

# Addressing the United States Climate Crisis and Climate Displacement: A Transition from the “Otherization” of Climate Change to a Focus on Domestic Solutions

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*In the United States, climate change discourse often focuses on international communities, island nations, and poor global citizens. While the focus on international communities is important, it places the impact of climate change in remote and distant locations. This Note argues that associating climate change with people outside the United States creates an “otherization” of climate change and evades the responsibility to look internally and address domestic climate impact. Addressing climate change is particularly important given that the effects of climate change in the United States often disproportionately harm poor, rural, and immigrant communities, as well as communities of color.*

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*This Note is an intervention in the current academic discourse on climate change. The Note challenges the current focus on global citizens who are or will be displaced due to climate change. I make the proposition that internal U.S.-based displacement warrants as much attention. This Note is not a call to abandon the focus on international citizens who will suffer disproportionately and to focus only on the United States. The purpose of the Note, rather, is to fill a gap currently missing in academia—a gap focused on marginalized communities in the United States who, in many ways, share the same challenges as international communities most impacted by climate change. Drawing from the Principles of Environmental Justice and from the United Nations framework of Internally Displaced People, the Note demonstrates that addressing the domestic climate crisis and domestic climate displacement can be accomplished in a comprehensive and innovative framework.*

*Ultimately, when communities within the United States receive their share of attention, we will see that climate change is not so distant, and that it is our neighbors, our friends, or maybe even we who will be impacted by the climate crisis that we often associate with island nations and poor global citizens. A focus on the domestic climate crisis will demonstrate that climate change is happening now, and it is affecting communities in the United States directly and indirectly.*

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INTRODUCTION

September 9, 2020 was a day many San Francisco Bay Area residents are unlikely to forget. Waking up to apocalyptic orange skies, ash falling, and the smell of wildfire smoke was more than a wake-up call. Some described this event as a “nuclear winter,” and as the day filled with a hellish color, many people were impacted and displaced by the wildfires taking place in the foothills of the Sierra Nevada mountains.<sup>1</sup> Although the fires were not burning in the Bay Area, it was residents in this area facing climate anxiety and unhealthy air quality, proving that climate change and climate displacement have a ripple effect and affect people directly and indirectly. Fire season in California has become a yearly event, and every year it seems the severity increases and becomes more drastic. The link between climate change and exacerbated wildfires is incontrovertible.<sup>2</sup> That apocalyptic day in the Bay Area is a reminder that across

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1. Thomas Fuller, *Wildfires Blot Out Sun in the Bay Area*, N.Y. TIMES (Sept. 9, 2020), <https://www.nytimes.com/2020/09/09/us/pictures-photos-california-fires.html> [<https://perma.cc/RL3L-6NJE>].

2. See generally Bruce Lieberman, *Wildfires and Climate Change: What’s the Connection?*, YALE CLIMATE CONNECTIONS (July 2, 2019), <https://yaleclimateconnections.org/2019/07/wildfires-and-climate-change-whats-the-connection/> [<https://perma.cc/YV5L-3H26>] (explaining the chain of cause and effect between the rise in global temperatures, the “rapid melting of spring snowpack,” the consequences of dry soils, and the infestations of “bark beetles and other insects that thrive in warmer temperatures” and their impact on stressed forests); Daisy Dunne, *Explainer: How Climate Change Is Affecting Wildfires Around the World*, CARBON BRIEF (July 14, 2020), <https://www.carbonbrief.org/explainer-how-climate-change-is-affecting-wildfires-around-the-world> [<https://perma.cc/56SQ-JPA6>] (describing how wildfires are changing due to climate change and explaining the risk of global warming and its connection to tinderbox conditions in forests).

the globe, climate change is increasing the frequency of extreme weather events such as flooding, wildfires, severe droughts, aggravated storms, and hurricanes.<sup>3</sup>

The impact of these events, particularly wildfires, was most recently experienced by the community of Paradise, California. In 2018, the Camp Fire displaced about fifty thousand people and left a total of eighty-five people dead.<sup>4</sup> Aaron Weber was lucky enough to survive the Camp Fire, but became a displaced person and a refugee in his own community.<sup>5</sup> Shortly after he experienced the fires in Paradise, his sister, Jeannie Weber, faced the same reality when her home was ruined by the fires in the California Sierra Nevada mountains.<sup>6</sup> There are countless others like the Webers. Of the thousands who left Paradise and became refugees, many moved across the United States and left memories, family, and community behind.<sup>7</sup>

The most recent impacts of climate change in the United States were felt in 2021 with Hurricane Ida and Winter Storm Uri. In Louisiana, Hurricane Ida quickly rose from a category one to a category four hurricane in approximately twenty-four hours<sup>8</sup> and reminded us of the pressing impact climate change has on coastal communities. Hurricane Ida was fueled by climate change as it landed and “moved over abnormally hot water in the Gulf of Mexico.”<sup>9</sup> This “extra heat acted as fuel for the storm,” and since “[h]eat is energy . . . hurricanes with more energy have faster wind speeds and larger storm surges.”<sup>10</sup> As climate change progresses and the planet heats up, a hurricane’s power is likely to intensify.<sup>11</sup> Hurricane Ida claimed the lives of twenty-six Americans,<sup>12</sup> and due to its recent

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3. Although climate change alone is not the sole cause of extreme weather events, it is a major contributor to the exacerbation of these events. For a distinction between climate change extreme weather events and slow-onset events, see U.N. FRAMEWORK CONVENTION ON CLIMATE CHANGE WARSAW INT’L MECHANISM, LOSS AND DAMAGE: ONLINE GUIDE 4 (2020), [https://unfccc.int/sites/default/files/resource/Online\\_Guide\\_feb\\_2020.pdf](https://unfccc.int/sites/default/files/resource/Online_Guide_feb_2020.pdf) [<https://perma.cc/SG6F-M2V2>].

4. Sharon Bernstein, *Refugees in Their Own Country as Wildfire Destroys California Towns*, REUTERS (Oct. 2, 2020), <https://www.reuters.com/article/us-usa-wildfires-displacement/refugees-in-their-own-country-as-wildfire-destroys-california-towns-idUSKBN26N1MW> [<https://perma.cc/S4T6-TD7Z>].

5. *Id.*

6. *Id.*

7. See generally Michael Finch II, *Research Shows Where Former Paradise Residents Went After Town Was Wiped Out*, SACRAMENTO BEE (Nov. 20, 2019), <https://www.sacbee.com/news/california/fires/article237304364.html> [<https://perma.cc/W28B-FTTF>] (summarizing data regarding the displacement of Paradise residents after the deadly fire in 2018 and describing the movement and settlement of Paradise residents across California, neighboring states, and across the country).

8. Rebecca Hersher, *How Climate Change Is Fueling Hurricanes Like Ida*, NPR (Aug. 30, 2021), <https://www.npr.org/2021/08/30/1032442544/how-climate-change-is-fueling-hurricanes-like-ida> [<https://perma.cc/U8KC-M397>].

9. *Id.*

10. *Id.*

11. *Id.*

12. Giulia Heyward & Sophie Kasakove, *The Hurricane Ida Death Toll Rises by 11 in Louisiana, with Many of the Fatalities Linked to Power Outages*, N.Y. TIMES (Sept. 8, 2021),

occurrence, there is no data yet as to how many people were displaced. Shortly after the hurricane, however, residents were told not to return until infrastructure, power, and basic utilities were restored.<sup>13</sup>

In February 2021, Texas residents faced Winter Storm Uri and, in this case, climate change was also a primary driver.<sup>14</sup> Unusual winter storms like the one in Texas are “becoming more frequent as temperatures rise, and are linked to a rapid warming in the Arctic.”<sup>15</sup> The combination of “a warming Arctic,” “the rapid loss of Arctic sea ice,” and the weakening of the polar vortex are causing and intensifying winter storms like Uri.<sup>16</sup> Texas residents were greatly impacted by this storm, and in the aftermath of Uri, an estimated 4.5 million homes and business were left without power and more than one hundred people were killed.<sup>17</sup> The recent wildfires, hurricanes, and winter storms are representative of a reality we cannot evade: climate change and the climate crisis are here. The displacement of people is here, whether it be in California, Louisiana, or Texas.

Although climate change-induced events are taking place within the United States, *the movement and displacement* of people affected by climate change has often focused solely on international global citizens.<sup>18</sup> In recent years, the United

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<https://www.nytimes.com/live/2021/09/08/us/climate-change/the-hurricane-ida-death-toll-rises-by-11-in-louisiana-with-many-of-the-fatalities-linked-to-power-outages> [https://perma.cc/KK37-R57H].

13. J. David Goodman, Giulia Heyward & Sophie Kasakove, *Louisiana's Governor Tells Evacuees Not to Return Until Infrastructure Is Restored*, N.Y. TIMES (Aug. 31, 2021), <https://www.nytimes.com/live/2021/08/31/us/hurricane-ida-updates#louisianas-governor-tells-evacuees-not-to-return-until-infrastructure-is-restored> [https://perma.cc/7S4P-SUHD].

14. Justin Worland, *The Texas Power Grid Failure Is a Climate Change Cautionary Tale*, TIME (Feb. 18, 2021), <https://time.com/5940491/texas-power-outage-climate/> [https://perma.cc/AM8V-EP2Y].

15. *Scientists See Link Between Arctic Warming and Texas Cold Snap*, YALE ENV'T 360 (Sept. 3, 2021), <https://e360.yale.edu/digest/scientists-see-link-between-climate-change-and-the-texas-cold-snap> [https://perma.cc/3J3G-3E2K].

16. *Id.*; see also Judah Cohen, Laurie Agel, Matthew Barlow, Chaim I. Garfinkel & Ian White, *Linking Arctic Variability and Change with Extreme Winter Weather in the United States*, 373 SCIENCE 1116, 1121 (2021).

17. Chris Stipes, *New Report Details Impact of Winter Storm Uri on Texas*, U. HOUSTON (Mar. 29, 2021), <https://uh.edu/news-events/stories/2021/march-2021/03292021-hobby-winter-storm.php> [https://perma.cc/6QQY-4VX6].

18. International climate displacement has received broad coverage. See WORLD BANK, GROUNDSWELL: PREPARING FOR INTERNAL CLIMATE MIGRATION, at xix (2018) (focusing on Sub-Saharan Africa, South Asia, and Latin America, and estimating that about 143 million people will be displaced by 2050 due to climate change). The specific number of climate displaced people is contested and reported differently across multiple reports. See, e.g., INST. FOR ECON. & PEACE, GLOBAL PEACE INDEX 2020: MEASURING PEACE IN A COMPLEX WORLD 73 (2020) (estimating the international displacement of people by 2050 at about 143 million); U.N. HABITAT, CITIES AND CLIMATE CHANGE: GLOBAL REPORT ON HUMAN SETTLEMENTS 2011, at 85 (2011) (anticipating the number of displaced people at 200 million by 2050).

States has experienced significantly more floods,<sup>19</sup> fires,<sup>20</sup> droughts,<sup>21</sup> storms, and hurricanes.<sup>22</sup> These events are often described as “climate disasters” because of their causal link to climate change.<sup>23</sup> These climate-induced events have drastically affected people within the United States, often leaving them with no community at all.<sup>24</sup> Yet, academia and U.S. disaster relief and relocation policies focus almost exclusively on global citizens. While a focus on international communities, island nations, and poor global citizens is of critical importance, this focus falls short and contributes to the view that climate change is distant and happening elsewhere, away from the United States.

