
Submission by Human Rights First to the Office of the High Commissioner for Human Rights (OHCHR) Special Rapporteur on the promotion and protection of human rights in the context of climate change pursuant to Human Rights Council Resolution 43/6

Restoring and Extending Protections in the United States for Displaced Persons Impacted by Climate Change

This document has been produced on the basis of Human Rights First’s experience representing, researching, and advocating for refugees and victims of human rights abuses seeking humanitarian protections in the United States. Human Rights First acknowledges the importance of providing support that prioritizes the agency of climate-impacted people, ensures their dignity, and provides redress for loss and damage—including many who will not migrate across borders. While the United States and other countries should take additional actions to protect the rights of people who suffer loss and damage due to climate change, this submission focuses on the need for legal migration processes for people affected by climate change who are forced to migrate.

Providing legal solutions for persons displaced by climate-related disasters is crucial to ensuring their safety and dignity, meeting international obligations not to return individuals to serious harm, and enabling people who are forced to cross borders to find refuge and respect for their fundamental rights. Human Rights First recommends that, in order to uphold their refugee and human rights commitments under international law and develop collective solutions to climate displacement, governments, including the United States, eliminate illegal asylum pushback policies and ensure access to asylum at borders, and implement complementary protection processes in order to provide rights-respecting, durable solutions for climate-displaced people.

CLIMATE-DISPLACED PEOPLE SEEKING REFUGE IN THE UNITED STATES

The U.N. Intergovernmental Panel on Climate Change (IPCC)’s 2022 report confirms—with “high confidence”—that “[c]limate change is contributing to humanitarian crises where climate hazards interact with high vulnerability” and that “[c]limate and weather extremes are increasingly driving displacement in all regions.”¹ The IPCC predicts—with “high confidence”—that “displacement will increase with intensification of heavy precipitation and associated flooding, tropical cyclones, drought and, increasingly, sea level rise.”²

Forced displacement in the context of climate change and environmental degradation is already a factor driving some individuals to seek refuge in the United States. Human Rights First and other organizations³ have found that some people seeking safety at the U.S. border cite the destruction of and displacement from their homes, agricultural lands, and other businesses due to hurricanes, droughts, floods, fires, and other climate-related causes as contributing to their flight from their home countries. Since 2020, for example, a series of punishing hurricanes and tropical storms have battered El Salvador, Guatemala, Honduras, Nicaragua, and Mexico, destroying homes and infrastructure, impacting the livelihoods of millions of people, and forcing some to seek safety in the United States.⁴

Some people impacted by climate disasters flee multiple intersecting threats, including persecution or torture, that would qualify them for existing refugee or other protections against *refoulement*.⁵ The Global Compact on Migration, adopted by the UN General Assembly in 2018, recognizes that “climate, environmental degradation and natural disasters increasingly interact with the drivers of refugee movements.”⁶ For example, a Honduran family stranded in Tijuana (due to U.S. policies blocking requests for asylum discussed below), told Human Rights First that they fled Honduras because a gang that exercises significant control throughout the country had extorted and threatened them and, in the wake of Hurricane Eta’s destruction of the family’s few remaining possessions, stole what little they earned from their business.⁷ Similarly, a Honduran asylum seeker forced to flee to the U.S.-Mexico

border said that he had been unable to pay the extortion payments a violent gang had demanded of him after a hurricane destroyed his family-run grocery store.⁸ A schoolteacher and human rights defender from the Indigenous Pech people of Honduras fled death threats for his efforts to protect his community's traditional lands and the murder of his brother who was also a community land defender,⁹ as climate change has increased pressures on and displacement of Indigenous and Afro-descendent communities in Honduras.¹⁰ Indeed, "[m]any of those who are forced to flee countries experiencing climate-affected stresses may be particularly vulnerable to persecution as traditionally defined."¹¹

As climate-related natural disasters impacting the region and other parts of the world grow in frequency and severity, coupled with often interrelated forms of repression and persecution, people forced from their homes will continue to seek safety in other countries, including the United States.

Illegal U.S. border pushback policies of asylum seekers exacerbate harms due to climate-change-related displacement

Recently implemented U.S. policies that block and push back asylum seekers at the U.S.-Mexico border have—in violation of U.S. law and treaty obligations¹²—severely eroded access to U.S. asylum and other humanitarian protections, including for asylum seekers displaced, in part, due to climate change.

