ESSAYS

SLOW-ONSET CLIMATE JUSTICE AND HUMAN MOBILITY

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ABSTRACT

The literature on climate migration focuses on the attention-grabbing situation of small island nations from which people have been forced to flee as their land has literally disappeared into the ocean. Though these migrants generally do not fit within the strictures of the UN Refugee Convention's definition of a refugee, they are the locus of much legal attention. In the words of Hilary Charlesworth, "[i]nternational lawyers revel in a good crisis."[1] *On the flip side of that equation, international lawyers and law itself are not so enamored of slow-moving events. Slow-onset climate change renders agricultural livelihoods unsustainable over time, in some cases provoking permanent cross-border migration. International law relating to migration largely overlooks these less dramatic causes of migration, as its narrow scope and focus on cause and crisis fit uneasily with slow-onset climate migration. Drawing from a case study of smallholding farmers in Guatemala, this Essay argues that international law should utilize a human mobility framework, taking direction from those affected by slow-onset climate change.*

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1. Hilary Charlesworth, *International Law: A Discipline of Crisis*, 65 MOD. L. REV. 377, 377 (2002).

INTRODUCTION

Contemporary international law struggles to address the complexity of human migration and mobility. Binding multilateral legal instruments govern the movement of a relatively small subset of migrants.[2] These limitations of international law are only exacerbated when it comes to climate change and its ramifications for human mobility. The narrow scope, cause orientation, and crisis focus of the international law on migration render invisible those who migrate to escape the impact of slow-onset climate change as well as those who are unable to move.[3] In the climate justice context, slow-onset events are those that build up progressively over time rather than resulting from a single dramatic act.[4] These changes to the environment eventually make life unsustainable but without the urgency of a dramatic event that might draw resources and sympathy.[5] Stemming from global structural inequality, yet with a diffuse set of immediate causes, the "slow violence" of climate change is insufficiently recognized let alone remedied by the international law of migration.

Examples of slow-onset climate change abound. This Essay focuses on factors that lead to the loss of agricultural livelihoods—a common cause of permanent migration—using the case study of Guatemala. The current international law on migration enables Guatemalans who flee failing crops to be depicted as "economic migrants" rather than forced migrants seeking protection from actions taken by states, corporations, and individuals in the Global North with reckless disregard for the environmental consequences.[6] Given the rapid nature of climate change and the slow pace of government measures to address it, these crop failures will soon become a disaster.[7] Yet, international law is not well equipped to address slow-burn systemic issues with diffuse causes. In short, international law engages insufficiently with the human mobility consequences of slow-onset climate change, and this lack of foresight will have serious consequences for all of our futures.

An effective legal strategy would start by listening to the voices of those affected by slow-onset climate change and taking a human mobility approach. Rather than assuming migration is the optimal outcome,[8] the solution should enable autonomy and choice by empowering Guatemalans and others to adapt to slow-onset climate change and remain in their homes, perhaps tending different crops. This should not be a

2. Jaya Ramji-Nogales, *Migration Emergencies*, 68 HASTINGS L.J. 609, 626 (2017).

3. *Id.*

4. U.N. Framework Convention on Climate Change, *Slow Onset Events: Technical Paper*, ¶ 20, U.N. Doc. FCCC/TP/2012/7 (Nov. 26, 2012).

5. *See id.*

6. *See* Susan F. Martin, *Environmental Change and Human Mobility: Trends, Law and Policy*, 42 COMP. POPULATION STUD. 187, 200 (2017).

7. *See* Lauren Markham, *How Climate Change Is Pushing Central American Migrants to the US*, GUARDIAN (Apr. 6, 2019, 6:00 AM), http://www.theguardian.com/commentisfree/2019/apr/06/us-mexico-immigration-climate-change-migration [https://perma.cc/UN7M-RDVG].

8. See generally Kerilyn Schewel, *Understanding Immobility: Moving Beyond the Mobility Bias in Migration Studies*, 54 INT'L MIGRATION REV. 328 (2019), for a critique of the widely-held but little-recognized assumption that migration is the preferred option for human flourishing.

containment strategy; humans impacted by slow-onset climate change who wish to migrate should also be enabled to do so. The key point is that international law must urgently become more attentive to the present and future needs of humans facing climate change, regardless of whether the emergency is immediate.

This Essay proceeds in four parts. Section I draws from the literature on slow violence to provide a theoretical orientation to international law's shortcomings with respect to slow-onset climate migration. Section II then analyzes international law relating to slow-onset climate migration, examining environmental law, disaster law, human rights law, and migration law and explaining the gaps in each subfield. Section III sets out the case study of smallholding farmers in Guatemala, describing the complex harms that slow-onset climate change causes in concert with structural inequality and their impact on the decision to migrate. The final Section suggests a role for international law in regulating the impact of slow-onset climate change on human mobility, taking direction from those most impacted and holding states and corporations in the Global North accountable.

I. STRUCTURAL INEQUALITY, SLOW VIOLENCE, AND SLOW-ONSET CLIMATE CHANGE

Slow-onset climate change can be categorized as slow violence, a form of structural inequality that is rendered invisible within a given society.[9] The incremental nature of slow-onset climate change, involving gradual alterations to the environment that take place over decades, places these occurrences outside the scope of international law's protected grounds for movement. Law likes a clear price tag, yet it is difficult to quantify the economic harms of slow-onset events. For example, in contrast to a rapid-onset event like a hurricane, a drought does not manifest highly visible impacts.[10] Instead, a drought creates large indirect losses; its impacts are spread over large areas.[11] The noneconomic aspects of slow-onset events, such as harms to indigenous groups for losses in biodiversity in their ancestral land, are even more difficult to assess.[12] Moreover, the law seeks "but-for" or "proximate" causes and struggles to address harms that are, over time, unmoored from their original causes.[13]

This invisibility happens not because the harms do not exist, but rather because society has chosen to ignore a particular set of harms.[14] The law plays an important role in determining which harms will be validated and which will be overlooked. The international law of migration focuses on violations of civil and political rights, choosing to minimize the importance of social and economic harms.[15] This approach serves to

9. *See* ROB NIXON, SLOW VIOLENCE AND THE ENVIRONMENTALISM OF THE POOR 2 (2011).

10. *Slow Onset Events: Technical Paper*, *supra* note 4, ¶ 77.

