

ARTICLE

Special Issue: Breaching the Boundaries of Law and Anthropology:  
New Pathways for Legal Research

## “To Leave Is to Die”: States’ Use of Mobility in Anticipation of Land Uninhabitability

Marie Courtoy<sup>1</sup>

<sup>1</sup>Université catholique de Louvain (UCLouvain) & Katholieke Universiteit Leuven (KU Leuven)

Corresponding author: [marie.courtoy@uclouvain.be](mailto:marie.courtoy@uclouvain.be)

(Received 29 August 2022; accepted 31 August 2022)

### Abstract

Climate change is profoundly modifying the earth’s environment, making certain territories uninhabitable. Faced with this known phenomenon, this article outlines a research approach for assessing the law’s role in encouraging states to preemptively protect individuals who live in deteriorating territories, notably by enabling mobility. The question is, however, far from simple, insofar as most of the ways to adapt to climate change—and particularly mobility, which has important human and social implications—require profound societal choices that anthropology has the tools to study. I therefore accompany my legal research with an anthropological approach centered around ethnography conducted at three sites—France, Guadeloupe, Senegal—where state-sponsored mobility is either being considered or already being used as an option to confront the progressive disappearance of land that is being swept away by the sea.

**Keywords:** Mobility; migration; resettlement; climate change; natural disasters; uninhabitability; grounded theory; ethnography; France; Guadeloupe; Senegal

### A. Introduction

“These . . . are not the migrants in search of a better life who hope to send money and perhaps return to the family left behind. These are people in search of bare life, with no home to return to.”<sup>1</sup>

This is how Saskia Sassen identifies a new type of migration that has evolved in response to the massive loss of habitat. She thus puts her finger on a crucial problem that will become more pronounced in the coming decades: The progressive uninhabitability of certain territories. While she attributes it primarily to “international development policies [that] have left much land dead . . . and have expelled whole communities from their habitats,”<sup>2</sup> the same is true for climate change, which she indeed stresses “further reduces livable ground.”<sup>3</sup>

---

**Marie Courtoy** holds a double Bachelor’s degree in Sociology and Anthropology and in Law (Université Saint-Louis – Bruxelles, Belgium) as well as a Master’s degree in Law (UCLouvain, Belgium). She is currently enrolled in a PhD program at UCLouvain and KU Leuven, in partnership with the Law & Anthropology Department of the Max Planck Institute for Social Anthropology. Her doctoral research focuses on climate mobilities in the broader context of environmental justice. The author’s PhD studies, of which this article is a product, are funded by a grant from the Belgian Fund for Scientific Research (FNRS).

<sup>1</sup>Saskia Sassen, *A Massive Loss of Habitat: New Drivers for Migration*, 2 SOCIO. DEV. 204–233, 205 (2016).

<sup>2</sup>*Id.*

<sup>3</sup>*Id.*

The issue is glaring, and it is no surprise that legal scholars have tried to find solutions in the law to accommodate those fleeing from their deteriorating environment.<sup>4</sup> My research takes the opposite tack, however, as such a palliative approach does not seem to be the only or even the most appropriate way to address the issue when the adverse effects of climate change are already known to some extent.<sup>5</sup> Instead of examining how the law can protect people who have already fled to another country to escape environmental deterioration, I therefore investigate whether the law encourages states to resort to mobility in anticipation of the need to protect people who are or will soon be experiencing severe deterioration of their environment. Indeed, mobility has been, and is, used everywhere and at all times to adapt to changes, including those that are occurring in the environment with the changing climate. The choice of the term “mobility” is not accidental in this respect, as it is less fraught than the term “migration.” It captures the diversity of movement—in terms of form, timing, and destination—and raises the question of “mobility justice.”<sup>6</sup> Mobility is a more general term that allows us to understand that the categorization of movements is neither immutable nor static, and that beyond their concrete reality, movements can have an impact on the collective imagination.<sup>7</sup>

Coastal areas facing sea level rise are the prototypical example of places where the need to anticipate the adverse impacts of a deteriorating environment and to preemptively address those impacts becomes acute. The International Panel on Climate Change states that “[i]t is virtually certain that global mean sea level will continue to rise over the 21st century,”<sup>8</sup> adding with a high degree of confidence that “it would take several centuries to millennia for global mean sea level to reverse course even under large net negative CO<sub>2</sub> emissions.”<sup>9</sup> The phenomenon of sea level rise therefore introduces the idea of the inevitable loss of land, making the question of preemptive measures, especially mobility, even more salient. Yet despite the obvious urgency of the issue, current developments along the world’s coastlines are moving in the opposite direction. Coastal areas continue to attract investment and are home to a growing population, even though they are already densely populated.<sup>10</sup> The Organization for Economic Cooperation and Development counts more than three billion people living within sixty kilometers of the coast.<sup>11</sup> While coastal areas are among the most vulnerable, they are also among the most attractive, creating an attachment to the land—both economic and emotional—that must be considered before promoting mobility as an option.

This is precisely why I turn to anthropology. Choosing how to adapt to climate change is not simply a technical question, but a profound societal choice.<sup>12</sup> Mobility, in particular, has

<sup>4</sup>For an overview, see François Gemenne, *How They Became the Human Face of Climate Change: Research and Policy Interactions in the Birth of the ‘Environmental Migration’ Concept*, in *MIGRATION AND CLIMATE CHANGE* 225–259 (Etienne Pigué, Antoine Pécoud, & Paul De Guchteneire eds., 2011).

<sup>5</sup>The issue has recently started to attract the interest of some legal scholars. See Bruce Burson, Walter Källen, Jane McAdams, & Sanjula Weerasighe, *The Duty to Move People Out of Harm’s Way in the Context of Climate Change and Disasters*, 37 *REFUGEE SURVEY Q.* 379–407 (2018).

<sup>6</sup>Ingrid Boas, *From Climate Migration to Climate Mobilities*, MPC BLOG (2020), <https://blogs.eui.eu/migrationpolicycentre/from-climate-migration-to-climate-mobilities/> (last visited May 4, 2021); MIMI SELLER, *MOBILITY JUSTICE: THE POLITICS OF MOVEMENT IN AN AGE OF EXTREMES* (2018).

<sup>7</sup>Noel B. Salazar, *Mobility*, 27 *REMHU: REVISTA INTERDISCIPLINAR DA MOBILIDADE HUMANA* 13–24 (2019).

<sup>8</sup>IPCC, *Contribution of Working Group I to the Sixth Assessment Report: Summary for Policymakers* (IPCC 2021), pt B.5.3.

<sup>9</sup>IPCC, *Contribution of Working Group I to the Sixth Assessment Report: Summary for Policymakers* (IPCC 2021), pt D.1.6.

<sup>10</sup>Barbara Neumann, Athanasios T. Vafeidis, Juliane Zimmermann, & Robert J. Nicholls, *Future Coastal Population Growth and Exposure to Sea-Level Rise and Coastal Flooding—A Global Assessment*, 10 *PLOS ONE* e0118571 (2015).

<sup>11</sup>OECD, *RESPONDING TO RISING SEAS: OECD COUNTRY APPROACHES TO TACKLING COASTAL RISKS* (2019), [https://www.oecd-ilibrary.org/environment/responding-to-rising-seas\\_9789264312487-en](https://www.oecd-ilibrary.org/environment/responding-to-rising-seas_9789264312487-en) (last visited June 21, 2022).

<sup>12</sup>As Anthony Oliver-Smith notes, the term “adaptation” itself is often interpreted to mean “coping strategies for specific biophysical stressors,” without taking into account the other social and human processes involved. See Anthony Oliver-Smith, *Adaptation, Vulnerability, and Resilience: Contested Concepts in the Anthropology of Climate Change*, in *ROUTLEDGE HANDBOOK OF ENVIRONMENTAL ANTHROPOLOGY* 206–218, 210 (Helen Kopnina & Eleanor Shoreman-Ouimet eds., 2017).

significant human and social implications. Anthropology, through its favored method—that is, long-term, immersive fieldwork—allows the researcher to reach out where the question arises and to explore how the human factor intervenes. How does the question play out in concrete situations? And where does the law fit in? I have therefore identified three coastal sites where the authorities are considering the use of mobility in the face of the advancing sea: In mainland France, Guadeloupe, and Senegal. For each of the sites, the goal is to study the legal mechanisms for ensuring adequate protection from the ground up. Starting from the ground allows me to get a better sense of what is expected by the affected community, which legal instruments are actually referred to, and what makes authorities choose, or reject, certain solutions. Being in the field thus brings certain issues to my attention, and I then draw from the anthropological literature to enrich the empirical data.<sup>13</sup>

Through my anthropological research, conducted in parallel with my legal research, I therefore document the issue using anthropology’s own approaches and methods. As a legal scholar, I draw the necessary conclusions to enrich my reflections on the law. It is only through this exercise in duplication of research strategies, by giving each analysis its full weight while allowing for interactions and promoting points of intersection, that each discipline can function best and enter into dialogue with one another. The interdisciplinarity I am attempting is thus best captured by the designation “law and anthropology.”<sup>14</sup> This formulation accurately describes my objective of conducting two parallel analyses that remain in communication with each other in order to stay on a common path, but each of which functions according to the rules of its own discipline. This is what interdisciplinarity is all about: Creating a dialogue between two disciplines,<sup>15</sup> each of which has its own independent existence.

This brings me to another point about “law.” Indeed, the notion is polysemous and refers to both the legal framework and the academic discipline.<sup>16</sup> In my understanding of “law and anthropology,” law cannot be limited to the legal framework; otherwise, we would be back to legal anthropology, that is, anthropology that takes law—understood as the set of social norms that order society—as the object of study. Law as understood in the term “law and anthropology” refers primarily to the legal discipline. But what I call the “legal discipline” also needs clarification, insofar as my understanding of it is linked to the way I was trained in the continental tradition. I thus understand legal discipline as legal doctrine in the sense of Hugues Dumont and Antoine Bailleux, which aims to:

[D]escribe the more or less coherent legal system formed by all the rules of law in force, as stated by the law-making bodies and interpreted or evaluated and implemented by the law-enforcing bodies [and to] provide the legal explanations and evaluations that enable it to justify or criticize the interpretations and evaluations produced by the law-making or law-enforcing bodies.<sup>17</sup>

<sup>13</sup>As John Comaroff indicates, anthropology is indeed a “grounded theory” that seeks to find “the fecund counterpoint of the concept and the concrete.” See John Comaroff, *The End of Anthropology, Again: On the Future of an In/Discipline*, 112 AM. ANTHROPOLOGIST 524, 531–532 (2010).