These illegal policies include:

- “metering”¹³—the U.S. government’s policy of intentionally reducing the number of asylum seekers processed at ports of entry, which leaves asylum seekers stranded in Mexico and often forcing them to wait for months in danger to request asylum;
- the Migrant Protection Protocols, commonly known as Remain in Mexico (RMX),¹⁴ which forces asylum seekers and migrants to await U.S. immigration court proceedings in dangerous border regions of Mexico, endangering their lives and creating nearly insurmountable obstacles to the fair adjudication of their cases;¹⁵ and
- the Title 42 policy,¹⁶ which has been used to block asylum at U.S. ports of entry and to expel migrants and asylum seekers who cross the border to Mexico and to their countries of persecution without access to the U.S. asylum system or refugee protection screenings.¹⁷

These policies exacerbate harms for individuals stranded in danger in Mexico. Asylum seekers and other migrants blocked in or expelled to Mexico under these policies have been murdered, raped, assaulted, and kidnapped.¹⁸ Many are stranded in brutal conditions without safe and secure housing, adequate medical care, or sufficient food.¹⁹ These grave dangers and the inability to request asylum at ports of entry along the border push asylum seekers toward informal crossings away from official border posts.²⁰

As climate change exacerbates the danger of informal crossings at the U.S.-Mexico border,²¹ attempts to seek protection in the United States have become increasingly deadly, as asylum seekers and other migrants trek through harsh desert terrain in sweltering heat²² or ford flooded rivers.²³ At least 650 migrants and asylum seekers died crossing the U.S.-Mexico border in 2021, the highest death toll since the International Organization for Migration began keeping records in 2014.²⁴ Recent deaths of people attempting to cross the border to seek safety in the United States include an Ecuadoran woman fleeing gender-based violence who died crossing the desert with her three-year-old daughter;²⁵ and an asylum-seeking Brazilian doctor found dead in an extraordinarily hot New Mexico desert, who begged in her final messages to family, “ask them to bring me some water. I’m dying of thirst.”²⁶

RESTORING AND EXTENDING ACCESS TO LEGAL PROTECTION FOR PEOPLE DISPLACED DUE TO CLIMATE CHANGE AND OTHER DISASTERS

The Special Rapporteur should urge States, including the United States, to comply with their existing refugee and human rights obligations and climate-related commitments by eliminating barriers to asylum at borders and making legal protection available to climate-displaced people.

Eliminate illegal pushback policies and restore access to asylum at the border, including at ports of entry

To avoid exacerbating the vulnerabilities of individuals and communities displaced due to the adverse impacts of climate change, the United States must end illegal push back policies, including metering, RMX, and Title 42, and fully restart asylum at the border. The U.N. High Commissioner for Refugees (UNHCR) has repeatedly urged the United States to “swiftly lift the Title 42 public health-related asylum restrictions that remain in effect and to restore access to asylum for people whose lives depend on it”²⁷ and has warned that “[t]he summary, mass expulsions of individuals currently under way under the Title 42 authority, without screening for protection needs, is inconsistent with international norms and may constitute refoulement.”²⁸ Other U.N. agencies²⁹ and the Inter-American Commission for Human Rights³⁰ have also condemned Title 42 border restrictions. UNHCR also expressed concern over the United States’ reimplementation of RMX, stating that “the announced adjustments to the policy are not sufficient to address [UNHCR’s] fundamental concerns” about the safety and due process rights of asylum seekers subjected to the policy.³¹

As discussed above, some people seeking refuge at the U.S. border who have experienced loss and change due to climate change are also seeking and may qualify for refugee protection under U.S. and international law. Indeed, UNHCR estimates that 90 percent of the world’s refugees under its mandate come from countries “that are the most vulnerable and least ready to adapt to the impacts of climate change.”³² In addition, access to protection at ports of entry would help to reduce informal crossings away from official border crossing points that expose people seeking refuge in the United States to already dangerous conditions that are being exacerbated by climate change.

Incorporate UNHCR guidance regarding “claims for international protection made in the context of the adverse effects of climate change and disasters” into determinations of eligibility for asylum and refugee status

The Special Rapporteur should urge the United States and other countries to incorporate UNHCR expert guidance on assessing claims in the context of climate change³³ into determinations of eligibility for asylum and refugee status. This includes providing guidance and training to adjudicators on how the impacts of climate change produce and exacerbate risks of persecution on the basis of race, religion, nationality, membership of a particular social group, or political opinion.

