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## Protection and Planned Relocations in the Context of Climate Change

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## 1. EXECUTIVE SUMMARY

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Climate change is expected to lead to increased human mobility in the forms of migration, displacement and planned relocation of communities as areas become uninhabitable because of the effects of global warming. While considerable attention has been directed toward the first two categories – particularly from humanitarian actors and migration specialists – the third form of movement has received much less attention. Most of the experience with planned relocation of communities has occurred in the context of development projects. This paper seeks to contribute to the discussion on mobility and climate change by focusing on planned relocations of communities as an adaptation to climate change.

There are several different subcategories of people who may need to be relocated as a result of the effects of climate change, including:

- people who need to be relocated from areas prone to sudden-onset natural disasters which are increasing in severity and intensity as a result of climate change (e.g. flood areas);
- people who need to be relocated because their livelihoods are threatened by slow-onset effects of climate change (e.g. increasing drought frequency, salinisation of water resulting from sea level rise);
- people who need to be relocated because their country or parts of their country face destruction from the effects of climate change (e.g. small island states facing sea level rise.)

Development actors, particularly the multilateral development banks, have many years of experience in relocating and resettling communities in order to implement development projects. This paper explores whether this experience may be relevant in considering relocations in the context of climate change. The term ‘development-forced displacement and resettlement’ (DFDR) refers to the involuntary displacement and resettlement of people and communities by large-scale infrastructure and other projects. The term relocation generally refers to the physical process of moving people and can be either temporary or permanent and either voluntary or forced. In contrast, the concept of resettlement as used by those working on development-displacement refers to a process to assist displaced persons to replace their housing, assets, livelihoods, land, access to resources and services and to enhance, or at least restore, their living standards. They are used in this way in this paper, while noting that the terms resettlement and relocation are often used interchangeably in the development-displacement literature.

The scale of development-induced displacement is enormous with millions of people displaced every year. The multilateral development banks have played the leading role in developing safeguards to prevent or minimize the impoverishment of communities resettled in projects which they finance. The underlying principles on which existing guidelines for DFDR are based can be summed up as follows:

- Involuntary resettlement should be avoided where feasible.
- Where it is not feasible to avoid resettlement, the scale of displacement should be minimized and resettlement activities should be conceived and executed as full-fledged sustainable development programs.
- Meaningful consultation with the populations to be displaced should be an integral part of the process.
- Displaced persons should be assisted to regain their productive activities and to restore and improve their livelihoods and incomes compared to the levels they enjoyed before the displacement.

In identifying the lessons learned from DFDR for planned relocations made necessary by the effects of climate change, this paper highlights the need to build on these principles by ensuring adequate financing for resettlement/relocation, advance planning, addressing the key role of land, considering the human rights of affected communities and learning from both the positive and negative experiences of DFDR.

One of the main difficulties in devising appropriate guidance for relocations in the context of climate change is the need for a clear internationally-accepted definition as to when an area is determined to be a) uninhabitable (or at risk of becoming such that relocation is necessary), and b) when the cause of the uninhabitability is the result of the effects of climate change.<sup>1</sup> Both of these aspects are difficult to determine. Uninhabitability may be a dynamic continuum rather than a definitive end-state. And it is likely that the causes of uninhabitability are the result of multiple factors, making it difficult to determine the particular responsibility of climate change. Despite these difficulties, this paper focuses on the rights of those facing the prospects of losing their land and livelihoods because of environmental changes. This paper also focuses on internal relocation and does not deal with international relocation.

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<sup>1</sup> References to climate change in this paper refer to anthropogenic or human-caused changes in the environment.

The paper develops a set of 22 preliminary understandings for upholding the rights of communities who are or will be relocated as a result of climate change. It is hoped that these preliminary understandings will be helpful in developing guidance for a range of stakeholders involved in relocating such communities.

The paper concludes by noting the necessity and the challenge of bringing together humanitarian, development and human rights actors along with climate change experts to develop general principles to ensure respect for the rights of those who are relocated and resettled because of climate change.

## 2. INTRODUCTION

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Climate change is expected to lead to increased human mobility in the forms of migration, displacement and planned relocation of communities as areas become uninhabitable because of the effects of global warming. While considerable attention has been directed toward the first two categories – particularly from humanitarian actors and migration specialists – the third form of movement has received much less attention.

This paper begins by explaining why it is important to begin thinking about the issue of planned relocations as a response (or adaptation strategy) to the effects of climate change. The paper then draws some lessons from the long experience of ‘development-forced displacement and resettlement’ (DFDR), including particularly the distinctions between the climate change and development contexts. The paper then highlights a number of protection issues which ought to be considered by governments and other actors in thinking, planning, and eventually relocating and resettling communities because of the effects of climate change. Finally, the paper concludes by suggesting a number of preliminary observations which could be useful in developing guidance for planned relocations of populations made necessary by the effects of climate change.

This paper is based on the assumption that communities relocated by their governments because of the effects of climate change are ‘displaced persons’.<sup>2</sup> In practice, as many have noted, the distinction between voluntary and forced movement is often hard to define and conceptualize, particularly in the context of climate change. It is likely that most of those who migrate will be individuals or families who decide that conditions are such that it is time to leave their homes and communities. They will make decisions on the basis of the perceived risk of staying where they are, analysis of possibilities for settlement elsewhere, and available resources for making the move.

However, other families in more or less the same situation may decide that they do not have enough resources to move on their own and need to wait, despite hardship, until government assistance for moving becomes available. People taking the initiative to move are usually more skilled, stronger, younger and healthier than those who stay behind. They have assets and opportunities while those who remain are often more vulnerable, making

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<sup>2</sup> UN, *Guiding Principles on Internal Displacement*, 1998, available online at: <http://www.brookings.edu/about/projects/idp/gp-page>. See also W. Kälin, *Annotations on the Guiding Principles on Internal Displacement*, 2<sup>nd</sup> edition (American Society for International Law, 2008) 2-3, available online at: <http://www.brookings.edu/research/reports/2008/05/spring-guiding-principles>.

resettlement efforts more difficult.<sup>3</sup> When the physical area where they live is declared to be uninhabitable and they are told by their government that they can no longer live there, that is forced displacement. Even when they agree to be relocated, if they do not have a choice to remain where they are, they are displaced persons.

This paper focuses only on internal relocation and does not deal with international relocation or broader international immigration schemes.

### 3. BACKGROUND AND CONTEXT

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Since the first report of the Intergovernmental Panel on Climate Change in 1990, it has been recognized that one of the major effects of climate change will be on human mobility.<sup>4</sup> Many reports and studies have been published on climate change, migration and displacement with differing projections about the scale, timing, and political consequences of such population movements.<sup>5</sup> In fact, climate change is likely to produce different patterns of population movement requiring different policy solutions. As Jane McAdam has argued, '[t]he commonality of climate change as a driver is an insufficient rationale for grouping

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<sup>3</sup> This point is reinforced by the UK's Foresight report which identifies 'trapped populations' – those unable to move and who remain behind – as the most vulnerable group affected by climate change. Foresight: *Migration and Global Environmental Change, Final Project Report*, (The Government Office for Science, 2011).

<sup>4</sup> IPCC, *Climate Change: The IPCC Scientific Assessment*, 1990, available online at:

[http://www.ipcc.ch/publications\\_and\\_data/publications\\_ipcc\\_first\\_assessment\\_1990\\_wg2.shtml](http://www.ipcc.ch/publications_and_data/publications_ipcc_first_assessment_1990_wg2.shtml).