This Note argues that associating climate change with distant and remote locations creates an “otherization” of climate change and evades the responsibility to look internally and address the domestic climate impact. This evasion harms the most vulnerable populations in the United States who are most likely to experience the impacts of climate change: communities of color and poor, rural, and immigrant communities. Climate-induced events are taking place across the globe, as much as they are taking place in the United States. A focus on U.S. communities warrants space in the climate crisis and climate displacement conversation. This Note’s primary purpose is to serve as an intervention in discourse, fill an existing gap in research, and provide a solidified focus on domestic communities affected by climate change. The Note’s secondary purpose is to demonstrate how current U.S. disaster relief and relocation policies available to communities facing climate displacement can be enhanced to address the needs of displaced people in the United States.

While the goal of the Note is to contribute to a U.S.-based, comprehensive view of the climate crisis and climate displacement, it does not stress that there be a halt in the focus given to international global communities. Nor does the

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19. *E.g.*, *Climate Change, Extreme Precipitation, and Flooding: The Latest Science*, UNION CONCERNED SCIENTISTS (July 2, 2018), <https://www.ucsusa.org/sites/default/files/attach/2018/07/gw-fact-sheet-epif.pdf> [<https://perma.cc/2L78-JWRH>]; Melissa Denchak, *Flooding and Climate Change: Everything You Need to Know*, NAT. RES. DEF. COUNCIL (Apr. 10, 2019), <https://www.nrdc.org/stories/flooding-and-climate-change-everything-you-need-know> [<https://perma.cc/A3RP-T9VB>].

20. *E.g.*, Lieberman, *supra* note 2.

21. *E.g.*, *Climate Change Indicators: Drought*, U.S. ENV’T PROT. AGENCY (July 17, 2021), <https://www.epa.gov/climate-indicators/climate-change-indicators-drought> [<https://perma.cc/W3GP-GD64>]; *Drought and Climate Change*, CTR. FOR CLIMATE & ENERGY SOLS. (Jan. 6, 2022), <https://www.c2es.org/content/drought-and-climate-change/> [<https://perma.cc/8PET-B4TY>].

22. Henry Fountain, *Climate Change Is Making Hurricanes Stronger, Researchers Find*, N.Y. TIMES (May. 18, 2020), <https://www.nytimes.com/2020/05/18/climate/climate-changes-hurricane-intensity.html> [<https://perma.cc/QJ7S-Q3Q9>].

23. See Rosemary Lyster & Maxine Burkett, *Climate-Induced Displacement and Climate Disaster Law: Barriers and Opportunities*, in RESEARCH HANDBOOK ON CLIMATE DISASTER LAW 97, 97 (Rosemary Lyster & Robert R.M. Verchick eds., 2018). (“[C]limate disasters . . . occur at the intersection of natural climate variability, influenced by climate change, exposure, and vulnerability.”).

24. See, e.g., Kirk Johnson & Jose A. Del Real, *‘Paradise Is Gone’: California Fires Devastate Communities*, N.Y. TIMES (Nov. 10, 2018), <https://www.nytimes.com/2018/11/10/us/california-wildfires-paradise-malibu.html> [<https://perma.cc/ZG3B-HNDL>].

Note imply that the focus on the international global crisis is unimportant or irrelevant. The focus and the work covering international communities is undoubtedly important, as it documents that the world's poor and those living in island states will be disproportionately and unfairly impacted by climate change.<sup>25</sup> This Note maintains that the focus on the international community should remain but encourages broader coverage of U.S. communities.

In the United States, scholars and governmental agencies “otherize” climate change via existing policies and in doing so perpetuate harmful racial and class dynamics. This enables the distancing of climate displacement away from the most vulnerable domestic populations. This distancing allows the government to evade its responsibility to address how climate change is displacing communities of color and politically oppressed populations within the United States. Scholars and governmental agencies can use the Principles of Environmental Justice and the United Nations (UN) framework of Internally Displaced People (IDP) as avenues to correct this trend. Doing so will in turn drive equitable and just solutions to the ongoing challenge of U.S. climate displacement. International law is the right framework when addressing the domestic challenge of climate displacement because the IDP framework and its Guiding Principles on Internal Displacement (IDP Guiding Principles) present internationally recognized standards that protect and assist displaced people in need of refuge, settlement, and reintegration. Via these international standards, the United States can enhance its current disaster relief policies and address climate displacement. In presenting the UN's IDP framework, the Note challenges the notion that international law is not influential in domestic settings.

Part I discusses the concept of “otherization” in the context of this Note and recognizes the challenges in the Global South yet examines how a remote focus on the climate crisis and climate displacement leads to a deflection of domestic challenges. Part II addresses the current climate challenges across the United States and presents an overview of the climate displacement taking place in different communities across the country. Part III provides an overview of the current U.S. disaster relief and relocation policies available to communities facing climate displacement and highlights the shortcomings of these policies. Part IV draws from the Principles of Environmental Justice and offers a solution via the UN's IDP framework to address the climate crisis and climate displacement domestically.

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25. See generally *Climate Change and the Poor: Adapt or Die*, *ECONOMIST* (Sept. 11, 2008), <https://www.economist.com/international/2008/09/11/adapt-or-die> [<https://perma.cc/Q3JX-3JMR>] (highlighting that between the world's poor and island states, the population is about one billion, counting one hundred countries).

## I.

## FRAMING THE ISSUE: THE PERILS OF “OTHERIZING” CLIMATE CHANGE AND CLIMATE DISPLACEMENT

## A. “Otherizing” Climate Change Leads to a Deflection of the Domestic Climate Crisis

Before defining “otherization” and its connection to climate change, it is important to contextualize and frame it in its sociological roots. The concept of “otherization” is rooted in the sociological casting of a group.<sup>26</sup> This casting is based on the sociological understanding that there is a distinction between “us and them.”<sup>27</sup> This distinction operates primarily as a power structure that differentiates between identities, whether focused on race, class, gender, or additional characteristics.<sup>28</sup> Drawing from its sociological roots and within the “us and them” dichotomy, the power structure in “othering” is central to a ‘majority versus minority’ framework.<sup>29</sup> This framework operates on dominance because “the representation of different groups within any given society is controlled by groups that have greater political power.”<sup>30</sup>

In sociology, “othering” and dominance are synonymous. A group’s political power and dominance create a social order that allows it to “otherize” and thus assert control over the “minority” or “the other.”<sup>31</sup> Additionally, “otherness is used by sociologists to highlight how social identities are contested,”<sup>32</sup> and whether in social casting or political power and dominance, “[o]thering’ is a term that not only encompasses the many expressions of prejudice on the basis of group identities, but [also] provides a clarifying frame that reveals a set of common processes and conditions that propagate group-based inequality and marginality.”<sup>33</sup> In presenting a formal definition, Professors John A. Powell and Stephen Menéndez defined “othering” as “a set of dynamics, processes, and structures that engender marginality and persistent inequality across any of the full range of human differences based on group identities.”<sup>34</sup> In sociology and beyond, “othering” is a broadly inclusive term that “undergirds

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26. See generally Yiannis Gabriel, *The Other and Othering – A Short Introduction*, YIANNIS GABRIEL BLOG (Sept. 9, 2012), <http://www.yiannisgabriel.com/2012/09/the-other-and-othering-short.html> [<https://perma.cc/64TM-SHH4>] (discussing the vilification of the “other” as a means of a superior identity and oversight over a different group).

27. *Id.*

28. See Zuleyka Zevallos, *What Is Otherness?*, OTHER SOCIOLOGIST (Oct. 14, 2011), <https://othersociologist.com/otherness-resources/> [<https://perma.cc/H297-NDJ8>].

29. *Id.*

30. *Id.*

31. *Id.*

32. *Id.*

33. John A. Powell & Stephen Menéndez, *The Problem of Othering: Towards Inclusiveness and Belonging*, OTHERING & BELONGING, Summer 2016, at 14, 17, [http://otheringandbelonging.org/wp-content/uploads/2016/07/OtheringAndBelonging\\_Issue1.pdf](http://otheringandbelonging.org/wp-content/uploads/2016/07/OtheringAndBelonging_Issue1.pdf) [<https://perma.cc/32N9-THBE>].

34. *Id.*

territorial disputes, sectarian violence, military conflict, the spread of disease, hunger and food insecurity, and even climate change.”<sup>35</sup>

In this Note, I use the concept of “othering” based on its sociological roots, focusing mainly on the dichotomy of “us and them” and on the aspect of *differences*, the dissimilarities between identities. In the “us and them” dichotomy, “us” is the United States and “them” refers to global citizens experiencing displacement because of the climate crisis. In the aspect of *differences*, the focus is on the *different experiences* faced by climate crisis victims, domestically and globally.

American academia rarely discusses “us” in the context of the climate crisis, focusing exclusively on “them,” as if the climate crisis is only affecting poor, island nations abroad.<sup>36</sup> This distinction is dangerous for two reasons. First, in the context of global citizens, including climate refugees, this distinction “exacerbates climate injustice by constructing migrants as barbarians threatening the sovereignty of civilized nations and by reinforcing racialized distinctions between ‘us and them, citizens and foreigner, friend and enemy.’”<sup>37</sup> Second, when academic literature covers the climate crisis as if it is only occurring abroad, it perpetuates the idea that the United States and its residents are exempt from this global crisis, and this is simply not the case. In other words, it advances an idea of American exceptionalism, rooted in the belief that other countries have challenges and calamities, but we do not. When it comes to the climate crisis, this is far from the truth.

American exceptionalism in the context of “othering” in climate change and climate displacement presents a division between domestic and international climate challenges. This division perpetuates an exemption for the United States and influences a deflection of the domestic climate crisis. At its core, “American exceptionalism – the idea that the United States’ identity, values, and culture must be protected at all costs”<sup>38</sup> is perhaps an ironic idea given that it is our very own identity, values, and culture that are at stake if we do nothing to address this crisis domestically. The American way of life we are trying so hard to protect is what is at stake when we place the problem of climate change and climate displacement on poor global citizens and evade our own domestic responsibility. The academic gap that does not address what the climate crisis looks like in the

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35. *Id.* at 14.

36. Based on search queries on Westlaw and other academic research databases, the most-cited articles on the climate crisis and displacement have an international focus and explore the U.S.-based climate crisis and displacement in only limited ways.

37. Carmen G. Gonzalez, *Climate Justice and Climate Displacement: Evaluating the Emerging Legal and Policy Responses*, 36 WIS. INT’L L.J. 2, 366, 379–80 (2019) (quoting Hedda Ransan-Cooper, Carol Farbotko, Karen E. McNamara, Fanny Thornton & Emilie Chevalier, *Being(s) Framed: The Means and Ends of Framing Environmental Migrants*, 35 GLOB. ENV’T CHANGE 106, 110 (2015)).

38. Judith Koren, *The Convergence of U.S. Exceptionalism and Climate Diplomacy*, INT’L POL’Y DIGEST (May 14, 2021), <https://intpolicydigest.org/the-convergence-of-u-s-exceptionalism-and-climate-diplomacy/> [<https://perma.cc/B2TR-HFP7>].

