



# The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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## THE CLIMATE PASSPORT: RETHINKING SOVEREIGNTY IN A DROWNING WORLD

*Gokul Baskaran*

### INTRODUCTION:

Global climate crisis can no longer be viewed as a remote danger, and is here and worsening. With the rise of sea levels that can be attributed to polar ice caps melting and thermal expansion, many of the island countries that comprise many low-lying populations are threatened with extinction through inhabitation or total submergence.<sup>1</sup> To this, new legal, human, and geopolitical institutions are pitched to safeguard the rights of the citizens of these countries. Among these concepts that gained popularity is the Climate Passport one, an innovative idea that is breaking up all the conventional understandings of citizenship, statehood, and sovereignty before the disaster of environmental collapse.<sup>2</sup> This piece of writing presents the justification of the climate passport, the legal provisions, international responses, and the chances of adopting it in a drowning world.

### WHAT IS CLIMATE PASSPORT?

The Climate Passport is a suggested legislative tool or mechanism to provide some kind of protection to the rights of transient by changes in climate change; more especially those of the Small Island Developing States (SIDs).<sup>3</sup> It intends to provide residence or citizenship to those who will have their inhabitation destroyed by the effects of environment change like the rise in sea levels, desertification or hurricanes.

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<sup>1</sup> Intergovernmental Panel on Climate Change, *Climate Change 2021: The Physical Science Basis*, Contribution of Working Group I to the Sixth Assessment Report of the IPCC 1214 (Valérie Masson-Delmotte et al. eds., 2021).

<sup>2</sup> Benoît Mayer, *The Concept of Climate Migration: Advocacy and Its Prospects*, 49(3) *Envtl. L.* 453, 466–68 (2019).

<sup>3</sup> U.N. High Comm'r for Refugees (UNHCR), *Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters*, 1–2 (Oct. 1, 2020), <https://www.refworld.org/docid/5f75f2734.html>.

In contrast to some refugee statuses, which do not have a purely legal basis as to climate change and possible asylum, the climate passport would provide mobility, identity and legal protection to the so-called climate migrants or persons displaced by climate change.<sup>4</sup>

## **THE NECESSITY OF CLIMATE PASSPORT:**

### **1. THE INUNDATION OF NATIONS AND SUNKEN SOVEREIGNTIES**

Tuvalu, Kiribati, Maldives and Marshall Islands are some of the leaders in climate-displaced nations.<sup>5</sup> The scientific predictions reveal that it is possible that some of these countries may be inhabitable in or before 2050. As they go extinct, not only will they lose land, they will lose territorial sovereignty, national identity and governance.

### **2. NON-RECOGNITION OF CLIMATE REFUGEES UNDER THE LAW**

In 1951 Refugee Convention, there is no provision of climate change as a justification to claim asylum.<sup>6</sup> This renders millions of people without any legal protection and international emergency. This gap in the law would be covered by the climate passport, stating a way to protection and acknowledgement.

### **3. THE FUTURE OF HUMAN RIGHTS**

Lack of national recognition or existing territory means that people who have been displaced by changing climate run the risk of becoming stateless and this is followed by loss of access to basic needs like education, healthcare, employment, and voting. Through the climate passport system displaced people will have their dignity and identity.<sup>7</sup>

## **ISSUES TO SOVEREIGNTY:**

### **1. CONCEPTS OF STATEHOOD**

An international law provides that a state has to possess a permanent population, a defined territory, a government and the ability to enter into relations with the rest of the states. This definition is threatened by the territory lost to climate change. The climate passport presents us with the necessity to reconstruct statehood in another dimension other than physical delimitation.<sup>8</sup>

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<sup>4</sup> Convention Relating to the Status of Refugees art. 1(A)(2), July 28, 1951, 189 U.N.T.S. 137.

<sup>5</sup> Office of the U.N. High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS), *Small Island Developing States*, <https://www.un.org/ohrlls/>.

<sup>6</sup> Supra 4.

