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**POLICY BRIEF 17**

# **Foregrounding Displacement and Evacuations in the Proposed Treaty on the Protection of Persons in the event of Disasters**

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## Executive summary

Someone is displaced by the impacts of a disaster nearly every second. Climate change amplifies the frequency and severity of extreme weather events, meaning that disasters will worsen, and displacement will likely grow.

In 2027, States are expected to adopt the first-ever global treaty on the Protection of Persons in the event of Disasters, based on the International Law Commission's 2016 Draft Articles of the same name. The treaty will respond to the need for a comprehensive global legal regime to better protect people in disasters, including through greater international cooperation on disaster risk reduction.

Given the growing number of people displaced by the impacts of disasters each year, this Policy Brief argues that the treaty should expressly reference displacement and States' obligations to protect the human rights of displaced people. This is because displacement can generate particular risks for individuals and communities, as well as exacerbate existing risks associated with disasters.

Specifically, this Policy Brief **recommends** that the new treaty should:

1. Expressly acknowledge the risk of displacement in the context of disasters.
2. Expressly acknowledge the life-saving role that well-planned evacuations and/or relocations can play as protective disaster risk reduction measures.
3. Expressly acknowledge States' duties to protect the human rights of displaced people.
4. Expressly acknowledge that assistance with evacuations and providing access to humanitarian and/or protection visas can be forms of international cooperation.

Incorporating these recommendations would enable the treaty to respond more effectively to the realities of disaster-related displacement, ensuring that the rights and needs of displaced persons are recognised in disaster risk reduction and response efforts. Moreover, these changes would bring the treaty into closer alignment with existing international principles and frameworks, reflecting the growing recognition of the impacts of disasters on displacement and the importance of safeguarding human rights.

# 1 Introduction

Nearly every second, someone is displaced by the impacts of a disaster. In 2024, there were close 65.8 million internal displacements globally. Nearly 70 per cent of them – 45.8 million – were linked to disasters,<sup>1</sup> and 8.3 million began as pre-emptive, government-led evacuations to save lives.<sup>2</sup> Climate change amplifies the frequency and severity of extreme weather events, such as cyclones and floods, and aggravates slower-onset processes, such as sea-level rise. Sudden- and slow-onset events can also interact, compounding risk.<sup>3</sup> These changes mean that disasters will worsen, and displacement will likely grow.<sup>4</sup>

In 2027, States are expected to adopt the first-ever global treaty on the Protection of Persons in the event of Disasters.<sup>5</sup> It will be based on the Draft Articles on the Protection of Persons in the event of Disasters adopted in 2016 by the International Law Commission (ILC), which sought to draw together in a comprehensive manner the legal principles governing the main aspects of disaster preparedness and relief – namely, prevention, response and protection.<sup>6</sup> The treaty will promote ‘international cooperation between States in the areas of disaster risk reduction, including disaster prevention, mitigation, preparedness, response, recovery and rehabilitation’.<sup>7</sup>

Motivated in part by ‘the increasing number of disasters in the world, as well as their intensity and impact on affected populations’, the treaty will address ‘the need for a comprehensive global legal regime to better address the protection of persons in the event of disasters’.<sup>8</sup> Following a series of deliberations by the UN General Assembly’s Sixth Committee in 2023 and 2024, States have until 31 December 2025 to submit proposed amendments to the text of the Draft Articles. A working group of the Sixth Committee will then use these submissions to prepare a consolidated text for the treaty negotiations, with the intention that a legally binding instrument will be adopted by the end of 2027.<sup>9</sup>

The Draft Articles barely mention displacement at all.<sup>10</sup> This is curious given that their impetus was the 2004 Indian Ocean Tsunami, which killed approximately 240,000 people in 12 States and left more than one million people displaced.<sup>11</sup> Since that time, disaster-related displacement has continued to grow. The latest figures show that nearly 70 per cent of global internal displacement in 2024 was linked to the impacts of disasters.<sup>12</sup> This is a trend that has been relatively consistent for more than a decade.<sup>13</sup> Given that climate change amplifies the frequency and severity of extreme weather events, it is anticipated that displacement in the context of both sudden- and slow-onset disasters will increase.<sup>14</sup>

Although ‘mass displacement’ is mentioned as a possible defining characteristic of disasters,<sup>15</sup> the absence of specific attention to the rights and needs of displaced persons, or, indeed, the role that evacuations and planned relocations can play in averting harm, is striking. During deliberations in the Sixth Committee in 2023–24, States acknowledged that disasters often result in large-scale displacement, with devastating impacts on individuals and communities. Brazil emphasised, for instance, that ‘[e]very year, thousands of victims of natural disasters moved within their own countries or across borders in search of safety and a secure livelihood’.<sup>16</sup>

Given the increasing numbers of people being displaced by the impacts of disasters each year, the current treaty process provides a timely opportunity to address this issue directly. This Policy Brief focuses on why and how references to displacement, evacuations and planned relocations should be incorporated to maximise protection.

