



DISPLACEMENT SOLUTIONS



Climate Change, Human Rights and Forced Human Displacement

Meeting Report

Canberra, Australia

10 December 2008

Contents

Meeting Report

Annexure

1. Co-Chair Statement on Climate Change, Human Rights and Forced Human Displacement
2. Meeting Background Paper
3. Meeting Press Release
4. Meeting Agenda
5. List of Participants

Meeting Report

1. On 10 December 2008, Displacement Solutions and the United Nations High Commissioner for Refugees (UNHCR) co-hosted an international workshop on climate change, human rights and forced human displacement, to mark the 60th anniversary of the Universal Declaration of Human Rights. The meeting was held on the grounds of the Australian National University in Canberra, Australia and was made possible thanks to the generous support of the Foreign Ministry of Sweden. The meeting was co-Chaired by Scott Leckie (Director, Displacement Solutions) and Richard Towle (Regional Representative for Australia and the Pacific, UNHCR).

2. The meeting highlighted the risk of forced human displacement caused by climate change, and focused on the practical aspects of identifying solutions to climate-induced displacement by examining actual instances where viable solutions were already being explored, in particular those relating to housing, land and property (HLP) rights. The meeting was timely, taking place at the same time that global leaders were meeting to discuss climate change issues in Poznan, Poland, where the focus - as with virtually all global meetings on climate change - was principally on carbon emissions targets, with little if any consideration of displacement-related dimensions of the climate crisis. In focusing on the threat of displacement posed by climate change and the identification of practical approaches to this problem, the meeting was one of the first of its kind. Consistent with the mandate of Displacement Solutions, the meeting focused on practical policies to displacement caused by climate change.

3. The meeting brought together residents of communities already being directly affected by climate change-induced displacement, representatives of governments in affected countries and regional and donor countries, UN agencies, academic experts, legal experts and representatives of civil society. Through examining the situation in participating countries already experiencing climate change displacement, the meeting aimed to formulate practical recommendations and conclusions, as well as to draw wider linkages between climate change, forced displacement and human rights. The meeting took place at

a historical time when predictions of displacement likely to be caused by climate change range from 50 million to one billion in the coming decades. Though many presume climate-induced displacement to be largely a future phenomenon, the meeting clearly revealed that displacement due to climate change is already taking place in a variety of nations. As was increasingly clear as the meeting discussions expanded, action now is anything but premature.

4. Prior to the presentations and engaging discussions, meeting participants were requested to respond throughout the day to a series of questions designed to stir debate and bring policy analysis further. These questions were:

(1) The Rights of Forced Climate Migrants - What are they? Can these be enforced? Who is obligated to protect these rights?;

(2) What are the Specific Housing, Land and Property Rights Issues Concerned? - Do forced climate migrants have a right to land elsewhere? Can they expect to receive compensation if resettlement is unavoidable?;

(3) On Whose Door do Forced Climate Migrants Knock? - Are the institutions and structures currently in place to satisfactorily assist forced climate migrants in need of assistance? Who is obliged to protect and respect their rights, in particular their housing, land and property rights? What national agencies are in place to secure the rights of forced climate migrants?;

(4) Remain, Relocate or Resettlement? - How and when to choose the best rights-based option for forced climate migrants? Can land banking and creative uses of expropriation of land assist in preparing countries for climate-induced displacement?;

(5) Resettlement From PNG Atolls to Bougainville - How will this work in practice? Are new and creative options possible?;

(6) Re-establishing States on New Territory - Is this viable? Is it legal? Could it work with the good will of third countries? Do States have the right to exist?; and

(7) The Role of Third Countries - How can receiving countries best assist in securing the rights of forced climate migrants?

5. Representatives from the Cartaret Islands in Papua New Guinea (PNG), Tuvalu, Kiribati and the Maldives each gave detailed presentations on climate change-induced displacement in their countries and the particular hardships facing both those affected and the Governments responsible for securing the rights of all those threatened by the consequences of climate change. Each of these states have been particularly affected by rising sea levels and the threat of losing large swathes of their territory, as well as related problems such as lack of clean water, flooding, disease, and loss of traditional food sources, livelihoods and housing. They will, in fact, be among the first states in the world to lose large chunks of land - and in some cases *all* of their territory - due to rising sea levels. These nations will create the first large wave of forced climate migrants, and particularly in the case of PNG, displacement is already well underway where 6000 atoll dwellers are in the process of relocating to the island of Bougainville.

6. Each of these states have initiated national planning processes to respond to climate change, although the focus of these plans have tended to be on mitigation and adaptation to the environmental and ecological effects rather than on practical solutions for instances of climate-induced displacement. Relocation and resettlement have generally been seen as measures of last resort, with the availability of solutions for displacement being highly variable. Nonetheless, and despite this policy emphasis - which had been largely dictated by industrialised donor countries - valuable lessons have already been learned in terms of the policy planning and response processes due to the fact that displacement and relocation was already taking place in some areas.