<sup>5</sup> See for example: N. Stern, *The Stern Review on the Economics of Climate Change* (Cambridge, 2006) available online at: [http://www.hm-treasury.gov.uk/stern\\_review\\_report.htm](http://www.hm-treasury.gov.uk/stern_review_report.htm); German Advisory Council on Global Change, *World in Transition: Climate Change as a Security Risk* (Berlin: German Advisory Council on Global Change); Norwegian Refugee Council, *Climate Changed: People Displaced* (2009) available online at: <http://www.nrc.no/?did=9448676>; Christian Aid, *Human Tide: The Real Migration Crisis*, May 2007, available online at: [www.christianaid.org.uk/Images/human-tide.pdf](http://www.christianaid.org.uk/Images/human-tide.pdf); Foresight Report, above note 3; J. McAdam, *Climate Change Displacement and International Law: Complementary Protection Standards, Legal and Protection Policy Research Series*, PPLA/2011/03, May 2011, available online at: <http://www.unhcr.org/4d9f22b32.html>; S. Park, *Climate Change and the Risk of Statelessness: The Situation of Low-lying Island States*, Legal and Protection Policy Research Series, PPLA/2011/04, May 2011, available online at: <http://www.unhcr.org/4d9f22b32.html>; R. Zetter, 'Protecting Environmentally Displaced People: Developing the Capacity of Legal and Normative Frameworks', Refugee Studies Centre (Oxford, February 2011) available online at: <http://www.unhcr.org/refworld/docid/4da579792.html>; UNHCR, 'Climate change, natural disasters and human displacement: a UNHCR perspective', 2008; UNHCR Expert Roundtable on Climate Change and Displacement: Identifying Gaps and Responses, 'Summary of Deliberations on Climate Change and Displacement', Bellagio, Italy, 22-25 February 2011, available online at: <http://www.unhcr.org/refworld/docid/4d9f22b32.html>.



together a disparate array of displacement scenarios and proceeding to discuss policy responses in generic terms.’<sup>6</sup>

In addition to expected increases in both ‘voluntary migration’ and forced displacement,<sup>7</sup> there is a third type of human mobility which is likely to increase as the effects of climate change become deeper and more widespread, and which is the subject of this paper: the planned relocation and resettlement of communities from areas which are no longer habitable – or are likely to become uninhabitable – because of environmental consequences of climate change. This is an area which has received much less attention in the international discourse.<sup>8</sup>

Planned relocations (together with displacement and migration) were identified as a form of adaptation by the Conference of Parties to the UN Framework Convention on Climate Change in 2010.<sup>9</sup> Most such relocations are likely to occur within the borders of a single country; however, in the longer-term, the possibility of movements to other territories may be necessary, particularly in the case of small island states. A central thesis of this paper is that planned relocation has an important role to play in future strategies to adapt to the effects of climate change. Yet the record of DFDR has not been a positive one for affected populations. This suggests that much more proactive work is needed to ensure that if – and when – governments are forced to relocate people from areas made uninhabitable by the effects of climate change, they do so in a way that protects affected communities and upholds their rights.

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<sup>6</sup> J. McAdam, ‘Disappearing States,’ Statelessness and the Boundaries of International Law’, in J. McAdam, *Climate Change and Displacement: Multidisciplinary Perspectives*, (Oxford/Portland 2010) 107.

<sup>7</sup> See Foresight Report, above note 3.

<sup>8</sup> An exception is A. de Sherbinin et al, ‘Preparing for Resettlement Associated with Climate Change,’ *Science* vol. 334, 28 October 2011, pp. 456-57 which is based on an in-depth debate at a November 2010 seminar held at Bellagio to examine lessons learned from development projects. Also see E. Ferris, ‘Climate Change and Internal Displacement: A Contribution to the Discussion,’ prepared for UNHCR Expert Roundtable on Climate Change and Displacement: Identifying Gaps and Responses, Bellagio, Italy, 22-25 February 2011, available online at: [http://www.brookings.edu/papers/2011/0228\\_cc\\_displacement\\_ferris.aspx](http://www.brookings.edu/papers/2011/0228_cc_displacement_ferris.aspx). And E. Ferris, ‘Planned Relocations, disasters and climate change’ Prepared for Conference on Climate Change and Migration in the Asia-Pacific: Legal and Policy Responses, Sydney, 10-11 November 2011, available online at: <http://www.brookings.edu/research/papers/2011/11/10-relocation-disasters-cc-ferris>.

<sup>9</sup> 2010 UN Climate Change Conference in Cancun, Mexico, 29 November – 10 December 2010, Report of the Conference of the Parties on its sixteenth session, Addendum –Part Two: Action Taken by the Conference of the Parties at its sixteenth session, available online at: <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>.

In the literature on climate change-related displacement, there are several different sub-categories of potential movements falling into this category, including:

- people who need to be relocated from areas prone to sudden-onset natural disasters which are increasing in severity and intensity as a result of climate change (e.g. flood areas);<sup>10</sup>
- people who need to be relocated because their livelihoods are threatened by slow-onset effects of climate change (e.g. increasing drought frequency, salinisation of water resulting from sea level rise) and who need to find new permanent homes;
- people who need to be relocated because their country or parts of their country face destruction from the effects of climate change (e.g. small island states facing sea level rise).<sup>11</sup>

There has been a lack of attention given to climate change and planned relocation by humanitarian actors, such as the United Nations High Commissioner for Refugees (UNHCR), international non-governmental organizations (NGOs) and the Red Cross Red Crescent Movement, even though they have developed considerable expertise in working with populations forcibly displaced by conflict and to varying degrees by disasters. Although this experience is relevant insofar as there are certain common needs and concerns among displaced populations – whatever the reasons for their displacement – planned relocations involve different actors, timeframes, budgets and even terminology.

Humanitarian actors have valuable expertise in protecting and assisting populations once they have already moved (and to a much lesser extent, preventing displacement in the first place).<sup>12</sup> They have much less experience in planning relocations – a process which is the responsibility of the State and which involves such tasks as determining that a particular group or location is at risk; identifying alternative locations and acquiring suitable land; persuading people to move to a new location; structuring mechanisms for the effective participation of affected communities; ensuring financial support for resettlement; and supporting reconstruction of livelihoods, social networks, and infrastructure. In some respects, such tasks are more similar to supporting repatriation initiatives of refugees and internally displaced persons (IDPs) than in responding to either the forced displacement or

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<sup>10</sup> Note that such relocations may also be necessary for natural disasters which are not related to climate change, e.g. from the slopes of volcanoes or earthquake-prone areas.

<sup>11</sup> An additional category of people who may be forced to relocate stems from actions taken to mitigate the effects of climate change, such as production of agrefuels and hydropower plants or large-scale adaptation projects such as sea walls, replanting of mangroves, and restoration of marshlands. These cases are similar to relocations made necessary by other forms of development-induced displacement and thus are not considered in this paper.

<sup>12</sup> E.Ferris, *The Politics of Protection, The Limits of Humanitarian Action* (Brookings Institution Press 2011).

voluntary migration of groups.<sup>13</sup> This paper only deals with government-based planned relocation in the context of climate change that is intended to be permanent.

### 3.1 A WORD ON DEFINITIONS

One source of confusion in discussing the issue of ‘planned relocations’ is that the terminologies used have different meanings for development and humanitarian agencies. This section undertakes a succinct review of definitions currently being used in the field, and settles on definitions for the purpose of this paper.

