



LAND ACCESS FOR CLIMATE DISPLACED PERSONS AND COMMUNITIES

ROUNDTABLE HOSTED BY DISPLACEMENT
SOLUTIONS & THE GLOBAL MIGRATION CENTRE OF
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INTERNATIONAL AND DEVELOPMENT STUDIES

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OVERVIEW

In April 2016, Displacement Solutions and the Global Migration Centre of the Geneva Graduate Institute of International and Development Studies hosted a Roundtable on *Land Access for Climate Displaced Persons and Communities*.

The Roundtable brought together participants from countries and regions that are already experiencing climate displacement and are already grappling with how best to design and implement land based solutions to this growing crisis. Participants discussed land-based efforts to resolve climate displacement already underway in Alaska, Bangladesh, Colombia, Fiji, Panama, the Solomon Islands and elsewhere. The Roundtable also brought together experts from key international NGOs, UN agencies and other stakeholders engaged in the challenge of finding effective land solutions to climate displacement.

The Roundtable provided the first opportunity for this unique group of experts to come together, to share their experiences, their strategies, their challenges and to chart a common, principled way forward for addressing this growing global challenge.

The Roundtable also promoted the application of global best practice and guidance on land based solutions to climate displacement, including the *Peninsula Principles on Climate Displacement within States*.

The Roundtable further assisted in consolidating Displacement Solutions' 2016-2020 *Climate Displacement Land Initiative* and in developing country specific plans for the acquisition and allocation of land for climate displaced persons in each of the participating countries.

Overall, the Roundtable highlighted that important efforts are already underway to implement land based solutions to climate displacement including a number of community-led initiatives to permanently relocate in the face of increasing threats from the effects of climate change. The Roundtable emphasized the crucial and central role of climate-affected communities themselves – including indigenous communities – in designing and implementing land-based solutions. The Roundtable also discussed varying efforts at the international level to address climate displacement, including the recent COP21 Paris Agreement and the work of Geneva-based institutions and special procedures, including the Independent Expert on the Enjoyment of All Human Rights by Older Persons.

The Roundtable also highlighted challenges associated with land-based solutions to climate displacement. These included identifying and allocating suitable land in regions where there is very little land available, including in small-island states, as well as in States where land is a highly politicized resource, for example in Bangladesh; ensuring that gender perspectives are adequately incorporated into planned relocations, including ensuring the genuine involvement of women in decision making related to land resources; ensuring suitable land in countries where the majority of land is under customary, rather than State ownership and the distinctions between pre-emptive

relocation, for example in the face of rising sea levels and those that are reactive, for example after a humanitarian emergency. The Roundtable also highlighted the need for ensuring that effective institutional and governance structures are in place to support land-based solutions to climate displacement.

Notwithstanding the myriad complexities and challenges discussed, the experts at the Roundtable were optimistic that such a Roundtable was a crucial step towards establishing a positive dialogue of shared experiences, to overcoming common pitfalls and to creating a global group of stakeholders committed to ensuring that concrete steps are being taken now to implement effective land based solutions.

The participants also agreed that it was important to emphasise that land based solutions are only part of the solution for climate displacement and must be seen alongside mitigation and other adaptation efforts. Further, identifying and acquiring land should not be seen as the sum of the solution, but only the first step, and that ensuring suitable land must be part of a holistic approach to relocation that draws on considerable guidance, best practice and genuine consultation and understanding of the wishes of communities themselves. Relocation should be viewed not merely as a shelter or housing project, but as encompassing all of the components of a truly durable solution.

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I. OPENING STATEMENT

Welcome everyone!

We are overjoyed to welcome everyone to our two-day gathering on Improving Land Access for Climate Displaced Persons and Communities and look very much forward to the next two days as we discuss this critical but still almost entirely overlooked issue.

Before getting into the substantive issues we will address in the coming days, I would first like to offer sincere thanks to all of you for taking the time out of your busy schedules to attend this first of its kind event, especially to those of you who travelled many hours to get here.

Special thanks to the Vienna-based Applied Research Association and in particular Eva Bergmann who have worked tirelessly to help bring this meeting to life. Thanks also to the Global Migration Centre of the Geneva Graduate Institute of International and Development Studies Graduate Institute for providing support and the venue for this event. And thank you, as well, to the *Fondation Hoffmann* for its longstanding support, and for providing the financial resources needed to bring this gathering to fruition.

We are convening this meeting at a critical time for the world's growing climate displaced populations, a tragic and ever-expanding category of fellow humans which - with absolute certainty - we know will grow as the effects of climate change become ever more prevalent. We can't necessarily say with such certainty that other forms of forced displacement will necessarily grow, and of course we hope it won't, but with climate displacement I fear we can. As such, those of us concerned with this issue and who work on it daily, urgently need to identify and advocate for every possible way to prevent this form of displacement, reduce its magnitude to the maximum possible extent, and ultimately find rights- and land-based, realistic and permanent solutions for everyone, everywhere in need of new housing and land resources which will enable them to start life anew.

We in this room may well be aware that climate displacement is well underway, but the world's decision-makers and the population at large remain all too unaware and passive in the face of this emerging crisis. So what this meeting is all about is creating an opportunity to exchange experiences and ideas about the specific issue of how best to improve access to land for people and communities who need to move from their current homes to a safer place. Some may say that the quest to protect the rights of climate displaced persons and communities will be ultimately futile given both the scale of the problem and the deep historical failure of States to ensure access to adequate housing in virtually every country, not to mention staggering predictions that perhaps one-third of humanity may live out their lives in slums in coming decades. But fighting for human rights and believing in their promise is invariably a quest for the often-deemed impossible dream of a better humanity, a better world, a better planet, and with this gathering we will show that the idea of improving access to land for people forced to flee their homes might not be as much an impossible dream as many may think. Of course, we face dramatic obstacles in this quest, but what this meeting shows is that

people in all corners of the world are working daily to find real solutions for those in need of new homes and lands because of climate displacement.

Displacement Solutions started its work on land-based solutions to climate displacement about a decade ago in 2007 when we put together a comprehensive plan to acquire 7,000 acres of land on the island of Bougainville for the 3,000 Carteret Islanders who by then had decided that their best bet was to relocate from their island homes to the very different reality found on the much larger and unstable shores of Bougainville. In the end, this plan fell through but it came tantalisingly close to becoming a precedent that could have guided global policy on how best to resolve climate displacement. The deal was done to have this massive amount of land - far in excess of what would have been needed for all Carteret Islanders - purchased by the government of Bougainville from a private landowner on the condition that it would be granted to the islanders, however, funds provided to resettle the islanders went mysteriously missing and the landowner - desperate to sell - sold the land for less than 500,000 Australian dollars, a price far less than the median price for a single house in Australia's cities today.

Since we developed the Bougainville plan we have been active in a growing number of countries already grappling with the very real displacement consequences of climate change - everywhere from Tuvalu to Thailand, Burma to Bangladesh, Colombia to Kiribati, the Solomon Islands, Maldives and so on. Beyond our work in the field, we've produced a range of books, reports, films, photographic essays and a range of other works, including the world's first estimate of just how much land it will take to solve climate displacement - 0.14% of the world's land surface for those who are interested! - and a range of other efforts focused on land-based solutions to climate displacement that essentially revolve around the question of *Where Will We Go?* As the human race, where will we go when temperatures go up by 4C degrees or more? Where will we go when sea levels rise by one, two, five or maybe even 60 meters as a growing number of scientists now predict? Where we will go when we can no longer stay where we have lived for years, decades and sometimes centuries?

These are ultimately the fundamental questions we want to address with this meeting. Though the task is daunting, we believe we already have many of the tools needed to address this crisis already available. Our perspective is that we need to apply and enforce human rights laws and guidelines, including the *Peninsula Principles on Climate Displacement Within States*, as core elements within effective national strategies recognising that climate displaced persons and communities are rights-holders under human rights law.

