

<p>COST Action IS1101: Conversation - International Climate Law and Migration</p> <p>Utrecht University</p>	<p>Saturday, 8 September 2012</p>	
	<p>09H00 – 12 noon</p>	
	<p>Toon Peters Room (<i>Toon Peterszaal</i>)</p> <p>Achter Sint Pieter 200, Utrecht</p> <p>The Netherlands</p>	
<p>Report date: 14 September 2012</p>	 <p>Universiteit Utrecht</p>	

FINAL REPORT

Welcome and Opening. Teresa Thorp opened the conversation with a warm welcome to Utrecht University and The Netherlands. The aim of the “conversation” was to support the development of collaborative research grant proposals on Climate Law and Human Rights with an emphasis on migration and displacement. The conversation centred on three specific objectives:

1. To determine the targets for, and scope and content of, proposals to fund projects on climate law, human rights and migration;
2. To initiate a collaborative network at the nexus between climate law and human rights; and
3. To discuss the facilitating mechanism for future implementation, perhaps via contribution from a Climate Law Unit to be set up at Utrecht University.

Introductions and Objectives. The conversations that ensued were multidisciplinary and there was a fruitful exchange of ideas. Interests range from:

- Looking at the topic from an interdisciplinary perspective (Dr. Margit Ammer);
- Leveraging case studies already delivered in Kenya and extending beyond emissions to look at climate change policies (Dr. Jeanette Schade);
- Integrating social science dimensions (Dr. Brooke Ackerly);
- Assessing the work of the International Law Commission on protection in times of disasters (Mr. Dug Cubie);
- Incorporating a development dimension (Dr. Dimitra Manou);
- Linking climate change, environment and human rights. Human rights have an individual focus but what are the limits if linked with environmental policy and law and how does this change the concept of the State? It would also be worthwhile to build a network of young people involved (Professor Ellen Hey);
- Conducting empirical legal research from a climate change adaptation framework perspective (Dr. Andrea Keessen);
- Integrating good governance and linking policy to the law (Dr. Anja Mihr).

The future is interesting, especially in terms of what can be done and how Utrecht University could contribute. Professor Soons (Director of the Netherlands Institute for the Law of the Sea) mentioned the special link between Professor Marleen van Rijswijk’s group on environmental law and his institute. Professor Soons first published on the subject of vanishing islands in 1989 and his interest has developed further since then. Professor Soons requested a brief overview of the Climate Change and Migration: Knowledge, Law and Policy, and Theory Working Group II: Law and Policy’s first Networking Workshop on Human Rights Legal Frameworks in the Climate Change Regime (held 6-7 September 2012). It is important to know what is going on in the area and to co-operate with other scholars, including those in Africa and Asia.

Professors' Michel Prieur, Simone Borg and Rene Lefebvre have registered an interest in future COST conversations. In terms of Professor Michel Prieur's work, CRIDEAU and CIDCE have been working on a research project on human rights and disasters since 2011. The faculty of Law and Economic Science at Limoges has undertaken comparative studies in Europe, Africa and South America on the topic of displaced persons and environmental disaster. See 2012 publication, *Les catastrophes écologiques et le droit : échecs du droit, appels au droit* (Bruylant).

COST Action. Dr. Jeanette Schade, Vice Chair COST Action IS1101, introduced the COST programme. COST Action IS1101 Climate change and migration aims to build a broad body of social science research on climate change and migration. The programme is hosted by the Department of Geography, Durham University, and will run until December 2015. Action activities include: workshops, short-term scientific missions, research conversations, training schools and conferences.

Overview of the Networking Workshop held 6-7 September 2012. Dr. Anja Mihr (Utrecht University) and Dr. Dimitra Manou (University of Thessaloniki) organised the workshop. In delivering opening remarks, Professor Jenny Goldschmidt, Director of the Netherlands Institute of Human Rights (SIM), commented that climate change knows no boundaries. As a result, traditional approaches to State sovereignty are no longer valid. A plurality of actors engages in human rights and climate change and international law needs to reflect these dynamics. Definitional arguments may need to extend to describe who is harmed and under what circumstances.

The normative framework of refugee law provided the basis for discussions on day one. The starting point was that definitions under the 1951 Refugee Convention could not be changed and that the Refugee Agency does not currently have sufficient resources. Some debate centred on a "needs" versus "rights" oriented approach or even a blended approach. Other potential legal frameworks could emerge depending on the nature of the harm, where it occurs and whether it is pre or post disaster.

