

THE UNITED STATES NEEDS A PLAN TO HELP COMMUNITIES RELOCATE FROM AREAS IMPACTED BY CLIMATE CHANGE

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During the late 1950s, the residents of Charleston, South Carolina experienced roughly five days of flooding per year.¹ Now, they face as many as fifty.² The result of climate change-induced sea level rise and stronger and wetter storms, this flooding has forced Charlestonians to leave their homes permanently.³ And Charleston is not alone—the impacts of climate change are forcing people to abandon their homes across the country.

People throughout history have been displaced by environmental events like droughts, hurricanes, and fires. But climate change is worse for one key reason: it will be responsible for a multitude of displacement-inducing environmental events worldwide. Sea level rise may force as many as eighty million Americans to relocate by the end of the century (and sea level rise is, of course, just one of the harmful consequences of climate change).⁴ While steps still can and must be taken to curb global greenhouse gas emissions to mitigate climate change and decrease relocation, climate change has already displaced some communities; even the best-case emissions reduction scenario will likely fail to prevent some still-inhabited areas from becoming unlivable.⁵ Planned relocations can prevent sudden displacements, minimize harm to impacted communities, and help residents prepare for increasing climate impacts.

Part I of this Article describes the stakes of the climate relocation debate. Part II catalogs different forms of relocation and discusses how to design planned relocations. Part III gives examples of past planned relocations in the United States to demonstrate the urgency of creating a fair and transparent national system. Finally, Part IV explores the key components necessary to form a national guidance document on planned relocations: take swift action, mobilize government actors, instill clear values, delineate options, and explain how relocation will occur. Working with people as they leave their homes and communities is weighty and challenging, but may also make the transition much less difficult.

¹ See Sammy Fretwell, *Downtown Charleston Is Flooding More, with or Without Hurricanes. Here's Why*, STATE (Sept. 16, 2017), <https://perma.cc/JZ8C-NSMB>.

² See, e.g., *id.*

³ See, e.g., *Charleston Getting \$2.4M FEMA Grant to Buy, Demolish Flood-Prone West Ashley Homes*, ABC NEWS 4 (Oct. 24, 2017), <https://perma.cc/9KYF-N8Z5>.

⁴ See GILBERT M. GAUL, THE GEOGRAPHY OF RISK 220 (2019).

⁵ See Christopher Flavelle, *U.S. Flood Strategy Shifts to 'Unavoidable' Relocation of Entire Neighborhoods*, N.Y. TIMES (Aug. 26, 2020), <https://perma.cc/GA98-ALB8>.

I. What Is at Stake

Americans are already dealing with the impacts of climate change. More than a million people faced mandatory evacuation orders in 2018 when Hurricane Florence bore down on the Carolinas.⁶ As the storm made landfall, local neighborhoods became “swamps.”⁷ Residents who had chosen to ride out the storm were forced to seek refuge in their attics.⁸ The Governor of North Carolina reported that locals “face[d] walls of water.”⁹ Hurricanes have devastated communities throughout history, but scientists found that climate change made Florence larger, with more intense rainfall.¹⁰

While intense storms may be the most tangible of climate change’s impacts, climate change also causes disruption by slowly degrading the environment.¹¹ In some areas, the storms and environmental degradation have already become unmanageable. For example, officials in the Florida Keys recently acknowledged the hard truth—they cannot save every community from rising sea levels and increased flooding.¹² The city would need to spend seventy-five million dollars to safeguard a three-mile stretch of road from the flood levels expected in 2025, and \$181 million to safeguard the area from expected 2060 flood levels.¹³ This expenditure would save only about two dozen homes.¹⁴ The city is grappling with what to save and what to lose.

Florida is not alone. Globally, climate change forces someone out of their home every two seconds.¹⁵ This displacement occurs disproportionately in nations with low- and middle-income economies, but millions of American homes are also at risk due to rising seas, more

⁶ See Dakin Andone, *‘Storm of a Lifetime’: How Hurricane Florence Battered the Carolinas, Day by Day*, CNN (Sept. 17, 2018), <https://perma.cc/3ES6-KURL>.

⁷ *Id.*

⁸ *See id.*

⁹ *Id.*

¹⁰ See Stony Brook Univ., *Climate Change Impacted Hurricane Florence’s Precipitation and Size*, SCI. DAILY (Jan. 2, 2020), <https://perma.cc/9DQN-MLE2>.

