

# ENVIRONMENTAL REFUGEES: THE LATEST ENTERPRISE OF CORPORATE SOCIAL RESPONSIBILITY

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## I. INTRODUCTION

Fears over changes in the environment have plagued mankind for centuries. Until relatively recently, humans were at the mercy of the environment with no protections besides rudimentary dwellings and tools. Then, the industrial revolution and technological advances allowed man to take control of his surroundings.<sup>1</sup> Agriculture, transportation, and business of every kind boomed, quickly growing to improve man's lifestyle.<sup>2</sup> However, such control has come with a heavy price. Now, the consequences of industrialization in the form of global climate change cannot be adequately controlled<sup>3</sup> and man is once again at the mercy of the environment. An unlucky few are especially vulnerable: environmental refugees. Environmental refugees are those who have left their homes seeking sanctuary elsewhere for

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1. Wendy Collins Perdue, Lesley A. Stone & Lawrence O. Gostin, *The Built Environment and Its Relationship to the Public's Health: The Legal Framework*, 93 AM. J. PUB. HEALTH 1390 (2003).

2. CHARLES MORE, UNDERSTANDING THE INDUSTRIAL REVOLUTION 3 (2000).

3. *Facing the Consequences: Global Action is Not Going to Stop Climate Change. The World Needs to Look Harder at How to Live With It*, THE ECONOMIST, Nov. 27, 2010, at 85.

reasons relating to the environment<sup>4</sup> and are the latest victims in the grim tale of climate change.

Environmental refugees are neglected in current international law.<sup>5</sup> The waters of rising tides and the sands of desert erosion have swallowed cities, towns, and even whole countries, yet the millions displaced have little to no international protection.<sup>6</sup> “Refugee” status is very strictly defined and does not safeguard those who fall under the generalized environmental refugee definition.<sup>7</sup> The new, burgeoning population of environmental migrants has largely been ignored despite the eminence of the problem.<sup>8</sup>

Startlingly, the corporations who are often harpooned as a root cause of global warming may serve as unlikely saviors of the climate change refugee. Global climate change has been acknowledged as a genuine threat to the current balance of the ecosystem.<sup>9</sup> This paper’s premise is that industry influences the

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4. Dana Zartner Falstrom, *Stemming the Flow of Environmental Displacement: Creating a Convention to Protect Persons and Preserve the Environment*, 13 COLO. J. INT’L ENVTL. L. & POL’Y 1, 3 (2002).

5. Benjamin Glahn, ‘Climate Refugees? Addressing the International Legal Gaps,’ INTERNATIONAL BAR ASSOCIATION (Jun. 8, 2009), <http://www.ibanet.org/Article/Detail.aspx?ArticleUId=B51C02C1-3C27-4AE3-B4C4-7E350EB0F442>.

6. Bonnie Docherty & Tyler Gianni, *Confronting a Rising Tide: A Proposal for A Convention on Climate Change Refugees*, 33 HARV. ENVTL. L. REV. 349, 357–58 (2009). The terms “environmental refugee” and “environmentally displaced people” have been used in this comment as blanket terms for those who have been displaced due to any environmental reason. “Climate migrant” represents individuals who have moved due to changing climate and the effects on their environment. Some potential recipients of these terms prefer not to be associated with the term “refugee” because of the negative connotations associated with that word. *See also* Stephanie Perkiss, Graham Bowrey & Nick Gill, *Environmental Refugees: An Accountability Perspective* 10 (Dec. 5, 2010) (unpublished comment, on file with Charles Sturt University), *available at* [www.csu.edu.au/faculty/business/account/csear10/docs/papers/Perkiss.pdf](http://www.csu.edu.au/faculty/business/account/csear10/docs/papers/Perkiss.pdf) (regarding the Australian Labor Party and Australian Democrats senators objections to the Amendment Bill 2007 because of the stigma associated with the term ‘refugee’).

7. Docherty & Giannini, *supra* note 6, at 357–58.

8. *See id.*

9. Diana Ürge-Vorsatz & Bert Metz, *Energy Efficiency: How Far Does It Get Us in Controlling Climate Change?*, 2 ENERGY EFFICIENCY 87, 87 (2009) (reporting the findings of the Fourth Assessment Report of the IPCC declaring that there is a “very high confidence” that “the global average net effect of human activities” since the industrial revolution “has been one of warming,” and that warming of the climate system is now

magnitude and speed of the impending global climate change<sup>10</sup> and therefore should take responsibility for the ruin of homelands. Under the theory of corporate social responsibility (CSR), companies can benefit others while doing the same for themselves.<sup>11</sup> Environmentally displaced migrants remain a prime example of the innocent being punished for the transgressions of others. Responsible corporations who follow the promising CSR trend will be rewarded for their efforts not only with intangible goodwill, but also tangible increases in revenue.<sup>12</sup> Goodwill separates the story of the typical reviled corporation like Nike, whose notorious exploitative labor practices in South East Asia caused widespread revilement in the 90s, from the more philanthropic establishments such as TOMS Shoes, which have remained successful and profitable while maintaining fair labor practices.<sup>13</sup> Those who have caused migrations can look to the environmental and human rights expounded upon in the Rio and Stockholm conventions as platforms for international law reform to grant environmental migrants asylum, whether as refugees or a new classification of

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“unequivocal.”).

10. *See id.*

11. DAVID E. HAWKINS, CORPORATE SOCIAL RESPONSIBILITY: BALANCING TOMORROW'S SUSTAINABILITY AND TODAY'S PROFITABILITY 12 (2006).

12. *Id.*

13. Compare Brittany Vuong, *Nike: Just Don't Do It*, VIETNOW, Apr. 30, 1997, at 52 (publicizing the scandal over Nike's wage violations, six-day workweeks, physical abuse, 10-hour workdays until quotas are met, and sexual molestation of the overwhelmingly female workforce in the mid-to-late 1990s), and Victoria Carty, *The Internet and Grassroots Politics: Nike, the Athletic Apparel Industry and the Anti-Sweatshop Campaign*, 1 TAMARA : J. OF CRITICAL POSTMODERN ORG. SCI. 34 (2001) (covering the fierce criticism burdening Nike due to their working conditions in South East Asia and reporting on Nike's revenues and stock prices plummeting nearly 50% in 1998), and Richard Read, *Workers Raise Eyebrows Over Nike's Promises Cultural Gaps Compliance View of Company's Attempt at Reforms*, THE SEATTLE TIMES, May 17, 1998, available at <http://community.seattletimes.nwsour.com/archive/?date=19980517&slug=2751236> (noting that Nike's stock loss forced the company to layoff 1,600 employees), with Christina Binkley, *Charity Gives Shoe Brand Extra Shine: Toms and Other Companies Make Philanthropy Central to Their Business-And Their Marketing*, WALL ST. J., Apr. 1, 2010, available at <http://online.wsj.com/article/SB10001424052702304252704575155903198032336.html> (attributing TOMS' conscientious business model for the high sales of 600,000 pairs of shoes in the past year, adding up to about \$33 million in revenue).

entitled emigrant.<sup>14</sup>

In Part II, this comment will discuss the impact of multinational corporations on humans and the environment, specifically the effects of global warming. Climate change has been scientifically attributed to human external influences on the environment,<sup>15</sup> and now cannot be ignored. Climate change can only be slowed, not stopped.<sup>16</sup> The ripple effect of climate change on environmental migrants is especially dire. This section will also go into the effects of global warming on populations and explain how climate change contributes significantly to population displacement. The discussion will center on environmental refugees by giving a background history of the term and the current legal dilemma. I argue mitigating measures must be implemented immediately to prevent the additional resolvable problem of illegal immigration.

Part III of this comment will discuss why contributing corporations are obligated to step in to help environmental migrants. Third generation rights to environment pledge universal privilege to a sustainable environment, unhindered by the resource abuse of other nations.<sup>17</sup> Because businesses,

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14. See generally Conference on Env't & Dev., June 3–14, 1992, *Rio Declaration on Environment and Development*, U.N. Doc. A/CONF.151/26/REV.1 (outlining a plan to “achieve . . . stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interferences with the climate system” for the benefit of present and future generations of humankind, without harming developing and smaller countries); Conference on the Human Env't, June 5–16, 1972, *Stockholm Declaration on the Human Environment*, U.N. Doc. A/CONF.48/141/REV.1 (outlining a plan for the benefit of the environment, for present and future generations of humankind, founded on general human rights ideals).

15. Ürge-Vorsatz & Metz, *supra* note 9, at 87 (describing the findings of the IPCC Fourth Assessment Report noting that, “most of the observed increase in global average temperatures in the last five decades is very likely due to anthropogenic influence, i.e. to the observed human-caused increase in greenhouse gas concentrations.”).

16. *Id.* (noting the IPCC's report identifies emission reductions needed to stabilize, not reverse, warming at certain levels); see also Mark Dowie, *Conservation Refugees*, 34 *CULTURAL SURVIVAL Q.* 28 (2010), available at <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/none/conservation-refugees> (reporting that many conservation biologists consider humans and mother nature incompatible in that humans will always, no matter their efforts, cause environmental harm).

17. See U.N. Conference on Env't and Dev., June 3–14, 1992, *United Nations Framework Convention on Global Climate Change*, 1–5, U.N. Doc. A/AC.237/18

especially multinational corporations largely headquartered in industrialized nations, are a crucial cause of climate change, they should recognize their duty to environmentally displaced peoples and push for international reforms. Corporate social responsibility, which has become almost universally recognized as a sound business strategy, and its underlying theories support such a stance.<sup>18</sup> The theory promotes the idea that socially conscientious business actions legitimize the corporate role in society.<sup>19</sup> Therefore, developing immigration reforms is mutually beneficial to the environmental refugees and the corporations themselves as a way of justifying its use of resources to the detriment of others.