On day two, the idea of describing the nature of the harm, and evolving rights and obligations took foot. Definitions can be altered (this happened with the 1967 Protocol Relating to the Status of Refugees). Institutional reform may follow normative development. Participants posed new questions. If victims suffer harm then should the legal community respond; and, if so, how should it respond? If there is a human rights violation, then who and what governs? The question of causation was another area for reflection. Some participants voiced support for a traditional approach and suggested that there must be a causal link between the harm and a particular individual or actor (State or Non-State Actor). Others suggested that since climate change is in the global commons that law too may need to extend to the global commons. Collective responsibility and solidarity may become more important. Rather than draft new normative instruments, there may be some merit in scrutinising the existing, understand them first and build on them later. Climate change has no boundaries; but, as case studies from Kenya, Bangladesh and the Pacific highlighted, the consequences are different in each part of the world.

In summing up, Dr. Anja Mihr suggested that good governance, in the form of accountability, transparency and participation, might unify all these disparate strands and help inform a universal approach to human rights and international climate change. An interdisciplinary book on climate change and migration may result from this event.

Targeted Cost Conversation. The participants discussed two potential projects in depth:

1. A survey; and
2. The proposed edited publication.

1 . Survey of Existing Initiatives. All participants agreed that Professor Fred Soons' idea of conducting a survey of current projects, institutions and academic research in the area of climate law and human rights / migration would be of great benefit. The survey project must be sustainable. It could link to a database and website. Engagement needs to be academic rather than administrative. In the interim, Dr. Brooke Ackerly of Vanderbilt University could perhaps fund a researcher for 2 or even 4 semesters, provided this linked to some direction from a working group. Some NGO's and institute's may be doing something similar already and it would be worthwhile to collaborate with them. (Reference: the Mary Robinson Foundation - Climate Justice (MRFJCJ); the Red Cross/Red Crescent Climate Centre in The Hague; and the Hague Institute of Global Justice).

2. Collected Edited Publication on Climate Law and Human Rights. It would be beneficial to establish a small team to discuss drafting a proposal to fund a publication on climate law and human rights. A publication on climate law and human rights may result from a conference on the same subject. Such a conference should be open to a broad audience. Another "conversation" could follow the conference with the view to discussing the publication. As to any future conference, participant's expressed an interest in extending participation beyond Europe and North America to include the "global south" (Africa, Asia, the America's, and even the Caribbean and the Pacific).

There was some discussion about the nature of the publication that may follow on from the networking workshop on the 6-7 September 2012 *vis a vis* a publication that would put climate change and migration into a broader legal framework of human rights. (Professor Ellen Hey suggested a special journal edition could be one way forward. Further to internal communication, Professor Marleen van Rijswijk of Utrecht University suggests that conference participants may like to consider a special issue of the Utrecht Law Review on this subject).

3. Other Project Ideas included a training school and the establishment of some form of governance structure or working party in terms of the legal side of climate and human rights. There was a view that migration needs to be considered in the broader context of human rights. There was strong support for future conversations.

Roadmap. In wrapping up and presenting the roadmap, Teresa Thorp noted that it could be useful to use the "survey project" to inform the publication on climate law and human rights. In this fashion, any call for papers would respond to identified gaps and there would be a better understanding as to the potential target audience, which may extend beyond academia. In terms of timeframes and a roadmap:

1. It would be advantageous to establish some type of collaborative working party to develop funding proposals;
2. A survey may be the first project. Initial outputs from the survey, even in terms of its structure, could feed into a conference open to a broader audience (perhaps in 2013);
3. An edited publication (perhaps with a view to publication in 2014) would be a response to identified needs and thereby contribute in a positive and helpful way to climate law and human rights through climate change and migration: knowledge, law, policy and theory.

There will be an internal discussion in Utrecht University to explore how Utrecht University may be able to contribute. The co-ordinator expressed gratitude for Jane Hogg's support and dedication in organising the logistics. (Jane Hogg is the Action Manager, COST Action IS1101, and based at the Department of Geography, Durham University).

Teresa Thorp

Utrecht University, 14 September 2012

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❖ Enc. Participant's List

TITLE	Climate Change and Migration: Knowledge, Law and Policy, and Theory
Ref	COST Action IS1101: Conversation Utrecht University – International Climate Law and Migration
Date	Saturday, 8 September 2012
Time	09H00 – 12 noon
Location	Utrecht University

Participants			
	Name	Contact Details	Email
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9.	Prof. Ellen Hey	Erasmus School of Law, Rotterdam	hey@law.eur.nl
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