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UNIVERSITY OF CALIFORNIA
RIVERSIDE

(Re)framing the Ethics of Climate Migration: Asylum, Responsibility, and the
Case for Yielding Territory

A Dissertation submitted in partial satisfaction
of the requirements for the degree of

Doctor of Philosophy

in

Political Science

by

Victor M. Morales

September 2022

Dissertation Committee:

Dr. Georgia Warnke, Chairperson

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Dr. John Medearis

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2022

The Dissertation of Victor M. Morales is approved:

Committee Chairperson

University of California, Riverside

Acknowledgements

“When eating fruit,” a Vietnamese proverb instructs, “remember the one who planted the tree.” As I was completing this project, I was overcome with a lot of emotion. It has been a long journey. A voyage filled with many challenges and tragedies. But it has also been a period of great joy and personal growth. So, as I take the final bite of the apple, I want to take a second to remember and thank the many hands that planted the tree that bore the fruit that this dissertation is.

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on tables, pound his podium with so much emotion, scream “yes” enthusiastically to correct or provocative comments in class, and to possess the chutzpa to explain complex philosophical questions through nursery rhymes? I guess I was like Estelle Reiner in *When Harry Met Sally*, I wanted to know what was in your drink. Jokes aside, it is through your classes as an undergraduate, that I developed a love for philosophy. You were also the first person to encourage me to think about graduate school and for that I thank you. To Maria Garcia-Acevedo, thank you for your guidance, advice, and support. Without your input, graduate school would have not been possible. To Anna Carastathis, I can’t thank you enough for all your support. For helping me to develop as a writer and for encouraging me to pursue my goals. Teddy Mack, thank you for being a great leader and for taking the time to mentor me; for challenging me to learn to “exist in the uncomfortable,” to not be afraid to “ask the tough questions,” and to “kill them with kindness.” These life lessons have been crucial to my development as a person and as a scholar. Your “Teddyisms” will live on.

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To Faviola, for your support, patience, and, most of all, love

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ABSTRACT OF THE DISSERTATION

(Re)framing the Ethics of Climate Migration: Asylum, Responsibility, and the Case for Yielding Territory

by

Victor M. Morales

Doctor of Philosophy, Graduate Program in Political Science
University of California, Riverside, September 2022
Dr. Georgia Warnke, Chairperson

Scientists predict that climate change will be the driving force behind most of the world's migration over the next three decades. They estimate that climate change will force the migration of 200 million individuals by the year 2050. The forced migration of millions of individuals raises important ethical questions such as: how can they be helped? And who should be responsible for helping them? The principal solution presented by scholars and activists is to classify climate migrants as refugees and grant them asylum in affluent western countries. Proponents of this position argue that these countries—through their polluting and consuming habits, past and present—created the problem of climate change. As such, they are responsible for the plight of climate victims and therefore have a moral obligation to take in the anticipated millions of displaced climate migrants. But is asylum the best solution? And are affluent western countries responsible for climate change and, in turn, liable to climate victims? I explore these important questions in this dissertation. In this project, I challenge asylum as the best

solution for helping climate migrants by pointing out the practical hurdles to this decision and by highlighting the unintended moral harms that climate migrants will be subjected to if climate migrants were to be categorized as refugees. I also problematize the responsibility claims against affluent western states by examining the theoretical concept of responsibility and showing that assigning responsibility for climate change is much more challenging than it seems. Additionally, I present my own solution to the problem of climate displacement and make the case for it on remedial responsibility grounds—a type of responsibility rooted in capacity not moral, causal, or outcome justifications.

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Introduction

The latest report by the UN Intergovernmental Panel on Climate Change (IPCC) paints a grim picture for the planet's future. Scientists predict that if human caused warming is not curbed by a few tenths of a degree soon, parts of the earth will become uninhabitable.¹ By the year 2050, many small island states will completely disappear while other states, e.g., in much of Africa, Central America, South America, and South Asia, will become too hot to live in.² Scholars assert that those affected by climate change will adopt migration as a survival mechanism and some claim that by the year 2050, these climate migrants will number north of 200 million.³ The forced displacement of millions of individuals due to climate change raises important ethical questions, including who is responsible for helping climate victims and how.

For most climate migration theorists, the ethical solution is to treat climate migrants as refugees. Like refugees, climate migrants have been forced to flee and cannot return home (in this case because changes to their habitat have made return impossible). Consequently, climate migration theorists argue that climate migrants should be presented with the same rights traditional refugees have been afforded: the right to asylum and the right of non-refoulement, the principle under international law that prevents countries from returning asylum seekers to a country where they would face

¹ Seth Borenstein, "UN Climate Report: 'Atlas of human suffering' worse, bigger," *Associated Press*, February 28, 2022. Accessed July 16, 2022. <https://apnews.com/article/climate-science-europe-united-nations-weather-8d5e277660f7125ffdab7a833d9856a3>

² *Ibid.*

³ Oli Brown, *Migration and Climate Change* (Geneva: 2008)

prosecution. Climate theorists see asylum as a practical and moral response to climate displacement. Practical because there is an infrastructure already in place designed to help individuals forced to flee. Moral because wealthy western states, whom climate theorists hold responsible for creating and benefiting from climate change, would be required to grant asylum to climate victims. This proposition is particularly important, not only for academic purposes, but because it has gained currency among climate activists, some Nongovernmental Organizations, and even lawmakers in Europe and Africa.

This dissertation seeks to contribute to the discussion of climate induced displacement. In it, I make an ambitious attempt to reframe how we think about climate ethics. I challenge the use and understanding of the term responsibility by looking at it normatively. I explore the feasibility of granting asylum to millions of displaced individuals and arrive at the conclusion that doing so is not a feasible solution. I make the case that climate induced displacement is a distinct problem that requires its own unique solution and I conclude by providing a provocative solution to the problem of climate displacement.

Outline of the dissertation

In chapter one, I investigate the feasibility of asylum as the solution to the problem of climate displacement. I explore the discussion around the current state of asylum, its limitations, and the need to revise it, and scrutinize the arguments for

classifying climate migrants as refugees. I show that asylum is not an attainable solution on three grounds: 1) the impracticality of the feat. I highlight the fact that the asylum regime is already overheated due to its limited resources; 2) the overlooked reality of state interests and the role they play in sustaining and supporting the asylum regime; 3) the unintended moral harms climate migrants would be subjected to if they are absorbed into the asylum regime. I highlight the different types of rights climate migrants would lose and the dangers they would encounter once inside the asylum system.

Chapter two inspects the use and understanding of the term responsibility. I demonstrate that establishing responsibility for climate change is more difficult than it seems. I argue that the way climate theorists interpret responsibility fails to establish liability against wealthy western states or their citizens. I propose abandoning the call for assigning duties to actors based on causal, outcome, or moral grounds for a responsibility based on ability, i.e., *remedial responsibility*.

Chapter three makes the provocative claim that those with the remedial responsibility to help those displaced by climate change should be the ones that are in the best position to do so, i.e., those countries within the 48th parallel north that will inherit new territory due to melting permafrost, and that the best way to help them is to yield a portion of their newly inherited and vacant territory. I make the case that the principle of self-determination grants necessitous migrants, which are stateless societies, the right to reassemble as a sovereign state in a different territory.

I wrote this dissertation with intention of being provocative. After all, nothing stirs conversation more than provocations. The forced displacement of millions of people

due to anthropogenic climate change and what we should do about it is a conversation residents of all nations should be having. It is my hope that the facts and arguments presented here help to make this conversation more.

Chapter 1:
**(Re)examining the Ethics of Asylum for Climate Migrants: The Overlooked Effects
of State Interests and Moral Harms**

“A specter haunts the world and it is the specter of migration.”
~ Michael Hardt and Antonio Negri⁴

According to the latest International Organization for Migration (IOM) report, the global number of international migrants has surpassed the 270 million mark, with the numbers expected to grow exponentially over the coming decades.⁵ Historically, the migration of people from one place to another has been instigated by a multitude of reasons, ranging from economic aspirations and family reunification to the pursuit of safety from war and/or persecution. In other words, migration has not had a single push or pull factor, but that is likely to change over the next few decades. According to climate scientists, climate change will be the driving force behind the migration of millions of people.⁶

Changes to the Earth’s climate have led to higher temperatures, changes in precipitation patterns, increased droughts, rising ocean levels, crop failures, damage to coastal zones and marine ecosystems, as well as extreme weather events, making certain

⁴ Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2000): 213, as quoted in Thomas Nail, *The Figure of the Migrant* (Stanford: Stanford University Press, 2015), 2.

⁵ United Nations, *World Immigration Report* (2019), 3.

⁶ Koko Warner, et al., “In Search for Shelter: Mapping the Effects of Climate Change on Human Migration and Displacement,” UNHCR, 2009; IOM report, 2019; IOM report 2010; Akinalp Orhan, “How To Save a Disappearing Nation?” *Malmö Institute for Studies of Migration, Diversity and Welfare* (2020)

parts of the world uninhabitable.⁷ As people's homes are destroyed and their jobs are eliminated due to droughts, floods and storms, climate scientists and immigration scholars alike predict that climate change will force individuals to adopt migration as a survival mechanism. In fact, the accepted figure by climate scientists is 200 million climate migrants by 2050,⁸ a number that will surpass the combined number of migrant workers (164 million) and refugees (25.9 million) in the world today.⁹

Evidence of the projected climate induced migration has already manifested in parts of Papua New Guinea and Vanuatu. In 2005, the government of Papua New Guinea evacuated the 1,000 residents of the Carteret Islands and relocated them to a larger island 62 miles away due to climate induced changes that made the land uninhabitable. Similarly, after enduring erosion and salt damage—again attributed to climate change—to the soil of their land, all of the inhabitants of Lateu, an island on Vanuatu, were relocated inland.”¹⁰

⁷ David Wallace-Wells, *The Uninhabitable Earth: Life After Warming* (New York: Tim Duggan Books, 2019); R. McLeman and B. Smit, “Migration as an Adaptation to Climate Change,” *Climate Change* 76 (2006) 76: 31-53

⁸ Sujatha Byravan and Sudhir Chella Rajan, “Providing New Homes for Climate Exiles,” *Climate Policy* (2006); Norman Myers, “Environmental Refugees: A Growing Phenomenon of the 21st Century,” *The Royal Society* 357 609-613 (2001); Wallace-Well, *The Uninhabitable Earth*, p.2; IOM 2019; IOM 2010; IOM 2009; IOM 2008.

⁹ Charlotte Edmond, “Global Migration, by the numbers: Who migrates, where they go and why.” The World Economic Forum, accessed June 23, 2020, <https://www.weforum.org/agenda/2020/01/iom-global-migration-report-international-migrants-2020/>

¹⁰ Other examples of climate induced relocations include the evacuation of the Shishmaref village in Alaska. Residents there were relocated south due to melting permafrost and sea-shore erosion; relatedly, the island of Lohachara—located near West Bengal—is believed to be the first island deemed uninhabitable due to climate change; the island has fully submerged. For details on all these cases see: IOM, 2008.

The specter of migration—or to be more precise: climate change induced migration—indeed haunts the world. Accordingly, scholars¹¹ concerned about the plight of individuals displaced by changes to the environment have sought an ethical solution to help the anticipated wave of millions of climate migrants. Perhaps the most notable of those solutions is the call to expand the asylum regime by reimagining the concept of refugee. By and large, scholars have sought to either expand the narrow definition of refugee to include those displaced by the environment or show that climate migrants meet the current legal definition of refugee under the “persecution” and “social group” provisions within the definition and therefore must be suitably recognized as refugees. But is the absorption of the forecasted millions of displaced climate migrants into the current refugee regime the best recourse? In this chapter, I will examine that question and will make the case that, though well-intended, the call to expand the asylum regime is not only misguided but also detrimental to the environmentally displaced individuals as well as to the current and future victims of state oppression.

This chapter comprises three sections. Section one discusses the origins of the asylum system, the criteria to be considered a refugee, and the legal gaps of protection within the refugee system. Section two outlines the theoretical claims for expanding the definition of refugee to include individuals threatened or displaced by climate change.

¹¹ I shall use the words scholars and climate migration theorists [CMTs hereinafter] interchangeably to denote the works of intellectuals across a variety of disciplines (e.g., legal theory, ethics, political theory, philosophy, and IR theory) that take a theoretical approach towards the problem of climate induced migration.

Section three advances the thesis of the chapter by providing three objections to the expansion of the refugee clause.

I

Currently, in order for individuals to be granted asylum, they must acquire refugee status as defined, guided, and secured by the 1951 UN Convention Relating to the Status of Refugees.¹² Originally meant as a solution for the millions of Europeans displaced by WWII,¹³ the Refugee Convention created an international system of cooperation between states and non-governmental organizations, such as the United Nations. The refugee regime, under the supervision of The United Nations High Commissioner for Refugees (UNHCR), was intended to guarantee that all signatory states to the 1951 Convention would remain engaged and committed to helping the displaced.

According to the 1951 Convention a refugee is “any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, 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

¹² [Hereinafter the 1951 Convention] see: Molly Conisbee and Andrew Simms, *Environmental Refugees: The Case for Recognition* (London: NEF, 2003); and Human Rights First “Asylum Law and Procedure,” accessed December 1, 2020, <https://www.humanrightsfirst.org/asylum/asylum-law-and-procedure>

¹³ As a response to the thousands of new refugees that emerged due to the creation of new post-colonial states, the refugee regime in 1967 expanded the geographical reach of protection for refugees beyond the shores of Europe. Protection for refugees became global. See: Alexander Betts and Gil Loescher, “Refugees in International Relations,” in *Refugees in International Relations*, Ed. Alexander Betts and Gil Loescher (New York: Oxford University Press, 2011), 46.

to return to it.”¹⁴ To be more precise, to be considered a refugee an individual must meet the criteria laid out on Article 1(A)(2):

- I. Estrangement: a petitioner must find themselves outside of the country of their nationality
- II. Persecution: a petitioner must prove that they have experienced persecution on the basis of
 - a. Race
 - b. Nationality
 - c. Religion
 - d. Membership of a particular group
 - e. Political opinion
- III. Well-founded fear: a petitioner must demonstrate they have a well-founded fear of persecution if they return home.¹⁵

Individuals who meet these criteria are granted asylum and with asylum come two key legal protections. First, the Convention guarantees refugees “non-refoulment,” prohibiting the return of “a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened...”¹⁶ ; second, the Convention grants refugees the ability to resettle indefinitely, paving the way towards a new life in the host country.¹⁷

The distinctive features of the definition are meant to protect a “normatively distinct group” to whom particular duties are owed, duties that can be met only through refuge in a country outside of their own.¹⁸ The strict definition guarantees that only those individuals who meet the criteria qualify for the special designation. Otherwise, as one

¹⁴ The Office of the United Nations High Commissioner for Refugees, *Convention and Protocol Relating to the Status of Refugees*, (The UN Refugee Agency, 1951): ar. I(A)(2) 3. Accessed July 6, 2020. <https://www.unhcr.org/en-us/3b66c2aa10>

¹⁵ *Ibid.*

¹⁶ UNHRC, *1951 Convention Relating to the Status of Refugees*, p.30

¹⁷ *Ibid.*, p. 29

¹⁸ Matthew Lister, “Who are Refugees?,” *Law and Philosophy* 32, (2013): 645

scholar shrewdly observed, “there would be situations where every person who felt the need to move to another country, or who was simply not satisfied with the living conditions in their country, or even fugitives, would be able to use refugee law as an avenue of escaping.”¹⁹ It is important to note that the declaration was created to protect individuals from state oppression, thus narrowing the scope of persecution to acts committed by the state. Correspondingly, individuals that cannot establish persecution under the aforementioned criteria—such as economic migrants, victims of natural disasters and domestic abuse—are not considered refugees and therefore are not eligible for the protections afforded by the international refugee regime.

II

Some climate migration theorists (CMTs) concerned over the plight of migrants displaced by climate change, have argued for expanding the definition of refugee to recognize climate migrants as a distinct group deserving of international protection under the asylum regime. Others insist that a close reading of the 1951 Convention reveals that climate migrants already meet the definition of refugee and have simply yet to be recognized as such. We can look at each of these arguments in turn.

The current definition of refugee, the first set of CMTs argue, denies climate migrants the international protection and assistance they so desperately need. Andrew

¹⁹ Allan Mukuki, "Re-Imagining the Concept of Forced Migration in the Face of Climate Change," *Groningen Journal of International Law*, vol 7.1 (2019): 78

Shacknov contends that the unwillingness of the international community to recognize climate migrants as refugees condemns those individuals to more suffering.²⁰ Others maintain that the definition, as developed by the 1951 Convention, is anachronistic, for it did not foresee nor does it not account for the new causes of displacement. Conisbee & Simms declare that “[w]hen the Geneva Convention was created to deal with the aftermath of the Second World War, only Europeans qualified for refugee status. In a globalized world, the language that framed the convention now looks outmoded and absurd. The UNHCR is in danger of looking equally out of date, and also at odds with much expert opinion, in its refusal to accept environmental threats as a legitimate ground for refugee status.”²¹ What CMTs propose is a rewriting of the Convention’s language to resemble the contemporary root causes of displacement, which go beyond state persecution.

The theoretical justifications for this view are grounded on the framework of human rights. Refugee status, according to this rationale, should not be grounded on the outdated mode of state persecution but on the ability for individuals to enjoy their most basic rights,²² an ability climate change endangers. In particular, CMTs maintain that climate change threatens three fundamental human rights: the human right to life, the human right to subsistence, and the human right to a safe environment. The lack of these basic necessities forces individuals to seek refuge outside their country of origin. Climate migrants, therefore, share the same quandary of statelessness as traditional refugees and

²⁰ Andrew Shacknove, “Who is a Refugee?” *Ethics*, Vol. 95.n.2 (1985), 276

²¹ Allan Mukuki, “Re-Imagining the Concept of Forced Migration in the Face of Climate Change,” p. 87

²² *Ibid.*, p.164

for that reason should be allotted the same type of protections political asylum seekers are granted.