We believe that in protecting the housing, land and property (HLP) rights of climate displaced people everywhere we assist greatly in securing residential climate justice. We are convinced that the role of land is central in resolving climate displacement, and consequently that there is a pressing need to increase access to land in the development of viable domestic strategies, laws and policies designed to prevent and repair climate displacement. Land needs to be identified, acquired and allocated in all societies where internal planned relocation of climate-affected communities at a level commensurate with the scale of present and likely future climate displacement. Specifically, land set-aside programmes managed by yet to be created National Climate Land Banks can in

principle be established in all countries to act as central repositories for land designated exclusively for the use of climate displaced persons and communities, based on clear national policies and effective institutional frameworks dedicated to preventing and repairing climate displacement.

These and other steps can bring us ever closer to actually resolving the climate displacement crisis that is already well upon us. And this, I believe, is what makes this meeting so exciting for we have with us in this room - in many respects for the first time - a group of people who are already deeply involved in efforts to find new land resources to people already enduring the reality of climate displacement.

Over the next two days we will hear, for instance, about the extraordinary work of Young Power in Social Action (YPSA) in Bangladesh to identify viable land parcels suitable for the planned relocation of particularly vulnerable groups affected by climate change, as well as some of the highlights of both the DS-YPSA Bangladesh HLP Initiative, and the recently inaugurated One House, One Family at a Time Project which allows ordinary people everywhere to donate whatever amount of funds they can afford towards the construction of new homes for particularly vulnerable climate displaced families in Bangladesh.

We will also hear from Blas Lopez from the Guna Indigenous community in Panama about efforts to relocate the first group of up to 30,000 Guna Peoples from the islands of Gardi Sugdup to land on the mainland and the many challenges facing these efforts. We are very happy to have Blas with us here to present the reality of Gunayala to us.

The meeting will hear from Julia Edwards about the experiences in Fiji of climate relocation that has already occurred and the prospects of the many dozens of villages that are likely to be relocated in coming years. We will hear from Joseph Foukona about climate relocation in the Solomon Islands where customary land laws have played a key role in finding land solutions to climate displacement in locations such as Lau Lagoon, and from Carlos Arenas about how Colombia is grappling with these issues. Robin Bronen will describe climate displacement in the United States from the perspective of the Indigenous Alaskans who have already initiated the relocation process from villages such as Newtok - pitfalls and all. And we'll hear many other stories from the rest of you about how climate displacement is affecting your countries, your work, your institutions and what is going to be done about it in years to come.

We are hopeful that this Roundtable can assist in generating innovative ideas for how best to improve the prospects of climate-displaced people wherever they may reside. In the Agenda for this meeting we included seven key questions which we hope all of us can address. As a reminder, these questions are:

Question 1: Which countries, institutions and organisations do we look at as a model(s) for appropriate, rights-based responses to climate displacement? Who is doing it right and who is doing it wrong?

Question 2: What are the ingredients of the best possible domestic policy on land-based solutions for climate displacement?

Question 3: What are the precise elements of a national or local institution mandated to resolve domestic climate displacement?

Question 4: To what degree can judicial approaches to climate displacement assist in resolving this issue?

Question 5: How can planning law assist in preventing and resolving climate displacement?

Question 6: Does any government explicitly treat - in law, policy and practice - climate displaced persons and communities as rights holders? If so, which ones?

Question 7: Where to go from here?

We hope that by addressing these and other questions we will be in better position to address the innumerable climate displacement challenges that will confront us in the coming years. We fully recognise that while activities such as the Nansen Initiative and the recent COP meeting and agreement in Paris in December last year did raise the profile somewhat of climate displacement, the issue remains far too low on the political agendas of individual states and the international agenda more broadly. Recent high profile stories on the USD 52m allocated to relocate a small indigenous community in the US state of Louisiana, new and alarming data on sea level rise projections, new predictions such as that by Climate Central that perhaps as many as 760m people will ultimately be displaced by climate change, that winter largely by-passed the Arctic, our own work on the tragic losses facing the people of Ontong Java Atoll in the Solomon Islands, the fact that 300,000 Australia coastal properties are considered to be under imminent threat of sea level rise, and many other recent news items will assist in raising the profile of climate displacement, but we still have a long way to go before the this crisis gets the political and financial attention it deserves.

Our aim at Displacement Solutions is to work with the people, communities and their representatives in areas where climate displacement is either underway or likely in the near future to find viable ways to by which - should this be their wish - these victims of climate change can voluntarily relocate to new land in locations which are safe, secure, suitable and productive so that they can begin their lives anew with at least a glimmer of hope that they will never again be displaced either by climate change or any other force beyond their control.

As we all know, the process of relocation or resettlement is extremely complex, very difficult to carry out successfully, and something often highly traumatic for those involved; something that our good friend Anthony Oliver-Smith will no doubt go into during his presentation. Few people facing climate displacement want to move, but left with no choice, they want it to be done right, and have every human right and expectation that it will be done right should this have to occur as a last resort. And yet, we have reached this stage in a sadly growing number of countries where the people themselves see the writing on the wall and are now seeking new land to start life over.

It is in the form of the recently relocated village of Vunidogolo in Fiji's second island that we see the future of climate displacement and a viable solution to this beginning to take

shape. So too, the recently cleared 17-acre land parcel in Guna mainland territory in Panama where islanders have vested their hopes, shows us the increasingly likely future of not only the Guna, but of island- and coastal dwellers throughout the world. The hopes of the people of Ontong Java Atoll in the Solomon Islands to move to Santa Isabel island, the dreams of countless Bangladeshis for a plot a new land far from the threatened islands, coastlines, river's edges where they live today, and the anticipation of the displaced villagers of Gramalote in Colombia for their new (and long overdue) homes in New Gramalote, are the realities of the moment that will only grow as climate displacement becomes ever more real.

As a global polity, we could - as many already do - simply say in effect: "We allow you to go. You are on your own. Migrate to wherever you can. Go for it. Be free. Life in the slums won't be that bad". But is this hands-off approach to the climate displacement crisis really sufficient? Are we really ready to throw our collective arms in the air and give up the quest for climate justice and the rights of climate displaced people? Some may be ready to take this cheerless approach, but we are most certainly not.

Many of you and the countries where you are from or work can provide us with the parameters of a way out of this crisis that can in turn show the rest of the world that with a few tragic exceptions (Tuvalu, Kiribati, Marshall Islands, Maldives, etc), the vast majority of countries where climate displacement is occurring or will occur can solve climate displacement with a focus on land-based solutions to these challenges. Indeed, some of the countries here are already showing us the way - Fiji, the Solomons, Panama, and others. For some of the small island States it may well be too late, even if technologically we could easily save them (just look at what China has done in terms of land reclamation in the Spratley Islands, rightly or wrongly), but for 185 or more countries the response to climate change hinges on the question of land; who controls, it, and how it is governed, regulated, used and allocated to those most in need.

Notwithstanding what others may do, these issues will form the central focus of Displacement Solutions in the coming years, and our aim will be - together with our amazing partners - to show beyond any doubt that climate displacement can be solved, that this can be done in a rights-based manner, and that forward-looking policy and vision can provide a positive way out of a very negative situation brought about by an economic system wholly out of touch with the carrying capacity of the fragile planet that we all share and which everything else depends.

Thanks to everyone again for coming; we are truly grateful for your participation and with that I declare our meeting open!

Scott Leckie
Founder and Director of Displacement Solutions

II. RESETTLEMENT LESSONS: LEARNED, FORGOTTEN, IGNORED

Anthony Oliver-Smith highlighted that this Roundtable was occurring at a time of considerable displacement associated with development projects, land grabs (particularly in Africa) as well as associated with the vulnerability and exposure of people and resources in the face of increasing natural hazards and the effects of climate change.

Oliver-Smith highlighted that at the same time as this displacement, International Financial Institutions, including the World Bank are dismantling 30 years of safeguards for development projects – including safeguards for communities resettled in the context of such projects. Oliver-Smith noted that the guidelines are being abandoned because borrower countries consider them to be an infringement on their sovereignty. In effect, they do not like being told what they can and cannot do with their own populations. Given elite notions of neoliberal development, populations in the way of growth are an obstacle and should be resettled as “efficiently” as possible.