<sup>14</sup>Expression notably used by Marie-Claire Foblets, Mark Goodale, Anthony Good, Carol Greenhouse, and Sally F. Moore. See THE OXFORD HANDBOOK OF LAW AND ANTHROPOLOGY (Marie-Claire Foblets, Mark Goodale, Maria Sapiñoli & Olaf Zenker eds., 2022); Anthony Good, *Law and Anthropology: Legal Pluralism and “Lay” Decision-Making*, in RESEARCH METHODS IN LAW (Dawn Watkins & Mandy Burton eds., 2nd ed. 2017); Carol Greenhouse, *Law and Anthropology: Old Relations, New Relativities*, in LAW AND ANTHROPOLOGY: CURRENT LEGAL ISSUES VOLUME 12 (Michael Freeman & David Napier eds., 2009); LAW AND ANTHROPOLOGY: A READER (Sally F. Moore ed., 2005).

<sup>15</sup>Antoine Bailleux & François Ost, *Droit, Contexte et Interdisciplinarité : Refondation D’une Démarche*, 70 REVUE INTERDISCIPLINAIRE D’ETUDES JURIDIQUES 25, 25–44 (2013).

<sup>16</sup>To avoid confusion, I will only use the term “law” when discussing the legal framework.

<sup>17</sup>Hugues Dumont & Antoine Bailleux, *Esquisse D’une Théorie Des Ouvertures Interdisciplinaires Accessibles Aux Juristes*, 75 DROIT ET SOCIÉTÉ 275, 282 (2010). (translation by the author, footnotes omitted).

This contribution therefore aims to develop two questions: Why and how “law and anthropology”? It is based on my doctoral research, which is currently underway, hence only a few tentative examples from my fieldwork can be offered by way of illustration. Starting from the question of anticipating through mobility the protection of individuals living in a territory that is deteriorating, I first had to determine how to study this general question ethnographically, that is, to identify concrete situations in which the question arises—i.e., field sites; see Part B. The first-hand empirical data that I collect in these sites allows me to anchor my legal research and to test its relevance in the field where the issue is taking place, Part C, demonstrating how this form of interdisciplinarity is promising despite its difficulties and challenges, Part D. More fundamentally, anthropology’s commitment to the field also implies a critical posture that helps me to situate myself as a researcher, Part E.

## B. Bringing Global Issues to the Local Level

In order not to presuppose the need for displacement at certain sites, I have chosen to study sites where the mobility solution is either already being used or is under discussion, which also allows me to hear the actors concerned debate the subject. I thus looked for sites where relocations to cope with the effects of climate change were taking place, knowing that I could also rely on a large body of literature on resettlement.<sup>18</sup> The involvement of public authorities also makes it easier to identify the role, and legal obligations, of states in organizing or enabling mobilities. Moreover, it corresponds well to my intention to focus on the anticipation of mobility, as the interventions are planned and documented before people move on their own.

I focused in particular on relocations taking place in coastal areas, as they are representative of a climate change impact that is known to be inescapable, namely sea-level rise. However, choosing to focus on coastal areas does not come without consequences. First, they are very specific natural areas that are highly regulated. The applicable legislation adds to the already dense collection of rules relevant to my study. Second, they are highly attractive areas for a variety of stakeholders, from owners of private property, to those involved in tourism and fishing. There is, therefore, a specific attachment to the land that is not found everywhere and that makes it difficult for people living there to envisage moving away.

Guided by this search for “resettlement projects,” I first found the site of Saint-Louis, a Senegalese coastal city. My focus on this part of Africa was justified not only by my language skills—French, my native language, is the official language of Senegal—and my familiarity with the field, but also by my desire to contribute to research beyond the Pacific islands, which have been the focus of the overwhelming majority of studies on “climate migration.” This imbalance in knowledge has contributed to a biased understanding of the issue because it nurtures the idea that climate mobilities will only concern small populations in remote places and extreme cases. The city of Saint-Louis comprises three parts: The largest section is on the mainland, which is separated by the Senegal River from the long, barrier island-like peninsula known as the Langue de Barbarie, with the historic Island of Saint-Louis—a UNESCO World Heritage Site—in the river between the two. The Langue de Barbarie experiences strong swells and is heavily impacted by erosion, not to mention the damage caused by the overflow channel hastily created in 2003 by the former mayor to cope with flooding. The breach was originally a mere four meters wide but has since widened to more than 800 meters; it has separated the southern tip of the Langue de Barbarie from the rest of the peninsula, and has disrupted the natural functioning

<sup>18</sup>Daniel Petz, *Planned Relocations in the Context of Natural Disasters and Climate Change: A Review of the Literature*, BROOKINGS (Jun. 11, 2015), <https://www.brookings.edu/research/planned-relocations-in-the-context-of-natural-disasters-and-climate-change-a-review-of-the-literature/>.

of the estuary.<sup>19</sup> The World Bank is now financing a resettlement project that is being promoted as ground-breaking in Africa. The project envisages relocating people from the Langue de Barbarie to an inland site; this, however, is difficult to accept for the population, which relies on fishing for their livelihood.<sup>20</sup> Even if the World Bank trains them in other trades,<sup>21</sup> fishing is for them not only a means of subsistence, but also a very communal way of life. The creation of a dike, a parallel project financed by the French Development Agency, further complicates matters because it creates a sense of security, and the local population sees no point in leaving. Yet both projects are only temporary, since even the resettlement aims to “secure the populations settled on the sea front and reduce the damage caused by the advancing sea, pending the establishment of a sustainable protection solution”<sup>22</sup>—the actual details of which are not yet known.

Covid-19 prevented my departure to Senegal for almost two years. Although I am there at the time of writing this article, the delay forced me to reconsider my research by selecting more accessible sites. I learned about an experimental relocation scheme in France under a national strategy for integrated coastline management that was taking place at five sites.<sup>23</sup> Four in mainland France, of which I chose one, Vias, and one in an overseas department (*département d’outre-mer*), Petit-Bourg in Guadeloupe. I have already managed to visit both sites, spending one month in Vias, France, and two months in Petit-Bourg, Guadeloupe. Both cities took part in the same call for projects, yet their circumstances are very different.

In Vias, France, the perspective is long-term. Some inhabitants have permanent structures in an area officially categorized as “natural.”<sup>24</sup> This would normally not be allowed, but most of them benefit from a “statute of limitations” that allows their immobilized mobile homes to remain in place. Some live in their mobile homes all year round, but most stay there only seasonally. Campsites are also present in this area, their owners having received permission to establish them before the plan for the prevention of natural flooding and coastal risks classified the whole of the zone as red, meaning all construction is forbidden. The area is threatened by—slow—erosion of the coastline, but the new “doctrine”<sup>25</sup> in France is to avoid hard protections such as dikes or riprap whenever possible—as in natural areas—in order to let nature take its course without costly and tireless struggle,<sup>26</sup> and to favor soft solutions such as sand recharging and relocation of all structures. The inhabitants are opposed to the relocation. The free trade

<sup>19</sup>BOUBOU SY, AMADOU SY, ANSOUMANA BODIAN, AHNMED FAYE, SOULEYMANE NIANG, MARIAMA DIOP & MARIETOU NDIAYE, « BRÈCHE » OUVERTE SUR LA LANGUE DE BARBARIE À SAINT-LOUIS: ESQUISSE DE BILAN D’UN AMÉNAGEMENT PRÉCIPITÉ (2015).

<sup>20</sup>Caroline Zickgraf, *The Fish Migrate and so Must We: The Relationship between International and Internal Environmental Mobility in a Senegalese Fishing Community*, 16 J. OF INT’L REL. 5, 5-114 (2018).

<sup>21</sup>World Bank, *Senegal - Saint-Louis Emergency Recovery and Resilience Project : Resettlement Plan : Stratégie de restauration des moyens de subsistance des populations affectées de la Langue de Barbarie* (June 2020), <https://documents.banque mondiale.org/fr/publication/documents-reports/documentdetail/999071595919038014/strategie-de-restauration-des-moyens-de-subsistance-des-populations-affectees-de-la-langue-de-barbarie>.

<sup>22</sup>The World Bank, *Senegal - Saint-Louis Emergency Recovery and Resilience Project : Resettlement Plan (Vol. 3) : Plan d’Action de Réinstallation de la Langue Barbarie* (May 1, 2020), <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/563401588360092073/plan-daction-de-r%C3%A9installation-de-la-langue-barbarie> (translation by the author).

<sup>23</sup>Ministère de l’Écologie, du Développement Durable, des Transports et du Logement, *Programme d’actions 2012-2015 de la Stratégie Nationale de Gestion Intégrée du Trait de Côte*, 7.1 (2012).

<sup>24</sup>According to article R151-24 of the French Urbanism Code: “Can be classified as natural and forest areas, the sectors of the commune, equipped or not, to be protected on the basis of any one of the following: 1) the quality of sites, environments and natural spaces, landscapes and their interest, especially from an aesthetic, historical or ecological point of view; 2) the existence of forestry exploitation; 3) their character of natural spaces; 4) the need to preserve or restore natural resources; or 5) the need to prevent risks, in particular flood expansion.” (translation by the author.)

<sup>25</sup>This is the word used by informants to refer to the rule or principle that the state follows in its actions.