The concept of human rights, Simon Caney—a proponent of this position—explains, has four important elements. First, rights are grounded in an individual’s humanity; they are the rights individuals possess because of their humanity, independent of the nation they belong to and unrelated to any action performed.²³ Second, human rights denote a moral threshold below which no individual should fall and a minimal standard of treatment to which all individuals are entitled.²⁴ “A human-rights approach,” Caney writes, “insists on the protection of the entitlements of all individuals and condemns any tradeoffs that would leave some below the minimum moral threshold.”²⁵ Third, human rights deem every individual worthy of respect; and finally, they take priority over other values.²⁶ From this framework, Caney asserts that human beings have a right to life.

Citing the International Covenant on Civil and Political Rights, he declares that “every person has a human right not to be arbitrarily deprived of his life.”²⁷ For Caney, the right to life is a negative right, which requires that others abstain from actions that would hurt others.²⁸ If one does something to endanger the life of another, then it is said

²³ *Ibid.*, p.164

²⁴ *Ibid.*, p.164

²⁵ *Ibid.*, p. 165

²⁶ Simon Caney, “Climate Change, Human Rights, and Moral Thresholds,” in *Climate Ethics: Essential Readings*, ed. Stephen M. Gardiner, Simon Caney, Dale Jamieson, and Henry Shue (Oxford: Oxford University Press, 2010), 164

²⁷ *Ibid.*,” p. 166. The “arbitrarily” aspect of the definition is important for Caney, for it is his way of answering critics that may argue that the taking of a person’s life might be principled and justifiable in some cases.

²⁸ *Ibid.*, p. 165

that a person's right to life has been violated. And because climate change is anthropogenic, climate change, Caney argues, violates a human's right to life in that it threatens a person's ability to stay alive. For example, climate change is projected to increase severe weather events, e.g., hurricanes, storm surges, and tornados that will endanger the lives of thousands;²⁹ it is estimated that climate change will also produce massive landslides and flooding that will result in the loss of thousands of lives around the world;³⁰ finally, climate change is forecasted to bring about deadly heatwaves that will make it impossible for those with respiratory and cardiovascular problems to survive.³¹ Because of these events, many will be forced to abandon their home countries in an effort to exercise their right to life. Therefore, Caney writes, "we may conclude that the current anthropogenic climate change violates the human right to life."³²

Henry Shue makes a similar argument, arguing that human rights are the basic rights all human beings possess. These basic rights are meant to; (1) shield the defenseless against some of the most destructive and more common of life's threats, such as the loss of security and subsistence; (2) exercise a restraint on political and economic forces that are otherwise too strong to be resisted; (3) provide social guarantees against deprivation and (4) exert "everyone's minimum reasonable demands upon the rest of

²⁹ *Ibid.*, p.166-167

³⁰ Caney believes the potential loss of life will dwarf previous flooding and landslides accidents of the past, e.g., Venezuela in 1999 where 30,000 died from the landslide that followed a deadly storm or 1,813 lives that were lost after the catastrophic landslide in Mozambique in 2001. *Ibid.*, p. 167

³¹ Caney discusses the detrimental effects heatwaves have had in the past, e.g., the 700 lives lost during Chicago's heatwave in 1995 and the 2,000 lives lost in England and Wales during the 2003 European heatwave. *Ibid.*, p.167

³² *Ibid.*, p. 167

humanity.”³³ The key claim of Shue’s basic rights is that they come first before any other right. In fact, without basic rights it is impossible to enjoy other rights. The basic right to physical security and subsistence is central here. “Being physically secure is a necessary condition,” he writes, “for the exercise of any other right, and guaranteeing physical security must be part of guaranteeing anything else as a right.”³⁴ The basic right to subsistence is equally crucial.

By subsistence, Shue means “unpolluted air, unpolluted water, adequate food, adequate clothing, adequate shelter and preventive public healthcare.”³⁵ Shue’s position is that human beings are entitled to a “decent chance at a reasonably healthy and active life of more or less normal length,”³⁶ and that anthropogenic climate change infringes on this entitlement. Climate change is expected to negatively impact agriculture. Food crops, livestock, grains, and fisheries are presumed to be under great threat. Extreme weather events have led to reductions in crop production, while heatwaves have increased livestock fatalities, reduced fertility, and added to their vulnerability to disease; at the same time, increases in atmospheric carbon dioxide (CO₂) threaten sea life as the world’s oceans have become more acidic.³⁷ These occurrences, which are a direct effect of anthropogenic climate change, hinder an individual’s right to make a living and to get

³³ Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (Princeton: Princeton University Press, 1980), 18-19.

³⁴ *Ibid.*, p.22

³⁵ Like Caney, Shue makes it clear that he is making a distinction between broader economic rights and subsistence. *Ibid.*, p. 23

³⁶ *Ibid.*, p.23

³⁷ “Agency, Climate Impacts on Agriculture and Food Supply,” United States Environmental Protection, accessed January 22, 2021, <https://19january2017snapshot.epa.gov/climate-impacts/climate-impacts-agriculture-and-food-supply.html>

food, thus forcing many abroad for the right to subsist. As such, anthropogenic climate change violates a person's basic right to subsistence.³⁸

Anthropogenic climate change, other CMTs argue, jeopardizes an individual's right to a safe and adequate environment. A leading voice for this position is Melisa Thorme. She argues that "human life and the environment are inseparable." She explains that humans require breathable air, water to drink, food to eat, and a place to live and sleep; if these essentials are contaminated, polluted, or destroyed life itself will cease to exist; the fundamental claim is that the protection of human rights require safeguarding life's supporting system: the environment.³⁹ As such, human rights violation cases may "be brought whenever environmental degradation affecting human life, health, or well-being occurs."⁴⁰ And because anthropogenic climate change is destructive to human life, in that it makes land arid and inhabitable, it is considered a violator of human rights.

The human rights framework is meant to "fill the legal and political gap for millions of migrants who do not benefit from international legal protections as the cause of their migration"⁴¹ For John Barry and Kerri Woods:

³⁸ See: Benoît Mayer and Christel Cournil, "Climate, Migration and Human Rights," in *Climate Change and Human Rights: An International and Comparative Law Perspective* (Routledge, 2015); Dimitra Manou and Anja Mihr, "Climate Change, Migration, and Human Rights," In *Climate Change, Migration and Human Rights: Law and Policy Perspectives*, Ed. Dimitra Manou, Andrew Baldwin, Dug Cubie, Anja Mihr, and Teresa Thorp (New York: Routledge, 2017); Simon Caney, "Human rights, responsibilities and climate change." In: *Global basic rights*: C. Beitz and R. Goodin, eds. (Oxford: Oxford University Press, 2009), pp. 227–47.

³⁹ Melisa Thorme, "Establishing Environment as A Human Right," *Denver Journal of International Law and Policy* (1991), 301.

⁴⁰ *Ibid.*, p 302.

⁴¹ Dimitra Maou and Anja Mihr, "Climate Change, Migration, and Human Rights," in *Climate Change, Migration and Human Rights: Law and Policy Perspectives*, Ed. Dimitra Manou, Andrew Baldwin, Dug Cubie, Anja Mihr, and Teresa Thorp (New York: Routledge, 2007).

“[t]here are a number of clear strategic advantages in presenting environmental claims in the language of human rights. First, there can be little doubt that human rights discourse has come to be the authoritative language in which moral claims are presented in the context of both domestic politics and international political forums ... Human rights discourses recognize that individual humans have a right to what they need, or a right to pursue their own interests.”⁴²

James W. Nickel adds that the appeal to human rights norms is a tactical move to garner the recognition, support, and activation of the institutional mechanisms of the human rights regime.⁴³ Derek Bell elaborates on Nickel’s point by asserting that “[t]he most straightforward way of defending any particular human right is to show that it has already been included in international human rights conventions. One attraction of this approach is that rights that have been widely recognized in international law may be less controversial than rights that have not been recognized in international law.”⁴⁴ CMTs, like Bell, see an advantage in employing legally recognized human rights, for they are “able to avoid offering moral argument to support our fundamental rights commitments.”⁴⁵ Accordingly, the basic rights to life, subsistence, and a safe environment are defended by appealing to major human rights documents, such as the Universal Declaration on Human Rights (UDHR 1948), The International Covenant on Civil and

⁴² John Barry and Kerri Woods, “The Environment,” in *Human Rights: Politics and Practice*, ed. Michael Goodhart (Oxford: Oxford University Press, 2016), 386.

⁴³ James W. Nickel, “The Human Right to a Safe Environment: Philosophical Perspectives on Its Scope and Justification,” *Yale Journal of International Law* 18, no.1 (Winter 1993): 282-283

⁴⁴ Derek Bell, “Does Anthropogenic Climate Change Violate Human Rights?” *Critical Review of International Social and Political Philosophy* 14:2 (2011), 102

⁴⁵ *Ibid.*, p. 102.

Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR 1966), and the European Convention on Human Rights (ECHR 1953).⁴⁶

CMTs have drawn a straight line between the human rights violations created by anthropogenic climate change and the right of individuals under international law to exit their country of origin. The articles most often cited are: Article 13(2) of the UDHR, which declares that “[e]veryone has the right to leave any country, including [their] own;” Article 12(2) of the ICCPR and Article 2(2) of the ECHR, which affirms the right of individuals affected by environmental phenomenon to exit their country and Article 14 of the UDHR which proclaims that “[e]veryone has the right to seek and enjoy in other countries asylum from persecution.”⁴⁷ David Keane thus declares that the “solution to the problem of environmentally displaced persons would be to extend the 1951 definition contained in the Refugee Convention in line with those developments in international human rights law.”⁴⁸ In short, because anthropogenic climate change violates—or threatens to violate—an individual’s basic rights to life, subsistence, and a safe environment, those affected have a right to exit their countries and seek asylum abroad. Climate migrants, like political refugees, are forced from their native lands and should therefore be afforded the same rights to asylum as political refugees.

The second set of CMTs deny that the 1951 Convention needs replacing, insisting that a close reading of it reveals that climate migrants already meet the requirement for

⁴⁶ *Ibid.*, p. 103

⁴⁷ As quoted in Mayer and Cournil, “Climate Change, Migration and Human Rights,” pp.176; 0

⁴⁸ David Keane, “The Environmental Causes and Consequences of Migration: A Search for the Meaning of Environmental Refugees,” *Georgetown Environmental Law Review* (2004): 216.

asylum under it and should be recognized as such. Matthew Lister, a political theorist, has long rejected the expansion of refugee status on the grounds that refugees are a distinct normative group.⁴⁹ For Lister, a normative distinct group are those individuals that cannot meet their basic needs on their own and cannot be helped in their own countries. The only way to help these individuals is by granting them asylum and the protection of non-refoulement. Accordingly, Lister devised a litmus test of sorts to determine asylum status: does a group constitute a normatively distinct group? Using this criterion, Lister concludes that most groups that seek asylum, such as immigrants, victims of domestic violence, etc., do not meet the requirements of a normative distinct group and therefore should not be bestowed with the protections under the refugee regime, for all of those groups could be helped at home and do not require asylum for their survival.⁵⁰ Yet, Lister contends that the logic behind the definition of the Refugee Convention does extend to climate migrants. Climate migrants cannot be helped at home because their land has become inhabitable, and they therefore meet that necessary threshold of a distinct normative group. Lister explains that the “extension of the logic of the UN Refugee Convention fares better than other proposals in term of being a useful step to help those in need”; particularly, Lister believes that the extension of the refugee logic is a sounder than the human rights approach.⁵¹

⁴⁹ Matthew Lister, “Climate Change Refugees,” *Critical Review of International Social and Political philosophy* (2014): 620.

⁵⁰ *Ibid.*, pp. 619-20, 630; also, Matthew Lister, “Who are Refugees?” *Law and Philosophy* (2013): 645-671

⁵¹ *Ibid.* p. 619

While Lister looks at the rational structure of the 1951 Refugee Convention, legal theorists dissect the legal definition to demonstrate that climate migrants meet the legal definition of refugee. In particular, these CMTs scrutinize the alienage and social group clauses, as well as the persecution threshold of the legal definition. For example, Allan Mukuki argues that environmentally displaced migrants meet the conditions specified in Article 1(A)(2) of the 1951 Convention that states that in order for an individual to be considered a refugee they must have crossed an international border.⁵² The clause, Mukuki, points out does not require a specific external factor to warrant the crossing. Thus, climate migrants—people that are forced to take flight in order to escape environmental catastrophes—cross international borders in order to ensure their survival, meet the stipulations of Article 1(A)(2).⁵³ Like Mukuki, other CMTS have explored ambiguities within the definition to make the case that environmentally displaced migrants meet the definition of refugees.

Peter Godfrey explains that the “particular social group” provision in Article 1(A)(2) is not clearly defined. “Because there is no statutory definition of ‘particular social group,’” he writes, “and courts have inconsistently interpreted the term, it is difficult to ascertain the limits on social groups that are recognizable under asylum law.”⁵⁴ Accordingly, some CMTs have made the case that environmentally displaced migrants qualify for refugee status under the particular social group clause. Shea

⁵² Mukuki, "Re-Imagining the Concept of Forced Migration in the Face of Climate Change,"84

⁵³ *Ibid.*, p.84

⁵⁴ Peter Godfrey, “Defining the Social Group in Asylum Proceedings: The Expansion of the Social Group to Include a Broader Class of Refugees,” *Journal of Law and Policy* (1994), 258

Flanagan, for example, contends that those that lack political power should be considered part of the social group definition, particularly those that are powerless to protect their environment as a distinct social group.⁵⁵ Flanagan explains that the people most affected by climate change do not have the capacity to force their governments into adapting responsible measures nor do they possess the ability to stop high-emitting countries from producing or reducing noxious emissions.⁵⁶ Those who lack political power share the “immutable characteristic” clause for they not only share a past experience but a status as well.⁵⁷

CMTs have also argued that environmentally displaced migrants should not be excluded from the original definition because they meet the “well-founded fear of persecution” clause under Article 1(A)(2). Cooper observes that “[t]he ‘persecution’ requirement of the refugee definition demands ‘an act of government against individuals.’”⁵⁸ On that account, CMTs read the well-founded fear of persecution clause as government involvement and/or acquiescence in making climate change worse, in effect leading to the ill treatment of individuals.⁵⁹ Kara Moberg, for example, asserts that

⁵⁵ Shea Flanagan, “Give me your tired, your poor, your huddled masses: The Case to Reform US Asylum Law to Protect Climate Change Refugees,” *DePaul Journal for Social Justice* (2020): 29; see also: Jessica Cooper, “Environmental Refugees: Meeting the Requirements of the Refugee Definition,” *Environmental Law Journal* (1998): 523

⁵⁶ *Ibid.*, p.29

⁵⁷ Flanagan explains that a “particular social group is defined as a group of people who share or are defined by certain common and immutable characteristics, which means characteristics that a group cannot change or is so fundamental to one’s individual identity or conscience that a person ought not to be required to change. Traits like age, class background, ethnic background, family ties, gender, and sexual orientation. Further, immutable characteristics can include ‘a shared past experience or status [that] has imparted some knowledge or labeling that cannot be undone.” *Ibid.*, p.28

⁵⁸ Cooper, “Environmental Refugees,” 502

⁵⁹ Brooke Harvard, “Seeking Protection: Recognition of Environmentally Displaced Persons under International Human Rights Law,” *Environmental Law Journal* (2007),75

governmental actions amount to governmental oppression when their policies exacerbate the effects of climate change. As an illustration, Moberg points to the situation in the African Sahel, where the Sahelian governments, instead of attempting to mitigate desertification have made the problem worse by demanding agricultural exports that have placed a tremendous amount of strain on the country's most impoverished and their deteriorated lands.⁶⁰ Similarly, governments that allow the continued emissions of high levels of carbon dioxide into the atmosphere, knowing that doing so aggravates global warming and sea level rise, are responsible for making the land for their inhabitants inhabitable. The basic idea is that when environmentally displaced migrants go abroad seeking refuge, they are actually fleeing from their governments as their policies are what led to the degradation of their environment.⁶¹ Jessica Cooper explains that “[p]ersecution occurs when government action harms individuals. In each of these cases, the government(s) knowingly harmed individuals by causing or contributing to the degradation of their environment. Environmental degradation harms individuals on a fundamental level. It makes them flee their homes in search of an inhabitable environment. It forces them to migrate to protect their very lives. When governments knowingly induce environmental degradation and that degradation harms people by forcing them to migrate, a form of government persecution occurs.”⁶²

⁶⁰ Kara Moberg, “Extending Refugee Definitions to Cover Environmentally Displaced Persons Displaces Necessary Protection,” *Iowa Law Review* (2009), 1122

⁶¹ Harvard, “Seeking Protection,” p.75; an example often discussed in the literature that pertains to this idea is the Chernobyl incident where the Soviet government’s negligence and deception caused a major environmental disaster that made the city inhabitable and produced thousands of displaced peoples. See Cooper, “Environmental Refugees,” p.514.

⁶² Cooper, “Environmental Refugees,” p.520

III

The ethical solution proposed by CMTs has primarily focused on granting climate migrants entry into the refugee system, whether by expanding the definition of refugees or showing that it already covers those fleeing climate change. In doing so, however, CMTs have not considered the economic, political and legal realities of the asylum regime, nor have they considered the quality of life to which they would be submitting millions of climate migrants. That being so, I will argue that the ethical proposition to absorb climate migrants into the refugee system is not only misguided but detrimental to the migrants themselves. I will advance my position on three grounds: 1) the practicality⁶³ of the action. I will make the case that the refugee system as it stands is overextended and underfunded, thus unable to support thousands of new refugees. 2) The structural obstacles to resettlements. I will show that expanding the definition and/or absorbing more claimants into the asylum portal will not yield more funding or more resettlements, for the refugee system as it is currently constructed is vulnerable to state interests. 3) Moral harm. I will demonstrate that taking millions of climate migrants into the refugee system will confine them to a life of “containment” within refugee camps, a life that, ironically, will infringe on the same basic rights CMTs are trying to secure for them.