Part IV briefly addresses possible solutions in the international forum. The section then moves on to the corporate role in lessening the environmental problem they have contributed to and why corporations are in the best position to do so. Governments weary of spending, especially in recent financial downturns, are reluctant to advance costly immigration reforms when facing other domestic problems. Therefore, corporations can best help by contributing monetarily to the cause of the environmental refugee. Having a source of revenue for this honorable undertaking alleviates much of the trepidation and assures even the most cautious and difficult-to-persuade nations of these principled measures. Additionally, businesses can enact internal measures to help settle new refugees, such as creating new jobs to employ migrants once they are able to move from their homelands. This will alleviate public fears of losing employment, a common argument in the forum of immigration reform.<sup>20</sup> Careful legal measures aiding environmental refugees that are visibly supported by

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[hereinafter UNCFGCC]; see also Oliver Ruppel, *Third-Generation Human Rights and the Protection of the Environment in Namibia*, in *HUMAN RIGHTS AND THE RULE OF LAW IN NAMIBIA* 101, 103 (Nico Horn & Anton Bösl eds., 2d ed. 2009).

18. See GEORGE LODGE & CRAIG WILSON, *A CORPORATE SOLUTION TO GLOBAL POVERTY: HOW MULTINATIONALS CAN HELP THE POOR AND INVIGORATE THEIR OWN LEGITIMACY* 24 (2006).

19. See *id.*

20. GLOBAL COMM'N ON INT'L MIGRATION, *MIGRATION IN AN INTERCONNECTED WORLD: NEW DIRECTIONS FOR ACTION* 10 (2005).

corporations will foster good will for businesses and provide safety to this new class of refugee.

## II. CORPORATIONS AND THEIR IMPACT

### **Will the Corporate Influence on Nature be the Undoing of Human Habitat?**

#### *A. Multinational corporations substantially contribute to the warming of the climate system.*

The earth's geological history has begun the Anthropocene, a new phase marked by human changes on the globe that are considered permanent even on a geological time scale.<sup>21</sup> Climate change, or global warming, is considered the most significant change felt in the Anthropocene era.<sup>22</sup> The UN has sanctioned two agencies, the World Meteorological Organization and the United Nations Environment Programme (UNEP), to reach an international consensus on climate change.<sup>23</sup> The agencies formed the Intergovernmental Panel on Climate Change (IPCC) in 1988 and began work on reviewing and summarizing information on climate change.<sup>24</sup> The IPCC presented its first report in 1990, which found that the natural warming greenhouse gas effect has been gaining momentum through "emissions resulting from human activities [which] are substantially increasing the atmospheric concentrations of the greenhouse gases."<sup>25</sup> Subsequent reports presented increasingly grave findings. In 2001, the IPCC issued a reassessment warning that the magnitude of global warming will be even greater than previously imagined.<sup>26</sup> The organization found "new and stronger evidence that most of the warming observed

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21. Jan Zalasiewicz et al., *The New World of the Anthropocene*, 44 ENVTL. SCI. & TECH. 2228, 2228 (2010).

22. *Id.* at 2229.

23. ROBERT V. PERCIVAL ET AL., ENVIRONMENTAL REGULATION: LAW SCIENCE AND POLICY 1137 (6th ed. 2009).

24. *Id.*

25. INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE [IPCC], IPCC FIRST ASSESSMENT REPORT: CLIMATE CHANGE, at xi (J.T. Houghton, G.J. Jenkins & J.J. Ephraums eds., 1990) [hereinafter IPCC FIRST ASSESSMENT].

26. PERCIVAL ET AL., *supra* note 23, at 1138.

over the last 50 years is attributable to human activities, which will continue to change the composition of the atmosphere throughout the twenty-first century.”<sup>27</sup> In 2007, the IPCC released its Fourth Assessment Report, once again announcing increasing worries and studies pointing to industry as the main source of climate change.<sup>28</sup>

The report went on to confirm that most of the observed increase in global average temperatures since the mid-20<sup>th</sup> century is very likely due to the observed increase in anthropogenic global greenhouse gas (GHG) concentrations.<sup>29</sup> “The largest growth in GHG emissions between 1970 and 2004 has come from energy supply, transport and industry, while residential and commercial buildings, forestry, and agriculture sectors have been growing at a lower rate.”<sup>30</sup> Likewise, other sources predict that the tide of environmental damage will only continue to swell, especially as India and China enter into the developed world and demand more utilities and resources.<sup>31</sup>

Multinational corporations are a significant cause of the present-day climate change.<sup>32</sup> The last two decades of the twentieth century saw a proliferation of the corporate model as many smaller businesses grew into multinational corporations.<sup>33</sup> Those multinational firms expanded rapidly with the number of persons employed by multinational corporations nearly doubling

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27. *Id.*

28. IPCC, *Climate Change 2007: Synthesis Report. Contribution of Working Groups I, II and III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* 23, 36–41 (2007).

29. *Id.* at 39.

30. *Id.* at 36.

31. See Herbert Giradet, *As the Kyoto Climate Change Talks Come to an End, a Giant Shadow Looms Over Hopes of Controlling Global Pollution*, *THE GUARDIAN*, Dec. 10, 1997, at 4; see also DELOITTE, *CONSUMER 2020: READING THE SIGNS* 11 (2011).

32. See *Facts From the Corporate Planet: Ecology and Politics in the Age of Globalization: Fact Sheet Number Two — Corporations and the Global Environmental Crisis*, CORPWATCH, [http://web.archive.org/web/20011210023729/http://www.corpwatch.org/trac/feature/planet/fact\\_2.html](http://web.archive.org/web/20011210023729/http://www.corpwatch.org/trac/feature/planet/fact_2.html) (last visited Sep. 6, 2011) (citing JOSHUA KARLINER, *THE CORPORATE PLANET: ECOLOGY AND POLITICS IN THE AGE OF GLOBALIZATION* (1997)) [hereinafter *Corporate Facts*].

33. COLUMBIA ENCYCLOPEDIA, *Multinational Corporation* (6th ed. 2008).

between 1975 and 1992.<sup>34</sup> Concurrent with multinational firm growth, GHG emissions grew dramatically since pre-industrial times, with a 70% increase between 1970 and 2004.<sup>35</sup> The coinciding upsurge in GHG emissions and corporate activity continue into today, and according to the UN, “the influence of transnational corporations extends over roughly 50 percent of all emissions of greenhouse gases.”<sup>36</sup> Other studies go as far to estimate that a mere 122 corporations produce 80% of all greenhouse gases.<sup>37</sup>

*B. The current international system does not recognize environmental refugees under the 1951 UN Convention relating to the status of refugees or any other international instrument.*

Refugee law stems from the ancient notion of the right to asylum granted by the church in the Dark and Middle Ages.<sup>38</sup> The evolution of migrant rights blossomed rather slowly until the twentieth century, when modern refugee law emerged from the lingering aftermath of the World Wars.<sup>39</sup> The current definition of a refugee comes from Article I of the UN Convention on the Status of Refugees (“Refugee Convention”) which states that a refugee is any person who

[O]wing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a

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34. Burton I. Kaufman, *Multinational Corporations*, in GALE ENCYCLOPEDIA OF US FOREIGN POLICY 429, 439 (2d ed. 2002), available at <http://www.answers.com/topic/multinational-corporation> (estimating a climb from 40 million to 73 million workers).

35. IPCC, *Climate Change 2007: Synthesis Report: Summary for Policymakers. Contribution of Working Groups I, II and III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* 1, 5 (2007) [hereinafter *Summary for Policymakers 2007*].

36. *Corporate Facts*, *supra* note 32.

37. Aaron G. Lehmer, *The Promise of Economic Democracy in Practice: The Role of Cooperatives in Sustainable and Equitable Community Development* (May 2003) (unpublished M.A. thesis, Humboldt State University) (on file with Humboldt State University) (citing the report NATURAL RESOURCES DEFENSE COUNCIL, *KINGPINS OF CARBON: HOW FOSSIL FUEL PRODUCERS CONTRIBUTE TO GLOBAL WARMING* (1999)).

38. See Atle Grahl-Madsen, *The European Tradition of Asylum and the Development of Refugee Law*, 3 J. PEACE RES. 278, 278 (1966).

39. See *id.* at 278–81.

particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.<sup>40</sup>

To qualify as a refugee under this definition, an applicant must satisfy two main prongs. The first prong is the “well-founded fear of persecution” requirement.<sup>41</sup> The United Nations Handbook on Procedures and Criteria for Determining Refugee Status expressly states that there is no universally accepted definition of “persecution,” and no attempt at formulating a single definition has been successful.<sup>42</sup> The second prong requires the persecution be inflicted due to one of five specific categories: race, religion, nationality, membership in a particular social group, or belief in a particular political opinion.<sup>43</sup> UN guidance has indicated that a threat to life or freedom on account of the above categories can always be inferred to constitute persecution.<sup>44</sup>

The difficulty in defining the first prong of persecution demonstrates a central problem with current refugee law. Shocked by the humanitarian crimes committed by Nazi-Germany, the drafters were focused on a narrow category of persecution, namely genocide.<sup>45</sup> Because the refugee Convention was primarily concerned with addressing the human rights atrocities perpetrated in the Second World War, the definition was limited to persecution typically effected by the victim’s own country.<sup>46</sup> The world has since changed and new

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40. Convention Relating to the Status of Refugees, art. 1(A)(2), July 28, 1951, 189 U.N.T.S. 150 [hereinafter Refugee Convention].

41. *Id.*

42. United Nations High Commissioner for Refugees, *United Nations Handbook on Procedures and Criteria for Determining Refugee Status*, ¶ 51, U.N. Doc. HCR/IP/4/Eng/REV.1 (Jan. 1992) [hereinafter ‘UN Handbook’].

43. Refugee Convention, *supra* note 40.

44. UN Handbook, *supra* note 42.

45. Jessica B. Cooper, *Environmental Refugees: Meeting the Requirements of the Refugee Definition*, 6 N.Y.U. ENVTL. L.J. 480, 482 n. 2 (1998).

