A COMPARATIVE ANALYSIS OF LEGAL PRACTICES TO CLIMATE-INDUCED MIGRATION IN ITALY AND SWEDEN

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ABSTRACT

A COMPARATIVE ANALYSIS OF LEGAL PRACTICES TO CLIMATE-INDUCED MIGRATION IN ITALY AND SWEDEN

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This thesis analyses two European Union Member States' approaches to climate-induced migration. The primary aim of this study is to evaluate the gap in international law to address this category of migrants by bringing together case studies, global policy responses, and normative issues from the angle of human rights and international law. This thesis questions the different practices between EU states toward environmentally forced migrants by employing a human rights lens for climate-induced migration that is not protected under current treaties and conventions. The first section explains the climate and migration nexus. Later, the climate-induced migration's historical and conceptual framework is explored. Then, the normative power of the EU and its human rights regime is examined. Finally, comparing Sweden's and Italy's approaches toward climate-induced migrants are discussed within the framework of the EU's human rights regime. As this thesis supports, the state-based understanding and the particularist practice lays the groundwork for human rights violations against many people who are or will be displaced as a result of climate change.

Keywords: climate-induced migration, human rights, European Union, Italy, Sweden

ÖZ

İKLİM KAYNAKLI GÖÇ KARŞISINDA İTALYA VE İSVEÇ'İN YASAL UYGULAMALARI ÜZERİNE KARŞILAŞTIRMALI BİR ANALİZ

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Bu tez, iki Avrupa ülkesinin iklim kaynaklı göçe yaklaşımını analiz etmektedir. Bu çalışmanın temel amacı, insan hakları ve uluslararası hukuk açısından vaka incelemelerini, uluslararası politika yanıtlarını ve normatif konuları bir araya getirerek bu göçmen kategorisini ele almak için uluslararası hukuktaki boşluğu değerlendirmektir. Bu tez, mevcut anlaşmalar ve sözleşmeler kapsamında korunmayan iklim kaynaklı göç için insan hakları merceği kullanarak, AB devletleri arasındaki çevresel zorunlu göçmenlere yönelik farklı uygulamaları sorgulamaktadır. İlk bölüm iklim ve göç ilişkisini bilimsel verilere ve analizlere atıfta bulunarak açıklamaktadır. Daha sonra iklim kaynaklı göçün tarihsel ve kavramsal çerçevesi araştırılmaktadır. Ardından AB'nin normatif gücü ve insan hakları rejimi incelenmektedir. Son olarak seçilen iki AB üyesi ülke olan İsveç ve İtalya'nın iklim kaynaklı göçmenlere yaklaşımlarının karşılaştırılması AB'nin insan hakları rejimi çerçevesinde tartışılmaktadır. Bu tezin de desteklediği gibi, devlet temelli anlayış ve partikülarist yaklaşım, iklim değişikliği nedeniyle yerinden edilmiş veya edilecek birçok kişiye yönelik insan hakları ihlallerine zemin hazırlamaktadır.

Anahtar Kelimeler: iklim kaynaklı göç, insan hakları, Avrupa Birliği, İtalya, İsveç

To the people who care for our world

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LIST OF ABBREVIATIONS

EC	European Commission
CEAS	Common European Asylum System
CIM	Climate-Induced Migration
CJEU	Court of Justice of the European Union
CoO	Country of Origin
DP	Displaced Persons
ECtHR	European Court of Human Rights
EJF	The Environmental Justice Foundation
EU	European Union
GHGs	Greenhouse Gases
HRC	Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
IDMC	Internal Displacement Monitoring Centre
IDP	Internally Displaced Persons
IEL	International Environmental Law
IOM	International Organization for Migration
IPCC	Intergovernmental Panel on Climate Change
SIDS	Small Island Developing States
SMA	Swedish Migration Agency
UN	The United Nations
UNFCCC	The UN Framework Convention on Climate Change
UNHCR	The United Nations High Commissioner for Refugees
UDHR	Universal Declaration of Human Rights

CHAPTER 1

INTRODUCTION

Analyzing climate-induced migration (CIM) requires a conjunction of social and natural sciences. As more researchers conduct their studies with multidisciplinary approaches, there is a need for better knowledge of climate-induced migration. Various institutions and researchers present their analyses of climate-induced migration through reports under multiple funds, covering everything from the numbers of vulnerable people who will be impacted and forced to leave their places due to climate change to their migration routes and possible destination countries. Most of this research reveals that there is a relationship between migration and climate change[1], and they show that some regions that have become more vulnerable to global warming, both economically and socially, contributing to already existing drought, disasters, floods, and diseases, cope with this situation by resorting to migration. However, these reports typically only briefly mention what to do in the form of policy suggestions when exposed to migration movements as a result of environmental issues. Therefore, the question remains of how to address these people who flee due to climate change-induced causes and how receiving states should implement their policies for environmentally forced migrants.

Migration and climate change are both crucial issues for the agendas of international actors, such as the UN (United Nations) and the EU (European Union). Both subjects have been examined under various sub-headings of International Relations (IR) Discipline, such as environment, security, human rights, and refugee regime, by

[1] IPCC. (1990). *Climate Change: The IPCC Scientific Assessment: Final Report of Working Group I.* Cambridge University Press; Myers N., Kent J. (1995). "Environmental Exodus, an emergent crisis in the global arena". *Climate Institute Magazine*; Foresight, (2011). "Foresight: Migration and Global Environmental Change. Final Project Report". The Government Office for Science, London

respective institutions and academics. Both climate change and migration, mostly separately, are frequently covered in the media and used by politicians, sometimes leading to public opinion differences. The main research question this thesis is trying to answer is "What are the implications of the lack of an EU Regulation regarding climate-induced migration in Italy and Sweden?" The reason for choosing this question lies within the possible challenges arising from the fact that the member states under the EU, which is known for its normative power, take their own steps and differ in practice since international mechanisms do not have a definition and protection for environmentally forced migrants.

What is believed the most when it comes to climate-induced migration is that it occurs when there is a natural disaster or emergency. In comparison, disasters such as hurricanes, floods, tsunamis, earthquakes, nuclear accidents, and forest fires cause short-term and temporary displacement. However, suppose the environment is completely destroyed, and there are no homes to live in anymore, or the livelihoods of the habitants are permanently destroyed. In that case, the returns of these migrants cannot be possible. The incidents that lead to drought and food insecurity cause long-term results as it threatens human life in the long run. Armed conflicts arising from scarce sources, environmental degradation, drought, famine, and rising sea levels are the occurrences that are more challenging to resolve, resulting in long-term and irreversible migration. These also constitute push factors for migrants that are difficult to indicate while seeking international protection in the host country because of their subtleness.

Prospective migration scenarios of how many people will face displacement due to climate change are being prepared almost constantly. The European Commission's Competence Centre on Foresight states that between 25 million and 1 billion people might be displaced due to harsh weather, drought, sea-level rise, and other effects of climate change by 2100, and millions of people in developing countries might be

harmed by coastal storm surges.[2] These estimates are made based on existing scientific data. Looking at some recent reports on the environment's effect on migration is crucial to understand the current trends. In 2019, conflict and disasters caused 33.4 million people to be internally displaced across 145 countries and territories.[3] In 2020, conflict and disasters caused 40.5 million new internal displacements among 149 countries.[4] 38 million people were internally displaced in 141 different countries and territories in 2021 due to conflict, violence, and disasters [5] Although the numbers seem to have decreased compared to the previous two years, it should be noted that 2020 was the year of the Covid-19 Pandemic. Therefore, governments were prioritizing the combat against Covid-19, and people were experiencing travel restrictions all around the world.

Climate change is defined as changes in the climate brought on by global warming, which is caused by an increase in the concentration and volume of greenhouse gases in the atmosphere as a result of the use of fossil fuels, industrial production, and agricultural practices.[6] In addition to the reasoning and the short-term/long-term differentiation of the climate-induced migration, the regions that will be affected the most by the adverse effects of climate change are also on the agenda for researchers and decision-makers. Climate change will mainly affect developing countries and already vulnerable groups who are faced with famine and hunger, even though they do

[2] The European Commission, "Livelihoods at Risk", https://knowledge4policy.ec.europa.eu/foresight/topic/climate-change-environmental-degradation/online-resource/livelihoods-migration_en (accessed 15 June 2022)

[3] Internal Displacement Monitoring Centre (IDMC). "Global Report on Internal Displacement 2019", https://www.internal-displacement.org/global-report/grid2020/ (accessed 15 June 2022)

[4] Internal Displacement Monitoring Centre (IDMC). "Global Report on Internal Displacement 2020", accessed from https://www.internal-displacement.org/global-report/grid2021/ (accessed 15 June 2022)

[5] Internal Displacement Monitoring Centre (IDMC). "Global Report on Internal Displacement 2021", accessed from https://www.internal-displacement.org/global-report/grid2022/ (accessed 15 June 2022)

[6] European Commission, "Causes of Climate Change", https://ec.europa.eu/clima/climate-change/causes-climate-change_en (accessed 15 June 2022)

not contribute to the pollution that accelerates the process of warming the planet as much as developed countries.[7]

There are three primary debates on climate-induced migration, and all the other arguments revolve around these. The first is the terminological discussion about what to call people fleeing due to environmental reasons. The second is whether a separate agreement should be made for the people in this group, or we could make new adjustments/additions to the already existing conventions under the refugee rights regime or under the international environmental law (IEL). The third debate involves whether governments should see climate-induced migration as a security problem for their countries or a human rights issue to solve with global commitment. One of the main concerns within these debates is whether the already fragile refugee regime breaks down if climate change, the effects of which are evident day by day, cannot be prevented and leads the masses of people to accumulate on the borders.

The idea of an environmentally forced migrant has been researched starting from the 1970s. Nonetheless, the topic gained momentum during the 1990s. Although numerous researchers have examined the connection between migration and climate, there is no common term for people fleeing due to environmental reasons. “Climate refugees,” “environmental refugees," “environmental migrants," “climate migrants,” and “climate displaced persons” are some of the terms chosen to describe people in this category of migration.[8] The International Organization for Migration (IOM) only attempted to address this sort of migration in 2008 when it published its draft description of “environmental migrants.”[9]

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[7] Atapattu, S. (2015). *Human Rights Approaches to Climate Change: Challenges and Opportunities*. Routledge. pp.166

[8] Apap, J. (2019). “The concept of 'climate refugee' Towards a possible definition”. *European Parliamentary Research Service*. pp. 3-4

[9] IOM, (2008). “World Migration Report 2008: Managing Labour Mobility in the Evolving Global Economy”, https://publications.iom.int/books/world-migration-report-2008-managing-labour-mobility-evolving-global-economy (accessed 15 June 2022)

There might be different terms in use; however, in this thesis, the term "environmentally forced migrants" is going to be adopted. There are several reasons for this choice. Firstly, environmental migrants, environmentally displaced persons, and climate refugees all have different meanings, which will be explained in detail in the conceptual chapter of this thesis. Since these people are not legally considered refugees, it is preferred by this study to use the term "migrant" instead of "refugee." On the other hand, since the word "migrant" expresses voluntary action, the word "forced" is added to highlight the involuntariness of the action and the compelling push factors of the environment. Considering that it is a more general concept and will not cause confusion, the expression "climate-induced migration (CIM)" will be used to indicate the phenomenon of migration in this category.

People who are forced to leave their homes because of the effects of climate change are not recognised as refugees under international law. Article 1 of the 1951 Convention Relating to the Status of Refugees (Geneva Convention), referencing who is defined as a refugee, does not include the category of people forced to leave due to environmental reasons.[10] The main reason is that the 1951 Geneva Convention and its additional protocols are based on the *non-refoulement* principle deriving from the well-founded fear of being persecuted for race, religion, nationality, or membership of a particular social group or political opinion.[11] Due to this fear of persecution, the migrant is unable or unwilling to return to their country of origin (CoO). States should comply with the non-refoulment principle by not sending them back to their countries where they might face persecution.

As the Geneva Convention and its Additional Protocol are the primary documents that cover the rights and the responsibilities of refugees and states, some scholars suggest that there should be an additional protocol/agreement addressing environmental refugees, while some have argued that existing laws are already enough to protect the

[10] UNHCR, (1951). "Convention and Protocol Relating to the Status of Refugees", https://www.unhcr.org/3b66c2aa10 (accessed 15 June 2022)

[11] *Ibid.*

persons who flee their countries due to environmental concerns.[12] In fact, adding environmental factors to the refugee regime may put pressure on Geneva Convention. [13] The latest data show that more than 100 million people are forcibly displaced around the world[14] , and the numbers are rising due to conflicts and violence.

Like the UN, the EU does not have a legal framework for environmentally forced migrants. While Article 1 of the European Convention on Human Rights[15] (ECHR) states that members have an obligation to respect human rights and Article 18 of the EU Charter of Fundamental Rights explains that the right to asylum shall be given to those who need it under the 1951 Geneva Convention. The European Union, which is portrayed as a normative power, does not have a standard policy on environmentally forced migrants. Therefore, it is up to their member states to put their own policies regarding migration brought on by climate change into practice.

There are certain reasons why environmentally forced migrants are hard to define and protect under international law. There are three main challenges in evaluating environmentally forced migrants. The first of these challenges is that environmental reasons are related to other migratory factors, which means that most people decide to migrate not for a single reason but a combination of reasons. Therefore, it is challenging to differentiate the environment from other causes of migration. Secondly, most displaced people stay within the borders of the country where they reside and, therefore, cannot apply for refugee status. According to some studies, more people are displaced due to environmental pressure than are requesting refuge for the same reasons. Another challenge is that the majority of people struggling with climate

[12] McAdam, J. (2011). "Refusing 'Refuge' in the Pacific: (De)constructing Climate-Induced Displacement in International Law". *UNSW Law Research Series*. pp. 26

[13] Piguet, E., Pécoud, A., and de Guchteneire, P. (2011). "Migration and Climate Change: An Overview". *Refugee Survey Quarterly*. 30(3). pp. 21.

[14] "UNHCR: Global displacement hits another record, capping decade-long rising trend", UNHCR, (2022). 16 June, https://www.unhcr.org/news/press/2022/6/62a9d2b04/unhcr-global-displacement-hits-record-capping-decade-long-rising-trend.html (accessed 10 July 2022)

[15] European Court of Human Rights, (1950). "European Convention on Human Rights", https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c (accessed 15 June 2022)

effects try to adapt to the new conditions. So, they do not resort to migrating as the first thing because one needs the necessary means to start their journey to migrate, and this is not the case for many people. Additionally, sometimes people who flee return to their places after the situation is under control. Consequently, their migration is recorded as temporary. While working on environmental migration, important questions include how far migrants travel, how long they travel for, whether they might be able to go back to their homes in the future, and other reasons for their movements besides environmental causes.

Another discussion revolves around whether CIM will cause security problems or not for the nations in the case of thousands of people fleeing from disasters cumulating at the borders. CIM is often seen as a new security threat.[16] Some scholars believe environmental migration poses threats against collective security as well.[17] A large number of migrants are seen as security risks, especially for border security.[18] At the same time, climate change might add to the different economic, social, and political related instabilities acting as "a threat multiplier" and causing displacements in the already vulnerable regions and stirring the pot of conflicts resulting in a threat to regional security.[19] Although some critics have been cautioned about framing climate-induced migration with security issues,[20] other scholars do not see a problem in combining the alarmist approach with securitization.

The act of legal and normative frameworks for the protection of forced migrants due to environmental reasons is imperative to address the legal gaps and take action

[16] Homer-Dixon, T.F. (1994). "Environmental Scarcities and Violent Conflict: Evidence from Cases". *International Security*. pp.5–40

[17] Werz, M. & Hoffman, M. (2016). "Europe's twenty-first century challenge: climate change, migration and security". *European View*. 15. pp.145–154

[18] Kumar, C. (2014). "Climate Change in South Asia: A Framework of Sustainable Development and Human Security". *Journal of Environment Pollution and Human Health*. pp. 100

[19] McAdam, J. (2012). *Climate Change, Forced Migration and International Law*. Oxford University Press. pp. 44

[20] Hartmann, B. (2010). "Rethinking Climate Refugees and Climate Conflict: Rhetoric, Reality and the Politics of Policy Discourse". *Journal of International Development*. 22(2). pp. 233–246.

accordingly. The United Nations Human Rights Committee (HRC) stated that it is unlawful to send environmentally displaced persons back to their country if climate change has threatened that person's life. [21] Even though the Committee denied protection regarding the case of Teitiota v. New Zealand,[22] also portrayed as the world's first climate refugee, it is still a crucial landmark by a UN institution to draw attention to the CIM and recognize the threats caused by climate change.

Interest in environmental migration has grown recently and is likely to continue in the future, as estimations show that more people will be displaced due to climate change. CIM has previously been researched at the EU, the UN, and regional levels, where different models and policies have been proposed. Still, no comparison has been made between EU member states, especially from a human rights-based approach. Even though the comparison of how climate-induced migration is facing similar or different approaches in two different European countries, this thesis will not have a policy recommendation section and will not favor one system over the other. Its primary goal is to draw attention to this issue by exploring the complex link between climate change and migration and stimulating a new thought process by comparing different views.

The research question of this thesis is "What are the implications of the lack of an EU Regulation regarding climate-induced migration in Italy and Sweden?" While this thesis examines the different practices toward CIM among the two EU states, it argues that the gap in international law and particular approaches can lead to human rights violations. Therefore, a universal norm should be established under a legally binding agreement.

