**Call for inputs on addressing the human rights implications of climate change displacement including legal protection of people displaced across international borders**

**Special Rapporteur on the promotion and protect of human rights**
**in the context of climate change**

**Submitted by The Advocates for Human Rights,**

a non-governmental organization in special consultative status with ECOSOC since 1996

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications.

The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States, last year providing legal assistance to approximately 3,000 asylum seekers, trafficking survivors, unaccompanied children, and detained migrants. The Advocates is also committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence.

1. **INTRODUCTION**
2. The Advocates welcomes this opportunity to inform the Special Rapporteur’s report on addressing the human rights implications of climate change displacement, including legal protection of people displaced across international borders.
3. People move, and when people move with dignity, the world is a more just, safe, and peaceful place. Climate change has long been a factor in human migration. Migration is part of the solution and reflects human beings’ ability to adapt to climate change. International legal frameworks must support migration policy that adheres to human rights standards and fosters safe, orderly, and regular migration, rather than perpetuating policies rooted in framing migration as a threat.
4. **LEGAL FRAMEWORKS ADDRESSING MIGRATION MUST ENSURE PEOPLE CAN MOVE WITH SAFETY AND DIGNITY AS CLIMATE CHANGES**
5. International and State legal frameworks addressing migration must ensure human dignity in their design and implementation. Too often, however, policy responses to migration center containment, exclusion, surveillance, detention, and expulsion, and result in human rights violations. Immigration laws in the United States, for example, retain the frameworks of colonialism, racism, and xenophobia[[1]](#footnote-2) and disproportionately focus on immigration enforcement rather than adjudication or integration.[[2]](#footnote-3)
6. Governments can and must manage climate-related migration challenges by creating flexible and sufficient pathways for safe, orderly, and regular migration and by cooperating in their implementation. Many national immigration policies, including those of countries which have economically benefitted from industries responsible for climate change, continue to have few channels for migration. U.S. immigration law, for example, places outdated limits on the number of people who can immigrate and limits most immigration to people within narrow categories of close family relationships or employers.
7. People displaced by climate impacts are also often displaced by other economic, political, and social reasons: the political situation and economic conditions in many places of the world are deeply embedded in the environment. States must recommit to ensuring protection under the UN Refugee Convention and ensure that protection is provided in situations when migration is propelled by an intersection of climate and Convention-protected grounds.
8. Environmental human rights defenders operate at precisely this intersection. Defending the environment against the climate crisis, where opportunity to profit may propel rapid, unsustainable, and illegal exploitation of land and natural resources, is dangerous. Global Witness has reported that more than four defenders died per week, with a third of all fatal attacks targeting indigenous people, even though they make up only 5% of the world’s population.[[3]](#footnote-4) The Business & Human Rights Resource Centre reports that in 2021, 70% of the 122 reported attacks on human rights defenders were attacks on *women* environmental human rights defenders (WEHRDs).[[4]](#footnote-5)
9. Complementary protections must be in place to ensure that people who fall outside the scope of Refugee Convention protection are not returned to human rights violations. As OCHCR recognizes, “the prohibition of *refoulement* under international law applies to any form of removal or transfer of persons, regardless of their status, where there are substantial grounds for believing that the returnee would be at risk of irreparable harm upon return on account of torture, ill-treatment or other serious breaches of human rights obligations.”[[5]](#footnote-6) Nonetheless, The Advocates regularly sees people deported to serious human rights violations when they are determined to fall outside Convention protection. Limited complementary protections offer little predictable protection. For example, U.S. law allows for designation of Temporary Protected Status in cases of environmental disasters, but only when disruption is temporary and exclusively at the discretion of a politically appointed official.[[6]](#footnote-7)