46. *Id.*

modes of persecution have emerged. With rapid globalization and technological advances came serious environmental repercussions. Resource depletion and climate change have swept the Earth so rapidly that the law has struggled and failed to keep pace.

Enter the new crisis of the century: environmental refugees.<sup>47</sup> Environmental refugees, as defined by Norman Myers, the preeminent source of environmental refugee research, are

Persons who can no longer gain a secure livelihood in their traditional homelands because of what are primarily environmental factors of unusual scope. These factors include drought, desertification, deforestation, soil erosion and other forms of land degradation . . . with impacts aggravated by human mismanagement. There can be additional factors that exacerbate environmental problems and that often derive in part from environmental problems. . . Still further factors include deficient development policies and government systems that “marginalize” people in senses economic, political, social and legal. . . Of these manifold factors, several can operate in combination, often with compounded impacts. In the face of environmental problems, people concerned feel they have no alternative but to seek sustenance elsewhere.<sup>48</sup>

Though the definition of the traditional refugee has been expanded in recent years,<sup>49</sup> as defined above, environmental refugees enjoy no protection under international law.<sup>50</sup> Even if

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47. The term “environmental refugee” was first coined by Lester Brown of the World Watch Institute in the late 1970s. Ethan Goffman, *Environmental Refugees: How Many, How Bad?*, CSA DISCOVERY GUIDES, 5 (2006), available at <http://www.csa.com/discoveryguides/refugee/review.pdf>.

48. Norman Myers, *Environmental Exodus: An Emergent Crisis in the Global Arena*, CLIMATE INSTITUTE, 18 (1995) [hereinafter Myers, *Envtl. Exodus*].

49. The definition of a refugee has been extended to include those who “are forced to move for a complex range of reasons including persecution, widespread human rights abuses, armed conflict and generalized violence.” UN HIGH COMMISSIONER FOR REFUGEES, PARTNERSHIP: AN OPERATIONS MANAGEMENT HANDBOOK FOR UNHCR’S PARTNERS 8 (2003).

50. Docherty & Gianni, *supra* note 6, at 357–58 (noting that environmental refugees fall outside the scope of the 1951 Refugee Convention and are afforded no

an individual can prove the more general “well-founded fear of being persecuted” prong, the rigid categorizations placed on the adequate reasons for persecution bar environmental migrants from receiving aid.<sup>51</sup> Other categories of environmentally affected migrants include conservation refugees who are “removed from their homelands involuntarily, either by force or through a variety of less coercive measures.”<sup>52</sup> “Less coercive measures” suggest forces less extreme than the uninhabitable conditions experienced by environmental refugees, such as poverty due to decreased soil production.<sup>53</sup> Because they have been forced to move due to “less coercive measures”, other categories of displaced people are even less likely to find shelter in the narrow safety of the traditional refugee definition.<sup>54</sup> Environmentally displaced people are extensively represented on every continent besides Antarctica.<sup>55</sup> Nonetheless, the UNHCR estimated that in 2005 only 8.4 million of the world’s 191 million migrants qualify as refugees under the current definition.<sup>56</sup>

Scientists and researchers have warned of the coming influx of environmentally displaced persons for over two decades.<sup>57</sup> Currently, there are around 25 million people worldwide who have been driven from their homes due to environmental causes.<sup>58</sup> International Organization for Migration (IOM) published a study in 2008 indicating that 200 million people classified as permanently displaced “climate refugees” will be struggling to find a home by 2050.<sup>59</sup> The IOM

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protections under the UNHCR, and proposing new legal instrument to address the issue of environmental refugees).

51. See Refugee Convention, *supra* note 40.

52. Dowie, *supra* note 16.

53. *Id.*

54. *Id.*

55. See *id.*; see also Refugee Convention, *supra* note 40.

56. TRAC IMMIGRATION, ASYLUM LAW, ASYLUM SEEKERS AND REFUGEES: A PRIMER, (2006), available at <http://trac.syr.edu/immigration/reports/161/> [hereinafter ASYLUM LAW].

57. IPCC First Assessment, *supra* note 25.

58. Goffman, *supra* note 47, at 4.

59. Graeme Hugo, *Migration, Development and Environment*, 35 IOM MIGRATION RES. STUD., at 32 (2008). Established in 1951, the IOM possesses full juridical

contextualizes their findings, saying that “by 2050 one in every 45 people in the world will have been displaced by climate change”<sup>60</sup>

Though environmental refugees have been identified as a serious problem, the law has been slow to accommodate them in part due to the novelty of the situation, lack of funds, and the amorphous classifications of environmental refugees. Scholars point out that environmental scarcity is largely an aggravating factor rather than the root cause of most conflict.<sup>61</sup> Until recent years, climate change and environmental causes were not the clear reasons for migration. For example, Mozambique, one of the most arid places on the planet,<sup>62</sup> suffered a crippling drought in 1992,<sup>63</sup> compounding problems for a nation already in the midst of a debilitating civil war.<sup>64</sup> The thousands of people who fled Mozambique for Zambia were granted political refugee status, though a significant reason for the exodus was the lack of arable land due to climate.<sup>65</sup> Resource scarcity can be a compounding factor or a creator of political strife,<sup>66</sup> which

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personality and is the “leading inter-governmental organization in the field of migration . . . dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants.” *About IOM*, INT’L ORG. FOR MIGRATION, <http://www.iom.int/jahia/Jahia/about-iom/constitution/lang/en> (last visited Nov. 14, 2010).

60. Int’l Org. for Migration, *Migration and Climate Change*, IOM Migration Research Series No. 31, at 11–12 (2008) [hereinafter IOM Migration].

61. Bingham Kennedy, Jr., *Environmental Scarcity and the Outbreak of Conflict*, POPULATION REFERENCE BUREAU (2001), available at <http://www.prb.org/Articles/2001/EnvironmentalScarcityandtheOutbreakofConflict.aspx>.

62. Henry N. Le Houérou, *Climate Change, Drought and Desertification*, 34 J. ARID ENV’TS 133, 135 (1996).

63. The drought is most likely attributable to El Niño Southern Oscillation and rodent infestation. Miguel Aragón, Avertino Barreto & Paul R. Epstein, *Drought and Health Implications in Mozambique*, 5 MED. & GLOBAL SURVIVAL 42, 42 (1998). Respected climate scientists have supported speculation that El Niño is connected to global warming. Daniel Pendick, *El Niño and Global Warming*, PBS, <http://www.pbs.org/wnet/savageseas/weather-side-elnino.html> (last visited Nov. 7, 2011).

64. *Background Note: Mozambique*, U.S. DEP’T OF STATE, <http://www.state.gov/r/pa/ei/bgn/7035.htm> (last visited Mar. 7, 2011).

65. Marina Julienne, *Eco-Refugees*, THE ENVIRONMENT TIMES, <http://www.environmenttimes.net/article.cfm?pageID=54> (last visited Dec. 3, 2010).

66. Rwanda’s 1994 genocide, for example, is a “prime example of the disastrous consequences of ecological resource scarcity.” Peter Uvin, *Tragedy in Rwanda: The*

causes academics to question the validity of the term environmental refugee.<sup>67</sup> However, there is now manifest climate change producing categorically pure environmental refugees for whom international law must recognize or face uncontrolled floods of peoples.

*C. Examples of purely environmental refugees and the dearth of procedures available to them.*

The small islands in the South Pacific such as Tuvalu, Vanuatu, and the Maldives are drowning.<sup>68</sup> Rising sea levels lick at the knees of residents standing on what used to be dry ground just beyond their doorsteps. Tuvalu in particular suffers from saltwater flooding, causing its fresh water supply and food production to fail.<sup>69</sup> Officials reported unusually high levels of tropical cyclones in the last decade affecting the Tuvaluan shores.<sup>70</sup> These storm systems are caused by higher sea temperatures.<sup>71</sup> In 2001, Tuvalu became the first island nation to attempt evacuation because of rising seas.<sup>72</sup> With only 11,000 residents, it is easy to dismiss Tuvalu as an unfortunate incident that will not be repeated, but Bangladesh, with its millions of residents,<sup>73</sup> faces the same fate if sea level projections hold true.<sup>74</sup> Bangladesh rests only one meter above

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*Political Ecology of Conflict*, 38 ENV'T 6, 7 (1996).

67. Goffman, *supra* note 47, at 4.

68. *Id.* at 11.

69. Lester R. Brown, *Rising Sea Level Forcing Evacuation of Island Country*, EARTH POLICY INSTITUTE (Nov. 15, 2001), available at [http://www.earth-policy.org/index.php?/plan\\_b\\_updates/2001/update2](http://www.earth-policy.org/index.php?/plan_b_updates/2001/update2).

70. *Id.*

71. *Id.*

72. *Id.*

73. Bangladesh is one of the most densely populated countries in the world, with over 162 million people crowding in its borders in 2009. Bangladesh, along with seven other countries, accounts for 20 per cent of the world's population. By 2050, Bangladesh is expected to have the seventh highest increase in population, with the top eight increment increasers accounting for nearly half the world's 2050 population. *Bangladesh*, The World Bank, <http://data.worldbank.org/country/Bangladesh> (last visited Nov. 15, 2010); see also U.N. Dep't. of Econ. & Soc. Affairs [UNDESA], Population Div., *World Population Prospects: The 2006 Revision Volume I: Comprehensive Tables*, U.N. Doc. ST/ESA/SER.A/261 (2007).