<sup>26</sup>Interview with a civil servant at the local state services in the Hérault department (Mar. 19, 2021) (interview conducted remotely from Belgium).

associations they set up to collectively make the area viable—mainly by digging boreholes for running water and connecting to the electricity grid—have formed an umbrella association to defend their rights. They are asking to be able to adapt their houses,<sup>27</sup> which they cannot do at present because of urban planning regulations. The campsite managers are also calling for collaboration with the state to find a solution. Inhabitants and campsite managers, after a period of mutual distrust,<sup>28</sup> have also come together to form a common front and to demand a say in the decisions that affect them. For their part, public authorities are stuck between sand recharging—which some say would be a Sisyphean endeavor<sup>29</sup>—and relocation—which is resisted, is in any case too costly to implement and is not provided for in the law. The different parties seem to have found a solution acceptable to all: An experimental system of nets to be installed on the seabed at the level of the offshore sandbar. This system should, in theory, facilitate the accumulation of sand and thus mitigate the impact of sea waves and perhaps even recreate the beach,<sup>30</sup> but it has yet to be implemented and its effectiveness remains to be demonstrated. On the national level, a recent law informally known as the “climate and resilience law” has just been adopted and provides for the establishment of a list of municipalities that must organize their planning in view of their vulnerability to erosion.<sup>31</sup>

In Petit-Bourg, Guadeloupe, the perspective is—very—short-term. The inhabitants live at the top of an oceanside bluff that is threatening to collapse at any time due to increased friability from sewage and rainwater runoff. This may not, strictly speaking, be an impact of climate change; nevertheless, the local state services have taken the opportunity to set up a mechanism for determining “areas that pose a serious threat to human life”—including those threatened by any type of natural phenomenon—in order to target individuals for immediate relocation. According to one official, relocation is the chosen solution because it is less expensive than reinforcement of the bluff would be.<sup>32</sup> The families have been told that they will have to leave their homes by a set date and that they will have the choice of being relocated to a purpose-built housing development slightly inside the city on a rent-to-own basis, or simply receiving compensation. The relocation is more advantageous, however, as it is financed by a combination of sources designed to enable home ownership at a reasonable price, while compensation is limited to the amount that the national insurance scheme would pay for natural disasters. The difficulty lies in the fact that in the French Antilles, a significant number of people are without right or legal title to their land and, while they are now eligible for compensation on the basis of a 2011 law,<sup>33</sup> the amounts they could receive from the national insurance scheme for natural disasters are very low. The rehousing is also taking place in a context where many of the individuals to be displaced are quite old and have very strong attachments to the land, not only because of the life they have built there, but also because, in many cases, they inherited it from ancestors who occupied the then

<sup>27</sup>Interview with a representative of the umbrella association formed by inhabitants of the west coast of Vias (Sept. 6, 2021).

<sup>28</sup>Interview with a campsite manager (Sept. 7, 2021).

<sup>29</sup>Interview with a civil servant at the Hérault department (Sept. 21, 2021).

<sup>30</sup>Christian Goutorbe, *Dans l'Hérault, les filets de la Dernière Chance Pour Sauver les Plages*, LE PARISIEN (Mar. 1, 2021), <https://www.leparisien.fr/environnement/dans-l-herault-les-filets-de-la-derniere-chance-pour-sauver-les-plages-01-03-2021-8426679.php> (last visited April 15, 2022); Stéphane Pocher, *À Vias, la Côte Ouest Réensablée Avant l'Installation cet Automne de Filets Atténuateurs de Houle*, FRANCE BLEU (Mar.6, 2022), <https://www.francebleu.fr/infos/societe/vias-la-cote-ouest-reensablee-avant-l-installation-cet-automne-de-filets-attenuateurs-de-houle-1646304792> (last visited April 15, 2022).

<sup>31</sup>Loi 2021-1104 du 22 août 2021 portant lutte contre le dérèglement climatique et renforcement de la résilience face à ses effets [Law 2021-1104 of August 22, 2021 to combat climate change and strengthen resilience to its effects], Art. 239, JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O. OFFICIAL GAZETTE OF FRANCE], Aug. 24, 2021.

<sup>32</sup>Interview with a civil servant at the local state services in Guadeloupe (Feb. 23, 2021) (conducted virtually from Belgium).

<sup>33</sup>Loi 2011-725 du 23 juin 2011 portant dispositions particulières relatives aux quartiers d'habitat informel et à la lutte contre l'habitat indigne dans les départements et régions d'outre-mer [Law 2011-725 of June 23, 2011 on special provisions relating to informal settlements and the fight against substandard housing in the overseas departments and regions], JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE [J.O. OFFICIAL GAZETTE OF FRANCE], June 26, 2011.



little-coveted coasts and claimed it as their first personal property following a life of slavery.<sup>34</sup> This is further complicated by the fact that land is becoming scarce in the face of increased demand on an island with limited possibilities.<sup>35</sup>

The number of field sites and their disparity are a conscious choice on my part, despite the clear difficulties such research agenda entails. I feel that the added value of having the same researcher collect the first-hand empirical data from all three sites outweighs the limitations that could potentially be introduced by the shorter period of fieldwork in each individual site. The question of what to do for people living in degraded areas will arise everywhere; it is a universal question, even if the answer proposed by different states will not necessarily be the same. This is precisely why it is interesting to have them studied by the same person. As I moved from one field site to the next, I was able to see things that I would not have noticed without having been to the other field sites first. Furthermore, it gives me a cross-sectional understanding of the problem that may be necessary for the results to be useful. It does, however, mean that I have to be careful with the conclusions I draw from my findings.

Despite their disparity, the three sites retain the common thread of their link to France: Mainland France, a French overseas department, and a former French colony where the French Development Agency is involved in the protection of the coastal zone. My assumption was that this would have an impact on how they operate and would provide a degree of consistency—and indeed, this can already be seen, for instance, in the terminology used by the national strategy for integrated coastline management on which the projects in mainland France and Guadeloupe are based and in the project to combat coastal erosion led by the French Development Agency in Senegal.<sup>36</sup> Moreover, it also introduces a postcolonial perspective to the research. Talking about climate change and migration in international law requires placing it in its colonial past which, far from being a historical debate, is at the heart of the issues at stake today.

### C. What the Law Can Learn from Anthropology: A Few Illustrations

As the research is ongoing, and in particular as the field research requires a certain familiarity with the sites that I am still developing, the analysis I give here is based on preliminary findings only and must, therefore, be understood as tentative. It is intended to highlight examples from the field to show how they raise questions relevant to the law, but without drawing any firm conclusions at this stage. In this way, I try to illustrate how anthropology, i.e., ethnographic field research informed by anthropological literature, allows me to ground the law in the places where it takes shape and to identify and explore the issues that emerge when mobility is used as a preemptive measure to deal with the advancing sea.

The field research first allowed me to question my approach to the subject. Indeed, approaching the subject from the angle of mobility is already taking a position, since I am placing mobilities in the context of adaptation to climate change, whereas I could have started from adaptation to climate change and then included mobilities. This was brought to my attention by one of my informants, who told me that he hesitated to grant my request for an interview when he saw the

<sup>34</sup>Interview with a civil servant (herself Guadeloupean) at the local state services in Guadeloupe, speaking about the people she met who needed to be rehoused (Dec. 1, 2021) (conducted virtually from within Guadeloupe due to protest-related travel restrictions).

<sup>35</sup>Interview with a civil servant at the local state services in Guadeloupe, (Nov. 29, 2021) (conducted virtually from within Guadeloupe due to protest-related travel restrictions).

<sup>36</sup>In both cases, they are using terms such as “strategic retreat” (*recul stratégique*), “integrated management” (*gestion intégrée*), “coastline” (*trait de côte*). Compare French Development Agency, *Lutter contre l'érosion côtière du littoral de Saint-Louis*, <https://www.afd.fr/fr/carte-des-projets/lutter-contre-lerosion-cotiere-du-littoral-de-saint-louis>, with Ministère de l'Écologie, du Développement durable, des Transports et du Logement, *Programme d'actions 2012-2015 de La Stratégie Nationale de Gestion Intégrée Du Trait de Côte*, 2012, no. 7.1.

formulation of my research outline, which seemed to posit that displacement was necessary. Being aware of this has cautioned me against presupposing the merits of mobility and aiming instead to put it in perspective with other adaptation measures. In fact, in studying mobility, I often find myself studying *immobility*. There is a time when people feel they can remain in place by adapting, and a time when they realize that mobility might be the more desirable option. The moment of transition from one to the other is inchoate and perhaps even imperceptible, and the research requires looking more broadly at adaptation to climate change in order to situate mobility within it. This is all the more justified since migration studies—or even more, *mobility studies*—go beyond displacement as such. In addition to the traditional interest in the decision to migrate or not and the question of the tipping point, researchers are increasingly interested in non-migration, particularly in relation to the environment. The notion of the “trapped” population<sup>37</sup> is now widespread and demonstrates that those who do not move are also part of the migration research field. Moreover, in the field of climate mobilities there is a new focus on those who choose not to move and claim the right to stay in their environment.<sup>38</sup>

From my field data, I also try to understand the motivations that drive authorities to establish a planned relocation scheme, an idea that legal scholars had already determined should be studied.<sup>39</sup> In Guadeloupe, it is clear that, if there were a major accident or disaster, the mayor and the prefect, as the appointed guarantors of public safety, would be held responsible if they had not taken any precautionary actions to protect the citizens.<sup>40</sup> But this is true because the danger is imminent, with the bluff threatening to collapse at any moment. In the case of relocation in anticipation of slow-onset events such as erosion, the responsibilities are not so clearly established.<sup>41</sup> Long-term policy thinking in that regard really gained momentum after a storm caused severe erosion that threatened to cause an entire building to collapse.<sup>42</sup> This event highlighted the lack of a compensation system and the cost that such a system would represent, leading to reflection on land use planning to limit this type of situation.<sup>43</sup> This clearly shows how “episodic events help to create a ‘crisis moment’ within the larger public awareness that can be utilized to garner public support for more proactive policy measures.”<sup>44</sup> This can also be seen, beyond specific relocation decisions, in the adoption of political and legal instruments. Indeed, the French strategy for integrated coastline management was adopted two years after a particularly severe storm caused several deaths and led to public condemnation of the mayor,<sup>45</sup> reminding officials—particularly mayors and prefects—that they can be held personally accountable when they fail to take the necessary measures to ensure citizens’ safety in the face of imminent danger. The strategy has led to several legislative

<sup>37</sup>Foresight: *Migration and Global Environmental Change*, GOV’T OFF. SCI. (2011) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/287717/11-1116-migration-and-global-environmental-change.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/287717/11-1116-migration-and-global-environmental-change.pdf).