## 2 Purpose of the Policy Brief

This Policy Brief argues that in transforming the Draft Articles into a new treaty, consideration should be given to express incorporation of displacement beyond the ‘disaster’ definition alone. This inclusion is essential to fully realise the treaty’s purpose of facilitating adequate and effective responses to disasters and the reduction of disaster risks, ‘so as to meet the essential needs of the persons concerned, with full respect for their rights’.<sup>17</sup> The ‘essential needs’ of disaster-affected individuals are not uniform, as disasters impact people differently. Displaced persons, in particular, often have unique needs arising from the fact of displacement itself: displacement can generate particular risks for individuals and communities, as well as exacerbate existing risks associated with disasters.<sup>18</sup> Therefore, to genuinely meet the essential needs of all disaster-affected persons, the new treaty must expressly incorporate displacement considerations at all points of the disaster cycle.

Specifically, this Policy Brief recommends that the new treaty should:

1. Expressly acknowledge the risk of displacement in the context of disasters.
2. Expressly acknowledge the life-saving role that well-planned evacuations and/or relocations can play as protective disaster risk reduction measures.
3. Expressly acknowledge States’ duties to protect the human rights of displaced people.
4. Expressly acknowledge that assistance with evacuations and providing access to humanitarian and/or protection visas can be forms of international cooperation.

The Policy Brief does so cognisant of the fact that, firstly, the Draft Articles provide a high-level compilation of the relevant legal principles guiding States’ responses in disasters, with occasional illustrative examples; and secondly, that their scope is far broader than displacement alone. The recommendations are mindful of this approach and therefore do not articulate granulated principles or practices, nor seek to disproportionately emphasise displacement.

However, it is also noted that the Draft Articles are but a starting point. While States are invited to submit ‘proposals for amendments to the draft articles, with a view to preparing the consolidated text that will serve as the basis for the negotiations’,<sup>19</sup> the treaty could end up expanding well beyond their text.<sup>20</sup> Indeed, since the conclusion of the Draft Articles in 2016, States have increasingly come to recognise the impacts of disasters on displacement and the importance of safeguarding human rights in relevant international and regional instruments.<sup>21</sup> This Policy Brief therefore strongly recommends that States give close consideration to other frameworks addressing displacement in the context of disasters, including:

- (a) the UN *Guiding Principles on Internal Displacement*, which set out principles for protection and assistance before, during and after displacement, including in the context of disasters;<sup>22</sup>
- (b) the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (known as the ‘*Kampala Convention*’), which is the only binding legal instrument on internal displacement and includes provisions concerning the ‘prevention and mitigation of the human toll of human-made and natural disasters’;<sup>23</sup>
- (c) the Nansen Initiative *Agenda for the Protection of Cross-Border Displaced Persons in the context of Disasters and Climate Change*, endorsed by 109 States in October 2015, which conceptualises ‘a comprehensive approach to disaster displacement’ and sets out ‘effective practices that could be used by States and other actors to ensure more effective future responses’;<sup>24</sup>
- (d) the *Sydney Declaration of Principles on the Protection of Persons Displaced in the context of Sea Level Rise*, which provides guidance to States on ‘averting, mitigating, and

- addressing displacement ... based on and derived from relevant international legal provisions, principles, and frameworks';<sup>25</sup> and
- (e) the *Kaldor Centre Principles on Climate Mobility*, which set out key overarching principles concerning displacement, migration, relocation and evacuation in the context of disasters, as well as more granular operational practices.<sup>26</sup>

### 3 Recommendations and analysis

#### 3.1 Expressly acknowledge the risk of displacement in the context of disasters.

Although 'mass displacement' is mentioned as a possible defining characteristic of a disaster,<sup>27</sup> displacement is not otherwise mentioned in the text. This is despite the fact that for nearly two decades (since figures were first compiled), internal disaster-related displacement has dwarfed conflict-related displacement.<sup>28</sup> Furthermore, a lot of disaster-related displacement does not resolve by year's end: in 2024, 9.8 million people were unable to return home.<sup>29</sup> Indeed, even government-led evacuations can result in prolonged displacement, which is why it is important to ensure that the rights of displaced people are clearly addressed.

While the need to avert displacement, and the obligation to protect those who are displaced, are implied within the Draft Articles,<sup>30</sup> a number of States have argued that the references should be made explicit.<sup>31</sup> This is particularly so given that some States felt that 'neither the subject matter, nor the territorial and personal scope of its application, were clear'.<sup>32</sup>

This Policy Brief argues that by incorporating express references to displacement, the rights and needs of displaced people would be front and centre in disaster risk reduction, response and recovery. This aligns with the views of some States that the treaty must 'reaffirm the importance of a people-centred approach and human dignity'<sup>33</sup> and meet 'the essential needs of affected persons, and ... ensure the protection of their rights'.<sup>34</sup>

#### Recommendation

References to displacement should be incorporated in the preamble, as shown in bold:

*Considering* the frequency and severity of natural and human-made disasters and their short-term and long-term damaging impact, **including the displacement of people from their homes or places of habitual residence**

*Fully aware* of the essential needs of persons affected by disasters, **including [...] displaced persons**, and conscious that the rights of those persons must be respected in such circumstances<sup>35</sup>

#### 3.2 Expressly acknowledge the life-saving role that well-planned evacuations and/or relocations can place as protective disaster risk reduction measures.