At the same time, the humanitarian community is looking to the IFIs for expertise and expertise on developing guidelines on displacement and relocation. While the World Bank (and other IFIs) safeguards have not worked as well as hoped, they are the result of knowledge gained over 30+ years and, even poorly implemented, have diminished impoverishment for some resettled people even if projects have still been overall failures. That they are being abandoned to the borrower states at a time when they are most needed is a tragedy. The climate change displacement community can still draw on the knowledge gained in these safeguards.

Climate Change and Displacement by the numbers

Oliver-Smith highlighted that there are wild estimates of the numbers of people displaced by climate change, including many without any empirical basis.

However, there are some commonalities with climate displacement: First, displacement associated with natural hazards and climate change is not always temporary, but can be prolonged and, second, the vast majority of displacement is associated with climate and weather related disasters.

Climate Change and Resettlement: The knowledge base

There are three main literature sources relevant to planned relocations in the context of natural hazards and climate change: first, literature on post-conflict resettlement second, disasters and third, development.

Development-induced displacement is the most detailed and substantive of these three areas of study and practice. There is already 70 years of research on displacement and resettlement associated with development projects. Particularly valuable volumes for the context of climate displacement include: Elena Correa *Preventive Resettlement of*

Populations at Risk of Disaster: Experiences from Latin America and Elena Correa *Guía de reasentamiento para poblaciones en riesgo de desastre.*

Recently, there has been increasing attention to climate change and displacement/migration reflected in literature, primarily in the social sciences. In this area, it is clear that land is undeniably the first step in the process and challenge of resettlement. However, it is clear that land alone may not be enough. The land itself needs to be suitable, whereas often economics dictate that the cheapest land available is purchased or obtained for resettlement.

Further, it is clear that there is not a one size fits all solution to relocation in the context of climate displacement, the drivers vary considerably from region to region and not all communities are vulnerable in the same way.

It will also be essential to create effective policy and institutions that can answer the fundamental question of how vulnerability links with rights and entitlements. Already, there is a divergence of how States approach this question, for example, it may be the Ministry of Environment responsible, or the Ministry responsible for Disaster Reduction, or otherwise Ministries responsible for Development. Where this issue is located will be an important component of whether it is effectively addressed.

What have we learned about the process of resettlement?

Firstly, we have learned that resettlement is an extraordinarily complex process and that complexity must be acknowledged and addressed in policy and practice. Resettlement is often reduced to being a housing project, when it involves so much more if it is to be successful. Further, although resettlement is often considered a “solution”, globally we do not do resettlement well. This is notwithstanding the high level of understanding and research on how to do resettlement well. It is clear that resettlement is a complex process comprising a variety of factors - taking place in varying timeframes and spatial levels, incorporating a variety of external responses – and that all of these disparate pieces are intended to come together in harmony.

Further, the resettlement process is not always predictable; it is not always linear and certainly not always amenable to standard linear planning.

In the context of climate displacement, the need for relocation will often be multi-causal and include not only environmental factors, but also different kinds of coercion and pressure, often closely linked to development and economic growth, as well as the failure to mitigate.

Further, climate change adaptation projects may also be drivers of displacement, including big dam projects currently being presented as “climate friendly”.

Process of resettlement

Oliver-Smith noted the work of Ted Scudder and Elizabeth Colson highlighting four stages of resettlement: Planning; Transition; Potential Development and Incorporation.

Each stage has its own distinct social impact, including the three forms of resettlement stress: Physiological stress; Psychological stress and Socio-cultural stress.

Risks of resettlement

As noted by Michael Cernea, there are well-known risks associated with resettlement, including the eight basic risks of displacement and resettlement: Landlessness; Food insecurity; Joblessness; Increased morbidity; Homelessness; loss of access to common property resources; Marginalization and Social Disarticulation.

Oliver Smith noted that the work of Ted Downing and Carmen Garcia-Downing highlights that the success of resettlement is also often impeded by a number of fallacies, including that compensation is enough, strict compliance to policy is enough, culture gets in the way, that the clock stops when the building stops and that project implementers are not responsible for losses, particularly of a cultural nature, that are experienced in resettlement.

Oliver-Smith also highlighted that persons involved in resettlement should understand that pre-displacement culture will not be restored, but may be reconstituted. .

Further, although we are aware of the “nuts and bolts” of what makes a successful resettlement, eg good site selection etc., then, why are we doing it so badly? Why is there such a large gap between policy and practice? Oliver-Smith highlighted that resettlement should be approached in terms of sustainable development, rather than being an add-on for development projects. Also, resettlement should be seen as much more than a housing project. There is also often a lack of effective policy, legislation and administrative structure and support to implement the project. Often, there is an elite perception of the displaced as not requiring a high level of support, or adequate living standards in their resettlement. Linked to this elite perception is that local culture can often be seen as an obstacle, rather than a resource., thus inhibiting or discounting participation as an absolutely essential part of the resettlement process. There is often a lack of trained, competent personnel and officials associated with resettlement projects. There is also often a lack of political will, there are competing agendas, corruption linked with the project, with the land, with contracts and services associated with the resettlement.

Overall, Oliver-Smith highlighted that the history of resettlement has over a 90 percent failure rate, in that, failed resettlements lead to more vulnerability and impoverishment.

Finally, Oliver-Smith emphasized that resettlement can be a solution, but that it is not inevitable.

Q&A

Through the Q&A session, Oliver-Smith also highlighted that relocations may be successful where they are planned with and for the community, where they are development orientated and express national strength and a positive future (eg Costa Rica).

Oliver-Smith noted that there is an important gender perspective to take in effective resettlement projects, and that gender issues have often not been dealt with well in previous projects.

The Q&A highlighted that the involvement of donors in resettlement projects also needs to be better governed, as their interests are not necessarily closely linked with long-term development plans.

A concern was raised with how to translate international best practice and guidance to the very local level, where these relocations often occur. This was a particular concern in the Pacific, where the guidance is often orientated to the “State”, however, the vast majority of land is under the control of customary title, and rather than being a concept of “State responsibility”, often in the Pacific, the State has the role and responsibility of being a guest. Indeed, the presence of the State at the local level can be very unusual and the relationship can be hostile. Activities that come from the “top down” can be viewed with suspicion. This leads to a number of concerns, including a lack of clear coordination and accountability.

It was noted that responding institutions are often not well set up for relocations, authorities are not well structured, with overlapping mandates etc. There is also a lack of preparedness, including that institutions, policy and legislation are not ready for implementing relocation after a disaster, much less planned resettlement. Further, humanitarian actors are often not ready to be engaged in relocation, viewing it more as a development issue. In practical terms, humanitarian institutions and actors often do not have these important relocation guidelines on their desk.

A challenge in the context of resettlement is also that success is often measured on what people are trying to count – e.g. houses constructed – rather than the critical but complex non-economic and less tangible impacts. Resilience is increasingly an area of focus, which could lead to positive change after decades of focus on quantitative rather than qualitative drivers. Oliver-Smith highlighted that measuring non-economic loss and damage is incredibly complex and we are not well set up for that, for example, how do you measure the loss of forests, where the spirits of ancestors resided? Putting a monetary value may itself be seen as degrading or insulting. However, if you don’t put a monetary value on it, it will not necessarily be considered or counted as part of the resettlement and compensation process.

It was highlighted that there are important differences between relocation prior to a natural disaster, for example, in the context of environmental degradation, and relocation of a community after a humanitarian disaster triggered by a natural hazard. Part of the difference is that – at a practical level - slow-onset events, such as sea level rise and coastal erosion are not considered “disasters”. This in turn is important in terms of accessing funding and institutional support for relocation.

The Q&A also highlighted that resettlement and planned relocation in the context of climate displacement is just one of many solutions and options for protecting climate displaced persons, including efforts to mitigate climate change and adapt to the effects of climate change.

Finally, Oliver-Smith highlighted that generally, voluntary resettlement tend to be more successful than involuntary resettlements. This of course, links with the importance of having community driven relocation – planning with rather than planning for the relocation of a community.

*Anthony Oliver Smith
Professor Emeritus of Anthropology at the University of Florida*

III. COUNTRY PRESENTATIONS ON LAND SOLUTIONS TO CLIMATE DISPLACEMENT

A. BANGLADESH

Bangladesh is well known as one of the countries most vulnerable to natural hazards – both sudden and slow onset. These hazards are also clearly linked with considerable and increasing displacement every year. There are a variety of estimates of the number of persons displaced in Bangladesh, however, what is clear is that displacement is already happening and will increase and that displacement affects the most marginalized and poor, and increase their vulnerability.