74. Brown, *supra* note 69. The IPCC predicts a rise in sea levels of up to one meter

sea level in some areas, and only up to three meters above sea level in others.<sup>75</sup> In 50 years, the country of Bangladesh could be completely uninhabitable and the resulting millions of climate refugees could eventually outnumber all traditional refugees in the world today.<sup>76</sup> Likewise, the Maldives also may suffer the same fate.<sup>77</sup>

The sinking nations have little to no legal procedures available to them. Tuvalu resorted to pleading with its neighbor New Zealand who agreed to aid them by establishing the Pacific Access Category, allowing only 75 residents to immigrate per year.<sup>78</sup> With no other legal recourse, the President of the Maldives has begun buying up land elsewhere as an insurance measure in case the situation becomes dire.<sup>79</sup> Other nations, who do not have the same benefit from tourism that Maldives has, cannot afford insurance land purchases and instead must rely on outside aid.<sup>80</sup>

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this century, which would flood half of Bangladesh's riceland. *Id.*

75. Daniel Paul Riva, A Place for Environmental Refugees: Adaptation to Climate and Environmental Change in South Asia 4 (May 16, 2010) (unpublished masters thesis, George Washington University) (citing VULNERABILITY AND ADAPTATION TO CLIMATE CHANGE FOR BANGLADESH (S. Huq, Z. Karim, M. Asaduzzaman & F. Mahtab eds., (1999)).

76. *Id.* at 11–12.

77. Nicholas D. Kristof, *In the Maldives, Paradise is Drowning*, INT'L HERALD TRIB., Jan. 9, 2006, at 6.

78. Tuvalu: New Zealand's Pacific Access Category, WORLD RESOURCES INST., <http://projects.wri.org/adaptation-database/tuvalu-new-zealands-pacific-access-category-pac-immigration-policy> (last visited Nov. 16, 2010).

79. Riva, *supra* note 75, at 114.

80. *Compare Background Note: Tuvalu*, U.S. DEPT. OF STATE, <http://www.state.gov/r/pa/ei/bgn/16479.htm> (last visited Mar. 2, 2011) (blaming Tuvalu's diminutive GDP of \$29.008 million in 2009 with only \$2,615 GDP per capita on its remoteness and lack of natural resources), *with Background Note: Maldives*, U.S. DEPT. OF STATE, <http://www.state.gov/r/pa/ei/bgn/5476.htm> (last visited Mar. 2, 2011) (claiming the Maldives raked in a GDP of \$1.473 billion in 2009, with a per capita GDP of \$4,600 owing to "tourism and its spinoffs in the transportation, communication, and construction sector").

### III. CORPORATE SOCIAL RESPONSIBILITY

#### **Corporations responsible for accelerating climate change have a duty to aid peoples floundering in their wake.**

The same problem that initiated the idea of the traditional refugee also planted the seed of modern corporate industry: the Second World War.<sup>81</sup> The destruction caused by World War II led policy makers to consult with the brightest minds in the areas of economics, finance, and politics to devise a way to repair the damage.<sup>82</sup> In 1944, the World Bank, International Monetary Fund, and the General Agreement on Tariffs and Trade (later the World Trade Organization) were created at the United Nations Monetary and Financial Conference, also known as the Bretton Woods Conference.<sup>83</sup> The countries of the world put their faith in the reorganization of power into a centralized system that would not only centralize business, but also power.<sup>84</sup> The centralized structure was the key factor in the business boom at the end of the world wars.<sup>85</sup> This new business structure, along with the enormous social forces of swelling populations, explosive growth in infrastructural investments, and technological advancement, contributed significantly to the globalization of economic and political power.<sup>86</sup> With a central economic system and accelerating social forces, corporations proliferated in the economic activity of the post-war era and now

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81. Jerry Mander, *Economic Globalization and the Environment*, 16 *TIKKUN* 33, 34 (2001).

82. George B. Bryant, Jr., *Post-War Global Monetary Cooperation Goal of 150 Experts Gathering in New Hampshire*, *WALL ST. J.*, Jun. 30, 1944, at 4.

83. Mander, *supra* note 81; Charles Scaling, *Bretton Woods*, *THE NEW AMERICAN*, Dec. 22, 2008, at 31; *see generally* Bretton Woods Conference Collection: *Bretton Woods Conference Files*, IMF Archives, available at <http://www.imf.org/external/np/arc/eng/fa/bwc/s4.htm>; Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, 1867 U.N.T.S. 154.

84. Mander, *supra* note 81.

85. Scaling, *supra* note 83.

86. *Id.* at 33; WILLIAM T. ALLEN ET AL., *COMMENTARIES AND CASES ON THE LAW OF BUSINESS ORGANIZATION* 90 (3d ed. 2009).

possess undeniable clout.<sup>87</sup>

In an effort to streamline and merge all economic activity, corporations began feeding on smaller companies and eventually mushroomed into bigger, more powerful conglomerates.<sup>88</sup> The expansion of business and economic activity required more and more resources.<sup>89</sup> In the absence of adequate data, these resources were used in environmentally unfriendly ways, which led to climate change.<sup>90</sup> Corporations, mostly those in developed countries, supplied the GHGs that would later amalgamate in creating climate change.<sup>91</sup>

Countries like Tuvulu, who are poor and less commercialized, have not contributed significantly to the problem; yet, these less developed countries unfairly bear the majority of the strain caused by climate change. Though industrialized nations and the corporations at the heart of industrialization are beginning to see the error of their ways,<sup>92</sup> many of the repercussions have yet to be tackled. For example, the harm burdened by environmental refugees and the lack of support they receive in current refugee law has been ignored.

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87. ALLEN ET AL., *supra* note 86.

88. See Mander, *supra* note 81, at 36.

89. See Spencer Weart, *The Discovery of Global Warming*, AM.INST. OF PHYSICS (July, 2009), <http://www.aip.org/history/climate/pdf/Timeline.pdf> (listing the dates of important milestones in climate change history); NAT'L ACAD. OF SCIS., NAT'L ACAD. OF ENG'G, INST. OF MED., & NAT'L RESEARCH COUNCIL, UNDERSTANDING AND RESPONDING TO CLIMATE CHANGE – HIGHLIGHTS OF NATIONAL ACADEMIES REPORTS 11 (2008) (noting that climate change was not a prevalent idea even in the 1950s); John Urry, *Consuming the Planet to Excess*, 27 THEORY, CULTURE & SOC'Y 191, 203 (2010) (explaining the underlying causes of climate change and the concept of neo-liberalism shared by the world's dominant actors and educators which has causes consumption excess).

90. Urry, *supra* note 89, at 192–93.

91. *Id.*

92. *Drought, Flooding and Refugees: Addressing the Impacts of Climate Change in the World's Most Vulnerable Nations: Hearing Before the Subcomm. On Int'l Dev. and Foreign Assistance, Econ. Affairs, and Int'l Envtl. Prot.*, 111th Cong. 6 (2009) (statement of Rev. Jim Ball, Senior Director, Climate Campaign expressing the need, "as a society and as individuals [to] also help the poor adapt to the significant harm that global warming will cause" and specifically lamenting the woes of environmental refugees).

A. *Human rights law calls for support of environmental refugees.*

The obligations of human rights arose from the idea that a human's absolute inner worth, otherwise known as dignity, must be maintained.<sup>93</sup> Human rights are classified by "generations of rights."<sup>94</sup> The first through third generations of human rights enjoy near universal acceptance.<sup>95</sup> The first generation involves traditional civil and political liberties such as free speech, religion, and the press, in addition to freedom from torture.<sup>96</sup> These rights are considered inherent in all humans and protect the individual.<sup>97</sup> First generation rights are enumerated in the International Covenant on Civil and Political Rights (ICCPR).<sup>98</sup> The ICCPR expounds negative rights—those that do not take an affirmative action on the part of the government to provide.<sup>99</sup> On the other hand, second generation rights—found in the International Covenant on Economic, Social and Cultural Rights (ICESCR), written and passed concurrently with the ICCPR—grant positive rights.<sup>100</sup> Positive rights involve affirmative social and cultural grants.<sup>101</sup>

Second-generation rights are rights that the government chooses to bestow upon their citizenry and are given to the

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93. Iris Halpern, *Tracing the Contours of Transnational Corporations' Human Rights Obligations in the Twenty-First Century*, 14 *BUFF. HUM. RTS. L. REV.* 129, 138–39 (2007).

94. See Suellen Ratliff, *UN Representation Disputes: A Case Study of Cambodia and a New Accreditation Proposal for the Twenty-First Century*, 87 *CAL. L. REV.* 1207, 1213 (1999).

95. *Id.*

96. Ruppel, *supra* note 17, at 102. Karel Vasak first introduced the generation terminology in 1977. Karel Vasak, *A Thirty Year Struggle, The Sustained Efforts to Give Force of Law to the Universal Declaration of Human Rights*, *UNESCO COURIER*, Nov. 1977, at 29.

97. Vasak, *supra* note 96.

98. International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S 171 [hereinafter ICCPR].

99. Vasak, *supra* note 96.

100. International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 999 U.N.T.S 171 [hereinafter ICESCR].

101. Ratliff, *supra* note 94.

society as a whole.<sup>102</sup> Under second generation rights, a person can approach their government and demand action to realize those rights.<sup>103</sup> These positive rights also include the right to an adequate standard of living, education, work, food, and self-determination.<sup>104</sup>

Third-generation human rights involve action by the state and the individual.<sup>105</sup> Third-generation human rights include the right to peace and a livable environment.<sup>106</sup> The international community is beginning to accept the importance of individuals' rights.<sup>107</sup> This acceptance is generated by an ever growing awareness of the relationship between human rights and the environment. However, some of the third generation rights are not inscribed verbatim in any international treaty and instead only have persuasive power through the Rio and Stockholm declarations.<sup>108</sup> Both the Rio and Stockholm declarations may be interpreted as universally applicable customary law. Talks of a fourth generation of human rights, that of "intellectual property"<sup>109</sup> and to a lesser extent, the rights of Mother Earth, are gaining momentum.<sup>110</sup>

The inherent human right to life forms the basis of the right to environment.<sup>111</sup> Environmental rights are preserved in

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102. See Ruppel, *supra* note 17, at 102.

103. See Mohamad Mova Al'Afghani, *The Fourth Generation of Human Rights*, THE JAKARTA POST, Sept. 4, 2006.

104. Lawrence L., Stentzel, II, *Prospects for United States Ratification of the Convention on the Rights of the Child*, 48 WASH. & LEE L. REV. 1285, 1292 (1991).

