frontiers | Frontiers in Climate

TYPE Original Research
PUBLISHED 21 December 2022
DOI 10.3389/fclim.2022.1026486

OPEN ACCESS

EDITED BY
Lisa Thalheimer,
Princeton University, United States

REVIEWED BY
Bina Desai,
Independent Researcher,
Geneva, Switzerland
Sarah Louise Nash,
University of Continuing Education
Krems, Austria

*CORRESPONDENCE
Carol Farbotko
carol.farbotko@unimelb.edu.au

†These authors have contributed equally to this work and share first authorship

SPECIALTY SECTION
This article was submitted to Climate Mobility, a section of the journal Frontiers in Climate

RECEIVED 23 August 2022
ACCEPTED 09 November 2022
PUBLISHED 21 December 2022

CITATION
Farbotko C, Thornton F, Mayrhofer M and Hermann E (2022) Climate mobilities, rights and justice: Complexities and particularities. *Front. Clim.* 4:1026486. doi: 10.3389/fclim.2022.1026486

Climate mobilities, rights and justice: Complexities and particularities

Carol Farbotko[1*†], Fanny Thornton[2,3†], Monika Mayrhofer[4†] and Elfriede Hermann[5†]

[1]School of Geography, Earth and Atmospheric Sciences, University of Melbourne, Carlton, VIC, Australia, [2]Potsdam Institute for Climate Impact Research, Potsdam, Germany, [3]Canberra Law School, University of Canberra, Canberra, ACT, Australia, [4]Ludwig Boltzmann Institute of Fundamental and Human Rights, Vienna, Austria, [5]Institute of Social and Cultural Anthropology, University of Göttingen, Göttingen, Germany

Climate mobility revolves around issues of justice and human rights, whether this be concerning its causes, expression or handling. This paper examines the justice-rights nexus as it relates to climate mobility, highlighting how the two spheres converge and diverge. It works with four case studies exploring the complexity of rights and justice in the climate mobility context. Our case studies are diverse, in terms of the mobility types concerned and the rights and justice-based issues involved. We show that conceptualizing or achieving just or righteous outcomes is neither certain nor a uniform pursuit when it comes to climate mobility. Rather, there are many divergences—by those who claim rights or justice, and those asked to respond. We present a complex and contested space, highlight the importance of approaching justice and rights matters contextually, and with special attention to particularities when climate mobility is at issue.

KEYWORDS

climate change, climate mobilities, human rights, justice, context, particularities

Introduction

Climate mobility is a term describing the multiplicities of ways in which human mobility is associated with climate change, as well as its embedding in ongoing patterns and histories of movement, and the material and political conditions under which it takes place (Parsons, 2019; Wiegel et al., 2019; Cundill et al., 2021; Boas et al., 2022). It is now rather well-accepted in the field of climate mobility studies that, despite difficulties in establishing a direct or exclusive causal relationship between climate and mobility, climate mobility can represent a significant injustice and human rights challenge (Burkett, 2020b). More specifically, when climate change impacts are associated with a place approaching uninhabitability, and people move, even if only temporarily, human rights and justice frameworks may offer the means to help address human suffering and inequities (Mayer and Cournil, 2016; Nash, 2018; Ahsan, 2019; Naser et al., 2019). Indeed, there is wide agreement that justice and rights enjoyment should be prioritized if climate change impacts mean that habitable places become uninhabitable among those who cannot easily afford to move and for whom an uninhabitable place holds either economic or non-economic significance (Bettini et al., 2017; Saad, 2017; Sheller, 2018; Burkett, 2020a; Byravan and Rajan, 2022).

Despite the clear need to address climate mobility as a justice and human rights issue, it is not straightforward to pinpoint how specific injustices and rights impacts associated with climate change and mobility are to be conceptualized, nor how they can be most effectively addressed. This is in part because the complexities of agency, culture, power, temporality and governance that shape how people live in, and possibly leave, a climate-impacted place are many. Meanwhile, the concepts of mobility, habitability, identity, values and place are variously and not always uniformly perceived and contested by residents, institutions and others (Sheller, 2018; Alam and Miller, 2019; Kita, 2019; Whyte et al., 2019; Blondin, 2021; McDonnell, 2021; Jessee, 2022; Neu and Fünfgeld, 2022; Nyantakyi-Frimpong and Dinko, 2022). Such complexities can compound as habitability declines over time in a changing climate, even as the ways in which habitability is measured and by who matters and is not uncontested (Duvat et al., 2021; Horton et al., 2021). Power shapes adaptation measures vis-à-vis mobility (Arnall, 2014; Turhan et al., 2015; Bordner et al., 2020; Lindegaard, 2020; Paprocki, 2020; Aidoo, 2021; Bayrak et al., 2022) and it remains questionable whose voices are really being heard in climate mobility solutions (Arnall et al., 2019). Given this complexity, conceptualizing justice in the context of climate mobility, or applying human rights thinking, are both far from straightforward (Nash, 2018).

In this paper, we pursue the question to what extent justice and human rights discourses are relevant to mobilities as well as immobilities in view of climate change consequences. We also problematize the issue of whether fulfilling human rights obligations will necessarily deliver climate justice, or vice versa. For us, this entails asking to what extent justice and human rights discourses are affected by geographic, political, social and economic contexts. We argue that the complexities as well as the particularities of intersecting human rights and justice discourses relating to climate change induced mobilities and forced or deliberate immobilities need to be thoroughly examined. Our hypothesis is that there are convergences as well as divergences of human rights frameworks and justice frameworks that matter in specific contexts. Therefore, the particularities of the complex reciprocities between human rights, justice and mobilities, as well as desires to remain in one's home, have to be scrutinized with a view to the actors, institutions, policies, mobility regimes and socio-economic contexts involved. This includes, importantly, paying more attention to the discourses and agencies of people moving from, to or living in climate vulnerable areas in order to ensure that significant steps toward advancing human rights and climate justice are being made.

The extent to which climate mobility policy, which is undergoing rapid development in international and national contexts, takes account of such complexities and makes a difference on the ground in terms of better human rights and justice outcomes could benefit from such research attention. For example, Vanuatu's National Policy on Climate Change and Disaster-Induced Displacement provides a framework for addressing the different ways in which climate change, disaster and mobility issues cut across all sectors and scales of government, and across all sectors of the economy. It comprehensively and ambitiously seeks to integrate displacement and mobility considerations across key systems including institutions and governance, evidence, information and monitoring, safeguards and protection, and capacity building; and across sectors: safety and security, land, housing, planning and environment, health, nutrition and psycho-social wellbeing, education, infrastructure and connectivity, agriculture, food security and livelihoods, traditional knowledge, culture and documentation, and access to justice and public participation. The policy includes guiding principles on gender equity, protection of traditional knowledge, and respect for custom and human rights. It also references the global international frameworks, including the UNFCCC, Sendai Framework, SDGs, UNHCR Guiding Principles on Internal Displacement, and Agenda for the Protection of Cross-Border Displaced Persons. Despite the cross-sectoral and human rights approach, however, it remains questionable whether the policy, which assumes that the power to relocate communities is held by the state, can deliver durable solutions for climate-exposed communities in Vanuatu, since the vast majority of land is customarily owned. This fact is poorly accounted for in the policy and consequently it faces major operational challenges (McDonnell, 2021). Questions thus arise about the very close links between customary governance and justice.

With climate mobility policy development well under way in many jurisdictions, at both national and international scales, it is timely to consider the ways in which human rights and justice discourses coalesce around climate mobility and to explore whether favorable human rights and justice outcomes might be occurring (or not) in particular contexts of climate mobility. This paper makes a contribution to this effort by way of four case studies. Contextually examining four examples of current and anticipated climate mobility, we tease out justice and human rights dimensions that arise in localized settings. In particular, we investigate (a) solutions sought by mobile people who cross international borders vs. those that do not wish to move away; (b) some solutions sought by those facing the possibility of climate mobility, and (c) responses by those who stand accused of perpetrating climate injustices, or asked to provide shelter and refuge to mobile people.

The paper adopts a transdisciplinary approach, drawing on and integrating insights from law and policy, political science and philosophy, cultural and social anthropology, and human geography. We seek to gain insights into how those affected by climate change impacts tend toward or oppose mobility experience and/or perceive justice and human rights solutions, using legal and political theories, discourse analysis, and empirical accounts of climate mobilities or sedentariness

to elucidate the complexities and particularities of agency, culture, power and governance. We approach justice and human rights as intersecting discourses that have different meanings and outcomes in different climate mobilities contexts. We take into account contextual characteristics such as those of a unique culture or place. Our discussion explores how the multiple perspectives of different actors and institutions, such as migrants, citizens, claimants, judges, and states, reveal the situatedness of justice and human rights in different contexts of climate mobility and deliberate non-emigration. In short, we seek to contribute to knowledge by addressing the following research questions:

1. To what extent are human rights and justice discourses relevant to climate mobility?
2. Do human rights and justice form a nexus (in this context) or are there divergences?
3. To what extent can justice and rights be affected by climate mobility context, such as geography, policy context, and culture?
4. What are the implications of convergences and divergences of human rights and justice dimensions and the role of specific contexts for these intersections and dissections?

The paper is structured as follows. First, we briefly consider justice discourse and climate mobility, followed by a similarly conceptual section on human rights discourse and climate mobility. Next, we consider the nexus of justice and human rights relating to climate mobility, and then move on to four case studies. We selected the four case studies to demonstrate the diversity of issues in climate mobilities contexts where justice and human rights issues are being raised: one legal case study involving climate mobilities across national borders where the impact of disaster on human rights was considered in asylum procedures, one legal case study involving climate mobility across national borders which resulted in deportation, one case study where labor mobility is increasingly being considered as an issue of both climate change adaptation and human rights, and one legal case study involving immobility within national borders. These case studies were: Austria court decisions on Somali asylum seekers experiencing environmental as well as social and political risks; human rights and justice arguments pro and contra climate mobility from the Pacific state of Kiribati; workers from the Pacific Islands who are legally permitted to work in Australia temporarily, and who are increasingly expected to use their remittances and skills gained working abroad to contribute to building resilience in their climate-vulnerable islands; and an island community from the Torres Strait within Australia who are taking the Australian government to an international human rights tribunal for failure to help them adapt and stay in place. In our discussion following the case studies, we highlight how issues such as opportunities for participatory justice, scale, direction of mobility, desires for staying in one's home country, culture, and other contextual characteristics influence the extent to which climate mobile people and those wanting to stay are experiencing justice and having their human rights respected. The case-studies show that justice and rights issues arise in different ways, that gaining analytical traction on them depends in part on the context in which they arise, and in part on the lens applied, and that comparison between case-studies is often neither possible nor yielding of generalizable lessons. To conclude, we reflect on this study's contributions and limitations, and make some recommendations.

