

Pacific Islands against Climate Change:

Small Island Developing States of the Pacific's
Need for International Cooperation to Survive

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Introduction

Tuvalu Prime Minister Enele Sopoago describes climate change as a weapon of mass destruction that knows no boundaries. (Harman 2014) Frank Bainimarama, Fiji's prime minister, refers to climate change as "the greatest challenge of our age" and if the world does not act upon it, the small island nations in the Pacific would be "innocent bystanders" and "doomed." (Smyth, 2015) With "anger and frustration," Kiribati's president Atone Tong asks the international community to recognize climate change as "ecoterrorism" in which his country is at the "frontline" and acting as a "canary in the coal mine." (Goldberg 2013)

While climate change threatens the entire human race, the Small Island Developing States of the Pacific (SIDSP) will face most of its extreme consequences despite the fact that they contribute to greenhouse gases the least. (Ni, 2011) The United Nations Department of Economic and Social Affairs defines the SIDSP as American Samoa, Cook Islands, Micronesia, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu, and Vanuatu. (Sustainable Development Knowledge Platform, 2015)

The average sea level of the world rises at 3.2 mm per year, whereas, the sea level surrounding these island nations rose at an average of 12mm per year between 1993-2009—nearly quadrupling the global average. (UNEP News Centre) The Pacific Island locals' culture and resources—or in other words, their ways and means of life—struggle in the fight against warmer and rising tides. (Fartbotko and Lazrus 2011) Not only does climate change affect their lives, the rising sea levels may swallow their nations whole and take their lives away entirely. (Ni, 2011)

In order to succeed in diminishing these effects of climate change, legally binding cooperation is needed among the entire international community for earth's sustainability. There needs to be a consensus that each state must generate positive action towards environmental protection in order to protect the human rights of all. Without action, the small island nations may be the first to sink in earth's rising sea levels. What good would the rest of planet's status be on the day these nations disappear? Without international cooperation and legal action, we are condemning the islanders as our "canaries in the coal mine" for climate change. Also, considering the Pacific Islands contribute the least to global warming yet suffer from it the most, developed nations with the highest carbon emissions per capita should recognize that the world needs sustainable action and that climate change's repercussions are largely their responsibility. Developed nations must be obligated to mend the repercussions of their environmental damage by improving their treatment of the environment, assisting the SIDSP in adapting to climate change and migration for those whose homes are becoming uninhabitable.

In this legal position paper, I first provide the history of climate change's definition and its growing recognition in the international community. Secondly, I present the importance of recognizing climate change as a human rights issue and how climate change violates the human rights of Pacific Island citizens. I then frame my argument that a legally binding treaty among all nations is required in battling climate change and assisting those vulnerable to it. Assistance includes providing aid to help SIDSP adapt to climate change and opening borders to climate change refugees.

Without action, we are not only risking thousands of livelihoods but also risking thousands of lives. Iris Marion Young, from the Political Science Department of the University of Chicago, argues that a "collective responsibility" is needed to rectify the injustices made by many. This is

clear for the world and global climate change. (Alston and Goodman, 2013: pg 1545) Considering predictions like 100 million people impoverished (Sidney Morning Herald, 2015) and island nations becoming uninhabitable by 2030 (Caplan-Bricker 2013), teamwork in combatting climate change is critical. As Sopoago said in an interview with Australia's ABC, saving Tuvalu—and the other vulnerable island nations—from climate change is also “saving the world.” (Harman 2014)

What is Global Warming?