Formerly referred to as ‘development-induced displacement’, the term of choice today in the development community is ‘**development-forced displacement and resettlement**’ or **DFDR** which refers to the involuntary displacement and resettlement of people and communities by large-scale infrastructure projects such as capital-intensive, high-technology, large-scale projects that convert farmlands, fishing grounds, forests, and homes into dam-created reservoirs, irrigation schemes, mining operations, plantations, colonization projects, highways, industrial complexes, and tourist resorts, pursued for governmental objectives of regional and national development, aimed at generating economic growth.<sup>14</sup> DFDR is a term employed routinely in the development literature and is always applied to communities or groups of people rather than to individuals.

The term **relocation** generally refers to the physical process of moving people and can be either temporary or permanent and either voluntary or forced. In this sense, relocation is much less ambitious than resettlement in that it does not necessarily imply restoration of living standards and livelihoods.

In contrast, the concept of **resettlement** as used by those working on DFDR refers to a process to assist displaced persons to replace their housing, assets, livelihoods, land, access to resources and services and to enhance, or at least restore their living standards.<sup>15</sup> In other

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<sup>13</sup> See for example UNHCR, *Handbook for Repatriation and Reintegration Activities*, 2004, available online at: <http://www.unhcr.org/411786694.html>.

<sup>14</sup> M. Cernea, ‘Compensation and Investment in Resettlement: Theory, Practice, Pitfalls, and Needed Policy Reform’, in M. Cernea and H. M. Mathur (eds), *Can Compensation Prevent Impoverishment?* (Oxford University Press, 2008) 1-5. Also see A. Oliver-Smith, ‘Development-Forced Displacement and Resettlement: A Global Human Rights Crisis’, in A. Oliver-Smith (ed), *Development & Dispossession, The Crisis of Forced Displacement and Resettlement*, (Santa Fe: School for Advanced Research Press, 2009) 3f.

<sup>15</sup> World Bank, ‘Operational Policy on Involuntary Resettlement 4.12’ (OP 4.12). Note that the Asian Development Bank also includes ‘for the poor and vulnerable, to improve their living standards’ (rather than restoring them to pre-project vulnerability), available online at:

words, the term resettlement (or involuntary resettlement) as used by development agencies and scholars connotes not just the physical transfer of people, but includes also the process of restoring socioeconomic conditions (or **reconstruction** as sometimes used also by humanitarian, development, and security actors alike).<sup>16</sup>

However, the terms resettlement and relocation are often used interchangeably in the literature.<sup>17</sup> For the purposes of this paper, they are applied as defined above.

With respect to natural disasters there is often a need for **evacuations** which are defined as the transfer of individuals or groups from one area/locality to another in order to ensure their security, safety and well-being.<sup>18</sup> These evacuations are often assumed to be temporary as when people are evacuated from the path of an impending cyclone or hurricane.<sup>19</sup> While DFDR is usually intended to be a permanent solution and is (at least in the best cases) planned in advance of the precipitating event, evacuations are usually temporary and carried out with much less notice (although governments and humanitarian actors, in the best of cases, have also planned and prepared for such evacuations). In both cases, the physical movement of people is considered as **relocation**.

Another type of population movement of particular relevance to this paper is **preventive resettlement**. This is a way of reducing the risk of natural disasters. Although the impetus for relocation is different from DFDR, in many ways it can be considered as a subset of DFDR. A recent study by the World Bank highlights the ways in which such 'preventive resettlement' has been used, noting that '[p]reventive resettlement of populations located in high-risk areas is a corrective measure in which all or part of a community is relocated because of the high risk of disaster. Such a measure should be seen as a last resort, when it is

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<http://beta.adb.org/documents/safeguard-policy-statement?ref=site/safeguards/main>.

<sup>16</sup> Note that the word 'reconstruction' has a different meaning for humanitarian and some development actors who see reconstruction as part of a post-conflict effort to restore both physical infrastructure and social and political structures. See for example: S.N. Anderlini, S.N. and J. El-Bushra, 'Post Conflict Reconstruction', in Inclusive Security, Sustainable Peace: Toolkit for Advocacy and Action, November 2004, Hung Alternatives Fund. [http://www.huntalternatives.org/download/39\\_post\\_conflict.pdf](http://www.huntalternatives.org/download/39_post_conflict.pdf).

<sup>17</sup> Thus, for example, the World Bank's Global Facility for Disaster Reduction and Recovery defines relocation as "a process whereby a community's housing, assets, and public infrastructure are rebuilt in another location." *Handbook for Reconstructing after Natural Disaster*, available online at: <http://www.gfdr.org/gfdr/node/1074>.

<sup>18</sup> IASC, Operational Guidelines on the Protection of Persons in Situations of Natural Disasters, UN Doc. A/HRC/16/43/Add.5, 31 January 2011, 56.

<sup>19</sup> For further insights into when mandatory evacuations are justified under international human rights law, see *Ibid.*, 55, 15ff, 45f.

impossible to mitigate risk factors associated, for example, with landslides, the likelihood of volcanic eruptions or severe flooding that cannot be controlled.<sup>20</sup>

This is particularly relevant to discussions of planned relocations in the context of climate change. If people perceive the risk to their lives and livelihoods of staying where they are to be high, planned relocations are more likely to be considered – and even embraced. This also illustrates the tension between the right of people to remain and the duty of governments to protect life which may oblige them to relocate people against their will.

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<sup>20</sup> E. Correa, 'Resettlement as a Disaster Risk Reduction Measure: Case Studies', in E. Correa (ed), *Preventive Resettlement of Populations at Risk of Disaster: Experiences from Latin America*, (World Bank/GFDRR, 2011) 19.

## 4. LESSONS LEARNED FROM DEVELOPMENT-FORCED DISPLACEMENT AND RESETTLEMENT

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This section draws out some of the lessons from DFDR that are relevant to climate-related planned relocations. In particular, it examines the safeguard policies used by multilateral development banks to minimize the risks which always accompany resettlement. While the evidence suggests that most DFDR experiences have been negative in the sense that resettled communities are worse off after their resettlement, there seems to be general agreement on the factors necessary for success.

Although there are certainly wide variations in the way such plans are developed and implemented, the fact that comprehensive planning is mandated in the case of DFDR stands in stark contrast to the way in which both national authorities and international humanitarian actors respond to displacement resulting from conflicts and natural disasters. In the latter situations, while contingency planning does take place, rarely does it extend beyond planning for the initial emergency response phase. If communities must be relocated because of the effects of climate change, such relocations must be carefully planned in advance.

The scale of development-induced displacement is enormous. Estimates are that 280-300 million people have been displaced by development projects, particularly dams, in the last 20 years and that 15 million people are displaced annually.<sup>21</sup> Construction of dams, highways, transportation infrastructure, and energy development are probably the best known of development activities requiring the permanent relocation of populations, but DFDR also includes urban development projects, agricultural expansion, parks and forest reserves, and population redistribution schemes which also displace people. Since many of these large-scale infrastructure projects require international financing, the major international financial institutions have exercised considerable influence in developing guidelines and standards for the resettlement process. In some cases, governments have chosen to finance the projects themselves so as to avoid being subject to these restrictions or to develop their own policies.

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<sup>21</sup> M. Cernea and H. M. Mathur, above note 14.

## 4.1 SAFEGUARDS TO REDUCE THE IMPACT OF DISPLACEMENT AND RESETTLEMENT ON AFFECTED POPULATIONS

The multilateral development banks have played a leadership role in developing safeguards to reduce the negative impact of DFDR on affected populations. In particular, the World Bank has worked to make the issue of resettlement of relocated populations an integral part of development project planning since 1980 when it issued its first Operational Policy on Involuntary Resettlement. Since then, the World Bank's policy has been revised several times, most recently in 2011 (although these revisions have been largely technical),<sup>22</sup> and is in fact overdue for another substantive revision. The regional development banks African Development Bank, Asian Development Bank, InterAmerican Development Bank, the European Bank for Reconstruction and Development, as well as the International Finance Corporation (IFC) – have all developed policies for involuntary resettlement processes resulting from the development projects financed by these agencies.