Justice and climate mobility

The justice dimensions of climate change are numerous. Most fundamentally, they revolve around inequities stemming from greenhouse gas emissions, their mitigation, as well as the ability of a multitude of entities–both human and non-human–to cope with their consequences. One such consequence is climate mobility, which encapsulates the idea that climate change effects are altering or compounding human mobility patterns, and not necessarily, even usually, in ways that are desired–by those feeling the pressure to move, those desiring to stay, even under conditions of greater precarity, and those unexpectedly in a position to act as host. The justice dimensions in climate mobility stem, first and foremost, from the vastly inequitable spread of sources of emissions (Our World in Data, 2022), but then also inequities in how this affects livelihoods, infrastructure and communities differentially (Intergovernmental Panel on Climate Change, 2022), contributing to differentiated pressures to move, or differentiated abilities to stay put where this is wanted, or differentiated spread of host locations, as well as differentiated views as to the causes and effects of these dynamics. Although climate mobility is already occurring around the globe, the fact that it occurs and impacts unequally have been noted, with those least responsible for emissions, and often least able to respond to their consequences, disproportionately affected (Burkett, 2020a).

Understanding climate mobility as a justice "problem" is important in order to understand what best to do about it. This is vital as individuals, communities and states are grappling with how to approach their response to the phenomenon. Responding to climate mobilities is not straightforward, and likely connected to geopolitical considerations, as well as the "role" one has in climate mobility: be that emitter, mobile person/community, sedentary person/community, or host. No matter one's role in climate mobility, actual or potential, constructing a just way forward ought to be intimately tied to justice thinking. This is a rather complex area of enquiry with a history spanning centuries (Thornton, 2018). That said, it is possible to point out that justice thinking diverges, broadly speaking, around two theoretical paradigms–one corrective

justice, the other distributive justice, both of which have Aristotelian origins (Englard, 2009). In essence, this dichotomy supports justice-based enquiry concerning climate mobility from two different perspectives (Thornton, 2018): first, from the perspective of emitters who are, or may be held, responsible for the consequences of their emissions; and secondly from the perspective of the unequal distribution, of mobility, immobility and hosting, already mentioned.

At its most basic, justice theory concerns thinking about that which is due between two, or more, entities (humans, but increasingly also human collectives, as well as non-humans–animals, etc.). Corrective justice, the first paradigm noted, concerns undue loss, damage or harm which has occurred, the consequences of which ought to be corrected or rectified. With climate mobility this may be tangible–e.g., homes, livelihoods bases or intangible–e.g., culture as tied to place, wellbeing. Under the original Aristotelian conception of corrective justice, the relationship between concrete "perpetrator" and "victim" is conceived as vital, with the latter connected to the former through a faulty act, leading to loss, damage or harm which the former ought to correct (Weinrib, 1992; Englard, 2009). In climate mobility terms, perpetrators committing a faulty act are arguably those that emit, particularly in high (or undue) quantities, though perhaps also those that refuse to provide assistance, and victims are those that suffer the consequences–the aforementioned harms, etc. In legal terms, tort law, or similar branches of the law, have implemented this understanding of justice in a multitude of legal systems around the world, though climate mobility has not (yet) expressly been the subject of a relevant case. An exception may be Lliyua vs. RWE AG in the German court system, which concerns the threatened displacement of an Andean community due to glacial melt and feared lake rupture, as well as the responsibility for this of German energy company RWE (Germanwatch, 2022). Later conceptualizations of corrective justice have, instead, emphasized correction itself (and with it the "victim"), irrespective of an identifiable perpetrator (Coleman, 1992). Such conceptualizations, in taking fault (and concrete perpetrators) out of the equation, have supported collective rectification regimes, including through programs such as no-fault insurance (Coleman, 1992), which may also have some relevance in the mobility context. In real terms, achieving corrective justice in the climate change context, let alone the climate mobility context, has proven significantly challenging–for a host of reasons revolving not least around jurisdictional hurdles (including across borders), as well as the diffuse nature of climate change (atmospheric pollution) and its effects, from which stem diffuse causality or attribution issues. Indeed, many and diverse groups of actors have responsibility for climate change over a large time span, which is challenging in terms of attributing responsibility for its impacts. No legal entity has, of yet, determined responsibility of a particular actor for the damaging effects of greenhouse gas emissions, though emissions reduction and prevention, as well as adaptation, duties have been crystalized (e.g., Urgenda Foundation vs. State of the Netherlands, 2019). Furthermore, the UNFCCC's loss and damage regime is not presently underpinned by a commensurate funding mechanism, as is the case with mitigation and adaptation (Heinrich Böll Stiftung, 2021). There are, however, at least, some promising developments with respect to collective (that is, no fault) rectification, including insurance at various scales (UNFCCC, 2022).

Distributive justice, the second paradigm noted, sets up a different relationship. That between "haves" or "have nots," or that which should be duly shared between associated entities–in terms of benefits, but also burdens. Aristotle conceived of distributive justice as owed in relation to those of 'merit', deserving entities who should not be denied a fair share of a public good, which presupposed bound communities (Fleischacker, 2004). Increasingly, however, distributive justice has been taken out of the realm of both merit and boundedness, including with respect to nation states or those who have little (Pogge, 1989). Association now could be simply being "human," or being part of the same ecosystem, or being sentient. Importantly, distributive justice is not tied to a distinct legal regime, as is the case for corrective justice. It is tackled, instead, in more fractured and promissory fashion, in the legislative and policy realm in many a jurisdiction, through the provision of welfare measures and the promise of providing for socio-economic and cultural rights, for example. In the climate mobility context, this might mean well-off entities supporting a climate relocation trust fund, as is being done in Fiji (Parliament of the Republic of Fiji, 2019), for example, or the provision of visas to facilitate international mobility away from danger. Distributive justice also functions as an umbrella term for many other justice paradigms, of which participatory justice, social justice and global justice are just a few. Participatory justice, for example, is about the equitable distribution of participation in decision-making, whose voice matters–who is invited, who is heard, who speaks, and whose solutions are prioritized, which is important in climate mobility contexts (Sheller, 2018; Arnall et al., 2019). Global justice is about the equitable distribution of benefits and burdens across borders, and so on. That which ought to be distributed is also fractured in distributive justice thinking. Rawls (1999) famously noted "primary goods"–the immaterial, such as rights and liberties. Later commentators have argued, importantly, that distribution should target concrete capabilities, or material circumstance, in an effort to overcome disadvantage (e.g., Sen, 2009). In concrete terms, it is the UNFCCC and the common but differentiated responsibilities and respective capabilities regime that underpins it that most notably at least aspires to distributive justice at a global scale in the climate change context (e.g., Art 4). That said, in that regime, mobility has at times struggled to gain a solid footing, not least so in the finance distribution mechanism which arise under the Convention.

Thinking about the climate mobility and (in)justice nexus, then, is not simple. Climate mobility itself functions as an umbrella term involving different mobility patterns, including local and cross-border mobility, migration, displacement, as well as relocation (planned or *ad-hoc*) and immobility–and there are others, all of which revolve around different actors and push and pull factors, with climatic change playing a differentiated, frequently not exclusive, role. Justice, furthermore, does not have one meaning nor is it able to be simply applied. Nevertheless, with climate mobility, justice theory does permit closer scrutiny in terms of the relationships or outcomes that climate mobile people (or those who may become so in the future) and their supporters might aspire to. Ought the emphasis be on perpetrators and victims, an understanding in which emissions, fault and rectification take precedence? Or ought the emphasis instead be on matters of distribution, an understanding in which equity in the spread of benefits, privilege and voice is balanced with the spread of burdens, marginalization and disadvantage? The choice is neither straightforward, nor uncontested, though one we wish to reflect on more deeply later by way of case studies. We next turn to human rights thinking to provide an additional angle from which to scrutinize climate mobility.

Human rights and climate mobility

Human rights define freedoms and entitlements that human beings are supposed to have by virtue of being human. They determine minimum standards and rules, how individuals and groups of people must be treated and what they are entitled to in any case and circumstances. "Human rights law operates vertically between states as duty-bearers and its people as rights-holders. It is usually the link of nationality that binds people to their state" (Atapattu and Schapper, 2019, p. 7). It is first and foremost the state which is obliged to respect, protect and fulfill human rights of individuals within its jurisdiction. This close link between human rights and the nation state has been a challenge with regard to addressing human rights issues that go beyond state borders including cross-border mobility and climate change. Throughout their history, human rights have always represented a contested terrain. They have repeatedly been a site of struggle and controversies, including disputes on their substance, their origins and history, their implementation, the norms they represent and, as a consequence, their implicit and explicit in- and exclusions (see, e.g., Mutua, 2001; Ishay, 2004; Kapur, 2006; Otto, 2013).

A key arena of debate regarding the meaning, application and effectiveness of human rights has emerged concerning the challenges and implications of climate change in general and climate change-related mobilities in particular. Only in October 2021, a distinct right to a clean, healthy and sustainable environment was recognized in Resolution 48/13 by the UN Human Rights Council after decades of efforts working toward the acknowledgment of such a right on an international level (Atapattu and Schapper, 2019; Szabó, 2019). However, prior to this different entities, actors and bodies had already articulated environmental rights, for example, by adopting environmental rights in regional treaties and national constitutions, or by the so-called "greening" of human rights, which refers to the application of well-established rights to environmental issues (Knox, 2020). What the adoption of Resolution 48/13, which is not legally binding, as well as Resolution 48/14, which was passed at the same time and provides for the establishment of a Special Rapporteur for Human Rights and Climate Change, mean for the protection of human rights in the context of climate change, remains to be seen. Some argue that "these resolutions may be regarded as part of incremental process, whereby the Council has progressively linked the dots between the protection of the environment and the promotion of human rights" (Savaresi, 2021a). This gradual association of adverse climate change impacts and human rights violation by UN human rights bodies has been increasingly used by stakeholders and people affected by those impacts to make their case before human rights courts and tribunals (Savaresi, 2021b). As a further step, the United Nations General Assembly has adopted a resolution to recognize the right to a clean, healthy and sustainable environment as a human right on 26 July 2022 (UNGA, 2022).

