

New International Rights Standard for Climate Displaced People

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Climate change is one of the greatest challenges facing the world today and the individuals and communities displaced from their homes and lands as a result of climate change are the human face of this tragedy. Climate displacement is already underway in many—primarily Asia-Pacific -countries such as Bangladesh, the Maldives, Papua New Guinea, Solomon Islands and elsewhere, and expected to affect many tens of millions of people in coming decades.

Most estimates indicate at least 200 million people face the possibility of displacement due to changes in the climate; in places as diverse as the Caribbean coast of Panama, the coastline of indigenous Alaska, the islands of the Maldives and the Pacific and the river areas of Bangladesh. Bangladesh has ranked fifth among 10 countries most vulnerable to climate change-induced natural disasters in the last two decades from 1993 to 2012 according to the Global Climate Risk Index (CRI) 2014 developed by Germanwatch. During this period Bangladesh suffered damages worth US\$1,832.70 million, wrought by 242 types of natural catastrophes.

After months of preparatory work around the world, an eminent group of international lawyers, UN officials and climate change experts have just approved new global rules, that considered as “**Peninsula Principles on Climate Displacement**” (a name inspired by the Mornington Peninsula of Australia where the meeting took place) outlining the rights of people and communities who lose their homes, land and livelihoods due to the effects of climate change. To set the rules to assist governments to provide solutions for climate change induced displacement recorded countries, representatives from Australia, New Zealand, Alaska, Bangladesh, Netherlands, Switzerland, UK, Germany, Egypt, Tunisia and the US came together in Red Hill, Victoria. In the meeting participants shared their backgrounds and expertise in International Law, migration, forced migration, environmental change and UN policy creation to strengthen and stand behind the Peninsula Principles as the first formal policy of its kind in the world.

The Peninsula Principles are developed on the basis of current international law; several thousand interviews carried out over the past five years in heavily affected countries and were most recently influenced by comments received from the public at large who had access to the draft Principles on the internet.

These Peninsula Principles provide a comprehensive normative framework, based on principles of international law, human rights obligations and good practice, within which the rights of climate displaced persons can be addressed; address climate displacement within a State and not cross-border climate displacement. This principles set out protection and assistance principles, consistent with the UN Guiding Principles on Internal Displacement, to be applied to climate displaced persons.

Peninsula Principles formed on the basis of 18 major principles related on climate displacement issues with the following highlights:

- Non-discrimination, rights and freedoms
- Prevention and avoidance
- Provision of adaptation assistance, protection and other measures
- National implementation measures
- International cooperation and assistance
- Climate displacement risk management
- Participation and consent
- Land Identification, Habitability and Use
- Loss and Damage in the context of displacement
- Institutional Frameworks to support and facilitate the provision of assistance and protection
- Housing and livelihood
- Remedies and compensation
- Framework for return
- Implementation and dissemination.

The main focused of these Peninsula Principles are:

States shall not discriminate against climate displaced persons on the basis of their potential or actual displacement, and should take steps to repeal unjust or arbitrary laws and laws that otherwise discriminate against, or have a discriminatory effect on, climate displaced persons. Climate displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country, in particular housing, land and property rights.

States should provide adaptation assistance, protection and other measures to ensure that individuals, households and communities can remain in their lands or places of habitual residence for as long as possible in a manner fully consistent with their rights.

States should incorporate climate displacement prevention, assistance and protection provisions as set out in these Peninsula Principles into domestic law and policies, prioritizing the prevention of displacement. States should ensure that durable solutions to climate displacement are adequately addressed by legislation and other administrative measures.

States that are otherwise unable to adequately prevent and respond to climate displacement should accept appropriate assistance and support from other States and relevant international agencies, whether made individually or collectively.

With regard to climate displacement risk management, monitoring, and modeling, States, using a rights-based approach, should identify, design and implement risk management strategies, including risk reduction, risk transfer and risk sharing

mechanisms, in relation to climate displacement as well as undertake systematic observation and monitoring of, and disaggregated data collection at the household, local, regional and national levels on, current and anticipated climate displacement.