The Draft Articles provide that States have a duty to 'reduce the risk of disasters by taking appropriate measures, including through legislation and regulations, to prevent, mitigate, and prepare for disasters'.<sup>36</sup> Such measures may include 'the conduct of risk assessments, the collection and dissemination of risk and past loss information, and the installation and operation of early warning systems'.<sup>37</sup>



Evacuations and planned relocations are increasingly a key component of national and local disaster risk reduction strategies, designed to safely move people away from anticipated or immediate threats ‘to save lives and minimize exposure to harm’.<sup>38</sup> Around the world, evacuations occur on a near-daily basis in anticipation, or as a consequence, of disasters.<sup>39</sup> Between 2015 and 2022, 2.1 billion people were pre-emptively evacuated.<sup>40</sup> While planned relocations are less common – and more complex – many hundreds of examples have been documented around the world.<sup>41</sup>

In some circumstances, States have a legal duty to move people out of harm’s way in order to protect people’s lives, safety and health. States’ fundamental obligation to protect the right to life may require them to evacuate or even relocate people where there is a reasonably foreseeable risk of harm, and the evacuation or relocation is provided for by law, necessary to protect the safety and health of those affected, and proportionate to those objectives.<sup>42</sup> In other words, they must be the least intrusive measure available and not excessively restrict people’s rights.<sup>43</sup> Where possible, people must be allowed to return home once conditions permit.<sup>44</sup>

Although evacuations and planned relocations are not explicitly mentioned in the Draft Articles, the ILC Memorandum referred to ‘evacuations, relocations and other life-saving measures’ as examples of measures taken to protect human rights,<sup>45</sup> drawing on the *Inter-Agency Standing Committee (IASC) Operational Guidelines on Human Rights and Natural Disasters* which explicitly discuss evacuations as a measure for the protection of life, security of the person, physical integrity and dignity.<sup>46</sup> Separately, another background document referred to ‘the temporary evacuation of people and property’ as an example of disaster preparedness activities.<sup>47</sup> In discussing the principles of prevention and due diligence as part of States’ disaster risk reduction obligations, reference was made to emergency evacuations as a measure to protect human rights.<sup>48</sup>

Furthermore, well-planned evacuations and relocations may avert (riskier) spontaneous displacement. In this regard, the United States has stressed the need ‘to develop actionable recommendations to improve assistance and protection for internally displaced persons and to consider disaster risk reduction approaches to prevent and mitigate the impacts of internal displacement’.<sup>49</sup> Indeed, principle 3(1)(b) of the *Sydney Declaration* calls upon States, ‘in accordance with their respective capabilities and resources and their international human rights obligations, as well as other relevant international standards and frameworks, to take appropriate and effective measures’ to ‘prevent displacement of ... persons’.

However, without careful planning, consultation with affected communities, and attention to the ways in which social, institutional and contextual factors impact particular individuals and groups, evacuations and relocations may create further risks.<sup>50</sup> These may include separation from family and community; physical and/or mental harm; disruption to lives, livelihoods and social networks; and the risk of prolonged displacement.<sup>51</sup> Such challenges are even more pronounced when it comes to consideration of planned relocations as a preventative measure, which is why they are generally viewed as a last resort.<sup>52</sup>

Integrating evacuation and relocation planning into disaster risk reduction strategies is imperative for States to fulfil their responsibility under international law to protect persons in the event of disasters. Early warning systems are a core part of this, enabling pre-emptive evacuations where possible and allowing people to make informed decisions. In 2022, the UN Secretary-General called for action to ensure that all persons are protected by early warning systems within five years.<sup>53</sup> As experts and operational actors have underscored: ‘Early/Anticipatory action on displacement, supported by forecast-based financing, should be understood as a central component of disaster risk management and climate change adaptation efforts’.<sup>54</sup>

In addition, it is crucial for States to consult with affected communities to develop and effectively communicate comprehensive evacuation plans.<sup>55</sup> The *Sendai Framework for Disaster Risk Reduction*, for instance, acknowledges the importance of local knowledge, skills and capacities in designing and implementing disaster risk reduction measures.<sup>56</sup> This also helps to ensure buy-in and awareness so that people can act swiftly in the event of a disaster. The *Sendai Framework* further emphasises the need for national and local governments '[t]o promote regular disaster preparedness, response and recovery exercises, including evacuation drills, training and the establishment of area-based support systems, with a view to ensuring rapid and effective response to disasters and related displacement, including access to safe shelter, essential food and non-food relief supplies, as appropriate to local needs'.<sup>57</sup> Moreover, in recent discussions in the Sixth Committee, Nigeria noted the importance of 'education on preparedness on how to evacuate safely' as a means of preventing 'deathly disasters'.<sup>58</sup>

Planned relocations, in particular, require full consultation with all affected stakeholders, including prospective relocating and host communities. While planned relocations can enable people to move to less precarious areas, they can also have negative long-term, inter-generational consequences. As the *Kaldor Centre Principles on Climate Mobility* emphasise: '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'.<sup>59</sup>

## Recommendation

Evacuation and relocation planning should be included in the list of disaster risk reduction measures in draft article 9(2), as shown in bold:

Disaster risk reduction measures include the conduct of risk assessments, the collection and dissemination of risk and past loss information, **evacuation and/or relocation planning** and the installation and operation of early warning systems.