Establish a complementary protection regime for people impacted by climate change who do not otherwise qualify for refugee protection

Under international law, states are required to provide protection for people displaced as a result of climate disasters in certain circumstances. The International Covenant on Civil and Political Rights (ICCPR), which the United States has ratified, guarantees the right to life under Article 6 and the right to security of person under Article 9.³⁴ The UN Human Rights Committee’s General Comment 35 on ICCPR Article 9 clarifies that security of person “concerns freedom from injury to the body and the mind, or bodily and mental integrity,”³⁵ which could include harms caused by climate-related disasters. In considering the case of a family from an island in the Republic of Kiribati who sought asylum in New Zealand citing the threat to their lives from rising sea levels, the UN Human Rights Committee found that “the obligation not to extradite, deport or otherwise transfer pursuant to article 6 of the [ICCPR] may be broader than the scope of non-refoulement under international refugee law, since it may also require the protection of aliens not entitled to refugee status.”³⁶ U.N. High Commissioner for Refugees

Filippo Grandi clarified: “the ruling says if you have an immediate threat to your life due to climate change, due to the climate emergency, and if you cross the border and go to another country, you should not be sent back because you would be at risk of your life, just like in a war or in a situation of persecution.”³⁷ UNHCR has also stated that people “displaced by the adverse effects of climate change or disasters” “may be protected from return in accordance with prohibitions on *refoulement*” under Articles 6 and 7 (prohibition of torture and cruel, inhuman or degrading treatment) of the ICCPR where “there is a real risk of being subjected to serious harm.”³⁸ However, United States laws do not currently provide a pathway to permanent legal status on the basis of the prohibition on *refoulement* contained in the ICCPR generally or forced displacement due to climate disasters specifically.³⁹

Human Rights First and other U.S. organizations⁴⁰ have recommended that the United States adopt a complementary protection standard, in line with U.S. human rights obligations under the ICCPR and in parallel with existing refugee and asylum protections. Such an approach would provide a path to durable legal status for people seeking protection in the United States who have been forced to flee exceptional situations, such as environmental or other crises or disasters, including from the effects of climate change, for which there is no adequate remedy in their country of origin. A complementary protection standard should primarily consider whether return to the individual’s country of origin would create a reasonable possibility that the individual’s rights to life or physical or mental integrity would be at serious risk, and whether the home country’s government is able and willing to protect them. This approach is similar to the standard adopted in regional protection agreements, including the Organization of African Unity Convention and the Cartagena Declaration on Refugees. They include refugee protections for people who flee events or circumstances that are “seriously disturbing”⁴¹ or have “seriously disturbed public order.”⁴² A person granted complementary protection should receive the same legal status and treatment as an individual meeting the refugee definition under U.S. law to provide lasting protection and an opportunity for integration.⁴³

¹ U.N. Intergovernmental Panel on Climate Change. *Climate Change 2022: Impacts, Adaptation and Vulnerability; Summary for Policymakers*. https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf.

² *Id.*

³ Hannah Hollandbyrd and J. Omar Ríos L., *No Queda de Otra: An Exploration of the Root Causes of Migration to the Southern Border*. Hope Border Institute. November 2021. https://www.hopeborder.org/files/ugd/e07ba9_f346628acfbf43fbb99372068f46cd0a.pdf (citing accounts of displaced persons including Indigenous women from Guatemala whose homes and crops were destroyed by hurricanes and droughts).

⁴ Brandon Carroll, Adam Everts, Ennedith López, Anya Loya, Yolanda Lucero, Toyosi Olola, Tomide Oloruntobi, Gordon Payne, and Ashley Varela, *From Disaster Relief to Resilient Futures in the Northern Triangle*. CSIS JOURNALISM BOOTCAMP. 28 May 2021.

<https://journalism.csis.org/from-disaster-relief-to-resilient-futures-in-the-northern-triangle/>; UNICEF, *Tropical Storm Amanda leaves destruction and grief as it passes through El Salvador*. 1 June 2020. <https://www.unicef.org/lac/en/press-releases/tropical-storm-amanda-leaves-destruction-and-grief-it-passes-through-el-salvador>; Jose Maria Alvarez, *Hurricane Agatha kills 11, leaves 20 missing in south Mexico*. ASSOCIATED PRESS, 31 May 2022. <https://apnews.com/article/floods-storms-caribbean-mexico-tropical-ac7b5e3592b945011799b9da0b980cb4>.