The underlying principles on which existing guidelines for DFDR are based can be summed up as follows:

- Involuntary relocation and resettlement should be avoided wherever possible.
- Where it is not feasible to avoid relocation and resettlement, the scale of displacement should be minimized and resettlement activities should be conceived and executed as full-fledged sustainable development programs.
- Meaningful consultation with the populations to be displaced should be an integral part of the process.
- Displaced persons should be assisted to regain their productive activities and to restore and improve their livelihoods and incomes at least to the levels they enjoyed before the displacement.

In addition, the World Bank resettlement policy is based on the commitment that people to be resettled must be fully compensated for all losses and assisted in their resettlement; it requires that an acceptable resettlement action plan must be submitted before the Bank can approve loans.

People who are displaced by development projects risk a sharp decline in their standards of living, so this should be a key concern in any planned relocation. Michael Cernea's Impoverishment Risks and Reconstruction model (IRR) identifies the most common and fundamental risks of such displacement and resettlement processes: landlessness,

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<sup>22</sup> OP 4.12, above note 15.

joblessness, homelessness, marginalization, food insecurity, increased morbidity and mortality, loss of access to common property, and social disintegration.<sup>23</sup> If left unaddressed, these embedded risks convert into actual processes of massive impoverishment. And particular groups may be especially affected, as noted in the World Bank's *Operational Policy*: 'Bank experience has shown that resettlement of indigenous people with traditional land-based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival.'<sup>24</sup>

In spite of the guidelines of World Bank and multilateral banks to ensure that, after relocation, the resettled populations are at least as well off as they were before resettlement; the record of DFDR is not a positive one.<sup>25</sup> However, research studies evaluating DFDR outcomes are either non-existent or insufficient, making it difficult to draw definitive conclusions about the percentage of resettlement projects that have been successful (in the sense of communities being in the same or a better position than before resettlement). The World Bank, for example, has not carried out and published a comprehensive evaluation of the displacement caused by its massive project portfolio for almost twenty years. The World Bank's Independent Evaluation Group (IEG) recently stepped in at the request of the Bank's Board, and undertook a broad review on how not only the policy on involuntary resettlement, but all social safeguards policies, have or have not been implemented. Reporting on its findings, the IEG publicly faulted World Bank management for not keeping basic statistics of the number of people displaced and not making such statistics available for evaluation.<sup>26</sup> Similar analytical syntheses are missing from other multilateral development agencies. In spite of the lack of a strong evidence base, there seems to be a sense within the

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<sup>23</sup> M. Cernea, 'Risks, Safeguards and Reconstruction: A Model for Population Displacement and Resettlement', in M. Cernea and C. McDowell (eds), *Risks and Reconstruction: Experiences of Resettlers and Refugees*, (World Bank, 2000) 11-55. M. Cernea, *Public Policy Responses to Development-Induced Population Displacements*, (World Bank Reprint Series: Number 479, 1996).

<sup>24</sup> OP 4.12, above note 15, para 9.

<sup>25</sup> See for example, M. Cernea and H. M. Mathur, above note 14, 15-98; T. Scudder, *The Future of Large Dams: Dealing with Social, Environmental, Institutional and Political Costs* (Earthscan, 2005).

<sup>26</sup> Independent Evaluation Group, 'Safeguards and Sustainability Policies in a Changing World: An Independent Evaluation of World Bank Group Experience', (World Bank, 2010) 21. The report indicates verbatim that: "IEG was unable to obtain the magnitude of project-induced involuntary resettlement in the portfolio from WB sources and made a special effort to estimate this magnitude from the review sample." The resulting estimates, however, have been based on a small sample and have been met with skepticism by many resettlement researchers. The IEG report does not explain, however, why the World Bank has stopped keeping necessary data and statistics of the results of its projects on such a sensitive issue. Although over one year has passed from the date of the IEG report to the writing of this paper, the World Bank has not yet published any of the missing data nor has it publicly accounted for its response and corrective actions to the multiple weaknesses signaled by the IEG report. The author is indebted to Michael Cernea for these observations.



DFDR community that successful cases are the exception and that in the vast majority of cases, the resettled population is left much worse off than before they were relocated.

Interestingly, while humanitarian actors almost always speak of both protection and assistance needs of displaced populations, the literature on DFDR rarely mentions the protection needs of those displaced by development projects. Nor does it refer explicitly to potential human rights violations of those forcibly displaced by development projects, although these are implicit in the impoverishment model cited above.<sup>27</sup> For example, loss of land and property, marginalization and food insecurity may amount to human rights violations, in particular if they are a direct consequence of action or deliberate neglect by state authorities.

Before turning to some of the overall lessons from DFDR for planned relocations in the context of climate change, it is important to note that there are several cases where resettlement has already occurred, or is in process, as a result of the effects of climate change. The Foresight report names, for example the Carteret islands in Papua New Guinea, Montserrat, Ethiopia, China, the Maldives, and Tuvalu as cases where resettlement has either been tried or is likely to be used in the future.<sup>28</sup> The lessons drawn from their analysis underscore the importance of careful planning, adequate funding, addressing the difficulties in securing access to good agricultural land, livelihood restoration, and ensuring voluntary participation in resettlement process.<sup>29</sup>

## **4.2 LESSONS LEARNED FROM DFDR FOR PLANNED RELOCATIONS MADE NECESSARY BY THE EFFECTS OF CLIMATE CHANGE**

### **4.2.1 Resettlement as a last resort**

The first principle of DFDR is that resettlement should be avoided if at all possible and used only as a last resort. Far from an easy fix, relocation of communities is a brutal, painful experience which almost always leaves communities worse off socially and economically. As anthropologist and DFDR researcher Anthony Oliver-Smith, 'these projects generally end up being development disasters. The process of displacement becomes a "totalizing"

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<sup>27</sup> Independent Evaluation Group, above note 26.

<sup>28</sup> Foresight report, above note 3, 176-180. In addition, David Lipset reports on efforts to resettle people from the Murik Lakes region of Papua New Guinea in 'Kingtides' or, *The New State of Nature: Rising Sea-levels, Climate Justice and Community Based Adaptation in Papua New Guinea (2008-2011)*, *Draft*, 2011.

<sup>29</sup> Foresight report, above note 3, 179-80.

phenomenon, affecting virtually every aspect of life.<sup>30</sup> In terms of the lived experience of those affected, DFDR has much more in common with forced displacement than with voluntary migration. As Barnett and Weber explain, '[m]oving communities in anticipation of climate change may precipitate vulnerability more than it avoids it. If community relocation is absolutely unavoidable, then its social and political costs can be minimized by allowing adequate time for community consultation and planning.'<sup>31</sup>

#### **4.2.2 Ensure adequate financing for resettlement**

Many major development projects have enjoyed financing by the World Bank and regional development banks. The guidelines on involuntary resettlement they have produced have led governments to adopt resettlement policies in order to access needed funds.<sup>32</sup> The World Bank, for instance, has even included in its policy that financing for resettlement should be supported not only through compensation payments, but also by enabling the people displaced to share in the benefits that the project displacing them is expected to produce. Indeed, in practice, several innovative mechanisms have been developed in some countries to ensure the re-channeling of such benefits to the resettled populations.<sup>33</sup> In contrast, relocation of communities because of the effects of climate change will not generally be carried out in the expectation of realizing increased revenues which can support the resettlement project; rather the funds would likely have to come from government budgets

Moreover, it is not at all clear that governments seeking to relocate populations from areas made uninhabitable by climate change will seek to access international development funds through the World Bank and thus be subject to these guidelines. Nor is it clear that the climate change adaptation and mitigation fund created by the Copenhagen/Cancun agreements will include international safeguards for those resettled through funding from these new mechanisms. In fact, discussions about the 'architecture' of adaptation funds are only beginning and there has been no discussion of the criteria by which resettlement projects will be judged as meeting climate change criteria – or funded (and indeed, so far there has been no discussion of whether resettlement projects will be included at all.) If

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<sup>30</sup> See for example, A. Oliver-Smith, above note 14, 3.