## 3.3 Expressly acknowledge States' duties to protect the human rights of displaced people.

The Draft Articles stipulate that States must respect and protect the 'inherent dignity of the human person ... in the event of disasters',<sup>60</sup> and ensure that human rights are respected and protected 'in accordance with international law',<sup>61</sup> with 'the needs of the particularly vulnerable' taken into account.<sup>62</sup>

While many States in the Sixth Committee welcomed the inclusion of specific provisions on human dignity and human rights,<sup>63</sup> others felt that they resulted in 'unnecessary duplication' since other treaties already enumerate human rights in detail.<sup>64</sup> Some States also argued that 'less emphasis' should be placed on 'the rights and needs of affected persons, and more on the practical aspects of international cooperation in the provision of disaster relief assistance'.<sup>65</sup> There was also equivocation about whether a 'non-exhaustive list of potentially applicable human rights in the event of disasters' should be enumerated,<sup>66</sup> and/or whether it would be helpful to clarify the provision by referring 'to the distinction between derogable and non-derogable rights'.<sup>67</sup>

The Draft Articles do not expressly acknowledge States' duties to protect the human rights of displaced people in the context of disasters. Although the ILC 'decided against including a list of vulnerable groups ... in recognition of the relative nature of vulnerability',<sup>68</sup> it is important to recognise that disasters impact people differently, creating distinctive risks for different individuals and communities. Displacement itself not only generates singular risks, but it can also compound and amplify other threats associated with disasters and/or conditions of vulnerability. In recognition of this

fact, this Policy Brief recommends that the treaty provide a non-exhaustive list of persons who may find themselves at particular risk in disasters, including those who are displaced.<sup>69</sup>

Although the duty to protect the human rights of displaced people is arguably encapsulated by draft article 5, the provision should articulate this more explicitly. An express acknowledgment would draw greater attention to the specific needs and rights of displaced persons and promote a rights-based approach to displacement, reinforcing the importance of protecting affected individuals during their displacement – particularly in situations of prolonged displacement – and of securing durable solutions that uphold their dignity, safety and long-term well-being. As Brazil stressed during discussions in the Sixth Committee, ‘it [is] important never to lose sight of the human rights perspective, particularly when addressing mass displacement caused by disasters’.<sup>70</sup>

Indeed, given the risks inherent in displacement, it seems prudent to include an express reference to the need to protect the human rights of displaced persons. A range of instruments and frameworks on displacement, such as those referred to above,<sup>71</sup> provide detailed guidance on safeguarding the rights of displaced people throughout the disaster cycle. These should be drawn upon if States wish to elaborate such rights more fully in the treaty. For example, the scenario-based approach developed by the International Law Association’s Committee on International Law and Sea Level Rise – which considers possible climate scenarios over the short, medium and long term – provides a useful way of understanding the distribution of rights and obligations over time.<sup>72</sup>

Finally, it should be noted that poorly planned or executed evacuations can themselves result in displacement and human rights violations – for instance, through separation from family and community; physical and/or mental harm; disruption to lives, livelihoods and social networks; or inadequate assistance during transit and in shelters. Moreover, what was intended as a temporary, life-saving measure can turn into prolonged displacement when returning home becomes impossible or unsafe, and no viable alternatives are offered. In such cases, the absence of durable solutions and sustained support can exacerbate the conditions that create vulnerability and undermine the rights of displaced persons over time, turning an emergency intervention into a long-term human rights concern. This underscores the importance of integrating human rights protections at every stage of evacuation planning and implementation.

## Recommendation

Draft article 5 should be expanded, as shown in bold, to read:

Persons affected by disasters, **including [...] and those who are displaced**, are entitled to the respect for and protection of their human rights in accordance with international law.<sup>73</sup>

### **3.4 Expressly acknowledge that assistance with evacuations and providing access to humanitarian and/or protection visas can be forms of international cooperation.**

States affected by a disaster have a ‘duty to ensure the protection of persons and provision of disaster relief assistance’.<sup>74</sup> In fulfilling this duty, States must ‘cooperate among themselves, with the United Nations, with the components of the Red Cross and Red Crescent Movement, and with other assisting actors’.<sup>75</sup> They must seek external assistance if a ‘disaster manifestly exceeds [their] national response capacity’,<sup>76</sup> and they must not ‘arbitrarily’ withhold consent to any assistance that is offered to them.<sup>77</sup>

Draft article 8 of the Draft Articles sets out a range of ‘illustrative and not exhaustive’<sup>78</sup> forms of cooperation. States have suggested that other examples ‘could be added to the provision to promote

additional clarity and certainty'.<sup>79</sup> This could include measures specifically focused on addressing displacement.<sup>80</sup>

The duty to cooperate applies across all stages of the disaster cycle, covering both disaster risk reduction and response efforts.<sup>81</sup> While the *Sendai Framework* emphasises that each State is primarily responsible for disaster risk reduction, it also stresses that 'the reduction of disaster risk is a common concern for all States and the extent to which developing countries are able to effectively enhance and implement national disaster risk reduction policies and measures in the context of their respective circumstances and capabilities can be further enhanced through the provision of sustainable international cooperation'.<sup>82</sup> As such, States should cooperate on the implementation of well-planned evacuations and/or relocations as protective disaster risk reduction measures, including by establishing early warning systems.