To enable successful preparation and planning for climate displacement, States should ensure that priority consideration is given to requests from individuals, households and communities for relocation. And no relocation shall take place unless individuals, households and communities (both displaced and host) provide full and informed consent for such relocation.

Recognizing the importance of land in the resolution of climate displacement, States should identify, acquire and reserve sufficient, suitable, habitable and appropriate public and other land to provide viable and affordable land-based solutions to climate displacement. States should also plan for and develop relocation sites including new human settlements on land not at risk from the effects of climate change or other natural or human hazards and, in so planning, consider the safety and environmental integrity of the new site(s), and ensure that the rights of both those relocated and the communities that host them are upheld.

States should develop appropriate laws and policies for loss suffered and damage incurred in the context of climate displacement.

States should strengthen national capacities and capabilities to identify and address the protection and assistance needs of climate displaced persons through the establishment of effective institutional frameworks and the inclusion of climate displacement in National Adaptation Programmes of Action as appropriate.

States have the primary obligation to provide all necessary legal, economic, social and other forms of protection and assistance to those climate displaced persons experiencing displacement but who have not been relocated. Protection and assistance activities undertaken by States should be carried out in a manner that respects both the cultural sensitivities prevailing in the affected area and the principles of maintaining family and community cohesion.

States should respect, protect and fulfill the right to adequate housing of climate displaced persons experiencing displacement but who have not been relocated, which includes accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and non-discriminatory access to basic services (for example, health and education).

Climate displaced persons experiencing displacement but who have not been relocated and whose rights have been violated shall have fair and equitable access to appropriate remedies and compensation.

States should allow climate displaced persons experiencing displacement to voluntarily return to their former homes, lands or places of habitual residence, and should facilitate

their effective return in safety and with dignity, in circumstances where such homes, lands or places of habitual residence are habitable and where return does not pose significant risk to life or livelihood.

States, who have the primary obligation to ensure the full enjoyment of the rights of all climate displaced persons within their territory, should implement and disseminate these Peninsula Principles without delay and cooperate closely with inter-governmental organizations, non-government organizations, practitioners, civil society, and community based groups toward this end.

These Peninsula principles are guided by the Charter of the United Nations, and Reaffirming the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights as well as the Vienna Declaration and Programme of Action. Assuming that the international community has humanitarian, social, cultural, financial and security interests in addressing the problem of climate displacement in a timely, coordinated and targeted manner and finally States will bear the primary responsibility for their citizens and others living within their territory, but recognizing that, for many States, addressing the issue of and responding to climate displacement presents financial, logistical, political, resource and other difficulties.

Bangladesh has signed and is bound to respect many key international human rights treaties that provide important human rights protections to climate displaced persons. The UN Guiding Principles on Internal Displacement define an “internally displaced person” as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of.....natural or human-made disasters, and who have not crossed an internationally recognized state border.” Further, although non-binding, Bangladesh is bound to respect the UN Guiding Principles on Internal Displacement as they reflect and are consistent with international human rights and humanitarian law.

The Government of Bangladesh has clear responsibilities under domestic and international law to provide rights-based – and particularly housing, land and property rights - solutions to climate displaced persons.

The Constitution of the People’s Republic of Bangladesh (1972) states:

Article 27 “All citizens are equal before law and are entitled to equal protection of law”.

Article 15 “It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens (a) the provision of the basic necessities of life, including food, clothing, shelter, education and medical care; (b) the right to work, that is the

right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work;

Article 19(2) “The State shall adopt effective measures to remove social and economic inequality...and to ensure the equitable distribution of wealth among citizens, and of opportunities in order to attain a uniform level of economic development throughout the Republic”.

Article 25 “The State shall base its international relations on the principles of respect for national sovereignty and equality...and respect for international law and the principles enunciated in the United Nations Charter.

Displacement Solutions has led international efforts, and YPSA in Bangladesh, to protect the rights of climate-displaced communities, including activities to secure new housing and new land for people forced to flee their homes and lands since 2008.

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