11. *Id.*; *see also* U.N. Framework Convention on Climate Change, *The Cancun Agreements: Outcome of the Work of the Ad Hoc Working Group on Long-Term Cooperative Action Under the Convention*, ¶ 25, Dec. 1/CP.16, U.N. Doc. FCC/CP/2010/7/Add.1, at 6 (Mar. 15, 2011) [hereinafter *Cancun Agreements*].

12. *See, e.g.*, Rebecca Tsosie, *Indigenous People and Environmental Justice: The Impact of Climate Change*, 78 U. COLO. L. REV. 1625, 1674–75 (2007).

13. *See* NIXON, *supra* note 9, at 7; Tsosie, *supra* note 12, at 1675.

14. *See* NIXON, *supra* note 9, at 9, 16.

15. *See generally* Jaya Ramji-Nogales, *Constructing Human Rights: State Power and Migrant Silence*, *in* BEYOND BORDERS: THE HUMAN RIGHTS OF NON-CITIZENS AT HOME AND ABROAD 287 (Molly K. Land et al. eds., forthcoming 2021); Gregor Noll, *Why Human Rights Fail To Protect Undocumented Migrants*, 12 EUR. J.

assume away global structural inequality, imagining individuals as autonomous actors on the global stage rather than products of the very real constraints of currently impoverished environments and colonial histories.[16] Slow-onset events in particular are likely to have a greater impact on more vulnerable individuals, as the wealthier and more powerful have the time and resources to adapt to this type of climate change.[17] In other words, the structure of international migration law reflects and perpetuates existing power hierarchies and structures of inequality.[18]

The following paragraphs describe three challenges that cross-border migration, in response to slow-onset climate change, presents under the existing international legal standards. First, the reasons for movement are diffuse; it is difficult to isolate one motivation underlying slow-onset climate migration.[19] Second, and relatedly, it is hard to categorize the movement as either voluntary or forced. Finally, while slow-onset events may eventually lead to a disastrous situation, the crisis is not immediate. These traits of slow-onset climate migration make for an awkward fit with international law, which favors those who are forced to flee specific types of harm to avoid imminent threats.

As many scholars and analysts have noted, particularly when it comes to slow-onset situations, it is hard to pinpoint climate change as the cause of migration.[20] This difficulty stems in part from the fact that it is hard to separate the impacts of climate change from societal structures that can exacerbate the harms of slow-onset events.[21] As discussed further in the case study below, decreased rainfall and increasing temperatures might lead to coffee crop failures in Guatemala, a country that does not have adequate risk prediction and planning processes in place.[22] Global commodity market volatility might mean that even a diminished crop yield is met with a substantially diminished price in the market.[23] A smallholding coffee farmer might then have to move to an urban area, in which they find themselves faced with gang violence and threats to their family members.[24]

MIGRATION & L. 241 (2010); Jaya Ramji-Nogales, *Undocumented Migrants and the Failures of Universal Individualism*, 47 VAND. J. TRANSNAT'L L. 699 (2014).

16. *See* Thom Davies, *Slow Violence and Toxic Geographies: 'Out of Sight' to Whom?*, ENV'T & PLANNING C, Apr. 10, 2019, at 1, 2 (offering an invitation to include "uneven social brutalities within the geographic here-and-now" and to "delve into the past to unearth the violent structures of inequality that saturate contemporary life").

17. Cecilia Jimenez-Damary (Special Rapporteur on the Human Rights of Internally Displaced Persons), *Rep. on the Human Rights of Internally Displaced Persons*, ¶¶ 14–15, U.N. Doc. A/75/207 (July 21, 2020).

18. Davies, *supra* note 16, at 5–6.

19. *See infra* notes 20–27 and accompanying text.

20. *See, e.g.*, JANE MCADAM, CLIMATE CHANGE, FORCED MIGRATION, AND INTERNATIONAL LAW 16–17, 22–24 (2012) [hereinafter MCADAM, CLIMATE CHANGE]; François Crépeau (Special Rapporteur on the Human Rights of Migrants), *Rep. on the Human Rights of Migrants*, ¶ 31, U.N. Doc. A/67/299 (Aug. 13, 2012).

21. Reiko Obokata, Luisa Veronis & Robert McLeman, *Empirical Research on International Environmental Migration: A Systematic Review*, 36 POPULATION & ENV'T 111, 132 (2014).

22. See *infra* Section III for a discussion of how climate change may lead to coffee crop failures in Guatemala.

23. *See infra* Section III.

24. *See infra* Section III.

All of these factors could contribute to international migration; climate change is one of several causes.[25] Slow-onset climate impacts may even be invisible to migrants themselves, who may see themselves as crossing borders for economic reasons.[26] In short, vulnerability drives migration, and there are many factors that contribute to vulnerability and diminish resilience.[27]

Second, migration in response to slow-onset climate change in particular is neither completely voluntary nor entirely forced.[28] International law presents categories of migration that are inapposite, creating a false dichotomy between those who chose to leave and those who have no choice but to flee.[29] Individual decisions to move across borders in response to slow-onset climate events are more accurately categorized as a spectrum, "with different degrees of voluntariness and constraint."[30] An entirely voluntary decision to leave requires a level of human autonomy that many individuals unfortunately do not achieve due to structural constraints. Moreover, the decision to cross an international border nearly always involves a degree of choice. The complexity of human decisionmaking in the face of gradual environmental deterioration cannot fit into a simple box, nor should it be required to do so.

Finally, law and scholarship on migration in the face of climate change tend to focus on rapid-onset events and disasters rather than slow-onset situations.[31] These rapid-onset events are likely to lead to displacement, possibly on a large scale.[32] Slow-onset situations more commonly result in "temporary, seasonal, or permanent" migration as livelihoods and living conditions become unsustainable.[33] In most cases, these migration patterns are determined at an individual scale, which makes them far less visible than large-scale displacement.[34] Moreover, in slow-onset situations, most migrants move within national borders.[35] Those who leave their country tend to relocate to neighboring countries rather than move beyond their region.[36] As a result of both the gradual and relatively local nature of this migration, international law tends to view governance of this type of movement as falling within state or national discretion rather than as an international legal issue.[37]

It is crucially important to place the decision to migrate within a human mobility frame. Migrants who move in part because of slow-onset climate change may prefer to

25. *See infra* notes 112–13 and accompanying text.

26. *See* Obokata et al., *supra* note 21, at 119.