<sup>38</sup>Carol Farbotko, *Voluntary Immobility: Indigenous Voices in the Pacific*, FORCED MIGRATION REV. 82, 82–83 (2018).

<sup>39</sup>Erica Bower & Sanjula Weerasinghe, *Leaving Place, Restoring Home: Enhancing the Evidence Base on Planned Relocation Cases in the Context of Hazards, Disasters, and Climate Change*, PLATFORM ON DISASTER DISPLACEMENT (March 31, 2021), <https://disasterdisplacement.org/leaving-place-restoring-home-enhancing-the-evidence-base-on-planned-relocation-cases-in-the-context-of-hazards-disasters-and-climate-change-2>.

<sup>40</sup>Interview with an employee of the municipal services in Guadeloupe (Nov. 5, 2021).

<sup>41</sup>Interview with a civil servant at the local state services in Hérault department (Feb. 25, 2021) (virtual).

<sup>42</sup>Claire Mayer, *En Gironde, les expropriés de l’immeuble Signal, symbole de l’érosion côtière, seront indemnisés*, LE MONDE (Jan. 28, 2021), [https://www.lemonde.fr/m-le-mag/article/2021/01/28/en-gironde-les-expropriés-de-l-immeuble-signal-symbole-de-l-erosion-cotiere-seront-indemnisés\\_6067937\\_4500055.html#:~:text=L'immeuble%20Signal%20est%20devenu,du%20bord%20de%20la%20dune](https://www.lemonde.fr/m-le-mag/article/2021/01/28/en-gironde-les-expropriés-de-l-immeuble-signal-symbole-de-l-erosion-cotiere-seront-indemnisés_6067937_4500055.html#:~:text=L'immeuble%20Signal%20est%20devenu,du%20bord%20de%20la%20dune).

<sup>43</sup>Interview with a civil servant at the local state services in Hérault department (Mar. 19, 2021) (virtual).

<sup>44</sup>Chad J. McGuire, *The Human Dimensions of Coastal Adaptation Strategies*, 13 SUSTAINABILITY 546, 5 (2021).

<sup>45</sup>*Xynthia: l’ancien maire de La Faute-sur-Mer condamné à deux ans de prison avec sursis*, LE MONDE (April 4, 2016), [https://www.lemonde.fr/police-justice/article/2016/04/04/xynthia-le-maire-de-la-faute-sur-mer-fixe-sur-son-sort\\_4894989\\_1653578.html](https://www.lemonde.fr/police-justice/article/2016/04/04/xynthia-le-maire-de-la-faute-sur-mer-fixe-sur-son-sort_4894989_1653578.html).



proposals<sup>46</sup> and the adoption of a few articles in the abovementioned “climate and resilience law.”

On the side of the affected population, what can be observed in all my field sites is resistance to the idea of moving on the part of at least some of the inhabitants. The most evocative evidence is that both in mainland France and in Guadeloupe, the community to be relocated has been nicknamed “the Gauls” because of their overt and unwavering resistance.<sup>47</sup> People who do not move may simply not be able to do so, but they might also choose not to do so. Just because people do not want to move, however, does not mean that they should automatically be left where they are (e.g., when the choice to remain is based on misinformation about the danger of staying), but their resistance must be understood and taken into account. Resistance may express needs or desires regarding the proposed relocation site, as in the case of Saint-Louis, where fishermen want to remain close to the sea, or in the case of Petit-Bourg, where people want to stay near where they have built their social lives, especially since most of them do not have cars. Resistance may also be explained by certain contextual elements that must be resolved for the relocation to be successful, such as the belief of many inhabitants in Guadeloupe that their land, once freed, will be used for speculative purposes. This concern could be allayed by creating collective community spaces in the vacated area, such as vegetable gardens, where no one would be allowed to live and no new structures could be built.

More generally, resistance raises the question of *what matters*. When Guadeloupean inhabitants refuse to be relocated because “to leave is to die”<sup>48</sup> and Senegalese inhabitants resist relocation because their way of life is based on the sea, the priorities expressed are not the same. Should people be allowed to choose to continue pursuing an increasingly dangerous way of life, even at the expense of their safety? To what extent can one live with risk? And how can the law accommodate this? Some Guadeloupeans would prefer to fall with the bluff than leave the home where they have always lived and raised their children. As for the fishermen of Saint-Louis, who are recognized throughout Senegal for their bravery in facing notoriously rough seas on a daily basis, they say they are not afraid of the sea.<sup>49</sup> Ingrid Boas, Hanne Wiegel, Carol Fobotko, Jeroen Warner, and Mimi Sheller, citing a recent study from Chilean Patagonia,<sup>50</sup> conclude that “the rejection of relocation was grounded in locally specific social representations of nature and human-nature relations that view living with risk as part of normal life in a context frequently affected by environmental hazards, rendering relocation ‘out of harm’s way’ ineffective.”<sup>51</sup> In mainland France, the possibility of leaving the houses where they stand but upgrading them to make them more resilient, thus accepting a share of the risk, had been envisaged during the experimentation by the local technical services in consultation with the population, but the state rejected this option out of fear of liability.<sup>52</sup>

<sup>46</sup>Legislative proposal by Mr. Bruno Le Roux, Ms. Pascale Got, Ms. Chantal Berthelot, and several of their colleagues on the adaptation of coastal territories to climate change, No. 3959, submitted on July 13, 2016, [https://www.assemblee-nationale.fr/14/dossiers/adaptation\\_territoires\\_littoraux\\_changement\\_climatique.asp](https://www.assemblee-nationale.fr/14/dossiers/adaptation_territoires_littoraux_changement_climatique.asp) (last visited May 22, 2022).

<sup>47</sup>Interview with a private property owner in Vias (Sept. 13, 2021); interview with a civil servant at the local state services in Guadeloupe (Nov. 29, 2021) (conducted virtually from within Guadeloupe due to protest-related travel restrictions).

<sup>48</sup>Interview with a Guadeloupean civil servant at the local state services in Guadeloupe, speaking about the people she met who needed to be rehoused (Dec. 1, 2021) (conducted virtually from within Guadeloupe due to protest-related travel restrictions).

<sup>49</sup>Interview with a fisherman of the Langue de Barbarie (May 17, 2022).

<sup>50</sup>Hanne Wiegel, Jeroen Warner, Ingrid Boas, & Machiel Lamers, *Safe from what? Understanding Environmental Non-migration in Chilean Patagonia Through Ontological Security and Risk Perceptions*, 21 REGUL. ENV'T CHANGE 1, 1–13 (2021).

<sup>51</sup>Ingrid Boas, Hanne Wiegel, Carol Fobotko, Jeroen Warner, & Mimi Sheller, *Climate Mobilities: Migration, Im/Mobilities and Mobility Regimes in a Changing Climate*, 0 J. OF ETHNIC & MIGRATION STUD. 1, 5 (2022).

<sup>52</sup>Interview with a civil servant at the local state services in the Hérault department, (Feb. 25, 2021) (virtual).

Injunctions to involve the inhabitants in these decisions can be found throughout the literature and guidelines on relocation,<sup>53</sup> including those of the World Bank,<sup>54</sup> and the three sites have established mechanisms to do so. I am therefore interested in how this involvement takes place in practice. For example, the people I spoke with in mainland France sometimes feel that they are more often informed than they are consulted.<sup>55</sup> The question of participation in decision-making processes falls under the rubric of “procedural justice.”<sup>56</sup> Rossella Alba, Silja Klepp, and Antje Bruns indeed emphasize the value of applying an environmental justice framework to climate change adaptation interventions in order to politicize them and reveal the “socio-political processes, including knowledge politics and narratives that shape [climate change adaptation].”<sup>57</sup> In mainland France, it is interesting to note that, in order to be in a position to influence decisions, the representatives of the inhabitants’ umbrella association have informed themselves not only about the science of climate change, but also about the possible engineering options and the legislation in force.<sup>58</sup> Therefore, the issue is not only about the macrologics imposed, nor is it only about microstrategies to resist them.<sup>59</sup> It is about the “dialectical movement between social agency through law on one side, and social regulation through law (often, but not always, by the state) on the other.”<sup>60</sup> An anthropological approach allows us to capture this.

These processes do not stop at the boundaries of the field sites. I was thus struck by the fact that some terms circulate between my sites.<sup>61</sup> All authorities aim to achieve “integrated coastal zone management,” a term that comes from the international sphere.<sup>62</sup> At all three sites, too, inhabitants are familiar with the term “climate change,” but attribute varying meanings to it.<sup>63</sup> When Carla Roncoli develops her “political ecology of adaptation,”<sup>64</sup> she therefore recommends that our research designs “encompass local communities and their multiple action spaces as well as the

<sup>53</sup>Guidance on protecting people from disasters and environmental change through planned relocation, BROOKINGS INST. (2015), <https://www.brookings.edu/research/guidance-on-protecting-people-from-disasters-and-environmental-change-through-planned-relocation/>; Georgetown University & International Organization for Migration, *A toolbox: Planning Relocations to Protect People from Disasters and Environmental Change*, OFFICE U. N. HIGH COMM’R REFUGEES (2017) <https://www.unhcr.org/protection/environment/596f1bb47/planned-relocation-toolbox.html>.

<sup>54</sup>See *ESS5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement*, WORLD BANK, <https://projects.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/environmental-and-social-standards> (last visited May 27, 2022).

<sup>55</sup>Interview with a representative of the umbrella association formed by inhabitants of the west coast of Vias (Sept. 6, 2021).