⁵ See, UN High Commissioner for Refugees, *Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters*. 1 October 2020. <https://www.refworld.org/docid/5f75f2734.html>.

⁶ United Nations. *Global Compact on Migration*. 2018. <https://www.unhcr.org/5c658aed4.pdf>.

⁷ Human Rights First Interview, Tijuana, Mexico, September 2021.

⁸ Human Rights First Interview, Tijuana, Mexico, March 2021.

⁹ Human Rights First, Al Otro Lado, and Haitian Bridge Alliance, *Extending Title 42 Would Escalate Dangers, Exacerbate Disorder, and Magnify Discrimination*. Human Rights First, April 2022. <https://www.humanrightsfirst.org/sites/default/files/ExtendingTitle42.pdf>.

¹⁰ See, e.g., Miriam Miranda, *Afro-Indigenous People in Honduras Are Being Forcibly Displaced. Washington Is Complicit*. In *These Times*, 11 October 2021. <https://inthesetimes.com/article/garifuna-honduras-indigenous-peoples-day-human-rights-corruption>; María Rubio, *In Honduras, climate change is one more factor sparking displacement*. UNHCR, 9 November 2021. <https://www.unhcr.org/en-us/news/stories/2021/11/61844eef4/honduras-climate-change-factor-sparking-displacement.html>.

¹¹ See, Refugees International Task Force, *Task Force Report to the President on the Climate Crisis and Global Migration A Pathway to Protection for People on the Move*. 14 July 2021. https://www.refugeesinternational.org/reports/2021/7/12/task-force-report-to-the-president-on-the-climate-crisis-and-global-migration-a-pathway-to-protection-for-people-on-the-move#_ftn4.

¹² United Nations Special Rapporteur on the Human Rights of Migrants, *Report on means to address the human rights impact of pushbacks of migrants on land and at sea*. United Nations Human Rights Office of the High Commissioner, 12 May 2021. <https://www.ohchr.org/en/special-procedures/sr-migrants/report-means-address-human-rights-impact-pushbacks-migrants-land-and-sea>.

¹³ By 2018, the U.S. Department of Homeland Security had expanded the metering policy along the entire U.S.-Mexico border. In September 2021, a U.S. federal judge enjoined the metering policy, finding it violates asylum seekers’ due process rights under the fifth amendment of the U.S. constitution. See Human Rights First, *Refugee Blockade: The Trump Administration’s Obstruction of Asylum Claims at the Border*. 11

December 2018. <https://www.humanrightsfirst.org/resource/refugee-blockade-trump-administration-s-obstruction-asylum-claimsborder-december-2018>; *Al Otro Lado v. Mayorkas*, No. 17-cv-02366 (S.D. CA, Sept. 2, 2021). <https://ccrjustice.org/sites/default/files/attach/2021/09/742%20Order%20granting%20in%20part%20plaintiffs%20Motion%20for%20Summary%20Judgment%202021.08.02.pdf>.

¹⁴ Kirstjen M. Nielsen, *Policy Guidance for Implementation of the Migrant Protection Protocols*. Department of Homeland Security, 25 January 2019. https://www.dhs.gov/sites/default/files/publications/19_0129_OPA_migrant-protection-protocols-policy-guidance.pdf.

¹⁵ The Remain in Mexico policy remains in place under court order after a legal challenge to the current administration's attempt to terminate it. See, U.S. Department of Homeland Security, *Court Ordered Reimplementation of the Migrant Protection Protocols*. <https://www.dhs.gov/migrant-protection-protocols>.

¹⁶ See, e.g., U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Order Suspending the Right to Introduce Certain Persons from Countries where a Quarantinable Communicable Disease Exists. 2 August 2021. <https://www.cdc.gov/coronavirus/2019-ncov/downloads/CDC-Order-Suspending-Right-to-Introduce-Final-8-2-21.pdf>. First issued in 2020 under the Trump administration, the Biden administration recently terminated the Title 42 order, but it remains in place under court order pending appeal in the case. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Public Health Determination and Order Regarding the Right to Introduce Certain Persons from Countries where a Quarantinable Communicable Disease Exists*, Centers for Disease Control and Prevention, 1 April 2022. <https://www.cdc.gov/coronavirus/2019-ncov/cdcresponse/Final-CDC-Order-Prohibiting-Introduction-of-Persons.pdf>; *Louisiana v. Centers for Disease Control and Prevention*, No. 22-CV-00885 (W.D. LA, May 5, 2022) <https://www.courthousenews.com/wp-content/uploads/2022/05/order-granting-injunction-against-ending-use-of-title-42.pdf>.