Connecting the dots between human rights and climate change has indeed been an incremental process so far. There is the ongoing academic discussion whether human rights are actually a viable framework to address the complex issues in the context of climate change as questions concerning contributing to, addressing and being affected by climate change are complicated by (international) social, economic and political structures of inequality and powers. On the one hand, there is the argument that international law, including international human rights law, is "peculiarly ill-suited" as climate change "cannot be addressed in a piecemeal fashion: it can only be treated systematically" (Humphreys, 2014). Further challenges discussed in this regard are enforcement and compliance challenges of human rights law, the assumed impossibility of establishing cause and effect when it comes to environmental implications of climate change (see Intergovernmental Panel on Climate Change, 2022), which would be important to hold polluters legally responsible as well as the cross-border dimension of the issue (Atapattu and Schapper, 2019; Thornton, 2021). On the other hand, it has been pointed out that "the application of human rights law to climate change is still in its infancy" (Knox, 2016, p. 214) which is also true for climate litigation. It has been argued that human rights are a strong and powerful language, which "emphasizes the need for immediate political action and cannot be easily ignored in contemporary politics" (Schapper, 2018). As international human rights are recognized by the vast majority of states, they not only "provide a powerful ethical framework to influence state conduct" (Pain,

2021) but also assign obligations to states to act (Atapattu and Schapper, 2019, p. 71). For example, General Recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change published by the UN Committee on the Elimination of Discrimination against Women has formulated, amongst others, the obligation that states parties should "ensure that migration and development policies are gender responsive and that they include sound disaster risk considerations and recognize disasters and climate change as important push factors for internal displacement and migration" (CEDAW Committee, 2018). Further advantages for using a human rights approach are, for example, seen in the fact that the situation of individual and collective rights-holders becomes central and that they provide redress mechanism for victims of adverse environmental impacts. Some even point out that human rights can bridge the divide between normative justice claims and empirical climate practices, i.e., human activities to diminish climate injustice (Schapper, 2018). An example for such a climate practice could be the awarding of compensations for people whose rights are violated because they are forced to move as a consequence of climate injust behavior of others which a state failed to prohibit or prevent.

Apart from the academic debate, many international and national bodies, stakeholders, activists and other relevant actors have actively employed and invoked human rights in their political and legal activities concerning climate change and climate change-related mobilities for quite some time. For example, regional and international human rights bodies such as UNGA have increasingly pointed out how and in what ways the rights of climate mobile people are at stake and that they are entitled to the enjoyment of human rights recognized and protected by international law and spelled out human rights obligations of states in this context (see, e.g., UNGA, 2012; Human Rights Committee, 2018a,b; UNGA, 2018).

In 2009, the Office of the United Nations High Commissioner for Human Rights (OHCHR) drafted the first report on the relationship between climate change and human rights (Human Rights Council, 2009, paras 55–60). The report emphasizes that persons moving or displaced within national borders "are entitled to the full range of human rights guarantees by a given State, including protection against arbitrary or forced displacement" (Human Rights Council, 2009, para 57). Persons who move voluntarily or who are displaced across international borders "due to environmental factors would be entitled to general human rights guarantees in a receiving State, but would often not have the right of entry to that State" (Human Rights Council, 2009, para 58). There has been an extended discussion concerning the uncertain legal status of persons forcibly displaced across international borders in the context of climate change (the so-called "protection gap"). McAdam has emphasized that human rights law has "the greatest capacity to protect people against forcible return to life-threatening circumstances or cruel, inhuman or degrading treatment" (McAdam, 2016, p. 1,537), which might also be applicable to people displaced across international borders in the context of climate change. In 2020, the UN Human Rights Committee held in a view on a communication by an author from Kiribati that "the effects of climate change in receiving states may expose individuals to a violation of their rights under articles 6 or 7 of the Covenant [International Covenant on Civil and Political Rights], therefore triggering the non-refoulement obligations of sending states" (Human Rights Committee, 2010), although the Committee did not find such a violation in the case in question (see also the case study from Kiribati below).

Thus, and similar to the climate mobility and (in)justice nexus, thinking about the climate mobility and human rights nexus is not simple. Different mobility patterns, for example, refer to differing legal frameworks (e.g., refugee protection or different migration categories such as labor migration schemes) which may be associated with various human rights challenges (see, e.g., McAdam, 2011). There are many actors who use human rights language for different purposes in the context of climate change and climate mobility and some also connect human rights with a justice framework. It is–as we will also demonstrate later with the example of the case studies–therefore necessary to ask what actors–individually and collectively–do about human rights and how they use it as a reference point for legal and political claims and action, "notwithstanding all the evident limits placed on their concrete implementation" (Blouin Genest and Sylvie Paquerot, 2016, pp. 152, 134).

Rights and justice: Nexus and divergence

Both rights and justice have an aspirational dimension. They support the framing or pursuit of ideal human interactions and relations, both person to person and person to public authority or state. They encourage thinking about whether an action (or inaction) has been in aid of another's flourishing. Where not, they underpin remedies to address shortcomings, omissions and wrongful measures. Concretely, they can be supported by legal avenues in the pursuit of their implementation, though the granting of such avenues, or access to them, differs widely–by jurisdiction, socio-economic class, geographical location, and so on.

Both justice and rights discourses lay claim to being grounded in universality–norms applicable everywhere and anytime, at least in relation to defined circumstances. Challenges to this understanding abound, and we have ourselves already highlighted ambiguities and uncertainties that challenge any notion of universality. Neither term means the same thing to all, at all times. On the one hand, this is to be celebrated, as it may also, over time, contribute to broadening their understanding or application. On the other hand, ambiguity is easily exploited by those that justice or rights otherwise seek to rein in.

Matching any ideals inherent to justice or rights thinking has proven challenging in practice. Claims of what is right or just are sometimes in competition with each other, although this is not in and of itself a hindrance. Worse, though, they are flat out denied or evaded, an effort supported by the fact that justice or rights norms are only sometimes, but not always, enshrined in law, in particular hard law. Rights fare somewhat better in this, which might also explain why they are–at times controversially (Labonte and Mills, 2021)–conflated with justice. But rights, too, are not necessarily enshrined in law, or enforceable, everywhere or for everyone. We do not wish to argue that norms only have force or validity where justiciable. However, the alleged subjective nature of rights or justice claims, matched with the aspirational nature of many relevant norms, not least in the climate change context, does mean that claims sometimes struggle to be more than contentions. Normative commitments relevant to the climate mobility context now abound both at international–see, e.g., Global Compact on Migration, outputs from the UNFCCC's Taskforce on Displacement and the Platform on Disaster Displacement (formerly Nansen Initiative)–and national level–e.g., national commitments to relevant human rights treaties. Few are binding or concretely enforceable. On the other hand, concepts which may have been originally founded in concerns about justice and rights for climate mobile people, such as "climate refugee" turned out to be possibly more problematic than helpful (Piguet, 2022).

In the context of climate change, it has been argued that justice and rights conceptions might benefit from each other when brought together. Schapper, for example, has pointed out that "human rights can bridge the divide between normative justice claims and empirical climate practices, i.e., human activities to diminish climate injustice" (Schapper, 2018). First of all, as the manifold and multi-faceted impacts of climate change can be framed as human rights violations–which is frequently done by international human rights institutions as well as human rights defender– pointing out many ways climate change is experienced differently along structures of inequality, in particular between "haves" and "haves not" which intersect with categories such as gender, age, (dis)ability or ethnicity. Thus, "[h]uman rights provides a good way of understanding the injustice of climate change" (Ackerly, 2018, p. 11) by making the differentiated impact of climate change on individual and collective right holders (Schapper, 2018) visible and tangible. Secondly, in doing so, a human rights language links the impacts of climate change with state party obligations (Schapper, 2018) as well as with access to justice, that means with procedural remedies for affected individuals and also for groups (Clark, 2018, p. 20). In particular concerning political and civil rights (such as the right to seek redress or a legal remedy, protection from discrimination, right to a fair trial, right to participation in politics and civil society, freedom of association, freedom of thought and speech) state obligations are "relatively well-defined" (Clark, 2018, p. 20) and well-developed. These rights can also be understood as important preconditions or elements of corrective justice. The fulfillment of economic, social and cultural rights as well as collective rights–both are central issues with regard to distributive justice in general and also in the context of climate change–and in particular the access to remedies in this context is more complex and it remains to be seen whether procedural rights (for example, climate litigation) "can be a path to substantive justice" (Clark, 2018, pp. 21, 29).

Case study 1: Subsidiary protection in Austria providing a legal status to individual rights-holders in a situation of international displacement

Displacement across international borders is one scenario discussed in the context of climate change, although is exceptional, with most movement being internal (Internal Displacement Monitoring Centre, 2021). The legal status of persons forced to cross international borders in the context of climate change remains inadequately addressed and human rights law is said to have the greatest potential to protect people from having to return to climate change-related life-threatening circumstances in their countries of origin (Ammer et al., 2022). In this context, the invocation of human rights has the potential to give people access to a legal status in another country and, thus, pave the way to a broad range of other rights, for example economic and social rights, which are important elements of distributive justice. This is the case with asylum seekers from Somalia in Austria, where the impact of disaster plays a role in asylum procedures with regard to the assessment whether the person might face a real risk that their human rights will be violated in case of return to Somalia.

Somalia is a country hit particularly hard by disasters such as droughts but also floods, locust plagues and cyclones. According to the INFORM Risk Index, a global, open-source risk assessment for humanitarian crises and disasters, Somalia ranks first concerning the drought probability and the country has been classified as a high-risk country for the last 10 years. The impact of climate change already plays and will play a crucial role in this context. Already the 2017 extensive drought which resulted in the failing of both rainy seasons in that year, was demonstrated to be influenced by climate change. Global warming doubled the probability of the drought in 2017 in East Africa and contributed to widespread food insecurity (Funk et al., 2019). Also, the Sixth Assessment Report of the Intergovernmental Panel on Climate Change points out that Somalia belongs to the countries at high risk to climate change (Intergovernmental Panel on Climate Change, 2022). Not only conflicts but also recurring droughts

have repeatedly contributed to displacement of thousands of people in Somalia, as the Internal Displacement Monitoring Center (IDMC) indicates in its annual reports. International actors have repeatedly framed these displacements as human rights challenges and demanded action to ensure the rights of the affected population (see, for example, Human Rights Committee, 2010; UNGA/HRC, 2018, 2020).

Disaster and conflicts not only contribute to internal displacements in Somalia, many people also leave Somalia in order to seek refuge elsewhere, for example in Europe. From 2010 to 2020 there were 9,151 persons from Somalia applying for international protection in Austria. The analysis decisions on international and humanitarian forms of protection referring to applicants from Somalia decided by Austrian appellate courts between January 2008 and July 2020 showed that the impacts of disaster (drought, floods, locust plagues) play a role in asylum procedures. In many of the analyzed decisions, it was indicated that the claimant or their legal representative brought forward that disaster in the complaint to the appellate court as–in most cases–one reason amongst others for leaving Somalia or fearing return and that a return to Somalia might constitute a violation of the claimant's right under the European Convention of Human Rights (ECHR) and in one case even under the EU Charter of Fundamental Rights.