<sup>7</sup> U.N. Human Rights Council, *Human Rights and Climate Change*, Res. 26/27, U.N. Doc. A/HRC/RES/26/27.

<sup>8</sup> Montevideo Convention on the Rights and Duties of States art. 1, Dec. 26, 1933, 165 L.N.T.S. 19.

## **2. VIRTUAL OR DETERRITORIALIZED STATES**

Countries such as Tuvalu are already trying things, such as digital government infrastructures or virtual embassies, so that they maintain sovereignty despite lacking land. A climate passport may form part of broader effort to appreciate and support the claims of rights of the so-called deterritorialized nations.<sup>9</sup>

### **PROPOSALS AND IMPLEMENTATIONS:**

#### **1. PACIFIC CLIMATE MOBILITY INITIATIVE**

There are pacific countries which are frontier of debate on migratory displacement due to climate. Early versions of this include Pacific Access Category in New Zealand and labour mobility agreements. These are templates going forward on climate passports.<sup>10</sup>

#### **2. TUVALU DIGITAL NATION PROJECT**

Tuvalu has started archiving its culture and government in the internet. By developing a digital twin of the country, it will be able to ensure continuity of the national identity, governance and citizenship, which is important in laying the foundation of climate passports.<sup>11</sup>

#### **3. FLOATING INFRASTRUCTURE AND THE MALDIVES**

The Maldives is also investing in floating islands and climate-resilient building architecture to ensure it does not face displacement soon. Nevertheless, these engineering solutions are only time-limited. Climate passport is a long-term legal and humanitarian backup plan.

### **LEGAL IMPLICATIONS AND INTERNATIONAL LAW:**

#### **1. REDEFINING STATELESSNESS**

The international law acknowledges that there exist stateless persons but fails to encapsulate the term climate-induced statelessness. The UNHCR has initiated negotiations to expand protection, however, it does not exist yet. The climate passport aims at filling this legal gap.<sup>12</sup>

#### **2. SOVEREIGNTY CONTRA MOBILITY**

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<sup>9</sup> Tuvalu Ministry of Justice, Communication and Foreign Affairs, *Tuvalu Becomes the World's First Digital Nation*, <https://campaignsoftheworld.com/digital-campaigns/first-digital-nation-tuvalu/>.

<sup>10</sup> New Zealand Immigration, *Pacific Access Category Resident Visa*, <https://www.immigration.govt.nz/new-zealand-visas>.

<sup>11</sup> Supra 9

<sup>12</sup> Convention Relating to the Status of Stateless Persons, Sept. 28, 1954, 360 U.N.T.S. 117.

Nation-states are protective of their sovereignty. The issue of letting displaced people in their country is a diplomatic problem that needs serious negotiations. The climate passport may need a multilateral treaty or a UN resolution to legitimize them.

### **3. PRECEDENT OF ENVIRONMENTAL TREATIES**

Loss and damage are acknowledged, but not specified explicitly as migration, in agreements such as the Paris Agreement and UNFCCC. The climate passport may be introduced into the framework of existing organizations, which means that it has legal support and international collaboration.<sup>13</sup>

### **ETHICAL AND HUMANITARIAN CONSIDERATIONS:**

#### **1. CLIMATE JUSTICE**

The nations that are most at risk of atmospheric climatic change have also contributed the least to global emission. The great countries have a duty to offer help with things such as climate passports and resettlements.

#### **2. RIGHT OF SELF-DETERMINATION**

Refugees should have liberty to control themselves even when they are in exile. The climate passport should ensure biological, political, and cultural independence of the climate-impacted populations.<sup>14</sup>

#### **3. AVOIDING EXPLOITATION**

Climate migration poses the risk of being exploited in terms of cheap labour or political advantageability. International systems should institute measures to make sure that no exploitation and discrimination is accorded to climate passport holder.<sup>15</sup>

### **WORLDWIDE RESPONSES AND OBJECTIONS:**

#### **1. MISCELLANEOUS POLITICAL RESPONSES**

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<sup>13</sup> Paris Agreement to the United Nations Framework Convention on Climate Change art. 8, Dec. 12, 2015, T.I.A.S. No. 16-1104.