7. In the Maldives, for example, the concept of establishing “safe islands” on higher ground as part of the climate change “adaptation” process was one that was considered by participants from other small island states to be a useful model to explore. Lessons-learned from the Maldives’ experience included:

a) Cost - measures such as land reclamation and construction of sea walls to create the safe islands were very costly and not likely to be sustainable;

b) Compensation - communities who were relocated demanded (and were granted) compensation for the loss of their lands and livelihoods;

c) Criteria for housing allocation - needed to be developed in order to ensure equal treatment;

d) Host community’s needs - resentment of the new arrivals among host communities was high which suggested that relocation to empty islands was preferable to relocation to already settled areas; and

e) Re-employment opportunities - lack of employment prospects presented a key problem in the resettlement islands.

8. Resettlement from the Carteret Islands to the neighbouring island of Bougainville in PNG which was currently underway also presented a number of lessons-learned, including:

a) Identification of land - allocation of sufficient land for relocation was critical. Much land in Bougainville was privately owned or subject to claims by traditional landowners, leaving little public land available to the government to ear-mark for resettlement. The Catholic Church had provided 81ha of land for resettlement, but this would only provide a very limited solution given the need for 1500ha for these purposes;

b) The role of affected communities - government efforts to support relocation had been stalled by the conflict/political situation in Bougainville, necessitating the affected communities themselves to play a direct role in orchestrating their own resettlement plan; and

c) Sustainable resettlement - some earlier resettlements had failed due to lack of livelihood opportunities for those relocated. The mere provision of a new house and garden was not sufficient to restore lives and livelihoods.

9. While the human dimension of rising sea levels in the small island states in the Pacific raised a series of complex challenges, participants generally saw the situation as a relatively

easier one to solve when contrasted to displacement likely to occur in poor coastal states such as Bangladesh, due to the comparatively small number of people who would be affected. In this sense, the human impact of the situation was more manageable than, say, the situation caused by melting glaciers, which was likely to affect many millions. Participants felt that the comparative manageability of the situation in the Pacific should provide an incentive to donors to identify funds for direct assistance to affected communities, as well as to support other policy measures aimed at creative solutions to the plight of those affected, in particular focusing on their HLP rights.

10. In terms of relocation options, the preference of all small island states represented was for resettlement *within their own borders*. Nonetheless, all acknowledged that the lack of sufficient safe land to accommodate all those likely to be affected by rising sea levels, as well as the eventual total disappearance of some states, meant that resettlement to other countries was probably inevitable. The focus by potential receiving resettlement states on “adaptation and mitigation” measures and their lack of willingness to discuss the issue of resettlement openly had led to various dramatic proposals at the political level, including a proposal by the President of Tuvalu for Australia to allocate some of its territory for the state of Tuvalu to be re-established, as well as a proposal by the Maldivian President to buy up large chunks of commercial real estate in other countries for the purposes of relocation. Kiribati had also proposed the creation of a UN treaty on climate change which would, among other things, bind states party to resettle affected communities. Many speakers referred to the emergence of community-based and other organisations that have initiated work on climate change, including Tucan and TANGO in Tuvalu which are working on adaptation issues.

11. These proposals opened up a number of complex questions under international law, including that of the role and value-added of a human rights approach, which were considered by a panel of academic experts and practitioners. Issues considered included:

a) The lack of a clear international regime of rights for forced climate change migrants, including definitional problems (e.g. internally displaced persons? migrants? refugees ? There was general recognition that the term ‘refugee’ was specific to another context of forced displacement, which is already subject to a clear set of international rules and obligations on states and should be avoided. It is important to prevent confusion and dilution of the regime of international refugee protection.

b) The lack of adequate international institutions and structures to deal with forced climate-change migrants;

c) The question of whether states have the right to exist and when and how a state ceases to exist, and the impact of this on states’ claims to re-establish territory elsewhere, as well as the potential status of its citizens as stateless (UNHCR noted that it was examining its role under its mandate for statelessness to address some of these issues); and

d) The role of law and the legal process in pushing forward solutions (e.g. a number of Pacific and other climate change affected States have proposed international legal cases against countries deemed most responsible for climate change).

12. While many of these issues remained unresolved, the panel of experts and other participants made a number of general recommendations:

a) The Need for High Quality, Long-Term and Rights-Based Planning - there was a critical need for all states, both those affected by climate change as well as donor/resettlement states, to draw-up plans to address displacement-related aspects of climate change. In this context it was noted that human rights law provided a useful framework, in that planning was a key human rights duty provided for under international law. The experience of Africa was cited, where a lack of planning had led to a dramatic increase in overcrowded urban slums.

b) Be Wary of the Dangers of Poor Resettlement - In addition, there had been considerable experience with resettlement around the world which provided valuable lessons-learned (as noted earlier, such as the need for sustainable resettlement and the need to reconstitute a society, not just to build new houses), which should be drawn upon so as not to repeat the mistakes of the past. It was also noted that, due to the lack of reliable scientific evidence on the timing and numbers likely to be affected, planning should focus on worst-case scenarios to ensure that adequate response mechanisms were in place. Particular attention needs to be placed on findings in the Maldives that relocation to empty territory tends to have the best results, given that this precludes any possible tensions with host communities. At the same time, it was recognised that relocation and resettlement to empty areas may not be feasible and that key factors in the success or failure of resettlement including site selection, settlement design, housing and participation are each vital in ensuring that proper resettlement takes place when no other options are available to those facing displacement. It was widely agreed that the "lost home syndrome" that commonly affects those facing involuntary resettlement in other contexts, can be reduced if people are afforded appropriate resettlement programmes that fully recognise and integrate their legitimate human rights.

