

*THE PENINSULA PRINCIPLES*

**on**

**Climate Displacement  
Within States**

**18 August 2013**

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## **Preamble**

CONCERNED that events and processes caused or exacerbated by climate change have and will continue to contribute to displacement of populations resulting in the erosion of the rights of those affected, in particular vulnerable and marginalized groups, the loss of assets, housing, land, property and livelihoods, and the further loss of cultural, customary and/or spiritual identity;

GUIDED by the Charter of the United Nations, and REAFFIRMING the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights as well as the Vienna Declaration and Program of Action;

NOTING that these Peninsula Principles build on and contextualize the United Nations Guiding Principles on Internal Displacement to climate displacement within States;

UNDERSTANDING that when an activity raises threats of harm to human health, life or the environment, precautionary measures should be taken;

COGNISANT that the vast majority of climate displaced persons are not responsible for the processes driving climate change;

NOTING that while climate displacement can involve both internal and cross-border displacement, most climate displacement will likely occur within State borders;

REAFFIRMING the right of climate displaced persons to remain in their homes and retain connections to the land on which they live for as long as possible, and the need for States to prioritise appropriate mitigation, adaptation and other preventative measures to give effect to that right;

REAFFIRMING further the right of those who may be displaced to move safely and to relocate within their national borders over time;

RECOGNISING that voluntary and involuntary relocation often result in the violation of human rights, impoverishment, social fragmentation and other negative consequences, and recognizing the imperative to avoid such outcomes;

NOTING further that climate displacement if not properly planned for and managed may give rise to tensions and instability within States;

ACKNOWLEDGING that States bear the primary responsibility for their citizens and others living within their jurisdiction, but recognising that, for many States, addressing the issue of and responding to climate displacement presents financial, logistical, political, resource and other difficulties;

CONVINCED, however, that as climate change is a global problem, States should, on request by affected States, provide adequate and appropriate support for mitigation, adaptation, relocation and protection measures, and to provide assistance to climate displaced persons;

REALISING that the international community has humanitarian, social, cultural, financial and security interests in addressing the problem of climate displacement in a timely, coordinated and targeted manner;

REALISING further that there has been no significant coordinated response by States to address climate displacement, whether temporary or permanent in nature;

RECOGNISING that the United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol neither contemplate nor address the issue of climate displacement, and that conferences and meetings of the parties to these instruments have not substantively addressed climate displacement other than in the most general of terms;

NOTING, however, that paragraph 14(f) of the UNFCCC 16<sup>th</sup> session of the Convention of the Parties (COP16) Cancun Adaptation Framework refers to enhanced action on adaptation, including ‘[m]easures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation ...’;

NOTING further that UNFCCC COP18 in Doha decided to establish, at UNFCCC COP19, institutional arrangements to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change as part of the Cancun Adaptation Framework;

RECOGNISING the work being undertaken by the United Nations and other inter-governmental and non-governmental agencies to address climate displacement and related factors;

REALISING the need for a globally applicable normative framework to provide a coherent and principled approach for the collaborative provision of pre-emptive assistance to those who may be displaced by the effects of climate change, as well as effective remedial assistance to those who have been so displaced, and legal protections for both;

ACKNOWLEDGING the IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters, the Hyogo Framework for Action, the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons and others, the incorporation of a number of their principles within these Peninsula Principles, and their application to climate displaced persons;

ACKNOWLEDGING also regional initiatives addressing internal displacement such as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa;

NOTING the work of the Nansen Initiative on disaster-induced cross-border displacement;

NOTING that these Peninsula Principles, addressing climate displacement within States, necessarily complement other efforts to address cross-border displacement; and

RECOGNISING judicial decisions and the writings of eminent jurists and experts as a source of international law, and acknowledging their importance and contribution to formulating the present Peninsula Principles,

these Peninsula Principles on Climate Displacement (‘Peninsula Principles’) provide as follows:

## **I. Introduction**

### **Principle 1: Scope and purpose**

These Peninsula Principles:

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

### **Principle 2: Definitions**

For the purposes of these Peninsula Principles:

- (a) ‘Climate change’ means the alteration in the composition of the global atmosphere that is in addition to natural variability over comparable time periods (as defined by the IPCC).
- (b) ‘Climate displacement’ means the movement of people within a State due to the effects of climate change, including sudden and slow-onset environmental events and processes, occurring either alone or in combination with other factors.
- (c) ‘Climate displaced persons’ means individuals, households or communities who face or experience climate displacement.
- (d) ‘Relocation’ means the voluntary, planned and coordinated movement of climate displaced persons within States to suitable locations, away from risk-prone areas, where they can enjoy the full spectrum of rights including housing, land and property rights and all other livelihood and related rights.