<sup>14</sup> Benoît Mayer, *Climate Migration and the Paris Agreement: A Step Forward for Climate Justice?* 35(4) Chi. J. Int'l L. 145, 162 (2020).

<sup>15</sup> International Labour Organization, *Human Mobility, Climate Change and a Just Transition 2* (2024), <https://www.ilo.org/migration-stub-9231/human-mobility-climate-change-and-just-transition>.

Whereas some countries including some in the Pacific and Caribbean are in favor of the concept, a majority of developed nations are nervously uncertain of raising immigration levels and making the law complicated.<sup>16</sup>

## **2. ACADEMIC SUPPORT**

The climate passport is a major promising solution to the unprecedented crisis and it is supported by legal scholars and environmentalists in large numbers. Think tanks, academic centres such as Harvard, Oxford, and internationally based institution bodies are championing discussion and experimentation of the policy.

## **3. DIGRESSION AND DISSENT**

The opponents of the idea of the climate passport point out that it can hurt national boundaries, escalate conflicts connected to migration and redirect focus concerning emissions on resettlement. Others also have asked the question of whether it is a band-aid as opposed to a systemic fix.

## **TECHNOLOGICAL AND ADMINISTRATIVE STRUCTURE:**

### **1. BIOMETRIC AND BLOCKCHAIN COMPOSITIONS**

The climate passport can also be issued as a biometric and blockchain-based ID, which will be portable, resistant to fraud, and also able to interact with international systems.<sup>17</sup>

### **2. HOST NATIONS LIAISON**

There would be administrative procedures required in an effort to match benefits, legal status, and access to jobs to host countries. This can be temporary or permanent residency, dual nationality or legal residency unsatisfied of citizenship.

### **3. UN/REGIONAL MONITORING**

To achieve such global compliance and uniformity, an institution of a centralized authority may be in charge of issuing climate passports; appeals (further to that) and dispute resolution obligations, such as the International Organization for Migration (IOM), or a UN agency.<sup>18</sup>

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<sup>16</sup> Jane McAdam, *Climate Change, Forced Migration, and International Law* 145–47 (Oxford Univ. Press 2012).

<sup>17</sup> Digital Watch Foundation, *Pioneering Virtual Sovereignty Amidst Climate Threats*, ITU–DIG Watch (Nov. 2024).

<sup>18</sup> International Organization for Migration, *Institutional Strategy on Migration, Environment and Climate Change 2021–2030*, at 11–14 (2021).

## **FUTURE OUTLOOK:**

### **1. CRISIS RESPONSE TO CLIMATE GOVERNANCE**

The climate passport is also not only a legal innovation, it is a transition to another form of climate governance, a form of governance that incorporates mobility, equity and resilience into survival.

### **2. TEMPLATE OF OTHER CRISES**

Should it succeed, the climate passport can be applied to other displacements, such as droughts, wild fires, and coastal erosion in addition to rising sea levels.

### **3. CITIZENSHIP OF TOMORROW IN A CHANGING CLIMATE**

Going further, this would lead to transnational climate citizenship, where the rights and responsibilities that are involved in climate stewardship are shared, and are independent of national borders.

## **CONCLUSION:**

The solution to the climate crisis is hardly a new idea, and yet the climate passport is a revolutionary concept in its dismal truth. It makes us realize that little is being done to accommodate the implications of the current legal framework and that statehood in an increasingly warmer world is a very vulnerable one. The rise of oceans must lead to the rise of commendation to justice, innovation, and worldwide solidarity. There is still a long way to go to meet legal, political, and ethical issues, but the climate passport is an extremely important development that will ensure the dignity, identity, and future are secured to everyone who is at risk of losing it all.