<sup>31</sup> J. Barnett and M. Webber, 'Migration as Adaptation: Opportunities and Limits' in J. McAdam *Climate Change and Displacement: Multidisciplinary Perspectives* (Oxford/Portland 2010) 54.

<sup>32</sup> There are cases, such as Sri Lanka, where governments have adopted strong resettlement policies but they have not been integrated into the legal framework and so lack the legal force of law. In other cases, policies simply have not been implemented.

<sup>33</sup> See M. Cernea, 'Financing for Development: Benefit-Sharing Mechanisms in Population Resettlement', in A. Oliver Smith *Development and Dispossession: The Crisis of Forced Displacement and Resettlement*, (Santa Fe: School for Advanced Research Press, 2009) 49-76.

international financing is not available to supplement national resources for such projects, it seems unlikely that governments in many affected developing countries will have the necessary resources to plan and implement resettlement plans that uphold the rights of communities. In fact, it is precisely those governments that are likely to experience increased financial pressure on other fronts as a result of climate change (e.g. decline of tourist or fishing industries, lower tax revenues, perhaps increased political turmoil) that might be forced to consider resettlement as a solution to deal with the effects of climate change.

Over the years, there has been an accumulation of good practices of resettlement resulting from DFDR and thousands of experts have provided technical expertise to governments to design good policies and carry out project-specific planning and monitoring. But technical expertise is expensive and either has to be built into the costs of the project or raised separately. If planned relocations are to be used to resettle people from areas made uninhabitable by climate change, then substantial investment will be needed to ensure that the necessary technical assistance is provided. Unlike DFDR where there is an expectation of long-term financial gain from the project causing displacement, funds will have to be found from other sources to support resettlement made necessary by the effects of climate change.

Experience with DFDR shows that in addition to requiring substantial investments, donors and lending institutions can play an important role in requiring compliance with guidelines. In considering planned relocations as a form of adaptation to climate change, funding for adaptation and for planned relocation in particular must not only be substantial but also linked to clear guarantees for the rights of affected populations.

### **4.2.3 Plan ahead**

The lead time required for most development projects allows planning for resettlement of communities affected by the project. It thus should be possible to start early and carry out the necessary studies, consult and plan with affected communities, and determine compensation schemes. Also, there are clear deadlines (though often postponed in practice) for the resettlement of affected communities in respect of development projects. The question arises as to whether there will be a sufficient planning periods or deadlines in the case of climate change. Will government officials and communities recognize in advance the point at which areas become uninhabitable, or when it is time to move?

In some cases, such as rising sea levels, it might be possible to predict (within margins), at a given rate of increasing temperatures, that coastlines will no longer be habitable in a specified period of years. But it is likely that the dividing line between 'fit' and 'unfit' for

human habitation will not be so clearly drawn in the case of land affected by drought. Given cyclical natures of drought in some regions, it may be difficult to tell when the point of permanent rather than temporary 'uninhabitability' has been reached. Even when some experts may decide that because of climate change, a drought-affected region is no longer habitable and people should be permanently resettled elsewhere, it is likely that a) there will be other experts urging patience, b) some of the people in that region will simply migrate on their own regardless of what the experts say, and c) others will remain in increasingly desperate conditions because of a lack of alternatives and/or factors limiting their mobility.<sup>34</sup>

Furthermore, in the case of land made uninhabitable by consequences of climate change, the optimal time for resettling people is far from clear. In some cases, governments may try to relocate people before areas become uninhabitable, but in the absence of adequate planning and funding, this could result in increased vulnerability of these groups.<sup>35</sup> Moreover, there is a real danger that such relocations may not be carried out with the principal goal of protecting people at risk, but rather that 'powerful actors will use the excuse of reducing community exposure to climate change in order to conduct forced migrations, for political or economic gain.'<sup>36</sup>

And yet a clear lesson from the experiences of DFDR is the importance of a sufficiently long lead time to plan resettlement. This suggests that governments of countries likely to be affected by climate change, if they have not already done so, need to begin thinking about the possibility that planned relocations will be an essential component of their adaptation planning. And they need to begin planning such relocations at least several years before the move is planned. This process of planning can and should be supported by adaptation funding mechanisms. Frank Biermann makes the case that many 'potentially affected population centres – notably low-lying coasts and islands – can be predicted within limits and thus climate-related migration can be planned and supported by governments in advance.'<sup>37</sup>

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<sup>34</sup> Foresight Report, above note 3, 13f.

<sup>35</sup> Barnett and Webber, above note 31, 54.

<sup>36</sup> Ibid., 53.

<sup>37</sup> F. Biermann, 'PD16: Global environmental governance and climate change-induced migration', Review commissioned as part of the UK Government's Foresight Project, Migration and Global Environmental Change, (October 2011) 7, available online at: <http://www.bis.gov.uk/foresight/migration>.

#### 4.2.4 The key role of land

In DFDR, governments are generally required to secure land for the resettlement of affected communities. But in practice, government authorities often declare that substitute land is unavailable, and resort to compensation rather than resettlement. This transfers the burden of finding land onto the shoulders of the displaced people themselves. In the case of climate change-related displacement, there are likely to be particular difficulties in finding suitable land for resettlement of communities from areas rendered uninhabitable because of the effects of climate change. First there simply may not be sufficient land available, for example, in Asian megadeltas where potentially millions of people may need to be resettled because of rising sea levels. Secondly, there is likely to be increased pressure on the availability of suitable land for resettlement sites. Thus, if fishing communities need to be resettled because of the erosion of coastlines and sea-level rise due to climate change, it is unlikely that it will be easy to find alternative sites for them – at least in coastal areas which would enable them to continue their traditional livelihoods. Similarly, if large areas of a country are deemed unsuitable for habitation because of drought, the overall availability of land is likely to drastically diminish and land will become much more expensive.