¹¹ See Myles R. Allen et al., *Summary for Policymakers*, in INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, GLOBAL WARMING OF 1.5°C: AN IPCC SPECIAL REPORT ON THE IMPACTS OF GLOBAL WARMING OF 1.5°C ABOVE PRE-INDUSTRIAL LEVELS AND RELATED GLOBAL GREENHOUSE GAS EMISSION PATHWAYS, IN THE CONTEXT OF STRENGTHENING THE GLOBAL RESPONSE TO THE THREAT OF CLIMATE CHANGE, SUSTAINABLE DEVELOPMENT, AND EFFORTS TO ERADICATE POVERTY 7–11 (2018), <https://perma.cc/6BEW-3LL3>.

¹² See Christopher Flavelle & Patricia Mazzei, *Florida Keys Deliver a Hard Message: As Seas Rise, Some Places Can’t Be Saved*, N.Y. TIMES (Dec. 5, 2019), <https://perma.cc/UZ2S-N3G2>.

¹³ *See id.*

¹⁴ *See id.*

¹⁵ See Jack Guy, *Climate Change Is Forcing One Person from Their Home Every Two Seconds*, Oxfam Says, CNN (Dec. 5, 2019), <https://perma.cc/8VTW-UV8S>.

powerful storm surges, and stronger winds.¹⁶ As noted above, as many as eighty million Americans may have to flee their homes on the coasts by the end of the century.¹⁷

The implications of moving huge populations away from coasts or other vulnerable areas are wildly complicated and deeply personal. As journalist Becky Ferreira put it, “[f]amilies who have lived in an area for generations will lose their homes, jobs and livelihoods will be interrupted, and Indigenous communities will have to part with ancestral lands.”¹⁸ Relocation cannot be taken lightly. Contemplating whether and how to relocate requires developing a shared understanding of the stakes, priorities, options, and obligations. It requires a plan.

II. Defining Relocation

Relocation (which is sometimes referred to as “retreat”) may feel like a dirty word. It may suggest giving up or backing away. And indeed, the losses that people will experience as a result of relocation should be treated with solemn respect. But given that climate change is already making, and will continue to make, some areas unlivable, relocation can also have many powerful positive elements: it can save money, it can save lives, and it can preserve the dignity of the communities who move.

Several different forms of relocation exist. “Displacement” describes any involuntary permanent movement. For example, if water inundates your home and makes it unsalvageable, you have been displaced. “Migration” is any voluntary permanent movement. For example, if your crops are not growing as well as they used to and you decide to change locales, you have migrated. (To be sure, the line between displacement and migration can be blurry.) Both displacement and migration occur without the support of government. People are left to find new communities and new livelihoods on their own.

In contrast, “planned relocation” describes an institutionally organized movement of people. A joint report from the Brookings Institution, Georgetown University, and the United Nations High Commissioner for Refugees (UNHCR) defines planned relocation as:

a planned process in which persons or groups of persons move or are assisted to move away from their homes or places of temporary residence, are settled in a new location, and provided with the conditions for rebuilding their lives. Planned Relocation

¹⁶ See *id.*; Jan Ellen Spiegel, *With Sea Levels Rising, These Strategies Could Help Coastal Communities Prepare*, YALE CLIMATE CONNECTIONS (Nov. 5, 2019), <https://perma.cc/PM2Y-TGFL>.

¹⁷ See GAUL, *supra* note 4, at 220.

¹⁸ Becky Ferreira, *We Need to Talk About a Planned Retreat from Climate Disaster Zones Now*, VICE (Sept. 20, 2019), <https://perma.cc/8LMT-33DR>.

is carried out under the authority of the State, takes place within national borders, and is undertaken to protect people from risks and impacts related to disasters and environmental change, including the effects of climate change. Such Planned Relocation may be carried out at the individual, household, and/or community levels.¹⁹

This definition has several key elements. First, a planned relocation involves the government, which has an essential role to play in helping people move away from climate-impacted areas.