c) Get the Human Displacement Dimensions of Climate Change onto the Political Agenda – The statement of one leader at the recent Pacific Island Forum that he had heard more about the impact of climate change on polar bears than on people provided an illustration of the lack of political attention to the issue. This focus also informed the emphasis by donor countries on adaptation and mitigation measures, at the expense of open discussion of and planning for resettlement. Some civil society participants noted that their advocacy efforts with key donor governments had been met with the response that “no one else was interested” in displacement and resettlement aspects of climate change, hence the donor government’s own lack of focus. Other donor countries had indicated their openness to addressing the issue but cited the lack of reliable data on the scope of the problem as a key obstacle. A useful forum for advocacy directed at highlighting these issues in the region would be the next Pacific Island Forum, which would be hosted by Australia in 2009. It was also recommended that UNHCR should consider whether it could also play a more active role in highlighting the displacement aspects of climate change, perhaps through conducting a study in the Pacific region on the scope of the problem and potential for solutions. It was also recommended that Pacific Island States “do their best” on climate change issues themselves, which would put them in a stronger position with stronger states to advocate for greater attention to the impact on affected communities. At the global level, consideration might also be given to supporting efforts to get the issue of climate change on

the agenda of the Security Council as a threat to global peace and security, using precedents such as the Security Council's consideration of internally displaced persons as a model;

d) Resources for HLP Rights Must be Mobilised Now - It was noted with some concern that there was a dearth of international resources devoted to addressing the impact of climate change on affected communities. Even the funds which had been pledged to initiatives such as the Global Adaptation Fund were vastly inadequate, and at present tended to be directed towards establishing structures within donor countries themselves to address climate change, rather than being directed to the countries and communities that were directly affected. Given the extensive costs associated with addressing displacement-related aspects, ranging from the allocation of land and housing for resettlement, to compensation and skills training for those relocated, there was a need to advocate with donor countries for the proper and adequate allocation of funds for this purpose; and

e) Promote Consultation with Affected Communities and Possible Host Communities - it was noted by several participants from affected islands that they felt that they were being ignored, both at the official governmental level and at the level of affected communities, on the question of the impact of climate change. It was therefore recommended that mechanisms be put in place to ensure consultation with affected communities at all levels, between donor and affected governments, local governments and affected communities, and donors and affected communities, to ensure the success of planning and response measures to address displacement-aspects of climate change.

13. In concluding the meeting, the Co-Chairs, Displacement Solutions and UNHCR, issued a Statement on climate change and displacement which summed up both organisations recommendations to governments in order to address the problem. Some of the main issues addressed in the Statement included the need to ensure that:

- All persons and communities affected by climate change, in particular those who are forced to flee their homes and lands, are afforded the respect and protection of the full spectrum of rights enshrined within the Universal Declaration on Human Rights and subsequent human rights treaties;
- Immediate measures be undertaken to identify available land and other appropriate resources for the purposes of relocating and resettling all forced climate migrants, both those displaced internally as well as those likely to seek resettlement in third countries;
- Intensive public consultations with communities currently or likely to be affected in the future by rising sea levels or other consequences of climate change are carried out, with a view to developing viable and practical plans to protect the rights of forced climate migrants, in particular their housing, land and property and related rights;
- Creative and innovative methods of identifying long-term relocation and resettlement options for forced climate migrants are explored, consistent with their housing, land, property and related rights, including land banking, setting aside policies for parcels of public land for future resettlement initiatives, progressive

usage of land expropriation for the purposes of resettling forced climate migrants, community land trusts, beneficial terms of financing for land purchases; and

- The rights of other populations affected by the forced displacement of climate change migrants, such as host or receiving communities in areas where climate change migrants are settled, are fully and adequately protected.

14. A considerable number of media interviews with participants, including those from climate-change affected islands, and stories on the meeting were broadcast on national and regional radio and television. This was a welcome development given the fact that the international meeting was taking place in Poland at the same time. Several of these are available at the DS at Work section of the Displacement Solutions website.

15. During their closing remarks, both Displacement Solutions and UNHCR expressed their sincere thanks to the Government of Sweden for providing the financial resources required to convene the meeting, and to all of the participants for their insightful and active participation. The hosts further expressed their hopes that this extremely interesting and stimulating gathering would constitute the first step in a series of ongoing efforts to find viable solutions for all of those displaced due to climate change. The Director of Displacement Solutions noted the intention of the organisation to establish a Climate Change and Displacement Unit in 2009 to provide added institutional focus on these issues.