105. Ruppel, *supra* note 17, at 103.

106. *Id.*

107. LAURA WESTRA, ENVIRONMENTAL JUSTICE & THE RIGHTS OF INDIGENOUS PEOPLE 3 (2008).

108. Al'Afghani, *supra* note 103.

109. *Id.* Rights of this kind are also call "communication rights." Ruppel, *supra* note 17, at 103 n.219.

110. Robert S. Eshelman, *World People's Conference on Climate Change and the Rights of Mother Earth Kicks Off in Bolivia*, HUFFINGTON POST, Apr. 19, 2010, [http://www.huffingtonpost.com/robert-s-eshelman/world-peoples-conference\\_b\\_543211.html](http://www.huffingtonpost.com/robert-s-eshelman/world-peoples-conference_b_543211.html) (reporting on the Bolivian conference which drew 150 countries and called for a Universal Declaration for the Rights of Mother Earth. Such a Declaration would protect the Earth as its own entity, not for simply for the benefit of man in a sustainable environment.).

111. TIM STEPHENS, THE INTERNATIONAL COURTS AND ENVIRONMENTAL

human rights law through the United Nations Framework on Global Climate Change.<sup>112</sup> The Framework on Climate Change has been ratified by 194 parties and maintains near universal membership.<sup>113</sup> It is a legally binding agreement supporting international sustainability that was created to reflect the third generation rights in the Rio Declaration.<sup>114</sup> The agreement recognizes “that low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems are particularly vulnerable to the adverse effects of climate change.”<sup>115</sup> Those areas are given special attention in Article 4, which promises that the parties “shall give full consideration to what actions are necessary under the Convention . . . to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change . . . .”<sup>116</sup> Parties also commit to “cooperate in preparing for adaptation to the impacts of climate change.”<sup>117</sup> It should be noted that neither the Rio or Stockholm Conventions, nor any international instrument, have gone as far as to give substantive rights to a clean, healthy, and safe environment.<sup>118</sup> Instead, the Stockholm Declaration grants man the fundamental right to “adequate conditions of life in an environment of a quality that permits life of dignity and well-

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PROTECTION 316 (2009) (stating that the European Court of Human Rights declared that a violation of the right to life can be contemplated in relation to environmental issues).

112. See UNCFGCC, *supra* note 17.

113. Status of Ramification – United Nations Framework Convention on Climate Change, [http://unfccc.int/essential\\_background/convention/status\\_of\\_ratification/items/2631.php](http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php) (last visited Mar. 1, 2011).

114. UNCFGCC, *supra* note 17. The UNCFGCC was created at the same conference as the Rio Convention. Merrill Miller, *United Nations Conference on Environment and Development (UNCED), Rio de Janeiro, Brazil*, THE ENCYCLOPEDIA OF EARTH (Nov. 9, 2007), [http://www.eoearth.org/article/United\\_Nations\\_Conference\\_on\\_Environment\\_and\\_Development\\_%28UNCED%29,\\_Rio\\_de\\_Janeiro,\\_Brazil](http://www.eoearth.org/article/United_Nations_Conference_on_Environment_and_Development_%28UNCED%29,_Rio_de_Janeiro,_Brazil).

115. UNCFGCC, *supra* note 17, at pmb1.

116. *Id.* art. 4, ¶ 8.

117. *Id.* art. 4, ¶ 1(e).

118. STEPHENS, *supra* note 111, at 310.

being.”<sup>119</sup> Additionally, the rights in the Framework Convention are positive rights of environment that call upon signatory parties to prevent and mitigate climate change factors.<sup>120</sup> The Framework is more than an international soapbox; it is a binding instrument that substantiates arguments for legislative reform of immigration laws to accommodate environmental migrants.

Despite the presence of agreements such as the Universal Declaration of Human Rights and the European Convention on Human Rights, as international treaties<sup>121</sup> they generally cannot be enforced in the signatory countries’ domestic courts.<sup>122</sup> Any claims against a state must be brought in international courts where jurisdiction is often tenuous.<sup>123</sup> Parties can consent to a certain court’s jurisdiction.<sup>124</sup> Consent is often obtained through clauses in treaties that submit signatory countries to the jurisdiction of the courts.<sup>125</sup> However, these clauses have proven less than effective<sup>126</sup> due to arguments arising over the

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119. Stockholm Declaration, *supra* note 14, at princ. 1.

120. UNCFGCC, *supra* note 17, art. 3–4.

121. *The Council of Europe: The Only Organization of its Kind*, COUNCIL OF EUROPE, <http://book.coe.int/ftp/3587.pdf> (last visited Nov. 11, 2011) [hereinafter COE Organization].

122. In the United States, the Alien Tort Statute provides that, “[t]he district courts shall have original jurisdiction of any civil action by an alien for tort only, committed in violation of nations or a treaty of the United States.” 28 U.S.C. § 1350 (2006). However, the treaty must be self-executing (the treaty itself creates a private cause of action) and no case has yet to be successful. Kathleen Jaeger, *Environmental Courts Under the Alien Torts Statute*, 28 BERKELEY J. INT’L L. 519, 520, 523 (2010).

123. CHITTHARANJAN FELIX AMERASINGHE, JURISDICTION OF INTERNATIONAL TRIBUNALS 50 (2002) (stating parties in international disputes, especially since the creation of the International Court of Justice, fear that international courts will overreach their jurisdictional bounds which has caused cases and tension to arise concerning international jurisdiction).

124. *Id.* at 101–102 (writing about international jurisdiction extensively with a chapter on interpretation of clauses submitting to jurisdiction).

125. *Id.*

126. *E.g.*, Joseph H. Fitzgerald, *An Analysis of the International Court of Justice’s Decision on the U.S. v. Iran (1979)*, 6 J. INT’L RELATIONS 18, 20 (2004) (analyzing the Iran Hostage Crisis in which Iran refused to consent to the ICJ’s jurisdiction despite the consent clause in the Vienna Convention on Diplomatic Rights); John Quigley, *The United States’ Withdrawal from International Court of Justice Jurisdiction in Consular Cases: Reasons and Consequences*, 19 DUKE J. COMP. & INT’L L. 263 (2009).

threshold issue of whether international courts have the jurisdiction to examine a dispute for procedural issues at all (as opposed to a discussion on the merits of the case).<sup>127</sup>

Thankfully, the human rights courts, such as the European Court of Human Rights and the International Criminal Court, are well established with a long history and generally accepted jurisdiction.<sup>128</sup> A few trials for environmental refugees have also found their way onto domestic court dockets,<sup>129</sup> and international courts are an additional venue for unrepresented migrants to air their grievances.

*B. Helping environmental refugees is beneficial to corporations themselves and justified through the theory of corporate social responsibility.*

Globalization is a mixed blessing. The world experiences the advantages of modernization by means of globalization while suffering the slow unveiling of our atrocities to the planet by the same hand. In the case of the environment, conflicting theories argue the unknowable answer to the million dollar question, “Does economic globalization eventually result in a net loss or benefit to the environment?” Theorists for the pro-economic globalization side contend that those who grow rich from exploiting resources will actually cause a positive boon for the environment.<sup>130</sup> It is argued that the wealthy will then advance technology to mitigate negative environmental impacts.<sup>131</sup> Therefore, pro-globalization theorists must posit that countries

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127. AMERASINGHE, *supra* note 123, at 121 (referring to the concept of *la compétence de la compétence*).

128. See *The Council of Europe: Its Origins and Its Aims*, COUNCIL OF EUROPE, [http://www.coe.int/t/dc/europeismore/fiche01\\_en.pdf](http://www.coe.int/t/dc/europeismore/fiche01_en.pdf) (last visited Nov. 11, 2011) [hereinafter COE Aims]; *Establishment of the Court*, INTERNATIONAL CRIMINAL COURT, <http://www.icc-cpi.int/Menus/ICC/About+the+Court/ICC+at+a+glance/Establishment+of+the+Court.htm> (last visited Nov. 11, 2011); *Jurisdiction and Admissibility*, INTERNATIONAL CRIMINAL COURT, <http://www.icc-cpi.int/Menus/ICC/About+the+Court/ICC+at+a+glance/Jurisdiction+and+Admissibility.htm> (last visited Nov. 11, 2011).

129. See *Kivalina v. Exxon*, 663 F. Supp. 2d 863 (N.D. Cal. 2009).

130. Mander, *supra* note 81.

131. *Id.*

and corporations who advance globalization have a long-term goal of maintaining the natural resources that sustain them.<sup>132</sup> Corporate creation of wealth would then produce environmentally advantageous technology. This mutually beneficial concept is embodied in CSR.<sup>133</sup> However, globalization opponents find fault with the corporate and political goals of CSR because of its shortsighted emphasis on increasing financial numbers immediately rather than focusing on long-term sustainability.<sup>134</sup>

Perhaps that is why the corporation is often portrayed as a cold and corrupt, non-human entity driven entirely by profits with little to no regard for its victims or the repercussions of its actions. It may also be because businessmen who run corporations have a duty to fulfill their shareholders' wishes, which are usually to make money.<sup>135</sup> However, to make money, businesses require the trust of people, whether the trust is in their products, business model, or ethics.<sup>136</sup> People's trust legitimizes the dominant role of the corporation in the world allowing corporations to continue using the world's resources. The concept of branding and image is evolving and will soon overcome production as the primary factor in the modern business model.<sup>137</sup>

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132. *See id.*

133. HAWKINS, *supra* note 11.

134. *See* Adrian Wilkes, *Debate: Unmask the Scaremongers and Look at the Benefits of Controlling Pollution*, THE GUARDIAN, Feb. 7, 2005, at 23 (bemoaning the European heads of state, all of whom, "enthusiastically backed the Lisbon strategy's competitiveness agenda, downplaying social and environmental protection while showing no interest in the Dutch government's farsighted initiative for a clean, clever and competitive industrial strategy that recognizes that eco-efficiency will be a key element in future international competitiveness.").