Second, within a planned relocation, those who move are given tools to help them rebuild their lives—they are not left to fend for themselves. People who are relocating (and the assisting governments) must decide which characteristics of the communities they are leaving can or should be maintained, including relevant social structures, legal and political systems, or cultural characteristics and worldviews.²⁰

Finally, a planned relocation can happen at the individual, household, and/or community levels—each of these levels will require different amounts of planning and support. Moving an entire community is very different from moving one household. While individual people or households could fold relatively easily into an existing community, entire communities are not so easily accommodated.²¹ And entire communities may be more interested in, and able to, maintain a cohesive political structure or social form as they move.²²

The creation and execution of a plan to facilitate relocations can save countless people from the struggles, chaos, and harm that displacement and migration without support can cause.

III. Examples of Planned Relocations

Planned relocations of various forms have already occurred in the United States, ranging from the relocation of entire communities to government buy-outs of individual properties. This section presents a few relocation case studies to illustrate the need for a more comprehensive national plan.

¹⁹ BROOKINGS ET AL., GUIDANCE ON PROTECTING PEOPLE FROM DISASTERS AND ENVIRONMENTAL CHANGE THROUGH PLANNED RELOCATION 5 (2015) (emphasis omitted), <https://perma.cc/4PRH-Y9QR>.

²⁰ See *id.* at 6.

²¹ See John Campbell, *Climate Induced Community Relocation in the Pacific: The Meaning and Importance of Land*, in CLIMATE CHANGE AND DISPLACEMENT: MULTIDISCIPLINARY PERSPECTIVES 59 (Jane McAdam ed., 2010).

²² See *id.*

Perhaps the best-known attempt to relocate an entire community in the United States is occurring on Isle de Jean Charles, located about 80 miles southwest of New Orleans, Louisiana. For centuries, Isle de Jean Charles has been a refuge for Indigenous communities. Many of the residents are descendants of Biloxi, Chitimacha, and Choctaw tribal members who escaped to the island in the 1830s to avoid the involuntary relocations of tribes caused by the Indian Removal Act.²³ But Isle de Jean Charles is shrinking. In fact, it has lost 98 percent of its area since 1955 as the result of a combination of “levee construction, coastal erosion, sinking land, rising seas, and damage from hurricanes worsened by climate change.”²⁴ As island life became increasingly harrowing, the residents began planning to relocate their entire community off of the island.

After nearly two decades of advocacy by the tribe, in 2016 the Louisiana Office of Community Development won a \$48 million grant from the U.S. Department of Housing and Urban Development to assist with the relocation of the 99-person community.²⁵ The Louisiana Land Trust, on behalf of the state, purchased 515 acres of land in Terrebonne Parish, a coastal parish southwest of New Orleans, for the new site.²⁶ While a few families wanted to remain on the island due to their attachment to the land, most of the island’s residents had expressed interest in moving to the new location.²⁷ The plan was in motion.

But implementing the plan was challenging. In 2019, after years of work and organization, the tribal Chief recommended to his people that they remain on the island. He explained that the state had initially planned to allow the tribe to direct their own sustainable vision for the new location—in other words, to transfer their community structures—but ultimately backed away from that stated intent.²⁸ Communication and cooperation between the tribe and the state broke down, and the plan was put on hold.

Despite these breakdowns, the Chief reversed course, recommending that residents of Isle de Jean Charles relocate.²⁹ After

²³ Julie Dermansky, *Isle de Jean Charles Tribe Turns Down Funds to Relocate First US 'Climate Refugees' as Louisiana Buys Land Anyway*, DESMOG (Jan. 11, 2019, 3:56 PM), <https://perma.cc/B7RF-PB6C>.

²⁴ *Id.*

²⁵ See Michael Isaac Stein, *How to Save a Town from Rising Waters*, WIRED (Jan. 25, 2018), <https://perma.cc/6L8X-DQH2>.

²⁶ See Robynne Boyd, *The People of the Isle de Jean Charles Are Louisiana’s First Climate Refugees—but They Won’t Be the Last*, NRDC (Sept. 23, 2019), <https://perma.cc/H9H9-DUNU>.

²⁷ *See id.*

²⁸ *See id.*

²⁹ See Julie Dermansky, *Louisiana Breaks Ground on Isle de Jean Charles Resettlement Project amid Pandemic*, DESMOG (May 22, 2020), <https://perma.cc/KYB4-LXH9>.