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1. Co-Chair Statement on Climate Change, Human Rights and Forced Human Displacement

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1. Co-Chair Statement on Climate Change, Human Rights and Forced Human Displacement

On the occasion of the 60th Anniversary of the Universal Declaration of Human Rights, the co-chairs, Displacement Solutions and UNHCR, of the meeting on Climate Change, Human Rights and Forced Human Displacement, issue the following statement on Climate Change and Displacement:

The co-chairs of the meeting urge all interested and affected states to:

1. **Ensure** that all persons and communities affected by climate change, in particular those who are forced to flee their homes and lands, are afforded the respect and protection of the full spectrum of rights enshrined within the Universal Declaration on Human Rights and subsequent human rights treaties;
2. **Undertake** immediate measures to identify available land and other appropriate resources for the purposes of relocating and resettling all forced climate migrants, both those displaced internally as well as those likely to seek resettlement in third countries;
3. **Carry out** intensive public consultations with communities currently or likely to be affected in the future by rising sea levels or other consequences of climate change, with a view to developing viable and practical plans to protect the rights of forced climate migrants, in particular their housing, land and property and related rights;
4. **Develop** local, sub-regional, national, regional and international plans to ensure respect for and protection of the rights of forced climate migrants;
5. **Develop**, in full partnership, cooperation and consultation with communities affected by climate, policies, strategies and practical programmes that mitigate the worst effects and consequences of climate change on affected populations, and enable and empower such populations to adapt to changing environmental factors;
6. **Devote**, where mitigation and adaptation responses are likely to be insufficient per se, adequate resources, in particular financial resources, to practical measures designed to assist forced climate migrants to relocate and resettle in a manner consistent with their rights and in ways that secure for them an adequate standard of living and sustainable livelihoods;

7. **Explore** creative and innovative methods of identifying long-term relocation and resettlement options for forced climate migrants, consistent with their housing, land, property and related rights. In this regard, efforts should be made to explore options such as land banking, setting aside policies for parcels of public land for future resettlement initiatives, progressive usage of land expropriation for the purposes of resettling forced climate migrants, community land trusts, beneficial terms of financing for land purchases;

8. **Ensure** the rights of other populations affected by the forced displacement of climate change migrants, such as host or receiving communities in areas where climate change migrants are settled, are fully and adequately protected;

9. **Integrate** servicing costs into medium and long-term land banking initiatives, including planning, tenure and management, and including access to safe water and sanitation, infrastructure (social and physical); housing resources; environment and livelihoods; and

10. **Examine** how best to encourage forced climate migrants' access and usage rights to customarily held lands in countries where land is held under customary arrangements.

10 December 2008

Canberra, Australia

2. Meeting Background Paper



CLIMATE CHANGE, HUMAN RIGHTS and FORCED HUMAN DISPLACEMENT: CASE STUDIES as indicators of DURABLE SOLUTIONS

*On the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights
and International Human Rights Day, Canberra, 10 December 2008.*

MEETING PAPER

Summary

- The global discourse on the impact of climate change has thus far tended to focus on its environmental and ecological effects and the strategies and costs of mitigation and adaptation for affected states and their populations. Featuring less prominently in these debates is any practical assessment of the risk of forced human displacement¹ and required remedies and durable solutions both within and outside the physical territory of a sovereign state. This is despite the very real legal, political, economic, human security, human rights, public health and conflict related concerns that forced population displacement will induce. Whilst a range of mitigation and adaptation strategies are being developed in national

¹ There is, as yet, no consistent terminology to describe climate-induced displacement but some have suggested that terms such as "environmental refugee" or "climate refugee" should be discouraged as they could potentially undermine existing legal terms, state obligations and will create confusion. See: *Summary of IASC Expert Meeting on Migration/Displacement and Climate Change*, 15 September 2008, IOM Headquarters Geneva. Displacement Solutions has advocated the term "forced climate migrant".

and regional fora, some scenarios will unavoidably include forced human displacement and some form of relocation. This will impact both on the displaced populations themselves and the receiving communities in the places to which they relocate.

- The search for global, regional and national policy solutions and strategies is always better informed if empirical evidence and experience of affected populations is gathered at an early stage. Apart from the advantages that such ‘bottom-up’ empiricism may bring, this approach ensures that affected communities are involved from the outset in the strategies and plans that affect their lives and that they have a voice in shaping workable solutions for their futures.
- This Meeting Paper provides a brief background to an ‘invitation-only’ roundtable meeting convened jointly by Displacement Solutions, the Regional Office of the United Nations High Commissioner for Refugees and the Pacific Regional Office of UN Information Centre. It is an opportunity for interested parties to engage with representatives from affected atoll communities from four severely affected countries that are actively discussing forced population displacement and durable solutions to their plight.
- The conveners of the roundtable believe there is particular merit in looking at climate change, forced displacement and human rights through the particular lens of four case studies: the Carteret islands in Papua New Guinea, Tuvalu, Kiribati and the Maldives. Each of these has populations living on small island atolls who are currently facing severe challenges to cope with climate change on their home and livelihoods, ongoing displacement and the threat of future displacement (where adaptation and mitigation strategies and measures are unlikely to be sufficient).

- The meeting will attempt to address some of these questions, not from a high policy perspective but, through the lens of actual case studies in affected areas where solutions are being explored and tailored to the reality of affected populations. Such an approach has the advantage of bringing a practical and solutions-focussed perspective to inform wider policy debates that will become increasingly necessary in the region.
- These particular case-studies are significant in their own right but also will provide an empirical ‘entry point’ for consideration of the wider linkages between climate change, forced displacement and human rights of those affected.
- The timing of the meeting – *10th December: Human Rights Day and the 60th Anniversary of the Universal Declaration of Human Rights* – is, therefore, particularly appropriate given the important linkages between these themes.

