. Borjas failed to account for this influx of people who had lower wages in his study, so his results were actually likely showing that the wages of black people are less than those of their non-black counterparts. When Clemens & Hunt conducted a reanalysis of Borjas'



study and included a control variable for black people, they found results similar to those found in the Card study. Therefore, their study found that there was no actual decrease in the wages of lesser skilled workers due to the influx of Cuban or Haitian refugees, but rather, Borjas' study only appeared to be showing as such due to the influx of people who have lower wages to his sample population in 1980. This finding reflects what was shown by Peri & Yasenov; results are highly sensitive to looking at only a very small subgroup of people. These studies therefore provide a solid grounding for the academic consensus that an influx of refugees does not cause significant negative effects to the local labor market.

While refugees do not harm the local labor market, their overall earnings are still on average less than the native-born populations are. Between 2009 and 2011, the median household income for refugees was \$42,000, which was \$3,000 less than that of immigrants and \$8,000 less than the native-born population (Capps, et al., 2015). However, the median household income for refugees increases the longer they reside in the U.S., as seen by the comparison between the median income for refugees that arrived in the U.S. between 1980 and 1989 and those that arrived between 2006 and 2011. Refugees in this first group had a median household income that was \$31,000 higher than that of the second group. However, while the average income for refugees does increase the longer they reside in the U.S., Capps, et al. found that it never surpasses that of the native-born population. This is not surprising, as the educational attainment and English language ability of refugees is much lower than that of native U.S. citizens.

Like employment rate, both educational attainment as well as English proficiency increase the longer a refugee is in the U.S. Nonetheless, they remain relatively low compared to the native population. Between 2009 and 2011, 58% of refugees who had been in the U.S. for 20

or more years were Limited English Proficient (LEP) (Capps, et al., 2015). This is lower for children, who arrive in the country speaking English far better than older refugees. Those aged 18 and younger enter the U.S. with only a 30% LEP rate, significantly lower than the 62% of those aged 18 and older that arrive as LEP. From these statistics, it can be concluded that only 4% of refugees who enter the U.S. aged 18 or older and are classified as LEP become proficient in English during their first 20 years in the country. This is a large contributing factor to the lower educational attainment rates seen amongst refugees.

Evans and Fitzgerald, when looking at refugees who entered the U.S. between the ages of 18 and 45, and who were between the ages of 18 and 65 during the time of their analysis, found that refugees have a significantly lower graduation rate than the U.S. born population (Evans & Fitzgerald, 2017). Their high school graduation rate is 23.7% lower than the U.S. born population's is, and their college graduation rate is 13.2% lower. This includes refugees who received an education before coming to the U.S. as well as those who received an education after resettling in the U.S. However, when looking specifically at refugees who entered the U.S. before the age of 17, Evans & Fitzgerald found that the disparity between native-born graduation rates and refugee graduation rates is significantly reduced. Overall, the graduation rate is only 2% lower for refugees when looking at those who came to the U.S. when they were younger than 17. Additionally, when they looked at those who came to the U.S. when they were 13 or younger, they found essentially no difference in the graduation rates compared to the native-born population. Lastly, in order to account for changes in graduation rates over time, Evans & Fitzgerald analyzed refugees from three different age groups, 19-23, 24-28, and 29-33, who all arrived in the U.S. between the ages of 14-16. They found that these groups had a respective graduation rate of 92.9%, 93.1% and 88.1%. Comparatively, U.S. born citizens had a 91.5%

graduation rate. It is therefore seen that the younger a refugee is when they enter the U.S., the greater chance there is of them graduating from high school. However, the lower education attainment levels coupled with weaker English-speaking ability of refugees means that refugees are on average working lower paid jobs than U.S. born citizens are. Unsurprisingly, they therefore have lower household incomes and higher welfare usage than the U.S. born population.

Unlike immigrants, refugees can immediately qualify for welfare benefits upon arrival to the U.S to mitigate the hardship that accompanies being resettled in a new country. In the study done by Capps, et al., they found that overall, refugees are more likely to utilize these public assistance programs than U.S. born citizens are (Capps, et al., 2015). Between 2009-2011, refugees utilized food stamps at more than twice the rate than native-born citizens did. During this period, 24% of refugees lived in a household receiving food stamps while only 11% of the U.S. born citizens did. Refugees were also twice as likely to be receiving Temporary Assistance for Needy Families (TANF) during this period, as seen by the 3.1% of refugees who were utilizing this service compared to the 1.6% of U.S. born citizens who utilized it. While the study done by Capps, et al. showed that the longer a refugee resides in the U.S., the lesser chance there is of them utilizing such services, the rate at which they utilize these services still never drops below that of U.S. born citizens. 42% of refugees who have been in the U.S. for five or less years receive food stamps from the government, while only 16% of refugees who have been in the country for 20 or more years receive food stamps. Thus, compared to the 11% of U.S. born citizens who receive food stamps, refugees utilize this public service more than the native population does.

