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COLUMBIA LAW SCHOOL

SABIN CENTER FOR CLIMATE CHANGE LAW

Designing a Climate Change Displacement Coordination Facility: Key Issues for COP 21

By Jessica Wentz¹ and Michael Burger²

September 2015

There have been several proposals to include a “climate change displacement coordination facility” in the upcoming UNFCCC agreement, but there has been very little public discussion about what this facility would entail and how it would operate. This briefing note highlights some of the functions that the displacement coordination facility could fulfill, as well as some key questions for negotiators in the lead-up to COP 21 and subsequent talks. The note is not intended to be a proposal for how the facility *should* operate, nor do the functions highlighted below necessarily reflect what is politically or economically feasible. Rather, the note is intended to outline a broad array of considerations for decision-makers as they contemplate whether and how to proceed with the displacement coordination facility.

As part of our continuing work on this issue, the Sabin Center welcomes input from other stakeholders on any potential functions and critical questions that are not identified in this briefing note, as well as recommendations on how the facility should be designed and operated. To provide your input, please contact Jessica Wentz (jwentz@law.columbia.edu) and Michael Burger (mburger@law.columbia.edu), with “climate displacement coordination facility” in the subject of your email.

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CONTENTS

1. Introduction.....	1
2. Background.....	3
3. Key Questions.....	7
4. Potential Functions.....	8
4.1 Funding Mechanism.....	8
4.2 Technical Assistance.....	9
4.3 Proposing Guidelines and Standards.....	12
4.4 Humanitarian Assistance and Logistical Support for Displaced Persons.....	16
5. Conclusion.....	18

1. INTRODUCTION

There is now wide recognition that climate change will have a dramatic impact on human mobility and displacement.¹ Extreme weather events such as floods, drought, and storms displaced millions of people from their homes during the past decade,² and millions more are at risk of displacement as a result of sea level rise and slow-onset environmental degradation.³ Experts predict that the scale of both temporary displacement and permanent migration⁴ will increase

¹ See, e.g., W. NEIL ADGER & JUAN M. PULHIN, INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CONTRIBUTION OF WORKING GROUP II TO THE FIFTH ASSESSMENT REPORT, Vol. 1, Ch. 12 (2014), *available at* http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-Chap12_FINAL.pdf; António Guterres, UN High Commissioner for Refugees, *Migration, Displacement and Planned Relocation* (UNHCR 2012), *available at* <http://www.unhcr.org/55535d6a9.html>; INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM), OUTLOOK ON MIGRATION, ENVIRONMENT AND CLIMATE CHANGE (2014), *available at* http://publications.iom.int/bookstore/free/MECC_Outlook.pdf; IOM, MIGRATION, ENVIRONMENT, AND CLIMATE CHANGE: ASSESSING THE EVIDENCE (2009), *available at* http://publications.iom.int/bookstore/free/migration_and_environment.pdf; M. Leighton et al., *Climate Change and Migration: Rethinking Policies for Adaptation and Disaster Risk Reduction*, United Nations University Series No. 15/2011 (2011).

² INTERNAL DISPLACEMENT MONITORING CENTRE, GLOBAL ESTIMATES 2015: PEOPLE DISPLACED BY DISASTERS (July 2015), *available at* <http://www.internal-displacement.org/assets/library/Media/201507-globalEstimates-2015/20150713-global-estimates-2015-en-v1.pdf> (since 2008, an average of 22.5 million people have been displaced by weather-related disasters each year, but this figure does not include drought, nor does it include slow onset or small scale events).

³ For a discussion of displacement that has already occurred as a result of sea level rise and coastal storms, see Anthony Oliver-Smith, *Sea Level Rise and the Vulnerability of Coastal Peoples: Responding to the Local Challenges of Global Climate Change in the 21st Century*, UNU-EHS Publication No.7/2009 (July 2009).

⁴ Although migration is sometimes defined as “voluntary” movement to distinguish this concept from displacement, we use the IOM definition: “the movement of a person or group of persons, either across an international order, or within a State...whatever its length, composition, and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification.” See IOM, Key Migration Terms, <https://www.iom.int/key-migration-terms> (last visited Sept. 11, 2015).

significantly with continued climate change.⁵ It now appears very likely that we will exceed the 2°C global warming target, and temperatures could rise 3-4°C by 2100. If we remain on this trajectory, it will lead to severe, pervasive and irreversible impacts on human and natural systems, rendering many areas uninhabitable, undermining livelihoods, and forcing people from vulnerable locations such as low-lying islands, coastlines, and deserts.

The Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC) is currently contemplating how to address the issue of climate change-induced displacement and migration in the upcoming Paris Agreement. In the latest version of the draft negotiating text on loss and damage, there are two proposed provisions calling for the creation of a “climate change displacement coordination facility,” but there is very little public information on the design of this facility and the functions it would fulfill.