YPSA noted that although climate change is a common issue in Bangladesh, that almost no one is addressing or discussing the issue of displacement linked with climate change. Although there are a number of climate change projects in Bangladesh, existing projects on climate change very rarely mention displacement, or the needs of displaced persons. Also, existing projects on relocation, particularly, for landless persons very rarely mention the effects of climate change. Further, these projects have suffered from very poor implementation.

The Bangladesh HLP Initiative

In order to address this gap, and to take efforts to increase the protection of the rights of climate displaced persons in Bangladesh, DS and YPSA began in 2011 the *Bangladesh HLP Initiative*. The Initiative is designed to address climate displacement at the grass roots level, but also to influence Government legislation and policy at the national level.

The Initiative has advocated that solutions to climate displacement should be based on the following principles:

- All climate displaced persons have human rights;
- Laws and Policies must be Created to Protect the Human Rights of Climate Displaced Persons;
- Law and Policy Should be Supported by an Effective Institutional Framework;
- When people move, the primary solution should be in internal basis (rather than across international borders);
- All stakeholders in Bangladesh must support climate displaced persons (not just the Government); and
- Addressing climate displacement requires global solidarity.

Some of the successes of the Initiative include the inclusion of climate displaced persons in political discourse, rather than the term “climate refugee”. In particular, the Initiative succeeded in having much of the analysis and recommendations of the Initiative

included in the recently drafted *National Strategy on the Management of Disaster and Climate Induced Internal Displacement*.

One House, One Family at a Time

Recently, the Bangladesh HLP Initiative created the *One House, One Family at a Time* Project. The Project is designed to support a small number of families to relocate to safe, well-located land away from areas of high vulnerability to climate hazards. The Project will in particular focus on avoiding the stigmatization that relocated families often encounter, in particular by securing suitable and well-located land and providing extensive on-going social, health, livelihoods and education support.

Q&A

The Q&A highlighted that the *National Strategy on the Management of Disaster and Climate Induced Internal Displacement*, while welcome and containing many important principles to address climate displacement, came as a surprise and as such raised concerns around a lack of participation in the design and drafting process. YPSA highlighted that the Strategy is still to be approved, and hoped that the approval process would offer greater opportunities for engagement. Overall, it was emphasized that the key issue is that the important principles in the strategy are implemented effectively in practice.

YPSA and DS emphasized that in part the scale of the *One House, One Family at a Time* Project was donor driven – a large number of donors had approach DS wanting to donate small amounts to very concrete projects. Further, the idea behind the project was to create a small-scale successful relocation project, to show that national relocation projects are possible, and to then encourage the Government and other actors, including large NGOs and international agencies to also undertake relocation following the same model, at a larger scale. The idea was also to not only criticize the Government for a lack of engagement on the challenge of climate displacement, but to show, in a concrete way that solutions are possible. The location of the project is also within a community (Sandwip Island and Sitakund), attempting to avoid the challenge of community disarticulation.

*Md. Arif Rahman Chief Executive, YPSA
Mohammed Shahjahan, Team Leader, Bangladesh HLP Initiative, YPSA*

B. SOLOMON ISLANDS

The Ministry for Environment, Conservation and Meteorology in the Solomon Islands has established a Climate Change Division that focuses on a number of activities, mostly development activities that involve large amounts of money and resources, for example, a World Bank funded Hydro Dam project.

The Division also engages in a number of adaptation and mitigation activities.

Adaptation activities include:

- National Adaptation Program of Action Implementation Project;
- Pacific Adaptation to Climate Change; Agriculture food security;
- Sustainable Management of Commercial Fisheries Programme;
- Vector Borne Diseases Programme and
- Non- Government Organisations and Private sectors.

Mitigation activities include:

- Forestry Conservation Management Programme;
- Pacific Island Greenhouse Gas Abatement Renewable Energy Project;
- Community Electrification Project for Rural Solomon;
- AusAID Rural Electrification Project;
- The Sustainable Energy Project;
- Tina Hydro Dam Project;
- Private Sector mitigation activities – solar panels.

However, the Division does not focus on land settlement, or resettlement, it is mostly focused on livelihood improvement. There are also concerns about the process being hijacked by political actors, and trust is a key concern with all projects.

Land and climate change

There is no clear legal framework in the Solomon Islands to address resettlement in the context of climate change. There is also a lack of coordination on the issue, with a number of different State agencies dealing with different aspects of climate change.

Further, the State is not necessarily the main actor in this process. In the Solomon Islands, over 80 percent of land is customarily owned. The Constitution clearly recognizes the rights of customary landowners. There are limited powers of compulsory acquisition and the State must negotiate with customary owners in order to acquire and allocate land for relocation. This may lead to negotiated acquisition, but this is an entirely voluntary process.

In sum, the State is perceived as a guest in the Solomon Islands – and cannot simply acquire land for the purposes of making it available for climate displaced persons. At the local level, where climate displacement occurs, the State is often not very present, for example, Malaita is a mostly autonomous community of 200,000 persons, with only two police stations and a police response time of 2 days to a reported incident.

Joseph Foukona emphasized that climate displacement is expected to lead to intensified urbanization across the Pacific Islands, including the Solomon Islands.

There are also challenges of different kinds of communities, being affected in unique ways by climate change. For coastal communities at risk, the discussion is on moving them inland, rather than to another island. For atoll communities, including Taro Island and Ontong Java, there are already detailed discussions and plans for moving the entire communities to new locations on the mainland. For artificial island communities, most of the people have and rights on the mainland, making the relocation process slightly more straightforward.

In general, livelihoods issues are central to the discussion of relocation across the Solomon Islands. Importantly, whether livelihoods can be moved with communities, or whether new livelihoods can be established at the relocation site?

There are also central cultural questions, including the idea of inter-marriage, and resulting land rights for future generations.

State approaches to relocation

The proposed relocation of Taro Island has been well supported by donors and has included teams of visiting international experts to advise on the relocation. However, this has come at considerable expenses and there are concerns around the relocation site, including that it is surrounded by customary land and so will find it difficult to expand and grow in the future. In part the relocation has been politically driven and occurred rapidly due to Taro Island being the provincial capital and hosting key institutions and infrastructure for Choiseul Province.

The relocation of Ontong Java is more complex and it is less clear how much the process is community driven and how much is State driven. It appears the community would like to relocate, however, that may be in response to Government suggestions to relocate. The destination for the Ontong Java community is also a contentious issue. There are also resulting issues of political and maritime boundaries.

With all approaches to relocation in the Solomon Islands, there will be a common challenge of governance and legal and policy institutions and frameworks that need to be effectively addressed.

Q&A

The Q&A highlighted that to date, the community driven (with church assistance) relocation processes have been the most successful in the Solomon Island. These have been more organic and grounded processes, and have had the critical advantage of the groups being relocated identifying relocation sites and land themselves.

The Q&A highlighted the historical resettlement processes, during the 1950s and the Colonial era and the lessons that could potentially be learned from those experiences.

It was also emphasized that relocation needs to occur as part of a clear and accountable institutional framework – whether in the context of community driven initiatives and customary land, or part of more State led initiatives and State land.

Joseph Foukona, The University of the South Pacific

C. FIJI

Julia Edwards highlighted that there is already coastal erosion occurring throughout Fiji, a country that hosts large populations near the coastline. Although the scale of climate affected communities in Fiji is not large – eg there are not millions of people affected – it is a large issue as entire communities are affected.

The vast majority of land in Fiji is customarily owned. There is also some private land, some church owned land and some Government land.

Vunidogoloa village

Vunidogoloa village, Vanua Levu was the first village to relocate in Fiji. The community was at increasing risk of high tides, which were inundating the settlement, especially when combined with heavy rainfall. In 2007, the community approached the Government asking to relocate and the relocation was completed in 2014, with government financial assistance.

The final relocation site hosts 30 houses and the land was already owned by the relocated community (it was on higher land within their own lands).