⁶³ Since the solution proposed by CMTs is a practical and not normative, it is important to investigate how feasible the proposal is.

iii (1)

The UNHCR is crucial to the asylum process. Since its founding in 1950, the UNHCR has been the point organization for helping the stateless, the displaced and the persecuted. Besides the resources at their disposal for helping petitioners, the organization is also important to the asylum process as it has the legal and administrative power—granted to it by the Signatories of the 1951 Convention—to determine who qualifies as a refugee, i.e., the power to grant and determine Refugee Status Determination (RSD)—which grants petitioners the international protection they seek.⁶⁴ Owing to the organization’s legal power and its ability to advise and coordinate with countries over resettlements—not to mention the organization’s international footprint, with a branch and staff in 137 countries around the world, which make it easier for asylum seekers, the majority of which come from the global South, to apply for asylum—the UNHCR has become the primary⁶⁵ venue by which stateless individuals have come to request asylum. This reality has created many problems for the organization and its ability to absorb more claimants.

⁶⁴ “Refugee Status Determination,” UNHCR, accessed July 1, 2022, <https://www.unhcr.org/en-us/refugee-status-determination.html>

⁶⁵ There are two ways for claimants to apply for asylum. One, they must physically reach and apply in person in the country of destination. Because reaching a destination can be dangerous for asylum seekers—at times they must travel long distances or they may be forbidden from exiting their country—the international community devised a second route: via the UNHCR, which has locations in all continents, making the journey less arduous for petitioners.

As I write this sentence, overcrowding in refugee camps has reached a breaking point. In Moria, a refugee camp designed for 3,000 people held about 20,000 refugees, tensions between authorities and occupiers reached a boiling point in 2020 with acts of violence and massive protests against dismal living conditions.⁶⁶ The Kutupalong refugee camp in Bangladesh has, over the past three years, grown to be the largest refugee camp in the world with an estimated population of 900,000 refugees. Worldwide there are over 80 million forcibly displaced people; 45.7 million are internally displaced people while 26.3 million are refugees.⁶⁷ If the refugee system is splitting at the seams with a record high 26 million refugees, what would the regime look like with 20 million more refugees?

According to Oxfam International, climate change has displaced 20 million people per year over the past decade.⁶⁸ That figure amounts to the inhabitants of Mexico City, Mexico, being forced to leave their homes every year. Yet the refugee regime is not able to sustain such numbers. Amongst its most pressing issues is chronic underfunding. From its shoestring budget launch of \$300,000 in 1950,⁶⁹ the UNHCR has consistently

⁶⁶ The strife reached its zenith with the burning of the camp in late 2020. Some investigations have suggested that the fire was started by the refugee themselves as a way to protest the horrid living conditions. See: "Aftermath of Moria refugee camp fire," *The Guardian*, December 2, 2020, accessed March 8, 2021, <https://www.theguardian.com/artanddesign/2020/dec/02/aftermath-moria-refugee-camp-fire-photo-essay>; "A doctor's story: Inside the 'living hell' of Moria refugee camp," *the Guardian*, February 9, 2020, accessed March 8, 2021, <https://www.theguardian.com/world/2020/feb/09/moria-refugee-camp-doctors-story-lesbos-greece> Henry de Berker, "Overcrowding in Moria refugee camp has reached a breaking point," *The Financial Times*, February 25, 2020, Accessed March 8, 2021, <https://www.ft.com/content/013d95d6-54d3-11ea-a1ef-da1721a0541e>

⁶⁷ *Ibid*

⁶⁸ "Forced from home: climate-fueled displacement," *Oxfam International*, December 2, 2019, accessed March 8, 2021, <https://www.oxfam.org/en/research/forced-home-climate-fuelled-displacement>

⁶⁹ "Figures at a Glance," *UNHCR*, June 2020, accessed March 10, 2021, <https://www.unhcr.org/en-us/figures-at-a-glance.html>

experienced funding issues and has failed to meet its budgetary goals for six straight years. In 2020 the UNHCR set its annual budget at \$9.13 billion but only managed to raise \$4.78 billion in contributions, leaving the institution with a 48% funding gap. Most recently, the UNHCR increased its budgetary needs to \$9.15 billion for 2021 but was only able to secure \$1.32 billion in funding creating a budget gap of 86%.⁷⁰ The depletion of the UNHCR's resources has affected the organization's ability to provide refugees with some of the most basic needs, e.g., tents, food, clean water, sanitation, health services and educational support. The lack of resources has also led to a reduction of services and to job eliminations. Without being able to meet its budgetary goals, the UNHCR cannot meet its basic mandate to protect refugees. And if the refugee regime is struggling to do so now without recognizing climate migrants as refugees, the task would be impossible if it were to absorb millions of environmentally displaced people.

iii (2)

Part of the problem the UNHCR has in securing the funds is its funding structure which relies on voluntary contributions. Only 2% of UNHCR's annual budget is subsidized by the UN's general budget and that 2% is earmarked to fund staff.⁷¹ The remaining 98% is raised through appeals to UN member states, the European Union, and

⁷⁰ For more details on the funding gaps see: "Financials," *UNHCR*, accessed March 11, 2021, https://reporting.unhcr.org/financial#_ga=2.181559012.2115100513.1614965719-1768787452.1614705480

⁷¹ "Funding and Budget," *UNHCR*, accessed March 12, 2021, <https://www.unhcr.org/3e2c05c30.pdf>

other donors.⁷² The majority of the organization's funding comes from the United States, and the European Union, especially Germany. Together they account for 94% of government contributions.⁷³ The voluntary structure of the UNHCR funding makes hitting the yearly budgetary targets difficult. Under the current structure, contributions to the UNHCR model year end charity giving, where countries give out whatever disposable revenue remains after budgeting for domestic expenses. Countries, through their donations or lack thereof, have made it clear that helping refugees is a matter of generosity, not responsibility. Still, voluntary funding is but one obstacle the UNHCR faces within its funding structure. A second barrier is that donations come with strings attached.

According to the UNHCR's December 2020 funding report, only 8% of the \$4.78 billion raised was unearmarked. The UNHCR has stressed the important role unrestricted funds play in its operations. "Unrestricted contributions enable UNHCR to respond quickly to new emergencies," the organization declares. "Unearmarked contributions are also of vital importance to support operations that are not sufficiently funded in locations that attract little or no attention, the often 'forgotten or invisible situations.'"⁷⁴

Nevertheless, earmarking is so prevalent in the UNHCR that only Sweden provides most

⁷² Funds are also raised from the private sector: foundations, NGOS, corporations, and individual donations. *Ibid*

⁷³ "Funding Report," *UNHCR*, December 31, 2020, accessed March 12, 2021, <https://reporting.unhcr.org/sites/default/files/Global%20Funding%20Overview%2031%20December%202020.pdf>

⁷⁴ "Northern Europe Government Donors," *UNHCR*, accessed March 16, 2021, <https://www.unhcr.org/neu/government-donors>

of its funds unearmarked.⁷⁵ IR scholars have highlighted the use of earmarking by donors to attempt to influence the activities of international organizations. For example, states can limit contributions to areas where their national interests may be jeopardized or use funds to influence staffing or projects.⁷⁶ The UNHCR has not escaped this trend. In the 1990s donors undermined the UNHCR's mandate in the middle of a crisis by redirecting funds away from the needs of refugees in the African Great Lakes towards the Western Balkans, which was closer to European donors.⁷⁷ Most recently, donors withheld funds when the Syrian crisis broke out in the 2010, despite the UNHCR's plea for financial support, but supplied the organization with donations when the crisis reached European shores, earmarking those funds in order to prioritize the crisis on the European front.⁷⁸ Expanding asylum for climate migrants is unlikely to compel states to augment their donations, nor is it likely to prevent donor states from using their resources to intervene in the affairs of the UNHCR when their interests are compromised.

The expansion of asylum for climate migrants will also do very little to increase the number of resettlements. When CMTs make the case for climate migrants to be absorbed into the refugee regime, they envision a new home for them in which to start over. But the regime they are appealing to does not have the power to resettle climate migrants. Under the UNHCR mandate, refugees gain protection against refoulment but not the right of entry into other countries. Once an individual is recognized by the regime,

⁷⁵ Svanhildur Thorvaldsdottir, Ronny Patz, and Klaus Goetz, "Mandate or Donors? Explaining the UNHCR's Country-Level Expenditures from 1967 to 2016," *Political Studies* (2021), 5

⁷⁶ *Ibid.*, p. 4

⁷⁷ *Ibid.*, p.5-6

⁷⁸ *Ibid.*, p. 16-17

they are granted a place in one of their camps and remain in the camps with no right to asylum against any particular state⁷⁹ since the Convention was produced in a manner that was not threatening to a state's sovereignty or its ability to control its membership.⁸⁰

Indeed, from the resettlement of thousands of Hungarians in 1956 in England to the resettlements of countless Cubans from 1960 to the present into the United States to the most recent resettlements of Syrians in Turkey, refugee resettlement policies have been guided by state interests. Until the 1990s Cold War geopolitics was the predominate motive here. Many of the western states welcomed refugees from communist countries in an effort to discredit communism as a governing system.⁸¹ The war on terror has also shaped the refugee policies of western countries as they used resettlement to stigmatize regimes perceived as abetting terrorists.⁸² In recent times, countries have used asylum as a performative tool to advance specific state interest. Turkey—which has long desired to become a member of the European Union—thus welcomed thousands of Syrian refugees into its shores in order to bolster its chances of membership.⁸³ In their efforts to help climate migrants, CMTs have overlooked the role state interests play in resettlements.

⁷⁹ Max Cherem, "Refuge Rights: Against Expanding the Definition of a 'Refugee' and Unilateral Protection Elsewhere," *The Journal of Political Philosophy* (2016): 194

⁸⁰ Ibid., 196; see also: Sarena Parekh, *Refugees and the Ethics of Forced Displacement* (New York: Routledge, 2017), 20-21.

⁸¹ James Hathaway, "Reconceiving Refugee Law as Human Rights Protection," *Journal of Refugee Studies* (1991), 114.

⁸² Carenlee Barkdull, Bret Weber, Amy Swart, Amy Phillips, "The Changing Context of Refugee Resettlement Policy and Programs in the United States," *Journal of International Social Issues* (2012), 107-109.

⁸³ François Heisbourg, "The Strategic Implications of the Syrian Refugee Crisis," *Survival* (2014), 14-16; another example of this was Cote d'Ivoire. President Felix Houphouët-Boigny welcomed thousands of Liberian refugees during the country's economic liberalization period. It hoped that the resettlement of refugees would signal to investors the country's commitment to liberal values. See: Merrill Smith, "Warehousing Refugees: A Denial of Rights, a Waste of Humanity," *World Refugee Survey* (1994), 43.

Granting refuge to climate migrants will do very little for their resettlement prospects as asylum is ultimately determined by each country's desire to control its membership.

Attempts like the current ones by CMTs to expand asylum eligibility beyond the Convention's original parameters have been tried before. For example, the end of colonialism brought about new types of displacements the original convention did not anticipate. Accordingly, the Organization of African Unity's 1969 Convention on Refugee Problems in Africa (better known as the "African Convention") sought to revise the original definition by expanding asylum to "every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part of the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality."⁸⁴ In similar fashion, the Cold War through its proxy wars dislodged thousands of people. The 1984 Cartagena Declaration on Refugees, sought to modernize the asylum process by including individuals that "have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order."⁸⁵ These endeavors, however, did very little to increase resettlements for individuals minted as refugees under these conventions insofar as countries, armed with the sovereign power to control their

⁸⁴ As quoted in Isabelle R. Gunning, "Expanding the Definitions of Refugee: A Multicultural View," *Fordham International Law Journal* (1989), 35.

⁸⁵ Section III, part 3. Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, *OAS*. 1984. Accessed March 25, 2021, https://www.oas.org/dil/1984_cartagena_declaration_on_refugees.pdf

population, were not compelled to extend membership to them.⁸⁶ Thus, any new attempt to expand asylum beyond the 1951 protocols will likely meet the same fate as the African and Cartagena conventions. International agreements and protocols, after all, depend on domestic law. Perhaps there is no better case for examining the state of affairs than the United States.

The United States resettles the most refugees and donates the most funds towards the UNHCR's yearly budget. Notwithstanding, the United States is not legally bound to the Convention's or any other charter's mandates. The country's support for both refugees and the UNHCR is guided and limited by its domestic laws - in this case the 1980 Refugee Act which determines who qualifies for asylum and under what conditions.⁸⁷ The law also gives the United States attorney general the explicit authority to determine whether applicants for asylum meet those qualifications.⁸⁸ What is more, the law unequivocally states that those that have been denied asylum have no right to appeal and can be deported or excluded from the country.⁸⁹ The legislation showcases the country's commitment to its sovereignty and its ability to control its membership. Therefore, any modifications to the asylum process by the UNHCR or any other charter

⁸⁶ Kara Moberg shows that despite the public support for those expanded definitions no country took the initiative to expand their interpretation of refugee. Moberg makes the case that no country will take the lead because these charters are not legally binding, and the expanded definitions open the door to free riding which in turn hurts those countries that would be willing to accept and apply the new mandate. See: Kara K. Moberg, "Extending Refugee Definitions to Cover Environmentally Displaced Persons Displaces Necessary Protection," *Iowa Law Review* (2009): 1107-1136.

⁸⁷ See: The 1980 Refugee Act Title II, section 201, govinfo.gov, accessed March 29, 2021, <https://www.govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg102.pdf>

⁸⁸ *Ibid.*, Title II, section 207, (c)(1).

⁸⁹ *Ibid.*, Title IV, section 401, (C).

for that matter—however well intended—will have little or no impact on the United States’ —and for that matter any other country’s—resettlement policies.

iii (3)

When CMTs place the emphasis on expanding or rethinking the definition of refugee, they pay no attention to the moral harms refugees experience inside the asylum regime. That is, they give no consideration to the way refugees are treated nor do they examine what they experience during their resettlement waiting period. They fail to realize that life inside a camp presents its own set of moral harms.

Tragically, that majority of stateless people recognized by the UNHCR spend a prolonged period of time—ranging between ten, twenty, or even thirty years—in refugee camps, a practice known as containment.⁹⁰ On average, a displaced person will spend 17 years inside a refugee camp, where less than 1% of refugees are ever resettled permanently in a new country.⁹¹ Joseph Carens asserts that “life in a refugee camp is miserable under the best of circumstances, and in some of the camps the deprivation and danger appear to be as bad as the conditions from which the refugees fled.”⁹² Refugee camps confine individuals to small living spaces. They are overcrowded and provide inadequate living conditions, medical services, and education facilities. Refugees often

⁹⁰ The literature that studies this phenomenon uses the phrases “containment” and “warehousing” interchangeably. In my work, I will refer to it as containment. Parekh, *Refugees and the Ethics of Forced Displacement*, 3-4; Smith, “Warehousing Refugees,” 38

⁹¹ Parekh, *Refugees and the Ethics of Forced Displacement*, p.3

⁹² Joseph Carens, “Refugees and the Limits of Obligations,” *Public Affairs Quarterly* (1992), 40.

go days without eating, experience crime, and are susceptible to gendered violence. In addition, refugees are deprived of the right to work, run a business, own property, or move freely.⁹³ In other words, life in refugee camp deprives individuals of their most basic rights. The right to physical security is nonexistent. Women are susceptible to rape, domestic violence, sexual exploitation and other forms of sexual torture.⁹⁴ Children and adolescents also suffer from domestic violence and sexual abuse.⁹⁵ Men, women, and children are vulnerable to armed robbery and random beatings at the hands of camp factions.⁹⁶ Refugees also face physical threats from hostile nationals who may perceive refugees as unfair economic burdens placed on them or resent refugees for disrupting their way of life. Indeed, local frustrations have sometimes boiled over into acts of violence; in the last four years, Syrian refugees have experienced episodes of violence from local Lebanese, as have Venezuelans at the hands of Brazilians.⁹⁷

Cruelly, the right to physical security is not the only right that refugee camps violate. Individuals also have a right to subsistence, i.e., a right to earn a living and a right to a healthy life. The living conditions within refugee camps prevent refugees from enjoying that right as they are prohibited from earning a living. Refugees in camps are

⁹³ Parekh, *Refugees and the Ethics of Forced Displacement*, p.4

⁹⁴ Parekh, *Refugees and the Ethics of Forced Displacement*, p.34; Jessica Gladden, "System of Structural Dependency in the Sudanese Refugee Women of Kakuma Refugee Camp, Kenya," *Journal of Sociology & Social Welfare* (2020): 149-172; C. Pavlish, "Narrative Inquiry into life experiences of refugee women and men," *International Nursing Review* (2007): 28-34

⁹⁵ Jeff Crisp, "A state of insecurity: The Political Economy of Violence in Kenya's Refugee Camps," *African Affairs* (2000), 603

⁹⁶ *Ibid.*, pp. 607-608

⁹⁷ Tobias Böhm, Viencenzo Bove, Kristian Gleditsch, "Politicians blame refugees for violence. But Refugees are more likely to be its victims," *The Washington Post*, September 19, 2008, <https://www.washingtonpost.com/news/monkey-cage/wp/2018/09/19/what-data-shows-about-refugees-and-violence-in-their-new-homes/>

dependent on humanitarian aid and suffer the brunt of the budgetary gaps in the form of hunger or malnutrition, which are especially harmful to children as it may stunt their development and lead to anemia.⁹⁸ A life of dependency prevents individuals from making an adequate life for themselves. The inability to earn a living is also detrimental to the health of refugees. Uncertainty can negatively impact a refugee's physical, emotional, and mental health. Studies have shown that life in containment has led to the development of chronic psychological stress, akin to post-traumatic stress disorder.⁹⁹

A life in containment can condemn refugees to a life of idleness, which impedes the individual's ability to fully develop and leads to an erosion of skills, talents, and aspirations, therefore hindering a refugee's ability to rebuild their own lives once they are resettled.¹⁰⁰ Containment also infringes on a person's right to free movement. Tiziana Torresi argues that mobility is an essential aspect of being human—it allows humans to satisfy their curiosity and desire to know more about others; it is also a tool for self-discovery—and restricting that ability is a form of punishment and/or torture.¹⁰¹ Containment violates that right as refugees are physically confined in camps for decades, some are born in containment and have only experienced a sense of captivity.