1. The general context: the neglected human dimension of climate change impact

1.1 The global discourse on the impact of climate and environmental changes tends to focus on environmental and ecological effects and the direct economic costs of mitigation and adaptation for affected states and their populations. Featuring less prominently in these debates is any concrete assessment of the risk of forced human displacement both within and outside the physical territory of a sovereign state, and how to ensure durable, rights-based solutions to this growing spectre of climate change-induced displacement.

1.2 While predictions of the potential scale of displacement are fraught with difficulties, current estimates point to between 200 million and one billion people who may face the loss of home, land and livelihood in the 21st Century. Already in the Pacific region alone, island groups such as the Carteret, Morelock, Tasman (and other) atolls of Papua New Guinea, as well as Tuvalu, Kiribati and

Vanuatu have begun to register the impact of land lost to rising sea-levels, surge tides and salinisation of fresh water supplies.

1.3 Climate and environment change will test the very concept of state control over and management of territory and could lead, in the worst case scenario, to the prospect of conflict and even state failure. In these cases, the burden of displacement is likely to fall disproportionately on poorer areas, with corresponding claims for assistance, relief and durable solutions in areas that are least able to accommodate them.²

1.4 Apart from the direct impact on affected communities themselves, the prospect of mass human displacement raises serious concerns about land, shelter, resources and livelihood, and the need for minimising conflict and shortages arising from the need for adjustment by communities which will receive climate displaced populations. The cost and complexity of these rather obvious issues have been relatively neglected in the forecasts of economists, scientists and policy-makers. One consequence is the paucity of practical discussion of actual solutions to address these scenarios, in particular the specific housing, land and property rights options required for people forced from their homes due to the effects of climate and other environment-related changes.

1.5 Displacement has various manifestations, with varying legal and policy consequences. Analysis of these, generically and in relation to specific affected areas, is largely undeveloped. Some countries may lose their entire territory within one or two generations. Others may lose large proportions of land. Others

² "The case of "sinking" small island states caused by rising sea levels constitutes a particular challenge. As a consequence, such areas would become uninhabitable and in extreme cases the remaining territory of affected states could no longer accommodate the whole population or such states would disappear entirely. If and when this occurs, the population would be permanently displaced to other countries. Again, present international law leaves such persons in limbo. They are neither economic migrants nor refugees. It remains to be seen whether they will become stateless persons under international law and even if that is the case, current legal regimes are hardly sufficient to address their very specific needs ". See: *'The Climate Change – Displacement Nexus'*: Address by Prof. Walter Kälin, Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons, to ECOSOC Humanitarian affairs segment, 16 July 2008.

may not lose land, but nonetheless see remaining land affected by overcrowding, sea water seepage and other threats to sustainable livelihoods and (related to this Meeting), disputes over land holding. Climate-based displacement may result in:

- (i) **Temporary displacement:** a climate event such as a hurricane, flood, storm surge or tsunami but where people are able to return to their homes;
- (ii) **permanent local displacement:** groups are displaced locally, but on a permanent basis due to irreversible changes to their living environment, in particular sea-level rise, storm surges, coastal inundation and the lack of clean water. This form of displacement implies that localised displacement solutions will be available to this group, such as higher ground in the same locality;
- (iii) **permanent internal displacement:** where relocation is within the national borders but so far from the groups' original location that the move is permanent may involve an entire lifestyle and livelihood change (eg from coastal subsistence to inland town-dwelling);
- (iv) **permanent regional displacement:** where solutions within the national territory are non-existent or not possible (for whatever reason) and migrants must be received permanently in other countries in the region;
- (v) **permanent inter-continental displacement:** where no national and regional solutions are possible, and an internationally-coordinated relocation is required;
- (vi) **temporary regional or international displacement:** where groups are received temporarily while permanent solutions are negotiated and planned.

1.6 Each category, of course, has different policy and legal implications for governments and the international agencies and regional bodies that assume responsibility. Short-term policy responses would largely be similar to those already in place following many conflicts and disasters, and consist mainly of shelter programmes, forced climate migrant camps and settlements and other short-term measures, none of which are particularly desirable. Long-term policy responses would need to be grounded more comprehensively, including within a

framework addressing housing, property and land rights of both those relocated and the receiving communities and populations.

2. The specific context: actual displacement solutions (Pacific & Indian Ocean)

2.1 The particular value-added of this meeting is not simply to contribute to addressing, in this region, the human dimensions of people displaced by climate change. It is an opportunity for experts, policy-makers and donors to obtain a perspective that is both (i) grounded in actual case studies of currently affected atoll communities, and (ii) a positive, solution-focussed orientation. The case studies are of groups that, having decided that the imperative to move cannot be ignored, have taken the initiative to explore practical solutions within their local area. In particular, suggestions by the community of Carteret atoll of Papua New Guinea to relocate to mainland Bougainville, and the agreement of a local landowner and the autonomous local government to receive the displaced group, will be explored.