### **Principle 3: Non-discrimination, rights and freedoms**

- (a) States shall not discriminate against climate displaced persons on the basis of their potential or actual displacement, and should take steps to repeal unjust or arbitrary laws and laws that otherwise discriminate against, or have a discriminatory effect on, climate displaced persons.
- (b) Climate displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country, in particular housing, land and property rights.
- (c) States should ensure that climate displaced persons are entitled to and supported in claiming and exercising their rights and are provided with effective remedies as well as unimpeded access to the justice system.

### **Principle 4: Interpretation**

- (a) These Peninsula Principles shall not be interpreted as limiting, altering or otherwise prejudicing rights recognized in international law, including human rights, humanitarian law and related standards, or rights consistent with those laws and standards as recognized under domestic law.
- (b) States should interpret these Peninsula Principles broadly, be guided by their humanitarian purpose, and display fairness, reasonableness, generosity and flexibility in their interpretation.

## II. General Obligations

### **Principle 5: Prevention and avoidance**

States should, in all circumstances, comply in full with their obligations under international law so as to prevent and avoid conditions that might lead to climate displacement.

### **Principle 6: Provision of adaptation assistance, protection and other measures**

- (a) States should provide adaptation assistance, protection and other measures to ensure that individuals, households and communities can remain in their homes or places of habitual residence for as long as possible in a manner fully consistent with their rights.
- (b) States should, in particular, ensure protection against climate displacement and demonstrate sensitivity to those individuals, households and communities within their territory who are particularly dependent on and/or attached to their land, including indigenous people and those reliant on customary rules relating to the use and allocation of land.

### **Principle 7: National implementation measures**

- (a) States should incorporate climate displacement prevention, assistance and protection provisions as set out in these Peninsula Principles into domestic law and policies, prioritising the prevention of displacement.
- (b) States should immediately establish and provide adequate resources for equitable, timely, independent and transparent procedures, institutions and mechanisms – at all levels of government (local, state and national) – to implement these Peninsula Principles and give effect to their provisions through specially earmarked budgetary allocations and other resources to facilitate that implementation.
- (c) States should ensure that durable solutions to climate displacement are adequately addressed by legislation and other administrative measures.

- (d) States should ensure the right of all individuals, households and communities to **adequate, timely and effective participation** in all stages of policy development and implementation of these Peninsula Principles, ensuring in particular such participation by indigenous peoples, women, the elderly, minorities, persons with disabilities, children, those living in poverty, and marginalized groups and people.
- (e) All relevant legislation must be fully consistent with human rights laws and must in particular explicitly protect the rights of indigenous peoples, women, the elderly, minorities, persons with disabilities, children, those living in poverty, and marginalized groups and people.

**Principle 8: International cooperation and assistance**

- (a) Climate displacement is a matter of global responsibility, and States should cooperate in the provision of adaptation assistance (to the maximum of their available resources) and protection for climate displaced persons.
- (b) In fulfilling their obligations to prevent and respond to climate displacement within their territory, States have the right to seek cooperation and assistance from other States and relevant international agencies.
- (c) States and relevant international agencies, either separately or together, should provide such cooperation and assistance to requesting States, in particular where the requesting State is unable to adequately prevent and respond to climate displacement.
- (d) States that are otherwise unable to adequately prevent and respond to climate displacement should accept appropriate assistance and support from other States and relevant international agencies, whether made individually or collectively.

### III. Climate Displacement Preparation and Planning

#### **Principle 9: Climate displacement risk management**

States, in terms of climate displacement risk management, monitoring and modeling, using a rights-based approach, should:

- (a) identify, design and implement risk management strategies, including risk reduction, risk transfer and risk sharing mechanisms, in relation to climate displacement;
- (b) undertake systematic observation and monitoring of, and disaggregated data collection at the household, local, regional and national levels on, current and anticipated climate displacement;
- (c) enhance sharing, access to and the use of such data at the household, local, regional and national levels, mindful of the need for data protection and predetermined use of data, facilitate the assessment and management of climate displacement;
- (d) model likely climate displacement scenarios (including timeframes and financial implications), locations threatened by climate change, and possible relocation sites for climate displaced persons;
- (e) integrate relocation rights, procedures and mechanisms, as defined in these Peninsula Principles, within national laws and policies; and
- (f) develop institutional frameworks, procedures and mechanisms with the participation of individuals, households and communities that:
  - (i) identify indicators that will, with as much precision as possible, classify where, at what point in time, and relevant to whom, relocation will be required as a means of providing durable solutions to those affected;
  - (ii) require and facilitate governmental technical assistance and funding; and
  - (iii) outline steps individuals, households and communities can take prior to climate displacement in order to receive such technical assistance and financial support.