In Evans & Fitzgerald's similar analysis, they find that 70% of refugees utilize the Supplemental Nutrition Assistance Program during their first year in the country (Evans &

Fitzgerald, 2017). This falls significantly when looking at refugees who have resided in the country for 12 years, with only 20% of this population receiving SNAP. However, this is still higher than the average for U.S. born citizens who receive SNAP, which is approximately 13%. Because of this, those that are in favor of stricter immigration laws are likely to argue that refugees are burdening the country by utilizing public benefits at a disproportionate rate compared to U.S. born citizens. However, Evans & Fitzgerald's study additionally analyzed the costs associated with resettling refugees aged 18-45 and found that after eight years of living in the country, the taxes that refugees pay begin to outweigh the costs associated with resettling them. While the costs are higher for the first eight years, these costs could easily be seen as an investment into the lives of the refugees, as they soon begin paying more in taxes than they receive in the form of benefits. Evans & Fitzgerald's study shows that over a twenty-year period, starting when a refugee first arrives in the country, the U.S. spends on average \$15,148 in relocation costs and \$92,217 in social program benefits per refugee. However, over the same time period, refugees pay a total of \$128,689 in taxes. This means that throughout their first twenty years in the country, they contribute \$21,324 more in taxes than they receive from government programs. Because this twenty-year period includes the first eight years of a refugee living in the country, the net gain made from refugees is even higher when only looking at periods of time after the initial eight years in the country. It is therefore seen that while refugees do require initial assistance to resettle in a country, as they age, their employment and wages increase, and their welfare usage decreases. After about six years in the country, refugees have a higher workforce participation rate than U.S. born citizens do and after eight years, they pay more in taxes than they receive in the form of benefits. Although the rate at which refugees utilize social security programs never drops below that of U.S. born citizens, they are by no

means draining these programs of their funding, as they more than make up for these costs by working at a higher rate than native-born citizens and contributing more in taxes than they receive after their first eight years in the country.

Refugee's contribution to the country is better highlighted by looking at the total money made from a group of refugees rather than looking at gains made from individual refugees. A study of greater Cleveland discovered that in 2012, \$4.8 million was spent on refugee services in the area (Legrain, 2017). However, spending by refugees, refugee service organizations, and refugee-owned businesses contributed \$48 million to the local economy and created 650 jobs in the same year. This is also observed at the national level, as in 2017 a Department of Health and Human Services report was leaked, stating that between 2005 and 2014, refugees contributed \$63 billion more to the government than they cost them during this period (The National Immigration Forum, 2018). Refugees have therefore contributed a great deal to the national government by paying billions of dollars in taxes. However, not only the national government benefits from the addition of refugees. Refugees also help to revitalize smaller communities that are facing decay and decreases in population by boosting the population and attracting other foreigners with a similar background to the area. They start their own businesses, buy homes, and start families, greatly expanding the community in the long run. For example, in 2003, 61 Somali refugees were resettled in a dying community in Utica, NY (Hartman, 2014). Since then, the population of the community in which they were resettled has grown to 2,000. Estimates also show that approximately one fourth of the population of Utica is comprised of refugees, who have acted as an "economic engine for the city, starting small businesses, buying and renovating down-at-the-heels houses and injecting a sense of vitality to forlorn city streets" (Hartman, 2014. NP).

Similar phenomena have been witnessed in Minneapolis-St. Paul, Philadelphia, Nashville, and Dayton, all of which were facing population declines which were mitigated through the resettlement of refugees into the area (La Corte, 2016). While refugees are settled all throughout the U.S., “Rust Belt” states in the Midwest have long been leaders in refugee resettlement in terms of the number of refugees settled. Studies show that the influx of refugees to these areas has produced great value. One study found that in 2016, refugees in Southeast Michigan contributed between \$229.6 million and 295.3 million in economic activity and created between 1,800 and 2,300 jobs, highlighting the high level of entrepreneurship amongst the refugee population (Global Detroit, 2017). In fact, in 2015, 13% of refugees were entrepreneurs, while only 11.5% of immigrants were entrepreneurs and only 9% of U.S. born citizens were (New American Economy, 2017). Entrepreneurship has always been a critical factor in the health of the U.S. economy, as it creates jobs as well as tax revenue. However, the number of new businesses created in the U.S. has been declining throughout the past couple of decades. In 1980, approximately 16% of U.S. businesses were less than one year old, while in 2017, only 8.9% of businesses were less than *two years old*, meaning that fewer jobs are being created (New American Economy, 2017). Refugee entrepreneurs have long been job creators, as seen by the many refugees who have created substantial businesses in the U.S. These include but are not limited to Sergey Brin, a refugee from the Soviet Union and co-founder of Google, Jan Koum from Ukraine, who is a co-founder of WhatsApp, Max Levchin, also from Ukraine and a co-founder of PayPal, and Andy Grove from Hungary, who helped start Intel and later became the CEO (Legrain, 2017). It is therefore evident that refugees create many jobs for U.S. citizens and are a vital aspect of the country.