27. SUSAN F. MARTIN & JONAS BERGMANN, KNOMAD, ENVIRONMENTAL CHANGE AND HUMAN MOBILITY: REDUCING VULNERABILITY & INCREASING RESILIENCE (2017).

28. Jimenez-Damary, *supra* note 17, ¶ 12.

29. *See* Crépeau, *supra* note 20, ¶¶ 59–60.

30. Jimenez-Damary, *supra* note 17, ¶ 12.

31. *See* MCADAM, CLIMATE CHANGE, *supra* note 20, at 240.

32. Martin, *supra* note 6, at 192.

33. SANJULA WEERASINGHE, INST. FOR THE STUDY OF INT'L MIGRATION, WHAT WE KNOW ABOUT CLIMATE CHANGE AND MIGRATION 3 (2021).

34. *Id.*

35. Obokata et al., *supra* note 21, at 112.

36. MCADAM, CLIMATE CHANGE, *supra* note 20, at 193. For Honduran migrants, family connections with other migrants and previous migration experience help to predict the decision to move internationally. Obokata et al., *supra* note 21, at 124–25.

37. MCADAM, CLIMATE CHANGE, *supra* note 20, at 193–96.

remain in their home country if their existence could be made sustainable.[38] Moreover, a focus solely on migration overlooks those who are unable to migrate.[39] The migrant journey across international borders requires physical ability, strength, and resources.[40] Those who cannot undertake the journey are the most vulnerable, and their situation must be kept in mind alongside solutions for those who are able to leave.[41]

While slow-onset climate change events, by their nature, may imply an extended response time, intervention is urgent. As described further below, slow-onset events are already well underway. If the international community fails to respond to these changes, harms stemming from them are likely to increase significantly. The harms will be felt particularly acutely by more vulnerable countries, often in the Global South, that have lower adaptive capacity than wealthier nations.[42] Indeed, residents of states with secure migration options will not need to cross borders in response to slow-onset climate events.[43] Although international law presumes that sovereigns are autonomous actors with similar capacities to respond, there is a "wide disparity in capacity between countries and regions to respond to slow onset events."[44]

It is also important to tie these harms back to their source. It is the nations in the Global North and their citizens who are responsible for climate change. The richest ten percent of the world's population are the cause of fifty percent of global carbon emissions, while the 3.5 billion people who comprise the poorest half of the world's population contribute one-tenth of the world's carbon emissions.[45] To slice the data a different way, the "one percenters," people who constitute the wealthiest one percent of the world's population, are responsible for 175 times more carbon emissions than individuals whose earnings place them in the bottom ten percent.[46] The latter group is of course exponentially more likely to be forced to move by slow-onset events than the former group.[47] Although slow-onset climate change perpetrates serious harms that might lead humans to migrate, international law overlooks the slow violence provoking that movement.

38. *See* Schewel, *supra* note 8, at 333; Jørgen Carling & Kerilyn Schewel, *Revisiting Aspiration and Ability in International Migration*, 44 J. ETHNIC & MIGRATION STUD. 945, 957 (2018).

39. *See* Schewel, *supra* note 8, at 336.

40. *See* MARTIN & BERGMANN, *supra* note 27.

41. Obokata et al., *supra* note 21, at 131.

42. *Slow Onset Events: Technical Paper*, *supra* note 4, ¶ 7.

43. *See* MCADAM, CLIMATE CHANGE, *supra* note 20, at 36.

44. *Slow Onset Events: Technical Paper*, *supra* note 4, ¶ 7(c).

45. U.N. Human Rights Council, Climate Change and Poverty: Rep. of the Special Rapporteur on Extreme Poverty and Human Rights, ¶ 14, U.N. Doc. A/HRC/41/39 (July 17, 2019) [hereinafter Human Rights Council, Climate Change and Poverty].

46. *Id.*

47. *See Slow Onset Events: Technical Paper*, *supra* note 4, ¶ 7.

II. INTERNATIONAL LAW ON SLOW-ONSET CLIMATE CHANGE AND HUMAN MOBILITY

International law simply fails to address, in any binding or actionable way, the protection of migrants who cross international borders in the face of climate change.[48] There is no "overarching global-level instrument addressing admission, stay, and rights for people who cross international borders in the context of disasters and adverse effects of climate change."[49] Individuals who flee rapid-onset events may have some argument for international legal protection if there is a political dimension to the harms they face; however, it is very hard to envision a situation in which individuals moving due to slow-onset climate change would be able to meet the international legal standards for protection that are described in this Section. As a result, many scholars and policy analysts turn to existing legal frameworks and advocate for more effective implementation of those standards.[50]

This approach faces the challenge of international legal fragmentation.[51] Cross-border movement in response to slow-onset climate change implicates many international legal subfields—including environmental law and the related fields of disaster law, human rights law, and the law of migration—each of which is governed by a separate treaty framework.[52] Though some effort has been made to speak across fields, particularly in the context of international environmental law, this approach has not resulted in binding legal standards. Moreover, international environmental law's dispute resolution mechanisms are largely state-to-state, with few avenues for individual complaints.[53] Human rights law, which enables individual complaints, has insufficiently engaged with climate migration in general and slow-onset climate migration in particular. Migration law, which is largely represented by refugee law, fails to include within the scope of its protections migrants who move due to slow-onset events. This Section will address each subfield of international law in turn.

International environmental law has had climate change migration explicitly on its agenda for just over a decade. In November 2010, the Cancun Adaptation Framework was the first international legal document to recognize the impact of climate change on migration and to incorporate human mobility into the climate change adaptation framework.[54] Subsequently, the Paris Agreement acknowledged the need to consider migrants' rights in the legal framework around climate change.[55] Following the Paris Agreement, the Executive Committee of the Warsaw International Mechanism for Loss

48. PLATFORM ON DISASTER DISPLACEMENT STEERING GRP., PLATFORM ON DISASTER DISPLACEMENT (PDD) STRATEGY 2019-2022, at 5 (2019), http://disasterdisplacement.org/wp-content/uploads/2019/06/26062019-PDD-Strategy-2019-2022-FINAL_to_post_on_website.pdf [https://perma.cc/ZY4Z-T52M].

49. WEERASINGHE, *supra* note 33, at 12.

50. *E.g.*, PLATFORM ON DISASTER DISPLACEMENT STEERING GRP., *supra* note 48, at 5; WEERASINGHE, *supra* note 33, at 12.

