

August 26, 2021

The Honorable Joseph R. Biden  
President  
White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

The Honorable Charles Schumer  
Majority Leader  
U.S. Senate  
Hart Senate Office Building  
Washington, DC 20002

The Honorable Steny Hoyer  
Majority Leader  
U.S. House of Representatives  
1705 Longworth House Office Building  
Washington, DC 20515

The Honorable Mitch McConnell  
Minority Leader  
U.S. Senate  
Russell Senate Office Building  
Washington, DC 20002

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
2468 Rayburn House Office Building  
Washington, DC 20515

The Honorable Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
Nebraska Avenue Complex  
3801 Nebraska Avenue, NW  
Washington, D.C. 20395

The Honorable Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
1236 Longworth House Office Building  
Washington, DC 20515

**RE: Addressing Climate-Displaced Persons through Administrative and Legislative Avenues**

Dear President Biden, Speaker Pelosi, House Majority Leader Hoyer, Minority Leader McCarthy, Leader Schumer, Minority Leader McConnell, and Secretary Mayorkas:

The below 83 state, local, and national organizations write to you to request coordinated action from the Biden administration and Congress to address the plight of climate displaced persons: those forced to leave or those who cannot return to their homes due to climate change. Earth's warming over the next five years will not only cause an increase in the number of environmental disasters such as floods, droughts, and wildfires, but also increase the number of climate-displaced persons.<sup>1</sup> While the United States recognizes that climate change poses an existential threat, the extent to which "climate-displaced persons" are protected under U.S. domestic law is almost non-existent. In President Biden's Executive Order 14013, he has recognized the need for "options for protection and resettlement of individuals displaced directly or indirectly from climate change."<sup>2</sup> Therefore, we urge the Biden administration to expansively utilize existing legal authority, such as the special humanitarian concern provisions of our refugee laws, Temporary Protected Status (TPS), Deferred Enforced Departure (DED),

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<sup>1</sup> Christopher B. Field et al., eds., *Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation: Special Report of the Intergovernmental Panel on Climate Change*, Intergovernmental Panel on Climate Change (IPCC), (New York, NY: Cambridge University Press, 2012), [https://www.ipcc.ch/site/assets/uploads/2018/03/SREX\\_Full\\_Report-1.pdf](https://www.ipcc.ch/site/assets/uploads/2018/03/SREX_Full_Report-1.pdf).

<sup>2</sup> "Executive Order on Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration," The White House, February 4, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/04/executive-order-on-rebuilding-and-enhancing-programs-to-resettle-refugees-and-planning-for-the-impact-of-climate-change-on-migration/>.

prosecutorial discretion, and parole to respond to climate-displaced persons. We ask Congress to create a definition for climate-displaced persons, as well as complementary protection standards for a dedicated form of relief for climate-displaced persons, that supplement the U.S. Refugee Admissions Program (USRAP) and other forms of humanitarian protection. We further urge the administration and Congress to advance meaningful solutions that reduce climate-induced displacement and support individuals displaced both inside and outside their countries of origin.

## **I. Climate Change Accelerates the Rates and Severity of Disasters and Displacements**

Climate change quickens the rate and severity of environmental distress, resulting in disasters such as flooding, mudslides, desertification, increased salinization, rising sea levels, and rising average temperatures. Climate-induced disruptions also prompt both international and internal migration. As of December 2020, the top ten nations producing the largest number of climate induced displacements include Afghanistan, India, Pakistan, Ethiopia, Sudan, Bangladesh, Niger, Yemen, Kenya, and Vietnam.<sup>3</sup> In these already fragile and conflict-affected settings, climate change also acts as a “threat multiplier,” aggravating underlying tensions while increasing political, social, and economic insecurity.

Exacerbating this problem is the absence of substantial humanitarian aid from international organizations as well as limited funding in preexisting agencies. Further, climate-displaced persons occupy an ambiguous space within the 1951 Geneva Convention Relating to the Status of Refugees, and there is no universally accepted definition for climate-displaced persons, making it difficult to pinpoint who exactly a law might cover. According to the World Bank, IPCC, and various think tanks, susceptible regions include sub-Saharan Africa, the Middle East, and South and Southeast Asia. The World Bank estimates that Latin America (17 million), sub-Saharan Africa (86 million), and Southeast Asia (40 million) will generate 143 million more climate-displaced persons by 2050; however, while this displacement is large, most climate-induced displacement does not directly translate to mass external migration.<sup>4</sup> A response from the United States is needed now more than ever.