Because of the vital aspect that refugees play in helping the U.S. economy, it should come as no surprise that many areas are actually asking for more refugees to be resettled in their territory. In 2015, 18 mayors of Rust Belt cities signed a letter asking that more Syrian refugees be resettled within their cities. They wrote “we see first-hand the myriad ways in which immigrants and refugees make our communities stronger economically, socially and culturally. The drive and enterprise of immigrants and refugees have helped build our economies, enliven our arts and culture, and enrich our neighborhoods” (La Corte, 2016. NP). Therefore, while some may argue that increased immigration is harmful to a country, this is clearly not true, as seen by the high work force participation rate amongst immigrants and refugees, high levels of entrepreneurship, and their willingness to work the jobs that most citizens of developed nations are unwilling to take.

Additionally, the population increase caused by migration not only expands domestic markets and increases the size of the future labor force, it also helps to avert the issue of population aging seen throughout many developed nations, which, unlike immigration, is a threat to the health of welfare programs (Coleman & Rowthorn, 2004). Most European countries are currently facing the end of population growth within the next few decades due to their lower fertility and longer survival (Coleman & Rowthorn, 2004). Some countries, such as Italy and Germany are already seeing the total number of deaths in a given year exceeding the total number of births in that same year. Low birth rates can have disastrous effects on a country, from a decline in the labor force, lower demand in industries such as housing, as well as a less dynamic economy (Sherman, et al., 2019). Moreover, in the United States specifically, low birth rates combined with the retirement of the Baby Boomer generation will pose great challenges to the survival of the welfare state. In 2016, the U.S. Census Bureau reported that there were 4.7

working-age adults in the U.S. for each person aged 65 and older, the age requirement for one to be eligible for Medicare, which 50 million American seniors and disabled individuals utilize for healthcare services (United States Census Bureau, 2017). They predict that by the year 2035, this will fall to only 2.4 working-age adults per person aged 65 and older (United States Census Bureau, 2017). Immigrants and refugees therefore not only help alleviate the issue of decreasing population growth rates; they also greatly help to mitigate the problem of too few workers paying into social security funds like Medicare. The trustees of the Social Security trust fund describe how the cost rate for programs such as Medicare decreases when there is an increase in net immigration and estimate that increasing net migration by 100,000 people improves the long-term actuarial balance by about 0.08% of taxable payroll (Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, 2018).

Not only does an increase in immigration improve the outcomes of the U.S.'s welfare programs, a recent study conducted by the Partnership for a New American Economy found that immigrants are actually subsidizing Medicare spending for U.S. born citizens (Zallman, 2014). Between the years 2002 and 2009, immigrants contributed \$115.2 billion more to the Medicare Hospital Insurance Trust Fund through taxes than they received in benefits. During that same period, U.S. born citizens generated a net deficit of \$28.1 billion because the benefits they were receiving outweighed the amount that U.S. born workers were contributing to the fund. There are many factors that could contribute to this, including that as a group, immigrants are younger than U.S. born citizens. This means that a smaller percentage of them are over the age of 65 and receiving the benefits of Medicare. However, "even after accounting for the age difference, immigrants use less medical care than the population overall" (Zallman, 2014. Pg. 4). This was especially seen during the recession that took place beginning in 2007. While U.S. born citizens



generated net deficits during ten of the sixteen years studied (1996-2011), the deficits accrued during the recession were particularly sizeable. In both 2009 and 2011, U.S. born citizens generated a \$30 billion deficit, and in 2010, they generated a \$40 billion deficit. The opposite is the case for immigrants, who contributed billions more to the fund than they received in benefits during every single year of the study. In total, during the sixteen years studied, immigrants contributed a net gain of \$182.4 billion to the fund, while U.S. born citizens generated a deficit of \$68.7 billion. Additionally, the Medicare Trustees predict that the Hospital Insurance Trust Fund will run dry by the year 2030 (Zallman, 2014). However, the New American Economy's study found that had immigrants not been contributing to the fund from 1996-2011, it would become insolvent by the year 2027, thus immigrants increased the longevity of the program by three years. Immigrants have therefore played a key role in delaying the end of Medicare. Clearly, immigration plays an important role in the social security programs of the U.S.

While there are many positive economic effects of increased immigration to a country, this is not the only positive that will come out of the new regime for developed nations. The new regime will also save developed nations money in the long run. While one might argue that the new regime is an additional cost for developed nations and that it would be cheaper to simply go about business per usual and let developing nations deal with the climate refugee issue, the new regime saves developed nations money that would otherwise go towards future climate change response programs while also ensuring that fewer people are displaced from their homes in the future. This will lessen international conflict and therefore save developed nations even more money. As was discussed previously, due to the relationship between the fulfillment of human rights and the environment, developed nations will be obliged to end environmentally degrading practices in locations of migrant populations. They will also have to reduce their carbon

emissions if they wish to contribute less to the new regime. This will help to mitigate the climate crisis, which scientists are estimating will soon cost nations hundreds of billions of dollars yearly in adaptation and mitigation programs, as well as due to the loss of resources (EPA, 2017). By ending environmentally degrading practices, the climate crisis will be lessened, which will decrease the amount of money required in future years to deal with the crisis.