51. *See* Martti Koskenniemi (Chairman of the Study Group of the International Law Commission), *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law*, ¶¶ 7–8, U.N. Doc. A/CN.4/L.682 (Apr. 13, 2006).

52. *See* MCADAM, CLIMATE CHANGE, *supra* note 20, at 212.

53. *Id.* at 90–91.

54. *See Cancun Agreements*, *supra* note 11, ¶ 14; *see also* WEERASINGHE, *supra* note 33, at 4–5.

55. Paris Agreement to the United Nations Framework Convention on Climate Change, at 2, Apr. 22, 2016, T.I.A.S. No. 16-1104*.

and Damage created a task force to create recommendations regarding displacement.[56] That task force—namely, the Task Force on Displacement—is composed of several international organizations that have created a plan of action to facilitate cooperation around human mobility.[57]

In 2012, Norway and Switzerland led a state process known as the Nansen Initiative on Disaster-Induced Cross-Border Displacement that created a protection agenda.[58] In 2015 and 2016, the Philippines and the United States led the Migrants in Countries in Crisis Initiative, which created nonbinding Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster.[59] Following up on the work of the Nansen Initiative, the Platform on Disaster Displacement is guided by a steering group of eighteen states from the Global North and the Global South.[60] The platform works with three policy frameworks: the Global Compacts on Migration and Refugees, the Sendai Framework for Disaster Risk Reduction, and the United Nations Framework Convention on Climate Change.[61]

These initiatives, with their focus on disaster, are generally better suited to respond to rapid-onset events than to anticipate and prevent slow-onset climate change. The Sendai Framework focuses on preparations—including anticipating risks, investing in risk reduction, and strengthening risk governance—but the emphasis on disaster remains.[62] The Platform on Disaster Displacement focuses on "serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources."[63] While the platform explicitly includes slow-onset events, it draws a sharp distinction between forced and voluntary movement, focusing on the former rather than the latter.[64] As explained above, migration in response to slow-onset climate change is more likely to be categorized as voluntary. Moreover, disaster risk response often focuses on the human rights obligations of the

56. U.N. Framework Convention on Climate Change, *Adoption of the Paris Agreement*, ¶ 49, Dec. 1/CP.21, U.N. Doc. FCCC/CP/2015/10/Add.1 (Jan. 29, 2016).

57. WEERASINGHE, *supra* note 33, at 5.

58. 1 NANSEN INITIATIVE ON DISASTER-INDUCED CROSS-BORDER DISPLACEMENT, AGENDA FOR THE PROTECTION OF CROSS-BORDER DISPLACED PERSONS IN THE CONTEXT OF DISASTERS AND CLIMATE CHANGE 6 (2015); *see also* WEERASINGHE, *supra* note 33, at 6.

59. WEERASINGHE, *supra* note 33, at 7.

60. *The Platform on Disaster Displacement*, PLATFORM ON DISASTER DISPLACEMENT, http://disasterdisplacement.org/ [https://perma.cc/P7UM-WL26] (last visited June 1, 2021). Members of the Platform on Disaster Displacement Steering Group include Australia, Bangladesh, Brazil, Canada, Costa Rica, European Union, Fiji (Chair), France (Vice Chair), Germany, Kenya, Madagascar, Maldives, Mexico, Morocco, Norway, Philippines, Senegal, and Switzerland. *The Steering Group*, PLATFORM ON DISASTER DISPLACEMENT, http://disasterdisplacement.org/about-us/the-steering-group [https://perma.cc/R4TA-EFQV] (last visited June 1, 2021).

61. PLATFORM ON DISASTER DISPLACEMENT STEERING GRP., *supra* note 48, at 3.

62. Third U.N. World Conference, Sendai Framework for Disaster Risk Reduction 2015-2030, ¶¶ 20, 30(l) (Mar. 18, 2015), http://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf [https://perma.cc/9G3L-P9JT].

63. PLATFORM ON DISASTER DISPLACEMENT STEERING GRP., *supra* note 48, at 1 n.4 (quoting DAVID JAMES CANTOR, NANSEN INITIATIVE, LAW, POLICY AND PRACTICE CONCERNING THE HUMANITARIAN PROTECTION OF ALIENS ON A TEMPORARY BASIS IN THE CONTEXT OF DISASTERS 6 n.3 (2015)).

64. *Id.*

home state in response to climate change disasters, rather than the duties of migrant-receiving states let alone states responsible for slow-onset climate events.[65]

International human rights protections are a "very uneasy fit" for slow-onset events.[66] The serious harms resulting from these events unfold over time, while human rights law operates most effectively in response to imminent and direct threats. In the international realm, the closest that human rights law has come to protecting migrants from climate harms has been in the context of rapid-onset events in the *Teitiota v. New Zealand*[67] case before the UN Human Rights Committee.[68] While the committee found that climate change could implicate the "right to enjoy a life with dignity" under the International Covenant on Civil and Political Rights, it held that the petitioner, from Kiribati, had not met that threshold despite water rationing and crop destruction.[69] The committee drew a distinction between sudden-onset and slow-onset events and, noting that it would be ten to fifteen years before Kiribati became uninhabitable, explained that adaptive measures might prevent such an outcome in the meantime.[70]

Otherwise, international human rights bodies such as the UN High Commissioner for Refugees and the UN High Commissioner for Human Rights provide information about relevant legal standards but have not expanded binding law on climate migration.[71] Regional case law from the African Commission on Human and People's Rights and the Inter-American Commission on Human Rights (IACHR) has interpreted the right to life more expansively. Both commissions have linked the right to life to the loss of land for indigenous people, and the IACHR has also included socioeconomic conditions in the right to life.[72]

Turning to the international law of migration, international refugee law does not protect migrants who cross borders due to slow-onset climate events for several reasons. First, the 1951 UN Convention Relating to the Status of Refugees Convention requires a far more precise causal delineation than is possible in slow-onset events.[73] Refugees must establish that they were persecuted, which requires them to pinpoint an individual perpetrator with intent to harm them on the basis of a protected ground.[74] In the case of

65. *See, e.g.*, Bruce Burson, Walter Kälin, Jane McAdam & Sanjula Weerasinghe, *The Duty To Move People Out of Harm's Way in the Context of Climate Change and Disasters,* 37 REFUGEE SURV. Q. 379, 393 (2018) (discussing a home country's obligation to order evacuations for citizens at risk).