<sup>56</sup>Rossella Alba, Silja Klepp & Antje Bruns, *Environmental Justice and the Politics of Climate Change Adaptation—the Case of Venice*, 75 GEOGRAPHICA HELVETICA 363, 365 (2020).

<sup>57</sup>*Id.* at 364.

<sup>58</sup>Interview with a representative of the umbrella association formed by inhabitants of the west coast of Vias (Sept. 6, 2021).

<sup>59</sup>This is why Olivier de Sardan encourages an “eclectic methodology,” between methodological populism, methodological holism, and methodological individualism. JEAN-PIERRE OLIVIER DE SARDAN, *EPISTEMOLOGY, FIELDWORK, AND ANTHROPOLOGY* 163–165 (2015).

<sup>60</sup>Marie-Claire Foblets, Mark Goodale, Maria Sapignoli & Olaf Zenker, *Introduction*, in *THE OXFORD HANDBOOK OF LAW AND ANTHROPOLOGY* 1, 5 (Marie-Claire Foblets, Mark Goodale, Maria Sapignoli & Olaf Zenker eds., 2021).

<sup>61</sup>Kirsten Hastrup, *Comparing Climate Worlds: Theorising Across Ethnographic Fields*, in *GROUNDING GLOBAL CLIMATE CHANGE: CONTRIBUTIONS FROM THE SOCIAL AND CULTURAL SCIENCES* 139–154 (Heike Greschke & Julia Tischler eds., 2015); Sara de Wit, Arno Pascht & Michaela Haug, *Translating Climate Change: Anthropology and the Travelling Idea of Climate Change—Introduction*, 68 *SOCIOLOGUS* 1–20 (2018); Sally Engle Merry, *The Potential of Ethnographic Methods for Human Rights Research*, in *RESEARCH METHODS IN HUMAN RIGHTS* 141–158 (Bård A. Andreassen, Hans-Otto Sano, & Siobhán McInerney-Lankford eds., 2017).

<sup>62</sup>For the emergence and evolution of the term in the international sphere, see Nicolas Rocle, *L’adaptation des littoraux au changement climatique : une gouvernance performative par expérimentations et stratégies d’action publique* (Dec. 18, 2017), <http://www.theses.fr/2017BORD0896> (last visited April 19, 2021).

<sup>63</sup>A fisherman from Saint-Louis (Senegal) told me, for example, that there was climate change at the site where the authorities wanted to relocate them because the climate was not as good as on the Langue de Barbarie (May 10, 2022).

<sup>64</sup>Carla Roncoli, *Ethnographic and participatory approaches to research on farmers’ responses to climate predictions*, 33 *CLIMATE RSCH.* 81, 83 (2006).

higher spheres of decision-making, where policy and science are shaped.<sup>65</sup> In the end, doing so allows us to reveal “the ways that the climate science world and social world are not separate but integral.”<sup>66</sup>

More generally, it is interesting to note the underlying question of the relationship between humans and nature. Adaptation can indeed be detrimental to mitigation<sup>67</sup> and to environmental protection in general. Yet nature-based adaptative solutions, as part of a holistic approach to coastal zones, are moving forward,<sup>68</sup> as is illustrated by the term “integrated coastal zone management” used in all three sites. The most striking example is probably France, which according to some informants is undergoing a real change of mindset.<sup>69</sup> Indeed, until recently, the principle underlying the French legal and policy framework was that humans dominated nature, thus justifying the hard protection of shorelines. A different idea emerged twenty years ago, with the growing awareness of the futility of fighting the sea, and some early documents from the state called for “a profound change of mentality to move from the logic of adapting the environment to man to that of adapting man to the environment.”<sup>70</sup> In the same vein, Chad McGuire admonishes against considering the land a passive resource, because doing so leaves us unprepared and even surprised when natural disasters occur, which in turn leads to taking reactive remediation measures. Rather, land—and by extension, the environment in general—should be understood as a dynamic resource in constant change that requires a planning approach to risks.<sup>71</sup> In practice, though, preemptive relocation to free up land and leave it to nature in the long term is seldom employed for a variety of reasons, including its unpopularity and the lack of legal and financial instruments.<sup>72</sup>

To put it in a nutshell, taking recourse to anthropological methods enhances my legitimacy because I communicate directly with the various actors. This is true both for the technical experts with whom I discuss legal instruments, and elements related to their application, and for affected people, whose needs we tend to assume without really asking them. This may seem limited to an ethical stance, but it is also epistemological—as such people are better placed to provide accurate information—and methodological—as this is often the only means to get the information.<sup>73</sup>

#### D. The Promising but Challenging Exercise of Interdisciplinarity

Interdisciplinarity is about dialogue. It implies that every discipline exists in its own right, but that each one tries to “translate”<sup>74</sup> its working methods and data collected to the other discipline in order to create bridges and encourage cross-fertilization. As François Ost and Antoine Bailleux so lucidly explain:

<sup>65</sup>*Id.* at 94.

<sup>66</sup>Susan A. Crate, *Climate and Culture: Anthropology in the Era of Contemporary Climate Change*, 40 ANN. REV. ANTHROPOLOGY 175, 185 (2011).

<sup>67</sup>Jonathan Verschuuren, *Introduction*, in RESEARCH HANDBOOK ON CLIMATE CHANGE ADAPTATION LAW 1, 9 (2013), <https://www.elgaronline.com/view/edcoll/9781781000076/9781781000076.00006.xml>.

<sup>68</sup>Silja Klepp & Athanasios T. Vafeidis, *Long-term adaptation planning for sustainable coasts*, 150 DIE ERDE—J. GEOGRAPHICAL SOC. BERLIN 113, 114–115 (2019).

<sup>69</sup>Interview with a civil servant at the local state services in Hérault department (March 19, 2021) (virtual); Interview with a civil servant at the local state services in Hérault department (Sept. 21, 2021).

<sup>70</sup>Interministerial Mission for the Development of the Languedoc-Roussillon Coastline, *Strategic orientations for the coastline in Languedoc-Roussillon* (2003).

<sup>71</sup>McGuire, *supra* note 44, at 5.

<sup>72</sup>Interview with a civil servant at the local state services in the Hérault department (Feb. 25, 2021) (virtual).

<sup>73</sup>Marie-Sophie Devresse put forward these three arguments to justify the use of qualitative interviews, but they arguably justify the use of all qualitative research in general. Marie-Sophie Devresse, *L'entretien de Recherche Qualitatif* (Université Catholique de Louvain, Sept. 10, 2020).

<sup>74</sup>Bailleux & Ost, *supra* note 15.

[W]e see that interdisciplinary dialogue cannot be reduced to hitching disciplinary wagons (or blocks of theory) in a single convoy heading in the same direction: the fastenings do not necessarily fit together, the gauge of the tracks is different, not to mention the speed and direction of the convoy . . . and yet we go some way together.<sup>75</sup>

In my research, the disciplines of law and anthropology are simultaneously taken for themselves and directed toward each other. Insights from both disciplines were used initially to design my research framework: I started from a legal concern and an apprehension of the legal research field, and confronted that with the critical posture of anthropology. But this is also a constant process. Empirical data continually contribute to the (re-)formulation of the research questions that guide my legal research, which in turn provides a framework for my anthropological research. This is what Jean-Pierre Olivier de Sardan calls the “iteration”<sup>76</sup> of research, with research moving back and forth as it encounters new data in the field that point the researcher in a new direction and then bring him or her back again to the central issue.

Anthropology, mainly through immersive fieldwork, aims at “capturing a reality in all its dimensions, hence as a whole,”<sup>77</sup> to use the words of Olivier de Sardan in his defense of methodological holism. Similarly, Marie-Bénédicte Dembour attributes the centrality of ethnographic fieldwork to anthropology’s “commitment to understanding social life in a holistic way” because, “as far as anthropology is concerned, everything is related.”<sup>78</sup> Anthropologists seek to understand the situation on its own terms, with its own logics, by connecting each element that appears in the landscape. In the three “resettlement projects” I study, several questions arise: When did resettlement begin to be an option? Who proposed it? What were the reasons given? Was resettlement eventually chosen? If not, why not? If so, how was the decision reached? And how was it implemented? Is/was there any resistance? What are/were the reasons for opposing the project? Has there been a change in attitudes? If so, by whom and why? Do the actors appeal to the law? When? Are people using existing law? Or are they asking for new laws? Is the law evolving? If so, on what basis?

This mass of information is necessary to trace the whole issue, highlighting the issues and actors involved, their opinions, and the power dynamics at play. Of course, not all the information acquired through anthropological analysis will be useful for legal analysis. Nevertheless, I think it is important to proceed in this way because this is how knowledge is produced in anthropology: By an attitude that is sufficiently open and inductive to be able to see what was not expected. Anthropology does not serve the law. Anthropology produces knowledge that can be of use to law. Indeed:

It may not really matter whether anthropology matters to law. What does, however, is the way in which the former addresses the latter as an ethnographic object, a polymorphous ensemble of signifying practices that require to be laid bare, to be analysed and theorised, all the better to understand its place in the contemporary Order of Things.<sup>79</sup>

<sup>75</sup> Author’s translation from the following extract in French: “on voit . . . que le dialogue interdisciplinaire ne se ramène pas à l’accrochage de wagons disciplinaires (ou de blocs de théorie) dans un seul convoi engagé dans la même direction : on constate que les attaches ne s’ajustent pas nécessairement, que l’écartement des voies est différent, sans parler de la vitesse et de la direction du convoi . . . et pourtant on fait ‘un bout de chemin ensemble’.” *Id.* at 37–38.

<sup>76</sup> Jean-Pierre Olivier de Sardan, *La Politique du Terrain. Sur la Production des Données en Anthropologie*, 16 ENQUÊTE. ARCHIVES DE LA REVUE ENQUÊTE 71, 71–109 (1995).

<sup>77</sup> DE SARDAN, *supra* note 59, at 159.