However, during discussions in the Sixth Committee, States noted that while 'early warning systems and disaster management efforts' had 'helped to decrease the mortality rate three-fold, more international cooperation was needed to tackle the chronic problem of human displacement caused by floods, storms and drought'.<sup>83</sup> International cooperation is indeed often indispensable for responding to the needs and protecting the rights of displaced communities. For instance, when local authorities are overwhelmed, the support of assisting actors is crucial in facilitating or conducting evacuations, as well as in providing basic necessities such as food, water, medical care and shelter to evacuees.

Furthermore, international cooperation plays a critical role in facilitating cross-border evacuations.<sup>84</sup> Disasters that overwhelm national response capacities may require or result in the movement of affected persons across international borders in search of safety, highlighting the need to acknowledge and plan for the possibility of cross-border displacement.<sup>85</sup> In such cases, third States and other actors may assist by providing safe passage, transportation and temporary refuge for evacuees. This support may also include coordinating logistics, establishing legal frameworks to permit entry and stay, and delivering essential services upon arrival.

Cross-border evacuations, enabled through cooperative arrangements, can thus be vital for safeguarding lives during disasters that overwhelm national response capacities. Indeed, the *Sydney Declaration* states that cooperation in this context could include:

- (a) efforts at bilateral, regional and/or sub-regional levels to strengthen and coordinate measures to: ...
  - ii. assist, in accordance with elementary humanitarian considerations, in the evacuation of persons where necessary to save lives, including *across borders*.<sup>86</sup>

Many States have concluded regional and bilateral agreements on international cooperation in disaster response.<sup>87</sup> Such agreements often reflect a mutual commitment to provide assistance in disasters and establish a framework for cooperation that deals with the modalities of requesting aid, as well as the facilitation of the provision of assistance. Some even provide expressly for cross-border evacuations. An agreement between the United States and Canada, for instance, obliges each party to 'use its best efforts to facilitate the movement of evacuees, emergency personnel, equipment or other resources into its territory or across its territory when it is agreed that such movement will facilitate emergency operations by both Parties'.<sup>88</sup>

For all these reasons, measures such as temporary or permanent stay based on humanitarian considerations, flexible and expedited processing of regular visa applications and/or waivers of normal visa requirements should also be recognised as important tools in this context.<sup>89</sup> Indeed, the *Global Compact for Safe, Orderly and Regular Migration* emphasises the need to develop 'national

and regional practices for admission and stay' in the context of disasters, 'such as by providing humanitarian visas, private sponsorships, access to education for children, and temporary work permits'.<sup>90</sup> In some cases, people may qualify for international protection as refugees or beneficiaries of complementary protection.<sup>91</sup>

Finally, more durable migration opportunities can also play an important role in enabling people to move away from existing and/or anticipated harms in a planned and proactive manner. They can 'provide a release valve for people who might otherwise be at risk of displacement', 'reduce pressure on limited resources' and help to 'safeguard against involuntary immobility'.<sup>92</sup> This is why they are sometimes described as a form of adaptation to climate change.

## Recommendation

Assistance with evacuations and providing access to humanitarian and/or protection visas should be included as forms of international cooperation in draft article 8, as shown in bold:

Cooperation in the response to disasters includes humanitarian assistance, coordination of international relief actions and communications, **assistance with evacuations (including across international borders), providing access to humanitarian and/or protection visas,** and making available relief personnel, equipment and goods, and scientific, medical and technical resources.<sup>93</sup>

## 4 Conclusion

The increasing frequency and severity of disasters, exacerbated by climate change, underscores the urgent need to foreground displacement, evacuations and planned relocations in the forthcoming treaty on the Protection of Persons in the event of Disasters. The Draft Articles' near silence on these issues is particularly striking given the substantial and growing number of disaster-related displacements globally. To address this gap, it is imperative that the treaty expressly considers displacement at all stages of the disaster cycle – namely, in prevention, response and recovery.

This Policy Brief has made four concrete recommendations about how references to displacement could be included in the treaty. These include expressly acknowledging the risk of displacement in the context of disasters; recognising the life-saving role that well-planned evacuations and relocations can play as protective disaster risk reduction measures; affirming States' duties to protect the human rights of displaced people; and promoting evacuations and humanitarian/protection visas as forms of international cooperation. By incorporating these recommendations, the treaty could better address the realities of disaster-related displacement, ensuring that the rights and needs of displaced people are at the forefront of disaster risk reduction and response efforts. This approach not only aligns with existing international principles and frameworks but also reflects the growing recognition by States of the impacts of disasters on displacement and the importance of safeguarding people's human rights.

## Endnotes

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<sup>1</sup> Internal Displacement Monitoring Centre (IDMC), *Global Report on Internal Displacement 2025* (IDMC, 2025) ii. There were 20.1 million conflict-related displacements (30.5 per cent) and 45.8 million disaster-related displacements (69.6 per cent) of a total 65.8 million internal displacements in 2024.

<sup>2</sup> Ibid, 10. See also Sylvain Ponserre and Justin Ginnetti, *Disaster Displacement: A Global Review, 2008–2018* (IDMC, 2019) 8. For instance, IDMC’s *Methodological Annex* (IDMC, 2020) 24 reports that: ‘This was the case for almost 8 million of the new displacements we reported on in 2019, or around 32 per cent of the global total’.