Not only will ending environmentally degrading practices lower the costs of dealing with the crisis in the future, it will also lead to a fewer number of people forced from their homes due to climate change. This too, will likely save countries money in the long run. Current estimates for the number of people who will become displaced due to climate change by the year 2050 range anywhere from 25 million to one billion (IOM, 2008), with the most agreed upon number being 212 million (Myers, 2002). As of mid-2020, there were 26.3 million refugees in the world (UNHCR, 2020). The current refugee regime can hardly handle this amount of people, so increasing this by 212 million, and possibly by up to one billion, would have disastrous affects and lead to international chaos and mass instability. Instability can very easily lead to international conflicts, which could eventually cause war between nations (Daxecker, 2011). International conflicts including war are incredibly expensive, meaning that by lessening the number of refugees that will be created in the future, states are also possibly saving money by taking actions that will lead to the creation of fewer climate refugees, which will lower the chance of conflict. Therefore, while developed nations may argue that this new regime is too costly, the regime would in fact improve the economy and social security programs of these nations and would be cheaper in the long run than doing nothing about the problem at all. The new regime offers a form of organization to the issue that it is currently lacking. Having a

structure in place to deal with this issue will greatly diminish the chaos that will likely ensue when approximately 212 million people become displaced from their homes.

It is therefore seen that while developed nations may argue that taking in more refugees will do them more harm than good, this is simply not true. While it takes refugees a couple years to reach an employment rate higher than the national average, and therefore also takes a couple years for them to contribute more in taxes than they receive in benefits, after living in the country for eight years, they begin paying more in taxes than they receive in benefits. Refugees also have lower wages than the national average, likely due to their lower educational attainment levels and lower English-speaking ability than that of native U.S. citizens. However, they also have higher rates of entrepreneurship and thus create many jobs, subsidize Medicare spending for U.S. citizens, revitalize smaller communities, and avert the issue of population aging. Additionally, the new regime will save developed countries a great deal of money in the long run, as it takes proactive measures to both reduce the extent of the climate crisis as well as reduce the number of people who will become displaced due to climate change. Because of this, a simple cost-vs.-benefits analysis shows that it would be in the best interest of both developing and developed nations to sign on to such a regime. Doing nothing about this issue that has great potential to cause serious harm to the international community if there is not a system in place to avert it would be far more costly in the long run, both financially and in terms of international stability, than it would be for these nations to agree to this new regime.

Applying a human rights-based approach to the issue of climate refugees has shown how a new regime will create a more equitable distribution of climate refugees. The first step to achieving this regime is moving away from the sovereignty norm that has long ruled the international community and replacing it with a norm centered around human rights and

international cooperation. There are a myriad of international laws that already require this cooperation, so this shift would not require any drastic new laws, only a greater emphasis given to these already existing documents. By establishing a protocol on the Recognition, Protection and Resettlement of Climate Refugees under the UNFCCC, with an executive committee to oversee its implementation and bodies working under the executive committee to help facilitate the new program, the proposed regime will provide a form of organization to an issue that currently lacks any sort of order. The new regime holds nations accountable for their actions by obliging them to contribute to the program and take in a fair number of refugees in quantities that reflect their contribution to the issue. The regime thus reflects HRBAs focus on accountability and equitable outcomes. While developed nations may argue that this regime would harm their economies, it has been demonstrated that this is simply not true. The new regime creates outcomes that are beneficial for both developed nations, developing nations, as well as the international community as a whole.

## CHAPTER VII: CONCLUSION

While this new regime for climate refugees has obvious benefits to all involved, it is still hypothetical and would require great change in the international community before it could be implemented. One of the major changes that would first need to happen would be shifting away from the norm of state sovereignty and towards the norm of international cooperation. This is not an impossible feat, as a norm is simply states strongly adhering to certain international laws that have been written into legally binding as well as non-binding conventions, accords, amendments, etc. International cooperation has already been written into many such documents, including Article 1(3) of the UN Charter, Article 55 and 56 of the UN Charter, Article 28 of the Universal Declaration of Human Rights, and The Declaration on the Right to Development. A norm shift would require the international community to closely adhere to these documents that require states to cooperate with and help countries in need. While globalization has begun the process of uprooting the sovereignty norm that has long been adhered to, there is still a long way to go before the new regime would be able to be implemented. How to reach a point where it is attainable is out of the scope of this thesis but offers great avenues for further research. The purpose of this thesis is to demonstrate the utility of a HRBA, as such approaches are highly beneficial and can be utilized to deal with a great number of issues facing the international community. The issue of climate refugees was used to demonstrate what a HRBA would look like in action, as well as to show the myriad of benefits that all actors involved receive from such approaches. While this thesis created a new regime specific to climate refugees utilizing a HRBA, rights-based regimes could benefit every type of refugee. One such type is narco refugees, who are leaving their homes in search of stability due to the violence that drug-related crime is causing in their communities. I will therefore provide a brief discussion of narco

refugees to demonstrate that rights-based approaches could be beneficial for groups other than climate refugees. A HRBA is easily applicable to narco refugees, as developed nations are large contributors to the violence that is causing them to flee their homes, but they are not being held accountable for their actions.

