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U.S. Opportunities to Address Climate Displacement

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IRAP Overview

The International Refugee Assistance Project (IRAP) provides legal advocacy for refugees and displaced people in need of a safe place to call home. We work with our clients to identify and navigate pathways to safety through free direct legal representation, systemic advocacy, and litigation.

IRAP recognizes that climate change is a defining challenge of the 21st century, and increasingly a lead driver of displacement around the world. Our new climate displacement program works to expand legal protection for climate-displaced people. We are identifying and advocating for pathways to safety for climate-displaced people based on existing legal tools and building on our expertise providing legal services to refugees and displaced people, legal advocacy, and impact litigation. This report highlights opportunities for the U.S. government to address climate displacement.

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Endorsements

The following organizations endorse these recommendations:



UNIVERSITY
NETWORK
FOR HUMAN
RIGHTS



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AMERICA
BUILDING A NATION OF NEIGHBORS

*The Truman Center co-developed recommendations related to international security & foreign assistance.

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Executive Summary

This report leverages an unprecedented policy opportunity in the United States. On February 4, 2021, President Biden issued an executive order—“Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration”—that requires U.S. agencies to prepare a report on climate displacement by August 2021 covering four topics: **1) protection and resettlement; 2) international security; 3) foreign assistance; and 4) multilateral engagement.**¹

Grounded in IRAP’s expertise in advancing legal and human rights for refugees and displaced persons, this report recommends four key approaches to the Biden administration:

1. **Focus on administrative action:** Our report highlights *immediate* steps U.S. federal agencies can take to support climate-displaced people so that they are able to stay at home or safely seek shelter in the United States as needed. An administrative approach does not lessen the need for legislative action. For example, it is important to establish a new immigration pathway for climate displaced people.²
2. **Leverage the U.S. refugee definition:** The impacts of climate change often fall the hardest on marginalized communities, sometimes intersecting and overlapping with the types of persecution that U.S. refugee law recognizes as warranting protection. This report highlights two U.S. cases where climate played a role in a successful asylum claim, and recommends an immigration decision to clarify that U.S. refugee law can apply to climate-displaced people.
3. **Use Temporary Protected Status (TPS):** TPS is a useful protection tool for climate-displaced people because it can be extended after both sudden- *and* slow-onset disasters. However, consistent use of TPS would broaden its applicability. For example, the administration should designate TPS to Guatemala on the basis of recent hurricanes and a long period of drought.
4. **Consider regional opportunities:** Existing multilateral commitments serve as a critical foundation for U.S. leadership in addressing climate displacement, including the United States’ endorsement

1 See Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration. Exec. Order No. 14013, [86 Fed. Reg. 8839](#) (Feb. 4, 2021) (noting that the report “shall include, at a minimum, discussion of the international security implications of climate-related migration; options for protection and resettlement of individuals displaced directly or indirectly from climate change; mechanisms for identifying such individuals, including through referrals; proposals for how these findings should affect use of United States foreign assistance to mitigate the negative impacts of climate change; and opportunities to work collaboratively with other countries, international organizations and bodies, non-governmental organizations, and localities to respond to migration resulting directly or indirectly from climate change”).

2 The Global Climate Change Resilience Strategy Act, legislation to expand admission pathways for climate displaced people, and the U.S. Citizenship Act, immigration reform legislation that would provide an expedited pathway to citizenship for Temporary Protected Status holders, are both promising strategies. See [Global Climate Change Resilience Strategy Bill](#), S. 1335, 117th Cong. (1st Sess. 2021); [U.S. Citizenship Act](#), H.R. 1177, 117th Cong. (2021). Introduced in House February 18, 2021. In the meantime, though, there are meaningful steps the administration can take to address the needs of climate-displaced people, as detailed in this report.

of the Regional Conference on Migration's guide to effective practices for protection of people moving in the context of disasters. Upcoming regional events, such as the adoption of the Cartagena Declaration commemorative soft law instrument in 2024, also provide clear avenues for the United States to join regional allies in addressing climate displacement.

As climate change increasingly drives people to flee their homes, there is a pressing need to build on existing law to expand humanitarian protection and immigration pathways for climate-displaced people. IRAP welcomes the U.S. interagency report on climate displacement as a critical first step in this endeavor.

Our Recommendations for the Biden Administration

Protection & Resettlement

- **Issue a Department of Justice (DOJ) opinion that clarifies that climate change can serve as grounds for refugee status under U.S. law.**
- **Issue policy guidance for immigration officers and judges to guide them in properly assessing climate-related asylum and refugee claims.**
- **Train immigration officers and judges to recognize climate change's relationship to persecution.**
- **Develop further research on climate change in the context of asylum and refugee law through the Research Unit at Refugee, Asylum and International Operations.**
- **Designate additional resettlement slots for climate-displaced people through a private sponsorship program.**
- **Designate TPS for Guatemala and re-designate TPS for El Salvador, Honduras and Nicaragua.**
- **Issue Department of Homeland Security (DHS) policy guidance that specifies that TPS can be granted on the basis of slow-onset disasters.**
- **Operationalize the Regional Conference on Migration (RCM) guide to protection of disaster displaced people through policy guidance.**

International Security

- Establish a climate migration unit within the international office of the Bureau of Population, Refugees, and Migration (PRM).
- Reduce the greenhouse gas emissions of the Department of Defense (DoD), the largest institutional emitter globally.
- Direct military spending toward technology transfers to climate-vulnerable countries.