66. MCADAM, CLIMATE CHANGE, *supra* note 20, at 84.

67. U.N. Doc. CCPR/C/127/D/2728/2016, Views Adopted by the Committee Under Article 5(4) of the Optional Protocol, Concerning Communication No. 2728/2016 (U.N. Hum. Rts. Comm. Oct. 24, 2019).

68. *See Teitiota*, U.N. Doc. CCPR/C/127/D/2728/2016.

69. *Id.* ¶¶ 9.8–.9.

70. *Id.* ¶¶ 9.11–.12. For a thoughtful analysis of the case, see Jane McAdam, *Protecting People Displaced by the Impacts of Climate Change: The UN Human Rights Committee and the Principle of* Non-Refoulement, 114 AM. J. INT'L L. 708 (2020).

71. *See* WEERASINGHE, *supra* note 33, at 9.

72. MCADAM, CLIMATE CHANGE, *supra* note 20, at 61 (first citing Yakye Axa v. Paraguay, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (June 17, 2005); and then citing Malawi African Assoc. v. Mauritania, Communication 54/91, 61/91, 98/93, 164/97 à 196/97, 210/98, African Commission on Human and Peoples' Rights [Afr. Comm'n H.P.R.] (May 11, 2000)).

73. Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137, 152 (entered into force Apr. 22, 1954).

74. *Id.*

slow-onset climate change, many individuals were responsible for causing the harm; their intent will be difficult to establish. It would be exceedingly hard to link that harm to the migrant's race, religion, nationality, political opinion, or membership in a particular social group.[75] In other words, international refugee law demands an explanation of the migrant's motivation for seeking protection, but the reasons for movement are complex and at times murky.

In addition, refugees must establish a well-founded fear of future persecution, which requires a type of imminent danger that is unlikely to be found with slow-onset events.[76] The OAU Convention and the Cartagena Declaration offer more expansive refugee definitions, but slow-onset climate events are unlikely to fit even within these standards, which require a serious disturbance of public order before protection can be invoked.[77] Measured by a refugee law framework, migrants' decisions to leave in the face of slow-onset climate change may resemble choice, or voluntary migration. For this reason, many migrants leaving due, in part, to slow-onset climate change may be categorized as "economic migrants," though their decision to cross international borders is provoked by climate change layered with global structural inequality.[78]

The relevant subfields of international law—environmental law, including disaster law, human rights law, and migration law—do not adequately address slow-onset climate change and human mobility. Environmental law and disaster law are focused on imminent crises and preference protection for forced migrants;[79] slow-onset climate migrants are unlikely to be able to meet these temporal and causal standards. Human rights law provides few binding standards and requires imminent and direct threats.[80] Similarly, international refugee law focuses on precise causes and immediate and individualized harms.[81] As a result, slow-onset climate migrants are left with few protections under international law.

III. SLOW-ONSET CLIMATE CHANGE AND GUATEMALAN SMALLHOLDER FARMERS

The situation of smallholder farmers in Guatemala provides a case study of the impacts of climate change on the rural poor. Seventy-five percent of the world's farms are owned by smallholder farmers;[82] over two million families in El Salvador, Guatemala, Honduras, and Nicaragua fall into this category.[83] Agriculture is the main

75. *Id.* at 152; MCADAM, CLIMATE CHANGE, *supra* note 20, at 46.

76. MCADAM, CLIMATE CHANGE, *supra* note 20, at 194.

77. Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, at 16, Nov. 22, 1984; Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa art. I, June 20, 1969, 1001 U.N.T.S. 45 (entered into force June 20, 1974).

78. Martin, *supra* note 6, at 200.

79. *See supra* notes 54–65 and accompanying text.

80. *See supra* notes 66–72 and accompanying text.

81. *See supra* notes 73–78 and accompanying text.

82. Camila I. Donatti, Celia A. Harvey, M. Ruth Martinez-Rodriguez, Raffaele Vignola & Carlos Manuel Rodriguez, *Vulnerability of Smallholder Farmers to Climate Change in Central America and Mexico: Current Knowledge and Research Gaps*, 11 CLIMATE & DEV. 264, 264 (2019).

83. *Id.* at 265.

source of economic activity (33.3%) in Guatemala,[84] with four main crops that are all highly prone to climate variability: coffee, maize, beans, and rice.[85]

Throughout Latin America, slow-onset climate change disproportionately impacts rural subsistence farmers, given their vulnerability to desertification, drought, and soil erosion.[86] Farmers in Central America are particularly vulnerable because of their location in a hurricane zone and the topography, which is characterized by steep terrain and sandy soil prone to mudslides.[87] Smallholder farmers may face several challenges in adapting to climate change, including insufficient resources to implement risk management strategies, environmentally vulnerable locations, exclusion from large-scale assistance programs, and unpredictable pricing in markets in which they compete with industrial farms.[88]

In the Northern Triangle of Central America, where Guatemala is situated, slow-onset climate change has taken the form of increasing temperatures, decreased rainfall, prolonged drought,[89] and a reduction in water supply from large rivers.[90] Smallholder farmers in particular have reported less rain and hotter temperatures plus more extreme weather events, and many have insufficient support to adapt.[91] Extreme weather, primarily droughts, led to crop failures in the Northern Triangle from 2014 to 2019.[92] In addition to years of drought, severe problems with coffee leaf rust and other crop problems diminished the pool of agricultural jobs at the same time that Guatemalan farmers faced global competition.[93] Many migrants indicated that the urgent need for food assistance was a key factor in their decision to leave.[94] Ongoing food shortages for the poorest Central Americans are a likely result of slow-onset climate change.[95]

Slow-onset climate change will hit poor Guatemalans hard, in part, because of the extreme structural inequality in Central America. The region is characterized by the duality of modern processes of production alongside many low-income people.[96] In

84. LATIN AM. & CARIBBEAN DEMOGRAPHIC CTR.-POPULATION DIV., ECON. COMM. FOR LATIN AM. & THE CARIBBEAN, ATLAS OF MIGRATION IN NORTHERN CENTRAL AMERICA 13 (2018).

85. *See* WORKING GRP. II, INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2014: IMPACTS, ADAPTATION, AND VULNERABILITY: PART B REGIONAL ASPECTS 1528–30 (2014) (discussing the impact of climate change on crops grown in Central and South America).