## **Principle 10: Participation and consent**

To enable successful preparation and planning for climate displacement, States should:

- (a) ensure that priority consideration is given to requests from individuals, households and communities for relocation;
- (b) ensure that no relocation shall take place unless individuals, households and communities (both displaced and host) provide full and informed consent for such relocation;
- (c) only require relocation to take place without such consent in exceptional circumstances when necessary to protect public health and safety or when individuals, households and communities face imminent loss of life or limb;
- (d) adopt measures that promote livelihoods, acquisition of new skills, and economic prosperity for both displaced and host communities;
- (e) make certain that:
  - (i) affected individuals, households and communities (both displaced and host) are fully informed and can actively participate in relevant decisions and the implementation of those decisions, including the planning and implementation of laws, policies and programs designed to ensure respect for and protection of housing, land and property rights;
  - (ii) basic services, adequate and affordable housing, education and access to livelihoods (without discrimination) will be available for climate displaced persons in the host community at a standard ensuring equity between the host and relocating communities, and consistent with the basic human rights of each;
  - (iii) adequate mechanisms, safeguards and remedies are in place to prevent and resolve conflicts over land and resources; and
  - (iv) the rights of individuals, households and communities are protected at all stages of the relocation process;

- (f) prior to any relocation, prepare a master relocation plan that addresses critical matters including:
  - (i) land acquisition;
  - (ii) community preferences;
  - (iii) transitional shelter and permanent housing;
  - (iv) the preservation of existing social and cultural institutions and places of climate displaced persons;
  - (v) access to public services;
  - (vi) support needed during the transitional period;
  - (vii) family and community cohesion;
  - (viii) concerns of the host community;
  - (ix) monitoring mechanisms; and
  - (x) grievance procedures and effective remedies.

**Principle 11: Land identification, habitability and use**

- (a) Recognising the importance of land in the resolution of climate displacement, States should:
  - (i) identify, acquire and reserve sufficient, suitable, habitable and appropriate public and other land to provide viable and affordable land-based solutions to climate displacement, including through a National Climate Land Bank;
  - (ii) develop fair and just land acquisition and compensation processes and appropriate land allocation programmes, with priority given to those most in need; and
  - (iii) plan for and develop relocation sites including new human settlements on land not at risk from the effects of climate change or other natural or human hazards and, in so planning, consider the safety and environmental integrity of

the new site(s), and ensure that the rights of both those relocated and the communities that host them are upheld.

- (b) In order to determine the habitability and feasibility of any relocation site, and to ensure that climate displaced persons being relocated and the relevant jurisdictional authority are in agreement as to the habitability of any such site, States should create and make publicly available specific, geographically appropriate, standard criteria including:
  - (i) current and future land use;
  - (ii) restrictions (including those of a customary nature or not otherwise formally codified) associated with the land and its use;
  - (iii) habitability of the land, including issues such as accessibility, availability of water, vulnerability to climate or other natural or human hazards, and use; and
  - (iv) feasibility of subsistence/agricultural use, together with mechanisms for climate displaced persons to decide to where they wish to voluntarily relocate.
- (c) States should provide easily accessible information to individuals, households and communities concerning:
  - (i) the nature and extent of the actual and potential changes to the habitability of their homes, lands and places of habitual residence on which they dwell or subsist, resulting from climate change, including the evidence on which such assessments are made;
  - (ii) evidence that all viable alternatives to relocation have been considered, including mitigation and adaptation measures that could be taken to enable people to remain in their homes and places of habitual residence;
  - (iii) planned efforts to assist climate displaced persons in relocation;
  - (iv) available compensation and alternative relocation options if the relocation site offered is unacceptable to climate displaced persons; and

- (v) rights under international and domestic law, in particular housing, land and property rights.
- (d) States should include in relocation planning:
  - (i) measures to compensate climate displaced persons for lost housing, land and property;
  - (ii) assurances that housing, land, property and livelihood rights will be met for all climate displaced persons, including those who have informal land rights, customary land rights, occupancy rights or rights of customary usage, and assurances that such rights are ongoing; and
  - (iii) assurances that rights to access traditional lands and waters (for example, for hunting, grazing, fishing and religious purposes) are maintained or similarly replicated.