United States is a void that harms Americans and perpetuates an “otherization” of climate change.

In addition to academia, the American media also contributes to the “othering” of climate change. A 2020 report concluded that Americans perceive the danger and impact of climate change and the climate crisis differently, depending on the news sources they most watch or listen to.<sup>39</sup> The report analyzed CNN, Fox News, MSNBC, NPR, the Weather Channel, and nightly network news on CBS, ABC, and NBC.<sup>40</sup> The report ultimately concluded that “[i]n all news audiences except that of Fox News, large majorities think global warming is happening and [is] human-caused.”<sup>41</sup> Unfortunately, but least surprisingly, “[m]ost of the audience of each news source *underestimates* the scientific consensus on human-caused global warming.”<sup>42</sup> If Americans remain divided on the very existence of a climate crisis, it is little wonder they do not think the climate crisis has domestic effect.

Studies on American perception of climate change demonstrate the effects of this “othering” of the climate crisis. To be sure, the United States’ public view on climate change has shifted over time. Compared to a decade ago, more Americans are now saying that protecting the environment and dealing with global climate change should be top priorities for the president and Congress.<sup>43</sup> But Americans still feel as if climate change is an amorphous threat with future dangers happening elsewhere, not a current and existential threat. Only about 22 percent of Americans say they see a great deal of local effects due to climate change; 39 percent say they see some. But 38 percent say they don’t see much or any effects at all.<sup>44</sup>

Moreover, the political divide between Republicans and Democrats distorts the comprehensive understanding of Americans when it comes to climate change. This divide makes it hard to present an all-inclusive analysis or coverage on the climate crisis within the United States. While 90 percent of those who identify as Democrats or independents agree that there needs to be more governmental efforts to reduce the effects of climate change, Republicans are divided along generational, gender, and ideological lines, with only about 65 percent of Republicans believing that the federal government is doing too little

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39. ABEL GUSTAFSON, ANTHONY LEISEROWITZ, EDWARD MAIBACH, SETH ROSENTHAL, JOHN KOTCHER & MATTHEW GOLDBERG, YALE U., GEO. MASON U. & U. CIN., CLIMATE CHANGE IN THE MINDS OF U.S. NEWS AUDIENCES 3 (2020).

40. *Id.*

41. *Id.*

42. *Id.*

43. Cary Funk & Brian Kennedy, *How Americans See Climate Change and the Environment in 7 Charts*, PEW RSCH. CTR. (Apr. 21, 2020) <https://www.pewresearch.org/fact-tank/2020/04/21/how-americans-see-climate-change-and-the-environment-in-7-charts/> [<https://perma.cc/SF3S-59QR>].

44. *Id.* Among the Americans who say they see a great deal or some effects, about 79 percent say they see long periods of unusually hot weather; 70 percent say they see “severe weather patterns such as floods or storms.” *Id.*

to reduce the effects of climate change, while 26 percent believe the government is doing too much.<sup>45</sup>

Undeniably, Americans are still on different sides when it comes to agreeing on climate change. The media influence and political divide intensify climate crisis “othering.” Despite this difference and despite what Americans perceive as a present or amorphous threat, climate change and the climate crisis are present, happening now, and unraveling across the United States.

### B. *The Perils of “Otherizing” Climate Change*

The evasion of confronting the climate crisis domestically and “otherizing” climate change is deeply problematic. As a preliminary matter, the United States is one of the biggest perpetrators of and contributors to the current climate crisis.<sup>46</sup> The United States was responsible for nearly 30 percent of global emissions from 1850 to 2000.<sup>47</sup> And, although as recently as 2017 that percentage decreased to 12 percent,<sup>48</sup> the United States is still among the world’s top three greenhouse gas emitters, and along with China and the European Union, contributes to 41.5 percent of total global emissions.<sup>49</sup> More specifically, in terms of carbon dioxide, “[t]he United States, with its love of big cars, big houses and blasting air-conditioners, has contributed more than any other country to the atmospheric carbon dioxide that is scorching the planet.”<sup>50</sup> Between 1850 and 2014, the United States contributed to a little over five billion metric tons of carbon dioxide,<sup>51</sup> and “with just over 4 percent of the world’s population, is responsible for almost a third of the excess carbon dioxide that is heating the planet.”<sup>52</sup> The United States also leads in per person carbon

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45. Cary Funk & Meg Hefferon, *U.S. Public Views on Climate and Energy*, PEW RSCH. CTR. (Nov. 25, 2019) <https://www.pewresearch.org/science/2019/11/25/u-s-public-views-on-climate-and-energy/> [<https://perma.cc/WZ45-ECGJ>] (reporting that, of Republicans, 52 percent of Millennials and Generation Z, ages eighteen to thirty-eight, say the government is doing too little on climate as compared to 31 percent of Baby Boomers and 41 percent of Generation X).

46. See Johannes Friedrich, Mengpin Ge & Andrew Pickens, *This Interactive Chart Shows Changes in the World’s Top 10 Emitters*, WORLD RES. INST. (Dec. 10, 2020), <https://www.wri.org/insights/interactive-chart-shows-changes-worlds-top-10-emitters> [<https://perma.cc/8KN4-2KEL>].

47. Eileen Claussen & Elliot Diringer, *U.S. Exceptionalism and Climate Change (Part I)*, GLOBALIST (July 19, 2007), <https://www.theglobalist.com/u-s-exceptionalism-and-climate-change-part-1/> [<https://perma.cc/E2V4-XYVZ>].

48. *Global Historical Emissions*, CLIMATE WATCH, [https://www.climatewatchdata.org/ghg-emissions?chartType=percentage&end\\_year=2017&start\\_year=1990](https://www.climatewatchdata.org/ghg-emissions?chartType=percentage&end_year=2017&start_year=1990) [<https://perma.cc/YRM3-XB86>].

49. Friedrich et al., *supra* note 46 (stating that the world’s top three emitters are China, the European Union, and the United States, and combined they contribute sixteen times the greenhouse gas emissions of the bottom one hundred countries).

50. Justin Gillis & Nadja Popovich, *The U.S. Is the Biggest Carbon Polluter in History. It Just Walked Away from the Paris Climate Deal.*, N.Y. TIMES (June 1, 2017), <https://www.nytimes.com/interactive/2017/06/01/climate/us-biggest-carbon-polluter-in-history-will-it-walk-away-from-the-paris-climate-deal.html> [<https://perma.cc/3S69-LC5R>].

51. *Id.*

52. *Id.*

emissions.<sup>53</sup> For example, although China has four times as many people as the United States, a person in China burns about 7.5 metric tons of carbon dioxide as compared to 16.2 metric tons of carbon dioxide burned by a person in the United States.<sup>54</sup> The United States is a contributor to the current climate crisis, and, as a perpetrator of climate change, it must work to focus on its domestic climate challenges.

“Otherizing” climate change means America’s most vulnerable populations are left unprotected. Naomi Klein, one of the few authors to address “othering” and the climate crisis, highlights the importance of taking race and class into account when evaluating climate change’s impact.<sup>55</sup> Klein notes that the fight against climate change “is only possible within a framework that understands the intersections between climate change and structural issues of race and class.”<sup>56</sup> This intersectional approach supports the idea that the climate crisis challenges in the United States should not be “othered” and viewed as separate from those encountered by international global citizens. Instead, the same evaluation should be given to U.S. communities because our climate challenges are not very different from those experienced by similar global citizens.

Indeed, in comparing United States climate displacement to climate displacement in other parts of the world—specifically the Global South—parallels emerge between the two. Climate change, both domestically and abroad, disproportionately affects immigrants, communities of color, and those in poor and rural communities.

The Global South, comprised of “relatively less prosperous nations located primarily in Asia, Africa, and Latin America (including China, India, Brazil and South Africa),”<sup>57</sup> is often associated with communities disproportionately impacted by limited resources, poverty, and other socioeconomic challenges.<sup>58</sup> Communities in these regions are impacted by climate change and climate displacement due to both climate-induced events such as hurricanes and climate-related slow-onset events, such as sea-level rise, drought, and desertification.<sup>59</sup> These communities are facing and will face climate change in disproportionate

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53. *Id.*

54. *Id.*

55. See Naomi Klein, Keynote Address at the Othering & Belonging Conference: Imagining a Future Without Sacrifice Zones (Apr. 26, 2015), <https://www.youtube.com/watch?v=FZh1IF5Lxbl> [<https://perma.cc/SBF3-44JS>] (discussing the “otherization” that has taken place between economic systems and climate change and advocating for the systems to be seen not as separate but connected).

56. *Id.*

57. Gonzalez, *supra* note 37, at 366 n.1.

58. See generally Ruth Gordon, *Climate Change and the Poorest Nations: Further Reflections on Global Inequality*, 78 U. COLO. L. REV. 1559 (2007) (considering climate change “from the vantage point of the poorest nations in the international system”).

59. See Norman Myers, *Environmental Refugees: A Growing Phenomenon of the 21st Century*, 357 PHIL. TRANSACTIONS ROYAL SOC’Y 609, 611 (2002).

ways.<sup>60</sup> Despite a relatively small contribution to climate change, “many countries and marginalized communities in the Global South bear a disproportionate share of the consequences of climate change due to their vulnerable geographic locations and limited resources for climate change adaptation and disaster response.”<sup>61</sup> For instance, in the case of Bangladesh, the climate crisis has been ongoing for years now, and the consequences of climate change, particularly flooding, have been felt by Bangladeshis more frequently year by year.<sup>62</sup> In 2020, floods devastated Bangladesh, leaving one quarter of the country underwater, 1.3 million homes damaged, hundreds of people stranded, and hundreds dead.<sup>63</sup> Bangladesh is a “‘frontline state’ of climate change” and “due to its unique geographic location, dominance of floodplains, low elevation from the sea, high population density, high levels of poverty, and overwhelming dependence on nature,”<sup>64</sup> the country is in a dire climate crisis reality. Since Bangladesh has “a history of extreme climatic events claiming millions of lives and destroying past development gains,”<sup>65</sup> the country is likely to continue facing the climate crisis in disproportionate ways. In fact, due to cyclonic storm surges and rising sea level, under a moderate climate change scenario, it is predicted that rice and wheat production in Bangladesh will decline by 27 percent and 61 percent, respectively.<sup>66</sup>

America’s most marginalized populations are similarly forced to suffer the consequences of climate change. It is clear that “we’ve collectively been ignoring the problem on our own doorstep[,] [and] [i]n yet another blow to American exceptionalism, the climate refugee crisis is here.”<sup>67</sup> When Hurricane Laura hit the Gulf Coast in August 2020, for example, half a million residents were told that “the only way to prepare for 125 mile-per-hour winds and an

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60. See generally Sumudu Atapattu & Carmen G. Gonzalez, *The North-South Divide in International Environmental Law: Framing the Issues*, in INTERNATIONAL ENVIRONMENTAL LAW AND THE GLOBAL SOUTH 1 (Shawkat Alam, Sumudu Atapattu, Carmen G. Gonzalez & Jona Razzaque eds., 2015) (describing the ways in which climate change is affecting and will affect communities in the Global South and explaining that the economic and political history between the Global South and the Global North contributes to the contestation over environmental priorities and the allocation of responsibility for the current and historical environmental harm).