Foreign Assistance

- Direct U.S. Agency for International Development (USAID) and Department of State (State) funding towards establishing climate displacement-related and increasing climate resiliency projects.
- Ensure that U.S. International Development Finance Corporation (DFC) investments and investments made by other U.S. entities, particularly in South and Central America, are targeted to low-carbon and climate resilient sectors and technologies.

Multilateral Engagement

- Adopt the next legal instrument commemorating the 1984 Cartagena Declaration in 2024 in order to commit to more immigration pathways for climate-displaced people based on existing law.
- Endorse the Global Compact on Safe, Orderly, and Regular Migration (GCM).
- Include migration and displacement within the U.S. Nationally Determined Contribution to the Paris Agreement.

I. Introduction

This report highlights key opportunities for administrative action to address climate displacement, building on existing U.S. law and policy and regional and international commitments.³ The Biden administration signaled its commitment to increasing protection and opening admission pathways for climate-displaced people by issuing Executive Order on Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration on February 4, 2021.⁴ Despite this important step and growing recognition of climate displacement as a global challenge,⁵ there are no multilateral treaties or U.S. domestic laws specifically covering climate displacement. However, there are existing U.S. legal tools and international and regional legal norms that the U.S. government can build upon to expand protection for climate-displaced people.

BOX 1. Climate Displacement Overview

Climate-related mobility encompasses three types of movement: displacement, migration, and planned relocation. We use “displacement” to refer to movement that is primarily forced; “migration” to refer to movement that is primarily voluntary; and “planned relocation” to refer to the planned movement of entire communities, typically within the same country.

This report uses the term “climate displacement” to refer to non-voluntary climate-related movement, whether within the same country or across international borders.

Climate displacement is already a reality. Climate-related slow-onset disasters such as drought and sea level rise, and sudden-onset disasters such as hurricanes and floods, are increasingly forcing people to flee their homes.⁶

The majority of people who are displaced from their homes by climate impacts end up moving within their own countries (“internal displacement”). Climate-related and other

- 3 Although this report focuses on administrative action, IRAP is also working to support legislative proposals such as the [Global Climate Change Resilience Strategy Bill](#). Global Climate Change Resilience Strategy Bill, S. 1335, 117th Cong. 1st Sess. (2021). IRAP also supports efforts to establish an individualized complementary protection standard for climate and other forcibly displaced people within the context of the U.S. Refugee Admissions Program (USRAP).
- 4 Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration. Exec. Order No. 14013, [86 Fed. Reg. 8839](#) (Feb. 4, 2021). This order directs the Assistant to the President for National Security Affairs, in consultation with DHS, State, Department of Defense (DoD), USAID, and the Director of National Intelligence to prepare an interagency report on climate-related forced migration, internal displacement, and planned relocation.
- 5 See, e.g., Global Compact on Migration, Global Compact for Safe, Orderly and Regular Migration, U.N. Doc. A/CONF.231/4 (July 13, 2018).
- 6 See, e.g., Abrahm Lustgarten, [“The Great Climate Migration,”](#) *The New York Times Magazine*, July 23, 2020.

environmental disasters triggered three times more internal displacements than conflict last year,⁷ and climate-related and other environmental disasters have forcibly displaced more people than conflict within their own countries since 2008.⁸ The World Bank estimates that there could be more than 140 million people internally displaced by slow-onset disasters in just three regions—Latin America, Sub-Saharan Africa, and Southeast Asia—by 2050.⁹

Some smaller number of climate-displaced people, however, seek shelter abroad (“cross-border displacement”), and, when they do, they typically move within their own regions.¹⁰ Whether internal or cross-border, most climate displacement journeys lead to cities and towns, making urban climate mitigation and adaptation efforts especially important.¹¹

II. Protection and Resettlement Considerations

U.S. law provides some protection and immigration benefits to climate-displaced people. As the Biden administration works to identify mechanisms for identifying climate-displaced people and options for protection and resettlement, the administration should build on existing legal tools.¹² Casework shows, for example, that U.S. refugee law is one legal mechanism through which some climate-displaced people can seek shelter in the United States. TPS also provides another legal avenue to safety for climate-displaced people.¹³

A. Asylum & Refugee Resettlement

1. Case Studies

Climate change already plays a role in valid claims to asylum. The following case studies are based on legal services delivered to real clients. As the cases show, people displaced by the complex interaction of climate

7 Internal Displacement Monitoring Centre, [Global Report on Internal Displacement 2021](#) (Internal Displacement Monitoring Centre, 2021), 3.

8 “[Global Internal Displacement Database](#),” Internal Displacement Monitoring Centre, accessed June 4, 2021.