This briefing note highlights some of the key issues related to the design and function of the facility. It begins with a summary of how displacement and migration have been addressed in UNFCCC negotiations and activities thus far, an overview of existing proposals for the displacement coordination facility, and a brief discussion of other UN agencies and international organizations. The note then highlights a set of critical questions for the initial design and implementation of the facility—such as where it will be situated within the UNFCCC architecture and who will govern the facility. Finally, the note identifies a variety of different functions that the facility could fulfill. This discussion is not intended to be a proposal for how the facility should operate, but it does include recommendations on key issues that decision-makers should consider when deciding whether and how to proceed with the displacement coordination facility.

⁵ IPCC (2014), *supra* note 1. There is no authoritative estimate on the number of persons who may be displaced or compelled to migrate as a result of climate change—current estimates range from 25 million to 200 million by 2050, and one report (Christian Aid, 2007) estimates that the combined effects of climate change, other environmental stressors, and conflict will force 1 billion people to leave their homes between now and 2050. See IOM, OUTLOOK ON MIGRATION, ENVIRONMENT AND CLIMATE CHANGE 39 (IOM 2014); Celia McMichael et al., *An Ill Wind? Climate Change, Migration and Health*, 120(5) ENVIRONMENTAL HEALTH PERSPECTIVES 646 (2012); UNITED NATIONAL HIGH COMMISSIONER FOR REFUGEES (UNHCR), CLIMATE CHANGE, NATURAL DISASTER AND HUMAN DISPLACEMENT: A UNHCR PERSPECTIVE (UNHCR 2009); C. BOANO ET AL., FORCED MIGRATION POLICY BRIEFING: ENVIRONMENTALLY DISPLACED PEOPLE: UNDERSTANDING THE LINKAGES BETWEEN ENVIRONMENTAL CHANGE, LIVELIHOODS AND FORCED MIGRATION (University of Oxford 2008); O. Brown, *Migration and Climate Change*, IOM Research Series, No. 31 (IOM 2008); O. Brown, *Climate Change and Forced Migration: Observations, Projections and Implications*, Human Development Report Office Occasional Paper (UNDP 2007); CHRISTIAN AID, HUMAN TIDE: THE REAL MIGRATION CRISIS (2007); N. Meyers, *Environmental Refugees: A Growing Phenomenon in the 21st Century*, 357 Philosophical Transactions of the Royal Society Biological Sciences 609 (2002).

2. BACKGROUND

2.1 UNFCCC Decisions on Displacement and Migration

The Conference of the Parties (COP) to the UNFCCC first addressed this issue in the 2010 Cancun Adaptation Platform, which invited Parties “to enhance action on adaptation... by undertaking... [m]easures to enhance understanding, coordination and cooperation with regard to climate change induced displacement and planned relocation, where appropriate, at the national, regional and international levels.”⁶ The Doha decision also included “migration, displacement and human mobility” among the factors to be considered when developing an adequate loss and damage framework.⁷

In 2013, the COP established the Warsaw Mechanism for Loss and Damage “to address loss and damage associated with impacts of climate change, including extreme events and slow onset events, in developing countries that are particularly vulnerable to the adverse effects of climate change.”⁸ In other words, the mechanism was introduced to provide technical and financial support to poorer countries that are disproportionately impacted by climate change. The three key implementing functions of the Warsaw Mechanism are:

1. Enhancing knowledge and understanding of comprehensive risk management approaches to address loss and damage associated with the adverse effects of climate change, including slow onset impacts.
2. Strengthening dialogue, coordination, coherence and synergies among relevant stakeholders.
3. Enhancing action and support, including finance, technology and capacity-building, to address loss and damage associated with the adverse effects of climate change, so as to enable countries to undertake actions to assess climate-related risks, identify risk-management strategies, and implement those strategies.⁹

Although “migration” and “displacement” were not explicitly mentioned in the decision establishing the Warsaw Mechanism, the purpose of the mechanism clearly encompasses these

⁶ UNFCCC Decision 1/CP.16, Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, ¶14(f), UN Doc. FCCC/CP/2010/7/Add.1 (Mar. 11, 2011).

⁷ UNFCCC Decision 3/CP.18, Approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change to enhance adaptive capacity, ¶ 7(a)(vi), UN Doc. FCCC/CP/2012/8/Add.1 (Feb. 28, 2013).

⁸ UNFCCC Decision 2/CP.19, Warsaw international mechanism for loss and damage associated with climate change impacts, ¶ 1, UN Doc. FCCC/CP/2013/10/Add.1 (Jan. 31, 2014).

⁹ *Id.* at ¶ 5.

topics. Notably, the Executive Committee for the mechanism included climate-induced displacement and migration among the issues to be addressed in its two-year workplan. Specifically, Action Area 6 of the workplan is to “[e]nhance the understanding of and expertise on how the impacts of climate change are affecting patterns of migration, displacement and human mobility; and the application of such understanding and expertise.”¹⁰ The Executive Committee has not yet issued a report on the status of these activities.

2.2 Draft UNFCCC Proposals for a Climate Change Displacement Coordination Facility

The first draft of the UNFCCC negotiating text for COP 21, released in February 2015, included proposed language calling for the creation of a “climate change displacement coordination facility” that “(i) provides support for emergency relief, (ii) assists in providing organized migration and planned relocation, and (iii) undertakes compensation measures” for persons displaced by climate change.¹¹ It also included other options that did not include any mention of this facility, or even of loss and damage.