In many of these cases, disaster played an important role in decisions to grant a subsidiary protection status according to paragraph 8(1) of the Austrian Asylum Law. A subsidiary protection status is based on EU law and is granted to applicants for international protection who do not qualify as a refugee "but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin (...) would face a real risk of suffering serious harm (...)' (Directive 2011/95/EU of the European Parliament of the Council of 13 December, 2011). Austria's transposition of the respective EU law concerning subsidiary protection does not conform to the EU Qualification Directive. "Whereas the interpretation of Article 15b of the Directive by the CJEU clearly requires a human actor of serious harm in order for a person to establish eligibility for subsidiary protection, [. . .] the Austrian transposition does not contain such a provision." (Ammer et al., 2022, p. 7). The relevant threshold, instead, is Article 3 ECHR (prohibition of torture or inhuman or degrading treatment or punishment), which widens the scope of international protection available in Austria and therefore also can accommodate the impacts of disaster, which are not readily assignable to a specific human actor (Ammer et al., 2022, p. 7, 13). In many of the analyzed cases, disaster played an important role in the legal reasoning but only in very rare cases it was considered as the only factor which would pose a real risk that the rights of the claimant might be violated in case of return. The court evaluated the impact of the disaster on the general supply situation and how the claimant would be affected by or would be able to cope with the precarious supply situation due to the disaster. Factors such as poverty, family and clan connections, gender and profession played a decisive role when assessing the impact of the disaster on the applicant in question. Applicants who were specifically affected by the disaster because they were dependent on weather-sensitive jobs (such as farmers) or who were assumed to be less able to cope with the dire supply situation due to the drought because they were poor or lacked family or clan support and who could not reasonably be expected to relocate to a different, not disaster-affected part of the country, were regarded to face a real risk that they would experience inhuman and degrading treatment (Art. 3 ECHR) in case of return and, thus, granted a legal status in Austria.

What can be concluded from this case concerning the nexus or divergence with regard to human rights and justice? Firstly, the justiciability of human rights as well as the specific legal context in Austria make it possible, that people displaced to Austria where (climate change-related) disaster plays a role in this forced movement, have access to the legal status of subsidiary protection when there is a real risk that their rights might be violated in case of return. Secondly, the differentiated impact of climate change on individual rights holders is taken into consideration and becomes visible by applying this specific (legal) human rights assessment. This can also be understood as making visible and tangible the injustice of climate change. Thirdly, it also links the impacts of climate change with state party obligations, i.e., providing protection and access to other rights. Yet, subsidiary protection status does not provide equal access to all rights which are available for citizens. Therefore, fourthly, the links rights have to concepts of corrective and distributive justice must be viewed in a differentiated manner. On the one hand, there are major restrictions to the access of rights, specifically concerning political but also other rights. On the other hand, a subsidiary protection status provides some access to economic and social rights (legal access to labor market, social benefits, needs-based minimum benefit system) which is an important element of redistributive justice.

Case study 2: Human rights and justice in staying and going; A situation of contested attitudes toward climate mobility

Reverberations of legal decisions related to climate mobility often provide further insights into the reticulations of human rights and justice discourses. The case in point is a legal decision to the effect of rejecting an applicant's claim to refugee status in the face of climate change impacts on his home country. These reverberations included a UN Human Rights Committee decision but also, and importantly, various local discourses diverging on the question of whether human rights

and justice will be achieved by migrating from a vulnerable place or else by staying there, provided that *in-situ* adaptation will enable habitability.

Here a court case by a citizen from the central Pacific state of Kiribati directs attention to contested attitudes toward climate mobility. Kiribati comprises 32 low-lying atolls or reef islands which rise only to a maximum of around three meters above sea level and the one elevated island Banaba that was mined for phosphate (Neemia and Thaman, 1993, p. 288). The population of Kiribati is presently more than 131,000 with significant diaspora communities living in Fiji, New Zealand and Australia. Like other atoll states, Kiribati has been characterized as extremely vulnerable (Barnett and Adger, 2003, p. 322, cf. IPCC AR6) but the fact that atolls are "assemblage[s] of human and non-human relations" (Jarillo and Barnett, 2022, p. 849) in which the agency of people and land inheres also holds true for it. The agency of this human and non-human assemblage has a certain potential to stabilize the atolls in the face of rising sea levels. The citizens of Kiribati, the I-Kiribati, articulate worries and other emotions vis-à-vis threats posed by climate change to their beloved land but also demonstrate their will to social resilience (Uan and Anderson, 2014; Hermann, 2017). Various forms of mobility like 'migration with dignity' and international relocation as a last resort (Tong, 2008), but also *in-situ* adaptation have been discussed as options to adapt to climate change consequences (Hermann and Kempf, 2017, 2019).

Listening to a multiplicity of voices makes it clear that human rights and justice discourses may be mobilized to advocate for climate induced emigration from this atoll state on the one hand and for staying in this country on the other hand. Whether human rights and justice are evoked pro or contra mobility vis-à-vis threats of climate change impacts depends to a significant degree on the position from which speakers articulate themselves. As outlined in the introduction, we take this position to be defined in spatial, political, legal, socio-cultural and economic terms.

An instance demonstrating the use of human rights and justice discourses in favor of climate induced migration comes from an internationally observed court case involving a citizen from Kiribati living in New Zealand after his permit had expired. This I-Kiribati man had applied for refugee status due to environmental change in Kiribati caused by sea level rise as a consequence of climate change (McAdam, 2015). This application was declined on grounds that the consequences of climate change do not bring the I-Kiribati man within the United Nations Convention Relating to the Status of Refugees (cf. also McAdam, 2015, p. 134). Later, however, the UN Human Rights Committee decision relating to this case attracted international attention when it found that "it may be unlawful under the International Covenant on Civil and Political Rights (ICCPR) for governments to send people back to countries where the effect of climate change exposes them to life-threatening risks (article 6) or where they are at real risk of facing cruel, inhuman or degrading treatment (article 7 of ICCPR)"[18] (UNHCR, 2020) (on the Committee's decision see also this paper's section on Human rights thinking and Climate Mobility as well as the case study from the Torres Strait).

International media coverage of the judgement, the UN Human Rights Committee decision and the following statement by the UNHCR confirmed the impression that migration from extremely vulnerable places will be a way to escape disastrous climate change consequences. Back home in Kiribati, however, the court case by the diaspora countryman has been viewed with mixed feelings. Some I-Kiribati feared that worst-case scenarios of sea level rise might be coming true if a countryman who surely loved his homeland saw his and his family's lives threatened in Kiribati and didn't want to return. A few other I-Kiribati felt that the diaspora man had brought shame on Kiribati, as their beloved country would now seem to be a place no longer inhabitable in the eyes of the international community (Korauaba, 2015). Hurt in their national pride they shamed him in turn as a 'traitor' who had humiliated their young nation (ditto).

Discourses on human rights and justice are, however, also being mobilized to advocate remaining in the atoll state of Kiribati and investing in conditions for a good life in the future. In fact, the majority of the atoll inhabitants have continued to express their will to remain on their home land (Uan and Anderson, 2014, p. 247; Hermann and Kempf, 2019, p. 241). Consequently, such statements are rejecting 'migration', locally understood to signify emigration by contrast to other types of mobility. From this culturally specific perspective, human rights may be seen as threatened by migration. Ordinary people rarely use the terminology of human rights and justice to express their respective concerns but climate activists crystallize their arguments (see e.g. Uan and Anderson, 2014, p. 245; Pelenise Alofa quoted in Klepp and Herbeck, 2016, p. 71) as do representatives of governmental and non-governmental organizations. Thus, the National Coordinator of the Kiribati National Youth Association of NGOs, Itinterunga Rae Bainteiti, is reported to have made the following statement on migration as a threat to human rights at a panel discussion held by the UN Human Rights Council on 6 October 2017:

> "For some climate-affected persons, migration implied severing ties to all that was important to them. It threatened their human rights, sovereignty, culture, language, identity and well-being" (United Nations High Commissioner for Human Rights, 2017, p. 5, A/HRC/37/35, Paragraph 24)

Furthermore, the National Coordinator is reported to have "called for world leaders to commit to building a more just world that would be safe from the ravages of climate change for future generations."

(United Nations High Commissioner for Human Rights, 2017, p. 5-6, A/HRC/37/35, Paragraph 27).

Obviously, both human rights and climate justice were evoked by the National Coordinator when he emphasized that climate change induced migration is threatening for I-Kiribati. Particularly civil, political and socio-economic rights as well as group rights were associated with being violated should I-Kiribati be forced to leave their country. What he simultaneously demanded, was justice from the international community, specifically distributive justice guaranteeing that their national home would be as safe as other nations' territories. This call addressed to world leaders also implied participatory justice to the effect that the voices of the I-Kiribati will have a say in decision-making over their staying in their nation's territory.

As the different examples of the I-Kiribati diaspora man in New Zealand and the National Coordinator from Kiribati show, discourses on human rights and justice have been evoked with different attitudes toward climate mobility. From the position of the diaspora person wanting to remain in New Zealand, climate mobility seemed to guarantee basic human rights and climate justice. By contrast, human rights and justice were seen as becoming realizable only when I-Kiribati would not be forced to migrate due to climate change impacts, as articulated by the Kiribati National Coordinator from the position of being rooted in Kiribati, its culture, nation and identity it grants to its citizens.

Case study 3: The challenges for human rights and justice in (organized) labor migration (programs)

Climate mobilities associated with work are increasingly being discussed as a form of climate change adaptation, happening as part of everyday life, and expanding the idea of climate mobility beyond forced movement associated with a particular disaster or environmental decline (Bettini et al., 2017). As has long been done to diversify livelihoods, some people from climate vulnerable communities move away for work, often either sending or bringing home remittances and other resources (e.g., new skills, new networks). This type of mobility can have both "home and away" benefits: it can help adaptation in place back in the climate vulnerable place itself, such as by financing improvements to a community's sea wall to cope better with worsening king tides, as well as helping establish new networks that can enable more permanent mobility away from the vulnerable site (Dun et al., 2022).

The question of labor mobility, justice and human rights, is however, not straightforward (Bettini et al., 2017). It is questionable whether opportunities to participate in labor markets away from home have anything to do with justice at all for people in communities that are highly exposed to climate change impacts, as such opportunities often only exist in the context of significant risk of migrant workers' human rights being exploited. Furthermore, if climate-vulnerable people moving for work bear the burden of delivering their own climate solutions through their own labor, this can work to negate onus on perpetrators, and thus can obscure questions of justice altogether. Since human rights risks are already high for migrant workers–opportunities abound for unscrupulous employers to take advantage of those who are often isolated, unfamiliar with local work practices and sources of assistance, often in economic hardship and sometimes in a legally vulnerable situation, perhaps being without a legal right to live or work in a particular jurisdiction, or perhaps without access to justice when they encounter problems with exploitative work practices–any consideration of justice would need to centralize improving worker's human rights situation.