This thesis employs purposive sampling as a methodology, and it is based on three criteria: 1) Two countries that are EU member states and exposed to EU's legal and

[21] "UN Human Rights Committee decision on climate change is a wake-up call, according to UNHCR", (2020). UNHCR, 24 January, https://www.unhcr.org/news/briefing/2020/1/5e2ab8ae4/un-human-rights-committee-decision-climate-change-wake-up-call-according.html (accessed 10 July 2022)

[22] UN Human Rights Committee, (2020). "Ioane Teitiota v New Zealand", 7 January, https://www.refworld.org/cases,HRC,5e26f7134.html (accessed 20 August 2022)

normative practices 2) Two countries that have somewhat of a stand against the CIM. Italy and Sweden are two of the three members of the EU that have temporary protection for disasters in their legislation. 3)Two countries that are subjected to migratory movements, either from their geographic location or from the attractiveness of the accessible rights they grant to migrants. This qualitative research is focused on two case studies to provide the necessary comparison between different national adaptation plans. This thesis is a desk study using both primary and secondary sources where the literature review and the overall analysis are based on academic journals, books, articles, government and non-governmental organizations' publications, policy papers from Italy and Sweden, legal documents, court decisions, speeches of the public figures in the EU and the UN and websites regarding CIM and its core concepts.

Italy is geographically close to the regions vulnerable to climate change and is one of the five EU countries that receive the most asylum seekers.[23] On the other hand, even though Sweden has received relatively few applications lately, it is an attractive destination country for many asylum seekers due to its take on having a positive attitude toward immigration.[24] Both countries granted temporary protection to people who could not return to their countries due to environmental disasters on paper. They are two of the three EU members, along with Finland, that can provide this type of protection to people suffering from the effects of climate change.[25] Yet, there are differences in how these members practice these provisions or if they practice them at all. Therefore, this thesis supports the importance of investigating the reasons and consequences of the different legal practices between EU countries, as there is no international or EU-level protection instrument available to environmentally forced migrants. This thesis also suggests there is a connection between awareness of climate change and awareness of climate-induced migration. When a state acknowledges the

[23] EuroStat, (2022). "Asylum quarterly report". https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_quarterly_report#Where_do_asylum_applicants_go_to.3F (accessed 10 July 2022)

[24] Isaksen, J. V. (2020). "The framing of immigration and integration in Sweden and Norway: A comparative study of official government reports". *Nordic Journal of Migration Research*. 10(1). pp. 106-124

[25] Tyler, H. (2022). "Climate Migration: The State of Play on National, International, and Local Response Frameworks". Immigration Project. pp. 2

consequences of climate change, it is more likely to be prepared for climate-induced migration.

In the light of the discussion above, this thesis aims mainly to explore the contextualizing of migration and climate change nexus and to provide a summary of the main results, knowledge gaps, and comparison at different levels with a universalist human rights approach. It will also go beyond the challenges regarding the evaluation and discuss what kind of solution can be offered for environmentally forced migrants.

This thesis consists of three chapters following the introduction. The first chapter introduces the relationship between climate and migration. The drivers of migration, the effects of climate change, and the historical background of climate-induced migration will be explained by diving into definitional and legal debates. In this section, the challenges of differentiating this type of migration from other types will be analyzed. In doing so, multicausality will be used as the main heading. In this chapter, the perspective of the United Nations on the subject and the steps they have taken in this field will also be explored. At the same time, regional agreements and regulations and different approaches around the world will be given as examples. The main goal of this part is to understand whether we can extend the term refugee to the people who flee their country due to the consequences of climate change with respect to the human rights agreements that legally bind states.

The second chapter constitutes the theoretical basis of the thesis. This chapter will explain the human rights regime and go over the vulnerabilities of environmentally forced migrants and the principle of protection based on refugee and environmental law. Then, the normative power of the European Union will be evaluated. The purpose of this section is to explore whether a mechanism that the EU can set an example that is appropriate and feasible based on the principle of protection and human rights. This chapter suggests that it is possible to establish a mechanism with a universalist theory.

The third chapter reviews the approaches of Italy and Sweden toward climate-induced migration by explaining the refugee regimes of the selected two European Union

countries and comparing their policies regarding environmentally forced migrants. In doing so, it will try to explain different policies in the form of a cause-and-effect relationship and illustrate human rights violations that might arise from the differences in practice due to the particularist approach. Particularism here does not refer to extreme particularism, where no obligation for moral duties is accepted, but rather a particularism where the actions of the states are limited due to their capacities and concerns.

The conclusion will discuss the overall findings and examine the consequences of the different national responses toward climate-induced migration with respect to human rights.

This thesis has potential limitations in accessing data when examining local court decisions of countries. Therefore, it only includes case examples from translated sources. Although there is no time limitation within this thesis, it primarily focuses on the developments and data collected in the last ten years to stay up to date.

CHAPTER 2

THE LINK BETWEEN CLIMATE AND MIGRATION

This chapter serves as an introduction to getting to know people who migrate for environmental reasons. First of all, in the first section of this chapter, the views of different academics on the causes of migration will be explained. Due to various reasons such as socio-economic reasons, brain drain, wars, and natural disasters, people voluntarily or forcibly relocate. This chapter will be a guide to briefly define different terms and types related to migration.

Then, under the second section, various effects of climate change on the world will be briefly mentioned in light of scientific data published by ecologists and climatologists who have been analysing the impact of industrialization on global warming. In this sense, climate change will be explored through its fast and slow effects and its influence on migratory flows.

Under the third title, the literature on climate-induced migration will be revealed historically, conceptually, and legally. In this section, reasons for using different terms will be discussed. From a legal perspective, the place of environmental migration in international law will be examined. Although the perspectives of both the UN and regional agreements show that awareness regarding CIM has been slowly built, attention will be drawn to the gap created by the lack of binding and practical use in international law.

Finally, the difficulties of distinguishing environmental migration from other types of migration will be acknowledged by using the multicausal nature of the phenomenon.

1.1 Drivers of Migration

Even though scientists are still discovering many hidden things about the human race, they found out that homo sapiens appeared in Africa 300,000 years ago[26], and our species have been to every continent ever since. It is known that our ancestors settled near the watersides due to agricultural practices and animal husbandry. The people who migrated from the mountainous areas, which had limited resources due to population growth, to the watersides formed the first civilian population in Mesopotamia.[27] Humans have been on the move since the beginning of time, whether to fill their stomachs, seek new adventures, or escape persecution. For example, the Irish Potato Famine caused great hunger amongst communities who relied on potatoes for nutrition due to a disease called late blight destroying crops. Between 1845 - 1851, one million Irish died, and another one-and-a-half million migrated.[28]

Migration is the movement of an individual or group of individuals away from their current habitats. There are different types of migration. Internal displacement happens within a country's borders, whereas international migration refers to a movement involving crossing borders. Regular migration is orderly, whereas irregular migration happens without the control of the state. A regular migrant can be irregular if they break certain rules and regulations, such as by continuing to stay in the country when their residence permit expires, etc. Sudden migration flows are usually involuntary ones. After a disaster, pandemic outbreak, or war, people don't have time to think and plan ahead. They usually hurry to seek a safe haven. On the other hand, the response of the host country also varies depending on the size and frequency of the migration wave, the pre-existing economic and social structure in the country, and in other words, how prepared they are.

[26] Callaway, E. (2017). "Oldest Homo sapiens fossil claim rewrites our species' history". *Nature*

[27] Brown, O. (2007). "Climate change and forced migration: Observations, projections and implications, Fighting climate change: Human solidarity in a divided world". Occasional paper of the Human Development Report Office for the Human Development Report 2007/2008 of United Nations Development Program. pp. 14

[28] McConnell, A. A. & Reid, D. T. (1998). "The Irish Famine: A Century and a Half On". *Journal of the Royal College of Physicians of Edinburgh*. 28(3). pp. 383

There have been numerous studies done by researchers and policymakers to discover the reasons for migration. One of the best-known ones is Lee's push and pull theory from 1966. Emigration occurs due to unpleasant factors or ways of livings that push people away from their current residence, and immigration occurs when people are pulled by attractive factors.[29]

One of the prominent areas in migration studies to explain why people migrate is economic reasons. Three main migration models that revolve around the economic motives of migration. The first one is based on wage differences. People migrate to places where they earn more money.[30] The second category suggests it is more to do with the differences in expected wages. [31] The New Economics of Labour Migration model composes the final type, which suggests that families use migration as a strategy to maximize expected profits while minimizing risks.[32]

Most countries are faced with emigration and immigration.[33] A country that predominantly receives immigrants may become an emigrant country through changes in various variables such as political, economic, environmental, or political situations. Apart from the economic, social, and political factors environment also plays a role in migration decisions, although the environment alone cannot be the only reason people migrate. People migrate for various political, economic, and social reasons. [34] Economic and environmental reasons for migration may be intertwined as many people living in developing regions live off of jobs that require dealing with nature, such as agriculture. In 2020, 928 million people in the world were struggling to sustain

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[29] Lee, E. S. (1966). "A Theory of Migration". *Demography*. 3(1). pp.47–57

[30] Lilleør, H.B. and Van den Broeck, K. (2011). "Economic drivers of migration and climate change in LDCs". *Global Environmental Change*. 20(1). pp. 71

[31] *Ibid*.

[32] Porumbescu, A. (2015). "Defining the new economics of labor migration theory boundaries: a sociological-level analysis of international migration". *RSP*. 45. pp. 56

[33] Castles, S., de Haas, H., & Miller, M. J. (2014). *The Age of Migration*. Guilford Press. pp. 14

[34] Black, R., Bennett, S. R., Thomas, S. M., & Beddington, J. R. (2011). "Climate change: Migration as adaptation". *Nature*. 478(7370). pp. 448

food as climate change plays a critical role in global hunger.[35] Therefore, people choose to migrate when there are scarce resources due to the adverse effects of climate change, and it is getting hard to put food on the table. This choice might be seen as the only resort for some individuals determining the forced aspect of migration.

It is surely challenging to divide migration into voluntary and forced migration. The concept of being forced can remain subjective. This subjectivity can confuse researchers and policymakers. Generally, those fleeing wars and political conflicts resulting in fear of persecution are classified as forced and therefore granted asylum. In the literature, while the rest are classified as voluntary migrants, the questions such as "Do migrants have to cross borders or do they stay within the country they reside in?" "What are the conditions in their country of origin?" and "Will they be able to return after a period of time?" arise, and decision-makers and researchers need to consider these questions while evaluating the volunteerism of the actions.

1.2 Effects of Climate Change

Climate change is described as any identifiable change in climate within time caused by either nature-driven reasons or the actions of humans.[36] Even though the sceptics and deniers of climate change remain[37], many researchers have proven that global warming has been affected by human activities for at least the last 2000 years.[38] In order to prevent the greatest climate catastrophes, global warming must be kept to a

[35] *Ibid.*

[36] Bernstein, L., Bosch, P., Canziani, O., Chen, Z., Christ, R., Davidson, O., Hare, W., Huq, S., Karoly, D. J., Kattsov, V., Kundzewicz, Z., Liu, J., Lohmann, U., Manning, M., Matsuno, T., Meene, B., Metz, B., Mirza, M., Nicholls, N., ... Yobe, G. (2008). "Climate Change 2007 Synthesis report". Intergovernmental Panel on Climate Change. pp. 39

[37] Olaf, C. and Jørgensen, D. (2015). "Beyond 'deniers' and 'Believers': Towards a Map of the Politics of Climate Change." *Global Environmental Change*. pp.165

[38] IPCC, (2021). "Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis". Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. pp. 6

1.5°C limit, which cannot be reached with current promises and efforts as the average Earth's surface temperature is 1.1°C higher than before the industrialization period.[39]

The burning of fossil fuels, among other factors, escalates the greenhouse effect causing the warming of the planet by trapping the heat inside. This anthrophonic catastrophe compromises the safety and livelihoods of everyone. Many factors contribute to climate change and get affected by it. Biodiversity loss, forest fires, floods, extreme weather conditions, desertification, land degradation, and rising sea levels are some of the consequences of global warming. The concept of climate change was first recognized as an international issue at the Rio World Environment Summit in 1992.[40] However, scientific articles regarding the natural greenhouse effect have been written since the 19th Century.

Many studies have explored what the future may look like in the framework of climate change. One of the latest studies predicts that about 200 million people worldwide will be affected by the sea level rise by 2100.[41] This type of increase in sea levels will have a considerable impact, as even one meter can cause flooding in already vulnerable regions. Coastal communities are especially at risk.

Among the Small Island Developing States (SIDS) of the Pacific Ocean, the islands of Kiribati and Tuvalu have attracted media attention in recent years as the islands that have been sinking due to climate change. These Islands, where thousands of people live, will likely become completely uninhabitable due to the rising sea levels. The government of Tuvalu claims that the nine islands of Tuvalu are in danger of being submerged by sea-level rise and coastal erosion.[42] Kiribati, another island in the

[39] *Ibid*. pp. 5

[40] UN, (1992). "United Nations Conference on Environment and Development", https://www.un.org/en/conferences/environment/rio1992 (accessed 10 July 2022)

[41] Kulp, S.A. and Strauss, B.H. (2019). "New Elevation Data Triple Estimates of Global Vulnerability to Sea-Level Rise and Coastal Flooding." *Nature Communications*. 10 (1). pp.9

[42] "'One day we'll disappear: Tuvalu's sinking islands", (2019). *Guardian*, 16 May https://www.theguardian.com/global-development/2019/may/16/one-day-disappear-tuvalu-sinking-islands-rising-seas-climate-change (accessed 10 July 2022)

Pacific, is no different. The island has a population of 110 thousand of people, and some parts of it are expected to be underwater by 2050.[43]

What will happen to these people when their homeland gets underwater is a significant question. After some interviews with the people on the islands, it was understood that those islanders, who do not even have the word refugee in their language, do not want to leave their places and do not like the term 'refugee.' [44] The term refugee increases their vulnerability and gives them some rights as well as deprives them of some other rights. These deprived rights consist of the rights of being citizens. Even the former Prime Minister of Tuvalu, Enele Sopoaga, mentioned evacuating the islands was the last resort.[45] The Government of New Zealand came up with a humanitarian pilot visa for the people of the Pacific. However, this practice was rejected by the islanders themselves.[46]

The most crucial effect of global warming is usually observed in arid regions. Analysing drylands shows that environmental factors play an essential part in migration processes in countries such as Burkina Faso and Brazil.[47] The drought in countries like Madagascar is also causing famine for hundreds of thousands.[48] Due to drought, people who cannot practice agriculture and animal husbandry are forced to migrate.

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[43]Cop23, "Kiribati", https://cop23.com.fj/kiribati/ (accessed 10 July 2022)

[44] McAdam, J.& Loughry, M. (2009). "Inside Story", https://insidestory.org.au/we-arent-refugees/ (accessed 10 July 2022)

[45] "'One day we'll disappear: Tuvalu's sinking islands", (2019). Guardian, 16 May https://www.theguardian.com/global-development/2019/may/16/one-day-disappear-tuvalu-sinking-islands-rising-seas-climate-change (accessed 10 July 2022)

[46] Dempster, H. and Ober,K. (2020). "New Zealand's "Climate Refugee" Visas: Lessons for the Rest of the World", https://www.cgdev.org/blog/new-zealands-climate-refugee-visas-lessons-rest-world (accessed 10 July 2022)

[47] Neumann, K, Sietz, D, Hilderink, H, Janssen, P, Kok, M & van Dijk, H. (2015). "Environmental drivers of human migration in drylands - A spatial picture". *Applied Geography*. vol. 56. pp. 124

[48] "Southern Madagascar on brink of famine, warns WFP", (2021). *WFP*, 29 April, https://www.wfp.org/news/southern-madagascar-brink-famine-warns-wfp (accessed 10 July 2022)

Another effect of climate change is to escalate the frequency of disasters by creating abnormal and extreme situations in weather events. The increased frequency of disasters challenges vulnerable regions in terms of adapting and recovering. The Sendai Framework for Disaster Risk Reduction noticed that more than 1.5 billion people were affected by disasters from 2005 to 2015.[49] One of the case studies for Australia that examined the flows from 198 countries to Australia between 1980 and 2015 shows that while temperature does not have a huge impact on decisions to migrate, weather-related disasters have a huge impact on migratory flows.[50] According to the Environment Justice Foundation, an NGO founded in 1999 to work for environmental security and human rights, an estimated number of 41 people each minute are being displaced by extreme weather conditions.[51]

The graph below shows the internal displacements that happened worldwide in 2021. It is visible that in the data presented since 2012, the number of people displaced by disasters has always been higher than those displacements due to conflict and violence. Considering the conflicts and unstable environment due to the impacts of climate change and limited resources causing rivalries, environmental factors may also have a share in the numbers displaced due to conflicts. Therefore, the number of displaced people may be higher due to environmental reasons. In fact, it is claimed that the conflict in Syria has been influenced by the worst drought experienced between 2007 and 2010, which caused farming families to move to the urban due to crop failures.[52]

[49] United Nations, (2015). "Sendai Framework for Disaster Risk Deduction", https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_69_283.pdf (accessed 10 July 2022)

[50] Wesselbaum, D. (2019). "The Influence of Climate on Migration" *The Australian Economic Review*. 52(3). pp. 369

[51] Environmental Justice Foundation, "The urgent need for legal protections for climate refugees", https://ejfoundation.org/reports/the-urgent-need-for-legal-protections-for-climate-refugees (accessed 10 August 2022)