135. Milton Friedman, *The Social Responsibility of Business is to Increase its Profits*, N.Y. TIMES MAG., Sept. 13, 1970, available at <http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html>.

136. Gareth Jones, *Marketers 'Must Regain Consumer Trust'*, MKG., Mar. 19, 2008, at 4 (quoting Johan Jervoe, McDonald's corporate vice-president of global marketing, saying "the ultimate goal is to get consumers to trust your brand and talk about it of their own accord.").

137. *See* HAWKINS, *supra* note 11, at 132 (arguing the trend toward third party outsourcing of production and increased awareness of business practice has heightened

The corporation is a main driving factor of globalization and, consequently, global change. Today, the United Nations High Commissioner on Human Rights warns that “increasing attention must be paid to the role of non-state actors because they are now influencing the health and wellbeing of people to an unprecedented extent, comparable even to the influence of governments.”<sup>138</sup> The question of who is most influential, government or corporations, cycles like the proverbial chicken or the egg question. Governments set the laws that govern the practices of corporations; while businesses feed the turbines of political stability and wellbeing through taxes, as well as jobs and products to satiate the voting populace.

With the internet and television constantly streaming information to a receptive public, people are more aware of business practices.<sup>139</sup> Corporations are being forced to proactively consider public health issues due to this increased communication and the emergence of competitors offering alternative ethical investments.<sup>140</sup>

In days gone by, corporations merely needed to be law abiding while still maximizing shareholder value.<sup>141</sup> However, society, especially industrialized Western society, has now latched onto the idea of corporate responsibility and demands more from multinational corporations to balance those inequities and injustices created by the corporations.<sup>142</sup> Much like government, the expansion of business is thought to bring civilization, economic growth, and progress to the world.<sup>143</sup> Similar to European expansion in history, “those who have led and profited most from this expansion have presented it to themselves and the world as justified on the grounds of the

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the importance of the brand based business model).

138. Sofia Gruskin & Daniel Tarantola, *Health and Human Rights, in PERSPECTIVES ON HEALTH AND HUMAN RIGHTS* 3, 29 (2005) (citing *Business and Human Rights: a Progress Report*, UNHCHR (2000)).

139. Rajat Panwar et al., *Corporate Responsibility: Balancing Economic, Environmental and Social Issues in the Forest Products Industry*, 56 *FOREST PRODS. J.* 4, 5 (2006).

140. *Id.*

141. LODGE & WILSON, *supra* note 18, at 3.

142. *Id.*

143. *See id.*

greater good that such expansion has had for the world's populations."<sup>144</sup> To continue having a basis of legitimacy, corporations must be able to claim they are producing a net benefit for society. Multinational corporations have heard the demand and are slowly enacting responsive measures.<sup>145</sup>

Power is legitimized by taking responsibility for visible causes of suffering and global strife.<sup>146</sup> As before, the legitimacy of a corporation depends on obeying the law, but also rests on social expectations and opinions of corporate behavior, which are derived from public perception.<sup>147</sup> International documents, such as the UN Framework on Climate Change, support theories that promote corporate aid for environmental refugees. The UN Framework on Climate Change recognizes "that various actions to address climate change can be justified economically in their own right and can also help in solving other environmental problems."<sup>148</sup>

Corporate social responsibility is no longer the butt of doubtful oxymoron jokes, but, rather, a growing industry considering it is "almost unthinkable today for a big global corporation to be without [a CSR policy]."<sup>149</sup> Many large, established companies have been slow to entrust CSR departments with sufficient power to make business strides, but those who have fully embraced CSR have reaped the benefits.<sup>150</sup>

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144. IMMANUEL WALLERSTEIN, *EUROPEAN UNIVERSALISM: THE RHETORIC OF POWER 1* (2006).

145. Clive Crook, *The Good Company: The Movement for Corporate Social Responsibility has won the Battle of Ideas. That is a Pity, Argues Clive Crook*, THE ECONOMIST, Jan. 20, 2005, at 3, available at [http://www.economist.com/node/3555212?Story\\_id=3555212](http://www.economist.com/node/3555212?Story_id=3555212) [Hereinafter *Good Company*] (observing "it would be a challenge to find a recent annual report of any big international company that justifies the firm's existence merely in terms of profit, rather than 'service to the community'").

146. LODGE & WILSON, *supra* note 18.

147. *Id.*

148. UNCFGCC, *supra* note 17.

149. *Do it Right: Corporate Responsibility is Largely a Matter of Enlightened Self-Interest*, ECONOMIST (SPECIAL REPORT), Jan. 19, 2008, at 22, available at <http://www.economist.com/node/10491124>.

150. Dan Keeler, *Core Values: Companies at the Cutting Edge of Corporate Responsibility Are Weaving Their Citizenship Efforts into the Strategic Heart of the Business*, GLOBAL FINANCE, Jun. 2010, at 22-27, available at

The financial stability of companies who have implemented CSR policies is due in large part to goodwill, which is partially defined by a company's reputation.<sup>151</sup> A company can build a positive reputation by following CSR policies.<sup>152</sup> Southwest Airlines, for example, reported its 37<sup>th</sup> year of consecutive profitability in 2009 in the midst of the "Great Recession".<sup>153</sup> In their annual report, Southwest credited their focus on their triple bottom line, "our Performance, our People, and our Planet," as their saving grace.<sup>154</sup> In India, the Tata Group of India is the country's largest company producing over \$17.5 billion in revenues and \$1.9 billion in profits.<sup>155</sup> The Tata Group has always been a very philanthropic company with over "66% of its highly successful arm, Tata Sons, go[ing] to charity."<sup>156</sup> The company has expanded to other parts of Asia and continues to find success due to its mission of assistance and conscientious business practice.<sup>157</sup> Tata's international success has been attributed to its global branding that offers not only financial value, but also a comprehensive mission.<sup>158</sup>

Though it is possible for a commercially competent but conscious lacking company to do well, CSR shortcomings may

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<http://www.gfmag.com/archives/124-june-2010/10311-corporate-social-responsibility.html#axzz1CCMFB7P9>.

151. William J. Bruns, Jr., Note, *The Accounting Framework, Financial Statements, and Some Accounting Concepts*, HARV. BUS. SCH., Note 9-193-028 (rev. 1997).

152. Melinda Owens, *Does Your Company Really Need a CSR Program?*, BUSINESS EARTH, Oct. 1, 2010, <http://www.busesearch.com/company-csr-program/>.

153. *Id.* (quoting *One Report 2009*, Southwest Airlines, <http://216.139.227.101/interactive/luv2009/>). Southwest combined their financial performance report and corporate social responsibility and environmental report into one document, the *One Report*, beginning 2009 displaying their commitment to putting CSR on the same level as economic performance. *One Report, supra*.

154. *One Report, supra* note 153, at 4.

155. Lodge & Wilson, *supra* note 18, at 30 (citing George Wehrfritz & Ron Moreau, *A New Kind of Company*, NEWSWEEK INT'L, June 5, 2005, at 10–12).

156. *Id.*

157. *See id.*; see also Manjeet Kripalani, *Indian Companies Hit Their Stride: Newly Confident, They're Climbing the Asia BusinessWeek 50 with Global Ambitions*, BUSINESSWEEK, Sept. 17, 2007 at 42, 44, available at [http://www.businessweek.com/magazine/content/07\\_38/b4050401.htm?chan=search](http://www.businessweek.com/magazine/content/07_38/b4050401.htm?chan=search).

158. Kala Vijayraghavan, *How Tatas Plan to Build Consumer Trust Abroad*, ECON. TIMES, Oct. 29, 2010.

eventually prove to be their Achilles' heel.<sup>159</sup> Adequate CSR has become such a gauge for future success that some financial analysts believe the quality of a business's CSR policy to be an indicator of the overall management of a company.<sup>160</sup> Corporations are especially well suited to addressing many of the world's problems, like the unknown fate of environmental refugees, because of their resources and aligning, self-serving motivations. By helping the refugees, corporations help themselves. It is a new form of investment in good will, where both the responsible corporation and the environmental migrant experience Pareto-efficiency.<sup>161</sup>

#### IV. CORPORATIONS AS THE FITTING BENEFACTOR

**Corporate entities are not only culpable, but also the best equipped to help environmentally displaced migrants.**

Multinationals are no longer solely agents of economic change; they also increasingly affect major determinants of health such as the distribution of wealth, access to technology, and the creation of other conditions favorable to advancing health.<sup>162</sup> Because corporations hold so much sway, political bodies and social forces have grown more dependent on businesses to "create and operate alternative mechanisms to extend health and social services."<sup>163</sup> One such alternative corporate mechanism could finance environmental refugees and help them to assimilate to their new country. To ensure the best possible outcome for all parties involved, corporations pushing for immigration reform should aim for ancillary law to the UN Convention on the Status of Refugees rather than a change in the Convention itself. Changing the current standard would put refugees supported by the existing system at risk for lower

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159. *Do it Right*, *supra* note 149, at 24.

160. *Id.*

161. Parties are Pareto-efficient, "only when all parties affected by the transfer experience a net gain (or at a minimum, on party experiences a gain and no party experiences a loss)." ALLEN ET AL., *supra* note 86, at 4.

162. Gruskin & Tarantola, *supra* note 138, at 29.

163. *Id.* at 28.

protection.<sup>164</sup>

A. *Corporations can help relieve pressure felt by governments worldwide to stymie the flow of immigrants into their respective countries.*

The changes to immigration law have been slow going on the national and international front. As of 2011, a staggering 983,000 asylum-seekers have applied for refugee recognition and that number is forecasted to steadily grow in the coming years.<sup>165</sup> Nations worried about population shifts and their citizens' growing dependence on a limited amount of resources have neutralized political efforts and sanctioned only the most obligatory of decisions on urgent matters.<sup>166</sup> The current laws of migration into industrialized nations focuses on internal security as a reactive measure, which tends to put up boundaries without thought to long-term effects.<sup>167</sup>

The industrialized world is beginning to feel the effects of environmental displacement with the European Union now considering the potential destabilizing consequences a matter of self-interest and national security.<sup>168</sup> Similarly, the German Advisory Council on Global Climate Change warns that the countries of the European Union must augment their immigration policies with pre-emptive measures to restrict the flow of environmental migration.<sup>169</sup> Fearful states have set up

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164. Max Jerneck, *Policy Responses to Climate Refugees: What are Governments Doing?*, CLIMATE INST. (March 2009), available at <http://www.climate.org/topics/environmental-security/climate-refugee-policy.html> (referring to the WBGU's advisory report GERMAN ADVISORY COUNCIL ON GLOBAL CHANGE, *WORLD IN TRANSITION: CLIMATE CHANGE AS A SECURITY RISK* 11 (2008) [hereinafter WBGU Advisory]).

