

IOANE TEITIOTA v. NEW ZEALAND

- **Ioane Teitiota v. New Zealand**, Human Rights Committee, Views adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning communication No. 2728/2016, 23 September 2020.
- **Legalities involved:** international human rights law, international refugee law and climate change.
- **Tools to deal with inter-legality:** Article 6 of the ICCPR.

SUMMARY

The communication was submitted by Ioane Teitiota, a national of Kiribati, who migrated to New Zealand from his native island of Tarawa because of the adverse effects of climate change. In particular, due to the increasing sea level rise, inhabitable land on the island was eroding, leading to a housing crisis and violent disputes over remaining land. Claiming that these circumstances endangered his life, the author applied for asylum in New Zealand but his application was rejected. While the Immigration and Protection Tribunal did not exclude the possibility that environmental degradation could pave the way for obtaining the refugee or protected person status per se, it found that, in this particular case, the author did not prove that he faced a real risk of being persecuted or his life being endangered upon his return to Kiribati. After Mr. Teitiota's subsequent appeals had been denied by New Zealand's high courts, he was forced to return to Kiribati. He, thus, claimed that by removing him to Kiribati, New Zealand violated his right to life under Article 6 of the ICCPR.

The Human Rights Committee determined that in Mr. Teitiota's specific case, New Zealand's courts did not violate his right to life at the time of the facts, because the thorough and careful evaluation of his testimony and other available information led to the determination that, despite the serious situation in Kiribati, sufficient protection measures were put in place. "Nevertheless," said Committee expert Yuval Shany, "this ruling sets forth new standards that could facilitate the success of future climate change-related asylum claims."

The Committee also clarified that individuals seeking asylum status are not required to prove that they would face imminent harm if returned to their countries. The Committee reasoned that climate change-induced harm can occur both through sudden-onset events (such as intense storms and flooding), and slow-onset processes (such as sea level rise, salinization and land degradation). Both sudden-onset events and slow-onset processes can prompt individuals to cross borders to seek protection from climate change-related harm.

The Committee also highlighted the role that the international community must play in assisting countries adversely affected by climate change. The Committee stated that without robust national and international efforts, the effects of climate change in sending states may trigger the non-refoulement obligations of receiving states and that – given that the risk of an entire country becoming submerged under water is such an extreme risk – the conditions of life in such a country may become incompatible with the right to life with dignity before the risk is realized.

The ruling marks the first decision by a UN human rights treaty body on a complaint by an individual seeking asylum protection from the effects of climate change.