## **II. Limitations in the U.S. Immigration System**

Currently, under U.S. immigration law, it remains unclear the extent to which people displaced by natural disasters and environmental degradation are eligible for protection as refugees, because the U.S. system was not created to receive them.<sup>5</sup> The United States addresses climate-displaced persons on an ad-hoc basis through existing executive authority in the U.S. Immigration and Nationality Act (INA)—namely temporary protected status (TPS) and Deferred Enforced Departure (DED). Additionally, the agencies responsible for admitting and enforcing regulations within the INA, particularly the U.S. Department of Homeland Security (DHS) and its offices and enforcement arms, USCIS, ICE, and CBP have no set guidance on how to process climate-displaced individuals. Administrative solutions are critical for immediate relief and should use existing legal avenues with a coordinated interagency response to prioritize individuals impacted by climate change. Congressional solutions are equally important as they can provide permanent and durable solutions for climate-displaced persons.

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<sup>3</sup> Norwegian Refugee Council, *Global Report on Internal Displacement 2019*, (Geneva, Switzerland: International Displacement Monitoring Center, 2020), <https://www.internal-displacement.org/global-report/grid2020/>.

<sup>4</sup> Kanta Kumari Riguard et al., *Groundswell: Preparing for Internal Climate Migration*, (Washington, D.C.: The World Bank, 2018), <https://openknowledge.worldbank.org/handle/10986/29461>.

<sup>5</sup> Amali Tower, “The United States used to have a pathway that covered ‘natural calamity’ prior to the 1980 Refugee Act,” (New York, NY: Climate Refugees, 2021), <https://www.climate-refugees.org/reports/policybrief-to-biden-eo>.

### III. Providing Relief for Climate-Displaced Persons: Recommendations for the Administration

- A. ***Special Humanitarian Concern.*** The emergency refugee situation that now exists due to the negative impacts of climate change warrants the U.S. Refugee Admissions Program to allow refugees whose plight of displacement has been aggravated by climate change to access refugee resettlement. This would only pertain to those who both suffer from negative impacts of climate change and already meet the refugee statutory requirements. The administration should explore opportunities to designate this population as of special humanitarian concern to the United States and to allow individuals to seek access to the resettlement program on the basis of meeting specific criteria.
- B. ***TPS/DED.*** DHS should more expansively utilize TPS and DED to deal with climate-displaced persons. In recent years, TPS has been extended to those who cannot return home due to the 2010 earthquake in Haiti, the 2001 earthquake in El Salvador, and a 1998 hurricane in Honduras and Nicaragua.<sup>6</sup> Additionally, with DED, individuals from designated countries and regions facing natural disaster are not subject to removal from the United States for a designated period of time.<sup>7</sup>
- C. ***Prosecutorial discretion and parole.*** The president should also promulgate a memorandum that directs prosecutorial discretion (e.g., to not arrest, detain, or deport) and parole for climate-displaced nationals.

### IV. Providing Relief for Climate-Displaced Persons: Recommendations for Congress

While the current system is only meant to reactively address sudden-onset environmental events and human-caused, traceable persecution, we need legislative change to create comprehensive and lasting solutions.

- A. ***Climate-displaced person definition.*** Despite difficulties in identifying climate-displaced persons due to confounding displacement factors, identifying countries hardest hit by climate change can facilitate resettlement access for refugees from these countries. This could include refugees who fall within the current refugee definition and are resettled by the USRAP, as well as other climate-displaced persons who may fall outside the refugee definition and are resettled in addition to (or outside of) the annual refugee admissions goal. Utilizing UNHCR's climate vulnerability standard can also help in this effort.<sup>8</sup> Additionally, if the government of the country experiencing climate change is exacerbating the consequences, then individuals fleeing from these areas should qualify for protection.
- B. ***Complementary protection standards.*** Under current standards of the refugee definition, some climate-displaced persons do not qualify for protection. However, these climate-displaced persons need similar protection that acknowledges the long-term nature of their displacement, unlike programs meant to address short-term conditions like TPS and DED. The UNHCR, a U.S. Embassy, or a participating non-profit

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<sup>6</sup> Erol Yayboke and Janina Staguhn, "A New Framework for U.S. Leadership on Climate Migration," (Washington, D.C.: CSIS Briefs, 2020), <https://www.csis.org/analysis/new-framework-us-leadership-climate-migration>.

<sup>7</sup> USCIS, "Temporary Protected Status and Deferred Enforced Departure," July 8, 2021, <https://www.uscis.gov/i-9-central/complete-correct-form-i-9/temporary-protected-status-and-deferred-enforced-departure>.