61. Gonzalez, *supra* note 37, at 372.

62. Aysha Imtiaz, *The Nation Learning to Embrace Flooding*, BBC (Dec. 1, 2020), <https://www.bbc.com/future/article/20201201-bangladesh-the-devastating-floods-essential-for-life> [<https://perma.cc/CQ7V-W76Y>].

63. *Id.*

64. HANNAH BROCK, OXFORD RSCH. GRP., CLIMATE CHANGE: DRIVERS OF INSECURITY AND THE GLOBAL SOUTH 4 (2012) (quoting OBAYEDUL HOQUE PATWARY, BANGLADESH INST. OF PEACE & SEC. STUD., CLIMATE CHANGE AND CONFLICT: THE CASE OF BANGLADESH (2011)), <https://www.files.ethz.ch/isn/146109/Climate%20Change%20and%20Insecurity%20in%20the%20Global%20South.pdf> [<https://perma.cc/AC4Z-PGQE>].

65. *Id.*

66. Imtiaz, *supra* note 62.

67. Nathalie Baptiste, *American Exceptionalism Is Another Casualty of our Climate Disasters*, MOTHER JONES (Sept. 17, 2020), <https://www.motherjones.com/environment/2020/09/american-exceptionalism-is-another-casualty-of-our-climate-disasters/> [<https://perma.cc/XE62-AXSP>].

‘unsurvivable’ storm surge was to simply leave the area.”<sup>68</sup> Those who were unable or could not afford to evacuate were left with few options but to wait for the storm to pass.<sup>69</sup> At least twenty-six deaths resulted from the storm.<sup>70</sup> The climate crisis is indeed at our own doorstep affecting our most disenfranchised.

Whether domestically or abroad, communities of color and poor, rural, and immigrant communities tend to be the ones that climate change impacts the most. The UN concluded in a 2009 report that no matter the geographical location, climate change has profound impacts on a wide variety of human rights, including the rights to life, food, health, housing, and safe sanitation.<sup>71</sup> The UN also found that directly or indirectly, climate change impacts “will disproportionately affect individuals, groups and peoples in vulnerable situations including, women, children, older persons, [I]ndigenous peoples, minorities, migrants, rural workers, persons with disabilities and the poor.”<sup>72</sup>

The “otherization” of climate change is nonsensical when similar communities, both abroad and domestically, face the climate crisis and climate displacement. Characterizing climate change as an issue that affects only distant, foreign locations is almost bizarre when people residing within the United States face the same dire consequences of climate change as those in the Global South. Otherizing the climate crisis does a disservice to both the communities that need the most attention in the United States and those that are suffering most abroad.

When the climate crisis and climate displacement abroad and domestically receive the same levels of attention, it will become obvious that there really isn’t a distinction and that these communities are affected in similar and drastic ways.

68. *Id.*

69. *Id.* In disaster response, low-income communities and communities of color are least likely to be able to safely evacuate, and they suffer disproportionately during disasters and in the aftermath of disaster response. See *Greater Impact: How Disasters Affect People of Low Socioeconomic Status*, SUPPLEMENTAL RSCH. BULL. (Substance Abuse & Mental Health Serv. Admin., Rockville, Md.), July 2017, at 1, 12–13, [https://www.samhsa.gov/sites/default/files/dtac/srb-low-ses\\_2.pdf](https://www.samhsa.gov/sites/default/files/dtac/srb-low-ses_2.pdf) [<https://perma.cc/C2WG-6SBS>] (noting that people of low socioeconomic status are less prepared for disasters than others, explaining that people of low socioeconomic status cannot always afford preparedness actions such as making home improvements to increase disaster resilience, and concluding that people of low socioeconomic status are more likely to live in housing that is vulnerable to disasters, putting them at higher risk of not being able to evacuate and remain safe during disasters); see also Sonja Hutson, *Study: People of Color and Low-Income Residents Most Vulnerable to Wildfire Impacts*, KQED (Nov. 14, 2018), <https://www.kqed.org/news/11706264/study-people-of-color-and-low-income-residents-most-vulnerable-to-wildfire-impacts> [<https://perma.cc/XCC2-Q7V3>] (noting that in the case of wildfires, communities suffering economic or social issues are most vulnerable to the impacts of wildfires and are less likely to evacuate because they do not have the means to reliable transportation as opposed to wealthier people who have better access to evacuation routes and cars).

70. Baptiste, *supra* note 67.

71. See U.N. High Comm’r for Hum. Rts, *Rep. on the Relationship Between Climate Change and Human Rights*, U.N. Doc. A/HRC/10/61 (Jan. 15, 2009).

72. U.N. Hum. Rts. Off. of the High Comm’r, *Human Rights and Climate Change: Key Messages* (July 26, 2016), <https://www.ohchr.org/Documents/Issues/ClimateChange/materials/KMClimateChange.pdf> [<https://perma.cc/4NPA-RL58>].

Yet, if the academic gap continues to broaden and “[m]ost studies of climate-related displacement to date [continue to] highlight[] the needs of the Global South,”<sup>73</sup> a focus on U.S. climate displacement will remain limited, absent, or rare.

In sum, this Note applies “othering” to the context of climate change and climate displacement to show how such “othering” leads to a deflection of the domestic climate crisis. First, the distinction of “us” versus “them” creates a separation of domestic and international challenges that places climate change in a distant and remote setting. Second, the “othering” of this issue advances an American exceptionalism that is ironic at best and that threatens the very same American way of life we are trying to protect. Third, and perhaps most important, the “othering” and separation of “us” versus “them” is dangerous because it enhances the perception of climate change as a purely international issue. This not only perpetuates an image of refuge-seeking global citizens as “barbarians,” “foreigner[s],” “and enem[ies],”<sup>74</sup> it also results in a dearth of dialogue around how the climate crisis affects residents of the United States. In short, the view that the climate crisis affects only those abroad facilitates our deflection of the catastrophic harm climate change causes domestically. This view must change.

## II.

### ADDRESSING CLIMATE CHANGE AND THE CLIMATE CRISIS IN THE UNITED STATES

Americans already feel the impact and severity of climate change in the United States. The climate crisis is so pressing that over twenty federal agencies have released climate change adaptation plans.<sup>75</sup> Climate-related risks are growing faster and although the climate crisis looks different region by region, the threat of climate change is the same across the United States. Displaced Americans face inhabitable communities, and their need for internal refuge and support grows.

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73. Maxine Burkett, Jainey Bavishi & Erin Shew, *Climate Displacement, Migration, and Relocation – And the United States*, 7 CLIMATE L. 227, 227 (2017). This short, five-page piece was written for a Symposium on Climate Displacement, Migration, and Relocation organized in 2016 by the Obama Administration’s White House Council on Environmental Quality in collaboration with the Hawai’i and Alaska Sea Grant College Programs and the Environmental Law Program of the University of Hawai’i Mānoa. *Id.* at 228.

74. Gonzalez, *supra* note 37, at 380.

75. Press Release, White House, Fact Sheet: Biden Administration Releases Agency Climate Adaptation and Resilience Plans from Across Federal Government, (Oct. 7, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/07/fact-sheet-biden-administration-releases-agency-climate-adaptation-and-resilience-plans-from-across-federal-government/> [<https://perma.cc/QXR8-BS2M>]; see also *Federal Climate Adaptation Plans*, OFF. OF THE FED. CHIEF SUSTAINABILITY OFFICER <https://www.sustainability.gov/adaptation/> [<https://perma.cc/TZ5A-KXY4>] (listing the federal agencies with adaptation plans, including the U.S. Departments of Energy, Defense, Agriculture, Homeland Security, Transportation, and Commerce, among others).

### A. A Regional Overview of Climate Change in the United States

An overview of climate change in the United States demonstrates that the climate crisis is occurring here. This crisis and the consequences of climate change are happening now—in our own backyards—and affecting our loved ones. Communities across the country are experiencing climate change in different ways and an array of different climate disasters shape the response and lived experiences of local residents faced with extreme weather events.

To present a comprehensive overview of what climate change looks like across the United States, this Note presents a regional and geographical survey examining the West Coast, East Coast, South, Midwest, Alaska, Hawai'i, and U.S.-Affiliated Pacific Islands.<sup>76</sup> A breakdown of the communities impacted and their demographics is discussed later. In this Section, the overview is solely on climate change presence and what it looks like from a bird's-eye view. In short, the United States faces wildfires, water stress, extreme heat, hurricanes, extreme rainfall, and sea-level rise.<sup>77</sup>

#### 1. The West Coast

On the West Coast, and particularly in California, since 2017, an array of wildfires has drastically devastated entire cities, communities, and neighborhoods.<sup>78</sup> The fires and their devastating impact are a combination of poor forest management,<sup>79</sup> inefficient utility infrastructure,<sup>80</sup> and climate change.<sup>81</sup> Specifically, “[t]he wildfires burning in the West are as large, hot and fast as they

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76. The focus is on both extreme weather events and on slow-onset events. See U.N. FRAMEWORK CONVENTION ON CLIMATE CHANGE, *supra* note 3, at 5 (illustrating the distinction between extreme weather events and slow-onset events).

77. Stuart A. Thompson & Yaryna Serkez, Opinion, *Every Place Has Its Own Climate Risk. What Is It Where You Live?*, N.Y. TIMES (Sept. 18, 2020), <https://www.nytimes.com/interactive/2020/09/18/opinion/wildfire-hurricane-climate.html> [<https://perma.cc/SZGG-BYTD>].

78. Holly Yan, *The Wildfires in California Just Keep Shattering Records This Year*, CNN (Dec. 26, 2017), <https://www.cnn.com/2017/12/26/us/2017-california-wildfire-records-trnd/index.html> [<https://perma.cc/3GAT-8YAF>]; Lieberman, *supra* note 2; Dunne, *supra* note 2; Johnson & Del Real, *supra* note 24.

79. Matthew D. Hurteau, *Trump Has a Point: The Fires Are Worse Because We Managed the Forests Badly.*, WASH. POST (Sept. 18, 2020), [https://www.washingtonpost.com/outlook/forest-management-wildfires-climate-change/2020/09/18/f3f1b638-f904-11ea-a275-1a2c2d36e1f1\\_story.html](https://www.washingtonpost.com/outlook/forest-management-wildfires-climate-change/2020/09/18/f3f1b638-f904-11ea-a275-1a2c2d36e1f1_story.html) [<https://perma.cc/MJ7A-Z35W>] (emphasizing that the U.S. could get away with poor management, until global warming made it impossible).

80. Susie Cagle, *PG&E: What's Next for the Utility at the Center of California's Wildfires*, GUARDIAN (Oct. 31, 2019), <https://www.theguardian.com/business/2019/oct/31/pge-utility-california-wildfires> [<https://perma.cc/HAT3-FZQ4>]. University of Oregon Professor and environmental historian, Steven C. Beda, explained that climate change and forest management have also contributed to the wildfires in the West. See Steven C. Beda, *Climate Change and Forest Management Have Fueled Today's Epic Western Wildfires*, CONVERSATION (Sept. 16, 2020), <https://theconversation.com/climate-change-and-forest-management-have-both-fueled-todays-epic-western-wildfires-146247> [<https://perma.cc/5FKM-9K66>].