9 World Bank Group, [Groundswell: Preparing for Internal Climate Migration](#), March 19, 2018.

10 Michel Beine & Christopher Parsons, “[Climatic Factors as Determinants of International Migration](#),” (Institut de Recherches Economiques et Sociales de l’Université Catholique de Louvain, Discussion Paper No. 2012-2, 2012), 11, 19. Some experts predict that in the Americas, approximately 1.5 million people could arrive in the United States annually by 2050, if climate pollution continues unabated, and borders remain relatively open. Abrahm Lustgarten, “[The Great Climate Migration](#),” *The New York Times Magazine*, July 23, 2020.

11 Seven out of 10 people of concern to UNHCR—including climate-displaced people—live in urban settings. UNHCR, [Global Trends: Forced Displacement in 2020](#), 224.

12 See Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration. Exec. Order No. 14,013, [86 Fed. Reg. 8839](#) (Feb. 4, 2021) (requiring the interagency report it orders to cover “options for protection and resettlement of individuals displaced directly or indirectly from climate change; [and] mechanisms for identifying such individuals, including through referrals”).

13 This report focuses on legal recommendations in response to cross-border movement, although efforts to support people displaced by climate impacts in the U.S. are extremely important.

change and discrimination, political persecution, social vulnerability, and/or violence can have a well-founded fear of persecution.

Case Study 1: Climate Change, Land Grabbing, and Racial Discrimination

Francisco and José made the journey to the United States as unaccompanied minors after the health of their caretaker, their grandmother, began to decline.¹⁴ The two sought to join their parents and two United States citizen-siblings in New York, and applied for asylum shortly after arriving in the Bronx. They had a well-founded fear of persecution as black, Garifuna Hondurans who would be targeted by gangs if returned to Honduras and face homelessness due to government appropriation of tribal lands. DHS's U.S. Citizenship and Immigration Services (USCIS) granted Francisco and José asylum in 2015.

Combining pressures of climate change and ethnic discrimination intensify the harms Garifuna people experience. The Garifuna people in Honduras are a distinct minority who suffer persecution, in part because of the Honduran government's illegal appropriation of ancestral lands.¹⁵ Much of Garifuna land that government officials target is held in common and located on the coast in climate-vulnerable areas.¹⁶ The Black Fraternal Organization of Honduras (OFRANEH), a grassroots advocacy organization, identifies six Garifuna communities at risk of disappearance due to sea level rise; and the majority of Garifuna communities are located in areas facing environmental risk.¹⁷ Thus negative climate change impacts and ethnic discrimination heighten the marginalization Garifuna communities face.

Francisco and José were granted asylum based on their identity as members of an ethnic and racial minority group. There was a high likelihood that they would suffer persecution if returned to Honduras, given the Honduran government's complicity in discrimination against the Garifuna, including through illegal appropriation of climate-vulnerable ancestral lands. Thus, although theirs was a traditional asylum claim, climate pressure and the Honduran government's discriminatory response to that pressure are highly relevant to their fear of persecution.

14 Names have been changed to protect client confidentiality.

15 Land grabbing by government officials prompted the Inter-American Commission on Human Rights to call on the Honduran government to respect Indigenous lands and adhere to prior, free, and informed consent. Inter-American Commission on Human Rights, *Situation of Human Rights in Honduras* (Organization of American States, 2015), 162.

16 U.S. Department of State, *Country Reports on Human Rights Practices for 2014 - Honduras* (2014).

17 Juliana Britto Schwartz, "Bearing Witness: In Honduras, Garifuna Women Fight Climate Change & State Violence," *Feministing*, 2016.

Case Study 2: Environmental Defense & Persecution in Honduras

Isabel is an Indigenous Honduran who led her tribe in resisting government officials' attempts to illegally appropriate tribal land and natural resources.¹⁸ As a notable tribal and environmental defender, Isabel's life and the lives of her family came under threat. Isabel's son and brother were almost killed, and Isabel was kidnapped, beaten, and sexually assaulted in order to coerce her to sign over tribal lands. Isabel escaped, but her young daughter and many other tribal members were later massacred. Isabel gained asylum in the United States in 2020 on the basis of ethnic discrimination, political persecution, and membership in the particular social groups of environmental defenders, activists, and Indigenous leaders.

Isabel's case tells the story of climate change as a background driver of persecution in Central America. Climate change-related impacts such as severe droughts and intense hurricanes, in addition to environmental degradation, place increased pressure on the availability of land and natural resources in climate-vulnerable countries. In the midst of dwindling resources, corrupt government officials have greater incentive to target the land and natural resources of marginalized Indigenous groups, who often live in extreme poverty in remote areas. Isabel's story demonstrates how climate change can heighten the risk of persecution in a paradigmatic asylum case, wherein government officials target Indigenous minorities.