1. **VIOLENCE AGAINST WOMEN AND GIRLS IN THE CONTEXT OF CLIMATE CHANGE**
2. Climate change is a violence against women (VAWG) accelerant and policies addressing climate related migration must protect women and girls from violence.
3. Intimate partner violence increased by an estimated 40% in rural areas after the 2011 Christchurch earthquake in New Zealand.[[7]](#footnote-8) Following two 2011 tropical cyclones in Vanuatu, new domestic violence cases increased 300%.[[8]](#footnote-9) In Spain, “heat waves between 2008 and 2016 were associated with increased intimate partner violence risk… and intimate partner femicide…, one to three days after the extreme heat event. In the USA, exposure to Hurricane Ike in 2008 was significantly associated with increasing the odds of boys physically… or sexually assaulting dating partners, while exposure to Hurricane Katrina increased the risk of women experiencing violent acts by intimate partners by 5-8 times.”[[9]](#footnote-10) In India, “the odds of intimate partner violence was much higher among women living in states severely … or moderately… affected by tsunamis compared with those living in an unaffected state.”[[10]](#footnote-11)
4. Other gender-based violence also surges in the wake of natural disasters. A recent study[[11]](#footnote-12) found growing evidence of “VAWG during and after disasters, including violence by a non-partner, of intimate partner, rape, sexual assault, as well as female genital mutilation, honor killings and the trafficking of women.”[[12]](#footnote-13) Driven by economic necessity, women and girls may engage in survival sex for basics like food.[[13]](#footnote-14) Economic desperation in response to disasters and resource scarcity is linked to increases in child marriages where girls are bartered for material resources, as confirmed by studies across South Asia and Iran.[[14]](#footnote-15)
5. Women environmental human rights defenders face particularized threats, including violence against them because of their work to safeguard the earth for future generations. Rape, sexual harassment, and abuse are used to exercise power over women[[15]](#footnote-16) as are threats of rape and sexual abuse, alone or in conjunction with death threats and threats to their children.[[16]](#footnote-17) WEHRDs also are “more likely to be slandered, discredited and exposed to stigmatization, exclusion and public repudiation by state actors and corporations, as well as members of their own communities.”[[17]](#footnote-18) Women struggle to defend their right to speak within their communities and families,[[18]](#footnote-19) while ICUN points to enormous contributions of WEHRDs, especially indigenous women, against increasing and relentless violence, especially against indigenous women.[[19]](#footnote-20) The Advocates has received direct information from a WEHRD in Turkey, who reports that police attend and record their every meeting and demonstration, false accusations are levied to discredit her, and she has had to defend herself against charges of espionage.[[20]](#footnote-21) With murders of fellow environmentalists, she worries “we are really in danger.”[[21]](#footnote-22)

III. **RECOMMENDATIONS**

1. States and international organizations, as a priority, must assure migrants’ effective participation in climate change-related decision-making, and climate change mitigation and adaption at all levels (including migration policy). States must consult with and include migrants in the development and execution of climate change, environmental disaster, and migration policies and responses. It is crucial to ensure migrants’ full participation in political and public policy decision-making processes.
2. Political commitments made in the Global Compact for Safe, Orderly and Regular Migration, which recognize climate migration and have the potential to encourage governments to expand legal pathways to safety for climate migrants, must be transformed into legal obligations.
3. States must develop flexible migration frameworks that facilitate safe, orderly, and regular migration, provide meaningful defenses to expulsion, and create avenues for moving into lawful immigration status once in a country.
4. States must recommit to ensuring protection under the UN Refugee Convention and ensure that protection is provided in situations when migration is propelled by an intersection of climate and Convention-protected grounds. The UN Refugee Convention should remain focused on protecting against targeted persecution.
5. States must create mechanisms to prevent *refoulement* in violation of international human rights law obligations, including and beyond those enumerated in the UN Refugee Convention.
6. A complementary protection framework must be developed to ensure people displaced by climate can live with safety, stability, and dignity.
7. States and international organizations, as a priority, must assure women’s effective participation in climate change-related decision-making, and climate change mitigation and adaption at all levels (including disaster risk reduction), starting by fully integrating SDG 5.[[22]](#footnote-23) States must consult with and include women and those organizations serving women victims of violence in the development and execution of climate change and environmental disaster policies and responses. It is crucial to ensure women’s full participation in political and public policy decision-making processes.
8. In the wake of climate events, carry out participatory consultations with women, girls, and communities to identify emerging risks, changing contexts, and impacts on daily behaviors. Such consultations should also aim toward improving the understanding of how climate events affect gender inequalities and change how women and men use or interact with natural resources.
9. Implement studies of VAWG in climate crisis disasters, and climate-driven internal and cross-border migration, particularly on specific issues such as the trafficking of IDPs, with a view to understanding the unique challenges, risks, and needs for women and girls. Build and adapt services and infrastructure for women survivors of violence and trafficking that are accessible and flexible to remain accessible during climate-driven events and migration.