81. See Lieberman, *supra* note 2; Dunne, *supra* note 2; Johnson & Del Real, *supra* note 24.

are because of climate change, as more heat and less water make vegetation more flammable.”<sup>82</sup> Forest management and the burning of natural fires was a custom long-practiced by Native American tribes in the West, and it wasn’t until a century ago that California banned Native Tribes from their traditional practice of controlled fires.<sup>83</sup> Four Twenty Seven, a leading publisher and data provider on climate and environmental risks, projected that in areas already exposed to wildfires, climate change will prolong wildfire seasons, new wildfires will emerge in historically wet and cool regions, and worsening wildfires will threaten already limited resources.<sup>84</sup>

In the West, the diversity in weather patterns makes climate change more challenging. Jeffrey Mount, senior fellow at the Public Policy Institute of California’s Water Policy Center, highlighted that “[j]ust because a place has an extreme rainfall risk doesn’t mean that it also doesn’t have an extreme drought risk, and a sea level rise risk, and a wildfire risk.”<sup>85</sup> Climate change in the West has a variety of climate crisis consequences, a variation of extreme weather events, and slow-onset events.<sup>86</sup> The impact of climate change and wildfires is visible, and more Americans are now beginning to see this impact. Neighbors, communities, and families face fire consequences, either through the unfortunate burning of their homes or through the indirect impact of smoke.

Unfortunately, California is not the only state facing wildfires. Some regions in Oregon, Nevada, and Arizona are more frequently confronting wildfires. In Arizona, for example, ten of the largest wildfires in the state’s history occurred in the last eight years.<sup>87</sup> California, on the other hand, has experienced nine of the state’s largest wildfires in the last seven years.<sup>88</sup> Dry conditions make high propensity areas even more prone to wildfires, and the rise in extreme heat adds an additional layer of challenge for West Coast residents. In August 2020, at 130 degrees in Death Valley, California recorded possibly the

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82. Hurteau, *supra* note 79.

83. Lauren Sommer, *To Manage Wildfire, California Looks to What Tribes Have Known All Along*, NPR (Aug. 24, 2020), <https://www.npr.org/2020/08/24/899422710/to-manage-wildfire-california-looks-to-what-tribes-have-known-all-along> [<https://perma.cc/A243-5VLQ>].

84. LINDSAY ROSS, COLIN GANNON & NIK C. STEINBERG, *FOUR TWENTY SEVEN, CLIMATE CHANGE AND WILDFIRES: PROJECTING FUTURE WILDFIRE POTENTIAL 1* (Natalie Ambrosio Preudhomme ed., 2020), [http://427mt.com/wp-content/uploads/2020/08/Projecting-Future-Wildfire-Potential\\_427\\_8.2020-1.pdf](http://427mt.com/wp-content/uploads/2020/08/Projecting-Future-Wildfire-Potential_427_8.2020-1.pdf) [<https://perma.cc/9JDQ-HRCD>].

85. Thompson & Serkez, *supra* note 77.

86. *See, e.g., id.* The interactive map also shows diversity in California and in the West when it comes to weather patterns. Some parts of the West, such as Washington, Oregon, and Northern California show extreme rainfall compared to portions of East Oregon and Central California, where fire danger is increasingly high.

87. Matthew Cappucci & Andrew Freedman, *Arizona Wildfires Grow as Flames Flicker Throughout Desert Southwest and California*, WASH. POST (June 22, 2020), <https://www.washingtonpost.com/weather/2020/06/22/arizona-wildfires-grow-flames-flicker-throughout-desert-southwest-california/> [<https://perma.cc/G2YB-AZ6P>].

88. *Id.*

hottest temperature ever measured on Earth.<sup>89</sup> As climate change continues to exacerbate wildfire conditions, it is estimated that at least twenty-eight million Americans in places like Texas, Florida, and Georgia, will face wildfires the size of those experienced in California.<sup>90</sup> On the West Coast, there is no end in sight as “[c]limate change is already making wildfires more severe and is expected to worsen wildfire potential, lengthening seasons in areas already prone to wildfires, and creating hotter and drier conditions that will expose entirely new areas to wildfires.”<sup>91</sup> A more concentrated academic focus is needed in order to showcase how the climate crisis and wildfires are affecting U.S. communities.

## 2. *The East Coast*

Climate change and the climate crisis on the East Coast manifest in starkly different ways compared to the West Coast. In states like New York, Massachusetts, and Pennsylvania, the climate crisis is a mix of hurricanes and extreme rainfall.<sup>92</sup> The stark difference between both coasts is a reminder that the climate crisis looks differently across the United States. The experiences of each community differ in resources needed, adaptation protocols, and emergency responses.

Unlike the increase in wildfires, climate change has not necessarily produced more hurricanes, but the hurricanes that have emerged in the last few years are far more severe.<sup>93</sup> The severity of these hurricanes means that flooding becomes a pressing issue. As a result, families lose their homes, are left to repair them entirely, or must look for temporary emergency shelter. In 2012, Hurricane Sandy impacted the East Coast and quickly became one of the largest Atlantic hurricanes on record. In 2013, the Centers for Disease Control and Prevention concluded that Hurricane Sandy resulted in at least 117 deaths.<sup>94</sup> Hurricane Sandy is an example of the impact associated with extreme hurricanes as “[t]he direct and indirect impacts of the storm led to challenging, and sometimes deadly, conditions for residents, including prolonged power outages, storm surges, and disrupted services.”<sup>95</sup> Overall, the impact of Hurricane Sandy “resulted in extensive damage to infrastructure and large flood zones.”<sup>96</sup> Hurricane Sandy caused over \$60 billion in damages, and it is estimated that

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89. Abrahm Lustgarten, *The Great Climate Migration: Climate Change Will Force a New American Migration*, PROPUBLICA (Sept. 15, 2020), <https://www.propublica.org/article/climate-change-will-force-a-new-american-migration> [https://perma.cc/933J-3HLV].

90. *Id.*

91. ROSS ET AL., *supra* note 84, at 2 (citing Christopher C. French, *America on Fire: Climate Change, Wildfires & Insuring Natural Catastrophes*, 54 U.C. DAVIS L. REV. 817 (2020)).

92. *See* Thompson & Serkez, *supra* note 77.

93. *Id.*

94. *Deaths Associated with Hurricane Sandy – October-November 2012*, CTRS. FOR DISEASE CONTROL (May 24, 2013), <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6220a1.htm> [https://perma.cc/CL3V-G8XN].

95. *Id.*

96. *Id.*

climate change alone was responsible for at least \$8 billion of these monetary losses.<sup>97</sup>

Climate change alone does not cause hurricanes, of course. Hurricanes are a part of natural disasters and are influenced by weather patterns, but climate change does influence and worsen these storms.<sup>98</sup> Chain reactions are unraveled because worsening storms cause flooding, which is in part driven by rising sea levels and exacerbated by fast-melting snowpack.<sup>99</sup> Extreme storms and hurricanes have an estimated cost of \$6.9 billion in damage per year.<sup>100</sup> A data reporting partnership between the New York Times and Four Twenty Seven estimated that about 104 million people in the United States have a high risk of hurricanes, 94 million have a high risk of extreme rainfall, and about 22 million have a high risk of sea-level rise.<sup>101</sup> From coast to coast, the climate crisis may look different, but the overlaying impact of climate change is clear: whether it is wildfires, hurricanes, or extreme rainfall, Americans are facing drastic impacts now.

### 3. *The South*

Much of the South has similar climate crisis events as those experienced by the East Coast. States like North Carolina, Florida, Louisiana, and parts of Texas and Georgia face a high risk of hurricanes.<sup>102</sup> A combination of extreme heat and water stress is also present in Southern states like Arkansas, Tennessee, Oklahoma, and the northern part of Alabama.<sup>103</sup> Humidity and storms in places like New Orleans will profoundly impact communities, and water stress and short supply will contribute to the droughts currently experienced in places like Florida, Georgia, and Alabama.<sup>104</sup>

In the South, Hurricanes Katrina, Irma, and Harvey have been the most prominent hurricanes since 2005 and each year, hurricane storms become stronger and more dangerous.

Hurricane Katrina is remembered for its natural disaster impact and for the lack of governmental response for victims in New Orleans.<sup>105</sup> In the aftermath of Hurricane Katrina, then New Orleans mayor, Ray Nagin, estimated that about

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97. Benjamin H. Strauss, Philip M. Orton, Klaus Bittermann, Maya K. Buchanan, Daniel M. Gilford, Robert E. Kopp, Scott Kulp, Chris Massey, Hans de Moel & Sergey Vinogradov, *Economic Damages from Hurricane Sandy Attributable to Sea Level Rise Caused by Anthropogenic Climate Change*, 12 NATURE COMM'NS 1, 1 (2021).

98. Fountain, *supra* note 22.

99. Thompson & Serkez, *supra* note 77.

100. *Id.*

101. *Id.*

102. *Id.*

103. *See id.*

104. Lustgarten, *supra* note 89.

105. *See* Elizabeth Fussell, *The Long-Term Recovery of New Orleans' Population After Hurricane Katrina*, 59 AM. BEHAV. SCI. 1231 (2015).

80 percent of the city was underwater.<sup>106</sup> In 2017, Florida faced Hurricane Irma. Although Hurricane Irma was predicted to cause greater damage than was recorded, “Florida faces problems much bigger than any one storm. The increased rain is falling into seas swollen by melted ice caps. Florida is also the country’s flattest state, barely above sea level. As a result, floods and severe ‘king tides’ have become more common.”<sup>107</sup> In 2020, as California faced unprecedented wildfires, Louisiana confronted Hurricane Laura, a category four hurricane with 150-mile-an-hour winds, which killed at least twenty-five people.<sup>108</sup>

The climate crisis is present; it is here, but “[f]or years, Americans have avoided confronting these changes in their own backyards.”<sup>109</sup> Adapting to the climate crisis and to climate change may take Americans a little longer, and unfortunately, the fact that not much academic focus is given to domestic climate events does not help in addressing this issue.

#### 4. *The Midwest*

The climate crisis and extreme weather events in the Midwest are represented by extreme heat and severe water stress.<sup>110</sup> By 2040 in Missouri and throughout the Midwest, people will experience harmful humidity, making outdoor labor dangerous as temperatures rise above eighty-two degrees.<sup>111</sup> A 2018 U.S. federal report on climate change focused on a broad analysis of climate change in different regions of the United States, and although the focus was not on immediate climate crisis events, the report mentions that Missouri faces extreme water shortages.<sup>112</sup> The slow-onset of climate change events discussed in the report will gradually contribute to climate crisis events.

Unlike the wildfires in the West or the Hurricanes on the East Coast and in the South, the Midwest does not necessarily have extreme climate crisis events that can be seen and measured as they occur. Instead, the progression of climate change and the climate crisis in the Midwest will become more noticeable as crops and agriculture production begin to fall. The Midwest is known for its wide

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106. *Hurricane Katrina: The Aftermath*, NPR (Aug. 30, 2005), <https://www.npr.org/2005/08/30/4824333/hurricane-katrina-the-aftermath> [<https://perma.cc/8JPH-8HFS>].