On September 4, the Ad Hoc Working Group on the Durban Platform for Enhanced Action released a Working Document on Adaptation and Loss and Damage that includes two options for loss and damage in the Paris Agreement, which will form the basis for negotiations from here on out.¹² In one, the COP recognizes the importance of loss and damage and affirms its commitment to continuing to implement the Warsaw Mechanism. In the other, a new mechanism takes over the Warsaw Mechanism with the mandate to operationalize its institutions, including the climate change displacement coordination facility. There is also a third option that focuses exclusively on adaptation, and does not mention displacement.

¹⁰ *Initial two-year workplan of the Executive Committee of the Warsaw International Mechanism for Loss and Damage*, http://unfccc.int/adaptation/workstreams/loss_and_damage/items/8805.php (last visited Sept. 15, 2015) (approved by UNFCCC Decision 2/COP.20). Some of the specific activities within this action area include: inviting relevant organizations and experts to provide scientific information on projected migration and displacement patterns, inviting UN organizations, expert bodies, and relevant initiatives to collaborate with the Executive Committee to distill relevant information, lessons learned, and good practices from their activities, and identifying follow-up actions, as appropriate. These activities are scheduled to take place over a two-year period from January 2015 – December 2016.

¹¹ Negotiating Text, Ad Hoc Working Group on the Durban Platform for Enhanced Action, Option 1, ¶ 70.3(a), UN Doc. FCCC/ADP/2015/1, at 32 (Feb. 25, 2015), *available at* <http://unfccc.int/resource/docs/2015/adp2/eng/01.pdf>. *See also id.*, Option III, ¶¶ 75-76, at 33.

¹² Working Document, Section E – Adaptation to Loss and Damage, Ad Hoc Working Group on the Durban Platform for Enhanced Action, Second session, part ten, Aug. 31 – Sept. 4, 2015, Bonn, Germany (2015), *available at* http://unfccc.int/files/bodies/awg/application/pdf/adp2-10_e_04sep2015t1900_wds.pdf.

Option 1: A New Loss and Damage Mechanism – Under this option, the COP would establish a new “international mechanism to address loss and damage” that would “draw upon, further develop and elaborate upon the work of the Warsaw International Mechanism.”¹³ The proposed mechanism would be “subject to the authority and guidance” of a governing body.¹⁴

This option includes two textual proposals calling for the creation of a “climate change displacement coordination facility.” One of these proposals would call upon the governing body of the new mechanism to: “establish a climate change displacement coordination facility to help to coordinate efforts to address the displacement of people as a result of the extreme impacts of climate change.”¹⁵ The other proposal directs the COP to take direct action on this issue:

“The Conference of Parties shall develop interim modalities and procedures for the operation a climate change displacement coordination facility and which shall:

- (a) Assist in developing arrangements for emergency relief;
- (b) Assist in providing organized migration and planned relocation.”¹⁶

The document also states that, “[i]n response to a request made by a Party, the G77 and China will provide a working description of the proposed displacement coordination facility before the ADP session in October, which will allow all Parties to further enhance their understanding of this important [proposal].”¹⁷

Option 2: Continued Implementation of the Warsaw Mechanism – This option calls upon the Executive Committee of the Warsaw Mechanism on Loss and Damage to take the lead in coordinating climate displacement rather than establishing a “displacement coordination facility”:

“[The COP] Further requests the Executive Committee [of the Warsaw Mechanism] to complement, draw upon the work of and involve, as appropriate, existing bodies and expert groups under the Convention, as well as that of relevant organizations and expert bodies outside the Convention, to enhance understanding, coordination and cooperation with regard to displacement, migration and planned relocation in the context of climate change, where appropriate, at the national, regional and international levels.”¹⁸

As noted above, the Executive Committee has already begun to address this issue in Action Area 6 of its initial 2-year work plan.

¹³ *Id.* at 4, ¶ 41-43.

¹⁴ *Id.* at 4, ¶ 44.

¹⁵ *Id.* at 5, ¶ 44 bis.

¹⁶ *Id.* at 5, ¶ 4.

¹⁷ *Id.* at 3.

¹⁸ *Id.* at 6.

Notably, the reference to “compensation measures” included in the original draft negotiating text has been removed and is not included in any of the options now on the table. And importantly, the proposed text does not specify exactly what such a facility would entail and how it would provide assistance for emergency relief, organized migration, and planned relocation.

2.3 Relationship with Other UN Agencies, International Organizations, and Initiatives

There are other UN agencies and international organizations with mandates and activities that encompass some aspects of climate change-induced displacement and migration. The most notable actors are the UN High Commissioner for Refugees (UNHCR) (which assists refugees, internally displaced persons, and stateless persons) and the International Organization for Migration (IOM) (which is dedicated to promoting humane and orderly migration). In 2014, the UNHCR, the IOM, the United Nations University Institute for Environment and Human Security (UNU-EHS), Refugees International, and the Norwegian Refugee Council (NRC) formed an Advisory Group on Climate Change and Human Mobility. The Advisory Group provides recommendations on how to address displacement and migration within the UNFCCC.¹⁹

The Nansen Initiative has also been working on a protection agenda for cross-border displacement in the context of disasters and climate change.²⁰ While the Nansen Initiative operates outside of the UN framework, as a “bottom-up, state-led consultative process with multi-stakeholder involvement,” there is significant overlap between the goals of this project and the mandates of UN agencies respecting refugees, migration, human rights, and climate change.²¹ As noted below, the relationship between the climate change displacement facility and these existing bodies will be a critical question for both its design and its operations.