Hurricane Barry swept through Louisiana in 2019 and inundated the island, Chief Naquin realized that there was not enough time to search for an alternate option, and that relocation must occur promptly.³⁰ Louisiana broke ground on the new town in May of 2020.³¹ But without a clear and inclusive process, the road to relocation has been bumpy.

Across the country, the community of Newtok, a village on the Ninglick River near the Bering Sea in Alaska, is also proceeding with a planned relocation. Like the residents of Isle de Jean Charles, the people of Newtok spent nearly two decades planning to leave their homes as thawing permafrost and erosion caused their land to crumble and sink.³² And like in Isle de Jean Charles, the local community has looked to state and federal government for the resources they need to move their community to a new location.

In 2003, Congress agreed that the people of Newtok needed help and authorized the creation of a new village called Mertarvik.³³ Despite this support, by 2020, only about a third of Newtok residents have been able to relocate.³⁴ Roads, water systems, electric grids, and schools are still missing. As the building process continues, the community operates from two locations. Newtok, like Isle de Jean Charles, is executing a complete community relocation with no blueprint, and the move has been costly both financially (about \$100 million)³⁵ and personally (the residents who are moving have expressed mixed emotions, including anxiety, excitement, and sadness).³⁶ They are figuring the process out as they go along.

Relocations like Newtok and Isle de Jean Charles represent the most extreme version of planned relocation—the government steps in to build the infrastructure for the entire village to pick up and move to a new location, keeping the culture and systems from the previous site. But other forms of planned relocation are also occurring, most often in the form of government buy-outs that encourage individual homeowners to migrate. For example, in 2017, the Federal Emergency Management Agency (FEMA) agreed to buy out a neighborhood in Charleston, South Carolina, that had repeatedly flooded.³⁷ After Hurricane Sandy, the New York City Mayor's Office launched a program called "Build it Back," which included buy-outs of damaged

³⁰ *See id.*

³¹ *See id.*

³² *See* Craig Welch, *Climate Change Has Finally Caught Up to This Alaska Village*, NAT'L GEOGRAPHIC (Oct. 22, 2019), <https://perma.cc/XJ5U-PZAF>.

³³ *See id.*

³⁴ *See* Greg Kim, *Residents of an Eroded Alaskan Village Are Pioneering a New One, in Phases*, NPR (Nov. 2, 2019), <https://perma.cc/57PL-ZCET>.

³⁵ *See id.*

³⁶ *See id.*

³⁷ *See* ABC NEWS 4, *supra* note 3.

properties.³⁸ When given the opportunity, people are agreeing to get out of the way of climate impacts. But thus far, planned relocations have been rare, and those that have occurred have been limited and incomplete. Without credible plans, communities and individuals are left to fend for themselves, making decisions with no conception of what kind of support they will get if their homes and lives are threatened by climate change.

IV. Crafting a Plan for the United States

In order to make relocation possible for individuals, households, and communities facing the existential threat of climate change, the United States can and should craft a comprehensive plan. This Part first discusses why a plan must be crafted now, without delay. Second, it identifies the levels of government that must act. Third, it explains the values that such a plan must incorporate in order to ensure that affected communities are heard at every step in the process of relocation. And finally, it explains what the plan itself might look like.

a. Timing

A plan must be developed now, *before* disaster strikes. Communities need to know what a planned relocation would look like, who key decisionmakers are, and how decisions are being made.

A planned relocation hastily developed after a sudden onset disaster faces long odds of success. For example, a series of flash floods beginning in 2016 devastated Ellicott City, Maryland's historic downtown.³⁹ With precipitation events rising in the region, the situation was only going to get worse. The city knew it had to do something, but it did not have a structure in place for deciding if a neighborhood should be abandoned, if a structure should be torn down, or if a family should be moved. The city had to scramble, hosting open forums and informal meetups in person and online.⁴⁰ The government was desperate to know what the residents wanted. Meanwhile, the downtown was "in limbo."⁴¹ Disasters for which a vulnerable community is unprepared can have harmful psychological impacts,

³⁸ See Renee Cho, *How New York City Is Preparing for Climate Change*, STATE OF THE PLANET (Apr. 26, 2019), <https://perma.cc/F596-9JZB>.

³⁹ See Rebecca Hersher & Ryan Kellman, *After the Water*, NPR (Nov. 7, 2019), <https://perma.cc/F8XL-H4VN>.