107. David Leonhardt, *Opinion, Irma, and the Rise of Extreme Rain*, N.Y. TIMES (Sept. 12, 2017), <https://www.nytimes.com/interactive/2017/09/12/opinion/columnists/leonhardt-temperatures-extreme-storms.html> [<https://perma.cc/85R6-N3BM>].

108. Lustgarten, *supra* note 89.

109. *Id.*

110. See Thompson & Serkez, *supra* note 77.

111. See Lustgarten, *supra* note 89.

112. See 2 U.S. GLOB. CHANGE RSCH. PROGRAM, *FOURTH NATIONAL CLIMATE ASSESSMENT: IMPACTS, RISKS, AND ADAPTATION IN THE UNITED STATES* 949–52 (David Reidmiller, Christopher W. Avery, David R. Easterling, Kenneth E. Kunkel, Kristin Lewis, Thomas K. Maycock, and Brooke C. Stewart eds., 2018), [https://nca2018.globalchange.gov/downloads/NCA4\\_2018\\_FullReport.pdf](https://nca2018.globalchange.gov/downloads/NCA4_2018_FullReport.pdf) [<https://perma.cc/XR46-JHZT>].

range of food and animal feed. Yet, “yields from major U.S. crops are expected to decline as a consequence of increases in temperatures and possibly changes in water availability, soil erosion, and disease and pest outbreaks” begin to be noticeable.<sup>113</sup> Moreover, the Midwest will see major decline in agricultural productivity as temperatures increase during the growing season.<sup>114</sup>

The Midwest will face a different set of climate crisis issues. For this region of the United States, climate change and the climate crisis will happen slowly and sporadically, but they will happen. The challenge with extreme weather events induced or influenced by climate change is that, apart from already established emergency protocols or evacuation systems, there is really no time to plan or prepare. On the other hand, slow-onset events like those experienced in the Midwest perhaps allow for more time to adapt and plan ahead. Even if there is more time to plan ahead, however, a domestic response to climate change is necessary now because mitigation planning takes time, is expensive to design, and often requires a high level of coordination among local, state, and federal agencies.

#### 5. *Alaska, Hawai’i, and U.S.-Affiliated Pacific Islands*

Given their location, island territories such as Alaska, Hawai’i, and U.S.-Affiliated Pacific Islands face the climate crisis in a variety of ways. Alaska is currently facing ocean acidification, which is likely to intensify with continued carbon dioxide emissions, and “[a]s temperature and precipitation increase across the Alaska landscape, physical and biological changes are also occurring throughout Alaska’s terrestrial ecosystems.”<sup>115</sup> Moreover, “[d]egradation of permafrost is expected to continue, with associated impacts to infrastructure, river and stream discharge, water quality, and fish and wildlife habitat.”<sup>116</sup> As the climate continues to warm, “[l]onger sea ice-free seasons, higher ground temperatures, and relative sea-level rise are expected to exacerbate flooding and accelerate erosion in many regions.”<sup>117</sup> In the future, Alaska is in danger of seeing a “nearly sea ice-free Arctic during the summer by mid-century”<sup>118</sup> and the impact of sea-level rise and flooding is likely to “lead[] to the loss of terrestrial habitat . . . and in some cases requ[ire] entire communities or portions of communities to relocate to safer terrain.”<sup>119</sup> Important to note, Alaska is home to many Indigenous peoples who may be disproportionately vulnerable to socioeconomic and environmental change, and “[t]he impacts of climate change will likely affect all aspects of Alaska Native societies, from nutrition,

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113. *Id.* at 29.

114. *Id.*

115. *Id.* at 1188.

116. *Id.*

117. *Id.*

118. *Id.* at 1187–88.

119. *Id.* at 1188.

infrastructure, economics, and health consequences to language, education, and the communities themselves.”<sup>120</sup>

Hawai’i and U.S.-Affiliated Pacific Islands are particularly vulnerable and face climate change and the climate crisis “due to their exposure and isolation, small size, low-elevation . . . and concentration of infrastructure and economy along the coasts.”<sup>121</sup> Hawai’i is in danger of extreme heat<sup>122</sup> and “[u]nder projected warming of approximately 0.5°F per decade, all nearshore coral reefs in the Hawai’i and Pacific Islands region will experience annual bleaching before 2050.”<sup>123</sup> The threat to water supply is also a major concern for Hawai’i and U.S.-Affiliated Pacific Island communities as “all natural sources of freshwater come from rainfall received within their limited land areas[,] [and] [s]evere droughts are common, making water shortage one of the most important climate-related risks.”<sup>124</sup> The impact of ocean acidification is also a top concern for Hawai’i and U.S.-Affiliated Pacific Islands because “[b]leaching and acidification will result in loss of reef structure, leading to lower fisheries yields and loss of coastal protection and habitat.”<sup>125</sup> Many people who live in Hawai’i and other U.S.-Affiliated Pacific Islands rely on fisheries to meet their livelihoods, and they run the risk of being economically impacted as “[d]eclines in oceanic fishery productivity of up to 15% and 50% of current levels are projected by mid-century and 2100, respectively.”<sup>126</sup> Additionally, Alaska, Hawai’i, and U.S.-Affiliated Pacific Islands are home to many Indigenous communities who “derive their sense of identity from the islands.”<sup>127</sup> Yet, “[e]merging issues for Indigenous communities of the Pacific include the resilience of marine-managed areas and climate-induced human migration from their traditional lands.”<sup>128</sup> Climate-induced migration is not limited to Alaska, Hawai’i, and U.S.-Affiliated Pacific Islands. As climate change invigorates, more Americans will be displaced from their communities, and soon they too will begin their own domestic migration.

### B. *Climate Displacement in the United States*

In addition to presenting the bird’s-eye view of climate change in the United States, it is imperative that the current domestic displacement is addressed and accounted for, as it presents a vivid reality for many Americans.

Before addressing climate displacement in the United States, it is important to begin with a common understanding of “displacement.” I use “displacement”

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120. *Id.*

121. *Id.* at 1244.

122. *See* Thompson & Serkez, *supra* note 77.

123. U.S. GLOB. CHANGE RSCH. PROGRAM, *supra* note 112, at 1245.

124. *Id.*

125. *Id.* at 1244.

126. *Id.*

127. *Id.* at 1245.

128. *Id.*

to refer to both the temporary and permanent relocation of people affected by the climate crisis. Specifically, I refer to the “in-border” movement of people—those moving from place to place within a state or country. The effects of displacement are addressed later but relate to the financial ability or inability of people to move, relocate, and start new lives. It also relates to a sense of loss that is hard to overcome when considering community connections and community dynamics. As was the case for those in Paradise, California, losing an entire community also means losing a sense of self, culture, and solidarity.<sup>129</sup>

The displacement of people due to the climate crisis is narrowly understood and covered, and a focus on the climate crisis and displacement remains limited. The climate crisis currently experienced in the United States is leading Americans to relocate. In the years ahead, more movement and displacement will continue to occur. Unfortunately, climate displacement across the United States will be influenced by those who have the means, resources, and opportunities to move. Climate displacement in this section will focus on a broad analysis across the United States, not on a region-by-region overview. Current climate displacement<sup>130</sup> will be discussed first, followed by projected displacement.

In the United States, internal migration and planned relocation due to climate disasters have already commenced. The Indigenous Quinault and the Biloxi-Chitimacha-Choctaw peoples were some of the first who were forced to migrate. In particular, “Alaska Native villages . . . have been among the first communities to experience the acute stresses of rising temperatures with some tribal communities’ appeals for relocation assistance dating back to more than fifteen years.”<sup>131</sup> In the aftermath of Hurricane Katrina, displacement became visible, and a population shift became inevitable. The displacement of New

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129. As mentioned in the context of Hawaiian residents, when people derive their sense of identity from their island or territorial space, the attachment to community is fractured when the community no longer exists. This in turn impacts people, the culture they once had, and the solidarity they shared with their fellow community members. In the context of climate change, when entire neighborhoods, islands, towns, or communities are gravely impacted by climate change and people are forced to migrate, they lose the physical connection they once had with a particular place. A sense of community is further lost in the displacement of people due to climate-induced events. See Tiffany Straza, Siosinamele Lui & Bronwen Burfitt, *Effects of Climate Change on Society, Culture and Gender Relevant to the Pacific Islands*, in PACIFIC MARINE CLIMATE CHANGE REPORT CARD: SCIENCE REVIEW 201, 203 (2018), [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/714525/13\\_Society\\_Culture\\_and\\_Gender.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714525/13_Society_Culture_and_Gender.pdf) [<https://perma.cc/T39Z-TNY3>] (highlighting the effects of cultural loss and damage related to climate change and the significant implications for society, culture, and gender and quoting Dr. Warner, UNU-EHS, who stated, “The things we value most, which are at risk to be lost and damaged due to climate change, we do not exchange on the market place, things such as sovereignty, a sense of community and a collective identity”); see also W. Neil Adger, Jon Barnett, Katrina Brown, Nadine Marshall & Karen O’Brien, *Cultural Dimensions of Climate Change Impacts and Adaptation*, 3 NATURE CLIMATE CHANGE 112, 112 (2013) (“[C]limate change threatens cultural dimensions of lives and livelihoods that include the material and lived aspects of culture, identity, community cohesion and sense of place.”).

130. Current climate displacement includes both slow-onset and extreme weather events.

131. Burkett, Bavishi & Shew, *supra* note 73, at 230.

Orleans residents, particularly Black Americans, resulted in a population shift across the South. “Houston, Texas, received an estimated 250,000 refugees, more than anywhere else in the country. Approximately 150,000 of these climigrants remained in Houston 1 year later; the rest eventually resettled to other locations in Texas as well as to other states.”<sup>132</sup> In total, it is estimated that as many as 140,000 residents never returned to New Orleans.<sup>133</sup>

Apart from Hurricane Katrina, there is little data in the United States showing how many people have relocated or migrated due solely to the climate crisis. Current displacement due to wildfires is not yet measured in data. Nonetheless, based on the wildfire that engulfed and eventually eradicated Paradise, it is clear that entire cities and towns can disappear, and residents have no choice but to relocate.<sup>134</sup> The concrete numbers of people who are in current displacement or relocation is not as comprehensive as that of international global migrants.

The United States, however, does have estimated projections of displacement due to climate-induced events. By the year 2050 and beyond, climate displacement in the United States will be drastically visible.<sup>135</sup> The United States is “a nation on the cusp of a great transformation. Across the United States, some 162 million people—nearly 1 in 2—will most likely experience a decline in the quality of their environment, namely more heat and less water.”<sup>136</sup> This transformation means that by 2070, for ninety-three million Americans, changes could be drastically severe, and they will be forced to relocate and live in places entirely different from what they once called home.<sup>137</sup>

Climate change will certainly reshape the United States: cities that are impacted the most by climate change will see a decline in population, and cities that will take in climate displaced people will see an influx of new residents. Due to climate influences alone, it is projected that one in twelve people currently located in the Southern half of the United States will begin to move toward California, the Mountain West, or the Northwest by 2065.<sup>138</sup> In the South, as a result of sea-level displacement alone, Atlanta, Orlando, Houston, and Austin could each receive more than a quarter million new residents by 2100.<sup>139</sup> About thirteen million Americans living in coastal communities will be forced to move away, either due to flooding, sea-level rise, or lack of emergency response

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132. LAWRENCE A. PALINKAS, GLOBAL CLIMATE CHANGE, POPULATION DISPLACEMENT, AND PUBLIC HEALTH 19 (2020).