<sup>78</sup> Marie-Bénédicte Dembour, *An anthropological approach to M.S.S. v Belgium and Greece*, in RESEARCH METHODS FOR INTERNATIONAL HUMAN RIGHTS LAW: BEYOND THE TRADITIONAL PARADIGM 227–249 (2020).

<sup>79</sup> John Comaroff, ‘Does Anthropology Matter to Law?: Reflections, Inflections, Deflections’, 2 J. LEGAL ANTHROPOLOGY 72, 77 (2018).

This brings me to two challenges I face as a legal scholar. The first is to find the energy and time to conduct two analyses from different disciplines. An inevitable trade-off must be made between fieldwork, exploration of anthropological literature, and familiarity with the law in texts and jurisprudence, as well as the related doctrinal debates. One must also make a sincere commitment to immerse oneself in another discipline, to understand its spirit and ground rules, and to develop the ability to shift from one mindset to another. The payoff is worth it, especially in those cases where only an anthropological approach can provide answers that the law needs and that a legal approach cannot offer, but spreading one's time and energy over the multiple aspects of such a research effort requires a constant balancing act.

The second challenge is to stay committed to the law. Each discipline is preserved and respected for what it is, but the research ultimately has to fit into one or the other discipline. As a legal scholar, my concern is legal and my goal is to translate anthropological data in a way that contributes to constructive criticism that can ultimately improve the legal response. Anthropologists can afford to embrace complexity because their goal is to understand, but complexity can stifle policy making.<sup>80</sup> Legal scholars cannot stop there. They then have to perform the perilous exercise of coming back to law. Indeed, as legal scholars, we cannot afford to reject the law altogether and must have a reconstructive outlook. This translation from one discipline to the other is far from easy, as the law has to find its way through the messiness of life in society.

This means that the law cannot be, merely, an expression of individualistic interests: While the opinions of the actors involved must be listened to and taken into account in the drafting of laws, the law cannot be reduced to this function, as it must assume its role in ordering society. For example, just because people resist relocation does not mean that it is automatically to be banned. In Petit-Bourg, the bluff can collapse at any time, yet there may still be reasons to stay. Some elderly people might prefer to take the risk of ending their lives happily where they have always lived rather than living an unhappy—though longer—life elsewhere. State intervention is also not without its own interests. In Vias, too, the state's policy of living with nature is part of a progressive awareness of the need “to move from the logic of adapting the environment to man to that of adapting man to the environment.”<sup>81</sup> Anthropology makes it possible to make room for all opinions, confronting them with each other while placing them in their own context, in which some take precedence over others. On this basis, the law can play its role as a regulator of life in society in greater awareness of what the decisions taken imply.

The difficulty of returning from an anthropological analysis to the law is accentuated by the distance between a global legal issue and the very particular local context in which the researcher sees it playing out. This difficulty arises at the time of the choice of field site(s), as shown earlier, but it persists throughout the research. One must therefore be aware that there is no such thing as a field site that is the perfect illustration of a given issue. Field sites are embedded in intricacies that may be completely unrelated to the, initial, purpose of the research. These must also be taken into account, as they allow the researcher to understand positions or reactions to the issue of interest, and sometimes even reveal themselves to be at the heart of the problem. A striking example is the way law is actually discussed in the field. While I may be starting from an analysis of international law in the fields of environment, migration, or human rights, the informants I meet, needless to say, do not refer directly to these legal frameworks, with their abstract principles, but to more specific and concrete rules related to, for example, risk management or urban planning.

<sup>80</sup>For Karen McNamara, critics who point out that the term “environmental migration” is misleading because the decision to migrate was motivated by a complex set of interrelated reasons “have had the effect (whether intentional or not) of contesting and dismissing the phenomenon of environmental refugees altogether”. See Karen Elizabeth McNamara, *Conceptualizing Discourses on Environmental Refugees at the United Nations*, 29 *POPULATION ENV'T* 12, 14 (2007).

<sup>81</sup>Mission Interministérielle, *supra* note 70, at 10.



## E. The Critical Eye of Anthropology, an Asset for the Legal Scholar

Anthropology is driven by its own rules of operation, from which legal scholars could usefully draw inspiration. In particular, it encourages one to be critical, both of one's own representations—Part E.I—and of the way in which the research subject is usually treated—Part E.II.

### I. Reflexivity

In the legal discipline, leaving a place for “I” is complicated.<sup>82</sup> Yet subjectivity interferes in all scientific activities, the most obvious example being the choice of research topic. My interest in migration and climate change, primarily as a legal scholar, was the result of my own civic engagement. As Olivier de Sardan explains, subjectivity at this stage is not a problem; in fact, it can even be desirable to conduct research that feeds into civic debates and that is not purely scientific.<sup>83</sup> However, even if the choice of the research topic is motivated by civic commitment, the researcher must still exercise rigor in the conduct of the scientific research—perhaps even more so than if it is not. Indeed, to take the words of Olivier de Sardan:

The more a research topic constitutes a social and political issue, the more the researcher must endeavor to treat it impartially (though this is never completely possible) while steering clear, as far as possible, from the ideological traps that are constantly open in his path . . . In this way, the voice of the researcher will be able to participate in the public debate as distinct from partisan voices.<sup>84</sup>

To exercise rigor means to be reflexive, that is, to question one's own biases and make them explicit so as to try to limit them as much as possible. Denying subjectivity does not make it disappear; to the contrary, doing so comes across as either naïve or manipulative. The legal researcher could be inspired by this methodological lesson.

### II. A Critical Approach to the Topic

Researchers play an essential role in the problematization of a given topic,<sup>85</sup> and thus have a responsibility to bring to light the issues surrounding it. The case of “climate migration” is striking. The research field is aware and clearly demonstrates that the term suffers from numerous problems that complicate any attempt to create a legal framework addressing it. Authors highlight the multi-causal nature of migration,<sup>86</sup> the difficulty of isolating climate-change-related events from other natural events,<sup>87</sup> the lack of an officially accepted definition of the term,<sup>88</sup> the variety of environmental events motivating displacement as well as the variety of forms of mobility,<sup>89</sup> the questionable relevance of the distinction between climate migrants and migrants moving

<sup>82</sup>Jean-François Gaudreault-DesBiens, *De l'essai en droit, ou du droit à l'essai dans la doctrine ?*, 65 REVUE INTERDISCIPLINAIRE D'ÉTUDES JURIDIQUES 135, 135–177 (2010).

<sup>83</sup>DE SARDAN, *supra* note 59, at 212.

<sup>84</sup>*Id.* at 213.

<sup>85</sup>BENOÎT MAYER, THE CONCEPT OF CLIMATE MIGRATION. ADVOCACY AND ITS PROSPECTS 42 (2016).

<sup>86</sup>Gaim Kibreab, *Climate Change and Human Migration: a Tenuous Relationship Symposium*, 20 FORDHAM ENV'T L. REV. 357, 379 (2009).

<sup>87</sup>David Hodgkinson & Lucy Young, “In the Face of Looming Catastrophe”: A Convention for Climate Change Displaced Persons, in THREATENED ISLAND NATIONS: LEGAL IMPLICATIONS OF RISING SEAS AND A CHANGING CLIMATE 299–336, (Michael B. Gerrard & Gregory E. Wannier eds., 2009).

<sup>88</sup>Raphael J. Nawrotzki, *Climate Migration and Moral Responsibility*, 17 ETHICS, POL'Y AND ENV'T 69, 71 (2014).

<sup>89</sup>Lauren Nishimura, “Climate Change Migrants”: Impediments to a Protection Framework and the Need to Incorporate Migration into Climate Change Adaptation Strategies, 27 INT'L J. REFUGEE L. 107, 112 (2015).

for other reasons,<sup>90</sup> and the exclusion of non-migrants.<sup>91</sup> Such observations have already led to changes: the interaction of various factors in the decision to migrate is now recognized, and the focus is no longer always on cross-border migration.<sup>92</sup> However, while the awareness of this complexity is widespread in research, it remains marginal in the public sphere. Even more problematically, the inconsistencies of an approach centered on such an ambiguous notion as “climate migration” are noted by researchers but not questioned, and few attempts have been made to understand why the concept retains such influence today and what that implies regarding how the subject should be approached.

Yet the persistence of such an “equivocal”<sup>93</sup> term is not trivial. The critical anthropological eye invites us to go further: If such a concept is misleading, why was it created and why is it still used? More importantly, what consequences does it entail? Anthropology is first and foremost an attitude that has as its *leitmotif* to question everything, especially things that are taken for granted.<sup>94</sup> This is particularly appropriate when it comes to law, which is generally presented as neutral. While legal scholars did not need input from anthropology to begin questioning the supposedly neutral character of law,<sup>95</sup> anthropology allows us to go further by offering tools to reveal the power dynamics at play. Leading legal anthropologists have proved the value of anthropology in understanding the law in its creation and its impacts. Franz and Keebet von Benda-Beckmann and Anne Griffiths emphasize “the importance of looking at the chains of interaction connecting transnational, national and local actors in multi-sited arenas along with the power relations that structure these interactions and are reproduced or changed by them.”<sup>96</sup> Likewise, Sally Engle Merry shows that “[m]uch ethnographic research examines how human rights ideas operate within local settings, but these studies typically recognize that the local settings are embedded within larger systems that shape them and that their boundaries with global ideologies are typically quite porous.”<sup>97</sup>

The invitation of anthropology to “always dig deeper”<sup>98</sup> prompted me to investigate the origins of the term “climate migration” and its impacts, which allowed me to frame my research in a way that takes into account the potential pitfalls of not questioning the allegedly neutral character of law.

### 1. *The Origins of the Term: A Call to Protect the Environment*

This leads me to question the emergence not of the phenomenon itself, but of its problematization. Indeed, it is important to remember that humans have always moved to adapt to their changing

<sup>90</sup>MAYER, *supra* note 85, at 55.

