



27 March 2024

Dear Ms Gaviria-Betancur,

### **Report on planned relocations in the context of climate change and disasters**

The Andrew & Renata Kaldor Centre for International Refugee Law at UNSW Sydney welcomes the opportunity to provide input for your forthcoming report on planned relocations in the context of climate change and disasters.

The Kaldor Centre is the world's first and only research centre dedicated to the study of international refugee law. The Centre was established in October 2013 to undertake rigorous research to support the development of legal, sustainable, and humane solutions for displaced people, and to contribute to public policy involving the most pressing displacement issues in Australia, the Asia-Pacific region and the world. A core area of the Centre's expertise is mobility in the context of climate change and disasters, including detailed work on planned relocations over many years.

### **Recommendations**

We believe it would be helpful for your report to:

- Recognise planned relocation in the context of climate change and disasters as an important human rights issue requiring further attention;
- Highlight the importance of learning lessons from diverse previous experiences of planned relocation processes and outcomes (see *Leaving Place, Restoring Home* report below);
- Bring together the existing practice, literature and guidance on planned relocations to establish a baseline for human rights issues that arise and their implications;
- Stress the need for a clear and authoritative set of human-rights based guidelines on planned relocations, informed by the wealth of existing practice, research and guidance, including relevant instruments such as the *Guiding Principles on Internal Displacement* (see *Sydney Declaration* below);
- Emphasise the need for clear and specific recommendations to governments about anticipating, planning for and carrying out planned relocations (see *Kaldor Centre Principles on Climate Mobility* below)

In relation to these priorities, we are pleased to share three key publications with you. Each provides practical, policy and legal guidance.

Please do not hesitate to contact us if we can be of further assistance.

Yours sincerely,

Professor Jane McAdam AO, Dr Tamara Wood, Erica Bower and Sanjula Weerasinghe

1. [Sydney Declaration of Principles on the Protection of Persons Displaced in the context of Sea Level Rise](#) (and Commentary)<sup>1</sup>

The *Sydney Declaration* was drafted by the International Law Association Committee on International Law and Sea Level Rise, led by Professor Jane McAdam (then Co-Rapporteur), Professor Walter Kälin and Bruce Burson. The *Sydney Declaration* sets out a series of principles on human mobility in the context of sea-level rise that codify and progressively develop relevant norms of international law, accompanied by a Commentary. Principle 6 focuses on planned relocations; it is set out below, along with the accompanying Commentary.<sup>2</sup>

**Principle 6 – Planned Relocations of Affected Persons**

1. *States affected by sea level rise shall only undertake planned relocations (whether within their territories or across international borders) when so requested by affected persons and communities, or when conducted with their full, free, and informed consent.*
2. *Where, despite the provision of adequate information and consultation, such consent cannot be obtained, planned relocations must only be undertaken as a measure of last resort to safeguard the lives and safety of those affected. They must be based on national law and implemented in accordance with relevant international legal standards.*
3. *Planned relocations shall be implemented in ways that safeguard the human rights and dignity of those who move, including the principle of family unity, as well as the human rights and dignity of those who receive relocated persons.*
4. *Given their significance for indigenous peoples, States undertaking planned relocation shall respect and protect their rights to self-determination, culture, identity, land, and resources.*
5. *Persons affected by a planned relocation, including those who receive relocated persons, must be informed, consulted, allowed, and enabled to participate in all relevant decision-making processes.*
6. *At a minimum, persons' pre-relocation living standards must be restored post-relocation.*

**Commentary**

As a preventive measure, planned relocations can help persons move away from dangerous areas in advance of anticipated disasters or longer-term environmental degradation. They may provide a durable solution for persons who were displaced or evacuated in the context of a sudden-onset event by resettling them in safer areas if return home is not possible.<sup>3</sup> However, planned relocations are not a panacea and must be approached with considerable care and caution. Relocation is a complex and fraught process, requiring in-depth consultation and planning to avoid greater vulnerability, impoverishment, and social fragmentation.<sup>4</sup> This is borne out in numerous internal relocations that

---

<sup>1</sup> [Sydney Declaration of Principles on the Protection of Persons Displaced in the context of Sea Level Rise](#), Annex to International Law Association Res 6/2018 (August 2018). For Commentary, see Davor Vidas, David Freestone and Jane McAdam (eds), *International Law and Sea Level Rise: Report of the International Law Association Committee on International Law and Sea Level Rise* (Brill, 2018) 43–66.