⁹⁸ A July 2020 report by the UNHCR found that 62% of children in Ethiopia are experiencing high levels of anemia. See: UNHCR and WFP warn Refugees in Africa face hunger and malnutrition," World Food Program, July, 9, 2020, accessed, April 12, 2021. <https://www.wfp.org/news/unhcr-and-wfp-warn-refugees-africa-face-hunger-and-malnutrition-covid-19-worsens-food>

⁹⁹ See: Gladdon, "System of Structure Dependency in the Sudanese Refugee Women of Kakuma Refugee Camp, Kenay," p. 54; Parekh, *Refugees and the Ethics of Forced Displacement*, pp. 24-31; for a study of PTSD in refugee children see: Faye Mahamid, "Collective Trauma, Quality of Life and Resilience in Narratives of Third Generation Palestinian Refugee Children," *Child Indicators research* (2020):2181-2204

¹⁰⁰ Betts and Loescher, "Refugees in International Relations," p. 156

¹⁰¹ Tiziana Torresi, "On Membership and Free Movement," in *Applied Ethics: Contemporary Debates in Applied Ethics*, ed. Andrew I. Cohen and Christopher Heath Wellman (Malden: Blackwell Publishing, 2005):26

Containment has moved scholars to describe the refugee experience as a “denial of rights and a waste of humanity.”¹⁰²

Conclusion

This chapter has examined the most prominent ethical solution for climate migration: asylum. It has outlined the theoretical claims for recognizing climate migrants as refugees and for expanding the definition of refugee to include climate migrants. This chapter has argued against using the asylum system to solve climate migration on three grounds: First, the impracticality of the action; second, the structural obstacles for resettlement; finally, the detriment to the physical and mental wellbeing of climate migrants, as CMTs would be condemning them to a life of containment, a life deprived of basic rights, a life that lacks autonomy, and— with resettlement numbers consistently at 1%—a life without a future. A more sensible solution would avoid trying to fit a square peg in a round hole; it would recognize that climate migrants are a distinct normative group that requires a unique solution.

¹⁰² Betts and Collier, *Refuge: Rethinking Refugee Policy in a Changing World* (New York: Oxford University Press, 2017), 54

Chapter 2:
**(Re)assessing Responsibility in The Ethics of Climate Change: The Case for
Remedial Responsibility**

“So, to put it in terms a child could understand,
as far as the atmosphere is concerned,
the developed nations broke it.”
~ Peter Singer¹⁰³

“Historical emissions should in fact give rise to
extra obligations on the descendants
of those who polluted in the past.”
~ Alex Gosseries¹⁰⁴

Perhaps the cruelest and most unjust aspect of climate change is that the world’s poor, those that have contributed very little to climate change, will suffer the most from it. The consensus among climate scientists is that climate change is the direct result of the concentration of greenhouse gases in the atmosphere that have accumulated over time.¹⁰⁵ Climate studies show that developed countries, particularly Western countries, are overwhelmingly responsible for the production and accumulation of those noxious gases in the planet’s atmosphere.¹⁰⁶ This fact has led many scholars to argue that those who have caused the buildup of those gases—specifically the amassing of carbon dioxide

¹⁰³ Peter Singer, “One Atmosphere,” in *Climate Ethics: Essential Readings*, ed. Stephen M. Gardiner, Simon Caney, Dale Jamieson, Henry Shue (Oxford: Oxford University Press, 2010), 190

¹⁰⁴ Alex Gosseries, “Historical Emissions and Free-Riding,” *Ethical Perspectives* (2004):37

¹⁰⁵ Eric Neumayer, “In Defense of Historical Accountability for Greenhouse Gas Emissions,” *Ecological Economics*, 33 no.2 (2000):7

¹⁰⁶ See the Pew Center on Global Climate Change Report and the Resource for the Future States, among others, in David Weisbach, “Negligence, Strict Liability, and Responsibility for Climate Change,” *Iowa Law Review*, 97, no.2 (January 2012):521-566

(CO₂), the gas considered to be the most destructive to the environment—have an obligation to those hurt by their actions.

Scholars argue that the world needs to recognize that there is an ecological debt, a debt accrued to the global community when citizens of one country abuse their share of a common good such as the atmosphere.¹⁰⁷ To some scholars the responsibility to help climate victims lies with the residents of industrial nations¹⁰⁸ while others blame the political and economic policies of the governments of Western Europe and the United States.¹⁰⁹

At their core, theories of responsibility strive for two things: 1) they aim to rectify undeserved harms suffered by victims and 2) they try to assign costs to those responsible for causing the damage.¹¹⁰ In the case of climate change, it seems intuitive and uncontroversial to hold those who have caused the problem responsible for their actions. After all, that is the reasoning our legal systems employ to hold individuals, such as Bernie Madoff, or corporations, such as Enron, responsible for harming others. But, as I will argue in this chapter, finding a liable actor for causing climate change and assigning them obligations to rectify the damages they have created is more complicated than it appears.

In this chapter I will be focusing on the theoretical question of responsibility. In this chapter, I examine how climate migration theorists (CMTs) use the concept and

¹⁰⁷ Molly Conisbee & Andrew Simms, *Environmental Refugees: The Case for Recognition* (London: NEF, 2003):33

¹⁰⁸ Steve Vanderheiden, *Atmospheric Justice: A Political Theory of Climate Change* (Oxford: Oxford University Press, 2008).

¹⁰⁹ Tim Hayward, "Climate Change and Ethics," *Natural Ology* (2012): 2

¹¹⁰ Vanderheiden, *Atmospheric Justice*, p.220

argue that their interpretation fails in its attempts to establish the liability of the residents of developed states or western industrialized states themselves. I will also make the case for *remedial responsibility* as the best course for assigning duties towards climate victims.

The chapter is divided into three sections. In section one, I introduce a conceptual structure to explain the variations of the concept of responsibility. In section two, I use the conceptual framework to show that the way CMTs have interpreted responsibility fails to establish liability against individuals of affluent states and Western industrial states alike. In section three, I present the case for *remedial responsibility* as an alternative way to envision duties towards climate victims.

I.

Establishing responsibility for an action is more complex than it seems; the way we interpret the concept of responsibility is partly responsible. David Miller provides a useful typology to help us make sense of the concept¹¹¹ by distinguishing between four types of responsibilities: moral, causal, outcome and remedial.¹¹² In this section I will discuss the first three and will discuss remedial responsibility in more detail in section

¹¹¹ Miller constructs the typology to make the case that nations have a collective responsibility to help the poor. I employ this typology but draw a different conclusion from his when applying it to the problem of climate change.

¹¹² Miller's project argues that contrary to assumptions by most moral philosophers that individuals are responsible only for the actions that they caused, responsibility can be established without moral blameworthiness. See David Miller, *National Responsibility and Global Justice* (New York: Oxford University Press, 2007).

three. According to Miller, moral responsibility is a type of responsibility that forms the necessary precondition for moral blameworthiness. To be morally responsible for something, a person must be *causally* responsible for the harm committed. Moral responsibility also carries the causal antecedents of *intent* and *voluntary action*.¹¹³ In other words, moral responsibility requires agents capable of making a foreseeable connection between their action and the result of that action, while carrying it out voluntarily on their own accord. Thus, for Carlos to be morally responsible for Sonia's condition, Carlos must have acted in a way that exhibits moral fault, voluntarily committing an action he knows will bring harm to Sonia: Carlos must have deprived Sonia deliberately, e.g., by deliberately pushing her off of a building; or Carlos must have failed to provide for Sonia despite having an arranged obligation to do so, e.g., he promised to provide shelter to Sonia but either reneged on his promise or shirked his obligation.¹¹⁴

Causal responsibility also involves a cause-and-effect relationship but differs from moral responsibility in that it lacks intent and moral fault. For Miller, a person can be held liable for the harms or damages they cause by acting *negligently* or *recklessly*. For example, if Carlos causes an accident by doing something he should not be doing, like texting while driving, Carlos can be held causally responsible for causing the accident by his negligence of traffic laws. Similarly, if Carlos, who unknowingly does not

¹¹³ Miller, *National Responsibility* pp. 89-90; For Miller intent and voluntary action are key provision for establishing moral responsibility. Miller explains that there are some scenarios where individuals can cause a harm but may not be held to be morally responsible if their actions are not voluntary, such as in the case of derangement, manipulation, or coercion. *Ibid*, pp.91-94

¹¹⁴ *Ibid.*, pp.100.

fully put out his cigarette, throws his half-lit cigarette bud into Sonia's backyard debris, causing Sonia's house to catch fire, Carlos can be held causally responsible for his recklessness. Carlos should have known that his actions could be hazardous. In both examples there were harms committed, but both lack intent and moral fault.

Outcome responsibility also involves cause and effect but differs from causal and moral responsibility in that it focuses on the *wrong in doing* rather than *the wrong in the doer*. In other words, responsibility is triggered not by the actions of an agent but by the harm itself, whether that is falling short of an objective standard of care or the infringements of rights.¹¹⁵ Miller explains outcome responsibility in the following way:

“A can be outcome responsible for P's condition without being morally responsible for it. This will be the case, for example, if P's deprivation is *a side effect of some action of A's*, that is morally neutral or even justified. A might enter into fair economic competition with P, causing her in the process to go bankrupt. So long as the outcome is not due to P's negligence—it happens because A is better at business than P or has more luck—it will be A's responsibility.”¹¹⁶

“Of course,” Miller writes, “people who drive others out of business in the course of competition are not expected to provide compensation, nor are athletes who win races expected to comfort the losers.”¹¹⁷ Miller explains that it is only when *the costs are*

¹¹⁵ Alexa Zellentin, “Defending Outcome Responsibility,” Draft paper.

¹¹⁶ Emphasis is mine. Miller, *National Responsibility* p. 101

¹¹⁷ *Ibid*, p. 101

heavy, when the shopkeeper driven out of business becomes destitute or when the defeated athlete becomes suicidal does outcome responsibility kick in.¹¹⁸

The concept of responsibility is a slippery one. And more often than not arguments regarding responsibility tend to lose their strength as they slip from one sense of responsibility to another. Responsibility arguments for climate change fall into that trap. CMTs fail to make a distinction between the different types of responsibility and as a result end up with moral claims which are problematic. I will show that they fail to establish any form of responsibility for individuals and countries alike.

II.

II. a. Moral arguments

The arguments for responsibility within the ethics of climate change can be categorized as being either moral, causal, or outcome. The moral argument for responsibility over climate induced harms includes the following criteria: 1) the harm is the result of a deliberate action that was done 2) under the actor's own agency, 3) with adequate knowledge of the results of the given action, and 4) with the understanding that there are alternatives that might bring a different result than the actor's course of action. It is best captured by the Polluter Pays Principle (PPP), whose argument takes the following form:

¹¹⁸ *Ibid.*

1. Greenhouse gas emissions like CO₂ trap the sun's heat, which leads to global warming and climate change.
2. Individuals in affluent/developed nations are aware of the causes of climate change, yet they produce and consume most of the world's CO₂ gases, which are the biggest contributor to climate change.
3. Individuals in affluent/developed nations have alternative options for maintaining their way of life but choose not to exercise them.
4. Therefore, individuals in affluent/developed nations, as polluters, are morally responsible for the damages their actions have and continue to cause others.

At the heart of the moral claim is the assumption that there is a direct link between an individual's voluntary action of polluting and climate change. In this case, the claim is that individuals' collective consumption habits and actions have a detrimental effect on the environment. Peter Singer explains that direct link in the following matter: a New Yorker, by committing the simple act of spraying deodorant—made from Chlorofluorocarbons (CFCs)—into their armpit, has contributed to the skin-cancer deaths of the people living in Punta Arenas, Chile. Similarly, Americans, through their fondness of driving, are emitting CO₂ gases which in turn are causing fatal floods in Bangladesh.¹¹⁹ Individuals in affluent countries, the argument goes, can be held responsible for their consumption habits and choices because they are more informed about the causes of climate change. They are cognizant that their choices have the power to either lessen the harm to the environment or to make it worse. Individuals can choose to make a difference

¹¹⁹ Singer, "One Atmosphere," p.183

as consumers and reduce or eliminate their carbon footprint by acting responsibly, i.e., they can choose not to eat meat, they can choose to take public transportation to work, drive an electric car, or they can boycott or divest from high CO₂ emitting companies and so on. Failing to do so is acting in a blameworthy manner, i.e., voluntarily committing an action that they know will bring about harm to others. They are morally responsible for their choices. To this point, Michele Micheletti writes “We leave *ecological, ethical, and public footprints* or consequences for others as we go about our seemingly daily private lives. Awareness of this ... implies an acknowledgement that everyday choices and acts by individuals play an important role for the future of political, social, and economic life. In short, every person is part of global responsibility taking.”¹²⁰

One of the issues that the moral responsibility argument runs into in establishing moral fault with the residents of affluent countries is what Steve Vanderheiden has coined “the paradox of small effects.” Vanderheiden explains that the paradox lies in the fact that a morally significant harm was created out of a series of *morally insignificant acts*.¹²¹ Global warming is not something that was caused by the actions of one individual. P’s innocuous act of spraying deodorant in her armpit is not what caused the skin-cancer, and ultimately the deaths, of the people living in Punta Arenas, Chile. Rather, it is the accumulation of large quantities of insignificant acts of pollution over long periods of time by various actors that has hurt the planet. This fact should exculpate the current residents of industrial nations, for moral fault requires a causal relationship

¹²⁰ Emphasis is original. See: Michele Micheletti, *Political Virtue and Shopping: Individuals, Consumerism, and Collective Action* (New York: Palgrave Macmillan, 2003): 2

¹²¹ Emphasis is mine. See: Vanderheiden, *Atmospheric Justice*, p. 161

between the perpetrators and the injured. In the case of global warming, there is no clear through line between the victims and assailants. To be more precise, the victims of the emissions produced by the current residents of affluent countries are yet to be born, and paradoxically the generation responsible for the harm climate victims are experiencing now are no longer alive. Thus, imposing moral fault on the 19-year-old New Yorker for spraying deodorant in her armpit—an action that is by itself harmless and whose accumulated harm will not materialize until years into the future and will affect no specific individual but a collection of people—is wrongheaded.

A second hurdle moral responsibility claims encounter is the lack of intent behind most acts of emissions. When polluting the atmosphere with harmful gases, most individuals do it unintentionally. Take driving as an example. Driving has long been established as one of the greatest contributors to climate change because of the large quantities of CO₂ emissions the act produces. It may be the case that most residents of industrial countries are aware of that fact. Yet, when some individuals get behind the wheel they may do so because they have no other choice: they may 1) lack the capital to reduce their carbon footprint by purchasing an electric car or 2) they may live in an area where public transportation is either nonexistent or unreliable. Driving for some can be the difference between keeping a job or being homeless; It could be the difference between life and death for patients in rural hospitals that are serviced by one or two doctors. It seems wrong to hold somebody morally responsible for the unintended emissions of trying to earn a living or for trying to save a life.

A third obstacle to establishing moral fault against residents of affluent countries is what moral philosophers have called the “control condition.” Thomas Nagel explains that “people cannot be morally assessed for what is not their fault, or for what is due to factors beyond their control.”¹²² As aforementioned, moral responsibility holds agents responsible for the damages of their voluntary acts create under their own agency. But a clear absence of control, via involuntary movement, physical force, or ignorance excuses an action from moral judgement.¹²³ Under this guise, an individual’s actions can be limited by the chances and choices placed in front of them, factors that are beyond their control.¹²⁴ In the case of the residents in affluent countries, the infrastructure of cities and towns—which are tied and dependent on fossil fuels, like the country’s carbonized electric grid—make it nearly impossible for individuals to live their lives without emitting some CO₂. In other words, there are levels of CO₂ and other greenhouse gases an individual can emit without being morally blameworthy because their emitting actions are out of their control. For instance, families that emit noxious gases for the purposes of subsistence, heating a home in freezing weather, using an air-conditioner to cool a home in an arid region, or for cooking daily meals do not have realistic control over their lives.

Moral arguments of responsibility thus fail against residents of affluent industrial countries. To be held morally responsible for an action, an actor must exhibit moral fault. Moral fault requires a causal relationship between an injurer and a victim, the complexity of the global warming phenomenon does not produce that exact connection; moral

¹²² Thomas Nagel, *Mortal Questions* (Cambridge: Cambridge University Press, 1979), 25

¹²³ *Ibid.*, p.25

¹²⁴ *Ibid.*, p.25-26

responsibility requires intent and control of one's own agency, but most of the pollution created by individuals in industrialized nations is unintended and outside of their control. Aware of the shortcomings of the moral arguments, some CMTs have sought to separate responsibility from moral claims and establish responsibility on causal grounds.

