

Mary Robinson Foundation – Climate Justice

Submission to the Executive Committee Warsaw Mechanism

In order to inform the work of the task force on displacement, the Executive Committee of the Warsaw Mechanism invites relevant organizations and experts to provide, by Monday 16 May 2016, knowledge, data and scientific information on both internal and cross-border migration, displacement and other forms of human mobility owing to factors related to climate change impacts, including in combination with other factors. We are particularly interested in gathering information on potential challenges and possible solutions. Your input may include:

a) Information on factors that affect movements or decisions to stay of vulnerable populations (characteristics, underlying vulnerabilities, circumstances, where interventions may be needed to help particular groups) associated with the impacts of climate change in distinction to or in conjunction with impacts related to climate variability and non-climate related impacts;

b) Policy, normative and institutional challenges and opportunities associated with minimizing, averting and addressing both internal and cross-border displacement, including in the context of alternative climate change trajectories (e.g. 1.5°C, 2°C, etc.) including challenges of communities not in a position to migrate (so called “trapped populations”).

1. Background

Catastrophic, sudden and slow onset events associated with an increase in greenhouse gas emissions in the atmosphere mean that some communities will inevitably be affected to the extent that they have to move to thrive and survive. Informed by the Principle of Climate Justice ‘Protect and respect human rights’, the Mary Robinson Foundation – Climate Justice works with actors in the fields of international migration law, climate change and human rights to identify and promote measures to protect the rights of people in the context of human mobility associated with climate change. The Foundation is supportive of the work of the Warsaw Mechanism and welcomes the steps underway to establish a task force on displacement. The sharing of experiences and knowledge by Parties and experts will assist the UNFCCC to better address the rights of climate displaced people.

2. Terminology

The Foundation supports the view that displacement that is caused substantially by the impacts of climate change can and should be classified as ‘climate displacement’. The requirement for displacement to be substantially caused by the impacts of climate change necessitates a test akin to that of a ‘well-founded fear of persecution’ under the Refugee Convention. It requires both an objective and subjective element. The objective element is whether environmental changes caused by climate change occurred in the place of origin for the displaced, the subjective is whether the environmental change had a significant contribution to the movement.¹

For example, climate displacement includes the smallholder farmer driven to the city due to the degradation of their land by changing weather patterns. It also includes the community forced to leave their island home due to the associated impacts of rising sea levels. Examples of the complicated intersections of climate change with other drivers of displacement are already evident. For example, the increasing prevalence of rural to urban migration in Bangladesh; the case of people unable to return to their homes in the Philippines following Typhoon Haiyan; and the purchasing of land in Fiji by Kiribati to insure against future sea level rise.²

The term climate displacement overlaps with existing legal categories for displaced people. For example, a person may flee from ethnic persecution exacerbated by resource shortages resulting from climate change. In this case they would be a refugee as well as climate displaced. Additionally climate displacement is a sub-category of what the International Organisation for Migration calls ‘environmental induced displacement’ which is wider in scope, incorporating non-climate related causes of displacement, such as earthquakes or tsunami.³

3. Factors that affect mobility in the context of climate change

Displacement due to climate change can be voluntary, forced or planned. The factors that affect individual populations and that cause them to move will always be different, and these will be reflected in the style of movement that takes place. The Foundation believes that understanding the causes of displacement in each case will be key in developing responses that are effective and that address the needs of the most vulnerable people and communities.

Displacement due to climate change can be:

- Forced; such as that undertaken when a cyclone destroys the livelihoods of individuals and forces them to leave their homes

¹ For a good discussion of the definitional issue see: P13; the Asian Development Bank; Addressing Climate Change and Migration in Asia and the Pacific; 2012

² <http://www.climate.gov.ki/2014/05/30/kiribati-buys-a-piece-of-fiji/>

³ See: IOM Discussion Note: Migration and the Environment; 2007 MC/INF/288

https://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/94/MC_INF_288.pdf

- Voluntary; such as a person leaving their farm due to climate risks which threaten their ability to maintain an income or livelihood by reducing productivity or affecting the ability to subsist
- Planned; such as where an island community secures new land and relocates due to the associated impacts of sea level rise on their homeland.

These forms of climate displacement can occur internally within a jurisdiction or across international borders. While the majority of displaced people will choose to move internally the choice to cross a border can be made for various reasons, including economic factors or social connections including family or cultural ties.

Underpinning all considerations of climate displacement lies the reality of climate change impacts disrupting the livelihoods of vulnerable people. This is true whether displacement is the rural to urban migration of farmers unable to cope with the economic shocks of a more unpredictable climate, or large scale movements of people as a result of a natural hazard, such as a cyclone. Climate change is a factor in all climate displacement and as the impacts of climate change disproportionately affect the most vulnerable people in society; vulnerable people are also most affected by climate related displacement. This contributes to climate injustice as the people who have contributed least to the causes of climate change bear the largest burden of climate impacts.