¹⁹ See, e.g., *Human Mobility in the Context of Climate Change: Elements for the UNFCCC Paris Agreement* (March 2015), available at <http://www.unhcr.org/5550ab359.html>; *Recommendations from the Advisory Group on Climate Change and Human Mobility COP 20 Lima, Peru* (March 2015), available at <http://www.unhcr.org/54942d8e9.html>; *Joint Submission on Activities for the Nairobi Work Programme* (August 2014), available at <http://www.unhcr.org/542e63739.html>; *Joint submission to the United Nations Convention on Climate Change (UNFCCC) on National Adaptation Plans (NAPs)* (July 30, 2014), available at <http://www.unhcr.org/542e95c29.html>; *Joint submission to the Excom of the Warsaw International Mechanism for Loss and Damage associated with Climate Change on the Excom’s draft initial two-year workplan for the implementation of the functions of the Mechanism, in accordance with paragraph 5 of Decision 2/CP.19* (July 1, 2014), available at <http://www.unhcr.org/542e94e69.html>; *Contribution and Potential Elements Related to Human Mobility in the Context of a Warsaw COP 19 Decision on Loss and Damage* (Nov. 4, 2013), available at <http://www.unhcr.org/542e64d89.html>.

²⁰ Nansen Initiative, <https://www.nanseninitiative.org> (last visited Sept. 14, 2015).

²¹ Nansen Initiative, *About Us*, <https://www.nanseninitiative.org/secretariat/> (last visited Sept. 14, 2015).

3. KEY QUESTIONS

There are a number of critical questions relating to the initial design and governance of the proposed displacement coordination facility. The answer to these questions will determine the nature and scope of the facility's mandate and what functions the facility could fulfill. Key questions include:

Situation within UNFCCC Architecture – The issue of climate change displacement has been consistently treated within the framework of loss and damage. Should this be the case? Would it be more accurate to characterize this facility as part of the adaptation framework? This decision could influence political support for the facility as well as the availability of funding (e.g., whether the facility could draw from the UNFCCC adaptation fund).

Financing – Will the funds for this facility come from new sources or existing climate funds? How many resources will be allocated to the facility, and how will this shape its activities?

Governance Structure – Who will govern the facility? This relates to the question of where it is situated within the UNFCCC architecture—e.g., if the facility is implemented as part of the Warsaw Mechanism, then the existing Executive Committee for that mechanism could be the primary governing entity. As noted above, an alternate proposal would be to establish a separate governing body for the facility.

Accountability and Authority – To whom will the facility be accountable? And what would be required for the facility to take action? These questions bear on the possible functions of the facility—e.g., will the facility be limited to a research, ministerial or advisory role? Will the governing body of the facility have authority to make decisions about the allocation of funds and/or other issues?

Scope of Displacement and Mobility Considerations – The existing proposals specify that the facility will: (i) “help to coordinate efforts to address the displacement of people as a result of the extreme impacts of climate change,” or (ii) “assist in developing arrangements for emergency relief” and “providing organized migration and planned relocation.” This language raises questions about the scope of displacement and mobility considerations to be addressed through the facility. For example, will the *prevention* of displacement fall within the scope of the facility's mandate and activities? And will the facility provide support for “voluntary” or adaptive

migration?²² Or will it focus exclusively on addressing situations where persons are forcibly displaced from their homes by an immediate threat to their lives and safety?

Compensation – Will the facility serve a compensatory function? The original draft negotiating text included a provision on compensation for displaced persons, but this was dropped from the latest version. If compensation is included among the facility’s activities, would this entail compensation to individuals or countries? Where would the funds come from, and how would they be allocated?

Relationship with other UN agencies and International Organizations – As noted above there are a number of entities already mandated to address issues of internal displacement and international migration. How will this facility interact with, complement and/or build upon the efforts of other UN agencies and international organizations that deal with refugees, migration, human rights, environmental degradation, labor, and other related topics? How will the UN Refugee Agency or the International Organization for Migration be involved in the development and implementation of the facility?²³

4. POTENTIAL FUNCTIONS

In this section, we identify and outline a number of key functions the facility might serve, either independently or in coordination with other international agencies and organizations.