#### **Principle 12: Loss and damage**

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

#### **Principle 13: Institutional frameworks to support and facilitate the provision of assistance and protection**

- (a) States should strengthen national capacities and capabilities to identify and address the protection and assistance needs of climate displaced persons through the establishment of effective institutional frameworks and the inclusion of climate displacement in National Adaptation Programmes of Action as appropriate.
- (b) States should take all appropriate administrative, legislative and judicial measures, including the creation of adequately funded Ministries, departments, offices and/or agencies at the local (in particular), regional and national levels empowered to develop, establish and implement an institutional framework to:
  - (i) enable government technical assistance and funding to prevent, prepare for and respond to climate displacement;

- (ii) support and facilitate the provision of assistance and protection to climate displaced persons;
  - (iii) exchange information and cooperate with indigenous peoples, women, the elderly, minorities, persons with disabilities, children, those living in poverty, and marginalized groups.
  - (iv) represent the needs of climate displaced persons.
- (c) Responsibility for establishing Ministries, departments, offices and/or agencies should lie with national governments, and such governments should consult and collaborate with regional and local authorities, and integrate such Ministries, departments, offices and/or agencies in relevant institutional frameworks.
- (d) States should ensure the provision of adequate resources (including points of contact and assistance) at all levels of government that directly address the concerns of climate displaced persons.

## IV. Displacement

### **Principle 14: State assistance to those climate displaced persons experiencing displacement but who have not been relocated**

- (a) States have the primary obligation to provide all necessary legal, economic, social and other forms of protection and assistance to those climate displaced persons experiencing displacement but who have not been relocated.
- (b) Protection and assistance activities undertaken by States should be carried out in a manner that respects both the cultural sensitivities prevailing in the affected area and the principles of maintaining family and community cohesion.
- (c) States should provide climate displaced persons experiencing displacement but who have not been relocated with a practicable level of age and gender-sensitive humanitarian assistance including, without limitation, as the context requires:
  - (i) emergency humanitarian services;
  - (ii) evacuation and temporary and effective permanent relocation;
  - (iii) medical assistance and other health services;
  - (iv) shelter;
  - (v) food;
  - (vi) potable water;
  - (vii) sanitation;
  - (viii) measures necessary for social and economic inclusion including, without limitation, anti-poverty measures, free and compulsory education, training and skills development, and work and livelihood options, and issuance and replacement of lost personal documentation; and
  - (ix) facilitation of family reunion.

### **Principle 15: Housing and livelihood**

- (a) States should respect, protect and fulfill the right to adequate housing of climate displaced persons experiencing displacement but who have not been relocated, which includes accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and non-discriminatory access to basic services (for example, health and education).
- (b) Where climate displacement results in the inability of climate displaced persons to return to previous sources of livelihood, appropriate measures should be taken to ensure such livelihoods can be continued in a sustainable manner and will not result in further displacement, and opportunities created by such measures should be available without discrimination of any kind.

### **Principle 16: Remedies and compensation**

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

## V. Post-Displacement and Return

### **Principle 17: Framework for return**

- (a) States should develop a framework for the process of return in the event that displacement is temporary and return to homes, lands or places of habitual residence is possible and agreed to by those affected.
- (b) States should allow climate displaced persons experiencing displacement to voluntarily return to their former homes, lands or places of habitual residence, and should facilitate their effective return in safety and with dignity, in circumstances where such homes, lands or places of habitual residence are habitable and where return does not pose significant risk to life or livelihood.
- (c) States should enable climate displaced persons to decide on whether to return to their homes, lands or places of habitual residence, and provide such persons with complete, objective, up-to-date and accurate information (including on physical, material and legal safety issues) necessary to exercise their right to freedom of movement and to choose their residence.
- (d) States should provide transitional assistance to individuals, households and communities during the process of return until livelihoods and access to services are restored.

## VI Implementation

### **Principle 18: Implementation and dissemination**

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

*Adopted by a group of eminent jurists, text writers, legal scholars and climate change experts in Red Hill on the Mornington Peninsula, Victoria, Australia on 18 August 2013*