2. U.S. Refugee & Asylum Law Already Offers Protection from Some Forms of Persecution with a Climate Nexus

As Francisco, José, and Isabel's stories suggest, people displaced in part because of climate-related pressures can qualify as asylees under existing U.S. law. The Refugee Act of 1980 defines a refugee as a person with a well-founded fear of persecution based on five categories: race, religion, nationality, membership in a particular social group, or political opinion.¹⁹ In recent guidance interpreting the refugee definition used by the United States and other countries, the United Nations High Commissioner for Refugees (UNHCR) recognized that climate change and environmental harm frequently "interact[] with other drivers of displacement" that fit into the established refugee definition.²⁰ But this interaction may not always be obvious, and when working under intense time pressure, USCIS officers and immigration judges may miss people with valid claims. Thus, U.S. adjudicating officers should be attuned to how climate change and environmental stressors might contribute to a well-founded fear of persecution for people of varying race, ethnicity, religion, politics, gender, or social groups.

18 Names have been changed to protect client confidentiality.

19 Immigration and Nationality Act (INA) §101(a)(42)(A), as added by §201(a) of the Refugee Act.

20 Office of the High Commissioner for Refugees, [Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters](#) (Oct. 1, 2020), 3.

Our Recommendations

- **Issue a DOJ opinion that clarifies that climate change serves as grounds for refugee status under U.S. law.**
 - This opinion would send a clear directive to immigration judges and officials that climate change interacts with established grounds for protection under U.S. law.
 - The opinion would also complement legal guidance from UNHCR that establishes that climate-displaced people can meet the refugee definition.
- **Issue policy guidance to set a clear standard for adjudicating officers and judges when assessing climate-related claims.**
 - USCIS and Department of Justice’s Executive Office for Immigration Review (EOIR) should jointly develop and issue a policy memorandum that guides immigration officers and judges in assessing climate change’s interaction with each of the five statutorily protected characteristics.
 - The policy memorandum would guide immigration officers conducting screening interviews and adjudicating asylum claims, as well as immigration judges ruling in removal proceedings in immigration court.
- **Train immigration officers and judges to recognize climate change’s relationship to persecution.**
 - USCIS and EOIR should develop and offer mandatory and continual training to officers and judges who adjudicate asylum and refugee claims on assessing climate change’s interaction with established grounds for protection under U.S. law. This training should be based on the above-mentioned policy guidance.
 - The training would teach officers and judges how to interview climate-displaced people in order to draw out relevant aspects of their claims under U.S. refugee & asylum law.
 - The training should be developed with input from civil society groups and include a factual overview of climate displacement, cover typical climate-related cases, and clarify issues related to nexus.

- **Develop further research on climate change in the context of asylum and refugee law.**
 - The Research Unit at USCIS' Refugee, Asylum and International Operations (RAIO) Directorate should start work to provide research and country conditions on climate change, including how adverse climate impacts heighten vulnerability and existing patterns of persecution against marginalized groups.
- **Designate additional resettlement slots through private sponsorship.**
 - State and the Department of Health and Human Services (HHS) should work with the White House to designate *additional* resettlement places for privately sponsored refugees, including climate-displaced people who qualify for refugee status. This would be on top of the annual number of people to be traditionally resettled through USRAP and co-sponsorship.
 - State and HHS should also consider an open “naming” mechanism, whereby private sponsors could nominate refugees for resettlement, including climate-displaced people, in order to expand access to USRAP.²¹
 - However, private sponsorship must be paired with investment in local governments' capacity to welcome newcomers and address structural barriers refugees face upon resettlement.²²

B. Temporary Protected Status

1. Administrative Action to Broaden TPS Would Extend Protection to Certain Climate-Displaced People

- a. TPS can be granted based on the environmental disaster and extraordinary conditions grounds, making it a useful protective tool for climate-displaced people.

DHS and State's Bureau of Population, Refugees, and Migration (PRM) can take concrete steps to make TPS available to more climate-displaced people. TPS is a legal mechanism that provides temporary immigration status to designated foreign nationals who cannot safely return to their home countries because of environmental disaster, armed conflict, or other extraordinary conditions.²³

21 See IRAP et al, [Recommendations for Private Sponsorship Design in an Expanded Community Sponsorship System](#) (June 10, 2021), 5.

22 See Mayors Migration Council et al, [Open Letter to President Biden: U.S. Local Governments Call for Equitable and Inclusive Action on Climate Migration](#) (April 21, 2021).

23 8 U.S.C. § 1254a.

The Immigration and Nationality Act (INA) expressly includes environmental disasters as grounds for TPS relief, stating that the Secretary of DHS, in consultation with other agencies such as State, can grant TPS if:

- 1) There has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary disruption of living conditions in the area affected;
- 2) The foreign state is unable, temporarily, to handle adequately the return [of its nationals]; and
- 3) The foreign state officially has requested designation.²⁴

Alternatively, DHS can also grant TPS relief (even without an official request from the foreign state) if the agency “finds that there exist extraordinary and temporary conditions in the foreign state that prevent. . . nationals of the state from returning to the state in safety,” which can include environmental disasters and related harm.²⁵ TPS is a useful tool for allowing climate-displaced people to seek shelter in the United States because of the INA’s express inclusion of environmental disasters, as well as the harm that can ensue—namely, extraordinary conditions that prevent safe return—as grounds for protection.

- b. TPS relief is available after both sudden- and slow-onset disasters.