2.2 The meeting will also explore how the proposed case studies might be useful for mapping a way forward in other areas experiencing or likely to experience similar challenges in this or, indeed other regions; what housing, land and property rights issues are involved, and how these might differ across jurisdictions; what external actors and donors can do to assist with ensuring sustainable livelihoods and services; how the opportunities for a successful translocation and fulfilment of rights and needs can be maximised, while minimising disruptions to relocating and receiving communities, legal and property disputes, or the potential for conflict. Understanding the issues of customary land use and allocation in much of the Pacific will be particularly important in this regard.

3. Normative context: international frameworks and other regional initiatives

3.1 The meeting will take place against the backdrop of many regional and international initiatives to address the challenge of climate and environment

changes. The purpose of this meeting is to address particular case studies from the four countries concerned in the search for viable solutions that might have both practical application to similar case scenarios but also inform the shape and content of wider policy debates in the region, including some of the important regional and global fora currently assessing this complex issue.

3.2 As well as questions about whether the existing international institutional framework is sufficient to deal with the issue, there are unresolved questions concerning the proper legal characterisation and appropriate terminology to be applied to climate change-induced displaced persons. This has important ramifications for assigning responsibility to appropriate domestic and international institutions and agencies to address the rights and duties concerned. There are a range of other questions (for example, the role of the Global Adaptation Fund established during the 2007 Bali meetings, in relation to addressing the costs of human displacement in future).

3.3 Issues of climate change displacement need to be seen against, and synergized with, broader initiatives such as:

- The *UN Framework Convention on Climate Change* and its *Kyoto Protocol* and *Bali Action Plan*;
- The *Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States*;
- The *Pacific Islands Framework for Action on Climate Change* (2006-2015);
- The commitments made by Pacific Forum leaders in Niue on 19-20 August 2008 in particular:
 - a) The 2008 Forum Communiqué [clauses 10-14];
 - b) The Pacific Plan 2005 (in relation to climate change), which also deals with the interlinkages with land reform and broader security concerns, including migration and disenfranchisement and population displacement;

c) The Forum's 'Land Management and Conflict Minimisation Guiding Principles' (July 2008);

- The *Niue Declaration on Climate Change 2008* which refers not only to adaptation strategies but also economic and security threats and the possible need for relocation;
- The 19 August 2008 announcement by UN Secretary-General Ban Ki Moon of the establishment of an inter-agency climate change centre to support countries in the Pacific region; and various and evolving UN Interagency initiatives including, in exceptional circumstances, the possible role of UNHCR in its function to assist with avoiding or minimizing statelessness;
- Recent initiatives including the *Malé Declaration on the Human Dimension of Global Climate Change* (14 November 2007) have also cast the issue in terms of existing human rights principles and obligations;
- In March 2008 the UN Human Rights Council decided to investigate the issues of human rights and climate change
- In the UN context, the various policy issues relating to climate change and population displacement are now being actively discussed, including a Working Group of the UN Interagency Standing Committee (IASC) where UNHCR is directly involved.

3.4 The challenge lies in not only ensuring that a principled approach is accepted at a policy level, but that this is given content and clarity in terms of guidance and support for particular communities. Some guidance can be taken from existing instruments,³ recent policy work,⁴ and the general accumulated international legal framework including on socio-economic rights.⁵ To date, however, only limited attention has been placed on what might be the precise housing, land

³ The UN *Guiding Principles on the Rights of Internally Displaced Persons* (1998), *'Pinheiro' Principles on Housing and Property Restitution for Refugees and Displaced Persons* (2005) and the *Inter-Agency Standing Committee's Operational Guidelines on Human Rights and Natural Disasters* (2006) are all of assistance; although the applicability of many of these is something the subject of debate, some direction can also be drawn from general principles that can be discerned in the wider body of existing international law dealing with situations where persons are forcibly displaced or have sought refuge elsewhere.

⁴ For example, 'Climate Change and Human Rights' (International Council on Human Rights, Versoix, 2008).

⁵ For example, the explanation that 'victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere' *General Comment No. 4* (right to adequate housing) (1991), UN Committee on Economic, Social and Cultural Rights, para 8(e).

and property (HLP) and other rights claims of people displaced by climate change, or on the content of corresponding obligations (and the identity of the bearers of these duties) such as relevant state duties to respect, protect and fulfil the rights of those most heavily affected by climate change.

3.5 The Meeting may be to explore questions such as: the practical ramifications of such rights and principles at a local level and what acceptable and workable solutions can be devised, in consultation with affected groups and in good time.

4. Meeting Invitees

4.1 The Meeting is by invitation-only (less than 30 participants) and includes the following invitees:

- Representatives of some affected atolls of Papua New Guinea, including those where discussions about relocation are at a fairly advanced stage (and representatives of the proposed recipient government of Bougainville); representatives of other Pacific atoll and island communities, including Kiribati and Tuvalu; a high-level state official from Maldives responsible for the issue of relocation; and related diplomatic representatives in Canberra;
- The Regional Office of the United Nations High Commissioner for Refugees;
- A representative from the Pacific Islands Forum Secretariat, Suva;
- AusAID, NZAID and representatives of donor countries in Australia, including from Sweden (meeting donor);
- Academic experts including from the Centre for Climate Change Law and Policy, Australian National University, the University of New South Wales, and the International Commission of Jurists (Asia-Pacific);
- Representatives from certain interested civil society groups.
- Displacement Solutions, an independent non-profit organisation registered in Geneva, specialising in providing rights-based and innovative strategies for displaced populations.