165. U.N. High Comm'r for Refugees, *Asylum-Seeker Figures*, <http://www.unhcr.org/pages/49c3646c20.html> (last visited Jan. 19, 2011); see Jerneck, *supra* note 164.

166. See Riva, *supra* note 75, at 11–14.

167. WBGU Advisory, *supra* note 164, at 11.

168. Jerneck, *supra* note 164; see also Drought, *Flooding and Refugees: Addressing the Impacts of Climate Change in the World's Most Vulnerable Nations: Hearing Before the Subcomm. On Int'l Dev. and Foreign Assistance, Econ. Affairs, and Int'l Env'tl. Prot.*, 111th Cong. 6 (2009) (statement of Rev. Jim Ball, Ph.D., Senior Director, Climate Campaign, Evangelical Environmental Network).

169. Jerneck, *supra* note 164.

an obstacle course for migrants to brave, where mere technical minutia separates the haves from the have-nots.<sup>170</sup> Also, asylum decisions, though informed by the Convention on the Status of Refugees, are completely discretionary and therefore easily swayed by popular opinion.<sup>171</sup>

Immigrants have proven an easy scapegoat throughout history leading to much of the popular resentment felt today.<sup>172</sup> Often citizens of host countries tend to believe immigrants threaten social cohesion, national identity, and the political balance.<sup>173</sup> The German Advisory Council on Global Climate Change (GACGCC) specifically warns of the dangers and conflicts environmentally-induced migration may bring.<sup>174</sup> Specifically, the GACGCC identifies three conflicts: climate-induced degradation of freshwater resources, climate-induced decline in food production, and climate-induced increase in storm and flood disasters.<sup>175</sup> While these three conflicts enjoy heavier media attention, the tragic story of the environmental refugee remains relatively unnoticed.

In the case of environmental migration, most of the traffic occurs within and between developing countries that are inadequately equipped to deal with population increases.<sup>176</sup> The host countries are largely overpopulated and underfunded making the most affected countries also those least able to cope.<sup>177</sup> The poorest areas of the world bear the brunt of the refugee flow as already destitute people are forced to choose between the lesser of two evils—stay to face the primary impact of the environmental breakdown or travel to a new place and face a hostile local population who is looking to protect its own

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170. See ASYLUM LAW, *supra* note 56.

171. *Id.*

172. Norman Myers, *Environmental Refugees: A Growing Phenomenon of the 21st Century*, 357 PHIL. TRANS. R. SOC. LOND. 609, 611 (2002) [hereinafter Myers, *Envtl. Refugees*]; accord ASYLUM LAW, *supra* note 56.

173. Myers, *Envtl. Refugees*, *supra* note 172.

174. *WBGU Advisory*, *supra* note 164, at 3.

175. *Id.* at 2–3.

176. Jerneck, *supra* note 164.

177. *Id.*; see also Myers, *Envtl. Refugees*, *supra* note 172 (reporting in 1998 “the 20 countries with the highest ratios of official (traditional) refugees had an annual per capita income of only US \$750.”).

food and vital resources which are nearly as scarce.<sup>178</sup> The Sub-Saharan Africa region, for example, currently harbors half of the world's traditional refugees, as well as environmental refugees.<sup>179</sup> Severe desertification and water scarcity is expected to affect more than 100 million people creating an escalating population of environmental refugees.<sup>180</sup> The region is incapable of nourishing the current population with any increases only serving to exacerbate the already grim situation.<sup>181</sup> Eventually, environmentally induced migrants will brave the legal walls and dams erected by richer nations and flood into more capable countries as developing nations lag in aid.<sup>182</sup>

Many countries fear that environmental refugee migration will cause an inundation of immigrants, which will tax and deplete the resources of the host state.<sup>183</sup> Due to costs and public pressure, governments see refugees as a burden and attempt to narrowly read the Convention Relating to the Status of Refugees to provide protection as a last resort.<sup>184</sup> When read in an unfavorable, xenophobic light, potential host countries suggest that refugees can be turned away at will and those who come without permission are labeled illegal immigrants.<sup>185</sup> If seekers of traditional refugee status receive poor treatment, environmental refugees face a similar, if not a worse fate.

The UN High Commissioner for Refugees (UNHCR) recently received a boost in its annual budget to \$1.3 billion.<sup>186</sup> However,

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178. Myers, *Envtl. Refugees*, *supra* note 172, at 611.

179. *Id.*

180. *Id.*

181. *Id.* (indicating that the already malnourished African populace will continue to grow and the worldwide food aid is woefully unable to make up the difference) (citing Norman Myers & Jennifer Kent, Food and Hunter in Sub-Saharan Africa, *THE ENVIRONMENTALIST* 21, 41–69 (2001)).

182. Jerneck, *supra* note 164; *see also Future Refugees Will Flee Climate Impact*, *THE HAMILTON SPECTATOR*, Dec. 15, 2006, at A03. Only about eighteen countries worldwide resettle refugees. *ASYLUM LAW*, *supra* note 56.

183. Kristen Walker, *Defending the 1951 Convention Definition of Refugee*, 17 *GEO. IMMIGR. L. J.* 583, 583 (2003).

184. James C. Hathaway, *Why Refugee Law Still Matters*, 8 *MELB. J. INT'L. L.* 89, 89 (2007).

185. *Id.*

186. Myers, *Envtl. Refugees*, *supra* note 172, at 611.

it is clear that even with well over a billion dollars dedicated to the refugee cause, the UNHCR is unable to adequately supply food and shelter for traditional refugees, much less the environmentally displaced refugees unsupported by the UN Convention on the Status of Refugees.<sup>187</sup> Some argue the UN Development Program and the World Bank should deal with environmental refugees because the UN High Commissioner for Refugees is already overburdened.<sup>188</sup> Though these agencies have taken an active role in managing climate refugees, the growing problem will take a huge amount of funding and support, more than either agency can shoulder.<sup>189</sup>

The cost of admitting refugees not only includes direct living costs given to the refugees themselves, it also involves the set up and running of administrative bodies. In 1995, the United States spent \$938.7 million in purely first-costs to resettle 96,924 refugees.<sup>190</sup> The high price of refugee resettling in the U.S. is due to the number of people the United States admits and the extremely complex method of processing applicants.<sup>191</sup> Every applicant undergoes rigorous screening by two agencies, the U.S. Citizenship and Immigration Services under the authority of the Department of Homeland Security and the Executive Office for Immigration Review under the Justice Department.<sup>192</sup> Application review can take anywhere from eight to fifty-two plus months of costly time for the government and applicant.<sup>193</sup>

Elsewhere, the costs of hosting refugees also run high. Jordan complains that hosting 500,000 to 750,000 Iraqi refugees has cost the country \$2.2 billion dollars in the past three

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187. *Id.*

188. Riva, *supra* note 75, at 13.

189. *Id.*

190. David S. North, *Estimates of the Financial Costs of Refugee Resettlement: The Current System and Alternative Models*, U.S. COMM'N ON IMMIGRATION REFORM, 18 (1997). First-year costs are limited to only the money spent on refugees experiencing their first year in the United States. *Id.* at 9–18.

191. ASYLUM LAW, *supra* note 56.

192. ASYLUM PROCESS, *supra* note 56.

193. *Compare The U.S. Refugee Admissions Program*, U.S. DEPT. OF STATE, <http://www.state.gov/g/prm/c26471.htm> (last visited Nov. 7, 2011), with MICHAEL LEMAY, U.S. IMMIGRATION 48 (2004).

years,<sup>194</sup> a staggering number considering the size of the country. Sweden's Migration Board has predicted 31,000 people will seek asylum in the next year necessitating increases in government spending by 60 million kronor (or \$7.86 million USD).<sup>195</sup> These increased figures only reflect populations who will most likely be accepted as refugees, therefore, it does not adequately account for people who flee due to poverty, destitution, or environmental causes.<sup>196</sup>

In 2008, an "Adaptation Fund" for helping developing nations cope with climate related threats such as droughts, floods, and rising sea-levels was created after the UN climate talks in Poznan, Poland.<sup>197</sup> However, contributions totaled only \$80 million, a miniscule amount considering the magnitude of the problem.<sup>198</sup> If the funding problems and public support were alleviated, qualified host countries would be more willing to amend their laws and customs or international law to accommodate a wider definition of refugee.

*B. Large corporations are able to alleviate the problems of funding and public doubts while concurrently gaining practical benefits for themselves.*

Multinational corporations will suffer just as much as unwelcome migrants if the GACGC predictions regarding international strife materialize. A stable market means a buying market.<sup>199</sup> Without stable world markets, profits will fall as buyers are distracted by more pressing matters such as international political conflict from global temperature increases.<sup>200</sup> Though there are Marxist arguments that war

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194. *Iraq Refugees Cost Jordan 2.2 Billion Dollars: Minister*, AFP, Feb. 12, 2008, <http://afp.google.com/article/ALeqM5i77PBephCR2soxmGZB5sdIy3UEjQ>.

195. *Sweden Increases Refugee Forecast Again*, THE LOCAL – SWEDEN'S NEWS IN ENGLISH, May 6, 2010, available at <http://www.thelocal.se/26504/20100506>.