<sup>2</sup> Please note that in the original text, the first footnote is numbered 191. We have included full footnote citations here, whereas in the original text, some are cross-referenced to earlier citations.

<sup>3</sup> Nansen Initiative on Disaster-Induced Cross-Border Displacement, [Agenda for the Protection of Cross-Border Displaced Persons in the context of Disasters and Climate Change](#) (vol I, December 2015) paras 94–98, 121–22.

<sup>4</sup> See eg Elizabeth Ferris, 'Protection and Planned Relocations in the Context of Climate Change' (August 2012), *UNHCR Legal and Protection Policy Research Series*, PPLA/2012/04; Alice R Thomas, 'Post-Disaster Resettlement in the Philippines: A Risky Strategy' (2015) 49 *Forced Migration Review* 52; Jane McAdam and Elizabeth Ferris, 'Planned Relocations in the context of Climate Change: Unpacking the Legal and Conceptual Issues' (2015) 4 *Cambridge Journal of International and Comparative Law* 137.

have occurred (primarily in the context of development projects),<sup>5</sup> as well as in the handful of cross-border relocations (which have taken place in the Pacific).<sup>6</sup>

If planned relocation becomes a necessary and viable option, policymakers will need to pay acute attention to planning, embrace lessons learned from past experiences, prioritise a human rights-centred approach throughout the process, and ensure that relocations occur with the free and informed consent of the communities concerned (unless they are the only means to save lives). There are also questions about how to balance the human rights of relocated groups with those of the communities into which they move. The Sendai Framework, for example, encourages ‘the adoption of policies and programmes addressing disaster-induced human mobility to strengthen the resilience of affected people and that of host communities’.<sup>7</sup>

While international case law on planned relocation is scarce,<sup>8</sup> relevant expert guidance is available.<sup>9</sup>

**2. Erica Bower and Sanjula Weerasinghe, [Leaving Place, Restoring Home: Enhancing the Evidence Base on Planned Relocation Cases in the Context of Hazards, Disasters, and Climate Change](#), (Platform on Disaster Displacement and A Kaldor Centre for International Refugee Law, March 2021)**

The *Leaving Place, Restoring Home* report, and its accompanying [dataset](#), provides detailed analysis of State practice on planned relocations. Through a review of English language literature, it identified more than 300 cases of hazard-related planned relocation in all inhabited regions since 1970. It analysed 34 cases in depth, including some initiated by community members (often involving indigenous populations).

Planned relocations are usually described as taking place either in anticipation of future risks (‘proactive’), or in response to realised harms (‘reactive’). However, the report found that in practice, they are often a combination of both. While many of the identified planned relocations were prompted by floods, most occurred in the context of multiple environmental and non-environmental factors (eg social, political, economic).

The study identified four spatial patterns of planned relocation, with corresponding insights for policy and practice. For instance, planned relocation cases with multiple origin sites require consideration of complex integration dynamics and inclusive participatory mechanisms, while cases with multiple destination sites may require consideration of [community disintegration and loss of collective identity](#). Another relevant factor may be whether a planned relocation is initiated before or after internal displacement, and what (if any) options displaced persons have to return to their homes.

It is also important to scrutinise decision-making and implementation processes. This can help policymakers to better understand the non-environmental drivers influencing decisions to relocate, and also safeguard against relocations carried out in the name of disaster risk reduction or climate adaptation, but which are in fact covert ‘land grabs’ or evictions.

---

<sup>5</sup> See eg Ferris (n 4).