⁴⁰ *See id.*

⁴¹ *Id.*

causing or exacerbating anxiety, depression, and post-traumatic stress disorder.⁴²

Advanced planning for relocations and other disaster response measures, on the other hand, by involving citizens and increasing their confidence in local leaders, can help prevent these adverse outcomes. In North Dakota, citizens who got involved in flood mitigation efforts displayed fewer risk factors for suicide, as residents were able to feel useful and involved.⁴³ While community leaders may be reluctant to formulate a comprehensive relocation plan for fear it will alarm their citizens, there is good reason to believe such a plan will be empowering.

b. Government Involvement in Crafting a Plan

Government, as the mechanism by which democratic decisions are made and implemented, has an essential role to play in planning relocations. Planned relocation involves readjusting the allocation of public resources from some neighborhoods to others. It affects tax revenue, emergency services, infrastructure maintenance, school districts, and land use. This section proposes a division of planned relocation responsibilities among governmental entities, with a particular emphasis on the need for federal leadership.

i. Agencies of the Federal Government

The current federal agencies which have had and likely would continue to have the most active roles in planned relocations are the Federal Emergency Management Administration (FEMA) (which is currently located within the Department of Homeland Security) and the Department of Housing and Urban Development (HUD). FEMA and HUD manage the bulk of federal disaster recovery work, and both make grants to local and state governments following disasters, including for buy-outs of unsalvageable homes.

FEMA should lead the execution of relocation plans. FEMA is already primarily responsible for responding to natural and manmade disasters, including crafting a National Response Framework to guide actors at every level. Extending its planning capacity to account for the impacts of climate change is a natural fit. Moreover, FEMA already tries to coordinate with local, state, tribal, territorial, and insular area governments that would be essential to crafting a national plan.⁴⁴ While

⁴² See Nicole Westman, *As Disasters Worsen, Cities and Researchers Eye Social Resilience*, CITY LAB (Nov. 7, 2019), <https://perma.cc/4L9R-E54R>.

⁴³ *Id.*

⁴⁴ FEMA, NATIONAL RESPONSE FRAMEWORK 6 (4th ed. 2019), <https://perma.cc/MHT4-GX8B>.

increased authorization and funding from Congress will be needed, FEMA is already well-equipped to lead the relocation planning process.

As the federal government begins to plan relocations outside the context of immediate disaster response, HUD will be responsible for ensuring that housing is available for all relocated people. HUD has done some of this work in the past. After Hurricane Andrew devastated Florida in 1992, Congress, needing a way to disburse large sums of money to the affected cities and states, adapted HUD's Community Development Block Grant (CDBG) program to serve a disaster response function.⁴⁵ Given the unpredictability of disasters, however, the permanent structure and function of the CDBG program went unchanged. As a result, every time HUD is now given CDBG money to respond to a disaster, the agency must write new rules for how that particular money will be distributed and how the recipients can spend it.⁴⁶ While this approach may be defensible when disasters are truly unpredictable, it is now a virtual certainty that climate change will cause housing instability. HUD cannot continue to respond on an ad hoc basis. The housing components of a nationwide relocation plan must be clarified and standardized.

ii. States, Tribes, Local Government

State governments have distinct powers, responsibilities, and tools that must also contribute to planning and implementing a relocation. States have significant control over development and land use—key issues in a planned relocation.⁴⁷ They can also fund technical assistance and capacity-building programs to help local governments manage their constituent communities.⁴⁸ Moreover, states often own land that they could provide to impacted communities as relocation destinations.⁴⁹

American Indian tribes also have an important role to play. In rapid-onset disasters, tribal governments, like states, may request their own disaster or emergency declarations.⁵⁰ They may also request assistance directly from a state.⁵¹ Their rights and protections should not be forgotten in a relocation plan, particularly given the ugly history of the forced relocation of tribes off of their native lands.

⁴⁵ See Christopher Flavelle, *As Disasters Multiply, Billions in Recovery Funds Go Unspent*, N.Y. TIMES (Sept. 5, 2019), <https://perma.cc/R3WH-QAA7>.

⁴⁶ See *id.*

⁴⁷ See MAXINE BURKETT ET AL., CTR. FOR PROGRESSIVE REFORM, REACHING HIGHER GROUND 4 (2017), <https://perma.cc/9BJB-BFLR>.