This violence stems from international drug trafficking, which “involves the production and distribution of psychoactive substances that are globally prohibited by states and regulatory authorities because of the substances’ adverse effects on individual health and public safety” (Kan, 2016. Pg. 3). Drug trafficking has rapidly become a source of severe international conflict and insecurity and has cost many lives throughout a multitude of countries due to how expansive it has become. In fact, the UN and the IMF estimate that drug trafficking profits \$600 billion annually and accounts for 7.5% of global trade (Kan, 2016). However, drug trafficking has only recently become this violent. Before the early 1900s, the sale of psychoactive substances was legal and rather commonplace, with many leading nations at the time participating in the trade of these drugs. The major powers at the time utilized drug trade and the immense profits made from it to expand their colonies and therefore their global power. Opium was the main drug that such nations, mainly Britain, France and the Netherlands, traded. In fact, the Dutch Indies generated 30% of their net revenue from opium and for French Indochina, opium was the largest single revenue-generating operation (Kan, 2016). Then in the mid-nineteenth century, technological advances led to the ability to extract cocaine from coca leaves. While the science of extracting cocaine from coca plants derived from Europe, it was the U.S. that quickly embraced cocaine. Companies such as Coca-Cola began putting it into their products to provide an energy boost to their consumers. It was also utilized by soldiers in World War I to fortify nerves and treat

addiction to morphine and heroin for injured veterans. However, the turn of the twentieth century was accompanied by a shift in the attitude surrounding such drugs.

Developed nations began to view the widespread usage of these drugs as disruptive to society and therefore sought to end the laissez-faire manner of their usage. Because drug trade was taking place all around the globe, an international response was required in order to deal with the issue. The 1912 Hague Opium Conference was established to categorize drugs as a security issue which was “subject to international treaties to restrict and eventually prohibit their growth, manufacture, and distribution” (Kan, 2016. Pg. 25). This conference is the cornerstone of the drug prohibition regime that still exists today. In 1925, a revised edition was established, which added cannabis, amongst other drugs, to the list of prohibited narcotics. This edition was registered with the League of Nations and was therefore the first international entity tasked with monitoring compliance to international drug laws.

While the goal of this was to establish limitations on the accessibility of narcotics, demand for such drugs was not reduced. It became illegal for nations and companies to engage in the drug trade, which gave other groups the opportunity to step in and reap the benefits of the highly lucrative trade. This is what is known as the “profit paradox,” a phenomenon that occurs when a good is prohibited but the demand for that good is not reduced (Kan, 2016). The prohibition of these drugs increased the profit that can be made from them, and because drug trafficking is a high risk/high reward trade, traffickers keep the supply high in order to reap greater profit. Decolonization also played a large role in the instability, as when countries began to distance themselves from their colonies that were production sites of narcotics, drug production and trafficking became more uncontrollable (Kan, 2016). Additionally, the twentieth century saw a great increase in international neoliberal policies, policies that reduced barriers to

trade and therefore increased trade relationships between nations. The end of the Cold War furthered these policies as states that were previously members of the communist world jumped at the chance to be included in the global economy. The signing of the North American Free Trade Agreement (NAFTA), the shrinking borders of the European Union, and structural adjustment policies meant to incorporate developing nations into the international economy further reduced barriers to the flow of goods between nations. Due to these neoliberal policies, new illegal drug markets emerged in Eastern European post-communist states and production and shipment sites were established in Latin America and sub-Saharan Africa (Kan, 2016). These policies therefore created a paradox, as the global drug prohibition regime required large scale state intervention, while neoliberal policies forced states to cede this power to non-state actors. Because of this, drug trafficking has become incredibly violent.

When the Cold War ended, developed nations stopped funding the non-state actors who they sponsored as proxies to fight their war in developing nations. Many of these groups therefore turned to drug trafficking to sustain their activities. In an effort to deepen their control over portions of the drug trade in their territory, they became violent and resorted to armed conflict in order to gain access to key drug trafficking networks (Kan, 2016). This only added to the violence and instability that already ravaged the majority of the countries in which this took place. In fact, “by the early 2000s, over 95 percent of the world’s hard drugs were being produced in zones of conflict” (Kan, 2016. Pg. 36). This means that countries which were already unstable and whose citizens were largely impoverished and possibly jobless suddenly were witness to a spike in drug trafficking, a highly lucrative field. This provided many people with economic opportunities that were previously unavailable to them. While there is high risk involved in illicit production and shipment of narcotics, there is just as high reward, which gives



many citizens who are desperate for work and money an incentive to get involved with global drug trafficking.