<sup>6</sup> See Jane McAdam, ‘Historical Cross-Border Relocation in the Pacific: Lessons for Planned Relocations in the context of Climate Change’ (2014) 49 *The Journal of Pacific History* 301.

<sup>7</sup> [Sendai Framework for Disaster Risk Reduction 2015–2030](#), UNGA res 69/283 (23 June 2015) para 30.

<sup>8</sup> See, however, on relocation as a consequence of development projects, *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*, App No 276/2003, African Commission on Human and Peoples’ Rights.

<sup>9</sup> [Guidance on Protecting People from Disasters and Environmental Change through Planned Relocation](#) (Brookings/Georgetown/UNHCR, October 2015) principles 5–8; [A Toolbox: Planning Relocations to Protect People from Disasters and Environmental Change](#) (UNHCR/Georgetown University/IOM, 2017); [The Peninsula Principles on Climate Displacement within States](#) (2013). See also UN General Assembly, [Protection of and Assistance to Internally Displaced Persons: Note by Secretary-General](#) (transmitting the Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons, Chaloka Beyani, in accordance with General Assembly Resolution 64/142 and Human Rights Council Resolution 14/6, UN Doc A/66/285) (9 August 2011) paras 61ff.

Key findings from in-depth analysis of 34 cases with single origin and destination sites include:

- Displacement: A little over half of the relocations were undertaken after populations were displaced.
- Distance: Most spanned short distances (less than two kilometres from origin to destination).
- Demographics: About half involved less than 250 households, and many were far smaller. Nearly all concerned rural-to-rural sites and approximately half involved communities that identified as indigenous.
- Duration: The time between initiation and completion of the physical move ranged from one year to many decades for some of the ongoing cases.
- Initiating and supporting actors: Community actors initiated half of the relocations, while government actors initiated the rest. Government, non-governmental and community actors supported the implementation of planned relocation processes.
- Challenges: Diverse challenges were identified across the cases, including limited inclusivity of participation mechanisms, a lack of livelihood opportunities and ongoing hazard exposure in destination sites, poor quality of housing and infrastructure, limited access to services, and loss of community cohesion and cultural heritage. Information about long-term community needs and outcomes was often lacking, underscoring the importance of strengthened longitudinal monitoring and evaluation in relocation processes.

Overall, the report provides governments and other actors with an initial evidence base on existing practices. This can help to promote future approaches that mitigate risk and protect people's human rights and dignity.

### 3. Jane McAdam and Tamara Wood, [Kaldor Centre Principles on Climate Mobility](#) (2023)

The *Kaldor Centre Principles on Climate Mobility* provide governments, affected communities, international organisations, civil society groups and other stakeholders with evidence-based, legally sound tools for addressing climate mobility. The *Principles* draw on a wide range of international, regional and national laws, policies and standards to provide guidance that can be adapted to different contexts.

Principle 5, replicated below, is entitled 'Facilitate planned relocations when necessary'.<sup>10</sup> It sets out key priorities and concrete, sample actions. We recommend that it be read in conjunction with the other cross-cutting principles.

#### **5: Facilitate planned relocations when necessary**

*What?*

Planned relocations can enable communities to move out of dangerous areas or to resettle safely after they have been displaced. They are generally a measure of last resort, given that they uproot people from their homes and can have long-term, intergenerational consequences. It is essential that planned relocations are undertaken in accordance with law and only after full consultation with all affected parties, including governments, prospective relocating and host communities, diaspora communities, traditional governance bodies and other relevant stakeholders (including those who wish to stay behind).

*Why?*

In the context of climate change and disasters, planned relocations can be both a pre-emptive measure (to avert displacement by assisting people to move to safer areas, including in anticipation of the slower-onset impacts of climate change) and a remedial measure in the aftermath of a disaster

---

<sup>10</sup> Please note that in the original text, the first footnote is numbered 49, and cross-references to footnote 8 within that document.