<sup>3</sup> See eg Climate Council, ‘Briefing Statement: Damage from Cyclone Pam Was Exacerbated by Climate Change’ (18 March 2015) 1–2: ‘The rise of sea levels globally because of climate change – due to warming oceans and melting ice sheets – means that storm surges are now riding on higher levels than they were earlier, increasing the extent and severity of flooding damage from cyclones and other weather systems than can drive storm surges. ... The increasing temperature of the surface of the ocean affects the intensity of cyclones because the storms draw energy from the surface waters of the ocean. This can increase wind speed and trigger more intense rainfall’.

<sup>4</sup> ‘The recognition that disasters can arise from complex causes, including the effects of climate change, was highlighted’: *Protection of Persons in the event of Disasters: Oral Report of the Chair of the Working Group*, UNGA Sixth Committee, 78<sup>th</sup> session (8 November 2023) para 15.

<sup>5</sup> UNGA res 79/128: Protection of Persons in the event of Disasters (4 December 2024). See also Giulio Bartolini, ‘Toward a Universal Treaty on “Protection of Persons in the event of Disasters”, *EJIL:Talk!* (17 December 2024).

<sup>6</sup> International Law Commission (ILC), *Protection of Persons in the event of Disasters: Memorandum by the Secretariat*, UN doc A/CN.4/590 (2007) para 3.

<sup>7</sup> UNGA res 79/128 (n 5) preamble.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid, paras 4–6.

<sup>10</sup> The ILC Commentaries that accompanied the Draft Articles referenced the UN *Guiding Principles on Internal Displacement*, UN doc E/CN.4/1998/53/Add.2 (11 February 1998) in several places, noting that they contained relevant principles to inform aspects of the Draft Articles. However, none of these references made it into the final text. See ILC, *Draft Articles on the Protection of Persons in the event of Disasters, with Commentaries* (2016), draft art 4, para 6; draft art 5, para 2; draft art 13, para 5.

<sup>11</sup> ILC Memorandum (n 6) para 2.

<sup>12</sup> IDMC (n 1) ii.

<sup>13</sup> Ponserre and Ginnetti (n 2) 6.

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<sup>14</sup> The Draft Articles apply to both sudden-onset events and slower-onset processes: ILC Commentaries (n 10) draft art 3, para 4.

<sup>15</sup> Draft art 3(a).

<sup>16</sup> UN doc A/C.6/75/SR.18 (13 November 2020) para 18 (Brazil).

<sup>17</sup> Draft art 2.

<sup>18</sup> See eg the specific rights articulated in the *Guiding Principles on Internal Displacement* (n 10).

<sup>19</sup> UNGA res 79/128 (n 5) para 6.

<sup>20</sup> In discussions in the Sixth Committee, it was noted that the ILC had recommended not that the Draft Articles themselves be turned into a treaty, but rather than an instrument be concluded 'on the basis of the draft articles': *Protection of Persons in the event of Disasters: Oral Report of the Chair of the Working Group*, UNGA Sixth Committee, 79<sup>th</sup> session (8 November 2024) para 86.

<sup>21</sup> See eg *Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster* (Migrants in Countries in Crisis Initiative, 2016); *Global Compact for Safe, Orderly and Regular Migration*, UNGA res 73/195 (19 December 2018); *Guide to Effective Practices for RCM Member Countries: Protection for Persons Moving across Borders in the context of Disasters* (2018); *Pacific Regional Framework on Climate Mobility*, Annex C to the Pacific Islands Forum, *Forum Communiqué* (52<sup>nd</sup> Pacific Islands Forum, November 2023).

<sup>22</sup> *Guiding Principles on Internal Displacement* (n 10).

<sup>23</sup> UN doc A/C.6/78/SR.6 (4 October 2023) para 101 (Ethiopia), referring to the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa*, opened for signature 23 October 2009, 49 ILM 86 (entered into force 6 December 2012).

<sup>24</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* (2015) 7.

<sup>25</sup> International Law Association (ILA), *Sydney Declaration of Principles on the Protection of Persons Displaced in the context of Sea Level Rise* (2018) 'Purpose'.

<sup>26</sup> Jane McAdam and Tamara Wood, *Kaldor Centre Principles on Climate Mobility* (2023).

<sup>27</sup> Draft art 3(a): 'a calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society'.

<sup>28</sup> See n 13.

<sup>29</sup> IDMC (n 1) 4.

<sup>30</sup> For instance, in a discussion on draft article 2 – on the purpose of the instrument – it was noted that 'persons concerned' includes 'displaced' people: 79<sup>th</sup> session report (n 30) para 12.

<sup>31</sup> UN doc A/C.6/76/SR.13 (21 October 2021) para 18 (Solomon Islands).

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<sup>32</sup> 79<sup>th</sup> session report (n 30) para 9. ‘Some delegations expressed the view that the duty to protect persons applied regardless of nationality or migratory status’, although proposed adding ‘an express recognition of such understanding into the text’: 78<sup>th</sup> session report (n 4) para 9.

<sup>33</sup> 79<sup>th</sup> session report (n 30) para 4.

<sup>34</sup> 78<sup>th</sup> session report (n 4) para 4.

<sup>35</sup> The ellipsis indicates that other groups could be listed here as well. As the ILC Commentaries (n 10) draft article 14, para 8 note: ‘The reference to “needs” ... is broad enough to encompass the special needs of women, children, the elderly, persons with disabilities, and vulnerable or disadvantaged persons and groups’.