However, although the pre-existing land ownership made the relocation somewhat simple on that issue, there were complications, particularly around livelihoods – where the community lost their proximity to the coast for fishing, they now have fish ponds for livelihoods. They are also now closer to their market gardens and have developed some alternative livelihoods, including late season pineapples. Further, they are now closer to a main road, improving access, including telecommunications, however, this may also lead to unforeseen changes in the make up of the community, including possibly influencing the unity of the community.

Narikoso village

Narikoso Village, Ono Island is currently in the process of relocation. The community is at risk from increasing high tides and inundation. The Government is looking for external (international) funding support. The size of the relocation is similar to Vunidogoloa, 27 houses.

The community approached the Government for relocation support in 2011. Again, the community identified a site within their own lands for relocation. The relocation is expected to occur in stages, with the most vulnerable households moving first.

The impact of Cyclone Winston

Cyclone Winston, a category 5 cyclone hit Fiji on 20 February 2016, heavily impacting a number of communities. Over 40% of the Fiji population was affected in some way, and some of the outer islands were totally devastated - for instance, the all of the 13 villages on Koro Island were destroyed.

In light of the devastation of Cyclone Winston, there are now discussions to undertake planned relocation, as an aspect of recovery from the cyclone.

The Government of Fiji is in the process of developing guidelines to support planned relocations, however, they are grappling with the differences between slow onset hazards (eg Narikoso and Vunidogoloa villages) and sudden onset (Cyclone Winston).

Government response

Land is a critical element of the question of planned relocations in Fiji. Edwards emphasized that the importance of land cannot be overstated.

The Government response began in 2012, with the first national climate change summit where the creation of relocation guidelines was proposed. Since 2012 there have been a number of activities and follow-ups, however, throughout land tenure has been a sticking point, with informal settlements and leaseholders further complicating the picture.

In 2016, a formal meeting decided that the initial guidelines on relocation would focus on indigenous communities first. Mostly, the development of guidelines has focused on practice and process, rather than principles for relocation.

The Fiji relocation guidelines emphasize that the community must first approach the Government to request relocation. This is positive from a community driven relocation perspective, however, there are concerns for communities at risk, who do not request relocation, but may be in objective need of relocation for protection. The relocation process is also supported by Government officers undertaking hazard and vulnerability assessments.

At an institutional level, the MDMO is directly responsible for relocation, with the Climate Change Division acting as coordinator.

To date, there are 45 communities that have been highlighted for relocation after an initial Government assessment.

Lessons learnt so far in the process

- Documenting approaches and lessons are essential to developing a national relocation plan.
- Multi-disciplinary team and participatory approach – technical specialists; social scientists and local community experts.
- Land use plans – to include options for communities including implications for socio-economic status.

- Relocation should be carried out within national development and planning framework(s).
- Food security – improved diversity of crops as alternative livelihoods, but need to include environment and economic assessments of introduction of different foods.

Concluding comments

- Relocation is complex and should be undertaken as a last resort.
- Relocation should be participatory and driven by the community, but supported by full technical assessments and climate data.
- There must be a comprehensive approach to relocation.
- Better co-ordination between government and non-government agencies must be ensured.
- Guidelines on relocation should address finance protocol and land-based issues.
- It is essential that relocations occur with transparency and clarity – and that they are county-driven and not donor-lead.

Q&A

The Q&A highlighted that there is an important credibility question associated with what the former lands are used for as part of a relocation process. If the lands that have been left are then developed for tourism or other infrastructure, there will be key questions of trust in existing and future relocations.

The differences between relocations pre and post hazard were also emphasised, especially the length of time allocated to the relocation, and the possibility of protracted displacement and the increased vulnerability of disaster affected communities.

The importance of undertaking relocation with a development lens was emphasized, especially where the relocation is under the formal responsibility of a disaster risk reduction or management ministry. It was also highlighted by the participants that DRR and Climate Change Adaptation need to be brought closer together, including in the Pacific.

Julia Edwards, Pacific Conference of Churches

D. PANAMA

Brief history of the Guna people

Blas Lopez noted that there are 49 Guna communities currently living in Gunayala, with 30,308 inhabitants. Most communities live on the islands, with only 11 living on the mainland. The Guna communities are originally from Colombia and the Darien region, and migrated as a consequence of strong pressure and diseases of the time. They gradually migrated to the coast. Since 1925, the Panamanian government has recognized the autonomy of the Guna people. Autonomy is based on real and effective control of the territory.

Each island decides on their local affairs in a process of collective decision making, in daily meetings. Every six months a general meeting of the Guna General Congress is held.

Brief history about Gardi Sugdub

The Gardi Sugdub Community is a Guna indigenous community with a population of 1,132. The Gardi Sugdub community is the first island community in Gunayala that has decided to relocate to the mainland. In 2012, the Gardi Sugdub community took the first steps in the process of relocation. A total of 300 families of Gardi Sugdub signed up to be relocated to the mainland, in addition to 80 families who are native to the island but who now live in Panama City.

The community has taken an active role in the relocation process, including the formation of committees who meet regularly; the identification and attainment of 17 hectares of land for the relocation site (owned by the community) and manual cleaning of the land in preparation for relocation. There have been ongoing efforts to have Government support for the relocation, through letters and meetings with Government officials etc.

Actors involved

The main actors involved are the Sugdub Gardi community itself; including its traditional authorities and the Neighborhood Committee; the Guna General Congress and Guna professionals, including sociologists, biologists and architects. At the national level, the Ministry of Health; the Ministry of Education; the Ministry of Housing; the current administration who have promised the construction of 300 houses; At the international level; the Inter-American Development Bank and the NGO Displacement Solutions.

Land Tenure and territoriality

Land at the Comarca Gunayala is distributed as follows: individual, family, collective and community land. Land is obtained through inheritance in each community. Communal lands are owned by the community, and now are administered by the agricultural commission.

The allocation of communal land for the relocation of the community of Gardi Sugdub was decided at a meeting in the local Congress House following the internal rules of the community and the Comarca Gunayala, and it was then approved by the Guna General Congress.

Achievements

- The consensus among the community regarding the decision to relocate, and the approval by the Guna General Congress;
- The creation of the Neighborhood Committee and the Pro-Housing Committee-Chapter Panama, which brings together the diaspora from Gardi Sugdub living in Panama City;
- Ensuring 17 hectares of land for the relocation site
- Construction of a health centre and model school;
- Mechanical cleaning of the land;
- The promise by the Ministry of Housing to construct 300 homes;
- Support and alliances that have been made at the national and international level.
- The visibility of the relocation at the national and international levels.

Challenges to date:

- The time taken by the process. Many times during the last six years members of the community were disappointed by the lack of process. Others wanted to move forward without any planning.
- The lack of concrete actions by the government of Panama

Obstacles to be faced:

- Social challenges: resettlement of any community has great social, cultural and economic challenges;
- Environmental Challenges: the community is moving to an area that has not been inhabited for centuries, and is possibly infested by tropical disease transmitted by mosquitoes. Also, the permanent relocation of a community to a protected area represents a challenge for the conservation of the environmental richness of the region.

Next steps:

- Conducting a socio-economic, demographic, environmental, health and feasibility of investment studies regarding the new human settlement for the Sugdub Gardi community;
- Producing a technical report on the use of the space and the design of the communal infrastructure for the population of the new settlement;
- Implementing an awareness campaign and exchange of experiences in the community, the migrant population in the city of Panama and other communities in the Gardi area, regarding the importance of scheduling the relocation and the organization of the new settlement;
- Support the Gardi Sugdub community in the development of community consultations, the development of their capacities for programming and organizing the relocation of the population of the community;

- Ensuring that the new community is protected against the effects of climate change.
- Systematizing the experience of the organizing process of the Gardi Sugdub community and its decision-making process.

Role of the Panamanian Government

The Panamanian Government does not have an official strategy for how to address the increasing vulnerability of those living on islands in Gunayala. Despite impressive DRR and DRM legal and institutional frameworks, there is no policy on relocation.

The relocation process initiated by the community of Gardi Sugdub could serve as a model for climate change in Gunayala and elsewhere if it is organized and implemented successfully, with sufficient Government support and resources.

Q&A

The Q&A highlighted that 17 hectares may not be enough for the needs of the increasingly vulnerable Gunayala communities; also it is a very different environment from where the communities are used to living.