⁴⁸ See *id.*

⁴⁹ See *id.*

⁵⁰ See FEMA, *supra* note 44, at 18.

⁵¹ See *id.*

Finally, local governments will be essential. They must develop land use and zoning policies, building codes, and infrastructure that will serve communities that are relocating and protect communities that are not. Local governments are well-positioned to advocate for their communities to state and federal governments as plans and policies get written. They must assess where buy-outs could be feasible, or where an entire community needs to be relocated. They also must make the politically and legally complex decisions of deciding not to rebuild infrastructure like roads that will just keep getting washed away.

All layers of government will be able to contribute unique tools and perspectives. All should be included at the table with affected communities when designing a plan.

c. Values Informing the Plan

Before planning begins, decision-makers must agree on a set of humane guiding values. Permanently leaving one's home on account of harm it has endured or is projected to endure can be a traumatic experience. Planned relocations must be designed and carried out in a way that is just and that preserves the dignity of affected communities.

The United States can look to a variety of sources to understand what values would best guide planned relocations. For one, the UN recognizes that people who have been displaced internally within their countries (also known as internally displaced persons or IDPs) face distinct harms—they are uprooted from their homes and livelihoods and are, in many cases, at the mercy of government assistance.⁵² The U.N. Office for the Coordination of Humanitarian Affairs has promulgated a set of principles to help nations protect IDPs within their own borders. These principles should help inform the United States' relocation plan.

These IDP Principles ensure that a government decision to intentionally displace people is the choice of last resort. If displacement occurs, "competent authorities"—which in the United States likely includes the federal government, states, tribes, and local governments—have a "responsibility" to allow displaced persons to "return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country."⁵³ And "where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effect."⁵⁴ Relocation should be kept voluntary unless absolutely necessary.

⁵² See generally U.N. OFF. FOR THE COORD. OF HUMANITARIAN AFFS., GENERAL PRINCIPLES ON INTERNAL DISPLACEMENT (2004), <https://perma.cc/5TSN-UJV2>.

⁵³ *Id.* at Principle 28.

⁵⁴ *Id.* at Principle 7.

The U.N. High Commissioner for Refugees also teamed up with the Brookings Institution and Georgetown University in 2015 to craft guidance specifically for planned relocation of entire communities. The guidance states that communities to be relocated should always be centered in these discussions, and that the relocation process should always be conducted in a way that respects the rights and dignity of these communities.⁵⁵ This emphasis on dignity is important—leaders in a planned relocation should never overlook the fact that each individual is a person who deserves respect, and whose home and life are at stake. As the guidance states, “[t]he agency, resilience, and empowerment of Relocated Persons should be recognized, promoted, and enhanced throughout a Planned Relocation.”⁵⁶ To that end, the entities leading a planned relocation must be subject to oversight by those people and communities.⁵⁷ In order to make planned relocations fair, just, and effective, the interests and preferences of the affected communities must come first.

The essential attribute of any national plan to guide relocations must be environmental justice. Justice has not often been prioritized in climate relocations that are already happening in the United States, the majority of which involve Native American or Native Alaskan communities. These moves have in many ways heightened tensions between tribes and the federal government, as evidenced by the Isle de Jean Charles tribe’s complaint that the state has “no respect for [its] culture.”⁵⁸

Moreover, where buy-outs have occurred, they have largely been organized by and for white, middle-class homeowners.⁵⁹ These communities devote time and energy to produce a coordinated political campaign—for example, Staten Island neighborhoods that were recently relocated received their buy-outs only after months of grassroots lobbying, protests, and petitions.⁶⁰ But working class people and people of color often do not have the luxury of time or political power, so they are much less likely to receive government aid unless a national relocation plan remedies these imbalances.

Finally, while relocation strategies like buy-outs are a helpful way to compensate and facilitate the movement of property owners, they are much less helpful for renters, people without homes, and

⁵⁵ BROOKINGS, *supra* note 19, at 10.

⁵⁶ *Id.* at 12.

⁵⁷ *Id.* at 22.

⁵⁸ Dermansky, *supra* note 24.