[52] Kelley CP, Mohtadi S, Cane MA, Seager R and Kushnir Y. (2015) "Climate change in the Fertile Crescent and implications of the recent Syrian drought". *PNAS*. pp. 3241

Urban centers were under strain due to the increased population, unemployment, and rising inequality, which eventually led to the emergence of political upheaval.[53]

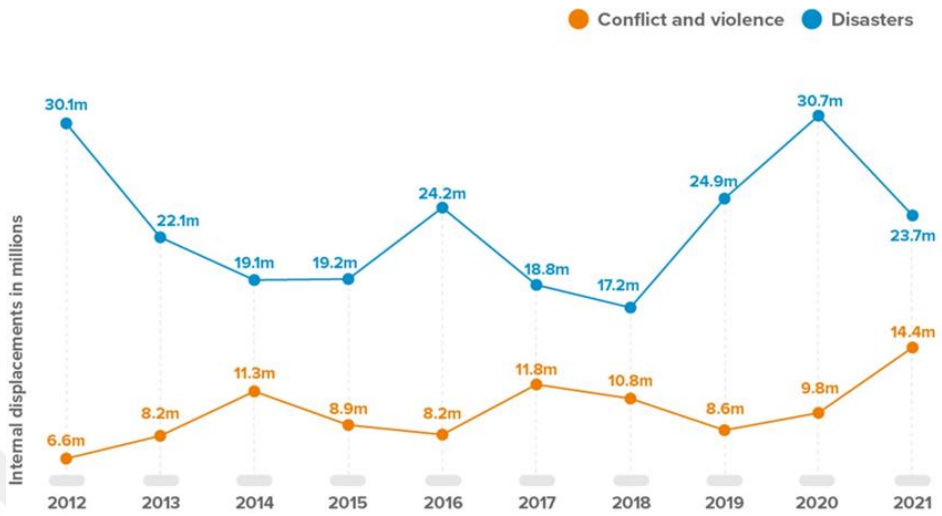


Figure 1: Internal displacements by conflict, violence, and disasters. Source: IDMC, Global Report on Internal Displacement, 2022, https://www.internal-displacement.org/global-report/grid2022/

The influence of climate change is being experienced everywhere. However, economically and politically, states that are already in vulnerable economic and political conditions are struggling the most due to their incapability to adapt to new conditions and recover from disasters. Examples vary from Afghanistan to Central America.[54] Migration is also affected by the severity of the disasters. [55]It is vital to acknowledge that the effects of climate change play an important role directly or indirectly among the causes of migration. Direct causes may include rising sea levels and natural disasters, while indirect causes may be derived from slow-onset climate changes such as drought and land degradation leading to conflict and violence. With

[53] Abel, G., Brottrager, M., Crespo Cuaresma, J., & Muttarak, R. (2019). "Climate, Conflict and Forced Migration". *Global Environmental Change*. pp.239

[54] UNHCR, (2021). "Displaced on the frontlines of the climate emergency", https://storymaps.arcgis.com/stories/065d18218b654c798ae9f360a626d903 (accessed 10 July 2022)

[55] Yavçan, B. (2021). "The influence of long-term environmental trends on migration Dynamics". Working Paper. MAGYC Project. pp.50

the given information, it is also vital to prioritize developing decision mechanisms to protect environmentally forced migrants considering the rising numbers of people affected by climate change.

1.3 Historical and Conceptual Background of Climate-Induced Migration

1.3.1 Definitional Background of CIM

El-Hinnawi and Jacobson were among the first people who came up with a term for climate-induced migration.[56] El-Hinnawi asserts that individuals whose lives are in danger as a result of environmental disruption are compelled to leave their area either permanently or temporarily.[57] Jacobson, on the other hand, both defined this category and explained the ecological issues that may cause discomfort to people. However, he was one of the critics of the word 'climate refugee' as it does not have a legal stand.[58]

Myers and Kent early on acknowledged and used the term "environmental refugees" in their studies. According to them, migration occurred with more than one driving factor, and some of these factors are landlessness, unemployment, and pandemic diseases.[59] Climate change cannot be the only form of change that drives people to migrate.[60] Forces resulting in any mobility are usually mixed. That is why official bodies like the United Nations experience challenges in addressing climate-induced migration because people often migrate due to political, social, or economic reasons combined. On the other hand, each person, even in the same household, may react

[56] Baldwin, W.A. and Methmann, C. and Rothe, D. (2014). "Securitizing 'climate refugees': the futurology of climate-induced migration". *Critical Studies on Security*. 2(2). pp.123

[57] El-Hinnawi, E. (1985). "Environmental Refugees". Report for the UN Environmental Program. pp. 4

[58] Jacobson, J. L. (1988). "Environmental Refugees: A Yardstick of Habitability". *Bulletin of Science, Technology & Society*. 8(3). pp. 257–258

[59] Myers N., Kent J. (1995). "Environmental Exodus, an emergent crisis in the global arena". *Climate Institute Magazine*. pp. 14

[60] Castles, S., de Haas, H., & Miller, M. J. (2014). *The Age of Migration*. Guilford Press. pp. 212

differently to migration drivers due to the factors such as age, sex, religion, income, health, etc.[61] Therefore, adaptation strategies depend on the person.

Some scholars divided this inclusive term into sub-categories to have a bigger picture in their research. Black split climate refugees into three categories: "those fleeing from desertification, those displaced by sea-level rise, and people migrating due to environmental conflicts." [62] Marshall categorized CIM. However, her study is more thorough with four parts that consist of "imperative environmentally displaced peoples, pressured environmentally displaced peoples, temporary environmentally displaced peoples, and human-induced environmentally displaced peoples."[63] The fourth one is particularly relevant because it emphasizes the link between climate and conflict, which some scholars have also focused on. Insufficient water resources, food shortages, extreme weather conditions, and natural disasters can increase the current tension in some regions and may trigger conflicts between different groups.

The boundaries between sub-groups have been fuzzy and not exclusive enough for a long period of time. Another classification made by Docherty for environmentally forced people separated the terms refugees and relocated people and divided them into sub-categories based on the periods of occurrences of the environmental effects.[64] Renaud, on the other hand, used the terms "environmental emergency migrants," "environmentally forced migrants," and "environmentally motivated migrants."[65] The difference between these concepts depends on the scope of the possible disaster's risk and the actual disaster's occurrence, meaning that the environment for a person can be

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[61] Arenstam Gibbons, S., Nicholls, R.J. (2005). "Island abandonment and sea-level rise: An historical analog from the Chesapeake Bay, USA". *Global Environmental Change*. 16 (1). pp. 40-47

[62] Black,R. (2001). "Environmental refugees:myth or reality?" New Issues in Refugee Research. Working Paper No. 34. pp.1

[63] Marshall, N. (2015). "Politicizing Environmental Displacement: A Four Category Approach.". *Refugee Review*. 2. pp. 96-112.

[64] Docherty, B., Giannini T. (2009) "Confronting a rising tide: a proposal for a Convention on climate refugees". *Harvard Environmental Law Review*. 33(2). pp. 368-369

[65] Renaud, F. G., Dun, O., Warner, K., & Bogardi, J. (2011). "A decision framework for environmentally induced migration". *International Migration*. 49(1). pp.e14

a motivation to migrate or a driving force. It can also be a possible threat that leaves no choice for the person.

"Climate Change Displaced People" is another term that is used to define people being displaced because of a climatic change in their already vulnerable habitats.[66] "Climigration" also describes the process of migration when a place is not sustainable anymore due to climatic events or disasters. [67] Some researchers view climate migrants as economic migrants. However, migration requires some resources, and usually poorest people cannot afford to migrate, so they stay and try to adapt.[68] Castle suggests using 'climate displacement' instead of 'refugee' because it is more appropriate since most migrants do not flee across borders but move within.[69]

As can be seen from the multitude of terms, climate-induced migration deal with both climate migrants and climate refugees. Not being able to agree on a common term makes it difficult to place environmentally forced migrants in the law. As a result, these people cannot be protected under the international human rights regime, which will be examined in the next section.

1.3.2 Legal Debates Concerning Environmentally Forced Migrants

The law generally transforming over a long period can pose a challenge for human displacement due to the rapid effects of global warming.[70] Among the legal discussions

[66] Hodgkinson, D., Burton, T., Coram, A., Dawkins, S. & Young, L. (2009). "Towards a convention for persons displaced by climate change: Key issues and preliminary responses". IOP Conference Series: Earth and Environmental Science. pp.6.

[67] Bronen, R. (2008). "Alaskan communities' rights and resilience ". *Forced Migration Review*. no 31. Refugee Studies Center. pp. 30

[68] Kelman, I. (2020). "Does climate change cause migration?" in *Refuge in a Moving World*. UCL Press. pp. 125

[69] Castles, S. (2002). "Environmental Change and Forced Migration: Making Sense of the Debate". UNHCR New Issues in Refugee Research. No 70. pp. 8.

[70] Kuusipalo, R. (2017). "Exiled by Emissions — Climate Change Related Displacement and Migration in International Law: Gaps in Global Governance and the Role of the UN Climate Convention". *Vermont Journal of Environmental Law*. 18. pp. 615

involving environmentally forced migrants, there are questions such as which documents and agreements these migrants will be evaluated under, whether they can be included in the Geneva Convention, the necessity of a new agreement, or the feasibility of the current system.

There are obligations and rights that come with being a citizen of a nation. Given that the person has a refugee status, some rights are also granted to them as evidence of their needs.[71] The 1951 Geneva Convention establishes the criteria for who can be referred to as a refugee. A person who has a well-founded fear of being persecuted for race, religion, nationality, membership of a social group, or political opinion and who cannot go back can seek refuge in another country. There are debates over whether persecution by climate change is something to put into perspective to include in the Geneva Convention or not. However, protecting the people on the move and safeguarding their political, civil, and economic rights, including freedom of movement, is crucial.[72] In this context, whatever the forcing factors are, people on the move should be protected under international law.

Climate-induced migration should be dealt with within the international community.[73] Some scholars suggest that the United Nations High Commissioner on Refugees (UNHCR) has a legal task to support environmentally forced migrants. Their argument is strengthened by the African Refugee Treaty and UNHCR's commitment to providing protection for persons in need. [74] However, critics warn about how such protection may pressure the current refugee regime, which is already overwhelmed after the mass flows due to the Syrian War.

[71] Zetter, R. (1991). "Labelling Refugees: Forming and Transforming a Bureaucratic Identity." *Journal of Refugee Studies*. 4(1). pp. 39-62

[72] Zetter, R., & Morrissey, J. (2014). "Environmental stress, displacement and the challenge of rights protection". *Forced Migration Review*. pp. 68

[73] Biermann, F., & Boas, I. (2010). "Preparing for a warmer world: Towards a global governance system to protect climate refugees". *Global Environmental Politics*. 10(1). pp. 60–88

[74] Baldwin, A. and Fornale, E. (2017). "Adaptive migration: pluralising the debate on climate change and migration". *The Geographical Journal*. 183 (4). pp. 324

Another legal debate includes whether environmentally forced migrants should be evaluated under international environmental law since developed nations have contributed the most to climate change with their industrial activities. In fact, United Nations Framework Convention on Climate Change (UNFCC or Climate Convention) is suggested to be the best solution to guide this issue because it is a suitable place for states to negotiate.[75] Critically, it is debatable how effective UNFCC is in terms of achieving its goal of reducing greenhouse emissions and the commitment of its signatories.

In the following sections, the role of the UN and the regional responses will be identified to give a better understanding of the overall picture of the developments concerning CIM.

1.4 United Nation's Approach to CIM

To be able to understand climate-induced migration, one must first acknowledge climate change. The United Nations, as an intergovernmental body, has been working for years to combat the adverse effects of climate change. 1992 Kyoto Protocol offers differentiated responsibility of states for climate change to limit greenhouse gas emissions in developed countries.[76] UNFCC has 165 signatories and has acted as a basis of international law on climate change since 1994.[77] Broad cooperation by all participants considering differentiated but common responsibilities are the main keys

[75] Warren, P. D. (2016). "Forced Migration after Paris COP21: Evaluating the 'Climate Change Displacement Coordination Facility". *Columbia Law Review*. 116 (8). https://columbialawreview.org/content/forced-migration-after-paris-cop21-evaluating-the-climate-change-displacement-coordination-facility/ (accessed 10 August 2022)

[76] UN, (1997). "Kyoto Protocol to the United Nations Framework Convention on Climate Change", 11 December, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-7-a&chapter=27&clang=_en (accessed 10 August 2022)

[77] UNFCC, "Status of Ratification of the Convention", http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php (accessed 10 August 2022)

of the Convention.[78] These differences are related to the capabilities of countries. Another agreement under the Climate Change Framework, The Cancún Adaptation, calls for adjustments following the effect of climate change and also recognizes the importance of understanding and cooperation among national, regional, and international actors concerning climate-induced migration.[79] Additionally, the 2015 Paris Agreement is a treaty on climate change that legally binds states. It has announced a call to create a task force to point out displacement caused by the negative effects of climate change.[80]

There have been some demands for the UN to include environmentally forced migrants into their policies. For example, European Justice Foundation invites all states "to implement the Paris Agreement, recognize climate refugees and establish a new legal agreement to guarantee their rights, and UN Special Rapporteur on Human Rights and Climate Change to examine the issues surrounding climate-induced migration." [81] As explored so far, environmentally forced migrants are not recognized under international law, including UN laws. Neither the 1951 Geneva Convention nor The Handbook prepared by UNHCR in 1979 on Procedures and Criteria for Determining Refugee Status to ensure uniformity in granting refugee status did not perceive natural disasters or climate change as reasons to be granted refugee status.[82]

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[78] UN, (1992). "United Nations Framework Convention on Climate Change", 9 May, https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXVII-7&chapter=27&Temp=mtdsg3&clang=_en (accessed 10 August 2022)

[79] UNFCCC, "What do adaptation to climate change and climate resilience mean?", https://unfccc.int/topics/adaptation-and-resilience/the-big-picture/what-do-adaptation-to-climate-change-and-climate-resilience-mean (accessed 10 August 2022)

[80] Warner, K. (2017). "Human mobility and the Paris Agreement: Contribution of climate policy to the global compact for safe, orderly and regular migration" Input to the UN Secretary-General's report on the global compact for safe, orderly and regular migration, in response to Note Verbale of 21 July 2017. pp.2

[81] Environmental Justice Foundation, "The urgent need for legal protections for climate refugees", https://ejfoundation.org/reports/the-urgent-need-for-legal-protections-for-climate-refugees (accessed 10 August 2022)

[82] UNCHR, (1979). "Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees", https://www.unhcr.org/publications/legal/5ddfcdc47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html (accessed 10 August 2022)

Even though they aren't recognized or granted a status, environmentally forced migrants and the effect of climate change on human displacements were acknowledged in some ways by UN bodies and professionals. For example, the former UN Representative on the Human Rights of Internally Displaced Persons (IDPs) explained climatic displacement as caused by intensified climatic events or irreversible climate events such as sea-level rise in 2010. [83]

As early as 2007, the UN's Migration Agency IOM has been mentioning climate migration in reports, conferences, seminars, and press releases.[84] For example, the 2018 UN Global Compact for Safe, Orderly, and Regular Migration[85] recognizes the nexus between natural disasters and human migration for the first time. Still, it avoids explicitly naming the affected group of people – migrants or refugees.

It is noted that in recent years, cases related to the failure of adaptation against climate change or the displacements caused by climate change are being referred to the UN bodies. In 2019, eight people from the Torres Strait Islands in Australia submitted a petition against their government to the HRC, claiming violations of human rights caused by the government's ineffectiveness in combating climate change with respect to the International Covenant on Civil and Political Rights (ICCPR). [86] HRC is made up of independent experts that monitor how each State party is carrying out its obligations under the ICCPR. The Committee's efforts have led to a number of improvements in legislation, policy, and practice that support the exercise of civil and political rights. [87]The case is still pending. In another example, the HRC published its

[83] Kälin, W. (2010). "Conceptualising Climate-Induced Displacement". In J. McAdam (Ed.). *Climate Change and Displacement: Multidisciplinary Perspectives*. London: Hart Publishing. pp.85

[84] Felli, R. (2012). "Managing Climate Insecurity by Ensuring Continuous Capital Accumulation: 'Climate Refugees' and 'Climate Migrants'". *New Political Economy*. pp. 6

[85] United Nations Global Compact, (2018). "UN Global Compact Progress Report 2018", https://www.unglobalcompact.org/library/5637 (accessed 10 August 2022)

[86] "First Person: Torres Strait Islanders fight the loss of their ancestral home", (2022). UN News, 23 April, https://news.un.org/en/story/2022/04/1116552 (accessed 10 August 2022)

[87] UN, "Human Rights Committee", https://www.ohchr.org/en/treaty-bodies/ccpr (accessed 10 August 2022)

opinions on the Teitiota v. New Zealand Case in 2020.[88] Even though its decision was not in favor of Mr. Teitiota due to a lack of evidence, the Committee accepted that climate change's effects could threaten a person's life.

Another latest development includes the Strategic Directions for 2017–2021, which recognizes human rights abuses, effects of climate change, conflicts, and natural disasters as the multiple variables leading to migration.[89]All these soft laws examples by the UN may help raise awareness about climate-induced migration, although it needs complementary binding agreements for states to protect environmentally forced migrants.

In the next section, a few of the regional responses to CIM will be introduced.