196. *Id.* (quoting Dan Eliasson, the Director General of the Migrationsverket (Migration Board), saying "Swedish asylum law provides no protection because of poverty and destitution, only those who are threatened or persecuted.")

197. *Id.* at 12–13.

198. *Id.* at 16–17.

199. *WBGU Advisory*, *supra* note 164, at 6.

200. *Id.*

brings with it profits and positive economic change,<sup>201</sup> modern opinions supported by carefully prepared studies suggest that economies are negatively impacted by international combat.<sup>202</sup> Therefore, corporations have an interest in stabilizing potentially disrupting international constellations to ensure continued economic success.

Justice relies on this simple principle: “if someone does you harm, they should first stop what they are doing and, second, compensate you for the harm done.”<sup>203</sup> Aside from the benefits to corporations, the “polluter pays” principle pegs the responsibilities of environmental degradation squarely on corporations and industrialized countries.<sup>204</sup> The “polluter pays” principle imposes liability on the source of the pollution rather than simply the governmental body in which the pollution is created and supposedly regulated.<sup>205</sup> Various treaties and persuasive international instruments integrate the polluter pays principle, thereby passing responsibility from the exclusive burden of states onto individuals.<sup>206</sup>

Plaintiffs have two choices in international courts—sue the state or the individual.<sup>207</sup> Though suing potentially liable states is an option, claims against the individual arguably accomplish more of the goals of justice. The retributive value of holding an individual violator like a corporation accountable is stronger than punishing a home state because individuals have a stronger traceable role in the plight of the environmental

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201. Myers, *Envtl. Refugees*, *supra* note 172, at 626–27.

202. *Id.*

203. Andrew Simms, *Global Warming: Making the Guilty Pay*, NEW STATESMAN, Dec. 8, 2003, at 26.

204. *WBGU Advisory*, *supra* note 164, at 6.

205. Jonathon Remy Nash, *Too Much Market? Conflict Between Tradable Pollution Allowances and the “Polluter Pays” Principle*, 24 HARV. EVNTL. L. REV. 465, 465–66 (2000) (proposing the fundamental idea of the polluter pays principle is that “those who generate pollution, not the government, should bear pollution costs.” The concept has also become “increasingly important in guiding environmental policy, especially at the international level.”).

206. Steven R. Ratner, *Corporations and Human Rights: A Theory of Legal Responsibility*, 111 YALE L. J. 464, 479–80 (2001) (listing of binding treaties integrating this principle and analyzing the effect on corporate liability).

207. *Id.* at 461.

migrant as the polluters in fact.<sup>208</sup> Punishing individual polluters would also serve a utilitarian deterrent function against further pollution.<sup>209</sup> Plaintiffs aiming to fulfill these goals, whether consciously or subconsciously, prefer to sue the individual polluter, the corporation, rather than the State.

Because novel, unaddressed claims have little refuge in political processes, victims are now increasingly turning to the judicial system to right their wrongs.<sup>210</sup> International courts have begun to recognize the human rights duties of non-state entities opening the possibility of redress for parties with new claims.<sup>211</sup> Migrants motivated to move due to preventable environmental damage have already begun to add their cases to the court docket. In the Pacific, the Island of Tuvalu has commenced its fight against the world's polluters. Tuvalu plans to sue Australia in the International Court of Justice for its contribution to Tuvalu's unfortunate situation with other island nations possibly joining in the suit in order to bring a class action.<sup>212</sup> The difficulties of bringing international claims against states for jurisdictional reasons and the aforementioned motivations to punish the true perpetrators of climate change have also caused parties to look beyond Nations for redress. Domestically, Exxon recently faced a "social policy tort" lawsuit from the small Alaskan village of Kivalina.<sup>213</sup> Though the courts eventually dismissed the village's claim on jurisdictional grounds,<sup>214</sup> plaintiffs are beginning to explore the possibility of recourse through lawsuit and other public nuisance suits are sure to follow.

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208. *See id.*

209. *Id.*

210. Simms, *supra* note 203, at 26.

211. Ratner, *supra* note 206, at 466 (referring specifically to the International Criminal Court recognizing non-state actor duties to maintain international humanitarian law).

212. Simms, *supra* note 203, at 26.

213. *Kivalina v. Exxon*, 663 F. Supp. 2d 863 (N.D. Cal. 2009).

214. *Id.* at 871–74. The district court reversed the lower court's holding because the case lacked federal question jurisdiction, contained a non-justiciable political question, and the standing question of causation was difficult to rectify. John Gray, *The Use of Public Nuisance Suits to Address Climate Change: Are These Really "Ordinary Tort Cases"?*, 2010 WL 1616860, at \*4 (2010).

With millions of people clamoring for new homes and the entire world affected by climate change, plaintiffs will be in high supply. Any first year law student can tell you the number one rule of litigation: sue the party with the deep pockets. Corporate power today is on par or better than governmental power over individuals in part due to their wealth.<sup>215</sup> Fortune 500 companies account for a huge percentage of the world's funds and have the infrastructure to implement plans to reduce public worries.<sup>216</sup> Even in these times of recession, the Fortune 500's earnings collectively skyrocketed 335% to \$391 billion in 2009.<sup>217</sup> If the Fortune 500 banded together to create a country, that country would wedge between India and the Netherlands to rank thirteenth in the world based on gross national income.<sup>218</sup> Wealthy corporate entities top the list of desirable defendants for those looking for high monetary retribution.

But what if corporations could curtail some of that unpredictable litigation? Arguably, they can control much of their liability while concomitantly stimulating good will amongst those affected through corporate social responsibility. Angry potential plaintiffs who are ignored by the law and society will be forced to sue for compensation. However, if victims such as environmental refugees find solace in international law, they are far less likely to sue for redress. Companies keen on keeping out of the courtroom should redirect some of the potential costs of litigation toward mitigating and problem solving measures. To satisfy the environmental refugee, multinationals would continue to implement increasingly stringent climate control initiatives while also funding resettling programs for environmental migrants and championing the plight of the refugee to international, domestic, and foreign legislative bodies.

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215. Ratner, *supra* note 206, at 461.

216. Shawn Tully, *Fortune 500, 2010 Edition*, FORTUNE ON CNN MONEY, Apr. 15, 2010, available at <http://finance.yahoo.com/career-work/article/109315/fortune-500-2010?mod=career-leadership>.

217. *Id.*

218. See Gross National Income (most recent) by country, [http://www.nationmaster.com/graph/eco\\_gro\\_nat\\_inc-economy-gross-national-income](http://www.nationmaster.com/graph/eco_gro_nat_inc-economy-gross-national-income) (determines gross national income by the Atlas method which takes the sum of value added by all resident producers plus product taxes less subsidies not included in the valuation of output plus net receipts of primary income).

*C. Countries best able to assist environmental refugees are also the home countries of multinational enterprises and stand to gain tangible benefits from aiding them.*

Accepting environmental refugees is not a completely one-sided, philanthropic venture. The populations of western nations are experiencing a steady trend toward ageing as the baby boomer generation retires from the working world.<sup>219</sup> The number of persons of working age (considered ages 15 to 59 years old) in developed regions will steadily decline to only 52% in 2050 compared to today's 63%.<sup>220</sup> This trend will result in significant labor shortages by 2050, which could be alleviated somewhat through migration.<sup>221</sup> Industrialized nations "are cautious in acknowledging it, [but] their continued prosperity will depend in part on international migration."<sup>222</sup>

Globalization and global competition has led to economic restructuring, which has limited the number of public and private sector jobs available in poorer, developing countries, typical homelands of asylum-seekers.<sup>223</sup> Due to this change, the labor force in industrialized nations must change to fit the growing demand for low paid workers who will work under difficult conditions.<sup>224</sup> Many of the countries exporting environmental refugees are populated by subsistence farmers, low paid laborers, or the like.<sup>225</sup> By accepting environmental

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219. EUROPE IN FIGURES – EUROSTAT YEARBOOK 2008 66 (Gunter Schafer ed., European Communities 2008); see also U.N. Dep't. of Econ. & Soc. Affairs [UNDESA], Population Div., World Population Prospects: The 2006 Revision Volume I: Comprehensive Tables, at cxlii, U.N. Doc. ST/ESA/SER.A/261 (2007) (projecting global populations of persons over 60 years old to triple reaching 2 billion by 2050).

220. U.N. Dep't. of Econ. & Soc. Affairs [UNDESA], Population Div., World Population Prospects: The 2006 Revision Volume I: Comprehensive Tables, at cxliv, U.N. Doc. ST/ESA/SER.A/261 (2007) (also noting that less developed regions only expect to experience a slight decline in the working age population from 61% to 59% in 2050).

221. *Id.*

222. THE GLOBAL COMMISSION ON INTERNATIONAL MIGRATION, MIGRATION IN AN INTERCONNECTED WORLD: NEW DIRECTIONS FOR ACTION 6 (2005).

223. *Id.*

224. *Id.*

225. *Id.* at 5–6; see also Myers, *Envtl. Exodus*, *supra* note 48, at 30, 32.

refugees as a protected population, nations handicapped by a shrinking labor pool can fill the gap with legal migrants. Countries and companies have a shared interest in continuing business prosperity and convincing governments of the benefits should be easy work.

## V. CONCLUSION

The effects of dramatic increases in migration due to environmental forces are not the migrant's burden alone to bear. Mass migration patterns profoundly affect the international community by redistributing demand for resources, often to inhospitable lands. Population movements must be accounted for in the international legal system in order to mitigate the potential negative effects of rapid immigration. Corporations that have significantly contributed to the plight of environmental refugees by accelerating climate change should support international reform via CSR policies employing political activism and internal assistance measures. The theory of corporate social responsibility endorses such a move and explains that transnational enterprises will benefit from helping environmental migrants.<sup>226</sup> The recent trend in consumer sensitivity to social matters in spending decisions highlights the importance of maintaining a CSR department. The corporation and environmental refugees' potential symbiotic relationship makes business and, more importantly, social sense.

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226. See generally Ratner, *supra* note 206.