II. b. Causal Responsibility

A causal argument for responsibility over climate induced harms differs from moral claims of responsibility in two ways: first, it attaches responsibility for the harms or damages caused by acting *negligently* or *recklessly* and second it places the onus on industrial nations rather than on individuals. Responsibility is intergenerational and it is grounded in historical conduct not just on current behavior. At the core of the argument is the claim that responsibility can be assigned collectively to nations for causing and perpetuating the harms associated with climate change through their negligent and/or reckless policies and practices. This rationalization is best captured by the National Responsibility Principle (NRP) and a subset of this principle, which I will refer to as the Political Responsibility Principle (PRP). Let us examine the NRP first, which takes the following form:

1. Climate Change is caused by harmful human activities such as burning fossil fuels, which produce heat trapping gases such as CO₂.
2. Since the 1800s industrialized nations have emitted most of those harmful gases.

3. Industrial nations have continued to emit these harmful gases despite knowing the harm they cause
4. Climate change has caused severe heat waves, floods, droughts, deaths, and the displacement of countless lives in the global south.
5. Therefore, industrialized nations, because they have polluted and continue to pollute, can be held causally responsible for climate induced harms.

The National Responsibility Principle sees states as responsibility bearing agents; they are responsible for the harmful consequences that emanate from the actions of agents operating within their borders regardless of timeframe.¹²⁵ In terms of climate change, nations are believed to be collectively responsible for their historical emissions. The NRP principle, much like the moral argument, seems reasonable and uncontroversial but it runs into a few problems.

One problem is linked to the historical facet of the argument for responsibility for it is difficult to establish causality when there is no continuity within generations. The NRP principle would require the current generation to pay for the activities of a nation the territorial boundaries of which have changed, whether it was through expansion or contraction, over time. Can the independent country of Georgia, say, be causally responsible for emissions it produced as a territory under the Soviet Union? Furthermore, is it reasonable to hold a current generation causally responsible for the historical emissions that emanated from within the borders of their country, for they did not

¹²⁵ Edward Page, "Climate Justice and the Fair Distribution of Atmospheric Burdens: A Conjunctive Account," *The Monist*, Vol.94, N.3 (2011): 414.

produce all of those emissions? Developed nations tend to attract tourists, international students, and businesspeople who have caused their fair share of pollution. Why should a 25-year-old in 2022 be held causally responsible for the historical emissions of a passerby 100 years ago? Developed nations are also the preferred destination for migrants searching for a better life and each decade brings a new set of migrants from different parts of the world. Thus, it seems odd to hold the most recent set of first-generation immigrants responsible for the historical harms they have no direct connection to, as their roots lay elsewhere.

Another obstacle NRP encounters is assigning responsibility for harms unforeseen. Western industrialized nations have historically produced the majority of GHGs in the atmosphere, but they did so unaware of the harms their actions were producing. It wasn't until the 20th century that the science of climate change became clear. In fact, it wasn't until the 1988 Toronto Conference on the Changing Atmosphere that the phenomenon of the "greenhouse effect" was introduced to the general population,¹²⁶ that is well over two centuries after the Industrial Revolution kicked off in England. Consequently, if causal responsibility depends on harms or damages caused by acting *negligently* or *recklessly*, industrial nations cannot be held causally responsible for causing a problem no one knew would materialize 228 years into the future.

¹²⁶ Vanderheiden, *Atmospheric Justice*, p90. Recent reports show that the oil industry knew as far back as 1968 of the dangers of climate change (that is still 208 years after the start of the Industrial Revolution). See: Oliver Milman, "Oil industry knew of 'serious' climate concerns more than 45 years ago," *The Guardian*, April 13, 2016, accessed November 22, 2022, <https://www.theguardian.com/business/2016/apr/13/climate-change-oil-industry-environment-warning-1968>

CMTs have tried to answer this critique by establishing a starting year for historical emissions accountability. For some CMTs 1990—the year the Intergovernmental Panel on Climate Change published the evidence linking emissions to climate change—is the year ignorance can no longer be cited by industrial nations for their polluting actions.¹²⁷ By 1990, the argument goes, all industrial nations possessed the scientific sophistication to understand the data and the gravity of the problem; they also became aware of the steps needed to mitigate the problem; thus, making them responsible for actions and for exacerbating the problem.¹²⁸ But establishing a threshold for historical emissions only raises more questions.

One of the troubling aspects of collective responsibility within the threshold established is that it would unfairly hold causally responsible those who have not acted to increase emissions. Take the Amish communities in the United States. The Amish are agrarian communities that use low-impact farming practices, such as the use of natural pest control, machine free labor and transportation, and tend to be detached from the carbon dependent infrastructure that contributes so much to the pollution of the atmosphere.¹²⁹ It seems wrong to hold casually responsible a community that since the 1600s has done and continues to do very little to contribute to the raising of global temperatures. Refugees also present an important dilemma for the historical emissions position. Most refugees are granted asylum in high emitting countries; they have no real

¹²⁷ Singer, p. 190

¹²⁸ Vanderheiden, *Atmospheric Justice*, p.190

¹²⁹ It is important to point out that the Amish do produce and do contribute some to the production of GHGs through the farming of animals, although the farming is only for local consumption. See: Jason Wiff, “The Amish, a potential sustainable living model,” Impakter.com, September 7, 2016. Accessed November 26, 2021, <https://impakter.com/the-amish-sustainability/>

say in where they go and typically come from historically low emitting countries. As such, it would be odd to hold the thousands of refugees Syrian, Afghanis, Somalians, and countless others that have been granted new lives in Europe since 2015 causally responsible for actions they had no causal role in creating.

A different strand of causal responsibility lays the responsibility on the political and economic policies of industrialized nations. This is what I refer to as the Political Responsibility Principle. In the wake of the Second World War Karl Jaspers explained the principle by arguing that “we are politically responsible for our régime, for the acts of the régime ... and for the kind of leaders we allowed to rise among us. For that we answer to the victors, with our labor and with our working faculties, and we must make such amends as are exacted from the vanquished.”¹³⁰ For Jaspers and later proponents of the PRP, political responsibility is attributed to all members of society, regardless of their involvement in politics, whether they were active members of a political organization or were disinterested in politics. The environmental version of the PRP holds nations collectively responsible for the political choices of their citizens. The argument is as follows:

1. Human activity such as the burning of fossil fuels like coal, oil, and gas has been the major driver of climate change.
2. Since the 1800s industrial nations have been responsible for most of the harmful pollution in the form of burning fossil fuels

¹³⁰ Karl Jaspers, *The Question of German Guilt* (New York: Fordham University Press, 2000), 72

3. Industrial nations have no policy against burning fossil fuels to maintain the way of life of their citizens
4. Therefore, industrial nations are causally responsible for the harms their polluting policies and preferences have caused.

Exponents of the PRP point out that even though climate change is caused by individual activity, it is exacerbated by the larger norms of industrial societies that tolerate and even demand the burning of fossil fuels to maintain their way of life. For Vanderheiden, harmful climate polluting policies in industrialized nations are driven by an insatiable appetite for personal cars, large living spaces, and consumer goods; furthermore, they are reinforced through the governments their citizens elect to office. “Democratic decisions,” he writes, “ultimately reflect [...] public culture, and the shared values and common identity it fosters both create the necessary conditions for attributing collective responsibility and generate the preferences for which such attributions are necessary. Prior to those political decisions lies a culture that is inimical to meaningful action to reduce emissions, and that culture can be the product of society taken as a collective, and irreducible to individuals.”¹³¹

The underlying assumption behind the PRP is that nations answer to their citizens’ preferences whether it is through elections, lobbying, or activism; when nations fail to change or adjust their climate inducing practices, they can be held causally responsible

¹³¹ Vanderheiden, *Atmospheric Justice*, p. 176

for their policy preferences. Under this guise, what matters is not the isolated individual acts of pollution, but the lack of effective domestic climate policy.¹³²

Like the NRP, the PRP also runs into some complications. Perhaps the most obvious objection to the PRP is that most of the industrialized countries responsible for emitting most of the GHGs in the atmosphere have not always been democracies and their policies cannot, therefore be traced back to their citizenry. South Africa, for example, is an all-time polluter but its social norms, political preferences, and choices of governments did not represent the needs and desires of all its citizens as it excluded the majority of its residents: its black population. China and Russia are among the world's leading polluters today and their populations have very little control over their governments' policies. Similarly, illiberal democracies such as Poland and Hungary limit political competition and erect obstacles to voting, shutting out the voices and policy preferences of their populations. Here leaders may choose to set a nation on a course they perceive is best for the country but which may be at odds with the country's population. PRP seems to apply only to western consolidated democracies.

Yet even in a democracy, government actions don't always represent the larger values of a society. Take two climate change related decisions by administrations in the United States that were out of sync with most Americans: 1) George W. Bush's decision to pull the United States out of the Kyoto Accords and 2) Donald Trump's similar decision to pull the country out of the Paris agreement. A Gallup poll from 2001 found that 51% of Americans disapproved of Bush's decision to pull the country out of

¹³² *Ibid.*, p. 177

Kyoto.¹³³ In similar fashion, 59% of Americans disapproved of Trump’s choice to jettison the Paris accord.¹³⁴ Where PRP runs into a problem is that most climate related decisions made by executives are not open to the public for debate. They are not issues on which voters can vote directly. Thus, it seems unreasonable to hold the entire nation responsible for actions on which the demos did not deliberate. By the same token, it may also be the case that citizens actively try to stop their government’s harmful emission practices, as was the case with American and Canadian activists who organized for years to stop the construction of the Keystone XL pipeline. Citizens who resist their governments or those fighting for rights, should not be held collectively responsible for the harmful effects the political policies their nations carry out. Both the NPR and PRP fail to show that industrial nations’ environmental policies reflect the decision of the ordinary citizens who would ultimately pay the costs. Considering that fact, some scholars have sought to reframe responsibility from causal to outcome.

II. c. Outcome Responsibility

Outcome responsibility in climate ethics shifts the focus of responsibility from the actors that caused climate change to the *effects* of climate change. In other words, actors can be held outcome responsible when there are heavy costs brought upon others as side

¹³³ Americanworld.org, “Global Warming,” accessed November 29, 2021, http://americans-world.org/digest/global_issues/global_warming/gw2.cfm#top

¹³⁴ Scott Clement and Brady Dennis, “Post-ABC Poll: Nearly 6 in 10 oppose Trump scrapping Paris agreement,” *The Washington Post*, June 5, 2017. Accessed November 29, 2021, <https://www.washingtonpost.com/news/energy-environment/wp/2017/06/05/post-abc-poll-nearly-6-in-10-oppose-trump-scrapping-paris-agreement/>

effect of their actions. Outcome responsibility is collective as well as intergenerational and it is best captured by the Beneficiary Pay Principle (BPP) which argues that:

1. People can be held responsible for the outcomes of their actions.
2. Citizens of industrialized nations have benefited from the burning of fossil fuels like coal, oil, and gas for generations.
3. Burning fossil fuels has been the major driver of climate change.
4. Climate change has brought irreparable harms to the people of the global south in the forms of floods, droughts, and displacement.
5. Therefore, citizens of industrialized nations can be held outcome responsible for these harms.

Proponents of BPP contend that if an individual can inherit property, monies, and other valuables from previous generations, they should also be willing to accept the outcome responsibility that accompanies that wealth.¹³⁵ The high standards of living, the wealth, the heated swimming pools, the McMansions, and the second homes enjoyed by the residents of developed countries for generations, the argument goes, were all made possible by the legacy of burning fossil fuels. At its core, the BPP makes the case that there is a level of unjust¹³⁶ enrichment by past generations and this trigger duties for the beneficiaries of those gains.¹³⁷ Edward Page, for example, claims that “much of the

¹³⁵ Tim Hayward, “Climate Change and Ethics,” *Nature* (2012), 2.

¹³⁶ It is important to point out that BPP arguments are meant to follow a rationale that avoids moral claims. Yet, most advocates of the position tend to lose their footing and slip into making moral claims. See Alexandra Couto who argues BPP structurally should mirror strict liability reasoning in that it does not necessitate moral fault or intent in order to establish responsibility. Alexandra Couto, "The Beneficiary Pay Principle and Strict Liability: Exploring the Normative Significance of Causal Relations," *Philosophy Studies* 175 (2018):2169-2189

¹³⁷ Daniel Butt, “On Benefiting from Injustice,” *Canadian Journal of Philosophy*, 37:1 (2013): 140-146.

wealth of the developed world can be traced to a continuous line of unjustly acquired benefits arising from generations of agents failing to internalize the full social costs of activities that release CO₂ into the atmosphere.” Page compares the benefits to descendants of developed states to agents “in receipt of the interest accruing from stolen property since these states continue to enjoy huge benefits as a result of the absorptive capacity of the atmosphere being appropriated beyond sustainable levels at the cost of developing states ... and future generations.”¹³⁸ Axel Gosseries, similarly, believes that developed countries have engaged in free-riding. Gosseries explains that free-riding occurs when “(1) another person’s action (2) benefits me (3) while the costs involved in it are being more than proportionately covered by other people.”¹³⁹ For Gosseries, US citizens—a stand-in for all citizens of developed countries—are not only free-riders but also parasites. “Current US citizens,” he writes, “still benefit from the consequences of emissions performed by their ancestors (as suggested by the systemic correlation between GNP and historical emissions), and to the extent that such past emissions still have harmful consequences on the other countries’ inhabitants ... insofar as their current emissions are concerned, the current US generation is also a parasite.”¹⁴⁰

Yet it is a gross generalization to suggest that all residents of the developed countries have benefited from the burning of fossil fuels. African Americans in the United States, Black South Africans, as well as aboriginals in Canada were systemically

¹³⁸ Edward Page, “Climate Justice and Fair Distribution of Atmospheric Burdens: A Conjunctive Account,” *The Monist*, V.94:3 (2011):

¹³⁹ Gosseries, p.38

¹⁴⁰ *Ibid.*, p.46

excluded from much of the prosperity those developed countries reaped out of GHG emissions. It does not make sense to burden those marginalized groups with responsibility for benefits they did not enjoy to an equal extent with others. What is more, GHG emissions by developed countries have hurt their own citizens.¹⁴¹ For example, Native American tribes in the United States from Alaska to Florida have been greatly affected by climate change. Most of the lands they inhabit have experienced severe flooding and excessive drought, putting their heritage at risk and making the majority of their land uninhabitable.¹⁴² By the same token, scientific studies predict that temperature rises will cause entire cities such as Montreal and London to submerge in the not too distant future.¹⁴³

Another point of contention with the BPP is the suggestion that the burning of fossil fuels is the lone variable behind the enrichment of developed nations.¹⁴⁴ There is no question that fossil fuels played a role in enriching developed countries, but one must wonder whether the complexity of capitalism can be reduced to a single variable. Were

¹⁴¹ David Wallace-Wells reports that within developed countries exists a “climate caste system.” Within the United States, the poorest of the poor live in an environmental apartheid; they live in the marshes, the swamps, and the floodplains—the places with the most vulnerable infrastructure. In Texas, 500,000 Latinos live in shantytowns without the proper drainage system to hand the increased flooding. See: David Wallace-Wells, *The Uninhabitable Earth: Life After Warming* (New York: Tim Duggan Books, 2019): 24-25

¹⁴² Christopher Flavelle and Kalen Goodluck, “Disposed, again: Climate Change Hits Native Americans Especially Hard,” *New York Times*, October 28, 2021. Accessed November 7, 2021, <https://www.nytimes.com/2021/06/27/climate/climate-Native-Americans.html>

¹⁴³ Wallace-Wells, p. 62-63, 68.

¹⁴⁴ For example, Kenneth Pomeranz claims that most economic growth can be attributed to the discovery and use of one variable: coal. Similarly, Matthieu Auzanneau argues that oil is the single most important element in the planet. He credits it with not only enriching industrial nations but also as the driving source behind most international conflicts. See: Kenneth Pomeranz, *The Great Divergence* (Princeton: Princeton University Press, 2000) and Matthieu Auzanneau, *Oil, Power, and War: A Dark History* (London: Chelsea Green Publishing, 2018).

there other reasons developed nations became rich? How big a role did ingenuity, innovations, entrepreneurship, trade, and work ethic play in the economic success for industrial nations? Perhaps the answer to that question is empirical and much too large to address here. One thing that can be argued, however, is that the benefits reaped by the burning of fossil fuels have not stayed fully with the developed countries. Developing countries have also reaped some of the benefits, using the same technology to improve the livelihoods of their populations. For example, countries like Singapore and the United Arab Emirates have used the same CO₂ emitting cement manufacturing techniques as developed nations to create, according to World Atlas, the best roads in the world.¹⁴⁵ Roads, of course, create tremendous economic and social benefits; they pave the way for economic development, provide access to employment, education, and social services. Likewise, China, India, and Mexico have greatly benefited from the transfer of GHG emitting technology like car manufacturing; the three countries are now among the top six car manufacturers in the world. A robust manufacturing industry has led to the creation of thousands of manufacturing jobs, which have raised the standards of living for thousands of workers in each country. Hospitals—which have also contributed to greenhouse gas emissions through their expansive use of energy and waste production¹⁴⁶- have played a significant role in helping populations in the developing countries live

¹⁴⁵ Worldatlas, “Countries with the Best Roads,” worldatlas.com, Accessed December 7, 2021, <https://www.worldatlas.com/articles/countries-with-the-best-roads.html>

¹⁴⁶ Charlie Tomson, “Reducing the carbon footprint of hospital-based care,” *Future Hospital Journal* vol.2, No.1 (2015):57-62

longer. The fact that individuals outside of developing countries have benefited from the burning of fossil fuels cast doubt on the BPP's central argument.

The challenges CMTs face in establishing any type of responsibility, whether moral, causal or outcome suggest that we must reassess how we think about responsibility in terms of climate change, for the conventional notions already discussed do not capture the complexity of the climate phenomenon. A more suitable conception of responsibility, one that best captures the intricacies of climate change, is that of *remedial responsibility*.