1.5 Regional Responses to CIM

1.5.1 The Kampala Convention (2009)

In 2009, the African Union Convention for the Protection and Assistance of IDPs was adopted. It is known as the Kampala Convention and is significant because Article 4 of the Convention declares that "State parties shall take measures to protect and assist persons who have been internally displaced due to natural or human-made disasters, including climate change." [90] This convention is a huge step in building a regional response toward CIM, even though its decisions are not legally binding and common all around the region.[91] Another downside is, as mentioned in the article, it only concerns IDPs and not people crossing borders. Therefore, even though it is an

[88] UN Human Rights Committee, (2020). "Ioane Teitiota v New Zealand", 7 January, https://www.refworld.org/cases,HRC,5e26f7134.html (accessed 20 August 2022)

[89] UNHCR, (2018). "In Harm's Way: International Protection in the Context of Nexus Dynamics Between Conflict or Violence and Disaster or Climate Change", pp.21 https://www.refworld.org/docid/5c2f54fe4.html (accessed 20 August 2022)

[90] African Union, (2009). "Kampala Convention", https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa (accessed 20 August 2022)

[91] Geddes, A. (2015). "Governing migration from a distance: interactions between climate, migration, and security in the South Mediterranean". *European Security*. 24(3). pp.487

important treaty to address IDPs in Africa, the Kampala Convention cannot be regarded as a good example of inclusive protection for environmentally forced migrants due to its limitations.

1.5.2 The Nansen Initiative

The Nansen Initiative was created by Switzerland and Norway to act as a consultative body aiming to establish a common plan for protecting people displaced due to environmental factors in October 2012. It is mainly trying to address the institutional and legal gap by coming up with a protocol for environmental disaster-induced migration in the global arena.[92] The Nansen Initiative led the launch of the Platform on Disaster Displacement at the 2016 World Humanitarian Summit in İstanbul. Its' goals are preventing displacements before a disaster happens and improving the responses of states after a disaster happens. [93] The Nansen İnitiative is a good starting point showing that country initiatives can gain a more international dimension. However, the outcome of the Initiative is a normative soft law example.[94] These non-binding soft law instruments are functional to raise awareness and draw attention to the referred subject. However, they aren't efficient enough to push states to act on a standard level.

1.6 Challenges to Evaluating Climate-Induced Migration

Human displacement and climate change nexus are complicated to understand. As mentioned in the previous sections, it is hard to estimate the numbers of

[92] The Nansen Initiative, (2015). "Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change", https://disasterdisplacement.org/wp-content/uploads/2014/08/EN_Protection_Agenda_Volume_I_-low_res.pdf (accessed 20 August)

[93] Disaster Displacement, "Our Response," https://disasterdisplacement.org/the-platform/our-response (accessed 20 August 2022)

[94] Okeowo, A. O. (2018). "The Nansen Initiative and the development of an international protection norm for cross-border disaster-displaced persons". PhD Thesis. University of British Columbia.

environmentally forced migrants or distinguish them from the other types of migrants because, most of the time, the reason for moving includes more than one factor. The duration of migration, migration routes, return rates, etc., should also be taken into account. Some people migrate to places that receive more rain during the dry seasons, while others move during the harvest. Seasonal migration is short-term migration. In addition, people who have been displaced due to various disasters can return when the region is rehabilitated. While some people move within the country due to environmental factors, this situation draws attention only when they cross borders. Studies show that climate-affected migrants prefer internal and local migration.[95]

There is also the subject of vulnerability when it comes to CIM. Some scholars fear that alarmist predictions that involve thousands at the door may cause panic among governments and make them prioritize security. This alarmist approach will cause inefficiency when protecting the rights of environmentally forced migrants. [96]

1.6.1 Multicausality of CIM

Maybe the most known challenge against evaluating CIM is migrations' multi-causality. A monocausal relation barely exists in real life.[97] Environmental factors are there but intertwined with other factors as well. A person's decision to move is not set by climate change alone, but the person still needs to take adaptive measures. [98]

As an example, a study conducted in Burkina Faso about the impact of rainfall on outmigration finds out that even though short-distance migration is related to shifting

[95] Piguet, E. (2010). "Linking climate change, environmental degradation, and migration: a methodological overview." John Wiley and Sons, Ltd. 1: pp. 519-524.

[96] GECHS, (2008). "Disaster Risk Reduction, Climate Change Adaptation and Human Security". Report 2008:3. University of Oslo. pp. 24

[97] Castles, S. (2002). "Environmental change and forced migration: making sense of the debate". *New Issues in Refugee Research*. UNHCR Working Paper 70. pp. 8

[98] Baldwin, A., Fornale, E. (2017). "Adaptive migration: pluralising the debate on climate change and migration*"*. *The Geographical Journal*. 183(4). pp. 322

rainfall patterns, there are also other factors that have an impact on outmigration such as the socio-economic conditions in the household, their education levels, and their employments.[99]

To conclude this chapter, it is crucial to understand that a potential migrant's decision to leave their country is based on various factors such as economic, cultural, political, or environmental, and most of the time, these reasons are intertwined. Not being able to distinguish the environmentally forced migrants also makes it difficult to define them, and there is no common term for these people, whom some call migrants, and some call refugees. Also, there is a protection gap for these people since they have no seat in international law. Although it is seen that the United Nations or regional actors sometimes draw attention to migration arising from climate change and take steps in this regard, an effective and inclusive system has not been established in practice.

In the following chapter, the theoretical framework of the CIM will be explored from the human rights perspective and the EU's approach to the matter as a normative power. The benefits of a universalist point of view will be discussed instead of a particularistic one to minimize potential human rights violations.

[99] Henry, S., Schoumaker, B and Beauchemin, C. (2004). ''The impact of rainfall on the first outmigration: a multi-level event-history analysis in Burkina Faso''. *Population and Environment*. 25(5). pp. 454

CHAPTER 3

THEORETICAL FRAMEWORK OF CLIMATE-INDUCED MIGRATION

This chapter focuses on the vulnerability of environmentally forced migrants and analyses whether the EU is fit to be a leader as a universal norm maker regarding CIM. Firstly, under the first title, the human rights regime will be briefly introduced. Since human rights are the mainstay of this thesis, they will be covered in this section. Under the second title, vulnerability and responsibility to protect will be examined. The reason for combining these two issues and including them in this section is to reveal the vulnerability of the countries that are most affected despite the least impact they have on global warming and to argue that developed countries should protect these people under both the refugee law and the IEL. Under the third title, by examining the EU's values and normative powers, it will be discussed whether the EU can act as a leader for environmentally forced migrants. Finally, under the fourth title, the feasibility of the concept of universalism for climate-induced migration will be detailed with examples from particularism vs. universalism.

2.1 Human Rights Regime

International regimes are explained as principles, norms, rules, and decision-making processes.[100] The human rights regime is required to provide a relevant set of primary moral standards that may be a model to assess climate policies, and a rights-based analysis can be used to push states to take action.'[101] Three things are necessary for the functioning of human rights: a formal normative legal system obtained by treaties,

[100] Krasner, S.D. (1982). "Structural Causes and Regime Consequences: Regimes as Intervening Variables". *International Organization*. 36 (2). pp. 185

[101] Nicolson, S., and Chong, D. (2011). "Jumping on the Human Rights Bandwagon: How Rights-based Linkages Can Refocus Climate Politics*". Global Environmental Politics*. 11(3). pp. 121

conventions, and laws, a monitoring system with information gathering by an expert or group, and a mechanism that can intervene in case of a crisis or human rights violation.[102]

States' duties and responsibilities are regulated by agreements in international law and domestic legislation. The beginning of these responsibilities is to protect the various rights of the citizens under its sovereignty. These obligations include providing the right to live in a healthy environment free from harm and risk of death. The state must not threaten the lives of citizens by means but must also take all the necessary measures to eliminate all factors that will harm anyone on its territory.

Disasters that happen rapidly or the slower effects of global warming, such as rising waters, soil loss, or drought, forcing people to move places if the government does not take any measures to combat climate change or intervene with full capacity when in need. Due to the lack of state adaptability, some people, especially in developing countries, lose their right to live in a healthy environment, which is one of their fundamental rights as human beings. Facing this situation, forced migrants try to seek protection by immigrating to other countries. If these people are not included in a certain definition or if the gap in international law continues, human rights violations will occur. While scientific studies based on our increasingly warming world predict that climate-related migration will gradually increase, sweeping this issue under the carpet will only cause the problem to grow and make the negotiation period more challenging.

The first legal declaration to outline basic human rights is the Universal Declaration of Human Rights (UDHR), which was ratified by the UN General Assembly in 1948. With its 30 articles, it is the cornerstone of international human rights legislation. The International Bill of Rights is made up of the UDHR as well as the two agreements,

[102] De Búrca, G. (2003). "Beyond the Charter: How Enlargement Has Enlarged the Human Rights Policy of the European Union." *Fordham International Law Journal*. 27 (2). pp.681-682.

the ICCPR and the International Covenant for Economic, Social, and Cultural Rights (ICESCR).[103]

On the other hand, The European Union's Charter of Fundamental Rights is the first written document that outlines all civil, political, economic, and social rights of EU citizens and all other persons residing in the EU. "Dignity, Freedoms, Equality, Solidarity, Citizens' Rights, and Justice" are the six categories into which these rights are classified.[104] The bodies EU has positive duties based on this Charter, and all national policies should comply with EU law.

As evidence shows, the adverse effects of climate change affect many present human rights, ranging from drinking safe water and having adequate food to rights to life claimed by Human Rights Council Resolution in 2009.[105]

2.2 Vulnerability and Climate Responsibility

Climate change is different from other environmental causes of migration because it is scientifically proven to be anthropogenic/manmade. [106] States that emit the most GHGs, escalating global warming, have the responsibility toward environmentally forced migrants.[107]

When it comes to protecting environmentally forced migrants, the vulnerability of the migrants and climate responsibility are the two biggest factors why and how states should act. Climate change has a huge negative impact on the way we live.

[103] UN, (1948). "Universal Declaration of Human Rights", https://www.un.org/en/about-us/universal-declaration-of-human-rights (accessed 20 July 2022)
[104] European Parliament, "The Charter of Fundamental Rights of the European Union", https://www.europarl.europa.eu/charter/default_en.htm (accessed 20 July 2022)

[105] Human Rights Council, (2009). "Res. 10/4", 25 March, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/10/4 (accessed 20 July 2022)

[106] Kuusipalo, R. (2017). "Exiled by Emissions — Climate Change Related Displacement and Migration in International Law: Gaps in Global Governance and the Role of the UN Climate Convention". *Vermont Journal of Environmental Law*. 18. pp. 623

[107] UN, (2015). "Paris Agreement on Climate Change", https://unfccc.int/sites/default/files/english_paris_agreement.pdf (accessed 20 July 2022)

Nevertheless, this impact does not affect states equally. Vulnerable states get the worst of it. Arid and semi-arid states, as well as islands and regions with lower-income households prone to conflict due to scarce resources, can be considered vulnerable states. If a region, city, or island becomes uninhabitable or wiped off the map, what will happen to the people who used to live there? Will they become stateless? Will they have asylum rights? It has been witnessed many times when people took refuge in various neighbouring countries after a natural disaster. For example, after the 2010 Haiti earthquake, hundreds of thousands of people left their countries and went to South America.[108]

Being vulnerable refers to no longer being able to deal the negative effects of climate change in geophysical and socio-economic systems.[109] Even with the same conditions, results will not be the same for different types of communities. Regions, countries, and neighbourhoods will have different vulnerability levels due to social, economic, and political differences. Therefore, even facing a worse event, a developed country would not be as affected as the developing one. Also, gradual onset events produce a biophysical environment in which the conditions for maintaining a livelihood are always threatened, and healing is never fully feasible, leading to needing humanitarian aid.[110]

Being accountable and responsible for states' actions and establishing a legal framework requires legal and political questions.[111] Ten countries contribute roundly 60% of greenhouse gas emissions in the world. Meanwhile, the poorer half produced

[108] Yates, C. (2021). "Haitian Migration through the Americas: A Decade in the Making". MPI https://www.migrationpolicy.org/article/haitian-migration-through-americas (accessed 20 July 2022)

[109] Vincent, K. (2004). "Creating an index of social vulnerability to climate change for Africa". Tyndall Center Working Paper No. 56. University of East Anglia

[110] UN Office for the Coordination of Humanitarian Affairs, (2011). "OCHA and slow-onset emergencies". OCHA Occasional Policy Briefing Series. No. 6. pp. 2-3

[111] Heinrich-Böll-Stiftung, (2014). "Time to Act: How the EU Can Lead on Climate Change and Migration". pp.38 https://pl.boell.org/en/2014/06/13/time-act-how-eu-can-lead-climate-change-and-migration (accessed 20 July 2022)

only %7 cumulative carbon emissions between 1990 and 2015.[112] Morality comes with ideas of vulnerability and responsibility. However, collective action against global warming doesn't go very far, considering the limited willingness of industrialized nations that will be less affected or fast to recover from the consequences of their actions against nature. [113]

If the environment in their country makes the place they live in unliveable or dangerous and these people decide to migrate, they generally migrate to the surrounding countries. In this case, the country that will host the climate migrant may be its neighbouring country. However, there are similar climatic and living conditions in the same geography. Developing countries are often next to other developing countries. In this case, the situation may not be different in the country they took refuge in, and the conditions of that country may even be worse. This is where the concept of burden-sharing comes into play. The failure to share the burden often puts nations that are hosting the most number of refugees under extreme financial, political, and social pressure.[114] Developing countries with the highest emission rates and carrying out industrial activities that trigger global warming should be included in this burden-sharing.[115] Although it is easier said than done when less developed countries are compelled to adjust to the effects of climate change. When they cannot adjust, growing inequalities between developed and developing states cause international migration.[116]

[112] EJF Foundation, "In Search of Justice: How Climate Crisis is driving inequality and Eroding Human Rights", https://ejfoundation.org/reports/in-search-of-justice (accessed 20 July 2022)

[113] Gemenne, F. (2015). "One good reason to speak of "climate refugees." *Forced Migration Review*, 49. pp. 70–71.

[114] Kale, B. (2017). "The Limits of an International Burden-sharing Approach: The Syrian Refugee Protection Crisis and Its Consequences on Turkey's Refugee Policy". *Perceptions*. 22(4). pp. 56

[115] Bayes, A. (2017). "Who takes responsibility for the climate refugees?". *International Journal of Climate Change Strategies and Management*. 10(1). pp. 5-26

[116] Castles, S. (2013). "The forces driving global migration". *Journal of Intercultural Studies*. 34(2). pp. 122

Responsibility may be based on customary International Environmental Law.[117] The 1992 Rio Declaration codified the Theiconic Trail Smelter arbitration's no-harm principle, which makes sure that states stay away from activities not to negatively affect the environment on their territories or outside of their borders.[118] However, increased industrialization over the years impacted the climate badly and caused abnormalities resulting in climate change.

There must be a collective effort to address the issue of climate change. Today, some countries are causing more environmental damage with their large industries, but developing states are among the most injured by the effects of the climate crisis. However, this situation of vulnerability is changing. Nowadays, the climate is different from seasonal norms almost everywhere in the world. America, which ranked second in carbon emissions in 2021, suffers from extreme weather events even though they are no stranger to hurricanes and tsunamis. The frequency and impact of disasters have changed over time. Hurricane Ida affected four states of America, killed 45 people, and a state of emergency was announced in New Jersey and New York.[119] . In his speech at the White House, US President Biden said, "yet another reminder that these extreme storms in the climate crisis are here."[120] Therefore, it must not be forgotten that even developed countries are facing the effects of climate change and people globally are prone to be displaced.

2.3 The EU as a Normative Power of Human Rights

The EU, which was founded after World War II, is a unique political and economic union of 27 member nations in Europe. The Union's initial phase started to encourage

[117] Kuusipalo, R. (2017). "Exiled by Emissions — Climate Change Related Displacement and Migration in International Law: Gaps in Global Governance and the Role of the UN Climate Convention". *Vermont Journal of Environmental Law*. 18. pp. 626

[118] Trail Smelter (U.S. v. Can.), https://www.trans-lex.org/291520/_/trail-smelter-case-3-unriaa-p-1905-1952/ (accessed 20 July 2022)

[119] "Storm Ida: Climate crisis is 'one of the great challenges of our time'", (2021). *BBC*, 3 September, https://www.bbc.co.uk/newsround/58424635 (accessed 20 July 2022)

[120] *Ibid*.

economic cooperation. The justification for trade is that it connects economies, increasing the likelihood that nations won't go to war. Therefore, European Economic Community (EEC) was founded in 1958.[121]

"Norms are collective expectations about proper behavior for a given identity". [122] Even though there are debates over whether the EU is acting morally, the EU is a normative power considering it changes norms and sets standards on various subjects.[123] Protecting and advancing human rights are the two pillars of the European Union's human rights policy.[124] The Treaty of the European Union, which was adopted in 1992, is a tool to consolidate human rights concerns into EU laws, policies, and regulations. It obligates member states to follow the fundamental human rights and freedoms parallel with the European Convention for the Protection of Human Rights and Fundamental Freedoms.[125] Both the existence of human rights in the European Union and the methods available to preserve those rights are impacted by the Treaty of Amsterdam, which came into effect in 1999.[126] On the other hand, Article 2 of the Lisbon Treaty defines the values of the EU, which include human rights.[127] The references to human rights in these treaties, which are the main elements of the EU, are of great importance in terms of the standardization of actions toward human rights.