There is a specific type of labor mobility–international guest worker programs–through which to align justice for migrant workers with obligations for more industrialized countries to those less industrialized countries facing climate impacts. Jurisdictions with international guest worker programs such as Europe, Canada, USA, Australia and New Zealand, all of which are high emitters, already make employment opportunities available to workers from climate-exposed countries, through temporary work visas. An example is Kiribati, which as mentioned above, under the leadership of Anote Tong, pioneered the idea of "migration with dignity" which centralized the upskilling of Kiribati citizens and their participation in international labor markets as a key pillar of the country's adaptation strategy (Voigt-Graf and Kagan, 2017). Several Pacific Island countries are recently including labor mobility as part of their overall climate change adaptation policies, meaning that they support their citizens in participating in these guest worker programs not only for more traditional "development" outcomes but also as a way to contribute to climate resilience (Thornton et al., 2021). However, such governments are also concerned about workers' rights within these programs, particularly on the issue of worker exploitation (e.g., Tuvalu National Labour Migration Policy, 2014). Can such programs be a step forward for distributive justice? The answer to this question is not simply whether a permanent migration mechanism is included, and indeed this is not currently the case in many international guest worker programs. Moreover, since existing such opportunities are fraught with power imbalances between worker and employer, worker exploitation and human rights concerns are arguably structurally embedded. Given that labor migration schemes are already known to consistently place the basic rights of workers at risk from exploitative work practices, as well as being, by design, socially detrimental to their families and communities (Felli, 2013; Costa Martin, 2018; Chattier, 2019) it seems reasonable to conclude that such programs could only begin to advance justice following significant reform to ensure human rights risks faced by workers are substantially reduced.

Workers from the Pacific Islands are speaking out and acting on the problems they are facing in Australia and New Zealand, through outlets such as the media, participating in inquiries, contacting the police or community organizations (especially diaspora groups) in times of need, and forming workers' unions. Pacific Island governments are also increasingly taking a stand on conditions for their citizens while working abroad. The Samoan government, for example, recently paused the sending of workers to Australia pending action on investigation of worker mistreatment in Australia (Sanerivi, 2022), while the Vanuatu government has also launched an inquiry based on concerns about worker safety, including bullying, poor housing, exploitative work practices and lack of support services (Jackson, 2022). The International Organization for Migration (IOM) is currently (2018–2022) leading a program entitled Enhancing Protection and Empowerment of Migrants and Communities Affected by Climate Change and Disasters in the Pacific Region (PCCMHS), which will result in a regional rights-based framework on climate mobility. One of the objectives of this program is to enable Pacific Islands migrants and communities to benefit from safe labor migration as a sustainable development and climate change adaptation strategy. The PCCMHS emphasizes that labor migration will only be effective as climate change adaptation if the human security of workers is paramount and the views of all affected stakeholders are at the forefront (Coelho, 2020). Such developments are progressing toward rights-based and just labor mobility, but there is significantly more work to be done (Farbotko et al., 2022).

Case study 4: Human rights claims against applicant's own government in a situation of potential future displacement

The Torres Strait Islands are low-lying islands to the north of the Australian mainland and south of Papua New Guinea. In the context of anthropogenic climate change, the area's largely First Nations population fears in particular the increasingly detrimental impacts of sea level rise upon local natural and human systems (e.g., Steffens et al., 2014). These impacts revolve around food and water supply, as well as cultural sites, particularly burial grounds, all threatened by rising seas (Client Earth, 2019). Cultural impacts feared furthermore revolve around the threat of displacement or resettlement to the mainland, with culture and cultural practice in the area intimately tied to land and island life (Human Rights Committee, 2022, sec 3.5), a threat understood as re-colonization (Client Earth, 2019).

In May 2019, eight Torres Strait Islanders and six of their children expressed their fear in a communication filed with the UN Human Rights Committee (HRC) (Hoffmann, 2020), which oversees state compliance with the International Covenant on Civil and Political Rights (ICCPR), a major international human rights treaty which binds Australia (and most other nations globally). The communication was further supported by a petition directed at the public as well as Australia's government (Our Islands Our Home, 2019a). Amongst several rights, the communication alleged violation, by states party Australia, of the applicants' right to life (Art 6, ICCPR), right to be free from arbitrary interference with privacy, family life, and home (Art 17, ICCPR), as well as minorities' rights to enjoy one's culture (Art 27, ICCPR). Loss has featured heavily in the applicants' understanding of their situation. In the words of one: 'Because when you're colonized, you're taken away from your land and you're forced to stop using your language and stop practicing your culture and traditions' (Tamu, 2019).

Fundamentally, the "TorresStrait8" called on the Australian Government "to do everything it can to support the people of the Torres Strait with the resources they need to protect their island homes from climate change, and to mobilize Australia to pass laws to reduce greenhouse gas emissions in line with its commitments to a 1.5-degree target under the Paris Agreement" (Our Islands Our Home, 2019a). Specific demands have included Australia rapidly phasing out reliance on coal, going net zero by 2050, and supporting the islands with at least AUD 20 million in emergency adaptation funding (Our Islands Our Home, 2019b). Feared losses have thus been sought to be addressed by redistributing benefits and burdens.

Obligations to address climate change, its causes and impacts, including in the context of climate mobility, are emerging under regional and international human rights treaties (e.g., Pain, 2021). In its determinations in the aforementioned (Case Study 2) case of Human Rights Committee (2020), the Human Rights Committee, for example, had confirmed in 2020 the (then) lawful removal of the applicant from the states party's territory to his native island nation of Kiribati, where he feared the impacts of climate change. It also noted, however, that 'the effects of climate change [...] may expose individuals to a violation" of their right to life 'thereby triggering the *non-refoulement* obligation of sending states' (para. 9.11). In other words, the impacts of climate change in one place may become so severe as to engage at least the non-return obligations in another, in order to prevent the most fundamental harm of all.

The TorresStrait8 case is different. Their communication to the HRC concerned the applicants' own government and the causal and normative issues implied are more complicated, as they revolve not around an immigration removal in the context of climate change but broad detrimental loss, harm and damage stemming from climate change, alleged to be attributable to the states party, largely over its inaction in relation to climate change mitigation and adaptation. In August 2020, the then-Coalition led Australian government asked the Committee to dismiss the TorresStait8 claim "'because it concerns future risks, rather

than impacts being felt now, and is therefore inadmissible,"' as well as arguing that "climate change action is not its legal responsibility under human rights law" (Murphy, 2020; Human Rights Committee, 2022). This highlights potential weaknesses in the international human rights regime: on the one hand that it may struggle with prospective abuses of human rights; on the other that it may struggle with abuses stemming from global commons problems, such as climate change. Earlier, in 2020, the Coalition Australian government nevertheless promised $25 million in climate adaptation spending for the islands, seemingly surpassing a key demand linked to the TorresStrait8 petition and communication (Client Earth, 2019). In late September 2022, the Human Rights Committee published its decision in the case (Human Rights Committee, 2022), by now responding to a newly-elected Labor government. Relying on growing scientific evidence and consensus, it confirmed human rights violations (in particular regarding ICCPR Arts 17 and 27) in the Torres Strait region, stemming from Australia's inadequate climate policies, as well as the right to protection of culture in the context of climate change impacts through adequate and timely adaptation measures. The decision is considered a landmark. It remains to be seen how the new government will respond.

Turning to human rights law to achieve justice in the climate change context is not straightforward (Thornton, 2021). On the one hand, access to communication (or individual complaints) procedures is not evenly distributed and exists only in relation to some international human rights treaties, and only once a states party has acquiesced to such a procedure. On the other hand, even where such access exists, and although human rights norms seemingly speak to a host of threats and injustices stemming from climate change, states parties seek to rely on the diffuse nature of emissions and their effects to eschew legal responsibilities. The TorresStrait8 thus embarked upon a highly uncertain process, The adaptation assistance promised to Torres Strait Island communities by the former Australian government can also be viewed critically in light of this Yes, fundamentally it signals the redistribution of resources to aid in climate change adaptation in a fragile place. But it equally signals the undermining or attempted stalling of a legal process which might otherwise more elementally address injustices stemming from climate change. In its final decision, the Human Rights Committee was not persuaded that the Australian government had done enough. Its decision in favor of the applicants can be considered a significant legal win, in particular in the context of Indigenous communities facing threats from climate change in wealthy, high-emissions states. With respect to the complainants' fear of cultural (and actual) dislocation, the Committee highlighted, importantly, that "the State party's failure to adopt timely adequate adaptation measures to protect the authors" collective ability to maintain their traditional way of life, to transmit to their children and future generations their culture and traditions and use of land and sea resources discloses a violation of the State party's positive obligation to protect the authors' right to enjoy their minority culture' under ICCPR Article 27 (Human Rights Committee, 2022, sec 8.14). In other words, implementing any measures is not enough, if these are not effective or well-timed.

Discussion

In this paper, we are examining if and how justice and human rights discourses are relevant to climate mobility. We have suggested that rights and justice in this area are both contested and not always easy to seek or achieve. We return to our four research questions in turn, to reflect further on our four case studies.

Firstly, all four of our case studies demonstrate that human rights and justice discourses are relevant to people who are experiencing a form of climate mobility or seek to prevent being displaced. Three out of four groups of people in the case studies (the Somalis displaced to Austria, the Torres Strait Islanders seeking to protect their island homes, and the I-Kiribati family deported from New Zealand) all had their cases heard within legal frameworks that countenanced and accepted links between climate change, human mobility, justice, and human rights. Importantly, the legal frameworks concerned are all part of public international law, which currently seems most adaptive to claims in this sphere.

Secondly, human rights and justice are at times converging and at times diverging. This is demonstrated across the four case studies, with the Torres Strait case study highlighting, perhaps most profoundly, both the importance of participatory justice and the only partial adequacies of existing rights-based frameworks and legal systems to respond to mobility issues faced by those severely affected by climate change. While members of Torres Strait Island communities are articulating injustices and rights protection that would enable them to adapt in place, they have faced obstacles from national governments. Either states may not have signed up for relevant international mechanisms of rights scrutiny or they may otherwise seek to eschew responsibilities in a context they allege to be rife with diffusion (of causes, of responsibilities, etc. –for climate change and its consequences) and, allegedly, future violations. In one instance now, a major human rights treaty body has not been convinced by these claimed obstacles, which has ramifications for taking human rights-based fights forward in the climate mobility context.

Thirdly, justice and rights outcomes are affected by climate mobility context: i.e., geography, policy context, culture. In our four case studies, which all involve people of high vulnerability to climate change, only some people in climate-exposed places–tthe successful Somali applicants for international protection in Austria and the Torres Strait Islanders challenging Australia's climate change commitments–could be said to be presently experiencing an improved human rights situation associated with climate mobility challenges. These same case studies could also be considered to be advancing justice associated with

climate-displacement risk, not least in a sense that burdens and benefits are rebalanced.

Here, too, there are limitations, however. These revolve around whether the legal protection provided can sufficiently address disadvantage or what has been lost and whether the protection offered is available to all who are in need of it, rather than case-by-case to those few who manage to travel afar or who have access to a relevant judicial body.