III.

Miller, in his typology of responsibility, makes an important distinction between traditional notions of responsibility and what he calls *remedial responsibility*. He explains that traditional notions of responsibility begin “with agents and asks how far they can reasonably be credited and debited with the results of their conduct”; while remedial responsibility “starts with patients—people who are deprived or suffering—and asks who should shoulder the burden of helping them.”¹⁴⁷ What matters in remedial responsibility is not causality or moral fault, but that there is a situation that demands to be put right.¹⁴⁸ Remedial responsibility is not backward-looking, it does not seek to identify the source of the harm; rather, it is forward-looking and concerns itself with remedying the problem. Because of its uniqueness, the phenomenon of climate change lends itself to remedial

¹⁴⁷ Miller, p. 108

¹⁴⁸ *Ibid.*, p. 98-99

responsibility. Climate change is a byproduct of millions upon millions of small to large amounts of greenhouse emissions by generations of diverse groups—rich and poor, some with the ability to curb their emission while others without it. There is no way to establish moral, causal or outcome responsibility and, indeed, no through line between wrongdoers and victims. And perhaps the most important reason to adopt remedial responsibility is that climate change is not an injury of the past. It is an ongoing phenomenon that continues to harm individuals in all parts of the world.

Solving the climate crisis must account for ongoing emissions as well as to the changes in emission producing behavior. Causal or historical arguments of responsibility do not work when behavior patterns change. In the climate context, those who produced historically low numbers of GHGs are projected to be the largest polluters in the future, while those that caused most of the damage have already changed their behavior, collectively decreasing their greenhouse gas emissions by 13% over the past 18 years.¹⁴⁹ Scientific studies project that China, Brazil, India, and Mexico will be the leading emission producers in the future, China—which wasn't one of the original polluters—is already the world's leading polluter, emitting over 14 gigatons of carbon dioxide in

¹⁴⁹ United Nations, “Most Developed Countries on Track to Meet their 2020 Emission Reduction Targets, but More Ambition Needed by Some, November 23, 2020. Accessed, December 10, 2021, <https://unfccc.int/news/most-developed-countries-on-track-to-meet-their-2020-emission-reduction-targets-but-more-ambition> ; also See: Wallace-Wells, *The Uninhabitable Earth*, p. 194-195.

2019.¹⁵⁰ As such, the fate of the planet will be determined more by the carbon course of the developing world than by the polluting industrialized nations of the past.¹⁵¹

Moral, causal, and outcome claims of responsibility have narrowly focused on harms caused primarily by CO₂ emissions but CO₂ emissions are but one contributing factor in climate change.¹⁵² Other factors have also contributed to temperature rises but have been left out of the responsibility calculus. For example, methane, mainly through livestock farming, causes 28 times more damage than CO₂ over the course of a century and the location where the cow is raised can exacerbate the pollution.¹⁵³ Cattles raised in South America emit up to five times more methane than those raised in North America, while cows raised in Africa do much worse.¹⁵⁴ In similar fashion, deforestation has been as damaging to the atmosphere as has CO₂ emissions. Deforestation accounts for 12% of carbon emissions while forest fires produce as much as 25% of the emissions and as a result the ability for forests to absorb methane has dropped by 77%.¹⁵⁵ More alarming, is a recent report by Brazilian scientists that calculate Bolsonaro's deforestation policy

¹⁵⁰ William Chandler, P.R. Shukla, Roberto Schaeffer, Zhou Dadi, Fernando Tudela, Ogunlade Davidson, Sema Alphan-Atamer, "Climate Change Mitigation in Developing Countries: Brazil, China, India, Mexico, South Africa, and Turkey, Pew Center on Global Climate Change (Arlington: Pew Center on Global Climate Change, 2002); also see: David Weisbach, "Negligence, Strict Liability, and Responsibility for Climate Change," *Iowa Law Review*, V.97, no.2 (January 2012): 545; also Emma Newburger, "China's greenhouse gas emissions exceeded those of U.S. and developed countries combined, report says." CNBC.com, May 6, 2021; Accessed December 14, 2021. <https://www.cnbc.com/2021/05/06/chinas-greenhouse-gas-emissions-exceed-us-developed-world-report.html>

¹⁵¹ Wallace-Wells believes that China is the key. He argues that the health of the planet hinges on China's ability to transition its economy from industrial to a postindustrial economy; how fast it "greens" its industries, reforms its agricultural practices, diets, and changes the preferences of its middle class from carbon intensity. See: Wallace-Wells, *The Uninhabitable Earth*, pp.194-195

¹⁵² CO₂ emissions are usually associated with transport emission, but transport emissions only accounts for 16% of emission worldwide. See Bill Gates, *How to Avoid a Climate Disaster* (New York: Knoff, 2021), 131

¹⁵³ *Ibid.*, pp.112-113.

¹⁵⁴ *Ibid.*, pp. 117-118

¹⁵⁵ *Ibid.*, pp.76-77

would release the equivalent of 13.12 gigatons of carbon between 2021 and 2030, that's compare to the 5 gigatons the U.S. as the second leading polluter in world emitted last year.¹⁵⁶ A new rising threat to the planet comes in the form of bitcoin-mining. According to the Cambridge Bitcoin Electricity Consumption Index, bitcoin-mining, which is done in countries where electricity is cheap or where crypto "farming" is subsidize by governments such as Russia and Iran, consumes huge amounts of energy; it uses as much as 126 terawatt hours per year—that is about the same amount of energy that Sweden as a country consumes in a year.¹⁵⁷ A single bitcoin transaction uses the same amount of energy the average household in America consumes in a month.¹⁵⁸ Because all societies around the world are structurally dependent on the fossil fuels and because alternative solutions have been slow to develop, slow to spread, and expensive to adopt, it is unlikely that individuals and nations will be able to stop emitting anytime soon. For that reason, it is important to ground claims of responsibility on the here and now. A viable response to helping climate victims requires a forward-looking solution.

Yet, the biggest question proposed by remedial responsibility remains unanswered: who can help remedy the problem of climate induced harm? I shall argue that the winners of climate change should. In the next chapter, I shall make the case that climate change will produce both winners as well as losers. I will make the case that those that are set to

¹⁵⁶ *Ibid.*, pp.76-77

¹⁵⁷ Digiconomist, "Bitcoin Energy Consumption Index," September 2021. Accessed December 14, 2021, <https://digiconomist.net/bitcoin-energy-consumption>

¹⁵⁸ Elizabeth Kolbert, "Why Bitcoin is Bad for the Environment," *The New Yorker*, April 22, 2021. Accessed December 14, 2021. <https://www.newyorker.com/news/daily-comment/why-bitcoin-is-bad-for-the-environment>

benefit from changes to the atmosphere should do so in the only manner those displaced by climate change can be helped: by yielding territory to them.

Chapter 3: Necessitous Migrants and The Case for Yielding Territory

“[A]n increase of two or three degrees wouldn’t be so bad for a northern country like Russia. We could spend less on fur coats, and the grain harvest would go up.”
~ Vladimir Putin¹⁵⁹

“Of course, climate change is bad, but, alas, I can’t say it isn’t good overall for Greenland.”
~Henrik Leth¹⁶⁰

Within discussions of the ethics of climate change one of the least discussed topics is the way climate change will create winners and not just losers. While climate change has become an existential threat for many countries in the global south, countries in the earth’s coldest regions will be presented with an unprecedented opportunity to thrive economically.

Scientists predict that countries within the 49th parallel north, i.e., the latitude that is 49° north of the equator, will, in the near future, experience record breaking growth in their GDP per capita due to continued warming. Russia, for example, will see its GDP grow by 429% by the year 2100; Finland’s GDP will increase by 516%; Mongolia will

¹⁵⁹ Fred Pearce, “Global Warming will Hurt Russia,” *New Scientist*, October 3, 2003. Accessed January 5, 2022. <https://www.newscientist.com/article/dn4232-global-warming-will-hurt-russia/#ixzz7H7spXgVs>

¹⁶⁰ As quoted by Marcello Rossi. Henrik Leth is the chairman of Polar Seafood and the head of the Greenland Business Association. See: Marcello Rossi, “Greenland isn’t in a rush to fight climate change because it’s good for the country’s economy,” *qz.com*, October 22, 2006, accessed July 9, 2022, <https://qz.com/813742/climate-change-is-benefitting-greenland/>

see a spike of 1413%, while Canada, Estonia, Norway, Kazakhstan, Latvia, and Finland will see their GDP increase by 247%, 2596%, 249%, 208%, 190%, and 513% respectively.¹⁶¹ Moreover, as climate change continues to transform the earth's atmosphere, it will also reconfigure the planet's land. Rising seas will not only swallow up some existing land; Chiefly through the thawing of permafrost, climate change will make land that was once uninhabitable arable and fit for humans to live and flourish in.

According to scientists there is a minimum climate threshold that allows humans to live and be productive—that margin in annual temperature is between ~11 °C to 15 °C—and most of the countries in the northern regions of this world are heading towards that threshold.¹⁶² The consensus among scientists is that underneath the melting tundra are millions of acres of rich untapped farmland.¹⁶³ Some studies have predicted thawing permafrost will produce that farmable land in the next 20 or 30 years.¹⁶⁴ Evidence of the projected development has already been documented.

In Alaska, for example, melting permafrost has provided farmers with new soil to plant and grow more crops over longer growing seasons, leading to a boom in farming.¹⁶⁵

¹⁶¹ Burke et. al., concluded that countries with cool average temperatures, like Europe, experience higher economic growth when temperatures are warmer than usual; while countries with hot temperatures, such as those in the tropics, see slower economic outputs when temperatures warm more. See: Marshall Burke, Solomon M. Hsiang, & Edward Miguel, "Global non-linear effect of temperature on economic production," *Nature* (2015):1-16

¹⁶² Chi Xu, Timothy A. Kohler, Timothy M. Lenton, Jens-Christian Syenning, and Marten Scheffer, "Future of the Human Climate Niche," *PNAS*, 117 (2020):11350.

¹⁶³ Elena Parfenova, Nadezhda Tchebakove, Amber Soja, "Assessing Landscape Potential for Human Sustainability and 'Attractiveness' Across Asian Russia in a Warmer 21st Century," *Environmental Research Letters* (2019):1-14

¹⁶⁴ Maddie Stone, "The Most Hopeful Place on Earth for Climate Change," *Gizmodo*, June 16, 2016, accessed February 17, 2022, <https://gizmodo.com/the-most-hopeful-place-on-earth-for-climate-change-1782054245>

¹⁶⁵ Whitney Blair Wyckoff, "Alaska Farmer Turns Icy Patch of Tundra into A Breadbasket," *NPR*, February 26, 2015. Accessed February 17, 2022,

Similarly, in Canada a warming climate has allowed for some 455 acres of new farmland in the historically frozen northeastern part of the country. Farmers are now raising crops that would formerly have been impossible to cultivate, like wheat and cranberries.¹⁶⁶ In Russia, which studies speculate will benefit the most from melting permafrost and will emerge as the world's leader in agricultural production, soybean and livestock production have quadrupled since 2019 and are expected to continue to increase.¹⁶⁷ By the same token, the thawing of Greenland's frozen tundra has increased its Arctic spring, making more areas arable and cultivatable for new crops, such as carrots, cauliflower, cabbage, strawberries, apples and broccoli.¹⁶⁸ All in all, climate scientists estimate that as much as 9.3 million square miles of new arable soil will become available by year 2050.¹⁶⁹ Remarkably, most of this territory will be inherited by countries with low or dying populations, making the majority of the terrain superfluous.

So, what are we to make of the projected prosperity the winners of climate change will enjoy? In this chapter, I draw on the analysis of Michael Walzer to argue that those displaced by climate change are their own normative group. I argue that they are

<https://www.npr.org/sections/thesalt/2015/02/26/389011370/alaska-farmer-turns-icy-patch-of-tundra-into-a-breadbasket>

¹⁶⁶ Rod Nickel and Kelsey Johnson, "Ice is Melting on Fertile Canadian Land," *Global Center Adaptation*, April 17, 2020, accessed February 17, 2022, <https://gca.org/ice-is-melting-on-fertile-canadian-land/>

¹⁶⁷ Abraham Lustgarten, "How Russia Wins the Climate Crisis," *New York Times Magazine*, December 16, 2020; Anatoly Medetsky, "Russia's Permafrost is Melting, and Its Farmers are Cashing in," *Bloomberg*, July 22, 2020. Accessed February 19, 2022, <https://www.bloombergquint.com/onweb/not-far-from-tundra-soybeans-flourish-in-russia-s-thawing-north>

¹⁶⁸ Rossi, "Greenland isn't in a rush to fight climate change because it's good for the country's economy"

¹⁶⁹ It is important to note that scientists predict that the new arable land comes with a price, as thawing itself will produce its own set of harmful emissions that will exacerbate the problem of climate change.

See: Georgina Gustin, "Billions of Acres of Cropland Lie Within a New frontier. So Do 100 years of Carbon Emissions," *insideclimatenews.org*, February 12, 2020. Accessed, February 19, 2022, <https://insideclimatenews.org/news/12022020/agricultural-frontiers-russia-canada-climate-warming/>

necessitous migrants, a group of people that do not fit the characterizations of economic migrants or refugees, and therefore require their own unique solution: the yielding of territory. I employ Miller’s concept of *remedial responsibility* to contend that the countries that should assume the duties to help necessitous migrants are those that have the *capacity* to do so. I make the case that countries in the 49th Parallel North will be in the best position to help necessitous migrants and that the best way for them to aid necessitous migrants is by yielding territory, a feat that will be possible as many of these countries are projected to inherit vast acres of fertile and empty territory due to melting permafrost, territory that will be superfluous due to their low and aging populations.

This chapter has two sections. Section one will make the case that those displaced by climate change are necessitous migrants; it also gives reasons for why necessitous migrants need their own territory. Section two will advance the position for yielding territory on remedial responsibility grounds, while outlining the limitations of those duties.

I.

“Apparently,” Hannah Arendt once wrote, “nobody wants to know that contemporary history has created a new kind of human beings—the kind that are put in concertation camps by their foes and in internment camps by their friends.”¹⁷⁰ There are times when history creates new types of people, individuals who do not fit traditional

¹⁷⁰ Hannah Arendt, “We Refugees,” in *The Jewish Writings* (New York: Schocken Books, 2007): 265

definitions or characterizations of the categories societies create to discuss and understand the ills of their hour. As in Arendt's time, few leaders and scholars today have recognized the creation of a new type of human being -this time one brought about by the age of climate change and whose condition cannot be organized under classifications created for different types of individuals under different sets of circumstances. Contemporary history has given birth to a new *group of people*, the type that loses its entire territory, its ability to gather in a public square, its polity, currency, and ability to inhabit/cultivate its own land due to rising sea levels and desertification. The era of climate change has created *necessitous migrants*.¹⁷¹

It is important to understand what necessitous migrants are *not*. They *are not traditional migrants* who make choices strongly dependent on their individual or family circumstances. Migrants are either pulled or pushed away from their home territory to resettle elsewhere. Among the factors pulling migrants away from their homes are employment opportunities, chances for a higher standard of living, better wages, educational opportunities, and social reasons such as familial reunification. These factors depend on talents, experiences, hopes and family ties that vary from individual to individual. Factors pushing migrants away from their homes include high levels of unemployment, poverty, general violence, war, and natural hazards, such as earthquakes or volcanic eruptions. These may seem less dependent on individual circumstances, but they do depend on individual levels of tolerance for terrible situations and on individual

¹⁷¹ Note of importance: I use the term necessitous migrants to capture the forced migration of entire populations/societies that will be displaced or become stateless by the submergence of their territories or by their lands becoming too hot to inhabit due to climate change.

capacities to withstand them. Even if a choice to stay is dangerous, dooms one to poverty or erases educational possibilities, some, depending on their situations may choose to stay.

Take the most recent surge of immigration from Central America to the United States, as an example of traditional migrants. The Northern triangle region of Central America—composed of El Salvador, Guatemala, and Honduras—has been ravaged by general gang violence, extortion, poverty, unemployment, earthquakes, and volcanic eruptions for the past three decades. As a result, some have left or tried to leave, but not all. From 2018 to 2021, amid a spike in gang violence, high unemployment, and natural hazard events, only a small number of the Central American population in the northern triangle region, 407,000 combined migrants out of the 33,358,306 total population of all three countries, only .01 percent of the total population, chose to leave their countries.¹⁷² Most of the region’s population decided to stay. Some individuals received aid from international organizations and chose to rebuild their lives and neighborhoods after natural disasters; others decided to organize for the purpose of ending the violence in their countries and many chose to relocate to a different region within their countries.¹⁷³ On the whole, Central Americans made individual assessments about what to do: stay, move to another state within the country, or go abroad.

¹⁷² See: Congressional Research Services (CRS), “Central American Migration: Root Causes and U.S. Policy,” March 31, 2022, *crsreports.congress.gov*, accessed June 13, 2022, <https://sgp.fas.org/crs/row/IF11151.pdf>

¹⁷³ In fact, most individuals who are uprooted by conflict, violence, or natural disasters tend to be internally displaced within their own countries. *Internal Displacement Monitoring Centre*, “Global Report on Internal Displacement 2021,” *internal-displacement.org*, accessed May 4, 2022, <https://www.internal-displacement.org/global-report/grid2021/>

Yet these assessments depend on the territory they occupy — imperfect as it may be—remaining. Their homelands, regardless of the crisis that require the assessments are still there. In contrast, necessitous migrants do not have those choices. They cannot stay because their territories have been submerged or the whole of their country has become too hot to inhabit. In other words, climate change has left necessitous migrants stateless, making their exodus a social and communal *necessity*.