TPS relief is available after sudden- *and* slow-onset disasters. TPS has already been extended to more than 331,000 nationals of Honduras, Nicaragua, and El Salvador following sudden-onset disasters, such as hurricanes and earthquakes.²⁶ Although TPS designation has primarily been granted after sudden-onset disasters thus far,²⁷ the INA provides for TPS relief based on slow-onset disasters for at least three reasons:

- *First*, the INA expressly includes drought, a slow-onset disaster, as an example of a qualifying “environmental disaster.”²⁸

24 *Id.* at 8 U.S.C. § 1254a(b)(1)(B).

25 *Id.* at 8 U.S.C. § 1254a(b)(1)(C). TPS was designated for Haitian nationals after the 2010 earthquake based on this “extraordinary conditions” prong.

26 These designations occurred after the 1998 Hurricane Mitch for Honduras and Nicaragua, and the 2000 earthquake in El Salvador. David James Cantor, “[Environment, Mobility, and International Law: A New Approach in the Americas](#),” *Chicago Journal of International Law* 21, no. 2 (January 2021): 295. See also Designation of Honduras Under Temporary Protected Status, [64 Fed. Reg. 524](#) (Jan. 5, 1999); Designation of El Salvador Under Temporary Protected Status, [66 Fed. Reg. 14214](#) (Mar. 9, 2001); Designation of Nicaragua Under Temporary Protected Status, [64 Fed. Reg. 526](#) (Jan. 5, 1999).

27 To be precise, TPS designation based on 8 U.S.C. § 1254a(b)(1)(B) has primarily been granted after sudden-onset disasters thus far.

28 *Id.* Note that the INA does not require the environmental disaster nor the extraordinary conditions to be temporary; but rather specifies that the government of the country of origin must be unable to *temporarily* handle the safe return of its nationals.

- *Second*, the INA makes room for DHS to grant relief after other slow-onset disasters by including the catch-all term “other environmental disaster.”²⁹
- *Third*, DHS has already factored slow-onset disasters into the TPS redesignation decision-making process.³⁰

c. Agency action would strengthen TPS as a protective tool.

Regularly issuing TPS designations in connection with environmental events would make TPS a more useful protective tool. The Secretary of DHS has thus far declined to designate/redesignate TPS for Guatemala, Honduras, El Salvador, and Nicaragua, despite the continuing devastating impacts of hurricanes Eta and Iota and a multi-year period of drought.³¹ The United States also did not designate TPS for The Bahamas following the introduction of a bill requesting the status for Bahamian nationals after Hurricane Dorian.³² As climate change increases the intensity and frequency of environmental disasters, extending TPS to countries affected by environmental disasters—including some of the countries highlighted by U.S. lawmakers in their letter to Secretary Mayorkas of May 27, 2021³³—would strengthen TPS as a legal tool in the climate realm. Regularly issuing TPS would also strengthen immigrants’ ability to support people adapting-in-place through remittances, thereby bolstering U.S. foreign assistance efforts.

TPS is a critical tool to address climate displacement, yet it presents at least two drawbacks in its current state that the Biden administration could address:

- *First*, TPS designation, when expressly granted based on the environmental disasters provision, requires a request from the affected country. Recognizing that foreign governments facing severe disruption may not always be willing or able to request TPS status, other TPS grounds—namely, conflict and extraordinary conditions—do not require such a request. DHS, in consultation with other agencies, could still grant TPS relief based on the extraordinary conditions provision

29 8 U.S.C. § 1254a.

30 DHS named drought as a root cause of the ongoing humanitarian crisis that hindered the safe return of nationals to South Sudan in three TPS extensions. Designation of Republic of South Sudan for Temporary Protected Status, [76 Fed. Reg. 63629](#) (Oct. 13, 2011) (naming drought and other factors as “the root of the ongoing humanitarian crisis”); Extension and Redesignation of South Sudan for Temporary Protected Status, [78 Fed. Reg. 1866](#) (Jan. 9, 2013); Extension and Redesignation of South Sudan for Temporary Protected Status, [79 Fed. Reg. 52019](#) (Sept. 2, 2014).

31 USAID, [Latin America - Storms](#), November 19, 2020. Accessed May 19, 2021.

32 [Bahamas Temporary Protected Status Act of 2019](#), S. 2478, 116th Cong. (2019). Introduced in Senate September 12, 2019.

33 For example, the letter recommends extending TPS to the Bahamas, El Salvador, Guatemala, Honduras, and Nicaragua, which were all recently devastated by environmental disasters. Cardin, Benjamin et al. [Letter to President Biden and Secretary Mayorkas re TPS. Letter](#) (May 27, 2021).

following an environmental disaster, and thus circumvent the need for a request from the affected country.³⁴

- *Second*, TPS applies only to people already located within the United States at the time of an environmental disaster. Perversely, this means that those fleeing in the wake of an environmental disaster are typically not able to access TPS relief. However, redesignation—the act of moving a TPS arrival date forward in order to allow those who arrive after an initial designation to qualify—can address this issue. Redesignation can make those who arrive in the United States after an environmental disaster eligible for TPS.³⁵

Although this section focuses on administrative changes to the application of TPS, there may be opportunities to amend TPS legislation to address the above-mentioned and other shortcomings. For example, legislation to transform TPS into a pathway to durable protection is critical.³⁶ However, even without changes to the statutory framework of TPS, the program can offer meaningful protections to some climate-displaced people.

