



Protecting the Human Rights of Persons Displaced by Climate Change

ISSUE SUMMARY

In the coming decades, climate change impacts on vulnerable areas such as low-lying islands, coastlines and deserts will displace an estimated 25 million to 1 billion people. The number could soar higher later in the century if greenhouse gas emissions are not seriously reduced. Some nations may see their homelands disappear altogether. Parties to the United Nations Framework Convention on Climate Change (UNFCCC) have recognized the need to address this inevitability,ⁱ and human rights bodies have advocated for the same.ⁱⁱ Yet, there is no international agreement on the obligations of countries with respect to persons displaced by climate change, nor is there an express agreement on the rights of displaced persons. Without a plan for resettlement of and assignment of rights to climate displaced persons, the international community—and the United States—will face a humanitarian and human rights crisis.

LEGAL FRAMEWORK

UDHR Articles 2, 3, 9, 12, 13, 15, 17, 22, 25, 28; ICCPR Articles 1, 9, 12, 13, 17; ICESCR Articles 1, 2, 9, 11, 12.

OTHER UN TREATY BODY AND EXPERT RECOMMENDATIONS

In 1972 the United Nations first proclaimed that the environment is “essential...to the enjoyment of basic human rights.”ⁱⁱⁱ The UNFCCC recalls this statement in its preamble,^{iv} and the Cancun Agreements emphasize that “Parties should, in all climate change related actions, fully respect human rights.”^v Accordingly, the Cancun

Agreements invite the parties to address “climate change induced displacement, migration and planned relocation, where appropriate, at the national, regional and international levels,”^{vi} and the Warsaw International Mechanism for Loss and Damage is tasked with furthering that goal.^{vii}

The Human Rights Council has recognized that “the adverse effects of climate change have a range of direct and indirect implications for the effective enjoyment of human rights and that the effects of climate change will be felt most acutely by those segments of the population that are already vulnerable owing to geography.”^{viii} In addition, the U.N. High Commissioner for Human Rights has acknowledged that “the greatest single impact of climate change might be on human migration” and that persons displaced by climate change are entitled to the full range of human rights guarantees under international and domestic law.^{ix} The United States agrees that climate change has implications for human rights.^x In October 2014 a coalition of independent experts at the Human Rights Council called on the nations of the world to “ensure full coherence between their solemn human rights obligations and their efforts to address climate change.”^{xi}

RELEVANT RECOMMENDATIONS FROM 1ST REVIEW

Recommendation 221 of the 1st UPR stated that the U.S. should take responsibility for actions “that have generated major natural disasters particularly in the most impoverished countries.” Recommendation

222 of the 1st UPR stated that the U.S. should “cooperate with the international community to mitigate threats against human rights resulting from climate change.”

ACTIONS TAKEN/NOT TAKEN

Since its 1st UPR, the U.S. has made important progress in addressing the need to both reduce greenhouse gas emissions and

adapt to climate change impacts. However, the U.S. has not shown the necessary leadership in relation to the human rights impacts of climate change. In particular, the U.S. has not yet given its full support to ongoing international negotiations to address the critical issue of climate displacement and migration and, if necessary, to initiating new ones.

REQUESTED RECOMMENDATIONS

To address the looming humanitarian and human rights crisis for climate displaced persons, the United States should:

Support inclusion in the anticipated Paris Agreement of a climate change displacement coordination facility.

Initiate separate negotiations, either inside or outside the context of the UNFCCC, to settle the questions of the rights of persons displaced as a result of climate change, including the right to nationality; national obligations with respect to admitting climate displaced persons; and legal implementation of these rights and obligations.

REQUESTED QUESTION

Please provide information on measures the federal government is taking to address climate displaced persons, including measures to demonstrate leadership in negotiating an international agreement on resettlement of and assignment of rights to such persons.

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ⁱ United Nations Framework Convention on Climate Change, Conference of the parties, 19th sess., Warsaw, Pol., Nov. 11-23, 2013, *Warsaw International Mechanism for Loss and Damage Associated with Climate Change Impacts*, ¶ 5(a)(1), FCCC/CP/2013/10/Add.1 (Jan. 31, 2014).

ⁱⁱ See, e.g., OHCHR, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship Between Climate Change and Human Rights*, U.N. Doc. A/HRC/10/61, ¶¶ 55-60 (Jan. 15, 2009); U.N. Special Rapporteur on the Human Rights of Internally Displaced Persons, *Protection of and Assistance to Internally Displaced Persons*, U.N. Doc. A/66/285, at 6 (Aug. 9, 2011); Human Rights Council Res. 18/22, U.N. Doc. A/HRC/Res/18/22 (Oct. 17, 2011).

ⁱⁱⁱ The Declaration of the United Nations Conference on the Human Environment, U.N. Doc. A/Conf.48/14/Rev. 1(1973).

^{iv} United Nations Framework Convention on Climate Change, Preamble, May 9, 1992, 1771 U.N.T.S. 107 (entered into force Mar. 21, 1994).

^v FCCC/CP/2010/7/Add.1, ¶ 8.

^{vi} Id. at ¶ 14(f).

^{vii} See Warsaw Mechanism, supra note i.

^{viii} Human Rights Council Res. 10/4, U.N. Doc. A/HRC/10/29, at 11 (Nov. 9, 2009).

^{ix} OHCHR (2009), supra note ii, ¶¶ 55-58.

^x Observations by the United States of America on the relationship between climate change and human rights, ¶¶ 14-15.

^{xi} *A New Human Rights Agreement Must Include Human Rights Protections for All: An Open Letter from Special Procedures mandate-holders of the Human Rights Council to the State Parties to the UN Framework Convention on Climate Change on the occasion of the meeting of the Ad Hoc Working Group on the Durban Platform for Enhanced Action in Bonn (20-25 October 2014)*, available at http://www.ohchr.org/Documents/HRBodies/SP/SP_To_UNFCCC.pdf.