<sup>91</sup>Benoît Mayer & François Crépeau, *Changement Climatique et Droits de L'homme des Migrant*, in MOBILITÉ HUMAINE ET ENVIRONNEMENT: DU GLOBAL AU LOCAL 31–48, 35 (2015), <https://www.cairn.info/mobilite-humaine-et-environnement-9782759223312-page-31.htm>.

<sup>92</sup>Matthew Scott & Albert Salamanca, *A Human Rights-based Approach to Internal Displacement in the Context of Disasters and Climate Change*, 39 REFUGEE SURVEY Q. 564–571 (2020); Jane McAdam, *Displacing Evacuations: A Blind Spot in Disaster Displacement Research*, 39 REFUGEE SURV. QUARTERLY 583–590 (2020); Elizabeth Ferris, *The Relevance of the Guiding Principles on Internal Displacement for the Climate Change-migration Nexus*, in RESEARCH HANDBOOK ON CLIMATE CHANGE, MIGRATION AND THE LAW 108–130 (Benoît Mayer & François Crépeau eds., 2017).

<sup>93</sup>Calum T.M. Nicholson, “Climate-induced migration”: *Ways Forward in the Face of an Intrinsically Equivocal Concept*, in RESEARCH HANDBOOK ON CLIMATE CHANGE, MIGRATION AND THE LAW 49–66 (Benoît Mayer & François Crépeau eds., 2017).

<sup>94</sup>Comaroff, *supra* note 13.

<sup>95</sup>See in particular the Critical Legal Studies born in the 70’s which criticize legal formalism and in particular the occultation of the political dimension of law. ALLAN C. HUTCHINSON, *CRITICAL LEGAL STUDIES* (1989).

<sup>96</sup>Franz von Benda-Beckmann, Anne Griffiths & Keebet von Benda-Beckmann, *Mobile People, Mobile Law: An Introduction*, in MOBILE PEOPLE, MOBILE LAW: EXPANDING LEGAL RELATIONS IN A CONTRACTING WORLD 1–25, 9 (2005).

<sup>97</sup>Sally Engle Merry, *Anthropology and Law*, in THE SAGE HANDBOOK OF SOCIAL ANTHROPOLOGY 105–120, 112 (Richard Fardon et al. eds., 2012).

<sup>98</sup>Dembour, *supra* note 78, at 231.

environment; my interest here lies in the *qualification* of migration in relation to the environmental factor, which is much more recent. It can be traced back to William Vogt, an ecologist and ornithologist, who coined the term “ecological refugee” in 1948.<sup>99</sup> The concept was introduced into international discourse by Essam El-Hinnawi, who first used the term “environmental refugee” in a report for the United Nations Environmental Program in 1985.<sup>100</sup> Interestingly, then, the problematization did not come from migration experts but from environmental experts wishing to sound the alarm about environmental degradation and the need for action to combat it.<sup>101</sup> It therefore comes as no surprise that they depicted massive waves of migrants and contributed to an alarmist discourse that earned them the label of “maximalists.”<sup>102</sup> The debate has indeed divided the scientific community into “maximalists” and “minimalists,”<sup>103</sup> the latter often being migration experts who have, from the beginning, insisted on the multi-causal nature of displacement and the human agency that makes it difficult to predict.<sup>104</sup> This short sketch of the origins of the concept, and especially of its authors, makes it clear that the notion has been put forward by people whose primary motivation was not about protecting people on the move, and who therefore had limited knowledge about migrations and their dynamics. This helps to explain some of the inconsistencies that afflict the concept in all of its various incarnations, including “climate migration.”

Today, the question arises as to why the term remains. First and foremost, it is interesting to note that it persists despite its lack of appropriation by those targeted. For Ronald Niezen, concepts developed by international organizations tend to be “ideas that begin at the furthest remove from lived reality . . . sometimes based on little more than vague intuitions.”<sup>105</sup> Therefore, “[t]he odds that any given category of the oppressed will serve the strategic and identity-oriented purposes of rights claimants is an open question at the time that it is first exposed to view in an institutional context.”<sup>106</sup> Concepts acquire their validity through participatory engagement,<sup>107</sup> that is, when they are used by the people they are intended to serve. Self-identification with the term will depend on various elements, such as the fact of recognizing oneself in the reality described,<sup>108</sup> but also importantly on whether it is “connected to a rights regime that offers any significant advantages to those who are the subjects of definition”<sup>109</sup>—something that the term “climate migrant” does not afford.

As far as those who use the term are concerned, Calum Nicholson offers an initial response when he dissects the concept of “climate migration.” After demonstrating that it is an equivocal claim, he wonders why it is used and answers as follows:

<sup>99</sup>WILLIAM VOGT, *ROAD TO SURVIVAL: A REVOLUTIONARY NEW VIEW OF THE WORLD, OF ITS MULTIPLYING PEOPLES AND ITS WASTING RICHES*, (1948).

<sup>100</sup>He used the term to describe “those people who have been forced to leave their traditional habitat, temporarily or permanently, because of a marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affected the quality of their life. In this definition, ‘environmental disruption’ means any physical, chemical, and/or biological changes in the ecosystem (or the resource base) that render it, temporarily or permanently, unsuitable to support human life.” ESSAM EL-HINNAWI, *ENVIRONMENTAL REFUGEES* (1985).

<sup>101</sup>Chloé Anne Vlassopoulos, *Des Migrants Environnementaux aux Migrants Climatiques : un Enjeu Définitionnel Complexe*, *CULTURES & CONFLITS* 7, 9 (2012).

<sup>102</sup>*Id.*

<sup>103</sup>Astri Suhrke, *Environmental Degradation and Migration Flows*, 47 *J. INT’L AFF.* 437, 437–496 (1994).

<sup>104</sup>James Morrissey, *Rethinking the “Debate on Environmental Refugees”: From “Maximalists and Minimalists” to “Proponents and Critics,”* 19 *J. OF POL. ECOLOGY* 36, 36–49 (2012).

<sup>105</sup>Ronald Niezen, *The Anthropology by Organizations: Legal Knowledge and the UN’s Ethnological Imagination*, in *PALACES OF HOPE: THE ANTHROPOLOGY OF GLOBAL ORGANIZATIONS* 294–317, 301 (Maria Sapignoli & Ronald Niezen eds., 2017).

<sup>106</sup>*Id.* at 304.

<sup>107</sup>*Id.* at 311.

<sup>108</sup>As in the case of “indigenous people.” *Id.* at 305–311.

<sup>109</sup>*Id.* at 304.

[W]hen made by political actors in an open society, equivocal claims about what is, or what ought to be (such as those made about “climate-induced migration”) constitute a problem, as they act to disaggregate power from accountability. If a claim is equivocal, it becomes almost impossible to define either the obligations or responsibilities of those occupying privileged positions in the political structure.<sup>110</sup>

Benoit Mayer’s findings support this observation. The conclusion of his book is indeed that “[t]here is no solution to ‘climate migration’ because ‘climate migration’ is not an issue in and by itself. Beyond the issues reflected by climate migration lie some of the major shortfalls of today’s global governance.”<sup>111</sup> In the end, “solutions are all too well-known,”<sup>112</sup> such as the need to protect the human rights of migrants or to reduce greenhouse gas emissions. An equivocal concept that can be promoted by vague formulations in soft law instruments is therefore perhaps more convenient than actually having to address these major challenges.

## 2. *The Potential Drifts of the Term of which the Researcher Needs to Be Aware*

The maximalist framing drawn up by the first users of the term has been taken up by other researchers, politicians, and civil society actors, and still persists today. This framing has contributed to the perception of “climate migration” as a potential threat to national security and has, therefore, led to the mobilization of the rhetoric of “crisis.”<sup>113</sup> The definition of the issue as a crisis, i.e., “a critical event which, if not handled appropriately and in a timely manner, or if not handled at all, may turn into a disaster or catastrophe,”<sup>114</sup> has justified a process of securitization, which has become a common way of dealing with migration in Western liberal democracies.<sup>115</sup> This crisis scenario, based on the Western view of a sedentary society where migration is an unwelcome anomaly,<sup>116</sup> does not reflect the reality as it is experienced by the people to whom it is attributed. One great Pacific thinker describes pre-colonial Oceania—whose islanders are often held up as the paradigmatic example of future climate migrants—as a “sea of islands” where people were free to move from one island to another, a way of life that is still largely true today.<sup>117</sup> For them, it is not migration—or perhaps, more accurately, mobility—*per se* that is the problem; it is the possibility of completely losing their land.

This framing and others that followed<sup>118</sup> are important in that they legitimize political and legal responses. I have therefore tried to identify, based on the literature, the underlying mechanisms that make such framings possible in order to adjust my research to avoid falling into the drifts that can be associated with them. One such mechanism is the *invisibilization* process. As noted by Julia Dehm when applying a third-world approach to international law’s perspective on the international climate regime, “even as institutional power is authorized in the name of a global need for action, and particularly in the name of those presented as most vulnerable, the actual voices and perspectives of ‘frontline’ communities about the types of action that should be pursued

<sup>110</sup>Nicholson, *supra* note 93, at 63.

<sup>111</sup>MAYER, *supra* note 85, at 301.

<sup>112</sup>*Id.*

<sup>113</sup>Christiane Fröhlich & Silja Klepp, *Effects of Climate Change on Migration Crises in Oceania*, in *THE OXFORD HANDBOOK OF MIGRATION CRISES* 331–346, 332 (Cecilia Menjivar, Marie Ruiz, & Immanuel Ness eds., 2019).

<sup>114</sup>*Id.*

<sup>115</sup>Jef Huysmans, *THE POLITICS OF INSECURITY: FEAR, MIGRATION AND ASYLUM IN THE EU* (2006).

<sup>116</sup>Caroline B. Bretell, *Theorizing Migration in Anthropology*, in *MIGRATION THEORY: TALKING ACROSS DISCIPLINES* 148–197 (Caroline B. Bretell & James F. Hollifield eds., 2015).

<sup>117</sup>Epeli Hauʻofa, *Our Sea of Islands*, in *A NEW OCEANIA: REDISCOVERING OUR SEA OF ISLANDS* (Eric Waddell, Vijay Naidu, & Epeli Hauʻofa eds., 1993).