86. CANTOR, *supra* note 63, at 9.

87. WORKING GRP. II, *supra* note 85, at 1508 box 27-1.

88. Donatti et al., *supra* note 82, at 264.

89. Markham, *supra* note 7.

90. WORKING GRP. II, *supra* note 85, at 1521.

91. Celia A. Harvey, Milagro Saborio-Rodríguez, M. Ruth Martinez-Rodríguez, Barbara Viguera, Adina Chain-Guadarrama, Raffaele Vignola & Francisco Alpizar, *Climate Change Impacts and Adaptation Among Smallholder Farmers in Central America*, AGRIC. & FOOD SEC., Aug. 14, 2018, at 1, 9–11 (2018).

92. Jeff Masters, *Fifth Straight Year of Central American Drought Helping Drive Migration*, SCI. AM.: EYE OF THE STORM (Dec. 23, 2019), http://blogs.scientificamerican.com/eye-of-the-storm/fifth-straight-year-of-central-american-drought-helping-drive-migration/ [https://perma.cc/JV6S-N5B2].

93. Jacob Soboroff & Julia Ainsley, *Trump Admin Ignored Its Own Evidence of Climate Change's Impact on Migration from Central America*, NBC NEWS (Sept. 20, 2019, 7:00 AM), http://www.nbcnews.com/politics/immigration/trump-admin-ignored-its-own-evidence-climate-change-s-impact-n1056381 [https://perma.cc/WQW9-JQF5].

94. Masters, *supra* note 92.

95. WORKING GRP. II, *supra* note 85, at 1503.

96. *Id.* at 1515.

addition, Central America faces high and ongoing income inequality: "The average per capita income of the richest 10% of households is approximately 17 times that of the poorest 40% of households."[97] In Guatemala, which is ranked at 127 out of 189 countries on the Human Development Index, nearly 30% of its population lives in multidimensional poverty.[98] These numbers reflect a rural/urban divide; rural poverty is as high as 77% in Guatemala.[99] In 2015, nearly 60% of Guatemalans lived in rural areas.[100]

With an already high rate of food insecurity, climate change is likely to increase chronic malnutrition and health risks for the poorest Guatemalans.[101] Nearly 60% of rural children and over 65% of indigenous children faced chronic malnutrition from 2004 to 2012 due to drought in Central America's Dry Corridor.[102] Climate change has been associated with an increase in a range of diseases, including respiratory and cardiovascular illnesses, vector- and waterborne diseases, chronic kidney diseases, and psychological trauma.[103] In addition to the harms that slow-onset climate change poses to humans, it will result in a dramatic loss of species in one of the most biodiverse locations on the planet.[104]

Moreover, in the Central American region as elsewhere, rapid-onset events exacerbate slow-onset situations.[105] In the fall of 2020, Hurricanes Eta and Iota offered examples of the devastation resulting from rapid-onset events. Last year, thirty hurricanes occurred in the Atlantic region—the highest number on record.[106] Hurricane season was also unusually long; for the first time, two major hurricanes, Eta and Iota, arrived as late as November.[107] The storms brought powerful winds and rains that led to widespread flooding and damage to local infrastructure.[108] Nearly six hundred thousand people have been displaced in Guatemala, Honduras, and Nicaragua.[109]

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97. *Id.* at 1516.

98. *Guatemala: Human Development Indicators*, U.N. DEV. PROGRAMME, http://hdr.undp.org/en/countries/profiles/GTM [https://perma.cc/7QW5-JZPF] (last visited June 1, 2021).

99. LATIN AM. & CARIBBEAN DEMOGRAPHIC CTR.-POPULATION DIV., *supra* note 84, at 5.

100. *Id.* at 21.

101. WORKING GRP. II, *supra* note 85, at 1530.

102. LATIN AM. & CARIBBEAN DEMOGRAPHIC CTR.-POPULATION DIV., *supra* note 84, at 13.

103. WORKING GRP. II, *supra* note 85, at 1503.

104. *Id.* at 1522.

105. Human Rights Council, The Slow Onset Effects of Climate Change and Human Rights Protection for Cross-Border Migrants, ¶ 128, U.N. Doc. A/HRC/37/CRP.4 (Mar. 22, 2018).

106. *Record-Breaking Atlantic Hurricane Season Ends*, WORLD METEOROLOGICAL ORG. (Dec. 1, 2020), http://public.wmo.int/en/media/news/record-breaking-atlantic-hurricane-season-ends [https://perma.cc/XTT6-JCSJ].

107. *Id.*

108. *See* UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, LATIN AMERICA AND THE CARIBBEAN: WEEKLY SITUATION UPDATE (23-29 NOVEMBER 2020) (2020), http://reliefweb.int/sites/reliefweb.int/files/resources/Latin America and The Caribbean - Weekly Situation Update %2823-29 November 2020%29 As of 30 November 2020.pdf [https://perma.cc/CV3D-YJJV].

109. FAMINE EARLY WARNING SYS. NETWORK, HURRICANES ETA AND IOTA WILL ELEVATE FOOD ASSISTANCE NEEDS IN CENTRAL AMERICA THROUGH MID-2021 (2020), http://reliefweb.int/sites/reliefweb.int/files/resources/ALERT_CA_EtaIota_UPDATED_12.01.2020.pdf [https://perma.cc/TT4V-J6AK].

As this Essay goes to print, millions are still in dire need of shelter and food.[110] November is the apex of the farming season in Central America; the storm damage to crops was devastating. It is expected that by August 2021, four million people across the Northern Triangle of Central America will face crisis levels of food insecurity.[111] These rapid-onset events magnify the harms of slow-onset climate change.

For Guatemalan smallholder farmers and others facing the impacts of slow-onset climate change, the decision to migrate is complex. It depends on many factors, including household resilience, family connections abroad, and available government support.[112] Those leaving because of slow-onset climate change often follow existing migration routes, which makes them more vulnerable to being depicted as economic migrants.[113] Often, some family members remain on the farm in Guatemala, while one or more family members migrate internationally to send back remittances to support the family.[114] The Guatemalan economy is generally very dependent on remittances, and rural Guatemalans are particularly reliant on funds from abroad.[115] In 2015, just over 50% of Guatemalans receiving remittances were living in rural areas.[116]

The mechanisms through which slow-onset climate change provokes migration are complex and contingent. The long-term changes to rainfall and temperatures in Central America have had a devastating effect on smallholding farmers in Guatemala, a population that is vulnerable to food insecurity due to structural inequality in the region and the world. Slow-onset climate change will have the greatest impact on similarly vulnerable populations, some of whom may choose to migrate to sustain their existence. International law should play a role in reducing their vulnerability at home and enabling safe movement across borders.