The United Nations Framework Convention on Climate Change (UNFCCC) defines climate change as the “increase in the average temperature” of the Earth's oceans and atmospheres caused by human activities. The warming of the earth alters its atmosphere and the “natural variability of the planet.” (COP21, 2015) This phenomenon did not gain recognition until 1975 by Wallace Broecker. In 1938, British engineer Guy Callendar found that both temperatures and carbon dioxide (CO₂) increased over the years and theorized that the increase in CO₂ concentrations caused the increase in temperatures but it was not until Broecker coined the term “global warming” did climate change receive attention. (BBC News 2013) From the 1920's to 1970's, Broecker observed that the "warming trend due to CO₂" begun surpassing the earth's capability of countering it with its "natural cooling." By continuing CO₂ effects' "rapid growth," earth's natural cooling system will reach a point in which it cannot compensate for the amount of CO₂ emissions or— as Broecker calls it— the amount of "man-made dust." He recognizes that global warming is linked to human activity. Although 40 years from today, Broecker already predicted that climate change would result in agricultural consequences, changes in global sea levels, and a shift in global precipitation patterns. (Broecker 1975)

Protection of the Ozone Layer

Despite Broecker's declaration for the need of a greater understanding for global warming, the international community did not come together until 1985 to act upon it. The United Nations Environment Program (UNEP) created the Vienna Convention for the Protection of the Ozone Layer in 1985, which calls upon states to work together in protecting the ozone layer. What led to the Vienna Convention was the finding that chlorofluorocarbon (CFC) gases could damage the ozone layer. (BBC News 2013) Damaging the ozone layer would harm the earth and all of its living organisms because it balances the amount of ultraviolet radiation that comes into earth's atmosphere. (Chazournes 2008) In Article 2 paragraph 1, the Convention states that those in the party must "protect human health and the environment" against the effects of man-made activities that would "modify the ozone layer." ("Vienna Convention") Also, quoted from the preamble, the Convention requests "international cooperation and action" in order to achieve this protection. ("Vienna Convention")

As part of the Vienna Convention, UNEP created the Montreal Protocol on Substances that Deplete the Ozone Layer in 1987 in order to define the limitations for specific chemicals being produced and consumed unnaturally. (BBC News 2013) The chemicals included in the Montreal Protocol are not only CFCs but also greenhouse gases (GHGs). ("Montreal Protocol") However, despite the newfound recognition of global warming and its limitations, carbon emissions from fossil fuel burning and industry reached six billion tons per year in 1989, a five billion tons growth from the 1920's. (BBC News 2013) That same year, UK Prime Minister Margaret Thatcher, who has a chemistry degree, warned the United Nations in a speech to the General Assembly that a global treaty specifically for climate change was necessary because the increasing CO₂ threatens all living organisms and that we must use our newfound knowledge that reducing CFCs can help disarm climate change's effects. (BBC News 2013)

Introducing Climate Change to International Law

Although carbon emissions continued to rise, the United Nations did recognize the need for monitoring “evidence on climate change” by creating the Intergovernmental Panel on Climate Change (IPCC) in 1988. The IPCC is the United Nations scientific body that studies and reviews “scientific, technical and socio-economic information” relevant in understanding climate change. (UNEP, 2015) In its first report in 1990, the IPCC concluded that temperatures rose in the past hundred years and that human-caused emissions contributed to the atmosphere’s greenhouse gases. By 1992, Thatcher’s demand for a legally binding convention specifically for climate change came to reality. States came together and created the United Nations Framework Convention on Climate Change (UNFCCC) in 1992 at the Rio de Janeiro Earth Summit with the objective to address the greenhouse gases not listed in the Vienna Convention or the Montreal Protocol. (Chazournes 2008) The UNFCCC’s long-term goal, according to Article 2, is to “achieve [...] the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.” (Chazournes 2008) In order to do so, states must cooperate and recognize each other’s varying capabilities and responsibilities, like small island states versus desert areas.

Almost universal, 192 states ratified the UNFCCC. (Chazournes 2008) As the recognition of climate change being a global hazard grew, the IPCC announced in its second report in 1995 that there is evidence that humans are responsible for climate change in the first place. (BBC News 2013) As another step towards working together in fighting global warming in 1997, nations came together once more and adopted the Kyoto Protocol, which acknowledges that developed countries are the main contributors of GHG’s. (BBC News 2013) Therefore, the Protocol assigns more obligations on developed nations with the respect of “common but

differentiated responsibilities.” (Kyoto Protocol Article 10) The developed nations pledged to reduce emissions by an average of 5% during 2008 to 2012 with "variations on targets for individual countries." However, the US declared it would not ratify the treaty and in 2001, President George W. Bush removed the US from the Kyoto Protocol's process. (BBC News 2013)