4.1 Funding Mechanism

One possible function of the displacement coordination facility would be to serve as a funding mechanism for activities aimed at preventing or managing climate change-induced displacement and migration. Some examples of activities that could be funded through the facility include measures to prevent displacement, to assist displaced persons during their journey, or to provide permanent housing and resettlement opportunities. As an example of this last point, the

²² The use of the term voluntary in this context is somewhat misleading—if climate change has an adverse impact on livelihoods, and this causes people to migrate in search of better opportunities, such migration is not entirely voluntarily. Similarly, if people leave their coastal homes to avoid the dangers of sea level rise and more intense coastal storms, but before they are forcibly displaced by these phenomena, this migration is not entirely voluntary. Rather, it makes sense to think of this as “adaptive” migration, which reduces the risk that people will be forcibly displaced by a more immediate threat to their safety and well-being.

²³ A related question would be whether and how the facility would build upon the efforts of the Nansen Initiative, which is working on a framework for addressing climate change-induced displacement outside of the context of the UNFCCC.

facility could pay countries to accept migrants—e.g., low-income countries that are accepting more than their fair share of displaced persons, taking into account their historical GHG emissions.

If the facility is used to distribute funds, it will be important to define its relationship with other existing funds, including the Global Environment Facility (GEF), the Green Climate Fund (GCF), the Special Climate Change Fund (SCCF), the Least Developed Countries Fund (LDCF), and the Adaptation Fund (AF).

It will also be important to determine *who* will make decisions about how funds are dispersed through the facility, and what criteria will be used to determine which activities are funded. If the facility is also tasked with a “standard setting” role like that described below, then the governing body of the facility could potentially develop a set of criteria for making funding decisions. The facility could be entrusted with developing and implementing such criteria on its own, or it could propose those criteria to the Warsaw Mechanism Executive Committee or even to the COP for ratification.

4.2 Technical Assistance

4.2.1 Data Collection and Assessment

The Advisory Group on Climate Change and Human Mobility has recommended that one function of the displacement coordination facility should be to “assess[] the risk of climate change-related forced internal and cross-border displacement.”²⁴ This would entail collecting data on existing patterns of climate-induced displacement and making predictions about future displacement scenarios under different climate change trajectories. The facility could also assess possible responses (i.e., options for preventing and managing displacement and migration), and collect information that would help countries implement those responses. Some examples of possible data collection and assessment goals include:

- Identifying and collecting research on attribution of migration to climate change and developing criteria and decision-making tools for individual cases.
- Identifying and collecting research on adaptation measures that may protect against climate-induced displacement, and developing best practices.

²⁴ Advisory Group on Climate Change and Human Mobility, *Human Mobility in the Context of Climate Change: Elements for the UNFCCC Paris Agreement 3* (March 2015), available at <http://www.unhcr.org/5550ab359.html>.

- Identifying and collecting research on processing claims for asylum or refugee status, and developing best practices.
- Identifying where climate-induced displacement is already occurring, and where it is likely to occur in the future.
- Identifying places that are suitable for relocation, perhaps due to geography, employment opportunities, cultural factors, and other considerations.
- Examining the costs of relocation as compared with mitigation or other adaptation strategies.

If the facility lacks the resources that are needed to gather new data and conduct original research on these topics, it could still serve as a clearinghouse for information and publish summary reports.

To support the research efforts outlined above, the facility could introduce a system for monitoring and tracking climate-induced displacement. There is a critical need for global monitoring in this context. The Internal Disaster Placement Monitoring Centre (IDMC) monitors internal displacement induced by sudden-onset disasters, such as storms and earthquakes, and the UNHCR monitors worldwide displacement from wars, conflict, and persecution. But there is no system to monitor and track the number of people who are currently displaced by other environmental and climate-related phenomena. A tracking system could also be used to ensure that displaced persons have a safe and expedient trip to their final destinations. Such a system would require a considerable allocation of resources to the facility.

4.2.2 Direct Assistance to National Governments and Other Entities

The facility could provide direct technical assistance to national governments (and perhaps other entities) to help with the design and implementation of programs to prevent displacement and administer resettlement programs. Some vulnerable countries have already begun to incorporate considerations related to human mobility, migration and displacement into their National Adaptation Plans of Action (NAPAs).²⁵ Several of these NAPAs included proposals for

²⁵ See, e.g., Chad (Feb. 2010), <http://unfccc.int/resource/docs/napa/tcd01.pdf> (proposed NAPA Project #6 was intended to augment the availability of feed for livestock in pastoral areas to reduce the need for seasonal or permanent migration by livestock farmers, which is increasing due to climate change); Maldives (March 2008), <http://unfccc.int/resource/docs/napa/mdv01.pdf> (Proposed NAPA Project #1 included a program to resettle communities from smaller, more vulnerable islands to larger, better protected ones, and Project #2 included the development of coastal protection measures to protect communities from sea level rise and coastal impacts); Mali (December 2007), <http://unfccc.int/resource/docs/napa/mli01f.pdf> (proposed NAPA project #4 was to develop fish farming in ponds and floating cages, with one goal being to “reduce migration” for people in the fishing industry); Mozambique (July 2008), <http://unfccc.int/resource/docs/napa/moz01.pdf> (NAPA project #1 included the resettlement of crowded populations from flood and cyclone prone areas); Vanuatu (December 2007), <http://unfccc.int/resource/docs/napa/vut01.pdf>

resettlement projects, without providing any detail on how exactly those projects would proceed (e.g., how communities would be selected for resettlement and where they would be resettled, or the extent to which these communities would be consulted on these projects and whether their consent would be required prior to resettlement).²⁶ Other projects are focused on avoiding displacement through in-situ adaptation.