¹⁷ See, Lucas Guttentag, *Coronavirus Border Expulsions: CDC's Assault on Asylum Seekers and Unaccompanied Minors*. JUST SECURITY, 13 April 2020. <https://www.justsecurity.org/69640/coronavirus-border-expulsions-cdcs-assault-on-asylum-seekers-and-unaccompanied-minors/>; Harold Koh, *Re: Ending Title 42 return flights to countries of origin, particularly Haiti*. Memorandum, 2 October 2021. <https://www.politico.com/f/?id=0000017c-4c4a-dddc-a77e-4d4dbf3ae0000>.

¹⁸ See, e.g., Julia Neusner and Kennji Kizuka, *The Nightmare Continues: Title 42 Court Order Prolongs Human Rights Abuses, Extends Disorder at U.S. Borders*, at 12. Human Rights First, 16 June 2022. <https://www.humanrightsfirst.org/sites/default/files/NightmareContinues.pdf>; *Delivered to Danger: U.S. Government sending asylum seekers and migrants to danger*. <https://www.deliveredtodanger.org>; Human Rights First, *Barred at the Border: Wait "Lists" Leave Asylum Seekers in Peril at Texas Ports of Entry*. April 2019. https://www.humanrightsfirst.org/sites/default/files/BARRED_AT_THE_BORDER.pdf.

¹⁹ Human Rights First, *Humanitarian Disgrace: U.S. Continues to Illegally Block, Expel Refugees to Danger*. December 2020. <https://www.humanrightsfirst.org/sites/default/files/HumanitarianDisgrace.12.16.2020.pdf>.

²⁰ U.S. Department of Homeland Security, Office of Inspector General, *Special Review – Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy*. 27 September 2018. <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-84-Sep18.pdf>; U.S. Department of Homeland Security, Office of Inspector General, *CBP Has Taken Steps to Limit Processing of Undocumented Aliens at Ports of Entry*, 27 October 2020, <https://www.oig.dhs.gov/sites/default/files/assets/2020-10/OIG-21-02-Oct20.pdf>.

²¹ Shane Campbell-Station, Reena Walker, Savannah Rogers, Jason de Leon, *Physiological costs of undocumented human migration across the southern United States border*. SCIENCE, 16 Dec. 2021. <https://www.science.org/doi/10.1126/science.abh1924>.

²² A group of migrants crossing the Yuma sector desert in Arizona in mid-September 2021 required emergency medical assistance after temperatures reached 111 degrees Fahrenheit. <https://kyma.com/news/border-security/2021/09/30/migrant-shares-story-in-dramatic-border-patrol-video/>.

²³ For example, at least 20 Nicaraguan migrants and asylum seekers have drowned attempting to cross the Rio Grande at the U.S. Mexico border in 2022, including Calixto Nelson Rojas Bordas, a 53-year-old radio host fleeing persecution by Nicaraguan government sympathizers following his participation in anti-regime protests, who drowned in strong river currents while attempting to seek U.S. asylum in May 2022. Nicaragua Investiga, *Encuentran cuerpo de nicaragüense en la morgue tras morir ahogado en el Río Bravo*. 27 May 2022. <https://nicaraguainvestiga.com/nacion/84333-encuentran-cuerpo-de-nicaraguense-en-la-morgue-tras-morir-ahogado-en-el-rio-bravo/>; Noel Perez Miranda, *Repatriarán cuerpo del locutor Calixto Rojas*. ARTICULO 66, 6 May 2022. <https://www.articulo66.com/2022/05/06/repatriaran-cuerpo-locutor-calixto-rojas-sepultado-cementerio-telica/>; see, Julia Neusner and Kennji Kizuka, *The Nightmare Continues: Title 42 Court Order Prolongs Human Rights Abuses, Extends Disorder at U.S. Borders*, at 12. Human Rights First, 16 June 2022. <https://www.humanrightsfirst.org/sites/default/files/NightmareContinues.pdf>.