That same year, the IPCC reported that they had even stronger evidence to prove that manmade emissions of GHG's are the main cause of global warming. (BBC News 2013) A few years later, for participating nations, Kyoto Protocol became law in 2015. (BBC News 2013) (2005) But, again, the steps toward the fight against climate change meets another setback. In 2006, carbon emissions reached eight billion tons and the Stern Review on the Economics of Climate Change by the British government concluded that climate change could "damage global GDP by up to 20% if left unchecked" whereas "curbing it" would only cost "1% of global GDP." (BBC News 2013)

For the fifteenth Conference of the Parties (COP15) in 2009, states created the Copenhagen Accord to “combat climate change in accordance with the principle of common but differentiated responsibilities and respective capabilities.” (“Copenhagen Accord”) It aims for the stabilization of the amount of GHG's emitted into the atmosphere, a limit to the increasing global temperature to below 2 degrees Celsius, and long-term cooperative action” among the parties. (“Copenhagen Accord”) Despite providing a framework for an agreement in tackling climate change from its creation to 2020 and having 141 states partied to it, the Copenhagen Accord is not legally. (“Copenhagen Accord”) Possibly as a result, by 2011, scientists discovered that "concentrations of greenhouse gases" are "rising faster than in previous years.” The effects of this are clear in 2012 when the arctic sea ice only reached 3.41 million square miles, the

"lowest summer cover" since 1979. Also, in 2013, the Mauna Loa Observatory—an observatory that collects and monitors data in regards to changes in earth's atmosphere— reported that the "daily mean concentration of CO₂ in the atmosphere" surpassed 400 parts per million (ppm) for the first time since the observatory began measurements in 1958. (BBC News 2013) The IPCC reported once again that humans triggered global warming in 2014 but, this time, they concluded that they are "95% certain that humans are the dominant cause." (BBC News 2013)

Climate Change as a Human Rights Issue in Small Island Developing States of the Pacific

The attention towards climate change grew in the international community, however, as the Mauna Loa Observatory report and the IPCC 2014 report shows, more needs to be done in the fight against climate change. World leaders must acknowledge that climate change is a human rights issue in which creating a "human rights framework" in regards to climate change is necessary. (Mcinerney-Lankford, et. al 2011) According to "Human Rights and Climate Change: A Review of the International Legal Dimensions" by Siobhan Mcinerney-Lankford, Mac Darrow and Lavanya Rajamani for the World Bank, there would be more "traction to any appreciable extent within [international] climate change negotiations..." by doing so. (Mcinerney-Lankford, et. al 2011) Therefore, determining how climate change affects Pacific Islanders' human rights would be efficient in taking action against climate change. This action is necessary because as GHG emissions in our atmosphere grow, the Pacific Islanders' ability to achieve their human rights diminishes.

By using the Universal Declaration on Human Rights, (UDHR) the International Covenant on Economic, and Social Rights (ICESCR) and the International Covenant on Civil and Political rights (ICCPR), I will demonstrate how climate change overburdens SIDSP thus impairing the achievability of human rights. These documents, particularly the ICESCR and the

ICCPR, demonstrate a nearly universal definition of human rights. ICESCR has 164 ratified parties and ICCPR has 168, (“Status of Ratification Interactive Dashboard”) therefore, can be referred to as *jus cogens* in which the international community has obligation to uphold.

Right to an Adequate Standard of Living

An adequate standard of living in SIDSP is becoming unachievable due to climate change. Article 11 paragraph 1 of the ICESCR states that those participating in the covenant must recognize the “right of everyone to an adequate standard of living... including adequate food...” (“ICESCR”) Also, in paragraph 1, the ICESCR provides “everyone to be from hunger.” (“ICESCR”) One example of how climate change threatens these rights can be found in Kiribati and Tuvalu.