Fourthly, that there are implications of justice and human rights dimensions converging and diverging, and because justice and human rights outcomes are shaped by a specific context. For example, in the case of Kiribati, rights and justice claims are complex. On the one hand, there is the person, in this case denied protection or sanctuary, at least under current circumstances. The New Zealand tribunal's decision suggests a "physical safety" approach to justice and human rights for people whose lives are threatened by climate change. This approach, whilst understandable from within the legal framework (refugee law) within which it arose, and which can ensure some basic human rights, does not appear to be sufficient to deliver justice or rights concerning issues such as the right to self-determination or Indigenous rights to territory. The Kiribati case further demonstrates the locational ambiguity of attempts to conceptualize what justice looks like in cases of climate mobility. Taking into account the voices of the many members of the Kiribati population who choose to stay and adapt, it seems that justice must be flexible enough to be multi-locational, existing for both those who choose to stay as well as those compelled to leave. The convergence of justice and human rights depends, in the Kiribati case, in part on ensuring that both the agency of climate-affected people is centralized and that solutions are enacted across multiple locations.

Circular labor mobility highlights the difficulty in advancing a form of distributive justice in instances where human rights risks are high, as well as the need for structural reform of existing mobility regimes to be more responsive to climate change challenges. There seems little prospect for just outcomes for workers while worker exploitation issues remain unaddressed, which is an argument for greater convergence between human rights and justice considerations to be built into labor migration policies and programs. With Pacific Island workers, and their governments, becoming increasingly active in working to ensure the conditions for non-exploitative work in international labor markets, the issue of participatory justice emerges as particularly important. This in turn informs justice as needing to be understood in a particular climate mobility context. In the case of international labor mobility, it is clear that the burden of adaptation should not fall to workers alone, and that, as with the Kiribati people, having the choice to either work toward permanent resident status or the choice to return home is likely to become increasingly important as a policy issue for the more industrialized countries to build into their labor migration programs.

Across all of our case studies, it is clear that justice and human rights associated with climate mobility is not necessarily a straightforward issue of ensuring people can move to a place of physical safety. Climate vulnerable people are increasingly articulating a need to build more resilient homes, communities and nations, and becoming active in areas such as advocating for their human rights–protection of which may be about mobility but also its prevention. Stay-in-place solutions for some, alongside voluntary mobility options for others, taken together may well be considered the most just outcome by communities themselves. This is an important insight as climate mobility policies are emerging at the local, national, regional and global level. If these are built solely around one element of mobility – e.g., forced migration, protection or planned relocation, then catering for all concerned in ways that are just and rights-compliant is unlikely. Simultaneously, harmonization of policies is also necessary to ensure that, for example, local *in-situ* adaptation measures supporting staying in place are not undermined by national or international instruments incentivizing or requiring movement.We anticipate increasing involvement in advocacy and activism in the area around justice, human rights and climate mobility by affected communities, which should encourage policy development which is cognizant of the need to actively work on harmonizing across justice and human rights issues in ways that account for both movement and staying in place.

Conclusion

In this paper, we have discussed, across a number of case studies, how the discourses of human rights and justice, that often see climate mobility as, fundamentally, an injustice involving a multitude of rights breaches, are complicated once attention is paid to the particular policy context, local geography and culture, and, perhaps most importantly, the voices of those affected. Our four case studies are not intended to exhaustively cover the issues, but to illustrate the contextual complexity. Just like climate mobility is multi-dimensional, so are the rights and justice dimensions that arise from it, and so is their articulation. In some instances these converge, in others they diverge. On the one hand, there are policy and legal contexts in which climate mobility is shaped and contested, and in which the confrontation is essentially between those who face climate mobility and those who could or should provide shelter, assistance and harm prevention. On the other hand, there is a narrative context, in which the confrontation is essentially between sometimes competing accounts of what is (un)just or right in charting a way forward. One context is closely connected to the other, as narrative informs the way law and policy are shaped and applied and, vice versa, law and policy can shape which (and how) justice or rights claims are prioritized or find traction.

Ultimately, we need to pay more attention to the discourses and agency of people moving or living in climate vulnerable

areas in order to ensure that justice is achieved and human rights are respected in the climate mobility context. There is no one size fits all approach: protection, though important, is insufficient for those who wish to stay, or are unable to move; *in situ* adaptation support, though important, is insufficient for those who have to move, or if weaponized to get out of legal responsibilities; labor mobility, though important, fails its distributive justice potential where it is implemented in ways that do not provide for fundamental rights or protections of workers. Climate mobility narratives and solutions must anticipate and revolve around these discrepancies and respond to both, the complexities as well as the particularities of human rights and justice issues in climate mobility contexts. By focusing on local contexts, and the expectation that these might generate competing claims and the necessity for different solutions, much will have been achieved.

Data availability statement

The original contributions presented in the study are included in the article/supplementary material, further inquiries can be directed to the corresponding author.

Ethics statement

Ethical review and approval was not required for the study on human participants in accordance with the local legislation and institutional requirements. Written informed consent from the participants was not required to participate in this study in accordance with the national legislation and the institutional requirements.

Author contributions

All authors listed have made a substantial, direct, and intellectual contribution to the work and approved it for publication.

Funding

MM's contributions to this article is partly based on research conducted in the context of the project (18_II_149_Global_Risiko_Vorhersage) ClimMobil-Judicial and policy responses to climate change-related mobility in the European Union with a focus on Austria and Sweden (KR18AC0K14747) funded by the Austrian Climate and Energy Fund, ACRP 11th Call (2019-2022) and partly on research of the project vulnerability-The concept of vulnerability in the context of human rights (P 32130-G31) funded by the FWF Austrian Research Fund (2019-2023). FT's contributions arose in the context of the Brazil East Africa Peru India Climate Capacities (B-EPICC) project, part of the International Climate Initiative (IKI). The German Federal Foreign Office supports IKI on the basis of a decision adopted by the German Bundestag. CF was funded by Australian Research Council Future Fellowship FT210100512.

Acknowledgments

CF and MM gratefully acknowledge the organizers of and participants in (Im)mobilities, Human Rights and Climate Justice, 5th Migration Research Lab of the Center for Global Migration Studies, Universität Göttingen for fruitful initial discussions. Although this paper does not draw on primary ethnographic research, CF and EH gratefully acknowledge contributions from interlocutors in previous studies. MM gratefully acknowledges intellectual contributions from her colleague Margit Ammer.

Conflict of interest

The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

Publisher's note

Supplementary material

The Supplementary Material for this article can be found online at: https://www.frontiersin.org/articles/10.3389/fclim.2022.1026486/full#supplementary-material

References

Ackerly, B. A. (2018). "Responsibility for climate justice. A human rights approach to global responsibility for environmental change and impact," in *Human Rights and Justice. Philosophical, Economic, and Social Perspectives*, eds M. Labonte and K. Mills, K. (Milton: Routledge), 102–122.

Ahsan, R. (2019). Climate-induced migration: impacts on social structures and justice in Bangladesh. *South Asia Res.* 39, 184–201. doi: 10.1177/0262728019842968

Aidoo, F. S. (2021). Architectures of mis/managed retreat: black land loss to green housing gains. *J. Environ. Sci. Stud.* 11, 451–464. doi: 10.1007/s13412-021-00684-3

Alam, A., and Miller, F. (2019). Slow, small and shared voluntary relocations: learning from the experience of migrants living on the urban fringes of Khulna, Bangladesh. *Asia Pacific Viewpoint*. 60: 325–338. doi: 10.1111/apv.12244

Ammer, M., Mayrhofer, M., and Scott, M. (2022). *ClimMobil - Judicial and Policy Responses to Climate Change-Related Mobility in the European Union with a Focus on Austria and Sweden, Synthesis Report*. Available online at: https://bim.lbg.ac.at/sites/files/bim/attachments/climmobil_synthesis_report_may_2022.pdf (Accessed:). (accessed July 29, 2022).

Arnall, A. (2014). A climate of control: flooding, displacement and planned resettlement in the Lower Zambezi River valley, Mozambique. *Geogr. J.* 180, 141–150. doi: 10.1111/geoj.12036

Arnall, A., Hilson, C., and McKinnon, C. (2019). Climate displacement and resettlement: the importance of claims-making 'from below'. *Climate Policy* 19, 665–671. doi: 10.1080/14693062.2019.1570065

Atapattu, S., and Schapper, A. (2019). *Human Rights and the Environment*. Key Issues. Abingdon, Oxon/New York, NY: Routledge/earthscan.

Barnett, J., and Adger, N. (2003). Climate dangers and atoll countries. *Clim. Change* 61, 321–337. doi: 10.1023/B:CLIM.0000004559.08755.88

Bayrak, M. M., Marks, D., and Hauser, L. T. (2022). Disentangling the concepts of global climate change, adaptation, and human mobility: a political-ecological exploration in Vietnam's Mekong Delta. *Clim. Develop.* 1–10. doi: 10.1080/17565529.2022.2028596

Bettini, G., Nash, S. L., and Gioli, G. (2017). One step forward, two steps back? The fading contours of (in) justice in competing discourses on climate migration. *Geog. J.* 183, 348–358. doi: 10.1111/geoj.12192

Blondin, S. (2021). Staying despite disaster risks: place attachment, voluntary immobility and adaptation in Tajikistan's Pamir Mountains. *Geoforum* 126, 290–301. doi: 10.1016/j.geoforum.2021.08.009

Blouin Genest, G., and Sylvie Paquerot, S. (2016). Environmental human rights as a battlefield: a grammar of political confrontation. *J. Hum. Rights Environ.* 7, 132–154. doi: 10.4337/jhre.2016.01.06

Boas, I., Wiegel, H., Farbotko, C., Warner, J., and Sheller, M. (2022). Climate mobilities: Migration, im/mobilities and mobility regimes in a changing climate. *J. Ethn. Migr. Stud.* 48:3365–3379. doi: 10.1080/1369183X.2022.2066264

Bordner, A. S., Ferguson, C. E., and Ortolano, L. (2020). Colonial dynamics limit climate adaptation in Oceania: perspectives from the Marshall Islands. *Glob. Environ. Change* 61, 1–10. doi: 10.1016/j.gloenvcha.2020.102054

Burkett, M. (2020a). Behind the veil: Climate migration, regime shift, and a new theory of justice. *Harvard Civil Rights Civil Liberties Law Rev.* 53, 445–493.

Burkett, M. (2020b). Climate migration and the deep roots of climate justice. *Temp. L. Rev.* 93, 653. doi: 10.4324/9781003137825-38

Byravan, S., and Rajan, S. C. (2022). Cross-border migration on a warming planet: a policy framework. *Wiley Interdiscip. Rev. Clim. Chag.* 13, e763. doi: 10.1002/wcc.763

CEDAW Committee. (2018). *General Recommendation No. 37 (2018) on the Gender Related Dimensions of Disaster Risk Reduction in the Context of Climate Change (UN CEDAW/C/GC/37, 7 February 2018)*. Available online at: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_37_8642_E.pdf (accessed November 14, 2022).