This was also seen in Mexico, where the consequences of neoliberalization were disastrous for the general population. While narco refugees are coming to the U.S. from multiple countries including Honduras, Guatemala, El Salvador and Mexico, this analysis will discuss Mexico specifically to best demonstrate the relationship between the U.S. and drug trafficking. It should also be noted that narco refugees are not solely seeking refuge in the U.S., but this discussion will only concentrate on the U.S. for the sake of showing just one dynamic of the regime. Between 1960 and 1979, prior to the mass neoliberalization that took place around the world, the Mexican economy grew at a rate of 3.5% (Mercille, 2011). However, in the 80s, when there was a wave of neoliberal reforms, this was reduced to 0.1% and between 1992 and 2007 it was only 1.6%. The signing of NAFTA, which was touted as an agreement which would boost the economies of Mexico, the U.S., and Canada and therefore be beneficial to the citizens of these nations, failed to generate job growth or increase the wages of Mexican citizens. In fact, the average wage in Juárez dropped from \$4.50 a day to \$3.70 a day due to the signing of NAFTA (Mercille, 2011). While between five hundred and six hundred thousand jobs were created in the manufacturing sector in Mexico due to NAFTA, 2.3 million jobs in the agricultural sector were lost due to cheaper imports of corn from subsidized U.S. agrobusinesses (Mercille, 2011). This caused many farmers to abandon their land and move to the U.S. or Mexican cities bordering the U.S. where they were used as cheap labor for U.S. manufacturing businesses. For the most part, these businesses assemble imported components and then export finished products, meaning that very few linkages were created within the Mexican domestic economy. Therefore, there were few employment opportunities even within these companies. Additionally, around the

year 2000, Mexican companies began moving to China and India, who were able to provide lower-cost labor to create the same commodities, leading to further layoffs. All of this led to a rise in the informal Mexican economy, which offers worse working conditions for employees. In 2004, 57% of workers were employed in the informal economy (Zepeda, et al., 2009). This resulted in many Mexicans resorting to participation in drug trafficking in order to simply make enough money to survive. Further, because these neoliberal reforms created severe social dislocation and a lack of employment opportunities, there was an increase in the usage of drugs by Mexican citizens who were looking to alleviate their suffering. This only enlarged the Mexican drug market and contributed to the growth of the drug trafficking industry.

This increase in the drug industry massively increased the profits made by cartels in Mexico. This led to an increase in government corruption, as cartels were able to buy their compliance. In fact, a study that looked at Mexican public officials who were arrested between 2007 and 2010 found that four hundred of the arrests made were due to collaboration with drug cartels (Freeman & Sierra, 2005). The U.S. touts that it is fighting this corruption and the War on Drugs in an attempt to disrupt the production and supply of illegal narcotics, however the actions that the U.S. takes simply do not back this up. The U.S. utilizes overseas drug control operations and interdiction within foreign countries, namely Mexico, to show that it is committed to putting an end to illegal drug trade. However, “research has consistently found that such methods are ineffective, while the most effective methods to reduce drug consumption are treatment of addicts and prevention” (Mercille, 2011. Pg. 1650). In fact, a popular RAND report found that “treatment” is the most effective way to reduce cocaine consumption in demand countries, namely the U.S. and European countries, the two main consumer regions of illegal drugs (Rydell & Everingham, 1994). They also found that targeting “source countries” is twenty-three times

less cost effective than treatment and “interdiction” is eleven times less cost effective (Rydell & Everingham, 1994). However, the U.S. has largely rejected this consensus on drug policy and rather than treat its own citizens who are a main source of the issue or crack down on the corruption of government officials who allow and indeed embolden the regime, they instead prioritize the expansion of U.S. hegemony into Latin America so as to further advance neoliberal policies.

This has been accomplished through the formation of a bilateral military working group between Mexico and the U.S., which was made possible by the War on Drugs. As corruption amongst government officials increased beginning in the 80s, the U.S. looked the other way and instead focused on solidifying their relationship with the Mexican military. In 1986 President Reagan called for the militarization of the War on Drugs in the U.S. and Mexico, leading to many Mexican citizens being sent to U.S. military academies to train exclusively to fight drug traffickers (Mercille, 2011). The past couple of decades have witnessed further advances in this bilateral military, as seen in part by the Mérida Initiative. Signed in 2008, the Mérida Initiative has delivered \$1.4 billion to Mexico in the form of training and equipping military and police officials involved in the War on Drugs (U.S. Department of State, 2008). In 2010, Beyond Mérida was put into effect, which was a continuation of the Mérida Initiative and delivered 26 armored vehicles, seven Bell helicopters (valued at \$88 million), and three UH-60 helicopters (valued at \$76.5 million) to the Mexican army (Mercille, 2011). While this was justified as needed in order to fight the drug regime, the Mexican military has a poor human rights record and drug trafficking has actually increased since 2008. This was simply one of the ways in which the U.S. went about expanding their hegemony. Oftentimes in Latin America when armies are

tasked with dealing with an internal enemy, the definition of enemy will include political dissidents, which has proven useful to the U.S. to quell any opposition to neoliberal reforms.