It was also noted that the construction of the model school and health center were unrelated to the relocation process; and were not coordinated between the Ministries of Health and Education. Both centers have ongoing concerns regarding lack of fresh water and electricity. However, the implications are huge, as both can support a much larger community than that initially relocating. As with the example in Fiji, there are also social implications for a growing community, and a community that may be joined by other communities in the future.

It was also emphasized that the promise of 300 houses by the Ministry of Housing is just that, a promise, and nothing more concrete at this stage.

The *Peninsula Principles* were highlighted as an extremely effective tool and resource for the communities in the Gunayala, as they helped the communities understand the impacts of climate change in terms of human rights, and the role and responsibility of the State in ensuring those human rights.

Blas Lopez, Community leader from the Community of Gardi Sugdub, Gunayala –Panama

E. COLOMBIA

Climate related impacts and displacement in Colombia

Colombia is highly vulnerable to climate impacts, including coastal erosion (on both the Atlantic/Caribbean Coast and the Pacific Coast) and sea level rise; as well as loss of biodiversity richness. Cartagena is the most well documented case of coastal erosion and sea level rise in Colombia.

70% of the population lives in cities and towns located in the Andean mountains.

During 2010-2011 Colombia suffered the most severe La Niña events ever recorded, producing widespread damage throughout the country (flooding, landslides, avalanches, etc.). At least 3.2 million people or 7% of Colombians were affected. The Colombian government invested US\$2.9 billion in the emergency and rehabilitation phase. It originally committed US\$4.8 billion for the reconstruction through Fondo Adaptación.

Since 1985, 6.6 million people have been internally displaced in Colombia.

After La Niña 2010-2011 there were people displaced as a result of violence and those displaced as a result of natural disasters/climate-related events.

Land Issues in Colombia

Historically, land inequality in Colombia has been high and land has been at the center of the 52 year old armed conflict. It is calculated that between 2 and 8 million hectares of land has been dispossessed during the last 20 years. Around one million hectares of collective land of the Afro-Colombian communities has been dispossessed (20% of their total land).

There has been extensive titling of land to indigenous peoples and Afro-Colombian communities, totaling around 37.5 million hectares.

Since 2011 the Colombian government has been implementing a land restitution program with the aim of restituting 2 million hectares. The “victims and land restitution law” was inspired by the UN Principles on Land and Property Restitution of Internally Displaced People (*Pinheiro Principles*). According to the law, the restitution process should last only ten years (2011-2021).

“Land grabbing” started at the beginning of the 2008 financial crisis and has focused mainly in the eastern departments of the country (Meta, Vichada, Arauca and Casanare).

The Legal Treatment of IDPs

The Colombian legal system offers two different treatments for people internally displaced as a result of violence (IDPs), and people internally displaced as a result of disasters (damnificados - affected by a disaster).

Colombian courts have used the UN Guiding Principles on Internal Displacement extensively on IDPs as a result of violence. However, there are not such clear legal recognitions that people affected by disasters hold rights.

Climate displacement and relocation of the municipality of Gramalote (Department of Norte de Santander)

Gramalote is a town in the northeastern part of the country that was totally destroyed in 2010 by a combination of landslide, massive mass movement, plus a small earthquake, but mainly triggered by the extreme rain of La Niña 2010-2011. Immediately following the event, the 3,300 inhabitants were evacuated to nearby towns and cities.

Since the disaster, the Colombian government promised to rebuild Gramalote (and committed itself to making the reconstruction a national and international model); however, the relocation of Gramalote has proven to be a very complex enterprise, with the population remaining displaced and waiting to be relocated. The inhabitants have suffered negative economic, psychological and social impacts.

Lessons learned from the relocation

- The need for a broad roadmap, with clear timeframe and visible milestones to guide a planned relocation process;
- Clear criteria for when relocation of communities after disasters should occur;
- Land is at the center of any relocation process in several and important ways;
- The complexity and importance of selecting a suitable site for relocation;
- The importance of the creation of a Working Group on Gramalote that allowed a dialogue and compromise between local, regional and national actors;
- The importance of the psycho-social aspects of the relocation;
- The importance of a participatory governance model to guide the relocation process;
- Planned relocation is much more than a “housing project”; relocation is a complex process requiring a multi-sectorial response.

In March 2016 a model house was presented, currently there are around 1,217 people working on the site, 363 of workers are Gramaloteros.

Climate displacement in the Afro-Colombian community of “La Barra” (Buenaventura, Department of Valle del Cauca)

Around 548 people (120 families) currently live in the Afro-Colombian community of “La Barra”. Over the last several years coastal erosion and monthly high tides have been affecting the community. The community has been moving, little by little, away from the coast, as the tides get higher.

In July 2014 high tides destroyed 96 out of the 120 houses in the community, plus the school and two churches.

Since 2013 the state agency that studies seas and coastal areas (INVEMAR) has been documenting the erosion of La Barra’s coast and has mapped its areas at risk. They have

recommended that the community relocate. The Colombian government has not provided any other meaningful support, nor a relocation plan for the community.

Since recently gaining collective legal title to their land, the community is currently considering legal action to force the government to offer a long-term solution. People affected by climate variability and climate change are still seen as “victims” (damnificados) that governments should assist, but not necessarily as rights holders. The *Peninsula Principles* are positioned to play an important role here, helping guide people and communities affected by climate variability and climate change, as well as human rights activists and government officials.

Q&A

The Q&A highlighted the total costs associated with such relocations (estimated at 100-120 million USD for the relocation of Gramalote). The Q&A also discussed various proposals for ownership of the homes and lands in the relocation sites.

The issue of consent was discussed, highlighting the balance between a subjective assessment of risk and an objective scientific assessment of risk. Also, in selecting the final relocation site, it was acknowledged that safety was a paramount concern, but that the cost of the land and construction at one site over the other was also an element of the decision.

Carlos Arenas, Human Rights Lawyer, Colombia

F. ALASKA (USA)

Climate induced community relocations in Alaska

The pressing issue of community relocations in Alaska highlights a number of broad concerns, including that there are no effective governance structures to support and fund community relocations in the face of climate change.

Robin Bronen highlighted that there are crucial differences between relocations that happen in a pre-emptive manner and those that happen after an extreme event. For those displaced after a natural disaster, there is a defining event that has displaced people, often resulting in a humanitarian crisis and often a need to figure out a “solution”. For those who need to relocate in a pre-emptive manner, for example in the face of sea level rise, there are crucial questions to be addressed, such as at what point in time do people relocate? Who makes the decision? For these types of population relocation, there is often no prospect of return in the face of the permanent loss of land.

A further complication is that slow onset events, such as sea level rise are often not legally or procedurally considered “disasters”.

In Alaska, a combination of different extreme and increasing environmental events are leading to communities choosing to relocate, mostly on the West Coast.

At the same time, the US Federal Government has been studying the impact of climate change and environmental degradation for over a decade. In 2003, three communities were identified that had chosen to relocate. In 2009, the US Government identified 12 communities seeking to relocate. In the interim, no communities had relocated.

All communities who have decided to relocate have followed the same process: voting to relocate and then identifying relocation sites (often multiple times).

Newtok has identified a relocation site (12km away), 98 percent of the community has voted to relocate and Newtok has requested relocation support from the Federal Government. However, there is still no movement at the Federal level. In the face of rising risk, vulnerability and land disappearing rapidly, Newtok has started to build protective infrastructure, however, communities do not have running water and they rely on diesel generators for power.

Key challenges

- The issue is how to support a community that wants (and needs) to relocate, where there are no laws, policies or institutions that support the relocation process. For example, there are 25 different State agencies involved in the relocation of Newtok, they all want to help, but have no mandate, no budget item, no funding available, no guidance as to what they are and are not able to do.
- There are also statutory barriers, for example, Federal Disaster legislation (which may not cover sea level rise) is focused on repairing and rebuilding in place, however, for

many of these communities, they are facing the permanent loss of land, there is no possibility for funding to be used at the relocation site.

- When the decision to relocate is made, often that results in no more investment at the existing site. However, there is also often no timeframe for the relocation effort, resulting in serious public health and other consequences.