Nor, as noted in Chapter One, are climate migrants *refugees* as they do not meet the 1951 Convention Relating to the Status of Refugees definition. Climate migrants differ from those persecuted by the state and their flight from their home of origins is not rooted in the five grounds established in the convention: persecution on basis of race, religion, nationality, membership of a particular social group, or political opinion. In short, they are not political asylum seekers. Consequently, any attempt to stretch the original definition of refugee or reinterpret the legal language of the catchall concept of refugee to include climate migrants would be the equivalent of forcing a square peg into a round hole. Moreover, as I have also argued, absorbing climate migrants into the refugee regime would be a disservice to them as it would create its own set of moral harms, such as prolonged periods of containment, loss of personal physical security, inadequate living conditions, the loss of medical services and educational opportunities, and the loss of the right to earn a living and move freely, to name a few. The uniqueness of the necessitous migrant's impossible situation calls for its own distinctive solution. I shall argue that it requires the acquisition of replacement territory somewhere else.

According to the International Covenant on Civil and Political Rights “[a]ll *peoples* have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.”¹⁷⁴ This declaration asserts that self-determination is a right reserved for a collection of people, be it ethnic, cultural, or religious. This assertion has been the impetus behind countless independence movements and the reason why international law does not hesitate in recognizing the creation of new states born under the banner of self-determination.¹⁷⁵ Some scholars have argued that self-determination is a human right. Hurst Hannum, for example, contends that because self-determination includes a) the presence of cultural, religious, linguistic, and ethnic identities of individuals and groups and b) the right of individuals and groups to participate effectively in the economic and political life of the country, it requires the same type of protection individual rights have been afforded.¹⁷⁶ Thus, the suggestion that the people of a nation have the right to self-determination is not controversial. But climate change does raise an important question for the notion of self-determination: does the right to self-determination end with the submergence of territory or intense heat too great for life? Put differently, do societies who have lost their territory lose the right to remain a society and to govern themselves?

If societies can avoid the fate of Pompeii and survive the death of their territory, then their right to self-determination remains with them. Territory-less societies are still a

¹⁷⁴ Emphasis is mine. See: International Covenant on Civil and Political Rights, Dec. 19, 1966, art.1, 999 U.N.T.S. 17, accessed June 21, 2022, <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

¹⁷⁵ Hurst Hannum, “The Right of Self-Determination in the Twenty-First Century,” *Washington and Lee Law Review*, (1998):776

¹⁷⁶ *Ibid.*, p.776

community, a *people* in the sense of the International Covenant on Civil and Political Rights. Their culture, language, memory, dress, customs, religion, and political and economic preferences remain. The only or over-riding problem is that they lost—through no fault of their own—the physical space to exist together and exercise their customs and preferences. And so, much like a family that loses their home to a fire manages to remain a family by retaining its bonds, traditions, and values, so do territory-less societies. And like the family that lost their place of residence but retains the right to rebuild their home, even if it is in a new neighborhood, so do territory-less societies.

The right of self-determination gives necessitous migrants the right to rebuild their societies somewhere new. The death of their territory does not erode their right to control their own communal life, to continue its traditions and customs; to practice the religion of their choice; to earn a living and to govern themselves. As such, necessitous migrants can be helped only collectively, i.e., they need to be recognized as entire societies, territory-less societies, not as individuals seeking separate aid or refuge. What necessitous migrants need is new territory to start anew. Yet where are they to find it? The right of self-determination does not give necessitous migrants the right to take territory from others. The only way for them to obtain the territory they need is for a country to be willing to yield some of their own to them.

Now, the conventional view on helping foreigners, whether they are immigrants or refugees, has been to grant them either membership or temporary refuge in another country. The idea has never been to relinquish territory. Indeed, states have long guarded the integrity of their borders and historically have not shied away from turning foreigners

away. So, how then, can states be compelled to yield territory to strangers? Walzer's proposal about obligations towards the needy provides a potential blueprint.

But before we explore the grounds by which states may be persuaded to yield territory, it is important that we explore why states would be reluctant to do so and why, in fact, they do not simply just open their borders to all strangers for whatever reason. In what follows I sketch out Walzer's answer to this question as he is one of its leading and most influential theorists.

Sovereignty grants states the right to admit or exclude foreigners from their territories. Included in that right is the freedom of states to pursue their own interests and to organize their political communities as they see fit. Political communities consist of distinct values, cultures, and traditions that are endemic to a group of people. Correspondingly, political communities reserve the right to keep their borders and membership closed in accordance with the values of their community. But, as Walzer points out, different types of communities have different preferences and criteria for distributing membership.

According to Walzer, we can sort through membership issues by comparing political communities to various types of familiar associations: neighborhoods, clubs, and families. Neighborhoods are random associations with no official admission policies; individuals and families can move into a neighborhood for any reason: "they choose but are not chosen." Strangers can be welcomed with open arms or rebuffed by the community they move into, but they cannot be admitted or excluded.¹⁷⁷ Some, like those

¹⁷⁷ Michael Walzer, *Spheres of Justice* (New York: Basic Books, 1983), 36-37

in classical political economy, have argued for an international society that resembles the openness of neighborhoods—where mobility is free and borders are open—but Walzer views this position as a mistake, for it will produce the unintended consequence of neighbors closing themselves off from newcomers. Walzer believes that citizens, in the name of preserving their local politics and culture against strangers will—as they often do, turn into “closed or parochial communities,” i.e., into “little states”; thus, Walzer concludes that citizens must be able to determine who they admit in order to prevent the formation of “a thousand petty fortresses,” a practice not conducive to liberal democracies.¹⁷⁸

Walzer claims that the right to control immigration does not grant the state the right to control emigration, for citizens should be able to exit their country without any hindrance. For that reason, Walzer maintains that political communities may resemble *clubs*. Countries, like clubs, have admissions committees that put in place general qualifications for admittance.¹⁷⁹ Under the established qualifications, states can decide on future associates. Thus, under the club model, individuals can petition for admittance, but they have no right to be admitted. However, Walzer believes that there are instances, like those that involve relatives, where states may be required to bypass the club like admission requirements and let some outsiders in.¹⁸⁰ In that sense, political communities resemble *families*.

¹⁷⁸ *Ibid.*, pp.38-39

¹⁷⁹ *Ibid.*, p.40

¹⁸⁰ *Ibid.*, p.41

Walzer asserts that political communities can resemble families in the sense that citizens, like members in a family, are morally connected to people they have not chosen and who live outside of their household.¹⁸¹ Walzer grounds this responsibility on what he calls *the kinship principle*. He writes:

“[I]t is a feature of families that their members are morally connected to people they have not chosen, who live outside the household. In time of trouble, the household is a refuge. Sometimes, under the auspices of the state, we take in fellow citizens to whom we are not related, as English country families took in London children during the blitz; but our more spontaneous beneficence is directed at our own kith and kin. The state recognizes what we call the ‘kinship principle’ ...”¹⁸²

The significance of the kinship principle in terms to the relationship with strangers is that states cannot seal up their borders completely. The kinship principle creates special obligations towards outsiders that are national or ethnic relatives, especially in times of trouble where the state can serve as a refuge for kin facing persecution by governments in other countries; states have an obligation to admit them, whether they have legal membership rights or not.¹⁸³ Walzer also provides another scenario, one that is significant to the argument being advanced in this chapter, where states can assume responsibility for admitting strangers into a state.

¹⁸¹ *Ibid.*, p.41

¹⁸² *Ibid.*, p.41

¹⁸³ *Ibid.*, p.41-42

Walzer argues that “the control of territory opens the state to the claim of necessity.”¹⁸⁴ For Walzer, territory is a social good to be distributed and *the principle of mutual aid*, which requires societies to help strangers in urgent need, prevents states from closing their borders to *the very needy outsiders* they encounter by the side of the road.¹⁸⁵

Walzer classifies the very needy, those that can claim admittance into a foreign state, into either *necessitous strangers* or *refugees*. Necessitous strangers are the destitute and hungry, those fleeing catastrophes. They are the ones in need of a living space, earth, water, mineral resources; refugees, on the other hand, are the victims of persecution, those in need of a protected living space.¹⁸⁶ Walzer maintains that in each case the very needy can be helped by opening the borders to them. In the case of necessitous strangers, they can be helped by either yielding territory to them or by exporting wealth, all the while withholding membership; refugees, by contrast, can only be helped by taking them in, for their “need is for membership itself, a non-exportable good.”¹⁸⁷ That is to say, refugees are typically prosecuted for political views or for religious or cultural practices that have been either criminalized or are not tolerated by the state they live in. As such, what refugees need above all is membership in a state that will provide for them the protected space to express those views or practices freely.¹⁸⁸ “The victims of political or religious persecution,” Walzer writes, “make the most forceful claim for admission. If

¹⁸⁴ *Ibid.*, p.44

¹⁸⁵ The obligation, according Walzer, is in the fashion of the good Samaritan parable. *Ibid.*, p.33

¹⁸⁶ *Ibid.*, p.45

¹⁸⁷ *Ibid.*, p.48

¹⁸⁸ *Ibid.*, p.49

you don't take me in, they say, I shall be killed, persecuted, brutally oppressed by the rulers of my own country. What can we reply?"¹⁸⁹

For Walzer, the duty of mutual aid can be fulfilled by states as long as the risks—e.g., strangers *don't pose a national security threat*—and the *costs are low* and so long as *the state has a great deal of available land*, then states cannot exclude needy strangers from their territory.¹⁹⁰ Walzer's assertion of state responsibility towards the needy provides the contours of the claim this chapter advances. Chiefly, the idea that despite states having the right to admit and exclude whom they choose, there are special circumstances where states have an obligation to either admit or yield land to perfect strangers. Also significant is his claim that states cannot deny entry to needy strangers if they possess vast quantities of empty land. Similarly, Walzer's distinction between immigrants and the very needy is helpful.

Nevertheless, Walzer's proposal and categories do not cover the case of what I am calling necessitous migrants. To start with, necessitous migrants, as I have established, are not refugees. As I explain in the following section, their primary concern is not membership into another country, but territory to start anew. Necessitous migrants are in the same vein as the very needy, but unlike Walzer's necessitous strangers they are not individuals whose misfortune can be alleviated by exporting wealth to them; rather, they are political societies on their own and the *only* way to help necessitous societies is by yielding territory to them. In the following section, I build my case for yielding territory

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*, pp. 33, 45.

on remedial duties, which are rooted in the *ability* to help, departing from Walzer’s principal of mutual aid, which is rooted in morality, a concept I have already shown is ill-suited for anthropogenic climate change issues. I also expand on Walzer’s insight on superfluous land to anchor my argument for yielding territory to necessitous migrants.

II.

Scientists predict that rising sea levels will submerge entire countries. Countries such as Bangladesh, Kiribati, Vanuatu, Tuvalu, Solomon Islands, the Maldives, the Federated State of Micronesia, Samoa, and Nauru, to name a few, will cease to exist;¹⁹¹ while many more countries—such as the United Arab Emirates and Sudan—will become inhabitable due to overheating and drought.¹⁹² When countries cease to exist or become uninhabitable due to climate change, yielding territory becomes the only option for helping necessitous migrants—those stateless people displaced by climate change. Let us explore why alternative solutions fail.

Necessitous migrants cannot be helped through the conventional programs and initiatives individuals under different catastrophes have been helped in the past. For instance, foreign aid aimed at economic development or poverty reduction, such as the ones instituted by the World Bank, International Monetary Fund (IMF), and the U.S.

¹⁹¹ “Countries at Risk of Disappearing due to Climate Change,” *activesustainability.com*, accessed March 23, 2022, https://www.activesustainability.com/climate-change/countries-risk-disappearing-climate-change/?_adin=02021864894

¹⁹² Shannon McDonagh, “Countries that could go extinct due to climate change may surprise you,” *euronews.com*, accessed March 23, 2022, <https://www.euronews.com/green/2021/08/11/the-countries-that-could-go-extinct-due-to-climate-change-may-surprise-you>

Agency for International Development (USAID), throughout the developing world over the past seventy years will be of no use; in similar fashion, initiatives to attract Foreign Direct Investment (FDI) to bring about jobs, technology and skills transfers will also be futile in barren or submerged land, where there will be no one left to work, produce, or learn the new technology and, indeed, no use for it.

Similarly, disaster relief programs like those organized by the Red Cross in Haiti (2010) and Japan (2011) in response to the catastrophic earthquakes in each country or rebuilding and recovery projects such as those sponsored by UNICEF will be useless in lands that climate change has made uninhabitable. Human rights initiatives, such as those promoting women's rights, decent work, and democracy by organizations like the United Nations, the International Labour Organization (ILO), and the Eurasia Foundation would have no effect on submerged societies that have lost their ability to organize themselves socially and politically. Comparably, humanitarian efforts for assisting refugees and disaster victims will also be ineffective, for those endeavors—which include providing food, safe drinking water, sanitation, and healthcare services—are by design created to be temporary and targeted for a limited population as the resources are finite. In other words, there will not be enough resources to help 200 million displaced climate migrants.

Necessitous migrants cannot be helped through the asylum regime either, for the system was designed for *individuals* fleeing state repression and, moreover, carry an important proviso: that would be refugees would eventually *return home* once the danger subsides. When it comes to necessitous migrants, entire societies will be looking to relocate permanently. As Walzer points out, countries can absorb and grant membership

to refugees where the numbers involved are small and their integration post minimum risks and costs to the host state.¹⁹³ This is not the case for necessitous migrants. Their numbers will be much greater than the average number of refugees countries allow per year.¹⁹⁴ For example, when Fiji goes underwater, 900,000 Fijians will be looking to relocate. The permanent absorption of a large quantity of people by one state will put a large strain on the country's welfare system—if it exists (some countries don't possess one or may have an inadequate one)—making it hard to sustain or even worse pushing it towards collapse. It would be difficult for even the most affluent of nations to absorb the costs of resettling the entire population of a submerged state. And, as I have pointed out, what is wanted is a place for a state and society, not individual migrants. As such, the best way for countries to keep their welfare services and to help necessitous migrants is to yield some of its superfluous territory to them to reconstitute their state and society.

Countries, including the affluent ones, have their own set of “needy” citizens. They are the poor, the homeless, the disabled, and the marginalized; the ones discriminated against because of their race, gender, religion, or sexual orientation. States have a special obligation towards their citizens and nations that take in thousands of displaced strangers will produce unintentional moral harms against its most disadvantaged. Resources are finite; thus, countries will be forced to divert taxpayer

¹⁹³ Walzer, *Spheres of Justice*, pp.49-50

¹⁹⁴ Take the United States as an example. The U.S. has until recently been the most generous and welcoming country for refugees, but the admittance ceiling has dropped every year since 2010, when it admitted 73,000 refugees; by 2021 the number had dropped to 10,742. See: Migration Policy Institute, “U.S. Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980-Present”, *migrationpolicy.org*, April 30, 2022. Accessed June 13, 2022, <https://www.migrationpolicy.org/programs/data-hub/charts/us-refugee-resettlement>

funded programs away from needful compatriots with the intention of helping the new inhabitants. Funds designated to support special education, job training, or counseling services may be gutted to provide services believed to be more urgent, such as food assistance, housing, and medical services for the newly arrived. The prioritization of the needs of the new population will lead to the neglect of its most distressed citizens. By neglecting its most needy citizens, states can exacerbate addiction problems, spur crime, heighten suicide, or inflame mental health issues, as many individuals will see no other course but to do what they must to survive, putting many others in harm's way. Individuals will lose their sense of security and the ability to earn a living, forcing many to seek refuge abroad.

Granting membership to entire societies as individuals will also create political problems. Discord and resentment will easily take root. The act of absorbing thousands of displaced people might not be accompanied by guaranteed jobs. New arrivals will be in direct competition with residents for scarce jobs, putting many underskilled citizens at a disadvantage. This set of circumstances, as history has shown, breeds resentment and discord from one group of people towards another. It creates a "us vs them" mentality and lays the foundation for scapegoating, which can lead to bouts of violence and/or political instability. States are aware of the political perils of admitting large numbers of refugees. Accordingly, they try to guard against such discord. Hence, the most recent trend by states of "outsourcing asylum." Western countries, in response to the backlash of their citizens against admitting hundreds of refugees, have struck deals with developing countries to house refugees, a practice that involves transporting refugees who have

physically made it to those safe havens to other continents to wait out the application process.¹⁹⁵ It is difficult to imagine that those sentiments, which are present in all countries with a large foreign population, will disappear in the future. On that account, yielding superfluous territory that has never been inhabited will not only help necessitous migrants, but it will also prevent moral harms and discord amongst a country's native population.

The case for yielding territory can be established through remedial responsibility. As previously discussed, remedial responsibility concerns itself not with making redress for a past wrong but with helping those in need. Moral fault or causality play no role in assessing responsibility. Responsibility boils down to capacity. Miller captures the notion of remedial responsibility by reimagining a famous philosophical illustration: the drowning child. In Miller's telling the person who is responsible for pulling the drowning child out of the pond is the one who is most capable of providing the remedy. Miller writes that if P is the only person walking along the riverbank when the child falls, then it is P's responsibility to rescue the child. *However*, when there are several agents with different capacities, the responsibility should be assumed by the individual with the best ability. Thus, if A and P are both walking along the riverbank, A—who is the best swimmer—should assume the responsibility of helping the drowning child.¹⁹⁶ When it

¹⁹⁵ Eleanor Paynter, Christa Kuntzelman and Rachel Beatty Riedl, "The U.K. wants to send refugees to Rwanda. That's become a trend." *The Washington Post*, April 20, 2022. Accessed June 17, 2022, <https://www.washingtonpost.com/politics/2022/04/20/uk-refugee-scheme-rwanda/>

¹⁹⁶ David Miller, *National Responsibility and Global Justice* (New York: Oxford University Press, 2007):103.

comes to helping the anticipated millions of necessitous climate migrants, those that are in the best position to help ought to assume the responsibility of jumping into the pond.