²⁴ Alisa Reznick, *A Record Number of Migrants Died Along the U.S.-Mexico Border in 2021*. ARIZONA PUBLIC MEDIA, 4 January 2022. <https://news.azpm.org/p/news-topical-border/2022/1/4/205215-a-record-number-of-migrants-died-along-the-us-mexico-border-in-2021/>

²⁵ Noticias Telemundo, *Muere en el desierto una migrante ecuatoriana de 21 años que huía de la violencia familiar. Pidió que cuiden de su hija*. 4 September 2021. <https://www.telemundo.com/noticias/noticias-telemundo/inmigracion/muere-en-el-desierto-una-migrante-ecuatoriana-de-21-anos-que-huia-de-la-violencia-familiar-tmna3906870?cid=linknoticias>.

²⁶ Tom Phillips, *A nurse's journey from treating Covid in Brazil to death in the US desert*. THE GUARDIAN, 18 October 2021. <https://www.theguardian.com/world/2021/oct/18/brazil-migrant-death-us-border-desert-dream>.

²⁷ U.N. High Commissioner for Refugees, *UNHCR concerned over U.S. expulsion flights under COVID-19 asylum restrictions*. UNHCR, 11 August 2021. <https://www.unhcr.org/en-us/news/press/2021/8/6113dfc14/unhcr-concerned-expulsion-flights-under-covid-19-asylum-restrictions.html>; U.N. High Commissioner for Refugees, *Statement attributable to UN High Commissioner for Refugees Filippo Grandi on the need to end US COVID-19 asylum restrictions*. 20 May 2021. <https://www.unhcr.org/news/press/2021/5/60a687764/statement-attributable-un-high-commissioner-refugees-filippo-grandi-need.html>.

²⁸ The U.N. High Commissioner for Refugees, *News Comment by UN High Commissioner for Refugees Filippo Grandi on conditions and expulsions at US border*. 21 September 2021. <https://www.unhcr.org/en-us/news/press/2021/9/614a27324/news-comment-un-high-commissioner-refugees-filippo-grandi-conditions-expulsions.html>.

²⁹ Comunicado conjunto de las Oficinas en México de ACNUR, UNICEF, ONUDH, ONU Mujeres y OIM, *Agencias de la ONU expresan preocupación frente al deterioro de las condiciones humanitarias de las personas migrantes y solicitantes de asilo en las fronteras norte y sur de México*. ACNUR México, 11 August 2021. <https://www.acnur.org/es-mx/noticias/press/2021/8/61143e084/agencias-de-la-onu-expresan-preocupacion-frente-al-deterioro-de-las-condiciones.html>.

³⁰ Inter-American Commission on Human Rights, *The IACHR Expresses Concern about the Expulsion of People in a human mobility context from the United States and Mexico and calls on States to Ensure the Effective Protection of Their Rights*. 17 September 2021.

https://www.oas.org/en/IACHR/jsForm?File=/en/iachr/media_center/PReleases/2021/243.asp;

Inter-American Commission on Human Rights, Twitter, 12 Aug. 2021. <https://twitter.com/CIDH/status/1425818016982487040> (“IACHR urges the United States to lift the restrictions on access to the territory and protection procedures under Title 42, in line with the principles of due process, non-refoulement and other inter-American principles and standards of protection provided for in its Res.4/19.”).

³¹ Matthew Reynolds, *UNHCR comment on reinstatement of U.S. policy that endangers asylum seekers*. UNHCR, 2 December 2021.

<https://www.unhcr.org/en-us/news/press/2021/12/61a8eeef4/unhcr-comment-reinstatement-policy-endangers-asylum-seekers.html>.

³² United Nations, *Climate change link to displacement of most vulnerable is clear: UNHCR*. UN News, 22 April 2021.

<https://news.un.org/en/story/2021/04/1090432>.

³³ UN High Commissioner for Refugees, *Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters*. 1 October 2020. <https://www.refworld.org/docid/5f75f2734.html>.

³⁴ United Nations (General Assembly). “International Covenant on Civil and Political Rights.” Treaty Series, vol. 999, December 1966, p. 171.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

³⁵ UN Human Rights Committee, *General Comment No. 35 on ICCPR Article 9, Liberty and Security of Person*. CCRP/C/GC/25. 16 December 2014.

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/244/51/PDF/G1424451.pdf?OpenElement>.

³⁶ UN Human Rights Committee, *General comment No. 36, Article 6 (Right to Life)*. CCRP/C/GC/35 at 7. 3 September 2019.

<https://www.refworld.org/docid/5e5e75e04.html>.