133. *Id.* Other Southern states that also received New Orleans residents include Georgia, Alabama, Mississippi, and Florida. Non-Southern states include California and New York.

134. *See* Johnson & Del Real, *supra* note 24.

135. Lustgarten, *supra* note 89.

136. *Id.*

137. *Id.*

138. *See* Qin Fan, Karen Fisher-Vanden & H. Allen Klaiber, *Climate Change, Migration, and Regional Economic Impacts in the United States*, 5 J. ASS’N ENV’T & RES. ECONOMISTS 643, 667 (2018).

139. Lustgarten, *supra* note 89.

resources when affected by an extreme climate-induced event.<sup>140</sup> Those with the means to relocate will do so, but many people will either remain in their communities or seek temporary refuge with the goal of returning. Unfortunately, many of those people will disproportionately be communities of color, poor, and elderly Americans.<sup>141</sup>

The next question is where do people go when they become affected and lose everything they have? Climate displacement conversations are not as expansive in the United States as they are for global citizens. Perhaps a piecemeal approach to examining internal migration and displacement has been done,<sup>142</sup> but there is no comprehensive analysis presenting a solution or a suggestion that encompasses both what displacement looks like in the United States and how to address it.

### III.

#### U.S. DISASTER RELIEF AND RELOCATION POLICIES

Undoubtedly, climate change threatens every region in the United States. The climate crisis has already caused tremendous damage and destruction. Yet current U.S. disaster relief and relocation policies for people facing climate displacement are inadequate. The existing support system is focused on disaster relief and occurs as “a largely reactive system that historically has only responded after a major weather event has already occurred.”<sup>143</sup> The problem with a reactive approach to displacement is that it lacks pre-planning guidelines and limits mitigation efforts that can take place before a disaster occurs. Additionally, disaster relief efforts in the United States are focused on one-time approaches to disaster events and do not account for the on-going consequences of climate change. This limited framework to the climate crisis leaves displaced people with a piecemeal, one-time support system that is inadequate to address the needs of people facing temporary and permanent climate displacement.

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140. *Id.*

141. *Id.*; see also U.S. ENV'T PROT. AGENCY, CLIMATE CHANGE AND SOCIAL VULNERABILITY IN THE UNITED STATES: A FOCUS ON SIX IMPACTS 76–80 (2021), [https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability\\_september-2021\\_508.pdf](https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability_september-2021_508.pdf) [<https://perma.cc/EGE3-L6BV>] (highlighting key findings that people of color face disproportionate harm due to climate change in part because communities of color are less able to be prepared for and recover from excessive heat, flooding, and air pollution, which are all influenced by climate change); Kelly Anne Smith, *How Communities of Color Are Hurt Most by Climate Change*, FORBES (June 7, 2021), <https://www.forbes.com/advisor/personal-finance/communities-of-color-and-climate-change/> [<https://perma.cc/GE4M-4DDG>] (describing the link between racial wealth inequality and climate change as well as the impact people of color and low-income communities face due to climate change).

142. See Fussell, *supra* note 105 (addressing displacement in New Orleans after Hurricane Katrina); see also Matthew E. Hauer, *Migration Induced by Sea-Level Rise Could Reshape the US Population Landscape*, 7 NATURE CLIMATE CHANGE 321, 321–25 (2017).

143. Kelly Carson, *The Water Is Coming: How Policies for Internally Displaced Persons Can Shape the U.S. Response to Sea Level Rise and the Redistribution of the American Population*, 72 HASTINGS L.J. 1279, 1285 (2021).

### A. Current U.S. Disaster Relief and Response Programs

The current U.S. federal disaster response system is composed primarily of the Federal Emergency Management Agency (FEMA), the Department of Housing and Urban Development (HUD), and the Small Business Administration (SBA). As described below, each of these disaster response programs maintains a limited climate crisis and climate displacement approach.

#### 1. FEMA's Buyout Program

In the United States, disaster relief and emergency assistance is governed by the Stafford Act, and under this Act, FEMA is tasked with the coordination and assistance of emergency disaster relief.<sup>144</sup> FEMA's assistance is focused on supporting local, disaster-centered communities that have been affected by natural disasters; this support comes in the form of "rebuilding infrastructure, providing emergency housing, and offering financial assistance."<sup>145</sup> Although there is an array of climate-induced events, FEMA's focus on providing support to victims of flooding is most notable as the agency "administers a managed retreat program through which local officials may request funding to 'buy out' homes or neighborhoods prone to hazardous or repetitive flooding."<sup>146</sup> In addition to the buyout program, FEMA, in collaboration with HUD, initiated a more proactive approach via "funding for managed retreat designed to move communities from flood zones before the next major weather event occurs."<sup>147</sup>

On its face, the buyout program presents itself as a step forward in administering support in the aftermath of climate-related events and in supporting communities affected by flooding, but the bureaucratic timeline and long-winded process to participate successfully in the program is a disincentive to many. For example, "[o]n average, it takes over 5.5 years from the time of the disaster for a FEMA buyout to close."<sup>148</sup> Apart from this long process, the buyout program has also received criticism for being administered inequitably:

Studies suggest that localities with higher average income and education levels are more likely to administer buyouts, likely due to both funding issues and local government capacity to initiate and administer the buyout. Some warn that poor, rural communities without strong governmental infrastructure are particularly vulnerable to the risks associated with remaining in high flood areas.<sup>149</sup>

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144. See Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5208.

145. Carson, *supra* note 143, at 1285–86.

146. *Id.* at 1286; see also Press Release, Fed. Emergency Mgmt. Agency, For Communities Plagued by Repeated Flooding, Property Acquisition May Be the Answer (May 28, 2014), <https://content.govdelivery.com/accounts/USDHSFEMA/bulletins/baa9e0> [https://perma.cc/JL68-YCX2].

147. Carson, *supra* note 143, at 1286.

148. *Id.* at 1287.

149. *Id.*

FEMA's disaster relief and emergency efforts are limited and contain flaws that are hard to overcome. Although acting before a weather event occurs is a proactive response, FEMA is not the solution to addressing the climate displacement and climate crisis currently experienced by many Americans.

### 2. HUD's Mortgage Insurance and Community Grant Program

The support provided by HUD is comprised of a mortgage insurance program and a community grant program. Via the mortgage insurance program, HUD offers mortgage insurance to "protect lenders against the risk of default on mortgages to qualified disaster victims."<sup>150</sup> For homes located in designated disaster areas, "[i]nsured mortgages may be used to finance the purchase or reconstruction of a one-family home that will be the principal residence of the homeowner."<sup>151</sup> Although these programs exist and provide some kind of support for disaster victims, these programs are focused on the financial assistance of people who have mortgages. The problem with this is that in many instances, communities affected by climate change and climate-induced disasters are renters, not homeowners. Assistance to renters and non-homeowners is not provided, leaving thousands with no help and support.

On the other hand, HUD's Community Development Block Grant (CDBG) is more focused on victims with limited financial resources.<sup>152</sup> The CDBG "provides flexibility to local and state government for a range of recovery efforts, especially for low-income areas."<sup>153</sup> The main issue with the CDBG is that since the program was not created as a permanent disaster relief mechanism, receiving funding can be a slow process, which means localities and victims will not receive support when they need it most, right after the disaster has taken place.<sup>154</sup>

### 3. Small Business Administration Program

The support received via SBA<sup>155</sup> is focused on businesses and private individuals and comes in the form of loans. The support is not direct financial support at no cost to victims. Instead, "SBA offers low-interest, long-term loans to affected individuals who cannot qualify for credit elsewhere. Loans up to \$200,000 are available for repair or replacement of primary homes, and loans up

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150. *Mortgage Insurance for Disaster Victims Section 203(H)* U.S. DEP'T OF HOUS. & URB. DEV., [https://www.hud.gov/program\\_offices/housing/sfh/ins/203h-dft](https://www.hud.gov/program_offices/housing/sfh/ins/203h-dft) [<https://perma.cc/2TPU-NT7B>].

151. *Id.*

152. *Community Development Block Grant Disaster Recovery Program* HUD EXCH., <https://web.archive.org/web/20210416162013/https://www.hudexchange.info/programs/cdbg-dr/>.

153. Carson, *supra* note 143, at 1289.

154. *Id.*

155. U.S. Small Bus. Admin., *Home and Property Disaster Loans: Program Description*, DISASTER ASSISTANCE (Oct. 27, 2021), <https://www.disasterassistance.gov/get-assistance/forms-of-assistance/4477> [<https://perma.cc/Q4GW-ERX3>]; see also U.S. Small Bus. Admin., *Business Disaster Loans: Program Description*, DISASTER ASSISTANCE (Oct. 27, 2021), <https://www.disasterassistance.gov/get-assistance/forms-of-assistance/4479> [<https://perma.cc/TR5L-CPXS>].

to \$40,000 are available to replace personal property after a disaster.”<sup>156</sup> Financial support is given to businesses and non-profits for disaster-related losses that may not be covered by insurance or other means; this financial support comes via loans of up to \$2 million.<sup>157</sup>

Perhaps receiving some kind of assistance, even if loans, is better than nothing, but these loans and programs are band-aids to a bleeding wound. If communities receive this kind of assistance on a one-time basis, these programs are neglecting the long-term support that will be needed for victims who may lose it all in climate-related events. A permanent, concrete support system, financial or otherwise, is necessary, whether that means reconstructing these programs, making a new program, or bringing together the current existing disaster relief programs. Not addressing the long-term effects of climate change via disaster relief programs only exacerbates the problem and continues with the idea that climate change is not here, not in the United States, and not in our communities.

*B. Relocation Policies: Isle de Jean Charles Resettlement Project and Newtok, Alaska*

Community relocation efforts are not common in the United States and, for the most part, are available only to communities impacted by sea-level rise. The loss of land and community is one of the most drastic experiences for displaced victims and this loss, in particular, is most present for Native American and Alaskan communities.<sup>158</sup> Although many Native and Alaskan communities are facing displacement, only Isle de Jean Charles in Louisiana and Newtok in Alaska have received relocation support from the federal government.<sup>159</sup>

Located in Louisiana, members of the Biloxi-Chitimacha-Choctaw tribe have lost over 98 percent of their land due to sea-level rise.<sup>160</sup> This loss is complex and unavoidable, and the Biloxi-Chitimacha-Choctaw are now faced with the reality of having to relocate to a habitable and safe place to live. Via the Isle de Jean Charles Resettlement Project, HUD granted this community \$48.3 million and has supported this community’s relocation inland.<sup>161</sup> The National Disaster Resilience Competition granted this program on a one-time basis in 2014 and has not extended it to other communities.<sup>162</sup> The goal of this relocation

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156. Carson, *supra* note 143, at 1289–90.

157. *Id.* at 1290.

158. *Id.*

159. See Michael Isaac Stein, *How to Save a Town from Rising Waters*, WIRED (Jan. 25, 2018), <https://www.wired.com/story/how-to-save-a-town-from-rising-waters/> [https://perma.cc/4ESJ-HQDU].