IV. THE ROLE THAT INTERNATIONAL LAW COULD PLAY

These dire impacts of slow-onset climate change demand an urgent and effective solution.[117] While rapid-onset climate events are more visible on the global stage and more legible in international law, it is crucially important not to overlook slow-onset changes that will have a disproportionate impact on the world's impoverished rural populations, including subsistence farmers. An approach that seeks to avoid "climate apartheid"[118] must take seriously all of the different facets of climate change and their impacts on all humans, especially those who are least likely to have their voices heard on the international stage. If international law is to play an effective role in addressing

110. *See id.*

111. *Id.*

112. *See* CANTOR, *supra* note 63, at 10.

113. *See id.*

114. *See* Robert McLeman, *Climate-Related Migration and Its Linkages to Vulnerability, Adaptation, and Socioeconomic Inequality: Evidence from Recent Examples*, *in* RESEARCH HANDBOOK ON CLIMATE CHANGE, MIGRATION AND THE LAW 29, 43–44 (Benoît Mayer & François Crépeau eds., 2017).

115. *See* LATIN AM. & CARIBBEAN DEMOGRAPHIC CTR.-POPULATION DIV., *supra* note 84, at 11 & tbl.l.1; *id.* at 21.

116. *Id.*

117. *See* Human Rights Council, Climate Change and Poverty, *supra* note 45, ¶ 88 ("Ticking boxes will not save humanity or the planet from impending disaster.").

118. *See id.* ¶ 51.

the human mobility impacts of slow-onset climate change, it must take direction from those who are most at risk of serious harm.[119]

International law can and should play a regulatory role, but this effort must have teeth. International legal organizations could enable much-needed communication between smallholding farmers and groups that can assist them, coordinate the development and implementation of risk management strategies for slow-onset events, and help to establish strong and reliable governance structures that create flexible and iterative approaches to planning.[120] The primary focus for slow-onset events should be vulnerable rural areas, and an international law framework should include within its scope both economic and noneconomic losses.[121] The Task Force on Displacement, which aims to improve understanding of human mobility in the context of climate change, is performing part of this work.[122] Their effort is only a starting point. More should be done on an international level to minimize vulnerability through poverty reduction efforts, rebuild impacted areas through reforestation and other initiatives, and increase adaptability through new crops and technological approaches.[123]

Regional efforts could lead the way. Effective free movement agreements could present a path that enables individuals who cross international borders to seek relief from slow-onset climate change to move easily within their region.[124] In South America, for example, the 2002 MERCOSUR Residence Agreement extends the right to reside and work in all member states to all nationals of member states or associate member states —namely, Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, and Uruguay. [125] Given that most migrants move regionally, this is an important option. Although a refugee law instrument is less likely to meet the needs of those facing slow-onset climate events, both the African Union and the Inter-American human rights system have an opportunity to build on existing law—including the OAU Refugee

119. *See* Jaya Ramji-Nogales, *Designing Bespoke Transitional Justice: A Pluralist Process Approach*, 32 MICH. J. INT'L L. 1, 63–67 (2010); Human Rights Council, Climate Change and Poverty, *supra* note 45, ¶ 74.

120. *Slow Onset Events: Technical Paper*, *supra* note 4, ¶ 7(h).

121. Professor David Cantor also reminds us of the important role of national legal practice in responding to cross-border human mobility in the face of environmental threats, particularly in the Americas. He persuasively argues that international law efforts should begin by recognizing existing national laws and leveraging them as a building block to develop regional and subregional responses. David James Cantor, *Environment, Mobility, and International Law: A New Approach in the Americas,* 21 CHI. J. INT'L L. 263, 320–22 (2021).

122. *See* U.N. Framework Convention on Climate Change, *Report of the Task Force on Displacement*, ¶¶ 26–37 (Sept. 17, 2018), http://unfccc.int/sites/default/files/resource/2018_TFD_report_17_Sep.pdf [https://perma.cc/PGR2-JCCA] (describing how the Task Force is mapping relevant national and subnational legislation).

123. *Slow Onset Events: Technical Paper*, *supra* note 4, at 13 box 2.

124. *See generally* Ama Francis, *Climate-Induced Migration & Free Movement Agreements*, 73 J. INT'L AFF. 123 *passim* (2020) (arguing that free move agreements would be helpful in the climate context to increase economic resilience and bypass political hurdles).

125. DIEGO ACOSTA, THE NATIONAL VERSUS THE FOREIGNER IN SOUTH AMERICA 179–81 (2018); *MERCOSUR Residence Agreement*, GLOBAL F. ON MIGRATION & DEV., http://www.gfmd.org/pfp/ppd/10502#:~:text=Summary%3A,of%20the%20temporary%20residence%20permit [https://perma.cc/Y62A-6R2T] (last visited June 1, 2021).

Convention and the Cartagena Declaration[126]—to expand refugee protection more broadly.

Looking to the responsibility of states in the Global North, Professor Carmen Gonzalez suggests a climate justice approach,[127] and Professor Maxine Burkett argues for climate reparations.[128] Either approach could generate much-needed financial support that could fund development, adaptation, and mitigation efforts, as well as public education, all of which could increase the resilience of populations facing slow-onset climate change.[129] Risk management options include introducing new crops to enable crop diversity, sharing soil conservation techniques, and enabling the rural poor to diversify economically.[130] To encourage such efforts, farmers should receive financial credit to encourage them to shift to more sustainable practices or be provided with drought adaptation insurance.[131] In addition to these *in situ* adaptation options, vulnerable populations should have access to protective infrastructure and be provided with relocation options as well as training and employment support as needed.[132] They must also have access to food, water, sanitation, and health care.[133]

A climate justice approach to slow-onset climate change should learn from vulnerable groups themselves, who are sources of invaluable knowledge about how to solve the challenges they are facing most effectively.[134] These solutions may include ecosystem-based approaches that depend on traditional local knowledge of agricultural regions or indigenous knowledge.[135] It is important to ensure that these indigenous and local knowledge banks are not diminished by migration and market integration.[136] In Guatemala, for example, traditional agricultural approaches are more resistant to erosion, enabling the soil to retain more moisture.[137]

These climate justice efforts should be supported and implemented by local community organizations and cooperatives. Groups with deep local knowledge can effectively amplify home-grown adaptation efforts if they are provided with access to necessary financial resources as well as relevant and reliable information on climate

126. *See* Cartagena Declaration on Refugees, *supra* note 77; Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa, *supra* note 77.