2. The Administrative & Executive Branch Could Build on the United States' Endorsement of Regional Humanitarian Approaches by Operationalizing the RCM Guide

The use of TPS in the environmental context falls within a broader practice in the Americas of using national law to provide immigration benefits to climate-displaced people. The United States demonstrated leadership on climate displacement by endorsing the RCM guide to effective practices for protection of people moving in the context of disasters, in 2016.³⁷ The RCM guide affirms the flexible application of immigration law based on humanitarian grounds and is based on existing best practices, including in the United States.³⁸

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- 34 As noted above, this was done after the 2010 earthquake in Haiti. See Designation of Haiti for Temporary Protected Status, [75 Fed. Reg. 3476](#) (Jan. 21, 2010).
- 35 This was done in the case of Haiti. See Extension and Redesignation of Haiti for Temporary Protected Status, [76 Fed. Reg. 29000](#) (May 19, 2011) (responding to the need to regularize Haitian nationals who arrived after the 2010 earthquake).
- 36 IRAP supports legislation proposed in the House to extend a pathway to lawful permanent residence to current TPS holders as an important first step in making TPS a more durable protective tool. See [U.S. Citizenship Act](#), H.R. 1177, 117th Cong. (2021). Introduced in the House February 18, 2021.
- 37 The Nansen Initiative for the Regional Conference on Migration Member Countries, [A Guide to Effective Practices for RCM Member Countries](#) (Regional Conference on Migration, 2016).
- 38 For example, the guide provided a framework through which Costa Rica and Nicaragua cooperated to allow 150 Nicaraguans to seek shelter from the effects of Hurricane Otto in 2016. See Platform on Disaster Displacement, “State-Led, Regional, Consultative Processes: Opportunities to Develop Legal Frameworks on Disaster Displacement,” in *Climate Refugees’ Beyond the Legal Impasse?*, eds. Simon Behrman and Avidan Kent (New York: Routledge 2018), 141.

For example, USCIS officials can grant temporary relief measures to disaster-affected individuals—including expedited processing of immigration applications and fee waivers.³⁹

Our Recommendations

- **Designate TPS for Guatemala and redesignate TPS for El Salvador, Honduras and Nicaragua.**
 - In designating TPS for Guatemala, DHS should make mention of drought and climate change in order to demonstrate that TPS can be used to protect people fleeing slow-onset disasters.
 - Slow-onset disasters like drought and sea level rise contribute to conditions that displace people, and this designation would set an important precedent.
- **Issue policy guidance that specifies that TPS can be granted on the basis of slow-onset disasters.**
 - The INA statutory language related to TPS, by expressly mentioning drought, demonstrates that slow-onset disasters can serve as the basis for TPS designation.
 - DHS should issue policy guidance that clarifies this point, recognizing that both sudden- and slow-onset disasters displace people.
- **Operationalize the RCM guide to protection of disaster displaced people.**
 - The United States endorsed the RCM guide to effective practices for protection of people moving in the context of disasters in 2016. PRM should continue to participate in the RCM.
 - PRM should operationalize best practices for the protection of climate-displaced people by issuing a policy memo that clarifies how the RCM guide applies to U.S. law and practice.

39 See [“Tips for Foreign Nationals in the United States Impacted by Civil Unrest or Natural Disasters in Their Home Country,”](#) Archive, USCIS, last modified March 8, 2018; [“Special Situations,”](#) Humanitarian, USCIS, last modified October 25, 2019; see also David James Cantor, [Law, Policy and Practice Concerning the Humanitarian Protection of Aliens on a Temporary Basis in the Context of Disasters](#) (Nansen Initiative, 2015) (describing flexible application of U.S. law for disaster-affected individuals), 35.

III. International Security

Tackling climate change and supporting adaptation and resilience are central to U.S. efforts to promote peace and stability. However, addressing climate displacement primarily through a security lens inadvertently fuels xenophobic narratives that depict migrants as threatening. Migration is an adaptive response to threats, not a threat itself.

Furthermore, migrants and immigrants strengthen U.S. security and the economy. Net immigration would help the United States maintain our working-age population.⁴⁰ There are approximately half a million immigrant veterans in the United States;⁴¹ and 40,000 currently serve in U.S. armed forces.⁴² In leveraging the security apparatus to develop a climate strategy, U.S. agencies should simultaneously address root causes and use immigration law to respond to the migration and displacement that inevitably occurs.