For the i-Kiribati, majority of their diet comes from the ocean. (“Pacific Islands: The Ocean is Our Mother”) “We eat fish in the morning for breakfast, we eat fish for lunch, and we eat fish at dinner time,” Claire Anterea, Conveyor of the Climate Action Network in Kiribati, states. (“Pacific Islands: The Ocean is Our Mother”) She further illustrates the importance of marine resources by explaining that i-Kiribati’s livelihood also comes from the ocean. Majority of Kiribati’s population are involved in the fishing market for their main source of income. (“Pacific Islands: The Ocean is Our Mother”) Because of climate change, the fish began migrating further north away from Kiribati. Also, due to more extreme weather conditions caused by climate change such as droughts, certain fisheries have become “less productive.” (“National Adaptation Program of Action”) Not only are marine resources effected by climate change, so is the Pacific Island’s agriculture.

In Tuvalu, for instance, the locals depend on pulaka, coconut, pandanus fruit, and bananas. (Ralston, et al. 2004) These crops cannot withstand saltwater but climate change increases the

crops' exposure to saltwater contamination. The increase in sea levels salinizes Tuvalu's soil, thus, the local crops wither and become inedible. (Ralston, et al. 2004) As shown in both these examples, climate change undermines the Pacific Islands' food security. The growing amount of CO₂ emissions leads to ocean acidification and changes in the marine ecosystems. Marine biodiversity of these regions are sensitive and climate change is challenging "fisheries' productivity and other ecosystem services." (Pachauri, et. al, 2014: pg. 13)

Right to Life

As stated in Article 3 of the Universal Declaration of Human Rights (UDHR), "everyone has the right to life, liberty and security of person." ("UDHR") Article 6 paragraph 1 of the ICCPR, the covenant states, "every human being has the inherent right to life." ("ICCPR") How effective can the "right to life" be for Pacific Islanders when their nations are literally vanishing because of climate change? Climate change robs SIDSP the ability to protect the human rights of their people and without action, there may be no SIDSP at all. The Pacific Islands, which many are barely more than a couple of meters above sea level, are at risk of disappearing due to climate change's rising sea levels. (Ni, 2011) For instance, the World Bank predicts that Kiribati's capital Tarawa will be "submerged by 2050" if climate change continues and states do not adopt "new adaptation measures." (Ni, 2011: pg. 333) Tarawa is home to half of Kiribati's population. If half of Kiribati's population is still in Tarawa by 2050, half of the i-Kiribati will disappear too.

Climate change may paint a bleak future for SIDSP but it also directly impacts the "right to life" today. One characteristic of climate change is "extreme precipitation events [that] will become more intense and frequent..." (Pachauri, et. al, 2014: 58) We can observe this today in Vanuatu. The tropical cyclone Pam hit Vanuatu earlier this year in March and now the country experiences a drought. (BBC News 2013) Because of Pam 90% of housing, supplies of food and

water, were damaged in Port Vila, Vanuatu's capital. Out of the entire nation, 3,300 people became homeless. ("Cyclone Pam Flattens Vanuatu") And, due to the current drought, Vanuatu is having difficulty in growing crops and the water sources are "drying up." Vanuatu now lacks food and water security. ([Source](#))

Climate Change Has No Borders, Nor Should the Battle Against It

SIDSP's struggle in providing the right to life and the "adequate standard for life." Therefore, the current fight against climate change is critical. Currently, since November 30th and until December 11th of this year, world leaders party to UNFCCC are gathering in Paris for COP21 to discuss how to take action for climate change. COP21 aims to create a "new international agreement on climate change... to keep global warming below two degrees Celsius." (COP21, 2015) The need for a legally binding agreement is essential, especially for the SIDSP's. If the SIDSP's vulnerability are not taken into account, their chances of survival are at risk. Jessy Benjamin, the Director of the Department of Energy in Vanuatu, argues that the fate of SIDSP's are in the hands of the developed nations who emit the most GHG's. These nations need to be held accountable in assisting SIDP's to survive climate change.

