

**Call for inputs**

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

**“Addressing the human rights implications of climate change displacement including legal protection of people displaced across international borders”**

**Purpose**

To inform the Special Rapporteur on the promotion and protection of human rights in the context of climate change’s report on addressing the human rights implications of climate change displacement including legal protection of people displaced across international bordersto be presented to the 53rd Session of the Human Rights Council in 2023.

**Background**

One of the thematic issues identified by the UN Special Rapporteur relates to addressing the human rights implications of climate change displacement including legal protection of people displaced across international borders.

The United Nations Refugee Agency (UNHCR) estimates[[1]](#footnote-1) that global forced displacement has surpassed 84 million at mid-2021. As of end of 2020, 49 million are internally displaced people and an estimated 35 million (42 per cent) of the 82.4 million forcibly displaced people are children below 18 years of age.

According to the Internal Displacement Monitoring Centre data[[2]](#footnote-2), nearly 1,900 disasters triggered 24.9 million new displacements across 140 countries and territories in 2019. This is the highest figure recorded since 2012 and three times the number of displacements caused by conflict and violence.

Displaced people are often portrayed as victims of slow-onset events in need of assistance and protection, but the literature also provides examples of how they can be drivers of community-based solutions. For many communities, return is a desirable durable solution, but it is less likely in situations where slow-onset climate processes are at play because they tend to be all but irreversible.

In response, a case concerning the deportation of a Kiribati citizen from New Zealand who claimed to be a climate change refugee, the Human Rights Committee held the view[[3]](#footnote-3) that the facts before it do not permit it to conclude that the author’s removal to Kiribati violated his rights under article 6 (1) of the International Covenant on Civil and Political Rights.

It would appear apparent from this finding and the findings of the national court that initially heard the case, that persons displaced across international borders are not defined as refugees under the 1951 UN Refugee Convention. Subsequently there appears to be no legal definition for a climate change refugee.

Consequently, there are limited legal protections for people displaced across international borders as a consequence of being forcibly displaced by climate change. This means that these people may be deprived of their human rights and makes them prone to exploitation and suffering. Women and children and persons with disabilities may be particularly vulnerable to such circumstances. Furthermore, a recent statement by special procedures mandate-holders which the Special Rapporteur joined noted with alarm that among 84 million people who are currently forcibly displaced worldwide, lesbian, gay, bisexual, trans and gender diverse (LGBT) persons are particularly vulnerable and marginalized. Fleeing persecution and socio-economic exclusion, they often reside in countries that do not provide strong human rights protections or actively discriminate based on sexual orientation and gender identity.

In light of these recent findings, it is important to explore options and respond to the need for urgent responses to the climate change displacement. In particular, it is important to understand and find legal remedies and redress for individuals and communities displaced by climate change.

**Legal options to provide human rights protections for people displaced by climate change**

Consistent with the mandate, the Special Rapporteur is exploring legal actions to provide appropriate human rights protections for people displaced by climate change. This includes people internally displaced within their own country and those that are displaced across international borders as a consequence of climate change. Specific considerations will be given to individuals and communities displaced as a consequence of climate change, namely: women, children, persons with disabilities, indigenous peoples, local communities, peasants and other people working in rural areas, people living in conditions of water scarcity, drought and desertification, persons belonging to minority groups, homeless persons, persons living in poverty, older persons, migrants, refugees and internally displaced persons, those living in conflict areas and those already in vulnerable situations, and the importance of recognizing their agency in contributing to climate action.

**Questionnaire**

The Special Rapporteur is therefore, seeking input from States, business enterprises, civil society organizations and intergovernmental organizations on what legal actions are necessary to protect the rights of individuals and communities displaced by the impacts of climate change.

The Special Rapporteur invites and welcomes answers to the following questions:

1. What experiences and examples are you aware of, of individuals or communities, displaced by climate change?

**Manipur, one of the Northeastern state of India is facing flash flood and drought since decades.Total annual precipitation is increasing throughout the State. As evident from the last 30 years’ climate data analysis, precipitation rate in northern parts is expected to increase.Greenhouse gas emissions have also increased in Manipur from 1980 to 2005. During the month of May & June of this year, most of the districts of Manipur experienced flash flood and destroyed hectares of standing crops, houses were submerged and leaves many displaced. It could also noted that in 2018, as per the data of National Disaster Management Authority of India, Manipur witnessed the loss of 9 lives, and floods have damaged around 55,000 houses with the greatest number being Manipur’s (17,846). The climate change worsely affect the livelihood of the people and leaves them to displaced from their own ancestral land. Recently, in the end of June, 2022 Manipur witnessed massive and tragedic landslides in the Maranching village, Noney district which took many lives and Ejei river were blocked by the debris. It could also be noted that due to the construction of railway tunnel, several families in the villages of Kambiron, Noney and Khumji in Manipur’s Noney district have been displaced without any proper resettlement or rehabilitation packages.**