Thus, one priority for the climate change displacement coordination facility could be to provide guidance, technical assistance, and perhaps even financial assistance for NAPA projects or other programs aimed at avoiding and managing displacement (either through in-situ adaptation or internal resettlement programs). The facility could administer this assistance in a way that would facilitate national goals while also ensuring that national governments do not violate the human rights of persons when administering such programs.

The facility could also provide technical assistance to other entities that conduct similar projects, such as humanitarian groups that work in vulnerable countries, or sub-national actors (including communities and local or regional governments). This approach would be particularly useful in countries where national governments lack the capacity or political will to represent and serve all of the communities that will be impacted by climate change.

4.2.3 Matching Internationally Displaced Persons with Host Countries

Many of the people displaced by climate change will be unable to resettle within their own countries, either because there is no remaining habitable land, or because of the combined pressures of environmental degradation, poverty, socioeconomic upheaval, political conflict, and other destabilizing forces. Countries have not begun to negotiate, let alone decide, where these people will be allowed to resettle.

Thus, another function of the displacement coordination facility could be to match internationally displaced persons with host countries. To accomplish this, the facility could: (i) rely on a tracking system to identify displaced persons, (ii) accept pledges from national governments that are willing to accept displaced persons into their territory, and (iii) implement a system for either assigning displaced persons to countries or allowing those displaced persons to choose their

(relocation of settlements and relevant infrastructure is included among adaptation options for various provinces, but did not make it to the final list of priority projects).

²⁶ *Id.*

destination. Preferably, displaced individuals and communities would retain some autonomy during this process—e.g., by selecting their preferred destination from a list of possible locations, or by participating in negotiations with prospective host countries.

As noted above, the facility could also play a role in identifying suitable locations for resettlement, using criteria such as geographic suitability, employment opportunities, and cultural considerations. Because the availability of jobs is a critical issue, it would make sense to coordinate with the International Labor Organization to identify potential relocation areas.

If the facility was authorized to conduct this work, it would be important to coordinate with the UNHCR and the IOM, both of which have mandates relating to the safe resettlement of persons across international borders. For example, the IOM and UNHCR work together to provide “resettlement assistance” for refugees—which involves identifying, interviewing, and submitting refugees to countries for resettlement.²⁷ The facility could work with these agencies to develop a similar framework for assisting persons who are displaced by climate change (since these individuals would not typically qualify as “refugees” within the UNHCR definition²⁸).

4.3 Proposing Guidelines and Standards

4.3.1 Constitutive Document for the Displacement Coordination Facility

The COP decision establishing the facility will most likely outline some of the broad issues that the facility should address. But it is unlikely that the COP decision will dive into significant detail about the displacement coordination facility, given the number of issues that will be addressed at Paris and the difficulty of reaching consensus on specific, technical aspects of how the facility will operate. Thus, it may be useful to have a separate constitutive document that more precisely defines the scope of the facility’s mandate, functions, and activities.

One approach would be to determine who will govern the facility (e.g., the Executive Committee for the Warsaw Mechanism, or a dedicated governing body) and have that governing body draft a constitutive document and submit this to the COP for ratification. This would

²⁷ IOM, *Resettlement Assistance*, <https://www.iom.int/resettlement-assistance> (last visited Sept. 22, 2015).

²⁸ Convention Relating to the Status of Refugees, July 28, 1951, Art. 1(A)(2) (defining “refugee” as any person who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality [or formal habitual residence, if the person lacks a nationality] and is unable, or, owing to such fear, is unwilling to avail himself of the protection of the country”).

probably be easier than having the COP develop a constitutive document through international negotiations. The document could be treated as an evolving document that would be amended over time to reflect new developments in this field.

Some of the key issues that could be addressed in this document would include: (i) whether the facility will be used as a mechanism to coordinate activities aimed at preventing forced displacement, as well as managing displacement and migration when they do occur; (ii) whether the facility will address the full scope of human mobility concerns associated with climate change (including “voluntary” or adaptive migration²⁹); (iii) which functions the facility will fulfill with respect to these issues; and (iv) whether there will be requirements for public consultation or stakeholder engagement for persons who are displaced or at risk of displacement as a result of climate change.

4.3.2 Guiding Principles for Managing Climate-Induced Displacement and Migration

The governing body of the displacement coordination facility could develop a set of guiding principles for managing climate-induced displacement and migration, which could encompass considerations related to preventing and responding to displacement, assisting voluntary migration, and implementing planned relocation programs where necessary. The principles could target a variety of different entities—the UNFCCC, other UN agencies and international organizations, national and sub-national governments, and private actors. They could be proposed to the COP for formal ratification, or simply published as a set of non-binding recommendations. In any event, the drafters can draw upon existing UN documents and other proposals, including but not limited to:

- The Nansen Principles on Climate Change and Displacement³⁰
- The Peninsula Principles on Climate Displacement Within States³¹

²⁹ Although a distinction is sometimes drawn between “forced” displacement and “voluntary” migration, the use of the term voluntary in this context is somewhat misleading—if climate change has an adverse impact on livelihoods, and this causes people to migrate in search of better opportunities, such migration is not entirely voluntarily. Similarly, if people leave their coastal homes to avoid the dangers of sea level rise and more intense coastal storms, but before they are forcibly displaced by these phenomena, this migration is not entirely voluntary. Rather, it makes sense to think of this as “adaptive” migration, which reduces the risk that people will be forcibly displaced by a more immediate threat to their safety and well-being.