Chattier, P. (2019). Beyond development impact: gender and care in the pacific seasonal worker program. *Gend. Dev.* 27:49–65. doi: 10.1080/13552074.2019.1570733

Clark, A. M. (2018). "What kind of justice for human rights?" in *Human Rights and Justice. Philosophical, Economic, and Social Perspectives*, eds M. Labonte and K. Mills, K. (Milton: Routledge), 14–32.

Client Earth (2019). *Climate threatened Torres Strait Islanders bring human rights claim against Australia*. Available online at: https://www.clientearth.org/latest/press-office/press/climate-threatened-torres-strait-islanders-bring-human-rights-claim-against-australia/ (accessed July 08, 2022).

Coelho, S. (2020). *Pacific Regional Policy Dialogue on Climate Mobility: Background Paper. Enhancing Protection and Empowerment of Migrants and Communities Affected by Climate Change and Disasters in the Pacific Region. IOM, UNESCAP, ILO, UNHCR, Platform on Disaster Displacement, PIFS*. Suva: IOM Fiji.

Coleman, J. (1992). Tort law and the demands of corrective justice. *Ind. L. J.* 67, 349–379.

Costa and Martin (2018). *Temporary Labor Migration Programs: Governance, Migrant Worker Rights, and Recommendations for the UN Global Compact for Migration*. Economic Policy Institute, Washington.

Cundill, G., Singh, C., Adger, W. N., De Campos, R. S., Vincent, K., Tebboth, M., et al. (2021). Toward a climate mobilities research agenda: intersectionality, immobility, and policy responses. *Glob. Environ. Change* 69, 102315. doi: 10.1016/j.gloenvcha.2021.102315

Directive 2011/95/EU of the European Parliament and of the Council of 13 December. (2011). *On Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for The Content of the Protection Granted (Recast)*. Available online at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095 (accessed November 14, 2022).

Dun, O, McMichael, C., McNamara, K., and Farbotko, C. (2022). Investing in home: development outcomes and climate change adaptation for seasonal workers living between Solomon Islands and Australia. *Migrat. Develop.* 11, 852–875. doi: 10.1080/21632324.2020.1837535

Duvat, V. K. E., Magnan, A. K., Perry, C. T., Spencer, T., Bell, J. D., Wabnitz, C. C. C., et al. (2021). Risks to future atoll habitability from climate-driven environmental changes. *WIRES Clim. Chang.* 12, e700. doi: 10.1002/wcc.700

Englard, I. (2009). *Corrective and Distributive Justice: From Aristotle to Modern Times*. Oxford: Oxford University Press.

Farbotko, C., Kitara, T., Dun, O., and Evans, C. (2022). A climate justice perspective on international labour migration and climate change adaptation among Tuvaluan workers. *Oxford Open Clim. Change*. 2, kgac002. doi: 10.1093/oxfclm/kgac002

Felli, R. (2013). Managing climate insecurity by ensuring continuous capital accumulation: climate refugees and climate migrants. *New Polit. Econ.* 18, 337–363. doi: 10.1080/13563467.2012.687716

Fleischacker, S. (2004). *A Short History of Distributive Justice*. Cambridge: Harvard University Press.

Funk, C., Pedreros, D., Nicholson, S., Hoell, A., Korecha, D., Galu, G., et al. (2019). Examining the potential contributions of extreme "Western V" sea surface temperatures to the 2017 March-June East African drought. *Bull. Amer. Meteor. Soc.* 100, S55–S60. doi: 10.1175/BAMS-D-18-0108.1

Germanwatch (2022). *The Huaraz Case at a Glance*. Available online at: https://www.germanwatch.org/en/huaraz (accessed July08, 2022).

Heinrich Böll Stiftung (2021). *Unpacking Finance for Loss and Damage: Spotlighting the Finance Gap*. Available online at: https://us.boell.org/sites/default/files/2021-05/Spotlighting%20the%20Finance%20Gap%20-%20Loss%20and%20Damage%20brief%203.pdf (accessed July 08, 2022).

Hermann, E. (2017). "Climate change and worries over land: Articulations in the atoll state of Kiribati," in *Environmental Transformations and Cultural Responses: Ontologies, Discourses, and Practices in Oceania*, eds E. Dürr and A. Pascht (New York, NY: Palgrave Macmillan), 49–73.

Hermann, E., and Kempf, W. (2017). Climate change and the imagining of migration: Emerging discourses on kiribati's land purchase in Fiji. *Contemp. Pacific* 29, 231–263. doi: 10.1353/cp.2017.0030

Hermann, E., and Kempf, W. (2019). "Adaptation and the question of migration: Directions in dealing with climate change in Kiribati," in *Dealing with Climate Change on Small Islands: Towards Effective and Sustainable Adaptation?*, eds C. Klöck and M. Fink (Göttingen: Göttingen University Press), 293–312. doi: 10.17875/gup2019-1221

Hoffmann, L. (2020). *Climate Change and Human Rights: A Next Big Step for the Human Rights Committee? Völkerrechtsblog*. Available online at: https://voelkerrechtsblog.org/de/climate-change-and-human-rights-a-next-big-step-for-the-human-rights-committee/ (accessed July 08, 2022).

Horton, R. M., de Sherbinin, A., Wrathall, D., and Oppenheimer, M. (2021). Assessing human habitability and migration. *Science* 372, 1279–1283. doi: 10.1126/science.abi8603

Human Rights Committee (2020). *Views adopted by the committee under article 5(4) of the optional protocol, concerning communication No. 2728/2016, CCPR/C/127/D/2728/2016.*

Human Rights Committee. (2010). *Report of the Representative of the Secretary General on the Human Rights of Internally Displaced Persons, Walter Kälin, on His Mission to Somalia (14-21 October 2009), A/HRC/13/21/Add.2 (21 January 2010).*

Human Rights Committee. (2018a). *The Slow Onset Effects of Climate Change and Human Rights Protection for Cross-Border Migrants, A/HRC/37/CRP.4.*

Human Rights Committee. (2018b). *Addressing Human Rights Protection Gaps in the Context of Migration and Displacement of Persons Across International Borders Resulting from the Adverse Effects of Climate Change and Supporting the Adaptation and Mitigation Plans of Developing Countries to Bridge the Protection Gaps, A/HRC/38/21.* Available online at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/116/26/PDF/G1811626.pdf?OpenElement (accessed November 14, 2022).

Human Rights Committee. (2022). *Views Adopted by the Committee Under Article 5(4) of the Optional Protocol, Concerning Communication No. 3624/2019, CCPR/C/135/D/3624/2019*.

Human Rights Council. (2009). *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship Between Climate Change and Human Rights* (A/HRC/10/61, 15 January 2009). Available online at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/103/44/PDF/G0910344.pdf?OpenElement (accessed November 14, 2022).

Humphreys, S. (2014). Climate justice: the claim of the past. *J. Human Rights Environ*. 5, 134–148. doi: 10.4337/jhre.2014.02.09

Intergovernmental Panel on Climate Change (2022). *Climate change 2022: 2022, Working Group II Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge: Cambridge University Press.

Internal Displacement Monitoring Centre. (2021). *Global Report on Internal Displacement 2021*. Geneva: Internal Displacement Monitoring Centre.

Ishay, M. (2004). What are human rights? Six historical controversies. *J. Human Rights* 3, 359–371. doi: 10.1080/1475483042000224897

Jackson, L. C. (2022). *Vanuatu Government Launches Inquiry into Labour Schemes After Testimony from Workers in Australia*. Available online at: https://www.theguardian.com/world/2022/feb/23/vanuatu-government-launches-inquiry-into-labour-schemes-after-testimony-from-workers-in-australia (accessed November 16, 2022).

Jarillo, S., and Barnett, J. (2022). Repositioning the (Is)land: climate change adaptation and the atoll assemblage. *Antipode*. doi: 10.1111/anti.12814

Jessee, N. (2022). Reshaping Louisiana's coastal frontier: managed retreat as colonial decontextualization. *J. Political Ecol*. 29, 277–301. doi: 10.2458/jpe.2835

Kapur, K. (2006). Human rights in the 21st century: take a walk on the dark side. *Sydney Law Rev*. 28, 665–687. doi: 10.4324/9780203814031

Kita, S. M. (2019). Barriers or enablers? Chiefs, elite capture, disasters, and resettlement in rural Malawi. *Disasters* 43, 135–156. doi: 10.1111/disa.12295

Klepp, S., and Herbeck, J. (2016). The politics of environmental migration and climate justice in the Pacific region. *J. Human Rights Environ*. 7, 54–73. doi: 10.4337/jhre.2016.01.03

Knox, J. H. (2016). "Human rights principles and climate change," in *The Oxford Handbook of International Climate Change Law*, eds P. Cinnamon, C. P. Carlarne, K. R. Gray, and R. Tarasofsky (Oxford: Oxford University Press), 213–235.

Knox, J. H. (2020). Constructing the human right to a healthy environment. *Annu. Rev. Law Soc. Sci*. 16, 79–95. doi: 10.1146/annurev-lawsocsci-031720-074856

Korauaba, T. (2015). *The Returning Son of a Disappearing Nation*. Islands Business.

Labonte, M., and Mills, K. (2021). *Human Rights and Justice: Philosophical, Economic and Social Perspectives* (Oxon and New York, NY: Routledge).

Lindegaard, L. S. (2020). Lessons from climate-related planned relocations: the case of Vietnam. *Clim. Dev*. 12, 600–609. doi: 10.1080/17565529.2019.1664973

Mayer, B., and Cournil, C. (2016). "Climate change, migration and human rights: towards group-specific protection?" in *Climate Change and Human Rights: An International and Comparative Law Perspective*, eds O. Quirico and M. Boumghar (Abingdon, New York, NY: Routledge), 188–203.

McAdam, J. (2011). 'Climate change displacement and international law: complementary protection standards', in *Legal and Protection Policy Research Series*, UNHCR, Geneva. Available online at: http://www.unhcr.org/4dff16e99.html (accessed July 29, 2022).

McAdam, J. (2015). The emerging New Zealand jurisprudence on climate change, disasters and displacement. *Migr. Stud*. 3, 131–142. doi: 10.1093/migration/mnu055

McAdam, J. (2016). From the Nansen initiative to the platform on disaster displacement: shaping international approaches to climate change, disasters and displacement. *UNSW Law J*. 29, 1518–1546. doi: 10.2139/ssrn.2901910

McDonnell, S. (2021). The importance of attention to customary tenure solutions: slow onset risks and the limits of Vanuatu's climate change and resettlement policy. *Curr. Opin. Environ. Sustain*. 50, 281–288. doi: 10.1016/j.cosust.2021.06.008

Murphy, K. (2020). *Australia asks to Dismiss Torres Strait Islanders' Claim Climate Change Affects their Human Rights The Guardian – Australia*. Available online at: https://www.theguardian.com/australia-news/2020/aug/14/australia-asks-un-to-dismiss-torres-strait-islanders-claim-climate-change-affects-their-human-rights (accessed July 08, 2022).