Our Recommendations

- **Establish a climate migration unit within the international office of PRM.**
 - Establishing a climate migration unit would build on the notion that diplomacy, defense, development, and democracy must be aligned in order to foster security and prosperity.⁴³
 - The unit would be tasked with working with agencies with a security mandate, USAID, localities, and civil society groups to develop a strategy to support individuals displaced because of climate change. Solutions should include relocation pathways, support to countries likely to host the majority of climate-displaced people, and programs to address in-country factors so that climate change does not force displacement in the first place.
- **Reduce military emissions and direct military spending toward technology transfers to climate-vulnerable countries.**
 - DoD is the largest global institutional emitter of greenhouse gases.⁴⁴ Reducing DoD emissions is an important step in limiting adverse climate impacts and therefore supporting people staying in place and moving by choice.

40 Stein Emil Vollset et al., "[Fertility, Mortality, Migration, and Population Scenarios for 195 Countries and Territories from 2017 to 2100: A Forecasting Analysis for the Global Burden of Disease Study](#)," *The Lancet* 396, no. 10258 (Oct. 2020): 1285–1306.

41 Jie Zong and Jeanne Batalova, "[Immigrant Veterans in the United States](#)," *Migration Policy Institute*, May 16, 2019.

42 "[For Love of Country: New Americans Serving in Our Armed Forces](#)," National Immigration Forum, published November 7, 2017.

43 Dan Lamothe, "[Retired Generals Cite Past Comments from Mattis while Opposing Trump's Proposed Foreign Aid Cuts](#)," *Washington Post*, February 27, 2017.

44 Neta C. Crawford, "[Pentagon Fuel Use, Climate Change, and the Costs of War](#)" (Watson Institute, 2019), 4.

- The DoD should commit to technology transfers to climate-vulnerable countries as it “climate proofs” its installations through energy and water efficiency and distributed generation. This would support increased climate resilience abroad and reduce costs of post-disaster DoD missions.

IV. Foreign Assistance

The U.S. government is committed to increasing investments to tackle the climate challenge.⁴⁵ The FY22 Budget increases climate spending by \$14 billion compared to 2021, and dedicates \$2.5 billion to international climate programs.⁴⁶ The FY22 Budget also allocates approximately \$700 million for State and USAID to support developing country adaptation efforts.⁴⁷ As the U.S. government increases climate spending, hopefully to the degree needed,⁴⁸ it will be critical to invest in addressing root causes that drive displacement. Furthermore, channelling resources that address the underlying causes of displacement where it will be most impactful—the urban and local level—will better ensure that people have the option to safely stay at home, as most displaced people would prefer.⁴⁹

Our Recommendations

- **Direct USAID and State funding towards climate displacement-related and climate resiliency projects.**
 - To date, USAID does not have any programming focused on climate displacement. U.S. agencies should direct funding to local governments and community-based partners where the impact of climate displacement is heavily felt. For example, USAID might invest in programming to:
 - ✦ Invest and build capacity in sustainable water management, restorative agriculture, and drought insurance in drought-prone areas;

45 See, e.g., Office of Management & Budget, [Fact Sheet: The President’s Budget for Fiscal year 2022](#), May 28, 2021.

46 *Id.*

47 U.S. Department of State, [“State Department and U.S. Agency for International Development \(USAID\) FY 2022 Budget Request,”](#) press release, May 28, 2021.

48 Note that advocates called for a greater amount of climate adaptation funding; see, e.g., [Faith-based, development, environmental, and business organizations to Hon. Rosa DeLauro & Hon. Patrick Leahy](#), June 9, 2021.

49 Graeme Hugo, [“Future Demographic Change and Its Interactions with Migration and Climate Change,”](#) *Global Environmental Change* 21, no. S1 (2011): S21–S33; Karen E. McNamara and Chris Gibson, [“We Do Not Want to Leave Our Land’: Pacific Ambassadors at the United Nations Resist the Category of ‘Climate Refugees,’”](#) *Geoforum* 40 (2009): 475–83.

- ✧ Train internally displaced persons experiencing protracted displacement in climate-resilient livelihoods; and
- ✧ Provide technical assistance to support governments in integrating migration and displacement into development planning at all levels of governance.
- USAID and State should also invest in the existing pipeline of multi-sectoral, whole-of-government climate displacement projects through the UN Migration Multi-Partner Trust Fund.
- **Ensure that DFC investments and investments made by other U.S. agencies, particularly in South and Central America, are targeted to low-carbon and climate resilient sectors and technologies.**
 - These investments must simultaneously be conceptualized and implemented through the framework of Responsible Business Conduct, using Human Rights Due Diligence processes to identify and mitigate risks to the most vulnerable populations including Indigenous and Afro-descendent communities who have historically been disproportionately negatively affected by large-scale development projects.⁵⁰
 - Increasing flexible, long-term funding in a coordinated manner and with those safeguards in mind is essential.
 - The U.S. could expand existing funding mechanisms targeted at cities, such as the Global Cities Fund, to channel resources directly to city-led projects that address climate displacement at the urban level.⁵¹

50 Organization for Economic Co-operation and Development, [OECD Due Diligence Guidance for Responsible Business Conduct](#) (adopted at OECD Ministerial Meeting at Council Level, May 31, 2018).

51 [“Global Cities Fund,”](#) Mayors Migration Council, accessed July 14, 2021.