There are important steps that need to be taken by the international community to protect the people most vulnerable to the impacts of climate change, including displacement.

Firstly, Parties must deliver the commitment made in the Paris Agreement to hold temperature increase to well below 2°C and to pursue efforts to limit temperature increase to 1.5°C. This will be the single most important factor in protecting people from climate displacement.

Secondly Parties to the Convention must build resilience to climate impacts and adapt to the changes expected and already underway. This includes planning for displacement, migration and planned relocation as part of adaptation planning.

Thirdly, Parties must support particularly vulnerable countries and communities to adapt and to address loss and damage through financial support, capacity building and technology transfer.

Fourthly, measures must be taken by all Parties to protect and respect human rights in all actions to address climate change as per the preamble of the Paris Agreement.

4. Protecting and respecting human rights

The factors that cause a person or community to leave their home are many and varied. They include war, persecution, famine, economic hardship and natural disaster. In these contexts climate change is a threat multiplier, exacerbating the difficulties and challenges faced by the most vulnerable people.

At its core, the need to move comes down to the inability of people to realise their human rights through their traditional way of life due to factors including climate change. At present gaps in the application of the legal framework mean the rights of climate displaced people are not always protected. The following rights are mostly frequently at risk:

- The right to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions⁴
- The right to the conservation of cultural heritage⁵
- The right to work⁶ and make a decent living⁷
- The right to self determination⁸
- The right to life⁹

A rights based approach seeks to protect the full range of human rights while taking action on climate change including activities related to climate displacement. Human rights can be deployed both as an early warning mechanism (signalling that rights are at risk and that displacement may be necessary) and as an adaptation measure so that the resilience of communities is increased. A human rights based approach can also ensure and that displacement, when it does occur, is with dignity and with the rights and needs of the displaced people at the centre of decision making.

A factor that is often underestimated is the impact of the loss of cultural rights of climate displaced people. Article 15(2) of the International Covenant of Economic, Social and Cultural Rights (ICESCR) requires Parties to conserve the cultural heritage of those within their jurisdiction. Climate change threatens the cultural heritage of communities when they have to leave their cultural lands (described as ‘the land of the bones of our ancestors’ as by Ursula Rakova of Tulele Peisa). The pathways of displacement will be better managed, and people better able to cope with the realities of displacement, where vulnerable populations are identified early, their cultural and historic heritage recorded and protected, and pathways found for them to preserve their culture and identity.

When undertaking voluntary movement for adaptation purposes, communities are best supported when their rights are respected, particularly their right to participation in decision making. In the context of planned relocation due to an adaptation or mitigation action, local communities and indigenous people must have their rights respected, including through free, prior and informed consent.

The international community can learn from the people currently affected by climate displacement to produce better responses and outcomes for future populations that will

⁴ Article 11 ICESCR

⁵ Article 15(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires Parties to take steps to ensure the conservation of culture. A detailed argument about the role of Cultural Heritage in international human rights law can be found in the Report of the independent expert in the field of cultural rights, Farida Shaheed A/HRC/17/38

⁶ Article 6 ICESCR

⁷ Article 7(a)(ii) ICESCR

⁸ Article 1 International Covenant on Civil and Political Rights (ICCPR)

⁹ Article 6 ICCPR

need to move. Additionally stakeholders and actors need to be encouraged to take additional steps, including research, to ensure that communities at risk are supported. Affected communities also need full participation in the planning of relocation where it is required or inevitable.

The Foundation believes that there needs to be platforms for the voices and stories of climate displaced people to be heard. This can be accomplished through existing mechanisms; including through the taskforce on displacement under the UNFCCC as well as at the Human Rights Council, through for example, a panel discussion on climate change and human mobility.

5. Policy, normative and institutional challenges of climate displacement

Climate displacement is a complex and multifaceted issue and requires policy frameworks that respond accordingly. Policy, normative and institutional frameworks will work best when designed with people at the centre and when informed by human rights.

As noted above, the primary action that can be taken by Parties to reduce the volume of displacement is to ensure that warming does not exceed 1.5°C, and stays well below 2 degrees. However, even with this level of warming adaptation action is inevitable and there will be displacement caused by climate change. As a result policies and institutions will need to respond using a rights based approach in order to deliver climate justice. By ensuring that policy responses are consistent with the [Principles of Climate Justice](#), Parties can tailor responses that protect and benefit the most vulnerable communities.