Mutua, M. (2001). Savages, victims, and saviors: the metaphor of human rights. *Harv. Int. Law J*. 42, 201–245.

Naser, M. M., Swapan, M. S. H., Ahsan, R., Afroz, T., and Ahmed, S. (2019). Climate change, migration and human rights in Bangladesh: perspectives on governance. *Asia Pacific Viewpoint* 60, 175–190. doi: 10.1111/apv.12236

Nash, S. L. (2018). "Between rights and resilience: struggles over understanding climate change and human mobility," in *Human Rights and Justice* (Abingdon: Routledge), 123–144.

Neemia, U., and Thaman, R. (1993). "The environment and sustainable development," in *Atoll Politics: The Republic of Kiribati, eds H. van Trease* (Christchurch; Suva: Macmillan Brown Centre for Pacific Studies; University of Canterbury; Institute of Pacific Studies, University of the South Pacific), 285–301.

Neu, F. N., and Fünfgeld, H. (2022). Political ecologies of resettlement in river deltas. *Geograph. Compass*. 16, e12621. doi: 10.1111/gec3.12621

Nyantakyi-Frimpong, H., and Dinko, D. H. (2022). "Climate and non-climatic stressors, internal migration, and belonging in Ghana," in *Displacement, Belonging, and Migrant Agency in the Face of Power* (London: Routledge), 153–165.

Otto, D. (2013). "International human rights law: towards rethinking sex/gender dualism and asymmetry," in *A Research Companion to Feminist Legal Theory*, eds M. Davies and V. Munro (Farnham: Ashgate), 197–215.

Our Islands Our Home (2019a). *Our Islands Our Home*. Available online at: https://ourislandsourhome.com.au/ (accessed July 08, 2022).

Our Islands Our Home (2019b). *Our Story*. Available online at: https://ourislandsourhome.com.au/about-the-campaign/about-the-campaign-copy/ (accessed July 08, 2022).

Our World in Data (2022). *CO2 Emissions*. Available online at: https://ourworldindata.org/co2-emissions (accessed July 08, 2022).

Pain, N. (2021). "Human rights law can drive climate change mitigation," in *Debating Climate Law*, eds B. Mayer, and A. Zahar (Cambridge: Cambridge University Press), 145–158.

Paprocki, K. (2020). The climate change of your desires: climate migration and imaginaries of urban and rural climate futures. *Environ. Plan D*. 38, 248–266. doi: 10.1177/0263775819892600

Parliament of the Republic of Fiji (2019). *An Act to Establish a Trust Fund for the Planned Relocation of Communities in Fiji that are Adversely Affected by Climate Change*. Available online at: https://www.parliament.gov.fj/wp-content/uploads/2019/07/Act-21-Climate-Relocation-of-Communities-Trust-Fund.pdf (accessed July 08, 2022).

Parsons, L. (2019). Structuring the emotional landscape of climate change migration: towards climate mobilities in geography. *Prog. Hum. Geogr*. 43, 670–690. doi: 10.1177/0309132518781011

Piguet, E. (2022). Linking climate change, environmental degradation, and migration: an update after 10 years. *Wiley Interdiscip. Rev. Clim. Change* 13, e746. doi: 10.1002/wcc.746

Pogge, T. (1989). *Realising Rawls*. Ithaka: Cornell University Press.

Rawls, J. (1999). *A Theory of Justice*. Cambridge: Harvard University Press.

Saad, A. (2017). Toward a justice framework for understanding and responding to climate migration and displacement. *Environ. Justice* 10, 98–101. doi: 10.1089/env.2016.0033

Sanerivi, S. (2022). *Cabinet Agrees to Temporarily Halt Seasonal Worker Flights. Samoa Observer*. Available online at: https://www.samoaobserver.ws/category/samoa/97438?utm_content=buffer79980&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer&fbclid=IwAR3SQ9f_xl_Ya6JZlZzbWZD-IB-jTat_u-77YiPFBeebjfDwdQp_1if9kws (accessed November 16, 2022).

Savaresi, A. (2021a). *The UN HRC Recognizes the Right to a Healthy Environment and Appoints a New Special Rapporteur on Human Rights and Climate Change*. What does it all mean? Blog of the European Journal of International Law. Available online at: https://www.ejiltalk.org/the-un-hrc-recognizes-the-right-to-a-healthy-environment-and-appoints-a-new-special-rapporteur-on-human-rights-and-climate-change-what-does-it-all-mean/?s=09 (accessed July 29, 2022).

Savaresi, A. (2021b). Human rights and the impacts of climate change: revisiting the assumptions. *Onati Socio-Leg. Ser*. 11, 231–253. doi: 10.35295/OSLS.IISL/0000-0000-0000-1143

Schapper, A. (2018). Climate justice and human rights. *Int. Relat*. 32, 275–295. doi: 10.1177/0047117818782595

Sen, A. (2009). *The Idea of Justice*. Cambridge: Harvard University Press.

Sheller, M. (2018). *Mobility Justice*. New York, NY: Verso.

Steffens, W., Hunter, J., and Hughes, L. (2014). *Counting the Costs: Climate Change and Coastal Flooding. Climate Council*. Available online at: https://www.climatecouncil.org.au/uploads/coastalflooding.pdf (accessed July 08, 2022).

Szabó, M. (2019). "Right to environment," in *Elgar Encyclopedia of Human Rights*, eds C. Binder, M. Nowak, J. A. Hofbauer, and P. Janig (Cheltenham; Northampton: Edward Elgar).

Tamu, K. (2019). In Client Earth. (2020). *Torres Strait Islanders Win Key Ask After Climate Complaint*. Available online at: https://www.clientearth.org/latest/latest-updates/news/torres-strait-islanders-win-key-ask-after-climate-complaint/ (accessed July 08, 2022).

Thornton, F. (2018). *Climate Change and People on the Move: International Law and Justice*. Oxford: Oxford University Press.

Thornton, F. (2021). "The absurdity of relying on human rights law to go after emitters," in Debating Climate Law, eds B. Mayer and A. Zahar (Cambridge: Cambridge University Press), 159–169.

Thornton, F., James, S., Dun, O., Farbotko, C., McNamara, K., McMichael, C., et al. (2021). Policy developments and options to address human mobility in the context of climate risk in the Pacific Islands region. Pacific Climate Change Migration and Human Security Policy Brief Series No PUB2021/085/R, International Organization for Migration.

Tong, A. (2008). Statement by His Excellency Anote Tong, President of the Republic of Kiribati. *The General Debate of the 63rd Session of the United Nations General Assembly*. United Nations.

Turhan, E., Zografos, C., and Kallis, G. (2015). Adaptation as biopolitics: why state policies in Turkey do not reduce the vulnerability of seasonal agricultural workers to climate change. *Glob. Environ. Change* 31, 296–306. doi: 10.1016/j.gloenvcha.2015.02.003

Tuvalu National Labour Migration Policy. (2014). *Ministry of Foreign Affairs, Trade, Tourism, Environment and Labour, Government of Tuvalu*, Funafuti. Available online at: https://www.unescap.org/resources/tuvalu-national-labour-migration-policy (accessed March 21, 2022).

Uan, L., and Anderson, J. (2014). "Climate displacement and kiribati: notes from the frontline," in *Land Solutions for Climate Displacement*, ed Scott Leckie (London and New York, NY: Routledge), 228–250.

UNFCCC (2022). *Partnerships to Advance Climate Risk Insurance Approaches*. Grenada, Jamaica: St Lucia. Available online at: https://unfccc.int/climate-action/momentum-for-change/financing-for-climate-friendly/establishing-partnerships-to-advance-climate-risk-insurance-approaches (accessed July 08, 2022).

UNGA (2012). *Human Rights of Migrants. Report of the Special Rapporteur on the human Rights of Migrants (UN Doc A/67/299, 13 August 2012)*. Available online at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N12/460/71/PDF/N1246071.pdf?OpenElement (accessed November 14, 2022).

UNGA. (2018). *Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment (UN Doc A/73/188, 19 July 2018)*. Available online at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/231/04/PDF/N1823104.pdf?OpenElement (accessed November 14, 2022).

UNGA. (2022). *The Human Right to a Clean, Healthy and Sustainable Environment (UN Doc A/76/L. 75 26 July 2022)*. Available online at: https://documents-dds-ny.un.org/doc/UNDOC/LTD/N22/436/72/PDF/N2243672.pdf?OpenElement (accessed November 14, 2022).

UNGA/HRC (2020). *Situation of Human Rights in Somalia. Report of the Independent Expert on the Situation of Human Rights in Somalia (A/HRC/45/52, 24. August 2020)*. Available online at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/215/04/PDF/G2021504.pdf?OpenElement (accessed November 14, 2022).

UNGA/HRC. (2018). *Report of the Independent Expert on the Situation of Human Rights in Somalia (A/HRC/39/72, 19. July 2018)*. Available online at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/229/55/PDF/G1822955.pdf?OpenElement (accessed November 14, 2022).

UNHCR (2020). *UN Human Rights Committee Decision on Climate Change is a Wake-Up Call, According to UNHCR; 24 January 2020*. Available online at: https://www.unhcr.org/news/briefing/2020/1/5e2ab8ae4/un-human-rights-committee-decision-climate-change-wake-up-call-according.html (accessed March 26, 2020).

United Nations High Commissioner for Human Rights. (2017). *A/HRC/37/35: Summary of the Panel Discussion on Human Rights, Climate Change, Migrants and Persons Displaced across International Borders*. United Nations. Available online at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/340/80/PDF/G1734080.pdf? (accessed April 4, 2022).

Urgenda Foundation vs. State of the Netherlands (2019). Supreme Court of the Netherlands, 20 December 2019, ECLI:NL:HR:2019:2006, English translation ECLI:NL:HR:2019:2007.

Voigt-Graf, C., and Kagan, S. (2017). *Migration and Labour Mobility from Kiribati*. Development Policy Centre Discussion Paper No. 56. doi: 10.2139/ssrn.2937416

Weinrib, E. J. (1992). Corrective justice. *Iowa Law Rev.* 77, 403–427.

Whyte, K. L., Talley, J., and, Gibson, J. (2019). Indigenous mobility traditions, colonialism, and the anthropocene. *Mobilities* 14, 319–335. doi: 10.1080/17450101.2019.1611015

Wiegel, H., Boas, I., and Warner, J. (2019). A mobilities perspective on migration in the context of environmental change. *Wiley Interdiscip. Rev. Clim. Change* 10, e610. doi: 10.1002/wcc.610