127. *See* Carmen G. Gonzalez, *Climate Justice and Climate Displacement: Evaluating the Emerging Legal and Policy Responses*, 36 WIS. INT'L L.J. 366, 379–88 (2019) (contrasting climate justice with national security, humanitarianism, or migration management approaches).

128. *See* Maxine Burkett, *Climate Reparations*, 10 MELBOURNE J. INT'L L. 509 *passim* (2009).

129. *See* Jonathan Blitzer, *How Climate Change Is Fuelling the U.S. Border Crisis*, NEW YORKER (Apr. 3, 2019), http://www.newyorker.com/news/dispatch/how-climate-change-is-fuelling-the-us-border-crisis [https://perma.cc/8R7M-6UKX]; *see also* WORKING GRP. II, *supra* note 85, at 1538; Donatti et al., *supra* note 82, at 275.

130. WORKING GRP. II, *supra* note 85, at 1531.

131. *Slow Onset Events: Technical Paper*, *supra* note 4, ¶ 78.

132. Human Rights Council, Climate Change and Poverty, *supra* note 45, ¶ 79.

133. *Id.*

134. Jimenez-Damary, *supra* note 17, ¶¶ 34–35; *see also* Donatti et al., *supra* note 82, at 282–83.

135. *See Slow Onset Events: Technical Paper*, *supra* note 4, ¶¶ 55–57, 88.

136. *See* WORKING GRP. II, *supra* note 85, at 1531.

137. *Id.*

change and global markets.[138] They can also focus on specific adaptation strategies such as increasing the use of renewable energy or simply managing recycling.[139]

In addition to seeking to hold states in the Global North financially responsible, a climate justice approach should seek reparations from corporations.[140] This strategy includes efforts to hold fossil fuel and extractive industries in particular liable for the harms of slow-onset climate change.[141] This strategy also includes efforts to seek financial support from other businesses that benefit from the structural inequality that renders the rural poor particularly vulnerable to slow-onset events.

Last, but perhaps most importantly, approaches to human mobility in the face of slow-onset climate change should be determined locally by affected individuals and communities.[142] Although those most impacted by climate change have already begun to demand participation in international processes,[143] these efforts should begin by seeking out those voices. Those who prefer to remain in their home countries should benefit from the risk reduction, adaptation, and resilience building strategies described above. Those who prefer to cross international borders should be able to move in a dignified manner, using safe, orderly, and regular migration channels.[144] These might include circular migration opportunities that are protective of migrants' rights and access to orderly, convenient, and inexpensive remittance options as adaptation strategies.[145] Countries in the Global North could offer humanitarian visas to those who are particularly at risk.[146] While it is tempting to say that individuals facing slow-onset climate change should receive preferential access to migration categories,[147] it is important to remember the need for coherent policies for all migrants, not just those whose movements are due to climate change.[148]

International law must include slow-onset climate migration in its governance and protection frameworks. It should expand its gaze beyond a blinkered focus on the most imminent and dramatic harms to include slow-onset climate harms that will impact the most vulnerable populations. International law should take direction from those most at risk of serious harm from slow-onset migration, enabling communication, adaptation, and mitigation. A climate justice approach or a climate reparations approach could be used to seek financial support from states and corporations in the Global North to

138. *Id.* at 1508 box 27.1.

139. *Id.* at 1539.

140. *See* Human Rights Council, Climate Change and Poverty, *supra* note 45, ¶¶ 34–36, 39, 60 (describing ways in which corporations are responsible for global climate change).

141. *See Bali Principles of Climate Justice*, EJNET.ORG, ¶ 8 (Aug. 29, 2002), http://www.ejnet.org/ej/bali.pdf [https://perma.cc/VB2G-ZWD2].

142. Crépeau, *supra* note 20, ¶ 86.

143. *See, e.g.*, Indigenous Peoples' Global Summit on Climate Change, *The Anchorage Declaration* (Apr. 24, 2009), http://unfccc.int/resource/docs/2009/smsn/ngo/168.pdf [https://perma.cc/VK4S-ALFD].

144. PLATFORM ON DISASTER DISPLACEMENT STEERING GRP., *supra* note 48, at 2.

145. Crépeau, *supra* note 20, ¶ 89.

146. PLATFORM ON DISASTER DISPLACEMENT STEERING GRP., *supra* note 48, at 2.

147. *See* Jane McAdam, *Building International Approaches to Climate Change, Disasters, and Displacement*, 33 WINDSOR Y.B. ACCESS JUST. 1, 11 (2016).

148. Crépeau, *supra* note 20, ¶ 65.

implement solutions devised by communities that are vulnerable to slow-onset climate change. Mother Earth herself would demand no less.[149]

CONCLUSION

Slow-onset climate migrants offer an important story of structural inequality and slow violence. The serious harms they face are overlooked as a result of international law's crisis focus, which emphasizes dramatic, individualized, and imminent threats. The structure of international law transforms those slow-onset climate migrants from humans harmed by anthropogenic drought and heat into undeserving "economic migrants." In other words, individuals who bear little responsibility for creating climate harms are depicted as threats to states in the Global North, which are most liable for global carbon emissions.

The case study of Guatemalan smallholding farmers provides an illustration of how this slow violence works in practice, exacerbating food insecurity among populations on the receiving end of structural inequality. International law should enable adaptation and mitigation strategies that can increase the resilience of these populations. Legal institutions should take direction from communities most impacted by slow-onset climate change, crafting solutions that draw from their expertise. In order to bring climate justice to those facing slow-onset situations, international law must play a more effective role in ensuring human mobility, including safe and regular migration for all humans as well as the option to pursue a sustainable and dignified future within their home country.

149. *See* World People's Conference on Climate Change and the Rights of Mother Earth, *People's Agreement* (Apr. 22, 2010), http://pwccc.wordpress.com/support/ [https://perma.cc/FS5N-4THT].