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[121] European Commission, "EU What it is and What it Does", https://op.europa.eu/webpub/com/eu-what-it-is/en/ (accessed 20 July 2022)

[122] Katzenstein, P. (1996). *The Culture of National. Security: Norms and Identity in World Politics*. Colombia University Press. pp. 5

[123] Manners, I. (2019). "The Normative Ethics of the European Union". *International Affairs*. 84(1). pp. 45.

[124] Defeis, Elizabeth F. (2001). "Human Rights and the European Union: Who Decides - Possible Conflicts between the European Court of Justice and the European Court of Human Rights". *Penn State International Law Review*. 19(2). pp. 301

[125] EU, (2012). "Consolidated Version of the Treaty on the European Union", https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT (accessed 20 July 2022)

[126] European Parliament, "Treaty of Amsterdam", https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/treaty-of-amsterdam (accessed 20 July 2022)

[127] EU, (2007). "Lisbon Treaty", https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12007L/TXT (accessed 20 July 2022)

The Court of Justice of the European Union (CJEU) sets the seal on EU law being understood and applied uniformly throughout the EU, guaranteeing that member states and EU institutions uphold EU law.[128] On the other hand, ECHR is an international court set up in 1959 that rules on individual or state applications alleging infringement of the civil and political rights outlined in the ECHR. [129]. As a result of the ECHR's rules serving as the foundation for the EU Charter of Fundamental Rights, the Council of Europe, which includes all 27 of the EU's members and the European Union, has systems that are linked. Even though the protection of human rights was not the main focus when establishing the EEC, and it was designed to be more of an economic union, it is seen that the establishment of these two courts helped build its justice system by contributing to the human rights norms of the Union.

2.4 From Particularism to Universalism

Two different theories dominate when considering a legal solution for CIM. The academic and political debate on environmental change and displacement has historically been present in maximalist and minimalist schools. Members of the maximalist school make the direct causal link between environmental degradation and migration while expecting large numbers of "environmental refugees."[130] Authors from the minimalist school, on the other hand, contend that because migration is not monocausal, environmental change does not qualify as a separate causal variable.[131]

However, this thesis will go beyond these two popular theories, focus on the result rather than the investigation of causality, and examine what kind of solution can be

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[128]EU, "Court of Justice of the European Union (CJEU)", https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/institutions-and-bodies-profiles/court-justice-european-union-cjeu_en (accessed 20 July 2022)

[129] Council of Europe, "European Courts of Human Rights", https://www.coe.int/en/web/tbilisi/europeancourtofhumanrights (accessed 20 July 2022)

[130] Myers, N. and Kent, J. (1995). "Environmental Exodus: An Emergent Crisis in the Global Arena". *Climate Institute Magazine.*

[131] Suhrke, A. (1994). "Environmental degradation and population flows". *Journal of International Affairs.* 47(2). pp. 473–496

offered for environmentally forced migrants. On that note, legal universalism has its roots in Roman Empire, and the states should collectively follow the standards for the implementation of human rights resulting in pushing nationalism back.[132] On the other hand, particularism depends on ensuring the protection and safety of its citizens. There are three trademarks of particularism: "cultural and linguistic embeddedness of reason," "selfishness as a rational choice," and "contraposition to alleged external threats as an expression of rational behaviour."[133] In this thesis, the focus is more on rational choice and contraposition to external threats factors. That, of course, comes from seeing CIM as a security threat. Therefore, states make the decision to respond toward CIM based on their capacity and willingness not to jeopardize the well-being of their own citizens.

The universalist perspective is based on protecting the individual from threats and doing that equally; meanwhile, the particularist approach suggests eliminating threats facing the public by avoiding responsibility for non-members.[134] It is achievable to develop common policies to avoid any human rights violations regarding CIM because sooner or later, the world will experience more migration flows resulting from climate change. Nonetheless, the real trick is to evaluate the issue in detail so that the solution is not too blurred to implement in real life.[135]

Universalism tries to give a fair standard to assess particular circumstances.[136] Universalism and particularism do not have to be opposites. They can also run together. In this sense, while the decisions taken regarding environmentally forced migrants are based on the principles of universalist integrity, equality, and justice, an

[132] Noll, G. (2000). *Negotiating Asylum. The EU Acquis, Extraterritorial Protection and the Common Market of Deflection*. Brill. pp. 75

[133] Dellavalle, S. (2018). "Squaring the circle: How the right to refuge can be reconciled with the right to political identity". *International Journal of Constitutional Law*. 16(3). pp. 780

[134] Noll, G. (2000). *Negotiating Asylum. The EU Acquis, Extraterritorial Protection and the Common Market of Deflection*. Brill. pp. 80

[135] McAdam, J. (2011). "Refusing "Refuge" in the Pacific: (De)Constructing Climate-Induced Displacement in International Law". UNSW Law Research Series. pp. 24

[136] Thompson, S., & Hoggett, P. (1996). "Universalism, selectivism and particularism: Towards a postmodern social policy". *Critical Social Policy*. 16(46). pp.35

individualistic and rational approach can also be retained. In this context, of course, country capacities should not be ignored as common, but differentiated responsibilities come to play.

To conclude this chapter, three characteristic features remain important for the functioning of the human rights system, as mentioned at the beginning. When it comes to adapting this to the EU, it is seen that the EU has the feature of setting rules as a normative power in human rights. The EU also has monitoring channels and a judicial system like the CJEU. Geneva Convention and its Protocols are based on the discrimination and fear of persecution the refugees face forming the *non-refoulment* principle. This persecution is based on only five categories: race, religion, nationality, membership of a social group, or political opinion. Outside of these categories may be subjected to temporary protection, but the draft regarding the temporary protection has not been active for years as the EU prioritized handling refugee flows outside of its borders. This traditional meaning of protection is a particularist approach and is challenged by many ongoing things in today's complicated world. From a universalist human rights approach, the EU should set the standards to protect environmentally forced migrants. Therefore, members can also act upon those regulations.

In the following chapter, Italy and Sweden are used as case studies to ground this research and to show that preparedness for CIM and practicality are not implemented the same among members damaging the EU's image.

CHAPTER 4

TWO EU MEMBERS: COMPARISON BETWEEN THE APPROACHES OF ITALY AND SWEDEN TOWARDS CIM IN THE LIGHT OF THE HUMAN RIGHTS REGIME

In this chapter, a comparison between the two EU states' responses to CIM will be made. Under the first title, European Union's approach to CIM will be examined. After that, general information about Italy, its policies on migration management, and human rights will be provided. Additionally, Italy's approach toward climate-induced migration will be explored.

Later, general information about Sweden, its policies on migration management, and human rights will be given. Plus, Sweden's approach toward climate-induced migration will be examined.

Finally, under the fifth title, differences in practices will be analysed between the two EU member states regarding the universalist human rights principle.

3.1 The EU's Approach to CIM

The EU is actively emphasizing policies against climate change as well as increasingly drawing attention to climate-induced migration. The European Parliament was the first to mention CIM in 1999 with in its resolution called "The Environment, Security and Foreign Policy".[137]

[137] European Parliament, (1999). "Resolution on The Environment, Security and Foreign Policy", https://actionguide.info/m/pubs/143/ (accessed 20 July 2022)

It was mentioned that there are some scholars who argue that one of the ways for people displaced due to environmental factors to find a place in international law is to be included in the refugee regime. Although human rights law and refugee law were once thought of as two separate fields of international law, their connection is now widely recognized in both public policy and scholarly discourse.[138] When asylum seekers in the EU get a total or partial denial of their first claims, they have the option of appealing to either judicial or administrative agencies, depending on the rules of the members.[139]

To talk about migration governance and the response to asylum claims, different levels of government have different levels of authority, and this practicality may differ from member to member. Although this fragmentation in the structure of the EU's migration governance system exists, the Common European Asylum System (CEAS) was established in 1999, and an exhaustive approach to immigration and asylum policy was proposed by the EC in 2020 that is built on these three main pillars: an effective asylum and return process, solidarity and fair distribution of responsibility and tightened relations with third countries.[140] CEAS promotes common standards and equal treatment. There are suggestions over the extension of CEAS to include environmentally forced migrants into the regime.

The Temporary Protection Directive that was prepared by the European Union Council in 2021 determined the path to be followed by the member states in mass migration waves. In this sense, it has been tried to ensure uniformity during minimum protection, and it refers to the temporary protection to be provided to displaced persons who are at serious risk or victims as a result of regional violence or armed conflict and

[138] Chetail, V. (2014). "Are Refugee Rights Human Rights? An Unorthodox Questioning of the Relations between Refugee Law and Human Rights Law". in Ruth Rubio-Marín (ed.). *Human Rights and Immigration*. Collected Courses of the Academy of European Law. Oxford Academic. pp.19

[139] Gill, N. & Good, A. (2019). *Asylum Determination in Europe: Ethnographic Perspectives*. Springer Nature: London. pp. 9

[140] European Commission, "Common European Asylum System", https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system_en (accessed 20 July 2022)

systematic or general violation of human rights.[141] Climate change or environmental factors are not cited as a reason for a mass migration under the Directive; therefore, environmentally forced migrants are not granted temporary protection. However, in Article 7 of the Directive, there is a provision that member states can extend the scope of temporary protection status, and environmentally forced migrants can be included.[142] Critically, the Temporary Protection Directive that was originally drafted after the Yugoslav Wars has not been activated for years. Only recently, on 4 March 2022, the EU Council approved to activate the temporary protection for refugees fleeing from Ukraine. While the number of refugees from Ukraine counts more than 5 million in the EU, refugees that are granted temporary protection or similar national protections are more than 3 million as of July 2022.[143]

A report on the connection between climate and migration and how it may impact security worldwide was published in 2008 by the High Representative and the Commission. This first document to address this issue was funded to research the risky areas and future estimations.[144] The EU Commission (EC) has put out a Communication on climate change and migration, and The EU Parliament has distributed research leading to the 2009 Resolution on Environmentally induced migration and displacement.[145]

Although lawsuits related to climate migration are not common, some decisions have been made due to environmental factors threatening life. An example of this is the

[141] EU, (2001). "Council Directive on Minimum Standards for Giving Temporary Protection in the event of a mass influx of displaced Persons and on Measures Promoting a Balance of Efforts between Member States in Receiving such Persons and Bearing the Consequences thereof", 20 July, https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32001L0055 (accessed 20 July 2022)

[142] Ekşi, N. (2016). "Climate Refugees". *Journal of Migration Studies*. 2(2). pp. 35

[143] UNHCR, (2022). "Ukraine Refugee Situation", https://data.unhcr.org/en/situations/ukraine (accessed 20 August 2022)

[144] EACH-FOR, (2009). "Environmental Migration and Forced Migration Scenarios". Synthesis Report, https://climig.com/each-for-environmental-change-and-forced-migration-scenarios-synthesis-report/ (accessed 20 July 2022)

[145] Parliamentary Assembly, (2009). "Environmentally Induced Migration and Displacement: A 21st-Century Challenge" https://pace.coe.int/en/files/17719 (accessed 20 July 2022)

Budayeva and Others v. Russia Case, where ECtHR detected a violation of the right to life due to the state's failure to protect its citizens against mudslides.[146]

One of the latest news from The European Union considering CIM is the briefing prepared by the European Parliamentary Research Service in June 2022, stating climate change is a threat to stability and international security and is a threat multiplier and impacts operations and capacity of states as well.[147] This security-based approach may alarm the audience, but it can also make room for development and cooperation. In this sense, climate-induced migration should not be treated as a security problem. It should be seen as a way to create a space for cooperation to understand the consequences of climate change and combat them internationally.

3.2 Background on Italy's Migration Experience

There are a few reasons for choosing Italy as a case study. Italy is a Mediterranean country located in Western Europe that has a current population of 60 million people, and it is a founding member of the EU. It was mainly an emigration country until the early 1970s.[148] Italy is an attractive country due to its location between Europe and Africa. It was the fourth country that granted the most protection status within the EU in 2019. Italy's first immigration law was limited to labour market relations, and its Immigrant Act built the national migration framework not until 1998. Italy both receives immigration from various countries and is exposed to immigration not only in big cities but in the country's north, center, and south.[149]

The main organ that works on migration issues is the Department for Civil Liberties and Immigration under the Italian Ministry of Interior. The Department of Public

[146] European Court of Human Rights, (2008). "Budayeva v. Russia", App. No. 15339/02, https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-85436%22]} (accessed 20 July 2022)

[147] Lazarou, E. & Tothova, L. (2022). "Climate change considerations for EU security and defence policy". European Parliamentary Research Service. pp. 1

[148] Braun, M. (1999). "Italy - An Emigrants' Nation Discovers Immigration". *SEER: Journal for Labour and Social Affairs in Eastern Europe*. 2(1). pp. 17

[149] Colucci, M. (2022). "Immigration and European policies: debate in Italy during the 1980s". *Journal of Modern Italian Studies*. 27(3). pp.418

Safety, with its Central Directorate for Immigration and Border Police, is in charge of all the operations concerning public order and safety, including combatting irregular migration. Italy, due to its geographical position, has been experiencing irregular migrant flows primarily coming from Tunisia, Nigeria, Bangladesh, Côte d'Ivoire, Guinea, Sudan, and Eritrea onto its shores and the Sicily Channel.[150] The right to seek asylum is provided with an application that can be made either at the police office at the borders or at the territory of the provincial Immigration Office of the Police. [151]

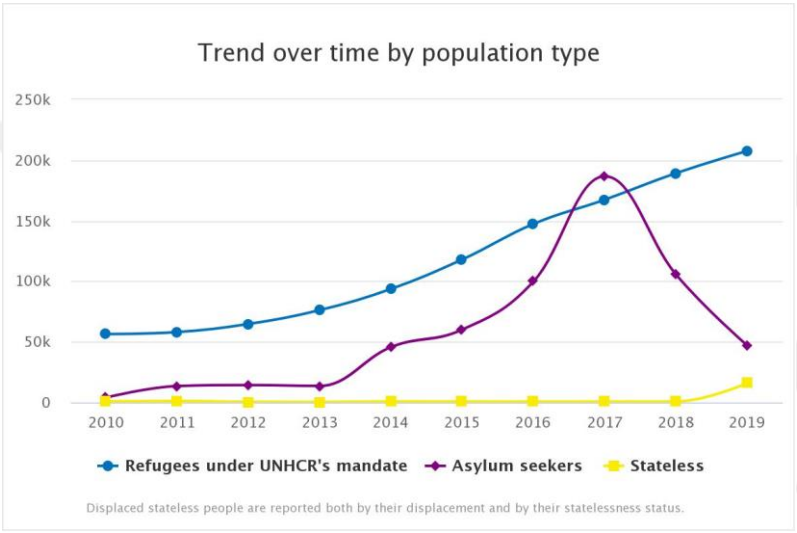


Figure 2: Trend over time by population type in Italy. Source: UNHCR, Refugee Data Finder, https://www.unhcr.org/refugee-statistics/download/?url=4j6lEB

The ongoing conflicts in Syria and Libya, along with the instability of some African states, caused Italy to accept more refugees, especially after 2015. 144,862 refugees are residing in Italy as of 2021.[152] The 26 court sections dedicated to immigration and

[150] Migrants & Refugees Section, (2021). "Migration Profile Italy", https://migrants-refugees.va/it/wp-content/uploads/sites/3/2021/12/2021-CP-Italy.pdf (accessed 20 July 2020)

[151] ASGI, (2022). "Asylum Procedure: Italy", 20 May, https://asylumineurope.org/reports/country/italy/asylum-procedure/general/short-overview-asylum-procedure/ (accessed 2 August 2022)

[152] UNHCR, "Refugee Statistics, https://www.unhcr.org/refugee-statistics/download/?url=4stfLY (accessed 2 August 2022)

asylum have increasingly become as key players in Italian immigration law since the numbers have been increasing since 2014.[153] Lipsky placed judges on the street-level bureaucracy and explained their duties as public service professionals who interact directly with citizens and who have extensive discretion in the execution of their work. [154] Based on this definition, an analysis was made regarding the asylum requests dealt with by Italian judges. The study shows that the judges meet the requirements Lipsky emphasized as they make decisions on the fundamental rights of applicants, they practice discretion due to their knowledge and professionality, and they come up with routines to deal with their heavy workload and ambiguity of policy aims.[155]

3.3 Italy's Response to Environmentally Forced Migrants

As explained earlier, the link between climate change and migration remains strong, and to be able to understand climate-induced migration and analyze the responses to it, approaches to climate change also need to be touched upon. Italy's awareness toward climate change had a bumpy road from time to time. In 2019, Veneto's Regional Council was floated minutes after voting against the amendments to combat climate change.[156] The city experienced its worst flooding in decades. In 2021, Environment campaigners sued their government for failing to efficiently combat climate change.[157] In the same year, The Ministry of Environment transformed into the Ministry of Ecological Transition, promising a more sustainable and eco-friendly

[153] Fontana, I. (2019). "The implementation of Italian asylum policy and the recognition of protection in times of crisis: between external and internal constraints". *Contemporary Italian Politics*. 11(4). pp. 429–445

[154] Lipsky, M. (1980). *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services*. Russell Sage Foundation. New York

[155] Dallara, C. & Lacchei, A. (2021) "Street-level Bureaucrats and Coping Mechanisms. The Unexpected Role of Italian Judges in Asylum Policy Implementation". *South European Society and Politics*. 26(1). pp. 86

[156] "Venice Council Flooded after rejecting climate crisis plan", (2019). *The Guardian*, 15 November, https://www.theguardian.com/world/2019/nov/15/venice-council-flooded-moments-after-rejecting-climate-crisis-plan (accessed 20 July 2022)