⁵⁹ See, e.g., Kate Aronoff, *Now Comes the Uncomfortable Question: Who Gets to Rebuild After Harvey?*, INTERCEPT (Aug. 30, 2017, 1:50 PM), <https://perma.cc/K8KN-P85B>.

⁶⁰ *Id.*

people living in public housing.⁶¹ Those individuals—disproportionately people of color—do not receive buy-out money and are left to fend for themselves in new communities where affordable housing could be hard to come by.⁶² A national relocation plan must consciously avoid replicating injustices and must take into account the particular needs of vulnerable low-income communities, Indigenous communities, and communities of color.

d. Framework for a National Relocation Guidance Document

With the actors and values in place, a national guidance document on planned relocations can begin to take shape. This document would need to lay out two main frameworks. First, it must describe a menu of response options for what to do when disasters threaten human safety or residences in an irreparable way. Second, the plan must explain the process through which each of these options would be implemented so that affected communities have notice of how a relocation could occur.

i. Options

Several options exist for helping people whose homes and lives are threatened by rising seas or other climate impacts. For example, the document may list: (1) having the community remain in its current location, (2) offering voluntary buy-outs to individuals or households who would like to move, (3) implementing mandatory buy-outs for a defined set of households, or (4) relocating the entire community.

Some hybrids of these options also exist. Andy Keeler, an economist and the Program Head for Public Policy and Coastal Sustainability at East Carolina University's Coastal Studies Institute, has proposed what he called "buyouts with rent backs."⁶³ "The local government would buy out at-risk properties and then rent them back to the now-former owners for a fixed period of time, or until they hit some trigger," like "a certain number of major hurricanes or floods."⁶⁴ In another hybrid option, residents could be offered some sort of incentive to all move to the same new area. This structure would require less planning than a formal community relocation, but it would still maintain community continuity for those who wish to remain

⁶¹ See Becky Ferreira, *We Need to Talk About a Planned Retreat from Climate Disaster Zones Now*, VICE (Sept. 20, 2019, 10:31 AM), <https://perma.cc/2FFX-BWGK>.

⁶² See *id.*

⁶³ Spiegel, *supra* note 16.

⁶⁴ See *id.*

together. The guidance document should explore, label, and list the relevant options.

ii. Implementation

In addition to listing the possible options, a national guiding document must also discuss the legal authority for each option and illustrate how those options would be implemented effectively. In particular, the document should explain the following about each option: how it complies with international and domestic law, how to initiate the discussion about whether to relocate, who has the power to select a particular option, how to qualify for relocation programs, how to secure funding for a relocation, and how the decisionmakers will be held accountable throughout the relocation process.⁶⁵

Compliance with International Law

First, any options must be consistent with international law.⁶⁶ As discussed above, the UN has issued guidance on the rights of IDPs. While the United States is not formally bound by the IDP guidance, given that the impacts of climate change are global, and given that the failure of countries to protect the rights of IDPs can have consequences that spill across borders, it is in the national interest to abide by these standards. Of course, following these international best practices when conducting planned relocations is also a core component of adhering to the set of humane values discussed above.

Compliance with Domestic Law

Moreover, the plan must clearly articulate national policy on climate displacement, including the domestic legal basis for each of the options laid out.⁶⁷

At the federal level, FEMA, HUD and other relevant agencies must have the necessary rule-making authority and resources to accomplish relocations. For example, FEMA currently requires a declaration of disaster in order to release relocation funds.⁶⁸ But climate degradation may happen slowly over time, rather than in a single hurricane or fire. With this reality in mind, either relevant executive officers need to be permitted to declare disasters for slow-moving degradation, or FEMA's permissions must be altered.

⁶⁵ See BROOKINGS, *supra* note 19, at 13–14.

⁶⁶ See *id.* at 13.

⁶⁷ See *id.*

⁶⁸ See Aronoff, *supra* note 59.

On the state and local level, if the plan suggests that local governments could refuse to provide certain essential services like roads or water infrastructure to a community that they wish to relocate, the plan must also ensure that the shut-off of services does not conflict with an affirmative obligation to provide such services in the state constitution. Or if state and local governments need to obtain land to relocate communities, the plan should lay out the relevant tools, including litigation over unresolved claims or negligence, legislation providing for a land exchange, or easements in land ownership deeds that may be necessary to procure that land.⁶⁹ A plan that is stymied in court is not a successful plan.