5. Objectives of the Meeting and 'Way Forward'

5.1 **OBJECTIVE** – the principle objective of the roundtable meeting is to hear the experience of those involved in particular case studies of areas where climate change-related displacement is a reality and solutions are being negotiated. In addition to considering the case studies themselves (and the support needed for their successful implementation), this is an opportunity to set, from the 'bottom-up' rather than at a high level of abstraction and generality, a platform for ongoing discussions about similar solutions and strategies for analogous areas.

How Pacific islands and neighbouring states deal with climate change migrants and displacement solutions will inform the ongoing policy debates and, eventually the practice of other states not yet heavily affected by climate change. This may also contribute to broader discussions of these issues within the international community.

5.2 **WAYS FORWARD** - It is hoped that this meeting will provide impetus to a series of increasingly detailed discussions about how to best ensure practical and principled solutions for affected communities. Related strategies that the case studies may highlight include:

- Land banking and expropriation as possible domestic remedies: states might review public land holdings and domestic legislation as it relates to questions of expropriation of land. This is a complex issue with innumerable dimensions, and particularly sensitive in the land-scarce Pacific where much of the land is held communally. However, few Governments are structurally unable to at least begin the land identification process as a part of the planning process. Politically, it will be significant for Pacific nations to have demonstrated an attempt to resolve displacement issues locally before appeals for regional and other solutions take on significant weight.

- Can we develop the parameters for a country-by-country database on climate change-induced displacement? Everyone understands that Pacific Island nations will face and are facing the severe climate change-induced challenges. But what is known specifically about each country in terms of precise numbers of people affected, the size and scope of land thus far lost and likely to be lost; the variations in property law regimes and title issues; the resettlement, compensation and other policies that have been adopted to provide at least some measure of protection to these groups? Developing a country-by-country database outlining the precise effects on each country and the corresponding needs would assist in the formulation of appropriate policy and legal decisions in this region.
- What are attributes of an ideal domestic legal, policy and institutional framework to meet the needs and concerns of displaced and receiving communities, in an environmentally sustainable, economically viable manner consistent with international human rights standards?

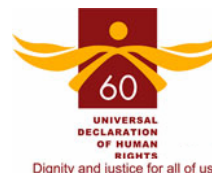
The Meeting is kindly made possible through a grant from the Ministry of Foreign of Affairs of Sweden.

3. Meeting Press Release

PRESS RELEASE



DISPLACEMENT SOLUTIONS



10 December 2008

"Millions of Forced Climate Migrants Will Need Durable Solutions"

On the occasion of the 60th Anniversary of the Universal Declaration on Human Rights, Displacement Solutions, the UN High Commissioner for Refugees and the United Nations Information Centre have today convened a high level meeting on the human rights of people displaced due to climate change. The meeting brings together representatives from several of the most severely affected small island states, including government officials from Tuvalu, Kiribati, Papua and New Guinea and the Maldives, as well as human rights, legal and other experts from throughout the international community.

The meeting focuses on the serious plight of people facing forced displacement from their homes and lands on small island states in the Pacific and Indian Oceans. Participants discussed practical situations where adaptation and mitigation strategies are not likely to be enough and where people now face the reality of forced displacement either within their own countries or across international borders. Experts emphasised the crucial importance of human rights, in particular housing, land and property rights, to assist affected populations.

According to Scott Leckie of Displacement Solutions "Everyone now understands that millions, perhaps even hundreds of millions, of people will face forced displacement due to climate change in the coming decades, and yet no Government - those directly affected and those that may eventually host forced climate migrants - have put into place the plans needed to ensure that the rights of forced climate migrants will be respected and protected. On this the 60th Anniversary of the Universal Declaration on Human Rights, it is remarkable that more has not yet been done to approach climate change from the perspective of the rights of those most directly affected, and we call on all States to promptly put concrete plans in place."

Climate change-induced displacement, though often viewed as a future event is already occurring in PNG, Tuvalu, the State of Alaska in the United States, throughout Africa and elsewhere.

In PNG alone, some 6000 atoll dwellers, including those residing in the Carteret Islands, are being forced to resettle to the neighbouring island of Bougainville due to inundation of their islands. Developing viable resettlement plans, including the identification of land resources on which this large group of forced climate migrants can resettle was a key discussion point in the 10 December gathering, held in Canberra.

Richard Towle, Regional Representative of the UN High Commissioner for Refugees, added "Although those displaced by climate change might not be classified as refugees under the 1951 Refugee Convention, they are clearly people whose human rights need to be protected. We need to act now if we are to find solutions for people whose homes, lands and livelihoods are being destroyed by rising sea levels and violent fluctuations in weather patterns in the region.' 'On this, the 60th Anniversary of the Universal Declaration of Human Rights, it is essential that we mobilise our combined efforts to protect the human rights of these vulnerable people' said Towle.