**The state of Assam faced worst floods and landslides during the month of June, 2022. Around 19 lakh people have been affected across 32 districts and 55 have died in devastating floods in Assam caused by incessant rainfall, with these deaths, the toll in this year’s flood and landslides rose to 101. More than 1.08 lakh people was taken shelter in 373 relief camps across the state as landslides had been reported in Dima Hasao, Goalpara, Morigaon, Kamrup and Kamrup (Metropolitan) districts. Among the worst-affected districts is**

**Barpeta where 11,29,390 people are suffering, Kamrup where 7,89,496 people are affected, and Dhubri where 5,97,153 people are hit by the devastation. Almost 40 villages in the Bhuragaon circle have been lost due to erosion and swept away by the mighty Brahmaputra River. Thousands of internally displaced climate refugees are still living in worse without any justice for those climate victims.**

1. Do you think there are differences between the notion of climate change migrants and people displaced by climate change? If yes, what are these differences?

**NO**

1. What legislation, policies and practices are you aware of that are in place to give protection to the rights of individual and communities displaced by climate change.

**India has no national policy and legal mechanism to deal with either climate refugees or IDPs, except for the National Disasters Management Authority and States Disaster Management Authority under the Disaster Management Act, 2005 and other one is The Land Acquisition Act, 2013,**

1. Please provide examples of policies, practices and legal remedies and concepts of how States, business enterprises, civil society and intergovernmental organizations can provide protection for people and communities displaced by climate change.

**The best practices which could be adopted is the practices used by the Indigenous Peoples since time immemorial on forest management and other sustainable practices. The best solution is to have a in-depth participation of the Indigenous Peoples in the discussion process prior to the framing of laws and policies in all levels.**

1. What international, regional and national policies and legal approaches are necessary to protect people and communities displaced by climate change?

**The proper implementation of National and International Policies at the grassroot level is very important. There are many framework and policies which is very good, however, the when it comes to the implementation the frameworks remains as a framework in the paper. Eg: National Action Plan on Climate Change of India. Proper allocation of budget is also in need of the hour.**

1. Please provide separate considerations for people or communities internally displaced and those displaced across international borders.

**It is very important to recommend the member states to adopt policies related to refugee or displaced people for those states who have not adopted the same so as the problems of people living at the boundaries of the national borders could be addressed to some extent.**

1. What do you understand by the concept of “climate change refugee”? Do you think that the UN Refugee Convention should include a separate category for climate change refugees? How do you think this would work? What other legal options may be possible?

**The Climate Change Refugees are those people affected by the emerging climate crisis and are displaced due to unpredicted weather conditions. Could be due to typhoons, floods, massive land slides, etc. Therefore, it is very important to insert separate category for the climate change refugees in the UN Refugees Convention.**

1. Should separate and particular considerations be given to indigenous peoples with respect to climate change displacement? What are these particular considerations?

**Indigenous Peoples are mostly affected due to various developmental unsustainable projects which produces large GHG due to construction of dams, large scale deforestation for Agri business, Animal Husbandry, extraction of Natural resources etc. These large scale forest which have been destroyed by the corporates must be held accountable for affecting the livelihood of the Indigenous Peoples. Therefore, separate consideration such as full participation in all levels of consultation of the development must be assured.**

**Submission of responses**

We strongly encourage you to please send your responses to the questionnaire in Word format **by email** to: hrc-sr-climatechange@un.org

We kindly request that your submission be concise and limited to a maximum of
5 pages (or 2,500 words), not including appendices or attachments. Due to a limited capacity for translation, we also request that your inputs be submitted in English, French, or Spanish.

**The deadline for submission is 10 November 2022.**

All submissions will be made publicly availableand posted on the Special Rapporteur’s homepage at the OHCHR website.

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1. UNHCR, 2021-2022, Refugee Data Finder, URL: https://www.unhcr.org/refugee-statistics/ [↑](#footnote-ref-1)
2. Internal Displacement Monitoring Centre, 2021, Global Report on Internal Displacement, 2020: https://www.internal-displacement.org/global-report/grid2020/ [↑](#footnote-ref-2)
3. Human Rights Committee, 2020, [Views](https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsjvfIjqiI84ZFd1DNP1S9EKG9gxBGj9kie9DBbO0eH5N3hhnsj%2fmXyyUMRGqAMBUPEmGiVv1l5ueyf40YfsDu0dp9yZLW4jePTIgY0yjbRLV1mhxrLmEomP8%2bgyRbPvKRQ%3d%3d) adopted by the Committee under article 5 (4) of the Optional Protocol concerning communication No. 2728/2016, CCPR/C/127/D/2728/2016 [↑](#footnote-ref-3)