³⁰ *The Nansen Conference: Climate Change and Displacement in the 21st Century*, Oslo, Norway, June 5-7 (2011), available at <http://www.unhcr.org/4ea969729.pdf>.

³¹ Displacement Solutions, *Peninsula Principles on Climate Displacement within States* (Aug. 19, 2015), available at <http://displacementsolutions.org/peninsula-principles/>.

- The UN Guiding Principles on Internal Displacement³²
- Recommendations from the Advisory Group on Climate Change and Human Mobility³³

Professor Katrina Wyman has also proposed a set of guiding principles for a “realistic” approach to managing climate change-induced displacement, which integrate many of the considerations highlighted in the documents above with pragmatic concerns about what is politically and technically feasible.³⁴

One key goal of the principles should be to ensure that national governments and other actors address respect and protect human rights when addressing climate-induced displacement and migration. For example, the principles could specify that relevant decisions and activities should be conducted in close consultation with communities that are displaced or at risk of displacement. The principles could also prioritize the prevention of displacement through mitigation and adaptation, and could specify that planned relocations should be treated as a last resort and should be conducted with the consent of the affected community.³⁵

4.3.3 Standards for Internal and International Climate Migration

The facility could propose specific terminology and standards for managing both internal and international climate-induced displacement. These would differ from the guiding principles noted above, insofar as they would relate to specific, technical determinations about the status of displaced persons and procedures for transportation, accommodation, and resettlement.

Such standards could be used to provide a common language and uniform system for managing movement within countries and across borders, and to make decisions about the allocation of technical or financial assistance. They could also be used to protect the rights, safety, and well-being of displaced persons. The facility could also assess the performance of various

³² UN Office for the Coordination of Humanitarian Affairs, *Guiding Principles on Internal Displacement* (Sept. 2014), available at <http://www.brookings.edu/~media/Projects/idp/GPEnglish.pdf>.

³³ Advisory Group on Climate Change and Human Mobility, *Human Mobility in the Context of Climate Change: Elements for the UNFCCC Paris Agreement* (March 2015), available at <http://www.unhcr.org/5550ab359.html>.

³⁴ Katrina Wyman, *Sinking Islands? Formulating a Realistic Solution to Climate Change Displacement*, 87 N.Y.U. L. REV. 1172 (2012).

³⁵ These principles are cited in many of the documents noted above, and are intended to protect the rights of communities and individuals against forced resettlement when such resettlement is not absolutely necessary. There could be exceptional circumstances warranting a different approach, such as when an affected community expresses interest in a more proactive resettlement program, or when affected persons refuse to move even when their lives are in immediate jeopardy. To accommodate such circumstances, the guiding principles could also recognize that migration can serve an adaptive purpose and that it makes sense to support communities and individuals who wish to migrate before they are forcibly displaced from their homes.

actors with respect to these standards, informally for informational purposes and formally if and when they are adopted by the COP. Some examples of possible standards include:

- **Climate Displacement Status** – How can we define those persons who have been displaced (or are at risk of displacement) due to climate change impacts, such that they would be eligible for relocation assistance or other benefits administered by the facility? Would this definition exclude those persons who migrate as a result of climate change, but are not forcibly displaced? How is the line drawn between voluntary migration and forced displacement?
- **Temporary Accommodations** – What are the requirements for temporary accommodations (in other words, climate “refugee” camps)? How long can a person be kept in a temporary camp, and what provisions must be made available to those persons?
- **Internal Resettlement** – What procedures should countries follow when addressing displacement within their own borders?
- **Treatment in Recipient Nations** – What procedures should countries follow when receiving displaced persons from other countries?

The facility could also assess the performance of various actors with respect to these standards, informally for informational purposes and formally if and when they are adopted by the COP.

If the facility does propose standards, it can refer to existing standards and frameworks from IOM and UNHCR for international migrants and refugees. For example, the UNHCR has developed an extensive set of indicators and standards for the resettlement of refugees in host countries.³⁶

4.3.4 National Obligations to Assist Displaced Persons

The facility could be used to define specific national obligations with respect to climate-induced displacement and, in particular, the provision of financial support and relocation opportunities for displaced persons. While it is unlikely that the facility would be given authority to actually impose obligations on member states, it could nonetheless propose standards for negotiation within the COP (or simply propose non-binding standards).