[157] "Italian climate activists sue government over inaction", (2021). *The Guardian*, 5 June, https://www.theguardian.com/world/2021/jun/05/italian-climate-activists-sue-government-over-inaction (accessed 20 July 2022)

way of living for Italy and its citizens as Italy is also subjected to the effects of climate change in Europe. Italy adopted The National Strategy on Adaptation to Climate Change in 2015, pointing out the vulnerable lands within its territory where the impact of global warming will be tough.[158]

Italy is one of the three members of the EU that provides protection to people fleeing disasters, along with Norway and Sweden.[159] Article 20 of the Immigration Act states that temporary protection can be provided within the country's capacity to people fleeing conflicts, natural disasters, or other serious events. [160]

It is quite crucial to examine some of the decisions made by the Italian Courts to see the practicality of temporary protection related to CIM within the Italian legal system. The rejection of the international protection status of an applicant coming from the Niger Delta of Nigeria led to an appeal, first to the Court of Ancona and later to the Italian Supreme Court.[161] The court recognized that the environment the applicant was living in an area where severe exploitation by the oil companies, numerous oil spills, and conflicts due to ethnic and political reasons were present.[162] The notion of an "ineradicable core constituting the foundation of personal dignity" serves as the cornerstone of a person's right to life and dignity, which in this case, could not be protected.[163] The ordinance declared by the Court in 2021 notes that environmental degradation harms the right to live in a healthy environment and may cause human

[158] Alvarez, P. (2021). "Migration and adaptation in Italy: why should we care?". IOM. https://eea.iom.int/news/migration-and-adaptation-italy-why-should-we-care (accessed 20 July 2022)

[159] Tyler, H. (2022). "Climate Migration: The State of Play on National, International, and Local Response Frameworks". Immigration Project. pp. 2

[160] EU, (1988). "Legislative Decree, No. 286 on Consolidated Act of Provisions concerning immigration and the condition of third country nationals", https://ec.europa.eu/migrant-integration/library-document/legislative-decree-2571998-no-286-consolidated-act-provisions-concerning_en (accessed 2 August 2022)

[161] Vona, F. (2021). "Environmental Disasters and Humanitarian Protection: A Fertile Ground for Litigating Climate Change and Human Rights in Italy". *The Italian Review of International and Comparative Law*. 1(1). pp. 150

[162] *Ibid*. pp. 151

[163] *Ibid*. pp.147

rights violations. The Court's decision was also inspired by the recent comment of the HRC on the Teitiota v New Zealand Case.[164] The case was explained earlier in this thesis for its uniqueness of it concerning environmentally forced migrants. The comment of HRC was also examined to show the approach of the United Nations. The reference made by the Italian Court to the approach of an international committee proves the importance of having a universal legal norm.

The reasoning for issuing residence permits linked to natural disasters was changed in 2020 from exceptional situations to the seriousness of the disaster situation in the applicant's country of origin.[165] This decision is vital in terms of making more room for people fleeing due to environmental reasons. Another court decision consists of The Court of Cassation's decision to grant humanitarian protection to a Bangladeshi man that used to live in an environment with pollution and deterioration.[166] This decision also referred to the former decision of the same case made by the UN authorities, which again shows the importance of having an international standard.

To sum up, Italy offers protection in its legislation to people being displaced due to environmental reasons. The civil courts in Italy recognize environmental disasters as reasoning to grant temporary protection in practice as well. In doing so, it often references the decisions of the UN, showing the importance of an international example. The next section will view Sweden's overall migration perspective and its approach toward environmentally forced migrants.

3.4 Background on Sweden's Migration Experience

There are several reasons for choosing Sweden as a case study. Sweden is a Northern European country that has been a member of the EU since 1995 and has a current population of 10 million. Sweden is a great representative of Nordic norms that have

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[164] *Ibid.* pp. 153

[165] Valerio, C. (2022). "Why should we talk about environmental migrants in Italy". Italics Magazine. https://italicsmag.com/2022/02/24/why-should-we-talk-about-environmental-migrants-in-italy/ (accessed 2 August 2022)

[166] *Ibid.*

been appreciated for its advanced policies and upholding of human rights. In 2019, It was the eighth country with the most asylum applications among EU members. Also, its Alien Act consists of provisions that allow temporary protection to people fleeing due to natural disasters.

The Swedish Migration Agency (SMA) under the Ministry of Justice is the main authority to grant citizenship take, asylum, and visa applications. The agency is working with the EU through negotiations, projects, and cooperation networks.[167] Asylum seekers are admitted by the SMA and enter a reception unit which will help them with their accommodation and general expenses.[168]

Sweden is an attractive destination country for its advanced economic and social conditions. As the graph shows down below, the refugee numbers stayed above 200 thousand people between 2016 and 2021. However, asylum applications decreased over the years and stayed relatively low compared to Italy.

[167] Migrationsverket, "EU and International", https://www.migrationsverket.se/English/About-the-Migration-Agency/EU-and-international.html (accessed 2 August 2022)

[168] EMN, (2020). "Annual Report on Migration and Asylum 2019-Sweden Report", 26 August, https://ec.europa.eu/migrant-integration/library-document/emn-annual-report-migration-and-asylum-sweden_en (accessed 10 August 2022) pp. 31

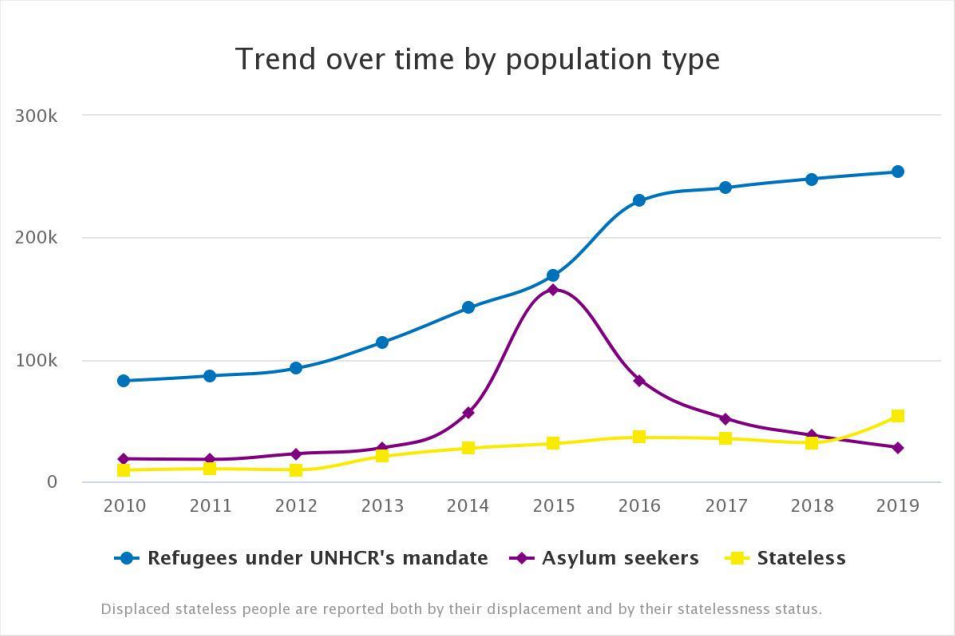


Figure 2: Trend over time by population type in Sweden. Source: UNHCR, Refugee Data Finder, https://www.unhcr.org/refugee-statistics/download/?url=Tk1Uq3

Over a quarter of Sweden's population, or every fifth person, had immigrant ancestry as of 2020. [169] That friendly atmosphere toward migrants continued for a while until The Social Democratic government enacted measures to limit immigrants seeking asylum's access to benefits. Only "insiders" are eligible for their rights and benefits, making immigrants' status as "outsiders" a threat to the sustainability of welfare institutions.[170]

3.5 Sweden's Response to Environmentally Forced Migrants

This thesis searches for the link between awareness on climate change and adaptation strategies for CIM. Therefore, it is necessary to look at some of the steps taken by Sweden to combat global warming. Sweden determined its climate target of net zero

[169] Hajighasemi, A. & Oghazi, P. (2022). "Outcomes of Swedish migration and economics of the welfare system". *Economic Research-Ekonomska Istraživanja*. 35(1). pp. 986

[170] *Ibid*.

domestic GHGs by 2045 in its Climate Act in 2017.[171] The country decreased its emissions by 25 percent between 1990 and 2015, and it is aiming to be a leader in implementing the 2030 Agenda, which consists of fighting against global warming.[172] Despite her young age, Swedish climate activist Greta Thunberg has caused a movement globally for people to speak up against climate change and call out their governments to take immediate action.

Sweden practiced a considerate interpretation of the Geneva Convention and focused on the importance of family reunification and diversity.[173] Sweden refers to national and EU laws in its migration regime. It is one of the first countries to legally address CIM as early as 1996[174]. Even though international recognition for environmentally forced migrants is missing, Sweden has temporary protection regarding them in its legislation. The 2005 Swedish Alien Act recognizes the temporary protection to be granted to people who are unable to return to their CoO due to an environmental disaster.[175] However, the temporary protections granted by both Italy and Sweden are different than the temporary protection drafted to be provided in the EU Directive. They handle individual cases and not masses of people as planned in the EU Directive.[176]

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[171] Karlsson, M. (2021). "Sweden's Climate Act – its origin and emergence". *Climate Policy*. 21(9). pp. 1132

[172] Swedish Government, "Sweden and the 2030 Agenda", https://www.government.se/49f428/contentassets/400a118a14b94750a61e42b620a9def9/sweden-and-the-2030-agenda--report-to-the-un-high-level-political-forum-2017-on-sustainable-development.pdf (accessed 20 July 2022)

[173] Borevi, K. (2017). "Diversity and Solidarity in Denmark and Sweden." .in *The Strains of Commitment: The Political Sources of Solidarity in Diverse Societies*. Oxford: Oxford University Press. pp.364-389

[174] Scott, M., & Garner, R. (2022). "Nordic Norms, Natural Disasters, and International Protection". *Nordic Journal of International Law*. 91(1). pp.110

[175] Swedish Government, "Aliens Act", https://www.government.se/contentassets/784b3d7be3a54a0185f284bbb2683055/aliens-act-2005_716.pdf (accessed 2 August 2022)

[176] EU, (2001). "Council Directive 2001/55/EC" https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001L0055 (accessed 2 August 2022)

As explained earlier, to examine the EU's approach regarding CIM, The Temporary Protection Directive has not been active since it has drafted. Only lately has it been operationalized for the people fleeing Ukraine due to the Russian Invasion. Sweden, like other members, started to give temporary residence permits to people coming from Ukraine.[177] Stateless persons, people from foreign countries who have international protection in Ukraine, their family members, and those who left before the invasion of the country are all included.[178]

Sweden, like its counterparts, invested in analyzing the link between climate change, migration, and conflicts through numerous research and projects. A report prepared by the Swedish Defence Research Agency in 2011 emphasizes the multi-causality of migration as well as difficulties in estimating the numbers of environmentally forced migrants for the future.[179] Even though it is difficult to evaluate, investing in researching the connection between migration and conflicts shows the priority Sweden has regarding CIM.

To be able to understand the legal practices of Sweden toward CIM fully, it is essential to look through some cases and court decisions. Unfortunately, The Swedish provision concerning the temporary protection for people fleeing natural disasters was suspended in 2016 and repealed in 2021.[180] According to a study that examined the 102 appeals from 2006 to 2015 that were made by the applicants with a claim of a human rights violation due to environmental-related events, only seven of them

[177] Swedish Government, "Amedment", https://www.government.se/contentassets/86ebb559cc2d4cf5bee5906236977436/act-amending-the-aliens-act.pdf (accessed 2 August 2022)

[178] Swedish Government, "Protection Directive to Cover More People", https://www.government.se/articles/2022/04/temporary-protection-directive-to-cover-more-people/ (accessed 2 August 2022)

[179] Mobjörk, M. & Simonsson, L. (2011) "Klimatförändringar, migration och konflikter: samband och förutsägelser" Background report, FOI-R Stockholm

[180] Scott, M., & Garner, R. (2022). "Nordic Norms, Natural Disasters, and International Protection". *Nordic Journal of International Law*. 91(1). pp. 106

received a residence permit.[181] The cases were made on both rapid events, such as floods and earthquakes, and slow events, such as droughts, and by people from different countries, such as Somalia, Afghanistan, the Balkans, Nepal, Iran, and El Salvador. [182]The research also notes the lack of consideration by the executive and judicial decision-makers regarding the environmentally forced migrants with the support of case studies.

In one of the cases, the reason why a family who lost their home in Bosnia and Hercegovina and took refuge in Sweden after the flood disaster was not given international protection in 2014 rested upon the fact that the Court was not informed by the Bosnian government that they would not provide the necessary assistance to those in need, together with international aid.[183] In other words, one of the important points here is the responses of the authorities in the country of origin and the recovery processes in the face of these disasters. However, it should be noted that as the number of disasters increases and the region becomes more vulnerable, recovery times take longer, and states may delay aid to their citizens.

To sum up, even though Sweden has a pioneering status in combating climate change and drawing attention to migration caused by it, it is seen that it cannot maintain this hype in practice. Sweden does not support environmentally forced migrants anymore with the withdrawal of their temporary protection that includes people fleeing natural disasters.

3.6 Differences in Practices Between Italy and Sweden with Regard to Universalist Human Rights Approach

It is seen that regional steps are most likely to be taken in the event of CIM around the world. Latin America, The Pacific, the Caribbeans, and African Union adopted sub-regional measures. The USA grants temporary protection status to people escaping disasters. For example, it granted Nicaraguans and Hondurans temporary

[181] *Ibid.* pp. 111-115

[182] *Ibid.*

[183] *Ibid.*

protection after Hurricane Mitch.[184] Another example was New Zealand, when the Climate Minister declared a humanitarian pilot visa in 2017 for people coming from the Pacific due to the detrimental effects of climate change, such as rising sea levels.[185] While there were those who congratulated New Zealand on this decision and being a leader on this subject, some argued that the govemment could face pressure as a result of accepting too many people. However, this practice soon ended, and New Zealand no longer provides a humanitarian visa for the people of the Pacific. The reason for this is thought to be due to the reluctance of the island people and their desire to continue to stay on their island.

Due to the fact that there is no common definition for the people in this category, the concepts of voluntarism and persecution are still being discussed, and there is no legally binding treaty in the international arena; people who migrate due to environmental conditions are faced with difficult situations. While the irreversible effects of global warming are felt almost everywhere in the world, it is not enough to just try to take national measures or develop national strategies. Although there are certain differences from region to region and state to state, this thesis suggests that the approach toward environmentally forced migrants should be made under the umbrella of an inclusive international standard achieved through a universalist human rights perspective.

The current tendency is toward soft law instruments since existing international legal frameworks, such as the Geneva Convention, do not cover CIM and are not efficient in terms of their bindingness, scope, and commitment. However, the soft law cannot provide the protection environmentally forced people needs. This thesis suggests the

[184] Rathod, J., Stinchcomb, D., De Luna, M., Castaneda, R., Menkos, J., Urbina, J.,and Pillado, L.,(2017). "Extending Temporary Protected Status for Honduras: Country Conditions and U.S. Legal Requirements". CLALS Working Paper Series No. 16. pp. 1-33

[185] Kupferberg, J. S. (2021). "Migration and dignity – relocation and adaptation in the face of climate change displacement in the Pacific – a human rights perspective". *The International Journal of Human Rights*. 25(10). pp.1806

EU to take the lead in this context because Europe is affiliated with the liberal and democratic heritage of moral universalism. [186]

The two countries are quite different than each other when it comes to their geographic location, the type and extent of migration they handle, and the welfare support they provide. [187] Therefore, these should be taken into account when making comparisons. While Italy mostly has migrants from African and Middle Eastern countries due to its geographical location, when the immigrant profiles are examined, it is determined that they are the places most affected by climate change. General immigration to Sweden is generally preferred because of the country's advanced welfare level and the opportunities it provides. Despite this, it has been observed that the country has recently limited these privileges due to the density of immigrants.

Although both countries are among the top 10 countries that receive the most applications, especially since 2015, Italy has more asylum applications due to its geographical closeness to vulnerable regions. Italy, which was a country of emigration until the 1970s, is now a country of immigration. One of the primary migration routes to Europe is the area of the Mediterranean Sea between North Africa and Italy. [188] For the second year in a row in 2021, the Central Mediterranean remained the most popular route to Europe, with 67 724 migrants there. [189]

Sweden, on the other hand, is located on the Scandinavian Peninsula along with Norway and Finland. According to the Nordic model, Sweden is keen on providing everyone with access to health care, education, and retirement. Even the paid parental

[186] Delanty, G. (2002). "Models of European Identity: Reconciling Universalism and Particularism". *Perspectives on European Politics and Society*. 3(3). pp. 347

[187] Giansanti, E. and Lindberg, A. and Joormann, M. (2022). 'The status of homelessness: Access to housing for asylum-seeking migrants as an instrument of migration control in Italy and Sweden'. *Critical Social Policy*. pp.3

[188] Frontex, "Migration Routes", https://frontex.europa.eu/we-know/migratory-routes/central-mediterranean-route/ (accessed 2 August 2022)

[189] *Ibid*.

leave is 480 days, making Sweden really attractive to live in. When it comes to the country's migration policies, Sweden was once a proud country to take huge numbers of asylum seekers during the peak of the Syrian War. In fact, it called out other EU members to take more responsibility. However, it has tightened its refugee regime lately, resulting in decreasing number of refugees. The reason for this is believed to be the increasing crime rates and gangs in the country, as well as the changes in the country's domestic policies.