For Interviews: Mr Scott Leckie – Director, Displacement Solutions - 0400 388 345
Mr Rick Towle – Regional Representative, UNHCR - 0419 460 260

4. Meeting Agenda



DISPLACEMENT SOLUTIONS



Dignity and justice for all of us

CLIMATE CHANGE, HUMAN RIGHTS and FORCED HUMAN DISPLACEMENT: CASE STUDIES as indicators of DURABLE SOLUTIONS

*On the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights
and International Human Rights Day, Canberra, 10 December 2008.*

Venue: University House, Canberra

10 December 2008

AGENDA

09:00 Welcome, expectations & aims of the meeting, introduction of participants

Speaker: Scott Leckie (Director, Displacement Solutions)

Speaker: Rick Towle, (Regional Representative, UN High Commissioner for Refugees)

The Four Case Studies

09:30 - 10:15 Carteret Islands/Other PNG Atolls

Speaker: Ursula Rakova, Tulele Peisa Inc. (Carteret Islands), including a 10 minute video presentation

10:15 - 10:45 Tuvalu

Speaker: Solomona Lotoala (Government)

10:45 – 11:00 *TEA BREAK*

11:00 - 11:30 Kiribati

Speaker: Mr Betarim Rimon (Government Climate Change Adaptation Program)

11:30 – 12.00

Maldives

Speaker: Mr Simad Saeed (Climate Change expert)

12:00 - 12:30

Preliminary Discussion of Themes from the Four Case Studies

12:30 - 13:30

LUNCH

Towards Viable, Concrete and Rights-Based Solutions

13:30 - 15:00

PANEL – Discussion of issues raised in the four case studies, in the context of international institutional and legal issues, programme support and donor points-of-entry, and open discussion - Facilitator: Scott Leckie (DS)

Speakers: Dr. Jane McAdam (University of NSW), Dan Lewis (UN Habitat Programme), Anthony Oliver-Smith (University of Florida), Damien Lawson (Friends of the Earth) and Nic Maclellan (Oxfam)

With contributions and comments from all participants

15:00 – 15:15

TEA BREAK

Where To Go From Here?

15.15 - 16:45

From Concepts to Real Solutions: An exchange of views among all participants to address the main themes of the day, including:

(1) The Rights of Forced Climate Migrants - What are they? Can these be enforced? Who is obligated to protect these rights?

(2) What are the Specific Housing, Land and Property Rights Issues Concerned? - Do forced climate migrants have a right to land elsewhere? Can they expect to receive compensation if resettlement is unavoidable?

(3) On Whose Door do Forced Climate Migrants Knock? - Are the institutions and structures currently in place to satisfactorily assist forced climate migrants in need of assistance? Who is obliged to protect and respect their rights, in particular their housing, land and property rights? What national agencies are in place to secure the rights of forced climate migrants?

(4) Remain, Relocate or Resettlement - How and when to choose the best rights-based option for forced climate migrants? Can land banking and creative uses of expropriation of land assist in preparing countries for climate-induced displacement?

(5) Resettlement From PNG Atolls to Bougainville - How will this work in practice? Are new and creative options possible?

(6) Re-establishing States on New Territory - Is this viable? Is it legal? Could it work with the good will of third countries? Do States have the right to exist?

(7) The Role of Third Countries - How can receiving countries best assist in securing the rights of forced climate migrants?

16:45

Closing remarks and Human Rights Day message

17:00

Meeting Closes and Reception

5. List of Participants

Co-organisers

Scott Leckie - Director, *Displacement Solutions (DS)*

Rick Towle - Pacific Regional Representative, *UN High Commissioner for Refugees (UNHCR)*

Participants

Amica Adams, *AusAid*

Stephen Brancatisano, *Australia Department of Foreign Affairs and Trade (DFAT)*

Steve Burns, *Australia Department of Climate Change*

Bruce Bursen, *Independent Consultant*

Mike Forster, *Bougainvillian Landowner*

William Hilton-Thorp, *AusAid*

Alexandra Kaur Bhathal, *Curtin University*

Dr Lesi Korovala, *United Nations Climate Advisor*

Damien Lawson, *Friends of the Earth (FOE)*

Dan Lewis, Chief, *UN Habitat*

Solomona Lotoala, *Representative of the Government of Tuvalu*

Prof. Jane McAdam, *Department of Law, University of New South Wales*

Nic Maclellan, *OXFAM*

Tiffany McDonald, DFAT

Brett Negus, *AusAid*

Jennifer Noble, *AusAid*

Roger Normand, Director, *International Commission of Jurists (ICJ) Asia and Pacific Office*

Anthony R. Oliver Smith, Professor of Anthropology, *University of Florida*

Lina Persson, Intern, *Embassy of Sweden*

Kapeatu Puaria, *Bougainville Autonomous Government*

Linda Rademakers, *ACFID*

Ursula Rakova, Director, *Tulele Peisa Inc*

Mr Betarim Rimon, *Representative of the Government of Kiribati*

Simad Saeed, *Maldivian Climate Change Expert*

Tony Simpson, *International Commission of Jurists*

Chris Stokes, *AusAid*

Lailey Wallace, *Displacement Solutions*

Kirsten Young, *Displacement Solutions*