One approach would be to establish targets for accepting displaced persons that correspond with the historical GHG contribution of each country. Such targets could also account for other factors, such as the physical and financial capacity of the country to accept displaced persons; its own internal climate-induced migration; the number of persons who are displaced for reasons

³⁶ See, e.g., UNHCR, *Practical Guide to the Systematic Use of Standards & Indicators in UNHCR Operations* (2nd ed., Feb. 2006).

other than climate change that it has accepted; states' labor shortages or surpluses; and the extent to which the country is investing in climate change mitigation. The targets could be accompanied by a financial obligation, or countries could be allowed to "pay off" some or all of their quotas by providing financial assistance through the facility. Even if such targets or similar expectations were not formally adopted by the COP as legally binding standards, they could be used to assess country performance in a public forum (e.g., the facility could publish a report evaluating whether countries are meeting these voluntary targets).

Another approach would be to define national obligations that are more qualitative (e.g., requirements for countries to act in "good faith" or to "undertake all practicable means and measures" to accept displaced persons) and/or procedural requirements (e.g., reporting on the number of displaced persons accepted into the country, and the measures undertaken to accommodate displaced persons). Such requirements would be more politically palatable, such that the COP might actually adopt these requirements in a formal agreement, but likely less effective at inducing action by national governments. It would also be more difficult to assess a country's performance on the basis of qualitative requirements based on good faith, reasonableness, or practicability.

A third approach would be to define national obligations in the context of one or more regional plans for resettlement. Several scholars have advocated for regional responses to climate change-induced displacement, arguing that "a more targeted solution, based on the consent of the states involved, is more appropriate."³⁷ The facility could propose binding or non-binding standards for how countries should contribute to the development and implementation of these agreements.

4.4 Humanitarian Assistance and Logistical Support for Displaced Persons

There will be a number of logistical challenges involved in the transportation, temporary accommodation, processing, and screening of displaced persons. And when displacement is triggered by a sudden onset disaster, other forms of emergency relief may be needed (e.g., funding

³⁷ Wyman (2012), *supra* note 34, at 1185 (describing proposals from Jane McAdam and Angela Adams). *See also* Jane McAdam, *Swimming Against the Tide: Why a Climate Change Displacement Treaty Is Not the Answer*, 23 INT'L J. REFUGEE L. 2, 11 (2011); Angela Williams, *Turning the Tide: Recognizing Climate Change Refugees in International Law*, 30 LAW & POL'Y 502 (2008).

for medical facilities or to repair transportation infrastructure). The displacement coordination facility could coordinate and monitor the provision of these services. As discussed above, the facility could also provide technical or financial assistance to the international organizations and domestic entities that provide these services.

Some of the key actors that provide international humanitarian and migration assistance include the UNHCR, the IOM, the Under-Secretary-General and Emergency Relief Coordinator (USG/ERC), the Inter-Agency Standing Committee (IASC), the International Federation of Red Cross and Red Crescent Societies, and others. The facility could monitor the activities of these and other entities, identify gaps in protection for displaced persons, and provide recommendations on how to close those gaps.

Currently, the UNHCR provides humanitarian support for refugees—but the definition of “refugee” is limited to those persons who are forced to leave their countries because they have been persecuted (or have a “well-founded fear” of persecution) on the grounds of race, religion, nationality, social membership, or political opinion. This definition does not include people who are compelled to leave their country due to natural disasters and slow-onset degradation, nor does it include people who are displaced within their country of origin. That said, the UNHCR does provide some relief and rehabilitation programs for internally displaced persons.

The International Organization on Migration (IOM) also provides services to support “the organized transfer of refugees, displaced persons and other individuals in need of migration services.”³⁸ For IOM, the term “displaced persons” broadly includes “all persons who fall outside the scope of the conventional definition of refugee but who had to leave their homes due to factors such as armed conflicts, widespread violence, natural and/or man-made disasters or violations of human rights.”³⁹ In the context of disaster-induced displacement, IOM administers programs to provide emergency relief, return, reintegration, capacity-building, and protect the rights of affected populations. As noted in Section 4.2.3, IOM also works with UNHCR to provide “resettlement assistance” to refugees, which entails identifying, interviewing, and submitting refugee cases to

³⁸ IOM Constitution, Article 1, para 1(b).

³⁹ IOM, *Internally Displaced Persons: IOM Policy and Activities*, Doc. MC/INF/258, available at http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/84/Mcinf258.pdf.

countries for resettlement consideration. Finally, IOM provides assistance to other migrants through its Department of Migration Management.

5. CONCLUSION

There is evidence that the inclusion of a “climate change displacement coordination facility” in the Paris Agreement has support from some member states, but there has been very little public discussion about how this facility would operate and what functions it would serve. This briefing note does not take a position on exactly how the facility should operate, but rather outlines a set of considerations for decision-makers, including a list of potential functions that the facility could serve and key questions relating to its design and implementation. Many of these issues will not be fully decided in the text of the Paris Agreement, but nonetheless should be contemplated as the Parties decide whether to create such a facility within the UNFCCC and what textual provisions to include in the Agreement.

As the COP moves forward with negotiations on this topic, it will be important to consult with the countries and communities where the risk of climate-induced displacement is most significant. These are the stakeholders that the facility would serve, and thus it is critical to understand their perspective on each of the issues outlined above.