V. Multilateral Engagement

U.S. leadership on climate change is urgent and critical. The international community is not on track to hit the Paris Agreement's temperature goals, and marginalized populations in the United States and across the world are already experiencing life-threatening climate impacts.⁵² Fortunately, there are a number of opportunities for PRM and other agencies to engage regionally. For example, governments in the Americas commemorate the 1984 Cartagena Declaration on Refugees⁵³ every decade by adopting a soft law instrument that advances refugee protection, including for those fleeing environmental disasters. The most recent soft law commemorative instrument, the 2014 Brazil Declaration and Plan of Action,⁵⁴ recognizes that climate change and environmental disasters drive cross-border displacement in the Americas.⁵⁵

Our Recommendations

- **Adopt the next Cartagena Declaration commemorative legal instrument.**
 - PRM should join allies at the next Cartagena commemorative event in 2024, Cartagena+40, and adopt a soft law instrument that commits to more admission pathways for climate-displaced people based on existing law.
 - PRM should also partner with UNHCR and civil society partners to participate in Cartagena+40 planning.
- **Endorse the GCM and take immediate action to implement activities under GCM Objective 2 ("Minimize the adverse drivers and structural factors that compel people to leave their country of origin.")**
 - More than 160 countries along with 150 local authorities, including U.S. mayors, endorsed the GCM, but to date, the United States has not.

52 "[CAT Climate Target Update Tracker](#)," Climate Action Tracker, accessed June 3, 2021. For example, the U.S. government has already identified 31 Alaskan Native communities facing imminent threats due to flooding and erosion, and two Indigenous communities have started relocation processes. See U.S. Government Accountability Office, GAO-09-551, [Alaska Native Villages: Limited Progress Has Been Made on Relocating Villages Threatened by Flooding and Erosion](#), 12 (2009); U.S. Government Accountability Office, GAO-20-488, [Climate Change: A Climate Migration Pilot Program Could Enhance the Nation's Resilience and Reduce Federal Fiscal Exposure](#), 13 (2020).

53 Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, [Cartagena Declaration on Refugees](#), Nov. 22, 1984.

54 Regional Refugee Instruments & Related, [Brazil Declaration: A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin American and the Caribbean](#), Dec. 3, 2014.

55 The Brazil Declaration and Plan of Action also ordered a study on existing legal norms that enhance protection for climate-displaced people. See David James Cantor, [Cross-Border Displacement, Climate Change and Disasters: Latin America and the Caribbean](#) (Platform on Disaster Displacement, July 2018); see also Ama Ruth Francis, [Global Governance of Environmental Mobility: Latin America & the Caribbean](#) (New York: Zolberg Institute on Migration and Mobility, 2021).

- The GCM highlights key policy tools for supporting admission, protection, and stay of people fleeing sudden- and slow-onset disasters, including humanitarian visas, private sponsorship, access to education for children, temporary work permits, and planned relocation.⁵⁶
 - PRM, in collaboration with other agencies, should analyze whether these policy tools would be appropriate in the U.S. context, and issue a statement that clarifies the United States' endorsement and implementation of the principles in the GCM.
 - PRM should engage in the 2022 International Migration Review Forum to review progress towards the GCM and submit, in partnership with U.S. localities, a joint implementation report.
- **Include migration within the U.S. Nationally Determined Contribution to the Paris Agreement at COP26.**
- As of 2015, only 20 percent of Intended Nationally Determined Contributions to the Paris Agreement consider the impact of climate change on migration. This is an area where the United States can demonstrate clear leadership by identifying the U.S. government's commitment to address and prepare for the reality of climate displacement and encourage other national governments to join them.

Conclusion

Climate change is a lead driver of displacement. Recognizing this, the global community is increasingly working to provide climate-displaced people with protection and pathways to safety. The U.S. interagency report on climate displacement is a crucial first step in positioning the United States to join this global effort. The U.S. government has many tools that it can use now to make a meaningful impact on the lives of climate-displaced people. Following the release of the interagency report, IRAP calls on the U.S. government to leverage these tools immediately in the service of climate-displaced people, such as Francisco, José, and Isabel.

⁵⁶ Global Compact on Migration, [Global Compact for Safe, Orderly and Regular Migration](#), U.N. Doc. A/CONF.231/4 (July 13, 2018) at Objective 5(g) and (h).

Abbreviations

DFC	U.S. International Development Finance Corporation
DHS	Department of Homeland Security
DoD	Department of Defense
DOJ	Department of Justice
EOIR	Executive Office for Immigration Review
FY22 Budget	The President's Budget for Fiscal Year 2022
GCM	Global Compact on Safe, Orderly, and Regular Migration
HHS	United States Department of Health and Human Services
INA	The Immigration and Nationality Act
OFRANEH	The Black Fraternal Organization of Honduras
PRM	Bureau of Population, Refugees, and Migration
RAIO	Refugee, Asylum and International Operations
RCM	Regional Conference on Migration
State	Department of State
TPS	Temporary Protected Status
U.N.	United Nations
UNHCR	United Nations High Commissioner for Refugees
U.S.	United States
USAID	United States Agency for International Development
USCIS	United States Citizenship and Immigration Services
USRAP	United States Refugee Admissions Program