One of the difficulties in resettling populations from the Carteret islands to the mainland of Bougainville/Papua New Guinea has been the difficulty in acquiring land. This is related not only to the availability of suitable land, but also questions of governmental budgetary capacity, relations between the autonomous regional government of Bougainville and the national government of Papua New Guinea, land tenure systems, and relations between the population to be resettled and the host communities.<sup>38</sup>

#### 4.2.5. Consider human rights of affected communities

The literature on DFDR by and large uses the criteria of looking at the social and economic characteristics of resettled communities in comparison with their pre-displacement situations rather than looking at the broader human rights implications of DFDR. A human rights perspective, for example, might consider the extent to which resettled communities are able to exercise their cultural and political rights. The potential for conflict between resettled and host communities seems to have received minimal attention from those working on DFDR although the World Bank's *Handbook on Reconstructing after Natural Disasters* does identify as a potential risk to resettlement 'conflicts and competition with

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<sup>38</sup> M. Loughry, 'The Case of the Carterets', Presentation at Conference on Climate Change and Migration in Asia-Pacific, Gilbert + Tobin Centre of Public Law, University of New South Wales, 10-11 November 2011, available online at: [tv.unsw.edu.au/video/climate-change-and-migration-session-2](http://tv.unsw.edu.au/video/climate-change-and-migration-session-2).

hosting communities over scarce resources.<sup>39</sup> This is an issue which is likely to become more difficult with land scarcity and as others have concluded, it is likely that more resettlement in the future is likely to be from rural to urban areas.<sup>40</sup>

Human rights principles – such as freedom of movement and non-discriminatory access to public services – have generally not been used as criteria for evaluating the success or failure of DFDR. However although development actors, such as the World Bank, the Asian Development Bank and others, have been reluctant to use human rights language, their concern with ‘vulnerabilities’ may simply be a different way of approaching similar issues.<sup>41</sup> Thus in successful cases of resettlement, such as Xiaolangdi (discussed below), considerable emphasis was placed on restoring livelihoods and meeting the specific needs of vulnerable sectors of the population, such as the elderly and people with disabilities. Similarly while there have not been evaluations of the impact of DFDR on conflict, evidence from the experiences of those displaced by conflict underscore the importance of addressing the concerns of host communities.<sup>42</sup>

#### **4.2.6. Learn from experience**

In order to learn from the past experiences with DFDR, it is important to identify the reasons why past policies have failed, and particularly to understand the nature of the gap between normative frameworks (which are generally adequate) and implementation on the ground (which is generally negative). But it is also important to identify the factors which have made resettlement successful.

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<sup>39</sup> Global Facility for Disaster Reduction and Recovery, (GFDRR), ‘Chapter 5 To Relocate or not to Relocate’, *Safer Homes, Stronger Communities, Resources for Housing and Communities after Natural Disasters*, 2010, available online at: <http://www.gfdr.org/gfdr/node/1074>, Chapter5, p. 5.

<sup>40</sup> de Sherbinin et al., above note 8.

<sup>41</sup> Some harbingers of progress in the use of human rights language in the official documents of development agencies have started to appear. For instance, in the Export Credit Agencies (ECAs) of OECD countries have introduced, for the first time, into the most recent version of their ‘Common Approaches’ Guidelines (adopted in November 2011) an explicit provision about ‘respect and protection of’ human rights ‘as a requirement in evaluating Bank’s requests for credit guarantees.’ M. Cernea, ‘Population Displacement and Export Credits,’ 6 December 2011, available online at: [http://www.brookings.edu/opinions/2011/1206\\_population\\_displacement\\_cernea.aspx](http://www.brookings.edu/opinions/2011/1206_population_displacement_cernea.aspx).

<sup>42</sup> Tamer Afifi et al, ‘Climate Change, Vulnerability and Human Mobility: Perspectives of Refugees from the East and Horn of Africa’ (UNU-EHS, June 2012).

For example, the resettlement of 190,000 people by the Xiaolangdi dam<sup>43</sup> in China from 2001-2004 suggests that resettlement schemes do not always have to result in the impoverishment of resettled populations. In this case, most of the resettled population not only restored but improved their living standards. There were a number of reasons for the project's success, particularly (a) the emphasis on restoration of livelihoods, (b) community participation in the process, (c) attention to the host community, (d) comprehensive technical studies, (e) solid oversight and supervision from the World Bank, and (f) strong government commitment and capacity. Finally, Xiaolangdi also suggests that successful resettlement requires substantial financial commitments. The cost of the resettlement project was US\$840 million<sup>44</sup> of which 35 percent (\$295 million) was for infrastructure development, land acquisition and commercialization. This represents a per capita cost in the range of \$5,000 per person resettled.

So, among the key determinants for the success of planned relocations appear to be the necessary political capacity and funding to enable not only the needed studies, but also to support participatory processes. While it seems that the international community is prepared to commit *some* funding for adaptation projects in the context of climate change, so far most of these projects are focused on construction of physical infrastructure. Yet if adaptation strategies are to include planned relocations, then funding needs to be made available to support basic institutional capacity building and international guidelines (to avoid a repetition of some of the worst DFDR experiences<sup>45</sup>) to guide government actions and to support government efforts to plan – on a contingency basis – what would be needed in the event that relocation of communities is necessary as a last resort.

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<sup>43</sup> Discussion of this case based on the Rural Development and Natural Resources Sector Unit, East Asia and Pacific Regional Office, World Bank, 'Implementation Completion Report (IDA-26050) on a Credit in the Amount of SDR 79.9 Million (US\$100 million equivalent) to the People's Republic of China for the Xiaolangdi Resettlement Project,' 29 June 2004, report no. 29174. While this analysis is based on the World Bank's assessment of Xiaolangdi as a success, it may well be that the case is not quite as successful as depicted here. There are no publicly-available data, for example, on what has happened since 2004 to the 30 percent of resettlers whose livelihoods were not fully restored. For a discussion of other cases, see E. Ferris, Planned Relocations, above note 8.

<sup>44</sup> The cost of the project was initially estimated at \$571 million, the higher actual figure reflects an increase in the number of resettlers and consequent increased cost of physical investment as well as an increase in market prices and compensation rates.

<sup>45</sup> For a discussion of some of the negative cases, see the summaries of the cases of Banaba Island and Ethiopian resettlement in the mid-1980s in E. Ferris, Planned Relocations above note 8.

## 5. PROTECTION-SENSITIVE POLICIES ON PLANNED RELOCATION: KEY RECOMMENDATIONS

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In suggesting principles for the protection of communities who must be moved because of the effects of climate change, this section begins by identifying the population of concern and discussing relevant normative frameworks. After identifying some general principles to be used in making decisions about relocation and resettlement, some preliminary observations are also offered as a starting point towards concrete guidance on planned relocations and resettlement in the context of climate change. The focus is on those situations where governments have determined an area to be uninhabitable because of the effects of climate change and have decided to resettle a community elsewhere in the country with the expectation that this relocation will be permanent.

### 5.1 NORMATIVE FRAMEWORKS FOR INTERNAL DISPLACEMENT, INCLUDING PLANNED RELOCATIONS, AND CLIMATE CHANGE

A broad rights-based protection framework for internally displaced persons ('IDPs') has been developed in the last two decades, which also extends to persons displaced by natural disasters, the effects of climate change and large-scale development projects.

One of the key documents of this framework, the *Guiding Principles on Internal Displacement*<sup>46</sup>, is grounded in international human rights law, international humanitarian law and (by analogy) international refugee law. These principles specify that persons affected by displacement within national borders are entitled to the full range of human rights guarantees, including protection against arbitrary or forced displacement. The *Guiding Principles* have served as a basis for developing further operational guidance, as in the *IASC Operational Guidelines for Protection of Persons in Situations of Natural Disasters* and the *IASC Framework for Durable Solutions*. While the *Guiding Principles* provide the normative framework applicable to relocations in the context of climate change, the policies and principles developed to guide DFDR, particularly the World Bank's *Operational Policy 4.12 on Involuntary Population Resettlement* ('OP 4.12'), provide valuable detailed operational guidance in carrying out relocations and resettlement.

These two documents – the *Guiding Principles* and the World Bank's *Operational Policy* - are very different. Reflecting their roots in international human rights law, the *Guiding Principles*

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<sup>46</sup> Guiding Principles, above note 2.



begin with the most basic of rights: the right to life, dignity and security of person. The World Bank's OP 4.12 is a very different document in that it is directed towards Bank staff to establish the parameters for the conduct of operations.<sup>47</sup> It is not intended as a broad affirmation of rights, it is not drawn from international law but rather is based on the Bank's Articles of Agreement, the general conditions, and policies approved by the Board. OP 4.12 is part of the Bank's set of safeguard policies – designed to protect the interests of people affected by the Bank's activities. OP 4.12 is intended to provide operational guidance to staff and thus is much more detailed in its list of activities.