Anthropogenic climate change has positioned the countries within the 49th parallel north, countries like Iceland, Greenland, Canada, Mongolia, Kazakhstan, the Murmansk and Siberia regions of Russia, the South American Andes region, and the state of Alaska in the United States, as the most capable for remedying the issue of climate induced displacement. These countries are best positioned to yield territory to would be necessitous migrants on three accounts: 1) the biophysical makeup of the land; 2) the carrying capacity of each country; 3) the possession of new, vast, and empty territory.

Necessitous migrants will need arable land to be able to reconstitute as a community. They will require it for self-sufficiency purposes. They will require clean air and access to fresh water for an adequate quality of life. The 49th parallel countries possess the biophysical land that would allow entire societies to reassemble and start anew. For example, ninety percent of Mongolia's land can be used for agriculture; Mongolia also has access to several bodies of freshwater, which include the Great Lakes Basin, Khovsgol Lake, and the Bulgan River Basin.¹⁹⁷ Kazakhstan, for its part, has over twenty-nine million hectares of arable land with an additional five million hectares of idle land; like Mongolia, Kazakhstan has access to four bodies of freshwater, which include the Lake Zaysan, Lake Balkhash, Aral Sea, and the Caspian Sea.¹⁹⁸

¹⁹⁷ See: Food and Agriculture Organization of the United States (FOA), Accessed April 28, 2022, ; "Mongolia," Landlinks.org, Accessed April 28, 2022, <https://www.land-links.org/country-profile/mongolia/#freshwater>

¹⁹⁸ See: United States Department of Agriculture (USDA), "Kazakhstan Agricultural Overview," ipad.fas.usda.gov., accessed April 28, 2022, https://ipad.fas.usda.gov/highlights/2010/01/kaz_19jan2010/ ;

Carrying capacity is another factor in determining the ability to help necessitous migrants. Another important and essential commonality amongst the countries within the 49th parallel is that they are amongst the least populated nations in the world. Indeed, these countries already possess large quantities of vacant land. Iceland, for example, has a population of 354,000 and more than sixty percent of the population is concentrated in one area (Reykjavik) alone. “Man-made areas,” areas that humans inhabit, cover only 0.4% of the total area of the country, leaving most of the country’s territory unoccupied.¹⁹⁹ Likewise, Finland has a total population of 5.5 million people; it also happens to be among the largest and emptiest countries in Europe. The country has roughly 6,500 uninhabited islands that are already rich in agricultural soil.²⁰⁰ The availability of empty land makes yielding territory to necessitous migrants sustainable.

A third factor that positions countries in the 49th parallel north as the most capable of helping necessitous migrants is that most of them will come into possession of new and previously uninhabited land due to melting permafrost. The Siberian region, which accounts for 77% of Russia’s land area but holds only 27% of the country’s population, could see up to 5 million square miles of permafrost thaw, which will make a great

Index mundi, “Kazakhstan, Arable Land,” [indexmundi.com](https://www.indexmundi.com/facts/kazakhstan/arable-land), accessed April 28, 2022, <https://www.indexmundi.com/facts/kazakhstan/arable-land>

¹⁹⁹ Eeionet (European Environment Information and Observation Network), “Land use-state and impacts (Iceland),” [eee.europa.eu](https://www.eea.europa.eu/soer/2010/countries/is/land-use-state-and-impacts-iceland#:~:text=Agricultural%20areas%20cover%202.4%20%25%20of%20the%20country,prominent%20changes%20occured%20in%20forests%20and%20semi-natural%20surfaces), accessed April 29, 2022, <https://www.eea.europa.eu/soer/2010/countries/is/land-use-state-and-impacts-iceland#:~:text=Agricultural%20areas%20cover%202.4%20%25%20of%20the%20country,prominent%20changes%20occured%20in%20forests%20and%20semi-natural%20surfaces>

²⁰⁰ Britannica, “Åland Islands,” [Britannica.com](https://www.britannica.com/place/Aland-Islands), accessed April 29, 2022, <https://www.britannica.com/place/Aland-Islands>

portion of Siberia habitable for humans.²⁰¹ In Greenland, melting glaciers are expected to make most of the country's uninhabitable land (which currently stands at 89%) livable by the year 3000.²⁰² As aforementioned, Canada and the state of Alaska in the United States will benefit in similar fashion. But the key component that establishes the ability of these countries to help necessitous migrants is that they have never occupied the new land that will become suitable to live in. Moreover, since these countries have low populations (Alaska's population is 670,000, Canada's is 38 million, Siberia's 33 million, Greenland 57,000) to land area (Alaska 665,400 mi², Canada 5.058 million mi², Siberia 3.855 million, 836,300 mi²) the newly inherited territory will be superfluous: it will be impossible for those countries to populate and cultivate the new land, leaving the territory fallow.

A blind spot in Miller's formulation of remedial responsibility is the lack of parameters in establishing that responsibility. As such, it is important to identify the limitations by which states can be held remedially responsible. There are two conditions remedial responsibility towards necessitous migrants cannot exceed. First, it cannot cause a great burden on the state; second, it cannot lead to the displacement of the existing population.

In his analysis of admissions criteria, Walzer provides a blueprint for a state's right not to be overwhelmed by the act of helping the needy. As aforementioned, Walzer

²⁰¹ David Nield, "Vast, Desolate 'Wastelands' of Siberia are Becoming Habitable as the Planet Heats Up," Sciencealert.com, June 16, 2019, accessed April 29, 2022, <https://www.sciencealert.com/large-parts-of-siberia-could-become-habitable-by-2100-as-the-world-warms-up>

²⁰² Hokkaido University. "Greenland ice sheets may halve in volume by year 3000." *ScienceDaily.com*, accessed July 11, 2022, <https://www.sciencedaily.com/releases/2022/03/220314105619.htm>

sets an important proviso for carrying out the duty of helping the needy: that the cost of helping is low for the state and its citizens. Building on Walzer's insight we can argue that states must preserve the right to provide or maintain a high standard of living for its citizens. States should have enough resources to provide for the physical wellbeing (e.g., good health and security through healthcare, utility expenditures, and above all the ability to feed its own population) and social wellbeing (e.g., human development through educational and informational expenditures) for their residents.²⁰³

What do these limits mean for necessitous migrants? The numbers will be too great to be absorbed by any one state so that they cannot be helped by being granted membership into an existing state. What is in question is the ability of a state to yield territory. Here, again, however, if the state lacks the natural resources to provide for its population, then it is in no position to yield territory to necessitous migrants.

Nor can states displace their own population in the name of providing a living space to necessitous migrants. In sum, states must possess enough vacant land to yield some of it to necessitous migrants. If states with high population density were required to yield land, they would be in danger of creating a new crisis in the name of fixing another. Yet, as Walzer argues, it is when states possess a great deal of available land that states cannot exclude strangers from their territory.²⁰⁴ Walzer echoes Hobbes's pronouncement that individuals "by necessity of Nature, [are] supposed to [endeavor] all [they] can, to

²⁰³ Rao and Min provide an excellent description of the material sources that are required to achieving a decent living standard. See: Narasimha D. Rao and Jihoon Min, "Decent Living Standards: Material Prerequisites for Human Wellbeing," *Social Indicators Research* 138(2) (2018):1-20

²⁰⁴ Walzer, *Spheres of Justice*, p.46-47

obtain that which is necessary for [their] conservation,” and that includes a right to find *a place to live*.²⁰⁵ And individuals, for conservation purposes, require a “right to govern their [own] bodies; enjoy [air], water, motion, [ways] to go from place to place, and all things else, without which a man cannot live, or not live well.”²⁰⁶ For Hobbes the right of conservation cannot be denied for “things superfluous,” e.g., a surplus of land. Walzer argues that assuming there actually is superfluous land, the claim of necessity compels communities to yield that land to those in need of it.²⁰⁷

There are also practical incentives that may stir countries with the ability to help necessitous migrants to jump into the pond. Most of the countries within the 49th parallel north have low or dying populations. In Germany, birthrates have been lower than the death rates since the 1970s. Germany’s population reached its peak in 2021 at 83.9 million and is now expected to start falling; it is estimated that Germany’s population will decrease to 74.3 million by the end of the Century.²⁰⁸ Austria, which is growing at the slow rate of 0.52%, is expected to reach its peak of 9.37 million by year 2037, but its low fertility rate of 1.53 births per woman will slow its growth, eventually leading to a decrease in its population by the end of the century.²⁰⁹ Similarly, Greenland is amongst the slowest growing and least populated territories on earth, with a total population of

²⁰⁵ Walzer emphasizes the same phrase. See: Thomas Hobbes, *Leviathan*, Ed. Richard Tuck (Cambridge, Cambridge University Press, 1996), 106

²⁰⁶ *Ibid.*, P.107

²⁰⁷ Walzer, *Spheres o Justice*, p.47

²⁰⁸ Germany Population 2022, worldpopulationreview.com, accessed May 23, 2022, <https://worldpopulationreview.com/countries/germany-population>

²⁰⁹ Austria Population 2022, worldpopulationreview.com, accessed May 24, 2022, <https://worldpopulationreview.com/countries/austria-population>

56,973 and a growth rate of 0.17% in 2022.²¹⁰ In 2020, for example, the country's population increased by only 140 inhabitants, while it suffered 520 deaths and saw 170 inhabitants migrate to other countries.²¹¹ Studies estimate that by 2040, Greenland's working population will decline by 16%, which will also depress fertility rates, in turn jeopardizing the country's ability to self-sustain.²¹²

Aging populations and low birth rates will have a negative impact on both the physical wellbeing and economic sustainability of each country. Studies show that aging populations lead to deteriorating fiscal balances, lower levels of savings, retirement funds, investment, labor supply, and a decline in productivity and economic growth.²¹³ Aging populations with low birth rates will also have a difficult time building the social infrastructure that is needed to care for the elderly. They will also struggle to stay competitive in the global economy because of its dwindling labor force and its inability to replace that workforce.

Yielding territory can help revitalize these countries. The 49th parallel states can negotiate special provisions for themselves with the societies to which it decides to yield the land. For example, Greenland can ink most-favored-nation (MFN) trade clauses that resemble those negotiated under the World Trade Organization—which allow trade

²¹⁰ Greenland Population 2022, worldpopulationreview.com, accessed July 8, 2022, <https://worldpopulationreview.com/countries/greenland-population>

²¹¹ Greenland, worlddata.com, accessed July 8, 2022, <https://www.worlddata.info/america/greenland/populationgrowth.php>

²¹² Páll Tómas Finnsson, "Greenland: Large decline in Greenland's working age population projected, but increase in bioeconomy jobs," nordregio.org, accessed July 8, 2022, <https://nordregio.org/nordregio-magazine/issues/state-of-the-nordic-region-2020/greenland-large-decline-in-greenlands-working-age-population-projected-but-increase-in-bioeconomy-jobs/>

²¹³ Naoyuki Yoshino, Chul Ju Kim, and Pitchaya Sirvivunnabood, "Aging Population and Its Impact on Fiscal Sustainability," t20japan.org, accessed May 24, 2022, <https://t20japan.org/policy-brief-aging-population-impacts-fiscal-sustainability/>

preferences, services, and eliminate all tariffs. Granting MFN status to their deteriorating economies, will allow those countries to grow their economies and remain competitive in the global economy. The social infrastructure that is required to take care of an aging population can also be negotiated into the agreement that yields the territory. The beneficiaries of the land may agree to subsidize the care for the elderly in the country that yielded the land for a negotiated period, which could range between a specific set of years or until the aging countries can raise their fertility rates to the scale of replacement.

A third option would be to create a single market between the countries yielding territory and those receiving it. The single market would not only allow free trade, the elimination of tariffs, quotas, taxes on trade, but it would also include the free movement of capital, services, goods, as well as *people*. The free movement of people and services would allow the aging countries to fill the caretaker labor shortage, while allowing for their prime-age workers to seek training or employment in specialized or in booming industries that exist outside of their borders. These proposals can help meet the needs of both necessitous strangers and those of the aging countries of the 49th parallel.

Countries with low and aging populations may see the practical benefits of yielding territory but may reject the idea over other concerns such as security. But those concerns can be addressed in the negotiating phase. Countries with the surplus land reserve the right to set conditions with the beneficiary party. For example, they can stipulate that a country not obtain nuclear weapons, sign a nonaggression agreement or consent to a bilateral security agreement that fosters cooperation and transparency between the states in cases of national security. A second security concern may deal with

neighboring countries that may object to the idea of new states springing up near their borders, in turn, giving rise to potential conflict in a region. This concern can be allayed by third parties that can act as mediators. NGOs and International Organizations can and have prevented differences between states from escalating into bloodshed. For example, the International Court of Justice was successful in resolving a conflict that was close to spiraling into warfare between in El Salvador and Honduras in 1986. It also brokered a historic deal involving disputed territory between Bahrain and Qatar. Similarly, the United Nations and the Organization of American States were able to settle a short conflict between Peru and Ecuador in 1998.²¹⁴

A third concern could stem from a concern over an imbalance in riches. That is, some states may fear they may give away too much wealth in the form of territory or may restrict their citizen's ability to maximize their income earning abilities. That, however, should not be an issue. As aforementioned, necessitous migrants may retain the right to self-determination, but they are not entitled to the territory of others; nor do they have the right to dictate the quantity and location of the land allotted to them. States yielding territory reserve the right to assess the new land and determine how much of it they are willing to part with.

There is a slogan in Latin America—born out of tragedy and anguish—that reminds people of the possibility of accomplishing the implausible. It reads “*!Lo imposible solo tarda un poco más!*” (The impossible takes just a little bit longer). The proposal to yield land to necessitous migrants may seem quixotic to some, but there have

²¹⁴ Tanisha M. Fazal, “The Return of Conquest?” *Foreign Affairs* (May-June 2022): 27

been times in history where improbable ideas were actualized: the abolition of slavery, the eradication of absolute monarchism, decolonization, and the establishment of democratic rule. It is my belief that climate change and the displacement of 200 million people will provide the winds for the sails of the sweeping proposal I have advanced. There are already promising signs that the improbable can become feasible. States with the capability to help have taken the initiative to do so. For example, Australia has taken the initiative to help neighboring small island states that are sinking slowly evacuate their population, welcoming them into their territory.²¹⁵ In a different scenario, there are signs that states are rethinking their long-held views on sovereignty and territorial integrity. States have shown their willingness to sell off some of their territories to nations in peril of vanishing due to rising sea levels. For example, Micronesia has purchased 283 acres of land near Hilo.²¹⁶ Similar purchases were made by Nauru and Kiribati in the early 2010s. This shows states are willing to part with territory. The impossible, it seems, will simply take a little longer.

²¹⁵ Ryan Plano, "Australia Urged to Accept 3,000 Pacific Islanders per year due to Climate Change," www.climate-refugees.org, October 29, 2020. Accessed July 11, 2022, <https://www.climate-refugees.org/spotlight/tag/Australia>

²¹⁶ Chad Blair, "Why Bikini Islanders Bought Land on the Big Island," [civilbeat.org](https://www.civilbeat.org), May 22, 2019. Accessed July 11, 2022, <https://www.civilbeat.org/2019/05/chad-blair-why-bikini-islanders-bought-land-on-the-big-island/>

Conclusion

This dissertation has sought to reexamine the ethics surrounding the displacement of climate victims. It has explored the principal solution proposed by CMTs in dealing with the millions of the projected climate migrants: their incorporation into the asylum system. In doing so, I have shown that the asylum regime is ill-suited as the answer to the problem as it is ill-equipped to handle the enlargement of claimants; it also overlooks the role, influence, and interest of states in the asylum regime. In addition, the proposition of expanding the asylum system fails to account for the moral harms would be climate migrants would be subjected to once they are inside the asylum regime, such as the loss of mobility, the right to earn a living, and the prolonged containment as asylum seekers in refugee camps.

This project has also interrogated the normative use of the concept of responsibility by CMTs. I have demonstrated that CMTs failed to make a distinction between the different forms of responsibility, i.e., distinguish between moral, causal, and outcome responsibility, and in doing so are unsuccessful in their efforts of finding a specific culprit for climate change—the one responsible for helping climate victims. I have advanced the claim that the uniqueness of climate change makes the traditional notions of responsibility ill-suited for establishing responsibility for helping climate victims. I therefore propose the use of remedial responsibility, i.e., those that are in the best position to help should be the ones to do so, as the best option.

Lastly, I have shown that those in the best position to help—those with remedial responsibility—are the winners of climate change, the countries above the 49th parallel north as they will come to possess vast amounts of arable and previously uninhabited land due to melting permafrost. And that the best way to help the projected millions displaced by climate change is to yield territory to them. I have made the case that these countries can be incentivized to do so through compensation that will benefit their aging populations. Notwithstanding, important questions remain.

When Reagan and Gorbachev agreed to suspend the Cold War and join forces to fight a hypothetical alien invasion, it leads one to believe that humanity—regardless of ideology or self-interest—will come together to save the species. Climate change presents humanity with an actual existential threat. But the question remains: will we, as a species, come together? Will the existential threat that is climate change alter the way states view sovereignty? Will climate catastrophes spur international cooperation, or will it cause states and its citizens to turn inward? Will the projected climate catastrophe confirm the world view of realists and show that the world is in fact conflictual and that states are fixed on survival? Are there other things that would motivate countries to give up territory? If yielding territory is not a feasible solution, then what is? Would manufacturing man-made islands for climate refugees, such as the ones built by China on the South China Sea, solve the problem? These are important issues that are beyond the scope of this dissertation, but merit further study.

It has been my hope that the bold proposal of this dissertation starts a conversation over the plight of the many societies that are expected to be entirely displaced by climate change over the next fifty years. May they find a new place to start again.

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