The preamble of the Paris Agreement acknowledges that in taking actions to address climate change, Parties should respect, promote and consider their respective obligations on human rights. This applies to climate displacement in the same way it applies to all adaptation and mitigation actions. A human rights based approach should underpin Parties' actions in relation to climate displacement. At present the lack of guiding principles for Parties to follow when addressing climate displacement presents one of the main policy challenges. The Nansen Initiative Protection Agenda was a multilateral attempt by countries to develop principles to deal with the climate displacement of people displaced internally. The agenda sets out underlying principles that will assist parties in responding to these challenges. However the agenda has not been adopted by the UNFCCC, and does not respond to all situations of displacement, in particular cross border displacement. **The UNFCCC, through the Warsaw Mechanism and the taskforce on displacement, could contribute to ensuring durable and equitable solutions to climate displacement by developing guidelines, best practice and principles that countries could follow when responding to displacement scenarios.**

Climate displacement, by its very nature, will impact the most vulnerable people disproportionately in both numbers and severity. This is at odds with the fact that the most

vulnerable have contributed to the causes of climate change least. This injustice is also present at international level; some of the countries that are most at risk of climate displacement, such as Kiribati where the entire population may have to relocate, are countries that have contributed least to climate change. Moreover in many cases these are countries with the least capacity (financial and technical) to manage significant relocation and displacement. Parties will need to ensure that obligations and pledges of finance, capacity building and training are fulfilled and so that the Parties which face the greatest burden in relation to climate displacement are assisted to find long term solutions in line with the principle of equity and common but differentiated responsibility and respective capabilities.

Climate Change, and climate displacement more specifically, impacts on the mandates of a number of international institutions. Of particular relevance are the Human Rights Council (HRC) and its constituted bodies and mechanisms, the United Nations High Commissioner for Refugees (UNHCR), the International Organisation for Migration (IOM) and the Inter-Agency Standing Committee. The Human Rights Council, UNHCR and IOM have each undertaken work in relation to climate displacement, however many of these need to be built on, and require inter agency cooperation and outreach to and from the UNFCCC. For example, the Special Rapporteur on the human rights of internally displaced persons recommended in their April 2014 Report that 'Relevant actors should also promote mechanisms for the engagement of affected communities, and develop guidance for States on how to ensure that displacement is taken into account in the climate change debate, on available normative standards and on the human rights implications of that type of displacement.'¹⁰ This recommendation encourages actors such as the UNFCCC and its associated mechanisms, including the Executive Committee to engage in further outreach and collaboration with the Special Procedures and the HRC to fulfil this recommendation.

Institutions, such as the Inter-Agency Standing Committee, that undertake humanitarian responses to displacement resulting from conflict and disasters do not have representation from the UNFCCC or its subsidiary bodies. This leaves a gap in coordination between the relevant institutions at the international level and contributes to a lack of recognition of climate as a factor in displacement. There is also a tendency towards a siloed approach in the work of the relevant international institutions which limits coherence and potential for cross pollination of their work. **The UNFCCC through the work of the Warsaw Mechanism an the task force on displacement could consider ways of enhancing coordinating with other international institutions with a role to play in climate displacement.**

¹⁰ Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, 4 April 2014, A/HRC/26/33

6. Conclusions

The Foundation thanks the Executive Committee of the Warsaw Mechanism for providing this opportunity to inform the future work of the task force on displacement and in so doing contribute to climate justice.

The Foundation welcomes the Executive Committee's request for inputs as a significant step in collating research and improving understanding of the needs of climate displaced people. However we also note a number of reports that have indicated the need for further studies to be undertaken in this area.¹¹ The Foundation encourages the Executive Committee, under the displacement work-stream to build on the information provided through this process and to encourage Parties, international organisations and civil society to commission further studies on the issue of climate related displacement. Additional research could focus on identifying at-risk communities as well as pathways for rights based movement, incorporating strategies to be undertaken before, during and after population displacement has taken place.

The Foundation also encourages Parties, International Organisations and civil society to continue to work together to improve coordination and coherence between international organisations and other actors working on aspects of climate displacement. The development of guidelines and recommendations for climate displacement to enable it to be undertaken within a human rights based approach with a focus on community consultation and participation is another priority. Finally, the Foundation believes that there needs to be platforms for the voices and stories of climate displaced people to be heard and acted upon. Placing the people affected by climate displacement and their rights at the centre of decision making is critical to securing climate justice.

¹¹ For example Advisory Group on Climate Change and Human Mobility, *Human Mobility in the Context of Climate Change; Recommendations from the Advisory Group on Climate Change and Human Mobility COP 20 Lima, Peru* <https://www.iom.int/files/live/sites/iom/files/pbn/docs/Human-Mobility-in-the-context-of-Climate-Change.pdf>, and Brookings Institute *Climate Change and Internal Displacement* 2013, <http://www.brookings.edu/~media/research/files/papers/2014/10/un-idps-climate-change/climate-change-and-internal-displacement-october-10-2014.pdf>