Initiating the discussion

A national plan must describe how a relocation discussion is initiated. For example, the plan must explain, for each of the options listed, whether it is incumbent upon individuals, households, or communities to reach out to a government representative to initiate a relocation, or if the government will be in contact with communities whose land is at risk. Or perhaps the plan would identify a set of events—say, a certain number of storms or floods—that would automatically trigger a discussion about whether an individual, household, or community wanted (or had) to relocate.

Identify the decisionmakers

The plan must also explain who is responsible for which decisions. As laid out above, government leaders must collaborate with affected communities to ensure that their autonomy and dignity are respected. But given the possibility of conflicting views within communities, and given the other stakeholders affected by a planned relocation, a respectful balance of power must be established. For a relocation at the individual or household level, perhaps the affected people could work directly with a clearly established government individual or agency to determine if the relocation is desirable, feasible, or necessary. A community relocation might require more processes. For example, the plan should discuss how a community could appoint someone to represent their interests and describe what might happen if a small group of individuals do not want to leave their homes.

Meeting relevant criteria

⁶⁹ See BURKETT ET AL., *supra* note 47, at 1–2.

In addition to explaining how to initiate the discussion, the guidance document should also lay out whether a community has to be facing a certain level of risk before it can receive government support to move, and if so, exactly what qualifies an individual, household, or community to receive that aid.⁷⁰

Funding for relocation

Relocation projects require money. But rather than supporting the difficult but smart choice to move some communities away from climate impacted areas, the federal government currently incentivizes risky behavior. Federal flood insurance, funded with taxpayer money, protects homes in extremely vulnerable locations. This insurance was initially intended to help communities rebuild after storms, but it now encourages people to continue building and rebuilding in flood-prone areas, given that they face no loss if their property is destroyed.⁷¹ Housing growth in those risky areas has skyrocketed.⁷² This policy must be adjusted to prevent wasteful spending on building communities that are likely to be washed away but instead be used to help vulnerable people relocate.⁷³ Communities could also seek government or commercial loans and grants to fund the acquisition of land onto which to relocate.

Holding decisionmakers accountable

The plan should include accountability mechanisms for all decisionmakers. For example, the United States has already been known to waste disaster money on ill-advised contracts and mismanagement of supplies—such waste should not be acceptable here, where resources will likely be scarce. Even beyond waste, affected communities must understand what grievance process they should follow if they disagree with a relocation decision, or if they think the process is playing out unfairly.

⁷⁰ BROOKINGS ET AL., *supra* note 19, at 14.

⁷¹ Spiegel, *supra* note 16.

⁷² *See id.*

⁷³ If this money is made available, it is a wise investment. A case study in North Topsail Beach, North Carolina, found that targeted acquisitions produced a savings of \$2.8 million over thirty years. W. CAROLINA UNIV., COASTAL HAZARDS & TARGETED ACQUISITIONS: A REASONABLE SHORELINE MANAGEMENT ALTERNATIVE 2 (2019), <https://perma.cc/5CRV-6JUF>. Or, to give another example, a buy-out program in Beatrice, Nebraska prevented around thirteen million dollars in the 2015 floods in the Midwest. See John Schwartz, *As Floods Keep Coming, Cities Pay Residents to Move*, N.Y. TIMES (July 6, 2019), <https://perma.cc/JQ4C-7SSC>.

V. Conclusion

Planned relocation can work—it can save money, save lives, and preserve dignity. But planned relocation is hard—humans are incredibly tied to their homes, and leaving those homes can be gut-wrenching. As the impacts of climate change continue to mount, though, relocation will become more and more necessary. Communities in the United States have already begun to move, either on their own or with the help and support of government. But without comprehensive national guidance on how relocations should play out, communities have had to either engage in time- and resource-intensive lobbying efforts to get support or go without support. Where support has not been offered, the poorest and most vulnerable members of society are left to lose their homes and livelihoods with little recourse.

In order to protect vulnerable communities and prevent chaos from climate disasters, the United States must create a national plan to support the relocation of individuals, households, and communities away from climate-impacted areas. This plan should be centered on environmental justice for affected communities. It should lay out the different types of relocation that are possible and the process through which those relocations can occur. And with the impacts of climate change getting worse, it must be crafted soon.