This was seen when Mexican President Calderón sent forty thousand soldiers and police around the country to quiet political dissidents (Mercille, 2011). They oftentimes did so under the guise of anti-drug operations, but a Human Rights Watch report documented some of the abuses committed by the officials, including rape and torture, and reported that those who were targeted often belonged to dissident groups calling for a more democratic society and were not involved with drug trafficking (HRW, 2009). The drug war is also used as a way to control marginalized groups by arresting them at a disproportional rate. Approximately ten thousand drug-related arrests are made each year in Mexico, and it is typically the poorest members of society that end up in jail due to these arrests (Freeman & Sierra, 2005). The majority of them have less than a high school degree and are typically farmers. If they are involved in the drug trade, they are typically people who are employed by drug traffickers as low-level transporters.

The violence that has ensued from the global drug prohibition regime, caused by both national governments as well as drug cartels, has created a nightmare of a living situation for millions of people around the globe. One woman, July Pérez, told reporter Sonia Nazario about her experience fleeing Honduras through Mexico in an attempt to escape the violence caused by drug cartels in her community. She said that in 2007 her brother had been kidnapped and found dead two days later in a sewage ditch, with his hands and feet cut off (Nazario, 2015). He was on his way to pay the \$91 of rent they owed when he was robbed and killed. 7 years later, her 14-year-old son and his friend were running an errand a block away from their home and never came back. The boys' bodies turned up moments later and her son had "ligature welts on his wrists, his face was beaten, ribs kicked, and burn marks singed his lips. His body had been

stuffed into a garbage bag. Another bag over his head had suffocated him” (Nazario, 2015. Pg. 2). Out of desperation, July then fled Honduras to travel through Mexico, hoping to eventually reach the U.S. She applied for a humanitarian visa to get into the U.S. and has now been in Mexico waiting to hear back for two months. However, July is still at severe risk of violence waiting in Mexico, as between 2006 and 2016 there were approximately one hundred thousand homicides related to drug-violence and twelve thousand disappearances in Mexico alone (Kan, 2016). This violence that has ravaged many countries has led to citizens who do not want to get involved with drug trafficking to leave their homes in search of peace, or at least less violence than they are witness to at home. In Mexico, 2% of the population, 1.65 million people, changed residence between 2006 and 2011 due to the risk of violence (Cantor, 2014). Similarly, in 2012 alone, 2.1% of people living in El Salvador changed residence due to threats, and one third of these people changed residences two or more times (Cantor, 2014). In Colombia, 5 million people have become displaced due to criminal violence, which makes it the country with the most IDPs in the world (Kan, 2016). Many people fleeing their homes look to the U.S. as a sanctuary from the violence. Between 2006 and 2016, tens of thousands of Mexican citizens sought asylum in the U.S. and in 2014, forty-five thousand unaccompanied minors from Honduras, El Salvador and Guatemala showed up at the U.S. border (Kan, 2016). However, U.S. immigration policy makes it exceedingly difficult for migrants to receive the protection they need.

A common Mexican saying, “Pobre Mexico. Tan lejos de Dios; tan cerca de los Estados Unidos,” translates to: Poor Mexico. So far from God; so close to the United States (Kan, 2011). This perfectly encapsulates the difficulties the U.S. has put Mexican citizens through via their tampering with the Mexican state and their involvement in the global drug prohibition regime.

While the U.S. is the source of many of their problems, it is also the closest location for them to seek refuge, thus many of them attempt to migrate to the U.S. in search of safety. However, although the U.S. has caused, or at least contributed to, a great deal of issues which are causing Mexican citizens to seek refuge in the U.S., the U.S. is doing everything in its power to keep them in Mexico. At the request of President Obama, Mexico executed a vicious crackdown on refugees who flee Central America to get to the U.S. (Nazario, 2015). It received tens of millions of dollars from the U.S. during the Obama administration to aid Mexico in keeping migrants from reaching the U.S. border, where they can claim asylum. President Trump continued this policy, sending a clear message to the citizens of Central American countries that if they come to the U.S., they will be sent back. Because of this, “since 2009, apprehensions of non-Mexican border arrivals have increased over 350 percent, outnumbering for the first time in decades the number of apprehensions of Mexican migrants at the southwest border” (Hiskey, et al., 2018. Pg. 430). This approach taken by both Obama and Trump was based on the assumption that those fleeing from Central American countries were coming to the U.S. based on what awaited them there and not due to fear of death in their home country. This is why this policy largely failed to stop people from attempting to migrate to the U.S. As survey data shows, individuals continue with their migration plans even if they are fully aware that they will likely be sent back once they make it to the U.S. (Hiskey, et al., 2018). This should not come as a surprise, as many of these people have been witness to family and community members being violently slaughtered and are fleeing in an attempt to save their own lives.