Within the scope of this thesis, it was investigated whether there is a consistency in the perspective of combating climate change and migration arising from this change. The awareness of climate change is more dominant in Sweden's national policies and goals. The country wants to make itself a European pioneer in sustainable development and, over the years, has managed to reduce its greenhouse gas emissions. Sweden ranks the 5th spot on the Climate Change Performance Index for 2022. [190]Despite this, it is seen that Sweden is not in an influential position on climate-related migration anymore. The removal of temporary protection to persons displaced as a result of natural disasters and the fact that judges did not take into account environmental factors as migration factors can be given as examples.

Italy recently improved its steps toward a more sustainable country. The country's fight against the climate crisis has been a difficult road and has at times garnered public outrage as the citizens also face the adverse effects of climate change, especially with the heat waves and drought. Italy ranks 30th on Climate change performance Index for 2022.[191] Despite this, Italy is more sensitive to climate-induced migration due to the migrant profile the country receives. Therefore, there is no parallel ratio between combating climate change and awareness of climate-induced migration.

After the 2015 European refugee crisis, Finland and Sweden withdrew its protections for climate migrants. On the other hand, Italy kept these protections in place. Since

[190] Climate Change Performance Index, "Sweden", https://ccpi.org/country/swe/ (accessed 10 August 2022)

[191] Climate Change Performance Index, "Italy", https://ccpi.org/country/ita/#:~:text=Italy%20drops%20three%20spots%2C%20to,only%20shows%20a%20low%20performance (accessed 10 August 2022)

there are no common grounds for practicality toward CIM, these national laws present fragmented examples. Before its repeal of the Provision that grants protection to environmentally forced migrants, Sweden had not been practicing protection in terms of CIM effectively in court decisions. Italy, on the other hand, has many examples of people fleeing from either rapid or slow-onset effects of climate change being granted protection status.

EU directives and EU soft law are not implemented in the same among the member states. Especially when it comes to appeals and court decisions, it is evident that Italy has a lot of discretion. This could be due to the migration profile they receive. Evidence is the most important factor influencing court decisions. If the person can prove that his or her life is openly threatened in areas that he/she lives in due to sudden onset disasters, or if he/she has been exposed to conflict and insecurity due to the indirect effects of environmental reasons and climate change leading scarce resources in unstable regions, it is easier to prove this. It is easier for the judge to make a decision based on the evidence.

One of the difficulties of court decisions is the distinction between slow-onset and rapid-onset disasters. While rapid-onset events can be noticed immediately and temporary and humanitarian protection can be provided to the people in need, more detailed research is required for slow-onset events. At the same time, other migration elements emerge in these slowly developing events. For example, economic, conflict, and political elements may be involved. For example, residents of the region who cannot get their harvest due to drought may begin to starve. As a result, they can turn to different work areas. They may want to migrate in search of different sources of income. Therefore, although the reason is perceived as economic migration in the country they reached, this person actually migrated with environmental factors triggering other factors. Therefore, judges should thoroughly investigate these factors when making their decisions and not eliminate the slowly progressing effects of climate change.

In this thesis, the universality and importance of human rights were explained. At the same time, the relationship between refugee rights and human rights was mentioned.

While emphasizing the necessity of universal practice with the theory of universalism, it was mentioned that the particularist approach protects the state's own resources for its citizens and defends it against external threats. This defense is made with a rational instinct. In the light of this information, such differences in the practices of the two EU member states cause the people exposed to climate-induced migration not to be treated fairly and equally. However, it does not seem like a significant problem now, when the effects of climate change are more visible in the future, and if the predictions are correct, hundreds of thousands of people will have to move to different locations in the near future. Acknowledging this should not lead to acting with fear and panic. On the contrary, it should trigger the fight against climate change, and common ground should be reached for climate-induced migration, which is just another branch of migration. Although it is difficult to distinguish this migration from others, besides rapid-onset events such as natural disasters, slow-onset events such as rising sea waters, drought, and erosion that negatively affect human life and cause irreversible consequences are also important.

Although the proportions of countries are not equal, the overall produced greenhouse gases by the EU member states that trigger climate change cannot be underestimated. This causes climate responsibility. Developed countries should not only choose more sustainable ways and avoid behaviours that will harm other countries but also take responsibility for the actions arising from the consequences of their behaviours and share the burden when it comes to the effects of climate change. In this sense, although developing states produce less GHGs, they live in vulnerable areas most affected by climate change. In addition to the frequency of disasters and extreme weather conditions, power imbalance over limited resources and conflicts are among the factors that add to this vulnerability resulting in poor adaptation skills.

There is a need for a better understanding and broader coverage of CIM in the international arena. The steps taken until this time regarding CIM could not go beyond drawing attention and remained as soft law instruments. Although there are regional cooperation and national responses to a certain extent, they cannot have the power of sanction unless they are supported by international platforms. In this sense, different proposals have been put forward to fill the international gap to protect environmentally

forced migrants. Some of these include the UN to take the lead, while others target the EU. While some of them start from refugee law, others cite international environmental law as a source. This thesis recognizes the importance of both.

The EU has the capacity to provide protection to environmentally forced migrants. It portrayed itself as a human rights defender and a norm maker. It has an already established judicial system and monitoring canals. The Temporary Protection Directive that is in use for Ukrainian refugees at the moment can be a starting point for the migrants in the environment category. Critically, leadership on this issue will also raise some questions. For example, if the EU produces a new agreement for environmentally forced migrants and plans to provide these people with protection, will the protection be temporary or under international protection? If a natural disaster occurs and its effects disappear after a some time, temporary protection can be provided so that the people who flew because of this disaster can return to their country when it is safe again.

However, considering the slow-onset climate impacts, an irreversible path is entered in case of drought or rising sea waters damaging coastal habitats. If timely measures are not taken, or adaptation is not followed efficiently, people cannot return to their homeland, and these lands will not be suitable for living. In this case, is it possible to talk about a permanent residence permit? In this case, climate change itself needs to be included as a reason for persecution.

One of the criticisms of the Temporary Protection Directive is that it is not as comprehensive as international protection and is event-based rather than person-based. This means focusing on collective assessments and rapid response to those who need protection immediately. On the other hand, cases differ from each other in international protection, and applications are evaluated one by one. While temporary protection may be a better option for people displaced due to natural disasters, it may not be sufficient for applicants suffering from the effects of slowly evolving due to climate change. Nonetheless, it can be a starting point. In these days, where international protection is under pressure, even giving temporary protection rather than

no protection shows rather a development and recognition of the CIM in terms of human rights.

However, while evaluating the application, it is necessary to conduct very good country information research and to analyse the conditions that will harm the life of the persons if they return. Country of origin reports often contains general information about the country and its economic, social, and political situation, as well as conflicts and potential risk elements. It is necessary to make an analysis of the region where the person lives by including the climatic and environmental conditions in these reports so that a fair decision can be made, and this evaluation can only be conducted through scientific examinations.

If the EU takes the lead in this matter and comes up with an agreement binding its member states, this will prevent different practices among its member states. So that environmentally forced migrants will not have human rights violations, and their reasoning for migration is going to be counted as valid. It will also prepare the member states to be more prepared for the big masses of forced migrants in the future.

CHAPTER 5

CONCLUSION

The inability to reach a common ground to define environmentally forced migrants and the exclusion of this category for those who are legally protected raises ethical questions in particular. It is a matter of urgent need, especially when the numbers of estimations for people that will be displaced due to the effects of climate change remain quite high. While the World Bank predicts 143 million by 2050, the UN predicts around 250 million people to be displaced by that time.

This thesis explores the different approaches to CIM through a human rights approach and questions whether a universalist approach can be maintained under the normative power of the EU. At the beginning of the thesis, climate change and migration nexus were examined through historical and conceptual debates, including the international legal gap. Some scholars define people fleeing due to environmental reasons as migrants, some as refugees, and some as displaced people, but what distinguishes these terms from each other is whether they cross borders and the voluntariness of the migration process. For this reason, the term environmentally forced migrant has been used throughout this thesis in order to avoid an incomplete expression. With this definition, it is emphasized that both migrations are carried out due to environmental reasons, and it has their compelling factors.

It is quite challenging to distinguish CIM from other types of migration. Because most of the time, people migrate for different reasons. Even if the climate plays a decisive role in this regard, other economic and political factors can also be involved. On the other hand, people need to have access to some means to migrate, and often people choose to stay and adapt when faced with a disaster. Another factor that makes it difficult to understand CIM is that most environmentally forced migrants to move

within the borders of the country. This displacement can be permanent or temporary, but when they cross a country's border, it gets complicated because these people will not have protection under the current refugee regime.

Due to the gap in international law, some scholars suggest that environmentally forced migrants should be included in the Geneva Convention, while others mentioned that the refugee system has been under enough pressure since 2015 and argued that this is not feasible. Other researchers propose to determine the attitude of the authorities against environmentally forced migrants with a new protocol or agreement in addition to the existing refugee protection system. This can be either done under human rights law or environmental law. Those who suggest having it under environmental law recognize the UNFCCC as the main body to determine the actions of states since it already set standards regarding reducing the GHGs causing warming of the planet, and it has a near worldwide membership, including the EU. This, however, is being debated as many countries are not living up to the promises of the Paris Agreement under the UNFCC.

This thesis uses the human rights approach and emphasizes the vulnerabilities of environmentally forced migrants and whether developed states have climate responsibility over developing states. Since not every country contributes to GHG emissions to the same degree, not every nation benefits from industrialization, and not every government has the same access to the means to manage the impact of climate change from the perspective of environmental law and human rights, climate change causes harms to humans that are widely regarded as unjust. Island nations of the Pacific, African countries and countries like Bangladesh are really vulnerable when it comes to the adverse effects of climate change, although their carbon footprint remains small. Therefore, when it comes to addressing CIM, the "common but differentiated responsibility" principle can be used. Although the importance of this issue is expressed by human rights defenders, the process progresses slowly for the developed states, which have not yet been exposed to large migration waves due to climate change. The nature of the law being formed over a long period also contributes to this slow process.

This thesis suggests the EU to take the lead when it comes to the response to CIM as it is delved into under chapter two that a universalist approach would fit better than a particularist one that sees environmentally forced migrants as a threat. The EU upholds and protects the human rights of migrants and refugees across the world with the assistance of the ECHR and the Charter of Fundamental Rights of the European Union. The values and norms of the EU consist of prioritizing equality, democracy, and human rights. Although the EU does not have a common policy on CIM, researchers argue that the Temporary Protection Directive theoretically may be the base to protect these people even though it does not include climate change or natural disasters as the reason for protection. However, there are limitations to this Directive as it does not accept individual cases and only considers the mass migration waves. The Directive was activated due to the Russian invasion of Ukraine when millions of people had to seek asylum across Europe.

The main goal of this thesis is to compare the approaches of two EU members known to have some type of protection for people fleeing natural disasters. Even though the non-refoulment principle and EU law on human rights must be followed by all its members, the member states are free to determine their own immigration policies.[192] Even if national mechanisms have pointed to climate-induced migration, it is often aimed at protecting people displaced by natural disasters. There are countries that provide protection for people fleeing earthquakes, floods, and forest fires. On the other hand, no action has been taken against the slow-onset effects of climate change because these changes have been argued to be both difficult to predict and difficult to monitor. However, with today's data collection methods, this situation can be easily overcome, and forecasts for the future can be available for decision-makers.

When the legal practices of these two EU members are compared, it is seen that the Scandinavian country Sweden, which is more prominent in this regard, is not an exemplary country in climate-induced migration as it is thought, and its practices do not benefit climate migrants. On the other hand, it is seen that the Mediterranean

[192] Heschl, L. (2018). "The External Dimension of the European Migration and Asylum Policy." in *Protecting the Rights of Refugees Beyond European Borders: Establishing Extraterritorial Legal Responsibilities*, Intersentia. pp. 13

country Italy is a better example with the recent developments of its perspective on climate change and the court decisions it has taken. It is noted, from a universalist human rights perspective, the differences between these two countries and the fact that the EU does not create a norm on this issue, although it raises awareness, cause inequalities, and exposes people who are already in the vulnerable groups, because of climatic reasons and natural disasters to possible human rights violations.

Considering that two out of the three European countries that once provided temporary protection for persons displaced due to environmental factors such as natural disasters in their national laws have withdrawn this protection, it can be argued that the main reason lies within the choice of particularism instead of universalism. Regional or national steps due to the gap in international law for maintaining their functionality to a certain extent and the lack of internationally binding agreements affects the voluntariness in these steps.

Since existing national, regional, and international solutions have not been adequate to handle the complicated issue of migration brought on by the effects of climate change, this thesis aimed to invoke ideas with respect to human rights by analysing different approaches of EU member states under a universalism lens. CIM raises numerous legal and political issues that need to be resolved. International and regional cooperation is required to guarantee that environmentally forced migrants are given the safeguards they need, which may entail setting up new institutions or coming up with new agreements initiated by world leaders.

This thesis emphasized the absence of a legal term for environmentally forced migrants and compared two EU States' approaches toward CIM in the light of a universalist human rights approach. When looking at local court decisions of different countries, this thesis has access to limited data due to the language barrier. As a result, it limits itself to using case studies from translated sources. Therefore, it is recommended that further research should be conducted by native speakers who are interested in their country's adaptation toward environmentally forced migrants. This thesis is not time-bound, but in order to keep current, it mostly concentrates on the advancements and information gathered in the last ten years.

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APPENDICES

APPENDIX A: TURKISH SUMMARY/TÜRKÇE ÖZET

Bu tez çevresel faktörlere bağlı olarak zorunlu göç eden kimseleri tanımlamak için ortak bir zemine ulaşılamaması ve bu kategorinin yasal olarak korunanlar için hariç tutulması sebebiyle özellikle etik soruları gündeme getirmeyi amaçlamaktadır. İklim değişikliğinin etkileri nedeniyle yerinden edilecek kişilere sayısının oldukça yüksek olmasının beklendiği pek çok raporun ve araştırmanın olduğu bir ortamda, bu acil bir ihtiyaç olarak değerlendirilmektedir. Örneğin, iklim göçmenlerinin gelecekteki sayısına ilişkin Dünya Bankası 2050 yılına kadar 143 milyon kişiyi tahmin ederken, Birleşmiş Milletler o zamana kadar 250 milyon insanın yerinden olacağını tahmin etmektedir.

Bu tez, insan hakları yaklaşımı aracılığıyla iklim tarafından zorlanmış göçmenlere (*environmentally forced migrant*) yönelik farklı yaklaşımları araştırmakta ve Avrupa Birliği'nin (AB) normatif gücü altında evrenselci *(universalist)* bir yaklaşımın sürdürülüp sürdürülemeyeceğini sorgulamaktadır. Tezin başlangıcında iklim değişikliği ve göç ilişkisi, uluslararası hukuk boşluğunu da içerecek şekilde tarihsel ve kavramsal tartışmalar üzerinden incelenmiştir. Kimi bilim adamları çevresel nedenlerle kaçan kişileri göçmen, kimisi mülteci, kimisi de yerinden edilmiş kişi olarak tanımlamaktadır ancak bu kavramları birbirinden ayıran şey sınırları aşıp aşmamaları ve göç sürecinin gönüllülüğüdür. 1951 Cenevre Sözleşmesine *(Geneva Convention)* göre mülteci ırkı, dini, tabiiyeti, belli bir toplumsal gruba mensubiyeti veya siyasi düşünceleri sebebiyle kendi ülkesinde zulme uğrayacağından haklı sebeplerden ötürü korkar ve "geri göndermeme" (*non-refoulment)* ilkesi kapsamında sığındığı ülke tarafından geri gönderilemez. Öte yandan göçmenin de kendisini zorlayıcı faktörleri olsa da kararı daha çok gönüllülük esasına dayanmaktadır ve hayati tehlikesi bulunmamaktadır. Yerinden edilmiş kişi ise kendi ülkesi sınırları içerisinde yer değiştiren kişidir. Eksik bir ifadeden kaçınmak için bu tez boyunca iklim tarafından

zorlanan göçmen terimi kullanılmıştır. Buradaki iklim ifadesi hava durumundan ziyade kişinin yaşadığı çevresel faktörleri çevreler. Çevre sözcüğü yerine iklim ifadesinin kullanılması ise iklim değişikliğinin etkilerinin bu süreci hızlandırmasına atıf yapmaktır. Bu tanımla hem göçün çevresel nedenlerle gerçekleştiği hem de zorlayıcı etkenleri olduğu vurgulanmıştır.

Göç insanlık tarihi kadar eski bir kavramdır ve insanlar yüzyıllardır farklı sebeplerle ve daha iyi kaynak arayışı içerisinde göç etmişlerdir. Hastalıklar, kaynak kısıtlılığı, savaşlar ve doğal afetler insanların göç rotalarını belirlemiştir. Sınırların belirlenmesi ve modern dünyayla birlikte farklı göç terimleri ortaya çıkmıştır. Düzenli ve düzensiz göç ayrımına gidilmiştir.