In comparing the two documents, the reference point for the Guiding Principles is the need to uphold the basic human rights of those displaced. The reference point for OP 4.12 is to prevent negative consequences of resettlement on affected populations. Reflecting the Bank's mission, the emphasis is on preventing impoverishment rather than upholding basic rights.

### **5.1.1 Planned Relocations: Protection Principles and Guidelines**

In order to stimulate discussion among a variety of stakeholders, the section below presents draft 'preliminary understandings for planned relocation of populations as a result of climate change.' These preliminary understandings draw upon the three key instruments and policies discussed above – the *Guiding Principles on Internal Displacement*, the World Bank's OP 4.12, and the *Operational Guidelines on Protection of Persons in Situations of Natural Disasters*.

One of the main difficulties in devising appropriate guidance for such relocations is the need for a clear internationally-accepted definition as to when an area is determined to be a) uninhabitable, and b) when the cause of the uninhabitability is the result of the effects of climate change. Both of these aspects are difficult to determine. Uninhabitability may be a bi-directional continuum rather than an end-state. And it is likely that the causes of the uninhabitability are the result of multiple factors, making it difficult to determine the particular responsibility of climate change.

While it may be relatively easy to identify uninhabitability in some cases – for example, if sea levels rise, as projected, and coastal communities are inundated – it will be more difficult to determine when extended periods of decreased rainfall cause permanent changes to the environment (rather than normal climatic variation) and when these periods are caused by climate change. There are other uncertainties inherent in determining the extent to which

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<sup>47</sup> OP 4.12, above note 15.

climate change makes areas uninhabitable. For example, it may be that climate change makes an area uninhabitable for the current number of inhabitants, but where smaller numbers of people would be able to continue to live in the area. There may also be cases where it might not be possible to reach scientific consensus on uninhabitability, or the extent to which the changes are irreversible. There are also likely to be questions about the timing of when relocation ought to take place. For example, a community may 'see the writing on the wall' and decide that it is better to move before their habitat becomes completely intolerable. Or there may be cases where authorities decide that relocation is necessary while the community resists relocation and urges that greater efforts be made at adaptation. Finally, there are likely to be cases where authorities use the argument of climate change as an excuse to move communities off their land for political, economic, and social reasons unrelated to climate change.<sup>48</sup>

While this is clearly an area where further clarification on how to assess uninhabitability is needed from the scientific community, at this stage, the following formulation is suggested – at least as a discussion starter.

An area will be considered as uninhabitable necessitating relocation when the habitat has been irreversibly changed such that the majority of the affected population could not survive and adaptation strategies have been exhausted or are not feasible.

### **5.1.2 Preliminary Understandings for Planned Relocation of Populations as a result of climate change**

1. Persons who must be relocated because their habitat is either at risk of becoming uninhabitable or is no longer habitable as a result of the effects of climate change should be recognized and treated as persons entitled to enjoy the same rights and freedoms under international human rights law as others in their country, including the prohibition on discrimination on the basis of their race, color, sex, disability, language, religion, political and other opinion, national or social origin, property, birth, age, or other status.

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<sup>48</sup> F. Biermann and I. Boas, in making their argument in support of a new climate change treaty, propose that an internationally constituted executive committee of the new protocol be charged with determining when areas become uninhabitable as a result of climate change based on requests by states parties to the protocol. F. Biermann and I. Boas, 'Protecting Climate Refugees: the Case for a Global Protocol', *Environment*, (November-December 2008) 8.

2. When communities determine that their habitats are at risk of becoming uninhabitable or are no longer habitable because of the effects of climate change, they have a right to petition their governments for assistance and support for relocation and resettlement.
3. Persons who have been relocated within the borders of the country in which they live because their habitat is either at serious risk of becoming uninhabitable or is no longer habitable are 'internally displaced persons' (IDPs) in accordance with the 1998 *Guiding Principles on Internal Displacement* and should be treated accordingly. As IDPs, they have a right to be protected against arbitrary displacement and to be supported in finding a durable solution.
4. States have the primary duty and responsibility to provide assistance and protection to IDPs, including those who must be relocated as a consequence of the effects of climate change. Moreover, they are responsible for ensuring that their actions are consistent with both domestic legislation and with international human rights law.
5. States are responsible for developing and implementing a resettlement plan which upholds the rights and enhances, or at least restores, the living standards of those who must be relocated because of the effects of climate change.
6. Before embarking on a relocation effort, relevant authorities should prepare a master relocation and resettlement plan which addresses issues such as: land acquisition, community preferences, transitional shelter and permanent housing, the preservation of existing social and cultural institutions of those to be resettled, access to public services, support needed during the transitional period, concerns of the host community, monitoring mechanisms and grievance procedures. In this respect, Annex A of the World Bank's OP 4.12 authorizing the concept and extent of a Resettlement Action Plan offers specific guidance for development of such a plan.
7. Before embarking on a relocation effort, relevant authorities should ensure that adequate financing is available to ensure that the rights and livelihoods of those to be resettled and other affected communities are fully respected.
8. Persons who must be relocated because their habitat is at risk of becoming uninhabitable or is no longer habitable have the right to participate fully in decisions relating to the relocation (destination, timing, manner in which the movement is to be effected, housing options, livelihood and economic issues, etc.)

and also provided with easily accessible information in a language they understand concerning:

- (a) The nature and extent of the changes to their habitat resulting from climate change, including the evidence on which such assessments are made;
  - (b) Evidence that the authorities have consulted on and considered all other alternatives to relocation, including both mitigation and adaptation measures that could be taken to enable people to remain in their communities;
  - (c) Planned efforts to assist affected communities in their relocation, both in the short-term relocation process and in the longer-term resettlement process;
  - (d) Compensation and alternative settlement options available to them if they choose not to be relocated under the government's plan;
  - (e) Their rights under international and domestic law.
9. Persons to be relocated should be informed and consulted on measures taken on their behalf and given the opportunity to take charge of their own affairs to the maximum extent and as early as possible. They should be enabled to participate in the planning and implementation of the various stages of the relocation process. Targeted measures should be taken to include those who are traditionally marginalized from participation in decision-making, such as women, persons with disabilities, and indigenous groups.
  10. Communities to be relocated as well as others affected by the relocation, such as host communities, should be consulted and measures taken to ensure that their rights are upheld in all phases of the resettlement process, and that the arrival and resettlement of relocated communities does not cause social tensions or disputes.
  11. Both protection activities and economic activities 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.
  12. International development and humanitarian organizations, including multilateral development banks, bilateral aid organizations, and non-governmental organizations, should offer their services in support of state authorities and remain accountable to all relevant stakeholders, including to the affected persons. In cases in which international funding instruments, such as climate change adaptation funds and multilateral development banks, are involved in supporting relocation of persons due to the effects of climate change, the staff of such organizations are responsible for ensuring that allocated funds are used in ways that uphold the rights

and protect the livelihoods of both those to be resettled and of their new host communities.

#### Protection and human rights

13. Persons to be relocated are entitled to and should be supported in claiming and exercising their rights and provided with effective remedies, including unimpeded access to the justice system, in case of violations or when conflicts emerge within or between communities affected by the relocation.
14. Relevant authorities should ensure that persons to be relocated have access to public services on a non-discriminatory basis.
15. Protection activities should be undertaken and prioritized on the basis of identified needs of affected persons, including the needs to restore livelihoods. Data collected should be disaggregated by age, sex, and other relevant categories.