³⁷ Luke Baker, *World needs to prepare for ‘millions’ of climate refugees -UN*. REUTERS, 21 Jan 2020. <https://www.reuters.com/article/us-davos-meeting-refugees/world-needs-to-prepare-for-millions-of-climate-displaced-u-n-idUSKBN1ZK1Q2>.

³⁸ UNHCR, *Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters*. 1 October 2020. <https://www.refworld.org/docid/5f75f2734.html>.

³⁹ The U.S. government may protect individuals from removal to countries where they are unable to safely return, including due to natural disasters related to climate change, using temporary protected status (TPS) and deferred enforced departure (DED). However, these forms of relief provide only temporary protection from removal, do not apply to individuals who are not physically present in the United States at the time of designation, and lack a pathway to permanent citizenship. While Human Rights First supports the continued use of these forms of protection from removal to countries impacted by climate disasters, TPS and DED do not provide adequate long-term protection for individuals displaced across borders by climate change. See Jill H. Wilson, *Temporary Protected Status and Deferred Enforced Departure*. Congressional Research Service, 19 April 2022. <https://sgp.fas.org/crs/homesecc/RS20844.pdf>.

⁴⁰ The Refugees International Task Force, consisting of representatives from Refugees International, the International Refugee Assistance Project, HIAS, Church World Service, and others, recommends “a form of complementary protection in the United States for forced migrants who do not meet the refugee definition under the Immigration and Nationality Act (INA), but who are unable to return safely to their countries of origin due to a variety of dire threats, including those due to disaster resulting from the effects of climate change.” Refugees International Task Force, *Task Force Report to the President on the Climate Crisis and Global Migration A Pathway to Protection for People on the Move*. Refugees International, 14 July 2021. <https://www.refugeesinternational.org/reports/2021/7/12/task-force-report-to-the-president-on-the-climate-crisis-and-global-migration-a-pathway-to-protection-for-people-on-the-move>; Amnesty International has noted that “[t]he climate crisis also triggers rights and responsibility-sharing around the protection of individuals affected by climate displacement, including the right to seek asylum and the availability of alternative pathways, and the obligation to uphold the principle of non-refoulement.” *Amnesty International, Amnesty International USA Policy Recommendations on Climate Displacement*, 28 May 2021. <https://www.amnestyusa.org/our-work/government-relations/advocacy/amnesty-climate-displacement-recommendations-may-2021/>; Human Rights Watch has recommended a complementary protection standard for the United States that applies to “people who would face . . . serious threats to life or physical integrity if returned to their countries because of a real risk of violence or exceptional situations.” Bill Frelick, *How to Make the US Asylum System Efficient and Fair*. Human Rights Watch, 21 May 2021. <https://www.hrw.org/news/2021/05/21/how-make-us-asylum-system-efficient-and-fair>.

⁴¹ Organization of African Unity (OAU), *Convention Governing the Specific Aspects of Refugee Problems in Africa*. 10 September 1969, 1001 U.N.T.S. 45. https://au.int/sites/default/files/treaties/36400-treaty-36400-treaty-oau_convention_1963.pdf. Forty-six African Union member states have ratified the Convention.

⁴² *Cartagena Declaration on Refugees*, adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, Cartagena de Indias, Colombia. 22 November 1984. https://www.oas.org/dil/1984_cartagena_declaration_on_refugees.pdf. Belize, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and Venezuela have adopted the Cartagena Declaration. UNHCR has clarified, “while States may choose to apply the Cartagena refugee definition to persons compelled to leave because of natural or ecological disasters, they are not strictly speaking protected pursuant to the Cartagena refugee definition.” UNHCR, *Summary Conclusions on the interpretation of the extended refugee definition in the 1984 Cartagena Declaration*. 7 July 2014. <https://www.unhcr.org/protection/expert/53bd4d0c9/summary-conclusions-interpretation-extended-refugee-definition-1984-cartagena.html>.

⁴³ For example, withholding of removal, the mandatory non-refoulement protection required under the U.N. Convention Against Torture and U.S. immigration law, would provide more limited relief than asylum and lacks a path to legal permanent residence or citizenship. See Human Rights First, *Withholding of Removal and the U.N. Convention Against Torture—No Substitute for Asylum, Putting Refugees at Risk*. 9 November 2018. <https://www.humanrightsfirst.org/resource/withholding-removal-and-un-convention-against-torture-no-substitute-asylum-putting-refugees>.