"The loss and damage has to be compensated by you people, because you are the ones who are polluting, you are the ones who are causing the climate change," Benjamin states. (Radio NZ, 2015) Marshall Islands President Christopher Loeak expressed the seriousness of climate change for SIDSP's in September at the United Nations General Assembly. Loeak posited to the General Assembly, "A world without a true commitment and meaningful pathway towards decarbonization is, for us in the island nations, ultimately no world at all." (UN News Centre, 2015) Without coming to a consensus for legally binding restraints on climate change's

growth, SIDSP will continue to be defenseless and the human rights of these nations' people cannot be achieved.

International Cooperation for Mitigation by Legal Obligation

In order for COP21's discussions to be effective, one aspect of a legal climate change agreement world leaders should include is mitigation. States must work together in battling climate change by creating stronger restraints on their treatment of the environment. The UNFCCC, for instance, in Article 4 paragraph 2(a), states that participating nations "shall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of GHG's and protecting and enhancing its GHG sinks and reservoirs." ("UNFCCC") Also, the Vienna Convention's Preamble states that nations have "the sovereign right to exploit their own resources" but they also have the "responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."

COP21 should include these principles that States must assure their activities do not damage the environment of others nor further damage our changing climate. States should do their part in preventing more damage to climate change in hopes that it would adverse climate change's current effects. States partied to the upcoming COP21 agreement should not only work for mitigation domestically but also with other nations, especially the developing—such as SIDSP's. For example, in Article 2 paragraph 2(a) of the Vienna Convention, the parties shall "cooperate by means of systematic observations, research and information exchange in order to better understand... the effects of human activities on the ozone layer..." ("Vienna Convention") In this case, states should "cooperate" by sharing scientific knowledge of the

effects of human activities on climate change in order to better understand how to avoid deteriorating our environment even more.

International Cooperation for Adaptation by Legal Obligation

Like in the Kyoto Protocol, the new treaty should recognize that developed nations have more obligations in “burden sharing” (Kyoto Protocol, Article 11 paragraph 2) and must assist developing nations, including SIDSP’s, in adaptation because the developing nations will be the “worst affected by global climate change” (Alston and Goodman, 2013: pg1537) despite contributing to climate change the least. The UNFCCC recognizes this differentiating needs and roles between the developed and the developing nations. In its preamble, the UNFCCC states that the parties shall recognize the “need for developed countries to take immediate action” towards “comprehensive response strategies at the global, national and... regional levels” to act upon climate change. (“UNFCCC”) The UNFCCC recognizes that parties should take into account that “low-lying and other small countries... and developing countries with fragile... ecosystems” are vulnerable to climate change. (“UNFCCC”) Also, in Article 3 paragraph 1, the UNFCCC states that the parties should protect the climate system for the benefit of present and future generations” and that “developed country parties should take the lead in combatting climate change...” (“UNFCCC”)

The Office of the United Nations High Commissioner for Human Rights (OHCHR) in 2009 argues that those parties to the ICESCR have this “legal obligation through international cooperation” to not only reduce GHG’s to ensure all countries can enjoy their human rights but these states also have the obligation to “find adaptation measures in vulnerable countries...” (Duong, 2010: pg. 1261) The Montreal Protocol emphasized international cooperation as well. In its preamble, it promotes international cooperation for the “transfer of alternative technologies

relating to the control and reduction of emissions... bearing in mind in particular the needs of developing countries.” (“Montreal Protocol”) It also acknowledges that developing countries need “special provisions” such as “additional financial resources and access to relevant technologies” in order to address the changes in earth’s atmosphere. (“Montreal Protocol”)