#### Livelihoods and preventing risks of impoverishment

16. Recognizing that population resettlement, even when planned, risks leading to impoverishment of those resettled, planning for climate change-caused resettlement should include measures to promote livelihoods and economic prosperity and minimize risks.
17. Governments are responsible for acquiring land for resettlement of communities who must be relocated. In this respect the government must consider the safety and environmental integrity of the new site(s) and ensure that the rights of both those resettled and the communities which host them are upheld. This may often require investments in the host areas to create alternative income sources for both the host and resettled populations. In particular, authorities must take measures to ensure that the land chosen for resettlement is not vulnerable to future climate-related hazards, to minimize potential future displacement.
18. Relocated persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels.
19. Resettlement planning, preparation and implementation activities should be conceived and executed as sustainable development programs. In this regard, special attention should be directed toward those whose pre-displacement standard of living

is below their country's poverty line to ensure that their standard of living is raised. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. Resettlement should present opportunities as well as prevent further harm to communities.

20. Resettlement plans should include measures not only to compensate affected persons for lost land and property but also to assure that the housing and livelihoods needs are met of those who have informal land rights, customary land rights, occupancy rights or rights of customary usage. National laws may need to be amended to respect the rights of minority or other vulnerable groups, such as women, indigenous populations, etc.
21. In addition to long-term development assistance, transitional assistance will need to be provided to communities during the process of relocation until livelihoods and access to services are restored.

#### Monitoring and Evaluation Mechanism

22. The human rights of relocated persons, including their rights to livelihoods, should be regularly monitored and evaluated throughout the relocation and resettlement processes. In developing their resettlement plans, authorities need to devote particular attention to developing and formulating detailed monitoring and evaluation guidelines to respond to the particular needs and circumstances of affected communities. To this effect, existing monitoring mechanisms may need to be strengthened or new independent mechanisms established by national authorities and by international actors involved in the process.

## 6. CONCLUSIONS

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This study began by looking at some of the lessons learned in DFDR, concluding that while these experiences are generally not considered to have been completely successful, there are many lessons which could be helpful in developing guidance for planned relocations made necessary by the effects of climate change. Planned relocations, like migration, are recognized as adaptation strategies for responding to the effects of climate change. They are however at the extreme end of such strategies and usually imply that other adaptation attempts have been unsuccessful. Yet, there has been very little analysis of the extent to which such relocations might be necessary and even less guidance about how such relocations should be carried out.

There are many difficulties in addressing the issue of planned relocations in a context of climate change; at the present time, the need for such relocations much less their specific areas, scale and timing are unknown. But there are also uncertainties about the actors at the international level likely to be engaged in this process. While development actors, and particularly the multilateral banks, have taken the lead in developing guidelines and safeguards for those resettled because of development projects, these guidelines are not explicitly based on international human rights law and protection principles which are central to the work of humanitarian actors. And yet decisions on even seemingly technical issues such as compensation for land or availability of water are fundamentally issues of human rights and protection.

One of the challenges for going forward is the need to bring together both humanitarian and development actors (and the related challenge of agreeing on common terminology for relocation and resettlement). Humanitarian actors have much to contribute based on their experience in working with people forcibly displaced for a variety of reasons, but they are not likely to be in the driver's seat when it comes to implementing relocations made necessary by the effects of climate change. Although it is perhaps easier for humanitarian actors to work with each other, efforts to develop such guidance on their own should be resisted. Rather, a consultative process should be developed with development, human rights and humanitarian actors and experts along with climate change experts to develop general principles to ensure respect for the rights of those who are resettled because of climate change. Such a process could be seen as a follow-up to two meetings held in Bellagio<sup>49</sup> in 2010 and 2011, as well as the Nansen Conference also in 2011.<sup>50</sup>

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<sup>49</sup> UNHCR Expert Roundtable on Climate Change and Displacement: Identifying Gaps and Responses, Bellagio, Italy, 22-25 February 2011, above note 5 and, A de Sherbinin, 'Preparing for Population Displacement and Resettlement Associated with Large Climate Change Adaptation and Mitigation Projects', above note 8

A major obstacle to moving forward on the issue of guidance on planned relocations in the light of climate change is the lack of information on adaptation funding and the extent to which it might be available to support work on human mobility in general and planned relocations in particular. The basic architecture of these adaptation funds is now being discussed for the first time. So far there has been little discussion of migration, displacement or planned relocation in these forums although a number of studies have highlighted the need for adaptation funds to be used in support of migration, displacement and planned resettlement.<sup>51</sup> The Cancun declaration offers an entry point into the discussion, but further information is needed in order to develop an effective advocacy strategy. Further research on climate change adaptation funds and their application in this context is called for.

Similarly there are a number of related gaps where needed analysis has simply not yet been started (or is not publicly available), such as in the area of mobility and climate change generally and planned relocations in particular. These include:

- The intersection between conflict and planned relocation/resettlement. To what extent will planned relocations/resettlement be necessary, or even possible, in areas currently experiencing conflict or likely to do so in the future? Are there lessons that can be learned from DFDR about the impact of conflict on relocation/resettlement and of relocation/resettlement on conflict?
- The legal policy bases for planned relocation/resettlement. Again drawing on the experiences of DFDR, this analysis would provide a comparative overview of the formal policy and legal provisions in support of planned resettlement. Using as a starting point the normative frameworks discussed in this paper, it would be useful to carry out case studies on national laws and policies used to support DFDR. Is legislation already in place which could provide guidance for States which at some point might need to resettle populations as a consequence of the effects of climate change? The experiences of international disaster response law, for example, suggest that it is easier to adopt (or adapt, as appropriate) needed laws and policies before disaster occurs. Similarly, it would undoubtedly be easier for States to develop institutional capacities and adopt (or adapt) relevant laws before there is a need for planned relocations made necessary by climate change.

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<sup>50</sup> The Nansen Conference, Climate Change and Displacement in the 21<sup>st</sup> Century, Oslo, 5-7 June 2012, <http://www.nansenconference.no/>.

<sup>51</sup> Foresight Report, above note 3.



- Land and property issues in planned resettlement. Every publicly available study and evaluation of DFDR (and preventive resettlement in the case of natural disasters) highlights the importance of selecting appropriate sites for resettled populations, and ensuring fair compensation for abandoned property. A study identifying current and best practices for dealing with land and property issues, as well as problems identified in failed experiences, could be useful for an eventual process to develop guidance for States and other actors when planned relocations are necessary because of the effects of climate change.
- In order to develop concrete guidance for planned relocations which may be necessary in the future, it is suggested that a consultative process be established to develop protection principles and concrete guidelines applicable to all stakeholders, including both development and humanitarian actors but also to national, provincial or local governments. In particular there is a need to engage ministries beyond those involved in environmental issues which have tended to play the leading role in climate change negotiations. For example, the engagement of ministries of economic planning, social services, urban planning and human rights will be needed if such guidance is to be useful in the future. It will be important to include those with experience in the country with DFDR.

Finally, although there are cases where communities are actively seeking to be resettled now as a result of climate change, the need for relocation and resettlement is likely to increase significantly in the future. The international community thus has the rare opportunity to consult, research, and prepare for displacement before it occurs on a wide scale. Developing guidelines or standards now to uphold the rights and prevent the impoverishment of communities to be affected by future effects of climate change would be a credit to the international system as a whole.