Newtok, has created guiding principles (Maligtaquyarat) for the relocation of Newtok, focused on retaining culture, keeping culture intact and ensuring that the process is community-led.

Recently, a Presidential task force was created that made recommendations on climate resilience, including recognition of the need to clarify the role of institutional barriers, climate displacement and the need for leadership in figuring that out.

There are historical legacy reasons why the Federal Government finds this issue difficult to engage in, there is a very poor history of relocation of indigenous persons in the US.

Bronen proposed an “adaptive governance framework” to navigate these competing considerations and challenges associated with community relocation in the US. This framework would be based on human rights and would prioritise protection in place, it would also effectively address community relocation prior to a humanitarian crisis, based on relocation indicators.

Community based processes, need to be dynamic and effective; especially as we cannot predict how climate change will affect the places where we all live.

Q&A

The Q&A highlighted the differences between relocation to pre-empt worsening slow onset events and relocation after a humanitarian crisis associated with a sudden onset climate event. It was emphasized that slow onset events will be an increasing driver of permanent loss of land and relocation in the future.

The discussion highlighted that the biggest obstacle to the relocation of Newtok proceeding is the complexity of the relocation itself. There is no coordination between different agencies at the state, federal, local and tribal levels.

The role of the private sector in supporting relocations was discussed, particularly where the Government is unable or unwilling to support. In part, the complication of using solely private sector (or community) support would be the need to integrate with State health care systems, education, runways (for aircraft), water and sewerage treatment etc.

The role of disaster agencies was also questioned, where it was suggested that development agencies or specialists would be more equipped to support such processes. Development actors and agencies may also be better equipped to support relocations.

Robin Bronen, Executive Director, Alaska Immigration Justice Project

IV. INTERNATIONAL APPROACHES

A. THE INDEPENDENT EXPERT ON THE ENJOYMENT OF ALL HUMAN RIGHTS BY OLDER PERSONS

Khaled Hassine, on behalf of the Independent Expert highlighted that the main thematic priorities of the mandate include resilience and protection of older persons in situations of disaster, including where relocation needs to occur in the context of natural disasters, environmental degradation and climate change.

The situation of older persons in the context of climate change and planned relocation was addressed by the Independent Expert in her report on her mission to Mauritius (UN Doc. A/HRC/30/43/Add.3).

Hassine emphasized that the mandate takes a strong rights-based perspective. The mandate covers the rights of older persons in emergency situations, including situations of natural disaster and climate change, and refers closely to the Sendai Framework, the Peninsula Principles on Climate Displacement within States and other guidance in such contexts.

Hassine emphasized that older persons are among the most vulnerable in emergency situations, and that the effects of climate change have a disproportionate effect on older persons: owing to their reduced mobility; dependence and physical, emotional or mental condition; older persons tend to be excluded, isolated and left behind in natural disasters and emergencies; they may have difficulty seeing, or hearing; they may have difficulty assessing the gravity of the situation; they may have chronic health issues, prior to or resultant on such situation; they may have limited ability to escape or evacuate; they may be reluctant to reach out for support and assistance, or to seek adequate shelter.

The recommendations of the Independent Expert, for protection of older persons in the context of climate change and natural disasters, including planned relocations, include: ensuring that older persons are adequately consulted in all decisions affecting them and their community, on the basis of adequate information; that adequate shelter and housing is ensured for all persons in emergency and other situations and that the skills and knowledge of older persons are harnessed by communities, stakeholders and States in developing and implementing rights-based approaches to climate change, natural disasters and environmental degradation.

The Independent Expert intends to continue to focus on these and related themes, and notes that the Human Rights Council Advisory Committee has taken up the term and theme of climate displacement, and that one of the members of the Committee will undertake a study on the Peninsula Principles, as well as means and measures to address climate displacement.

*Khaled Hassine, for Rosa Kornfeld-Matte, Independent Expert on the Enjoyment of All
Human Rights by Older Persons*

B. GENDER ISSUES

Jennifer Duncan highlighted that research is very scant, and data is almost non-existent, on the connections between land rights and climate change and especially women's rights issues. However, there is enough data to make some preliminary hypothesis and to begin to influence policy.

There are links between secure women's land rights and development indicators, including:

- Prosperous, women with strong property and inheritance rights earn up to 3.8 times more income;
- Nourished, children whose mothers own land are up to 33 percent less likely to be severely underweight;
- Safer, women who own land are up to 8 times less likely to experience domestic violence;
- Healthy, children in households where women own land are up to 10 percent less likely to be sick;
- Resilient, where women's property and inheritance rights are stronger, women's individual savings are up to 33 percent greater; and
- Educated, children in households where women own land are up to 10 percent less likely to be sick.

However, there is a clear and pressing need for gender-disaggregated data.

There are five main issue areas in the context of women's land rights and climate change:

Underlying rights and informality, land and marriage

Women are less likely to have formal rights to land than men. This forms the basis of many of the risks for women related to climate displacement and resettlement. The issue is not only informality, but also a fundamental lack of rights.

"Secondary" uses of land and natural resources are also important, including women's use of common resources. In the context of relocation and resettlement, land rights and natural resources are critical. However, often, common resource rights are not adequately identified for women.

Informal marriage is common in many parts of the world, especially in the global south. Women in informal unions are at heightened risk. Customary/informal systems may or may not provide adequate safeguards to women in this context. Even where customary systems do provide safeguards, there may be a breakdown of those safeguards when they are under pressure, for example in the context of land rights and land protection. This is a critical issue, however, one that is also very complex to address.

Women's inclusion in decision-making about land and migration decisions

There are fundamental questions about women's participation and related processes in land use and migration/resettlement decisions. Many of these different processes relate directly or indirectly to land and land use.

In customary communities women often have a limited role within the community or even at the household-level when it comes to decision-making on land issues.

Duncan gave the example of Ghana, where there have been increasing land transactions in customary land areas, with a marked increase in the rate of dispossession by customary rights holders and non-compliance with the principles of free, prior and informed consent. The requirements for the payment of fair, adequate and prompt compensation to those who have been dispossessed have also not been enforced adequately. Apart from the concerns about the acquisition of large parcels, the nature of investments on the land also gives cause for concern, as evidence points to increasing investment in feedstock for biofuel production. Further, by virtue of their role as custodians of the land, Traditional Leaders have been at the forefront in giving out large tracts of land for the investments. By exercising absolute control and decision making over the land, without recourse to the larger community, traditional leaders have excluded women from participating in the decision making process about their customary land, posing dangers to rural livelihoods, local economic development, food security and more.

When the Government, donors or private sector are involved in land use decisions, these stakeholders also often fail to engage women in decision making at the community or household level.

Although, these are critical concerns, there is equally considerable best practice out there, which can be drawn upon to enhance the role of women in decision making on land issues.

Compulsory acquisition

The question of compulsory acquisition reveals large issues around gender and women's rights and compensation.

Where compulsory acquisition occurs (the formal acquisition of land in the public interest) it may reveal gender issues within the underlying land rights structure, further, the acquisition may not acknowledge rights for women within the household. Where rights for women are not acknowledged in the acquisition process, it is almost impossible to ensure effective compensation.

Also, where a notice of compulsory acquisition is issued, such notice often does not reach women in rural areas, leading to a lack of awareness of the acquisition process. This means that women may not have access to information on rights of appeal, opportunities to contest the acquisition, related rights and compensation issues.

There may be further barriers to engagement in compulsory acquisition processes related to costs and customary practices.

Further, there are very few examples of compensation being done well in the context of women's land rights. Barriers often include inadequate national legislative frameworks, which do not support effective engagement in the process for women, not effective compensation in the event of acquisition.

Voluntary migration: rights to land for those who stay

As an element of migration, displacement and planned relocation in the context of natural disasters and climate change, there is also a need to focus on those who stay behind, a group which often includes the women of a household or community (particularly when a household splits up and only some move).

There are serious land rights questions for those who remain, including women and especially those in rural communities. Where land rights are respected and protected and are secure those who remain are able to stay and make the best production and investment decisions on their land. Secure land rights in this context are also linked with better education, food security and health.