(to provide a durable solution for people who have been evacuated or otherwise displaced and who cannot safely return home). The *Sendai Framework* recognises planned relocation as a tool for achieving disaster risk reduction outcomes and calls on states to 'formulate public policies, where applicable, aimed at addressing the issues of prevention or relocation, where possible, of human settlements in disaster risk-prone zones'.<sup>11</sup>

Most relocations are likely to be internal and across short distances: the *Guiding Principles on Internal Displacement* provide important safeguards that can be readily adapted for this context. Cross-border relocations seem less likely in the near future but may be needed in time. These entail even greater complexity, including matters relating to immigration, citizenship, governance and self-determination.

In all cases, meaningful consultations are required before, during and after a relocation to ensure that multiple viewpoints are articulated, respected and addressed, and that consent is fully informed. Historical experiences reveal the long-term risks associated with relocations that are poorly planned, non-inclusive, and for which free and informed consent has not been obtained.

Planned relocations should be undertaken 'in accordance with national legislation and states' international obligations, such as obligations to safeguard the right to life and/or to ensure people are not subjected to inhuman, degrading, or discriminatory treatment'.<sup>12</sup> Economic and social safeguards should be put in place to ensure that people's quality of life and opportunities are not diminished after relocation (and ideally, are enhanced).

*How?*

### **Key priorities**

1. Ensure that planned relocations are provided for by law in accordance with international and regional standards, including the *Guiding Principles on Internal Displacement*
2. Ensure that planned relocations are undertaken in an inclusive and culturally appropriate manner, in full consultation with affected communities and other stakeholders, and based on sound evidence and best practice
3. Support relocated communities to maintain traditional governance, cultural, community and religious structures and practices
4. Ensure that human rights, including cultural rights, are properly respected, protected and fulfilled before, during and after relocation

### **Sample actions**

- a. Develop and implement domestic planned relocation laws that:
  - i. articulate who is authorised to order and carry out planned relocations
  - ii. establish safeguards against arbitrary displacement or future eviction
  - iii. provide access to culturally appropriate dispute resolution mechanisms
  - iv. protect people's fundamental human rights, including the right to family unity
- b. Establish detailed advanced planning for planned relocations, including early engagement between relocating and host communities, clearly articulated accountability and oversight mechanisms, and agreed communication and coordination mechanisms between government and traditional governance structures, where relevant
- c. Ensure that relocating communities have reliable access to adequate fresh water, sanitation, livelihood opportunities, education, infrastructure, transport and communications, as well as safeguards for traditional knowledges and culture (including traditional governance structures, where relevant)
- d. Incorporate risk management strategies into relocation planning, including assessment and mitigation of risks and impacts on both relocating and host communities

---

<sup>11</sup> *Sendai Framework* (n 7) para 27(k).

<sup>12</sup> *Guidance on Protecting People* (n 9) section II.7.

- e. Establish culturally appropriate mental health supports for relocating and host communities
- f. Conduct land audits and consult with relevant stakeholders to identify the availability and capacity of land (including land for 'banking' for future use) and ensure that adequate and sustainable resources are in place
- g. Review land tenure laws and systems to identify and address barriers and solutions for communities needing to relocate across traditional/customary land boundaries, and ensure security of tenure for future generations
- h. Establish long-term funding mechanisms (eg trust funds) to finance relocations, provide equitable compensation for loss of land and other assets, and support people while they are re-establishing themselves in a new location
- i. Establish knowledge management systems to gather longitudinal data and lessons from past relocations, including how communities fare over time, to inform future relocation policies and practices
- j. Establish mechanisms for assessing and addressing economic and non-economic losses arising from people's loss of or restricted access to land, and for providing equitable compensation for land and other assets
- k. Establish mechanisms to preserve the cultural identities and rights of relocated communities – for example, by allowing 'caretakers' to remain in the origin site and facilitating access visits to ancestral sites and graves
- l. Establish regional, national and/or local operational guidelines on planned relocations, in full consultation with affected communities
- m. Ensure that those who relocate abroad are granted a durable legal status (at least equivalent to that of permanent residents), the right to acquire citizenship in due course, and access to citizenship and/or a derivative legal status for their children