<sup>36</sup> Draft art 9(1).

<sup>37</sup> Draft art 9(2).

<sup>38</sup> UNHCR, Brookings Institution and Georgetown University, *Planned Relocation, Disasters and Climate Change: Consolidating Good Practices and Preparing for the Future* (2014) 11–14, drawing on the Global Camp Coordination and Camp Management Cluster, *The MEND Guide: Comprehensive Guide for Planning Mass Evacuations in Natural Disasters: Pilot Document* (2014) 17.

<sup>39</sup> Daily Google alert on ‘evacuation’.

<sup>40</sup> United Nations Office for Disaster Risk Reduction and World Meteorological Organization, *Global Status of Multi-Hazard Early Warning Systems* (2024) 10.

<sup>41</sup> 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 Kaldor Centre for International Refugee Law, 2021).

<sup>42</sup> Walter Kälin, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons*, UN doc A/64/214 (3 August 2009) para 27; Bruce Burson, Walter Kälin, Jane McAdam and Sanjula Weerasinghe, ‘The Duty to Move People out of Harm’s Way in the context of Climate Change and Disasters’ (2018) 37 *Refugee Survey Quarterly* 379; *Guiding Principles on Internal Displacement* (n 10) principle 6(2)(d). See also ILC Memorandum (n 6) para 255, citing the *IASC Operational Guidelines on Human Rights and Natural Disasters* (2011).

<sup>43</sup> UN Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, UN doc CCPR/C/21/Rev.1/Add.13 (29 March 2004) para 6.

<sup>44</sup> *Guiding Principles on Internal Displacement* (n 10) principle 28; *IASC Operational Guidelines* (n 42) para A.1.6.

<sup>45</sup> ILC Memorandum (n 6) fn 783.

<sup>46</sup> *IASC Operational Guidelines* (n 42) para A.1.3.

<sup>47</sup> ILC Memorandum (n 6) para 27. This reference was cited in the Sixth Report of the Special Rapporteur regarding duties of disaster risk reduction: Eduardo Valencia-Ospina (Special



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Rapporteur), *Sixth Report on the Protection of Persons in the event of Disasters*, UN doc A/CN.4/662 (3 May 2013) para 38.

<sup>48</sup> Sixth Report (n 47) para 65, citing *Budayeva and Others v Russia*, App Nos 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02 (20 March 2008) (a case from the European Court of Human Rights which considered evacuations as a life-saving measure).

<sup>49</sup> UN doc A/C.6/75/SR.18 (13 November 2020) para 24 (United States). It also referred to the importance of 'responding to [disasters] in a way that took into account the needs of those disproportionately affected, such as persons with disabilities, children, women and older persons' (para 23).

<sup>50</sup> See eg 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.

<sup>51</sup> There are many more people living in protracted displacement than previously thought: see eg IDMC, *Recovery Postponed: The Long-Term Plight of People Displaced by the 2011 Great East Japan Earthquake, Tsunami and Nuclear Radiation Disaster* (IDMC, 6 February 2017); Jane McAdam, 'Evacuations as Displacement: Conceptual and Legal Challenges' (2025) 44 *Refugee Survey Quarterly* (published online 24 January 2025).

<sup>52</sup> *Protection Agenda* (n 24) 9–10, 38–39.

<sup>53</sup> UNDRR and WMO (n 40) 8.

<sup>54</sup> Eighth Session of the Global Platform for Disaster Risk Reduction Geneva, Switzerland, 'Concept Note for Thematic Session 2–4: Catalysing Governance Solutions for Disaster and Climate-Related Displacement' (March 2025) 4.

<sup>55</sup> 'Ongoing, meaningful and inclusive consultation is essential to ensuring that applicable frameworks meet the needs, and respect the rights, of all those affected': *Kaldor Centre Principles on Climate Mobility* (n 26) principle 13.

<sup>56</sup> *Sendai Framework for Disaster Risk Reduction 2015–2030*, UNGA res 69/283 (3 June 2015) para 36(a). We also note that the proposed WHO Pandemic Treaty (as at 24 May 2024) contains relevant provisions on whole-of-government and whole-of-society approaches (art 17), as well as communication and public awareness (art 18).

<sup>57</sup> *Sendai Framework* (n 56) para 33(h).

<sup>58</sup> 78<sup>th</sup> session report (n 4) para 9 (Nigeria).

<sup>59</sup> *Kaldor Centre Principles on Climate Mobility* (n 26) principle 5.

<sup>60</sup> Draft art 4.

<sup>61</sup> Draft art 5.

<sup>62</sup> Draft art 6. In discussions, it was noted that 'vulnerable groups' could include 'non-nationals' and 'migrants': 79<sup>th</sup> session report (n 30) paras 36 and 32, respectively.

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<sup>63</sup> 78<sup>th</sup> session report (n 4) para 30.

<sup>64</sup> Ibid, para 33.

<sup>65</sup> Ibid, para 26. See also 79<sup>th</sup> session report (n 30) paras 27–29.

<sup>66</sup> 78<sup>th</sup> session report (n 4) para 30. By contrast, some States felt there was ‘no need to include references to the international human rights obligations of States, since they were already defined by relevant international instruments’ and resulted in ‘unnecessary duplication’: para 33.