<sup>8</sup> UNHCR, *Vulnerability Screening Tool*, (Geneva, Switzerland:UNHCR, 2016), <https://www.unhcr.org/en-us/protection/detention/57fe30b14/unhcr-ide-vulnerability-screening-tool-identifying-addressing-vulnerability.html>.

organization could refer those experiencing exceptional climate change impacts and qualify as climate migrants.

## **V. Supporting Climate-Displaced Persons**

The stark reality is that those who are most vulnerable to environmental disasters have the fewest resources and legal routes available to move to safety. Climate change resulting in or aggravating massive displacement requires us to rethink our laws, policies, and attitudes regarding migration governance. We commend the administration and Congress for their efforts in addressing climate change and displacement thus far, and now further administrative and legislative actions must be taken to develop comprehensive measures that positively impact the lives of climate-displaced persons.

For additional questions please contact Tom Wong at [tomkwong@ucsd.edu](mailto:tomkwong@ucsd.edu) or Lora Adams at [lora@masadc.com](mailto:lora@masadc.com).

Sincerely,

### **National**

African Communities Together  
Agora Europe  
America's Voice  
AsylumConnect  
CASA  
Center for Gender & Refugee Studies  
Church World Service  
Clerics of St. Viator (Viatorians)  
Climate Refugees  
Congregation of Sisters of St. Agnes  
Daughters of Charity of St. Vincent de Paul USA  
Deportation Research Clinic, Buffett Institute for Global Affairs, Northwestern University  
Disciples Immigration Legal Counsel  
Evangelical Lutheran Church in America  
Faith in Public Life Action  
Fellowship Southwest  
First Focus Campaign for Children  
Haitian Bridge Alliance  
Holy Spirit Missionary Sisters, USA-JPIC  
Human Rights First  
Immigration Hub  
International Refugee Assistance Project (IRAP)  
InterReligious Task Force on Central America and Colombia  
Justice for Migrant Women  
Latin America Working Group (LAWG)  
Leadership Conference of Women Religious  
Lights for Liberty  
NAKASEC  
National Immigration Law Center  
National Network for Immigrant & Refugee Rights  
National Partnership for New Americans  
New Hope Collaborative

North American Climate, Conservation and Environment (NACCE)  
Northeastern University Immigrant Justice Clinic  
Oxfam America  
RAICES  
RIVER MOUNTAIN IMMIGRATION  
Sisters of Mercy of the Americas Justice Team  
Sisters of Mercy of the Holy Cross USA Province  
South Asian Americans Leading Together (SAALT)  
SSND Atlantic-Midwest  
The Advocates for Human Rights  
The Episcopal Church  
The Jus Semper Global Alliance  
United Stateless  
Win Without War

### **State and Local**

AFSC Colorado  
American Friends Service Committee Florida  
Asylee Women Enterprise, Inc.  
Centro Legal de la Raza  
Centro Romero  
Chacon Center for Immigrant Justice at University of Maryland Carey School of Law  
Church Women United in New York State  
Cleveland Jobs with Justice  
Connecticut Shoreline Indivisible  
Cooperative Baptist Fellowship of Texas  
End Domestic Abuse Wisconsin  
Farmworker Association of Florida  
Florida Immigrant Coalition  
Friends of Broward Detainees  
Global Justice Clinic, Washington Square Legal Services  
Human Rights Initiative of North Texas  
Illinois Coalition for Immigrant and Refugee Rights  
Immaculate Heart Community Commission on Justice for Immigrants and Refugees  
Immigrant Action Alliance  
Immigrant Defenders Law Center  
Immigrant Legal Advocacy Project  
Interfaith Climate Action Network of Contra Costa County (part of ICCCC)  
Jewish Voice for Peace, Atlanta Chapter  
La Comunidad, Inc. (77599)  
Law Office of Helen Lawrence  
Loyola University New Orleans College of Law  
Pennsylvania Council of Churches  
Sisters of St. Dominic of Blauvelt, New York  
Sisters of St. Joseph of Carondelet, LA  
Sisters of the Presentation, Dubuque  
Southern Vision Alliance  
The Door  
The Right to Immigration Institute  
UC Berkeley Center on Comparative Equality & Anti-Discrimination Law»Our Working  
Groups»Immigrant Justice & Climate Refugees

Ventura County Clergy and Laity United for Economic Justice (CLUE-VC)  
Wallingford Indivisible  
WESPAC Foundation, Inc.