COP21’s new agreement, like the Kyoto Protocol, UNFCCC, OHCHR, and Montreal Protocol, should acknowledge how developing nations are the most vulnerable to climate change and that developed nations should lead in helping developing nations adapt to climate change. Developed nations have that obligation because they are the main causes to climate change. Even Article 11 paragraph 1 of the ICESCR exemplifies the need for international cooperation in ensuring that states recognize the “right of everyone to an adequate standard of living.” (“ICESCR”) All of the listed protocols and conventions recognize the need for international cooperation—this trend should continue into COP21’s agreement and should even be stronger by implementing details on how to assist developing nations and having the developed nations acknowledge that climate change harms not only the environment but the human rights of developing nations. Developed nations should, as stated in the Montreal Protocol,” share knowledge of “alternative technologies” in order to reduce emissions among developing nations. (Montreal Protocol) To further educate developing nations in adapting to climate change, the COP21 agreement should also adopt UNFCCC Article 4 which requests parties to “promote and cooperate in education, training, and public awareness related to climate change.” (“UNFCCC”) By implementing the obligation of developed nations to educate and train developing nations to adapt to climate change, the SIDS’ and other developing nations can learn how to adapt to their changing environments.

International Cooperation for Climate Change Refugees

Along with mitigation and assistance in adaptation, COP21 must also bring attention to climate change refugees. The term “climate change refugees” is still considered as a “concept in the making.” (Duong, 2010: pg. 1248) The 1951 United Nations Convention Relating to the Status of Refugees (or Refugee Convention) states that refugee status requires, “fear that is well-founded of persecution based on reasons of race, religion, nationality, membership in a particular social group or opinion.” (Duong, 2010: pg. 1249) The Refugee Convention protects those who fulfill the refugee definition from “being forced to return” to their homelands and it also allows the refugees to “resettle and establish new live in host countries.” (Duong, 2010: pg. 1249) Civilians being forced to leave their homes due to climate change do not receive protection under the Refugee Convention because they technically do not fulfill the refugee status.

The world leaders must recognize that identifying climate change refugee as a legitimate type of refugee is necessary, especially for those from SIDSP’s because climate change makes their homes uninhabitable and disappear. By 2050, there is an estimate of 150 million people displaced because of environmental reasons. (Duong, 2010: pg. 1251) COP21 needs to acknowledge that climate change not only damages environments, but it forces many people to leave their environments entirely. This is the reality for some Pacific Islanders. For example, the Tuvaluan prime minister in 2007 requested Australia and New Zealand to allow thousand of its citizens because climate change is resulting to Tuvalu’s growing in ability to provide resources or even space for its people. (Duong 2010) Tuvalu, or other SIDSP’s, should not have to plea to its neighbors for assistance in surviving climate change, especially because they did not cause it.

Conclusion

We cannot afford to identify climate change as merely an environmental problem. With rising and warming sea levels damaging ecosystems and resources, the small Pacific Island’s

inability to guarantee their citizens' human rights, and Pacific Islanders having to abandon their homes—climate change is more than an environmental problem, it is a global human rights deterrent. “All it takes is one wave,” Kiribati local John Anderson said. (Goldberg, 2013) It can take one big wave to wipe away Kiribati and other SIDS nations if leaders do not act upon the severity of climate change. President Tong of Kiribati explained that if we do not take action to fight against climate change, his citizens “understand they may have to leave forever” because of the rising sea levels. And, like other SIDS nations, Tong knows that “This is not caused by us. This is caused by you.” In other words, Kiribati did not strengthen climate change's effects on its own land, but rather, developed nations condemned this future upon Kiribati and more.

This lack of restraint of nations on their contributions to climate change's fortitude is why I argue in this paper that we need a legally binding agreement in which world leaders must work together in preventing more environmental damage, assisting SIDS nations in adapting to the environmental changes made by climate change, and redefine the term refugee in order to open their borders for those displaced by climate change. Hopefully, in COP21, states come to a consensus that acknowledges that our world needs to acknowledge the above. For SIDS nations, who are incredibly vulnerable to climate change, the decisions made in COP21 can be a matter of life or death. The biggest issue, however, is how can states be held accountable even if there is a legally binding treaty dedicated to climate change after COP21? Some states may not even ratify the new treaty because of the argument that it would impede on their sovereignty. A rebuttal to that would be that negligence and lack of responsibility for the environment results in harming the sovereignty of SIDS nations. As quoted by Tuvalu Prime Minister Sopoaga, climate change does not recognize boundaries, therefore, the fight against climate change must be universal.

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