A HRBA could therefore also greatly benefit narco refugees, as severe violations of their human rights are taking place and a rights-based regime would greatly help to put an end to this. The accountability that accompanies such approaches would be a critical aspect of a regime

focusing on narco refugees, as the U.S. is in fact fueling the flames of drug trafficking so as to expand their global hegemony. While the U.S. is making it as difficult as possible for people to migrate into the country, a new rights-based regime would ensure that the U.S. allows in citizens who are fleeing from the violence that it has greatly contributed to. A rights-based approach to narco refugees would also likely require developed nations to spend less money on overseas drug operations, which have been shown to be ineffective in putting an end to global drug trafficking and are largely used to expand global hegemony. Rather, a HRBA would require that these countries use this money to instead treat their own citizen's addiction problems, which has been proven to be the most effective way to deal with the issue. By treating their citizens, who make up the majority of the demand for illicit drugs, the demand for these drugs would be reduced. This would thus decrease the illicit drug market and consequently decrease the violence that accompanies it. Similar to a rights-based approach to climate refugees, this would proactively reduce the number of refugees created. It is therefore seen that while this thesis outlined a rights-based regime specifically looking at how such an approach would ensure the protection of climate refugees, HRBAs can be utilized to protect any group of people. HRBAs are simply approaches that respond to an issue by focusing on the realization of human rights for every person involved.

The world will likely soon see an influx of approximately 212 million refugees who will become displaced due to climate change. The current refugee regime will not offer these people any type of protection or assistance, as they do not meet the official criteria established in the 1951 Convention Relating to the Status of Refugees of what makes one a refugee. Even if the definition were expanded to include climate refugees, the current regime would not be able to handle such a large quantity of people, as seen by how poorly it has managed the 26.3 million

refugees that currently exist. A new regime is therefore desperately needed in order to mitigate the global insecurity that would arise from the displacement of hundreds of millions of people. This thesis was seeking to answer the question “would a human rights-based approach to climate refugees produce just outcomes?” A new, hypothetical rights-based regime was created based off of research into what HRBAs entail as well as my own ideas. The new regime ensures accountability by requiring the nations that cause the issue to pay into a fund that will reduce the harm caused, as well as take in more refugees than they have historically. It also provides aid to climate refugees and empowers them to demand the fulfillment of their human rights. It ensures an equitable distribution of climate refugees across nations, a major difference between it and the current refugee regime. It is therefore seen that a human rights-based approach to the issue of climate refugees would in fact create more just outcomes for all actors involved. Climate refugees receive adequate assistance under the new regime, countries that are causing climate change have to answer for their actions, and developing nations are not burdened with absorbing the brunt of the problem. In order to reach a point where such a regime could become reality, the international community must first strongly adhere to a norm based on international cooperation. Once this takes place, the new regime will have a key prerequisite for its implementation. The international community should now prioritize the strengthening of this norm so as to ensure that when hundreds of millions of people become displaced in a world that currently lacks any form of structure that could manage this incredibly significant number of people, there will be a plan in place to reduce the harm caused and to ensure that these displaced people have access to their basic human rights.

While this new regime may seem far-fetched and therefore not politically feasible, many other grandiose international programs have come to fruition in the past. The Kyoto Protocol, for



example, was an ambitious international response to the issue of climate change. The Universal Declaration of Human Rights sought to ensure that all people of the world have access to basic human rights. Even the 1951 Convention Relating to the Status of Refugees was an aspirational attempt to provide assistance to all refugees created during WWII. This new regime is no different from these other international responses to serious issues, as it is merely another program that the international community would agree to and participate in, in order to mitigate the harm that would be caused if they did not. It is therefore nothing radical, as all countries have signed onto similarly ambitious programs in the past. Thus, the international community has the capability to implement such a regime, it now just requires the political will of nations to agree to it. Before this happens, a strong norm of international cooperation must be present in the international community, as the regime requires a great deal of communication and cooperation between nations. However, once this norm materializes, there are many incentives for all countries to sign onto the new regime. For starters, it will lessen international conflict that will likely emerge if there is no system in place to deal with the influx of so many displaced people. It will also save countries money in the long run, as it takes proactive steps to lessen the climate change crisis and reduces the instability that will be accompanied by an influx of millions of refugees. Increased immigration also mitigates the issue of population aging that is beginning to emerge in many developed nations, so the new regime would alleviate the stress that these countries will experience when their population begins to decline. However, most importantly, it will ensure that every person who becomes displaced due to climate change will receive adequate assistance as well as the fulfillment of their human rights. Climate refugees are people like everyone else, and they deserve a high quality of life. The current refugee regime cannot provide them with this quality of life, so it essential that a new regime that can comes to fruition.

This thesis demonstrated how beneficial human rights-based approaches are to the international community. It showed that all actors involved, even those that would have to contribute the most under the new regime, would benefit from such an approach. It also provided many avenues of future research, such as whether a country's total historic carbon emissions or their current emissions are more important to utilize when holding these nations accountable, how to get the international community to a place where such a regime could move from theory to actual practice, social outcomes that could arise within countries due to the implementation of the new regime, and even what a human rights-based approach would look like to the issue of narco refugees. While this thesis demonstrated how such an approach would be beneficial for dealing with the issue of climate refugees, rights-based approaches can be utilized in response to a great deal of issues. They can also be used proactively, to stop or reduce an issue that will emerge in the future. The world is currently under threat from a number of problems, from climate change to nuclear weapons, to world hunger and poverty. Rights-based approaches therefore now need to be seriously discussed by the international community, as they have extraordinary potential to save the world from the harm that will be caused if nations continue doing the bare minimum to respond to incredibly pressing and dangerous issues.

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