<sup>118</sup>Chris Methmann & Angela Oels, *From “Fearing” to “Empowering” Climate Refugees: Governing Climate-Induced Migration in the name of Resilience*, 46 *SEC. DIALOGUE* 51, 51–68 (2015).

are simultaneously erased and dismissed.<sup>119</sup> Beyond the climate field, this is a common issue with regard to migrants who have little say in the public sphere.<sup>120</sup> In my research I try to mitigate this problem methodologically, through ethnography, which gives voice to the actors concerned, and in particular to those who are not sufficiently listened to.<sup>121</sup>

A second mechanism is the *depoliticization* process, in the sense of James Ferguson's "anti-politics machine."<sup>122</sup> Climate change is presented as an external threat governed by science,<sup>123</sup> a view that conceals "the questions of regional and global responsibility and solidarity, as well as historical and current power relationships and dependencies."<sup>124</sup> Dehm gives the example of the United Nations Framework Convention on Climate Change, whose wording has "two key implications for directionality . . . spatially and temporally."<sup>125</sup> Spatially, it "is primarily concerned with the direct *effects* that produce climate change—GHG [greenhouse gas] emissions—rather than their *causes*, the 'human activities [that] have been substantially increasing the atmospheric concentration of greenhouse gases,'"<sup>126</sup> and its objectives "are translated from a *political* goal and antagonistic of transforming these causes and 'overcoming fossil fuel dependence by entrenching a new historical pathway' to a more *technical* goal of achieving 'measurable, divisible greenhouse-gas emission reductions.'"<sup>127</sup> Temporally, she also notes that, in the Convention, "[t]he concern is directed into the *future*, rather than [being presented as] a problem of the *connections* between the past, present and future."<sup>128</sup> To counterbalance this, as outlined in the contribution of anthropology to law, my research thus attempts to "re-politicize" legal instruments and more generally decisions regarding adaptation to climate change.<sup>129</sup>

Finally, another mechanism that strikes me as significant is *exoticization* as, in the collective imagination, "climate migrants" are people who leave the Global South with the goal of coming to the Global North.<sup>130</sup> This is commonly present in discourses on migration, as shown by the well-known but still evocative illustration of the difference—in terminology, but also in symbolic meaning—between "expatriate" and "migrant."<sup>131</sup> Yet the absurdity of such a distinction based on place of origin is all the more obvious when it comes to climate change, a phenomenon whose effects are global and not limited to certain countries—although, of course, the ability of

<sup>119</sup>Julia Dehm, *Carbon Colonialism or Climate Justice: Interrogating the International Climate Regime from a TWAIL Perspective*, 33 WINDSOR YEARBOOK ACCESS JUST. 129, 155 (2017).

<sup>120</sup>Martine Brouillette, *Entretien avec François Crépeau*, 35 REVUE EUROPÉENNE DES MIGRATIONS INTERNATIONALES 197–216, 205 (2019).

<sup>121</sup>This is what Olivier de Sardan calls *methodological*, as opposed to *ideological*, populism: the goal is not to defend the weakest at all costs, but to restore the balance in favor of those who are rarely heard. DE SARDAN, *supra* note 59, at 133–165.

<sup>122</sup>James Ferguson & Larry Lohmann, *The Anti-Politics Machine: "Development" and Bureaucratic Power in Lesotho*, in THE ENVIRONMENT IN ANTHROPOLOGY: A READER IN ECOLOGY, CULTURE, AND SUSTAINABLE LIVING 185–195 (Nora Haenn, Richard R. Wilk, & Allison Harnish eds., 2nd ed. 2016). For an application to climate change, see Sara de Wit, Arno Pascht & Michaela Haug, *Translating Climate Change. Anthropology and the Travelling Idea of Climate Change—Introduction*, 68 SOCIOLOGUS 1–20 (2018).

<sup>123</sup>Myanna Lahsen, *The social status of climate change knowledge: an editorial essay*, 1 WIRES CLIMATE CHANGE 162, 164 (2010).

<sup>124</sup>Silja Klepp & Johannes Herbeck, *The politics of environmental migration and climate justice in the Pacific region*, 7 J. HUM. RTS. & ENV'T 54, 61 (2016).

<sup>125</sup>Dehm, *supra* note 119 at 149.

<sup>126</sup>*Id.*

<sup>127</sup>*Id.*

<sup>128</sup>*Id.*

<sup>129</sup>See the call in this sense by Silja Klepp and Libertad Chavez-Rodriguez. Silja Klepp & Libertad Chavez-Rodriguez, *Governing Climate Change: Discourses, Policies, and Practices*, in A CRITICAL APPROACH TO CLIMATE CHANGE ADAPTATION: DISCOURSES, POLICIES AND PRACTICES 3–34, 5 (Silja Klepp & Libertad Chavez-Rodriguez eds., 2018).

<sup>130</sup>Schade Jeanette & Dimitra Manou, *Editorial: Climate, Justice and Displacement: Reflections on Law, Policy and the Future of Human Rights in the Climate Crisis*, 8 J. HUM. RTS. & ENV'T 1, 1 (2017)

<sup>131</sup>Benoît Mayer & François Crépeau, *Introduction*, in RESEARCH HANDBOOK ON CLIMATE CHANGE, MIGRATION AND THE LAW 1–25, 3 (Benoît Mayer & François Crépeau eds., 2017).



individuals to cope with it varies. In my research, the diversity of field sites is also an intentional choice to participate in the demystification of mobilities in the context of climate change. My own first reaction was to look for a field site in the Global South, even though circumstances beyond my control ultimately forced me to be more in line with my research intentions. In a universal subject like this, anthropologists are increasingly studying the Global North. Alba, Klepp, and Bruns examine climate change adaptation interventions in Venice from an environmental justice perspective,<sup>132</sup> while Werner Krauss investigates the political ecology of the North Sea coast in northern Germany.<sup>133</sup>

## F. Conclusion

By way of conclusion, I would like to abstract from my research the elements that explain my position on “law and anthropology.” In particular, two questions need to be answered: *why* and *how* law and anthropology?

On the question of *why*, I think that there is a rather basic lesson that the legal discipline can take from the way anthropology works, but which is not necessarily specific to anthropology: recognizing the place of subjectivity in research. As legal scholars, we are not accustomed to making our possible biases explicit, yet it is a matter of credibility to do so. Of course, doing this is not the same as doing anthropology, but I think it is important to point out how one discipline can learn from another.

What anthropological research can contribute to legal research in general is, in my opinion, the tools to question the supposedly neutral character of law. Legal formalism has long been criticized within the discipline itself,<sup>134</sup> but the legal discipline remains ill-equipped to tackle this issue. The critical stance of anthropology allows us to “be aware of power relationships and their framing and silencing effects”<sup>135</sup> and to uncover them through its privileged connection to the field where the law takes shape. All in all, anthropology forces us to question whether law is at the service of justice or of power, and can lead us to reflect on our role as researchers in the quest to ensure that the former is the case.

These inputs are general, but anthropology’s contribution to one’s research can also be more specific. The research questions induced by a certain topic may require answers that pure legal research cannot offer. This is, for example, the case with my research, and my engagement with anthropology has helped guide the way I conduct it. This brings us to the question of *how* law and anthropology. Clearly, there is no ready-made recipe. Commitment to anthropology can be more or less deep and depends primarily on the needs of the research, although it also varies according to other factors, including time and skill. In the end, the researcher just has to find his or her own way.

There is, however, one general piece of advice that everyone should bear in mind: take pains to be fair to both disciplines. On the one hand, anthropology should be more than an instrument. Merely conducting interviews is not, in and of itself, engaging in anthropology. Anthropology is a discipline and, while we as legal scholars cannot be expected to engage with it as deeply as we do with our main discipline, i.e., law, it is also important to know and understand anthropology at some deeper level in order to remain faithful to what is at the core of the discipline. On the other hand, it is important not to lose sight of the distinctive skills we have as legal scholars. We need to keep taking law seriously: in my opinion, dismissing law altogether, as some critical

<sup>132</sup>Rossella Alba, Silja Klepp & Antje Bruns, *Environmental Justice and the Politics of Climate Change Adaptation—the Case of Venice*, 75 GEOGRAPHICA HELVETICA 363, 363–368 (2020).

<sup>133</sup>Werner Krauss, *Migratory Birds, Migratory Scientists, and Shifting Fields: The Political Ecology of a Northern Coastline*, in MULTI-SITED ETHNOGRAPHY: PROBLEMS AND POSSIBILITIES IN THE TRANSLOCATION OF RESEARCH METHODS 154–168 (2012).

<sup>134</sup>See *supra* note 95.

<sup>135</sup>Dembour, *supra* note 78.

anthropologists do, is not productive; rather, we should strive to contribute to its positive development. We have to choose which side we are on: are we aiming for better law, or for something better than law?<sup>136</sup> I think that, as legal scholars, we should stick to the former in order to value the competence we have and allow for the two disciplines to be mutually fruitful.

**Acknowledgment.** The author warmly thanks the editors of the German Law Journal for their valuable feedback, Brian Donahoe for his extensive proofreading and wise advice, as well as the editors of this Special Issue and the colleagues of the Law & Anthropology Department of the Max Planck Institute for Social Anthropology for the stimulating exchanges that allowed her to advance in her reflection.

---

<sup>136</sup>This distinction was drawn by Marie-Sophie Devresse during a presentation. She was referring to Howard S. Becker. Marie-Sophie Devresse, *Formation de Base aux Méthodes de Recherche en Sciences Sociales* (Université Catholique de Louvain, 10 et 17 décembre 2019); Howard S. Becker, *Whose Side Are We On?*, 14 SOC. PROBS. 239, 239–247 (1967).

**Cite this article:** Courtoy M (2022). “To Leave Is to Die”: States’ Use of Mobility in Anticipation of Land Uninhabitability. *German Law Journal* 23, 992–1011. <https://doi.org/10.1017/glj.2022.69>