<sup>67</sup> Ibid, para 31.

<sup>68</sup> ILC Commentaries (n 10) draft art 6, para 7. ‘Vulnerability’ is a problematic concept which is often linked to people’s individual characteristics (eg disability), rather than the ‘intersectional power relations’ embedded in social systems and structures which generate conditions of vulnerability: Regina Jefferies, ‘Perceiving Disaster Risk: Sexual and Gender Minorities, Evacuation and Displacement’ in Alice Farmer and Emma Dunn (eds), *Climate Change, Migration, Gender and the Law* (Edward Elgar, forthcoming 2026).

<sup>69</sup> The ILC Commentaries relevantly noted that best practices contained in instruments such as the *IASC Operational Guidelines* (n 42) and the *Guiding Principles on Internal Displacement* (n 10) ‘serve to contextualize the application of existing human rights obligations to the specific situation of disasters’: ILC Commentaries (n 10) draft art 5, para 2. See also principle 3(1)(c) of the *Sydney Declaration* (n 25), which calls upon States, ‘in accordance with their respective capabilities and resources and their international human rights obligations, as well as other relevant international standards and frameworks, to take appropriate and effective measures’ to ‘protect and assist [persons] in the event of displacement’.

<sup>70</sup> UN doc A/C.6/75/SR.18 (13 November 2020) para 18 (Brazil).

<sup>71</sup> See nn 22–26.

<sup>72</sup> ILA Committee on International Law and Sea Level Rise, *Final Report* (2024).

<sup>73</sup> The ellipsis indicates that other groups could be listed here as well.

<sup>74</sup> Draft art 10.

<sup>75</sup> Draft art 8.

<sup>76</sup> Draft art 11.

<sup>77</sup> Draft art 13.

<sup>78</sup> 78<sup>th</sup> session report (n 4) para 48.

<sup>79</sup> Ibid, para 49. In the Sixth Committee, the Solomon Islands ‘supported the view that there should be a specific reference to climate change-induced displacement of persons; greater international cooperation was needed to tackle such displacement’: UN doc A/C.6/76/SR.13 (21 October 2021) para 18 (Solomon Islands).

<sup>80</sup> International cooperation could include measures to mitigate the risk of disasters and the concomitant risk of displacement. The ILC Commentaries (n 10) draft art 8, para 3 state that:

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‘Cooperation in the pre-disaster phase, including disaster prevention, preparedness and mitigation, is dealt with in draft article 9’.

<sup>81</sup> ILC Commentaries (n 10) draft art 7, para 6.

<sup>82</sup> *Sendai Framework* (n 56) para 19(a).

<sup>83</sup> UN doc A/C.6/76/SR.12 (18 October 2021) para 87 (Federated States of Micronesia).

<sup>84</sup> During the ILC drafting process, the International Organization for Migration suggested ‘including [bilateral] cooperation with the countries of origin of non-nationals that are present in the territory ... aimed at ensuring access to nationals during crisis, coordinating evacuation procedures and facilitating documentation, among other things, as a form of cooperation’: Eduardo Valencia-Ospina (Special Rapporteur), *Eighth Report on the Protection of Persons in the event of Disasters*, UN doc A/CN.4/697 (17 March 2016) para 173.

<sup>85</sup> During deliberations in the Sixth Committee, it was noted that the text does not currently mention ‘transboundary disasters’ and this should be addressed: see 79<sup>th</sup> session report (n 30) para 14.

<sup>86</sup> *Sydney Declaration* (n 25) principle 4(2)(a)(ii) (emphasis added).

<sup>87</sup> For an overview of regional and bilateral agreements and other instruments, see ILC, *Protection of Persons in the event of Disasters: Memorandum by the Secretariat: Addendum*, UN doc A/CN.4/590/Add.2 (2008).

<sup>88</sup> Agreement on Emergency Management Cooperation, Canada–United States (12 December 2008) art 2(1)(3); International Emergency Management Assistance Memorandum of Understanding, Canada–United States (18 July 2000) art X.

<sup>89</sup> *Kaldor Centre Principles on Climate Mobility* (n 26) 9.

<sup>90</sup> *Global Compact for Safe, Orderly and Regular Migration* (n 21) Objective 5, para 21(g). See also *Pacific Regional Framework on Climate Mobility* (n 21) paras 39–40; *Sydney Declaration* (n 25) principle 4(2)(a).

<sup>91</sup> See Kate Jastram, Jane McAdam, Geoff Gilbert, Tamara Wood and Felipe Navarro, *International Protection for People Displaced across Borders in the context of Climate Change and Disasters: A Practical Toolkit* (Center for Gender & Refugee Studies, Kaldor Centre for International Refugee Law and Essex Law School and Human Rights Centre, 2025).

<sup>92</sup> See eg *Kaldor Centre Principles on Climate Mobility* (n 26) principle 4.

<sup>93</sup> See *Sydney Declaration* (n 25) principle 4(2)(a)(ii). Principle 4(2)(b) goes on to state that cooperation may include ‘efforts to ensure that persons moving across borders are admitted and received with respect for their safety, dignity, and human rights, including the creation or harmonisation of more predictable domestic or regional legal frameworks, and that durable solutions to displacement are found’.