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1. *See, e.g.*, Black Alliance for Just Immigration, et al., “Anti-Black discrimination against non-citizens and ongoing violations of international protections for migrants, refugees, and asylum seekers of African descent,” <https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT_CERD_NGO_USA_49305_E.pdf> (providing a concise summary of historical and continuing racism in U.S. immigration law). [↑](#footnote-ref-2)
2. See, e.g., American Immigration Council, “The Cost of Immigrant Enforcement and Border Security,” <https://www.americanimmigrationcouncil.org/research/the-cost-of-immigration-enforcement-and-border-security>. [↑](#footnote-ref-3)
3. Global Witness, "Last Line of Defence:The industries causing the climate crisis and attacks against land and environmental defenders," *Global Witness* (September, 2021): 12. [↑](#footnote-ref-4)
4. Business & Human Rights Centre, "International Women's Day 2022: Recognising the role of women in advancing human rights & defending the planet," *Business & Human Rights Centre* (February 28, 2022), https://www.business-humanrights.org/en/latest-news/international-womens-day-2022-recognising-the-role-of-women-in-advancing-human-rights-defending-the-planet/. [↑](#footnote-ref-5)
5. Office of the High Commissioner for Human Rights, “The principle of non-refoulement under international human rights law,” <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf> [↑](#footnote-ref-6)
6. 8 U.S.C. sec. 1254a (2022). [↑](#footnote-ref-7)
7. Alyssa Mari Thurston, Heidi Stöckl, and Meghna Ranganathan, "Natural hazards, disasters and violence against women and girls: a global mixed-methods systematic review," *BMJ Global Health* 6, no. 4 (2021): 2,https://doi.org/10.1136/bmjgh-2020-004377, http://gh.bmj.com/content/6/4/e004377.abstract. [↑](#footnote-ref-8)
8. Itzá Castañeda Camey, *Gender-based violence and environment linkages*, 139; Cate Owren, *Understanding and addressing gender-based violence as part of the climate emergency* ed. Expert Group Meeting, vol. EGM/ENV/EP.8,, Achieving gender equality and the empowerment of all women and girls in the context of climate change, environmental and disaster risk reduction polices and programmes 11-14 October 2021, (UN Women, September 2021 ), 3 (both citing a 2014 UN Study). [↑](#footnote-ref-9)
9. Thurston, Stöckl, and Ranganathan, "Natural hazards, disasters and violence against women and girls: a global mixed-methods systematic review," 2 (citing studies). [↑](#footnote-ref-10)
10. Thurston, Stöckl, and Ranganathan, "Natural hazards, disasters and violence against women and girls: a global mixed-methods systematic review," 4 (citing to studies). [↑](#footnote-ref-11)
11. Thurston, Stöckl, and Ranganathan, "Natural hazards, disasters and violence against women and girls: a global mixed-methods systematic review." The study explains its rigorous methodology that eliminated reviews and studies that did not fulfill its inclusion criteria [↑](#footnote-ref-12)
12. Thurston, Stöckl, and Ranganathan, "Natural hazards, disasters and violence against women and girls: a global mixed-methods systematic review," 2. [↑](#footnote-ref-13)
13. Owren, *Understanding and addressing gender-based violence as part of the climate emergency* EGM/ENV/EP.8,, 4; Thurston, Stöckl, and Ranganathan, "Natural hazards, disasters and violence against women and girls: a global mixed-methods systematic review," 16. [↑](#footnote-ref-14)
14. Thurston, Stöckl, and Ranganathan, "Natural hazards, disasters and violence against women and girls: a global mixed-methods systematic review," 16 (citing various studies). [↑](#footnote-ref-15)
15. Inmaculada Barcia, *Women Human Rights Defenders Confronting Extractive Industries An Overview of Critical Risks and Human Rights Obligations* (The Association for Women’s Rights in Development (AWID), The Women Human Rights Defenders International Coalition (WHRDIC) 2017). https://www.awid.org/sites/default/files/atoms/files/whrds-confronting\_extractive\_industries\_report-eng.pdf. [↑](#footnote-ref-16)
16. Barcia, *Women Human Rights Defenders Confronting Extractive Industries An Overview of Critical Risks and Human Rights Obligations*; Global Witness, "LAST LINE OF DEFENCE:The industries causing the climate crisis and attacks against land and environmental defenders." [↑](#footnote-ref-17)
17. Barcia, *Women Human Rights Defenders Confronting Extractive Industries An Overview of Critical Risks and Human Rights Obligations*. [↑](#footnote-ref-18)
18. Global Witness, "LAST LINE OF DEFENCE:The industries causing the climate crisis and attacks against land and environmental defenders," 12. [↑](#footnote-ref-19)
19. Itzá Castañeda Camey, *Gender-based violence and environment linkages*, 162-76. [↑](#footnote-ref-20)
20. "The Advocates for Human Rights Interview with Turkish Woman Environmental Human Rights Defender," *Turkish Environmental Defender* (February 22, 2022). [↑](#footnote-ref-21)
21. Id. [↑](#footnote-ref-22)
22. Mary Picard, *Empowering Women in Climate, Environment and Disaster Risk Governance: from National Policy to Local Action* vol. EGM/ENV/BP.1, Expert Group Meeting Achieving gender equality and the empowerment of all women and girls in the context of climate change, environmental and disaster risk reduction policies and programmes 11-14 October 2021, (UN Women September 2021). https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/66/EGM/Background%20Papers/Mary%20PICARD\_CSW66%20Background%20Paper.pdf. [↑](#footnote-ref-23)