However, rural women in many parts of the world lack secure land rights, and this often does not improve when the men of the household leave, which in turn creates increased vulnerability, decreased productivity and increased confusion and insecurity over the land.

Mitigation programs: compensation

Climate change mitigation projects – for example Biofuel production - also raise women's land rights issues in the context of climate change, migration, displacement and relocation.

The question in this context is how are competing interested identified or qualified? There are also serious concerns around land grabbing associated with such projects. Although such projects may not result in wholesale displacement, they can lead to a serious loss of rights and related losses of livelihoods and economic development.

When designing and considering such projects, it is critical to ensure gender inclusive community decision-making, including on benefit sharing and compensation issues.

Again, when addressing and examining this issue, it is important to have gender-disaggregated data. Presently, there is only limited anecdotal data and a clear need to strengthen the evidence base.

In general, law and policy is not always a barrier, as often there is a gap between good law and bad practice; the issue is more often related to enforcement, regulation, compliance and capacity for application.

Q&A

Examples of positive practice and developments related to women's land rights issues in the context of climate change, displacement, migration and planned relocations were discussed in the Carteret Islands (Papua New Guinea) and in Bangladesh, where as part of the Khas land distribution process, women are provided with strong land rights over the Khas land, including the title over the land reverting to the woman, in the event of a divorce.

Jennifer Duncan, Senior Attorney & Land Tenure Specialist, Landesa

C. NEXT STEPS AFTER PARIS

The Paris Agreement (UN Doc. FCCC/CP/2015/L.9/Rev.1) for the first time under the UNFCCC contains a stand-alone provision on loss and damage.

The provision on loss and damage does not contain an explicit mention of displacement, but does include “non-economic losses”.

The Paris Agreement is accompanied by a decision text, which explicitly excludes compensation.

The agreement also confirms that the work of the Warsaw International Mechanism for Loss and Damage (WIM) will continue beyond 2016. The WIM was established to address loss and damage associated with the impacts of climate change as a stand-alone pillar of work, alongside existing mechanisms on mitigation and adaptation.

The agreement also requests – in Para 50 of the Decision Text - the Executive Committee of the WIM to establish a “task force” to “develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change”.

Schwan highlighted that even though the task force is only specifically requested to address “displacement”, it is expected that the work of the task force will cover migration and planned relocation associated with the impacts of climate change.

Schwan also noted that the establishment of the task force was a compromise, designed not to conflict with existing systems of international law or the mandates of other existing UN agencies that relate to displacement (eg UNHCR). The task force is also expected to build on existing work of institutions such as the Nansen Initiative (and its follow up work as the Platform on Disaster Displacement to be launched at the World Humanitarian Summit).

The next steps to establish the task force is the finalization of the draft TORs by the Executive Committee of the Warsaw International Mechanism (the draft version is available on the UNFCCC website).

It is expected that the Task Force will be established before September 2016.

Once established, it is anticipated that the Task Force will not engage in implementation, but rather have a broad focus on developing and drafting guidance, recommendations and training on approaches to averting, minimizing and addressing displacement related to the adverse impacts of climate change.

*Susanne Schwan
Competence Centre for Climate Change, GIZ*

D. Geneva Based Institutions and Procedures

Yves Lador provided a detailed update on the work of Geneva based Institutions, Special Procedures, Human Rights Council and other organisations related to the lead up to the Paris Agreement, as well as more broadly on climate change.

Lador highlighted the work of the Geneva Climate Change Consultation Group and the NGO Working Group on Human Rights and Climate Change. Both of whom had a positive influence on the number of paragraphs in the Paris Agreement that reference human rights.

The preamble of the Paris Agreement states: “... climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”. Lador noted that this was a great achievement including specific human rights language in the final agreement, although the original hope was for human rights principles to be included under paragraph 2, rather than the preamble.

The inclusion of inter-generational equity was also highlighted as a particular success.

The work of the Human Rights Council in Geneva is also increasingly addressing human rights in the context of climate change, including through the work of the Independent Expert on Older Persons (Ms. Rosa Kornfeld-Matte); the Special Rapporteur on Human Rights and the Environment (Mr. John Knox); a number of specific reports on climate change, including the reports of OHCHR addressing human rights in the context of climate change.

Just before Paris, the Special Rapporteur on Human Rights and the Environment (John Knox) presented a submission to the UNFCCC, commissioned by the Climate Vulnerable Forum, showing how increases of global temperature impacts negatively the enjoyment of human rights. This submission was one of the references used during the negotiation on the paragraph of the Paris Agreement establishing the common goal to stay below 2 degrees warming and even 1.5 degrees. Other reports referring to climate change have also been presented to the Human Rights Council by the United Nations Special Rapporteurs, such as on the rights of persons with disabilities (Ms. Catalina Devandas Aguilar); the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment (Mr John H. Knox); extreme poverty and human Rights (Mr. Philip Alston); the human right to safe drinking water and sanitation (Ms Catarina de Albuquerque); and the Independent Expert on human rights and international solidarity, (Ms. Virginia Dandan).

Lador highlighted that post-Paris, there are now three lines of action in Geneva:

First, strengthening the monitoring processes and ensuring that monitoring processes are accessible in the field: for example the special procedures and other mechanisms on

the right to food, water, sanitation, human rights and the environment. There is a hope in Geneva that more information from the field will feed into these processes and that they will lead to a global picture, overcoming current fragmentation.

Second, developing jurisprudence: in particular, assisting in defining the varying legal obligations of States, according to what they have ratified etc. There are now ten relevant treaty bodies, many of whom have different procedures including those that can directly receive individual communications. These treaty bodies, (including CEDAW and CESCR) are now starting to look at the issue of climate change and the environment.

Thirdly, political processes: The aim is to have continued resolutions on climate change (these are driven by Bangladesh and the Philippines) as well as resolutions on the impact of climate change on health and other rights. The Universal Periodic Review Process will also be part of this political process, reviewing the human rights responsibilities of States in the context of climate change.

Lador concluded by noting that it is important that the many processes and opportunities in Geneva work in concert to have an approach that is complementary to existing efforts, rather than conflicting and potentially blocking effective action.

Yves Lador, Earthjustice

V. THE CLIMATE LAND STATEMENT

THE CLIMATE LAND STATEMENT

on

Improving Land Access for Climate Displaced Persons and Communities

Geneva, 26 April 2016

We, the participants at a Roundtable on Improving Land Access and Climate Displacement, organised by Displacement Solutions with the Global Migration Center of the Geneva Graduate Institute, and held in Geneva from 25-26 April 2016 express our deep concern that events and processes caused or exacerbated by climate change have contributed and will continue to contribute to the large-scale displacement of populations.

We are cognizant of the fact that climate displacement, if not properly planned for and managed, may lead to the violation of internationally recognised human rights, as well as tensions and instability within States and across national borders.

While some States have initiated important steps to find viable, land-based solutions to climate displacement, we remain concerned that, in general far too little has been done by States to develop institutions and implement concrete measures to assist climate displaced communities and those threatened with climate displacement.

We therefore call upon States, inter-governmental organisations, civil society actors and others, to implement the following seven actions in support of climate displaced persons and communities without delay:

1. Apply and enforce human rights laws and guidelines, including the *Peninsula Principles on Climate Displacement Within States*, as core elements within effective national strategies recognising that climate displaced persons and communities are rights-holders under human rights law;
2. Reaffirm and enhance the protection and promotion of the rights of climate displaced persons, in particular their housing, land and property (HLP) rights;
3. Recognise the right of climate displaced persons to remain in their homes and retain connections to the land on which they live for as long as possible, and to ensure that any planned relocation measures are entirely voluntary in nature and in conformity with international standards;
4. Affirm the central role of land in resolving climate displacement in a sustainable manner, and the need to increase secure access to land in the development of viable domestic strategies, laws and policies designed to prevent and repair climate displacement;

5. Identify, Acquire and Allocate viable, high quality and affordable land resources at a level commensurate with the scale of present and likely future climate displacement in all countries to all persons and communities requiring such resources;
6. Assemble national land inventories to act as central repositories for land set aside for the use of climate displaced persons and communities; and
7. Develop clear national policies and effective institutional frameworks dedicated to preventing and repairing climate displacement.