İklim değişikliği özellikle sanayileşme ve insan faktörünün doğada etkisini arttırmasıyla birlikte ortaya çıkmış bir kavramdır. Şüpheci yaklaşanlar olsa da bilimsel olarak doğal ya da insan eylemlerinden kaynaklı olduğu tespit edilen iklim değişikliği sera gazlarının atmosferde sıkışıp kalarak sıcaklığı arttırmasıyla meydana gelmektedir. İklim değişikliği sonucunda biyoçeşitlilik kaybı, orman yangınları, çölleşme ve erozyon, deniz seviyesinin yükselmesi ve aşırı hava koşulları gibi etkilerini her yerde görebileceğimiz sonuçlar meydana gelmektedir. Bu anlamda akıllara ilk olarak Pasifikteki Tuvalu ve Kiribati hakları gelmektedir. Bu insanlar iklim değişikliği sebebiyle gitgide toprak kaybeden ve yavaş yavaş batan adalarda yaşamaktadırlar. Medyanın da yer verdiği belki de ilk iklim sığınmacısı vakası olan Teitota v. Yeni Zelanda davasındaki kişi yaşadığı adadaki deniz sularının yükselmesi, tuzlu suyun artması ve nüfus yoğunluğundan dolayı içme suyunun yetersiz gelmesinden ötürü sığınma talebinde bulunmuş ancak başvuru Yeni Zelanda tarafından reddedilmiştir. BM İnsan Hakları Komitesi delil yetersizliğinden dolayı davacının lehine bir karar vermese de iklim değişikliğinin bir insanın hayatını tehdit edebileceğini kabul eden görüşünü açıklamıştır.

İklim kaynaklı göçü diğer göç türlerinden ayırt etmek güç olabilmektedir. Çünkü çoğu zaman insanlar farklı nedenlerle göç etmektedirler. İklim bu konuda belirleyici bir rol oynasa bile, diğer ekonomik ve politik faktörler de kişinin kararında etkili rol oynamaktadır. İklim değişikliği kaynakları azaltmakta ve halihazırda çatışma yaşayan

bölgelerde gerginlikleri arttırmaktadır. Örneğin Suriye'deki krizin ülke tarihindeki yaşanan en kötü kuraklık sonucu meydana gelen demografik değişimle birlikte tetiklendiği savunulmaktadır. Öte yandan, insanların göç etmek için bazı araçlara erişimi olması gerekmekte ve insanlar genellikle bir doğal felaketle karşılaştıklarında kalmayı ve uyum sağlamayı seçmektedirler. Dolayısıyla aslında çoğu insan için sınırlar arası göç ilk tercih değildir. İklim kaynaklı göçü anlamayı zorlaştıran bir diğer faktör, çevresel olarak göç eden kişilerin çoğunun ülke sınırları içinde hareket etmeye zorlanmasıdır. Bu yerinden edilme kalıcı veya geçici olabilmektedir. Ancak bir ülkenin sınırını geçtiklerinde süreç karmaşıklaşmaktadır çünkü bu insanlar mevcut mülteci rejimi altında korumaya sahip değildirler.

Uluslararası hukuktaki boşluktan dolayı bazı akademisyenler iklim tarafından zorlanan göçmenlerin Cenevre Sözleşmesi'ne dahil edilmesi gerektiğini öne sürerken, diğerleri mülteci sisteminin 2015'ten bu yana yeterince baskı altında olduğundan bahsederek bunun mümkün olmadığını savunmaktadır. Diğer araştırmacılar, mevcut mülteci koruma sistemine ek olarak yeni bir protokol veya anlaşma geliştirilerek ilgili yetkililerin iklim tarafından zorlanan göçmenlere karşı tutumunu belirlemeyi önermektedir. Bu, insan hakları hukuku veya çevre hukuku kapsamında yapılabilir. Çevre hukuku kapsamında olmasını önerenler, Birleşmiş Milletler İklim Değişikliği Çerçeve Sözleşmesini (*United Nations Framework Convention on Climate Change, UNFCCC*) öne sürerek gezegenin ısınmasına neden olan sera gazlarının azaltılmasına ilişkin standartları zaten belirlediği ve Avrupa Birliği de dahil olmak üzere dünya çapında bir üyeliği olduğu için devletlerin eylemlerini belirleyen ana organ olarak kabul edilmesinden faydalanılabileceğini belirtmektedir. Ancak pek çok araştırmacı UNFCC kapsamında hazırlanan Paris Anlaşması'nı (*Paris Agreement*) vaatlerini yerine getirmediği için eleştirmektedir.

BM ya da AB gibi uluslararası örgütler yayınlarında ve söylemlerinde iklim kaynaklı göçe dikkat çekmişlerdir. Her ne kadar mülteci yerine göçmen ifadesiyle zorunluluk faktörünü ortadan kaldırsalar da iklim ve göç ilişkisi her iki kurum tarafından da basın açıklamaları, konferans ve raporlarda kurulmuştur. Bölgesel anlamda ise 2009 Kampala Sözleşmesi (*Kampala Convention)* ve 2012'de İsviçre ve Norveç tarafından başlatılan Nansen Girişimi (*Nansen Iniative)* iklimsel göçe verilen cevapta yetersiz

kalınmanın önüne geçmek için atılan önemli adımları oluşturmaktadır. Ancak bu adımlar hem hukuksal bağlayıcılığı olmamalarından dolayı hem de uluslararası geçerliliğe sahip olmadıklarından ötürü içinde barındıkları kısıtlamalar neticesinde evrensel bir standart oluşturmakta etkin değillerdir.

Bu tez, insan hakları yaklaşımını kullanmakta ve iklimsel olarak zorlanan göçmenlerin savunmasızlıklarını ve gelişmiş devletlerin gelişmekte olan devletler üzerinde iklim sorumluluğunun olup olmadığını sorgulamaktadır. Her ülke GHG (*greenhouse gases*) emisyonlarına aynı ölçüde katkıda bulunmadığı gibi, her ulus sanayileşmeden eşit şartlarda yararlanmamakta ve her hükümet çevre hukuku ve insan hakları açısından iklim değişikliğinin etkileriyle başa çıkma araçlarına aynı erişime sahip değildir. Pasifik ada ülkeleri, Afrika ülkeleri, Bangladeş gibi Asya ülkeleri karbon ayak izleri küçük kalsa da iklim değişikliğinin olumsuz etkileri karşısında savunmaz durumdadırlar. Bu nedenle, iklim kaynaklı göçün ele alınması söz konusu olduğunda, "ortak ama farklılaştırılmış sorumluluk" (*common but differentiated responsibility*) ilkesi kullanılabilir. Bu konunun önemi insan hakları savunucuları tarafından dile getirilmekte ancak iklim değişikliği nedeniyle henüz büyük göç dalgalarına maruz kalmayan gelişmiş ülkeler için süreç yavaş ilerlemektedir.

Bu tez, ikinci bölümünde açıklandığı üzere evrenselci bir yaklaşımın, iklim tarafından zorlanan göçmenleri bir tehdit olarak gören partikülarist *(particularist)* bir yaklaşımdan daha iyi uyacağını savunmaktadır ve iklim kaynaklı göçe yanıt söz konusu olduğunda AB'nin liderliği üstlenmesini önermektedir. AB'nin değer ve yargılarının eşitlik, demokrasi ve insan haklarına öncelik vermesi ve normatif bir güç olarak görülmesi bu liderlik kapasitesini taşıdığını göstermektedir. AB'nin CIM konusunda ortak bir politikası olmamasına rağmen bazı araştırmacılar, Geçici Koruma Direktifinin (*Temporary Protection Directive*) teorik olarak iklim değişikliği veya doğal afetleri koruma gerekçesi olarak içermese de iklim tarafından zorlanmış göçmenleri korumanın temeli olabileceğini savunmaktadırlar. Ancak, bu Direktifin bireysel başvuruları kabul etmediği ve yalnızca kitlesel göç dalgalarını dikkate aldığı için sınırlamaları bulunmaktadır. Direktif, Rusya'nın Ukrayna'yı işgal etmesi ve milyonlarca insanın Avrupa'da sığınma talebinde bulunması nedeniyle yakın zamanda devreye girmiştir.

AB, iklim değişikliğine karşı politikaları aktif olarak vurgulamanın yanı sıra iklim kaynaklı göçe giderek daha fazla dikkat çekmektedir. Avrupa Parlamentosu, iklimsel kaynaklı göçe 1999 yılında çıkardığı kararla *(The Environment, Security and Foreign Policy)* değinmiştir.

AB ülkelerinde yabancılar sığınma taleplerinin tamamen veya kısmen reddedildiği durumlarda, üyelerin kurallarına bağlı olarak adli veya idari kurumlara başvurma seçeneğine sahiptir. Göç yönetimi ve sığınma talepleri söz konusu olduğunda uygulamalar üyeden üyeye farklılık gösterebilir. AB'nin göç yönetim sisteminin yapısında farklılıklar olmasına rağmen, Avrupa Birliği Ortak Sığınma Sistemi (CEAS) 1999 yılında kurularak ortak standartlara ulaşmayı ve eşit muameleyi teşvik etmektedir. İklim göçü ile ilgili davalar yaygın olmamakla birlikte, yaşamı tehdit eden çevresel faktörler nedeniyle bazı kararlar alınmıştır. Bunun bir örneği, AİHM'nin devletin vatandaşlarını toprak kaymalarına karşı korumaması nedeniyle yaşam hakkının ihlal edildiğini tespit ettiği Budayeva v Rusya Davası'dır. *(Budayeva and Others v Russia)*

Bu tez, yasal pratiklerini analiz etmek için İtalya'yı seçmiştir. Bunun için birkaç husus sebep olarak sunulabilir. İtalya, Batı Avrupa'da yer alan ve mevcut nüfusu 60 milyon olan bir Akdeniz ülkesidir ve AB'nin kurucu üyesidir. 1970'lerin başına kadar ağırlıklı olarak göç veren İtalya, Avrupa ve Afrika arasındaki konumu nedeniyle göç alan bir ülke konumuna gelmiştir. Başta Tunus, Nijerya, Bangladeş, Fildişi Sahili, Gine, Sudan ve Eritre'den kıyılarına ve Sicilya Kanalı'na düzensiz göçmen akımlarına maruz kalmaktadır. Suriye ve Libya'da devam eden çatışmalar da İtalya'ya özelikle 2015 yılından sonra mülteci akınlarına yol açmıştır. AB içerisinde uluslararası koruma sayıları değerlendirildiğinde üst sıralarda yer almaktadır. İltica talepleri sınırlardaki polis merkezlerinde ya da İl Emniyet Müdürlüğü Göçmen Bürolarında yapılmaktadır.

İtalya, Norveç ve İsveç ile birlikte afetlerden kaçan insanlara koruma sağlayan üç AB üyesinden biridir. Göç Yasası'nın *(Immigration Act)* 20. Maddesi, çatışmalardan, doğal afetlerden veya diğer ciddi olaylardan kaçan kişilere ülkenin kapasitesi dahilinde geçici koruma sağlanabileceğini belirtmektedir.

İtalyan hukuk sistemi içinde iklimsel kaynaklı göçe ilişkin sağlanan geçici korumanın uygulanabilirliğini görmek için İtalyan Mahkemeleri tarafından verilen kararları incelemek oldukça önemlidir. İtalyan hakimler çevresel faktörlerin insan onurunu ve sağlığını tehdit etmesi durumunda kişinin koruma talebini kabul etmektedir. Bunu yaparken, uluslararası örneklere sahip olmanın önemini gösteren Birleşmiş Milletler kararlarına sıklıkla atıfta bulunmaktadırlar.

Analizde yer alan bir diğer ülke İsveç'tir. İsveç, 1995 yılından beri AB üyesi olan ve şu anda 10 milyon nüfusa sahip bir Kuzey Avrupa ülkesidir. İsveç, gelişmiş politikaları ve insan haklarını savunmasıyla takdir edilen İskandinav normlarının büyük bir temsilcisidir. 2019 yılında AB üyeleri arasında en çok sığınma başvurusu yapılan sekizinci ülke olmuştur. Yabancılar Yasası (*Alien Act),* doğal afetler nedeniyle kaçan kişilere geçici koruma sağlayan hükümler içermektedir. Adalet Bakanlığı'na bağlı İsveç Göçmen Bürosu *(Swedish Migration Agency),* vatandaşlık alma, sığınma ve vize başvuruları konusunda ana makamdır. İsveç, gelişmiş ekonomik ve sosyal koşulları nedeniyle çekici bir hedef ülkedir.

Bu tezin temel amacı, doğal afetlerden kaçan insanlar için bir tür korumaya sahip olduğu bilinen iki Avrupa Birliği üyesinin yaklaşımlarını karşılaştırmaktır. Geri göndermeme ilkesine ve Avrupa Birliği insan hakları yasasına tüm AB ülkeleri tarafından uyulması gerekse de üye devletler kendi göç politikalarını belirlemekte özgürdür. Ulusal mekanizmalar iklim kaynaklı göçe işaret etmiş olsa bile, genellikle doğal afetler nedeniyle yerinden edilmiş insanları korumayı amaçlamaktadırlar. Deprem, sel ve orman yangınlarından kaçan insanlara koruma sağlayan ülkeler bulunmaktadır. Öte yandan, iklim değişikliğinin yavaş gelişen etkilerine karşı herhangi bir önlem alınmamıştır çünkü bu değişikliklerin hem tahmin edilmesi hem de izlenmesi zor olduğu ileri sürülmüştür. Ancak günümüzün araştırma yöntemleri ve teknolojisi kullanılarak yavaş gelişen iklim değişikliği ve bunun göç rotaları ve göçmen profilleri üzerindeki etkileri araştırılabilir.

Bu iki AB üyesinin hukuki uygulamaları karşılaştırıldığında, bu konuda daha fazla öne çıkan İskandinav ülkesi İsveç'in iklim kaynaklı göçte sanıldığı gibi örnek bir ülke olmadığı ve uygulamalarının fayda sağlamadığı görülmektedir. Öte yandan bir

Akdeniz ülkesi olan İtalya'nın iklim değişikliğine bakış açısındaki son gelişmeler ve aldığı mahkeme kararları ile daha iyi bir örnek olduğu görülmektedir. Evrenselci bir insan hakları perspektifinden bakıldığında, bu iki ülke arasındaki farklılıkların ve AB'nin farkındalık yaratmasına rağmen bu konuda bir norm oluşturmamasının birtakım eşitsizliklere yol açtığı ve halihazırda iklim değişikliğine karşı savunmasız olan gelişmekte olan ülke insanları için olası insan hakları ihlallerine açık hale getirebileceği görülmektedir.

Doğal afetler gibi çevresel faktörler nedeniyle yerinden edilmiş kişilere kendi ulusal yasalarında geçici koruma sağlayan üç Avrupa ülkesinden ikisinin (İsveç ve Norveç) bu korumayı geri çektiği göz önüne alındığında, temel nedenin, evrenselcilik yerine partikülarist bir ulusalcı yaklaşımın olduğuna tezin analiz kısmında yer verilmiştir. Buradaki partikularizm kendi vatandaşlarının refahını üstte tutan ve ülke kapasitesine göre hareket eden bir çeşit araçtır. Özellikle 2015 sonrası göç yoğunluğu arttıkça ülkeler göç rejimlerinde değişikliğe gitmişlerdir.

İtalya ve İsveç karşılaştırmasında ise iki ülkenin coğrafi konum, göç yönetimi ve göç çeşitleri ile refah seviyesi bakımından farklılıklarına değinilmiştir. İklim değişikliğiyle mücadelede başarılı bir yol izleyen İsveç iklim ve göç ilişkisine dikkat çekse de 2016 yılında doğal afetlerden dolayı göç eden kişilere sağladığı geçici korumayı askıya almış ve 2021 yılında yürürlükten kaldırmıştır. Yapılan bir araştırmaya göre 2006-2015 yılları arasında yani yasa hala yürürlükteyken çevresel faktörlerden dolayı insan hakları ihlalleri olduğunu savunan kişiler tarafından yapılan 102 temyiz kararı incelenmiş, bunlardan yalnızca 7'sine oturum izni verildiği açıklanmıştır. Hakimlerin karar aşamasında çevresel faktörleri arka planda tuttuğu yine aynı çalışma içerisinde gözler önüne serilmiştir.

Mevcut ulusal, bölgesel ve uluslararası çözümler, iklim değişikliğinin etkilerinin getirdiği karmaşık göç sorununu ele almak için yeterli olmadığından, bu tez, AB üye ülkelerinin farklı yaklaşımlarını insan hakları çerçevesinde analiz ederek evrenselcilik merceğini kullanmıştır. İklim kaynaklı göç, çözülmesi gereken çok sayıda yasal ve politik sorunu gündeme getirmektedir. Bu tez, çevresel olarak zorunlu göçmenler için yasal bir terimin bulunmadığını vurgulamış ve iki AB Devletinin iklim kaynaklı göçe

yönelik yaklaşımlarını evrenselci bir insan hakları yaklaşımı ışığında karşılaştırmıştır. Farklı ülkelerin yerel mahkeme kararlarına bakıldığında, bu tezin dil engeli nedeniyle sınırlı verilere erişimi bulunmaktadır. Bununla birlikte belirli bir zaman dilimini incelememekte ancak güncelliğini korumak için çoğunlukla son on yıldaki gelişmeler ve toplanan bilgiler üzerinde yoğunlaşmaktadır.

APPENDIX B: THESIS PERMISSION FORM / TEZ İZİN FORMU

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TEZİN ADI / TITLE OF THE THESIS (**İngilizce** / English): A Comparative Analysis of Legal Practices to Climate-Induced Migration in Italy and Sweden

TEZİN TÜRÜ / DEGREE: **Yüksek Lisans** / Master ☒ **Doktora** / PhD ☐

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