160. See Jenny Jarvie, *On a Sinking Louisiana Island, Many Aren’t Ready to Leave*, L.A. TIMES (Apr. 23, 2019), <https://www.latimes.com/nation/la-na-jean-charles-sinking-louisiana-island-20190423-htmlstory.html> [https://perma.cc/SJV5-BE8N].

161. Stein, *supra* note 159.

162. *Id.*

effort is to “construct[] a brand-new town and fill[] it with the displaced occupants and culture of Isle de Jean Charles.”<sup>163</sup> This community is running out of time, yet due to logistical challenges, fulfilling the program’s goal has proven to be a challenge. In particular, “[f]inding a new location that will provide enough of an economy to support the residents is a major challenge, especially because peace and quiet, and retaining a sense of community, are paramount to the island’s residents.”<sup>164</sup> Building a sense of community similar to the one where communities once existed “has proven difficult, raising the question of ‘whether government-backed community resettlements will be feasible for the hundreds of communities that are approaching similar dissolutions.’”<sup>165</sup> Programs like the Isle de Jean Charles Resettlement Project are difficult to implement and coordinate, and the fact that they happen on a one-time basis makes relocation efforts even more difficult to achieve.

Another relocation effort is taking place in Newtok, Alaska, and residents there had relocation plans before receiving federal assistance. Plans in this community were already underway because residents were “rapidly losing land to a combination of erosion and thawing permafrost.”<sup>166</sup> The relocation effort in this case came from a land swap between Newtok and the U.S. Fish and Wildlife Service (USFWS).<sup>167</sup> The trading of land happened in 2003 when Newtok traded with USFWS “for a site further inland from the existing village, and [established] plans to use retrofitted military barracks to reduce construction costs.”<sup>168</sup> The program between the village and USFWS will allow for the building of twenty-eight houses at the new location. Similar to the other programs discussed above, this program is a one-time program with no renewal. Additionally, it is expected that the total cost of relocation, which is estimated to be \$100 million, will exceed the \$15 million program.<sup>169</sup>

The Isle de Jean Charles Resettlement Project and the relocation effort in Newtok, Alaska are hopeful projects, but unfortunately, they are inadequate and rare. These projects can serve as models for permanent frameworks, but the challenges they both face need to be sorted out. Most importantly, their one-time funding approach needs to be modified to that of a permanent framework. The current U.S. disaster relief efforts and relocation approaches are not as efficient as they need to be to address the ongoing challenges of communities facing the climate crisis. These approaches focus on narrow solutions and again, act as band-aids to a bleeding wound. Ignoring a long-term approach to climate

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163. *Id.*

164. Carson, *supra* note 143, at 1292.

165. *Id.*

166. Rachel Waldholz, *Newtok to Congress: Thank You for Saving Our Village*, ALASKA PUB. MEDIA (Mar. 27, 2018), <https://www.alaskapublic.org/2018/03/27/newtok-to-congress-thank-you-for-saving-our-village/> [<https://perma.cc/97FD-XPQJ>].

167. *Id.*

168. Carson, *supra* note 143, at 1292.

169. *Id.*

displacement sidesteps the larger issue and does not allow governmental entities to coordinate and plan for sustainable futures where communities not only receive financial support but also receive a permanent solution to relocation. The shortcomings of these programs can be resolved if a just and international approach is considered.

#### IV.

##### A SOLUTION IN THE PRINCIPLES OF ENVIRONMENTAL JUSTICE AND THE UN'S FRAMEWORK OF INTERNALLY DISPLACED PEOPLE (IDP)

As the climate crisis worsens, displacement will be inevitable. It is anticipated, in part due to climate change, that the projected displacement of people around the world will reach up to two hundred million by 2050.<sup>170</sup> Never has it been more crucial to develop effective solutions to address this crisis. In this Part, I propose that decisionmakers draw from the Principles of Environmental Justice and implement the United Nation's framework of Internally Displaced People.

##### A. *The Principles of Environmental Justice*

At the international level, climate-induced displacement and climate disaster is examined via a barriers and opportunities contrast.<sup>171</sup> One of the first barriers to addressing climate-induced migration is how to define people impacted by climate change displacement.<sup>172</sup> Additional barriers include the number of people that will be displaced<sup>173</sup> and the legal and policy frameworks to address which countries will take climate-displaced people.<sup>174</sup> Three approaches to protect climate displaced persons are the national security approach, the humanitarian approach, and the migration management approach.<sup>175</sup> Regardless of which approach is used, what is fundamentally needed is “[a]n approach to climate displacement grounded in climate justice [that] recognize[s] the differential responsibility of states for climate change and require[s] not only aggressive mitigation measures but also financial and

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170. Gonzalez, *supra* note 37, at 367.

171. Lyster & Burkett, *supra* note 23, at 97–102.

172. *Id.* Language and vocabulary such as “climate refugees,” “climate migrants,” and “climate displaced persons” is used interchangeably by the media, scholars, and political leaders. The lack of consistency and the lack of agreement in finding a common definition prevents international law from adopting a definition that can be used across the board and that can help ensure people receive legal recognition that can bring with it legal protection.

173. *Id.* at 102. Lyster and Burkett discussed in detail the difficult question of scope, referring to the number of people that will be displaced. The authors argued that “[i]t is very difficult to estimate the number of [climate displaced persons] who are currently on the move and how many will move because of climate change in the coming decades.” *Id.*

174. Gonzalez, *supra* note 37, at 380 (discussing the countries that have taken some climate displaced people).

175. *Id.* at 379, 382, 384 (explaining in detail the shortcomings of each approach).

technical contributions to mitigation, adaptation, and disaster risk reduction in vulnerable countries.”<sup>176</sup>

In addressing the impact of climate change in the United States, we must consider the intersection between climate (in)justice and climate displacement. It is necessary to do so to comprehensively address the climate crisis at the nexus of equity and justice.

The current and projected climate displacement in the United States did not happen suddenly. In fact, “climate displacement is an extreme manifestation of climate injustice.”<sup>177</sup> Climate displacement is also a consequence of many factors; among them, environmental (in)justice.<sup>178</sup> Environmental (in)justice is the ongoing environmental harm perpetrated toward communities of color, economically under-resourced communities, and often, politically disadvantaged communities with limited means to prevent or mitigate the environmental impact they are exposed to. Environmental (in)justice influenced and inspired the concept of climate justice,<sup>179</sup> and this concept is a movement “grounded in human rights, including the rights to life, health, and cultural integrity; the right to a safe and healthy environment; the right to be free from race and sex discrimination; and the right to information, participation, and access to justice.”<sup>180</sup>

The intersection between climate displacement and climate justice is centered on the Principles of Environmental Justice.<sup>181</sup> As solutions to climate displacement develop, this Note presents the Principles of Environmental Justice as a guiding framework that can shape the solution to climate displacement domestically. The Principles of Environmental Justice had their thirtieth anniversary in 2021, and the principles continue to call for an *integrated* approach to addressing environmental (in)justice. An integrated approach considers the environmental, political, economic, and social factors that

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176. *Id.* at 395.

177. *Id.* at 370.

178. *Id.* at 370–71. Environmental justice is the most widely known term and for the purposes of this Note, (in) is added to contrast the dichotomy between seeking justice, but first having to address the constantly perpetrated injustice. Gonzalez described the environmental justice movement as having emerged in the 1980s in the United States to combat the siting of polluting industries in low-income communities and communities of color. Gonzalez focused on distributive justice, procedural unfairness, corrective justice, and social injustice to highlight the broad scope of the environmental justice movement.

179. *Id.* at 371 (“At the international level, the climate justice movement developed as a coalition of environmental justice, religious, policy, and advocacy groups, which mobilized during successive Conferences of the Parties (COPs) to the UNFCCC.”).

180. *Id.* at 373.

181. First Nat’l People of Color Env’t Leadership Summit, *Principles of Environmental Justice*, ENV’T JUST. NETWORK (Oct. 27, 1991), <https://www.ejnet.org/ej/principles.html> [<https://perma.cc/3ELU-S8F2>]. The Principles of Environmental Justice were adopted during the First National People of Color Environmental Leadership Summit held on October 24–27, 1991, in Washington DC. *Id.*

influence the way those impacted by environmental harm are perceived, treated, and ignored.

At the center of this integrated approach is the “development of environmentally safe livelihoods,”<sup>182</sup> and although this is the main focus, the inclusion and intersection of other factors are pivotal because environmental justice acknowledges that the compartmentalization of environmental, sociopolitical, and economic processes and policies has led to disproportionate environmental harm.<sup>183</sup> Similarly, when addressing climate justice and climate displacement, the compartmentalization of these factors “is a deeply rooted cause of the current crisis.”<sup>184</sup> The communities impacted by environmental justice and climate displacement are often synonymous and their challenges are exacerbated by the pre-existing injustices they have encountered. Pre-existing injustices of poverty, segregation, substandard housing, and rural discrimination have contributed and will continue to magnify the impacts of climate crisis.<sup>185</sup>

In addressing pre-existing injustices and in presenting an equitable climate displacement solution, isolating environmental (in)justice and climate justice from other factors and other policy and economic areas will be a disservice to the Principles of Environmental Justice. Most fundamentally, excluding or ignoring the intersection of other factors and other pre-existing injustices will also leave a fragmented and piecemeal approach as the solution to climate displacement. A path forward is centered on equity and climate justice, seeking to repair or mitigate much of the climate crisis and environmental (in)justice experienced by communities of color and other similarly situated communities. Therefore, a solution focused on equity and guided by the Principles of Environmental Justice is of critical importance and an international law approach can be instrumental in helping to achieve this goal.

*B. The UN’s IDP Approach and Exploring the Influence of International Law*

In the United States, there is currently no permanent domestic displacement approach or program for communities impacted by the climate crisis, let alone one that could draw from the Principles of Environmental Justice. In most scenarios, people impacted by natural disasters, exacerbated by climate change, either receive one-time funding or temporarily leave their homes and return once “safe.” As the United States addresses climate displacement in the years to come, the UN’s IDP framework can be used and modified as a new or better system is established.

First, as defined by the IDP Guiding Principles, IDPs are:

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182. *Id.*

183. Maxine Burkett, *Behind the Veil: Climate Migration, Regime Shift, and a New Theory of Justice*, 53 HARV. C.R.-C.L. L. REV. 445, 488 (2018).

184. *Id.*

185. See Gonzalez, *supra* note 37, at 371.

[P]ersons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or *natural or human-made disasters*, and who have not crossed an internationally recognized State border.<sup>186</sup>

The definition adopted by the UN includes natural or human-made disasters and the displacement of people due to such disasters includes a “diversity and fluidity of displacement scenarios [that] is unique and notable.”<sup>187</sup> The United Nations Secretary-General’s Representative on the Human Rights of Internally Displaced Persons, Walter Kälin, identified five scenarios that internally influence displacement within a country’s borders.<sup>188</sup> Kälin explained that internal displacement is due to (1) sudden-onset disasters such as flooding, (2) slow-onset environmental degradation caused by rising sea level or droughts, (3) coastal inundation as experienced by small island states, (4) high-risk zones deemed too dangerous for human habitation because of environmental dangers, and (5) unrest seriously disturbing public order triggered by a climate-related decrease in essential resources due to climate change.<sup>189</sup>

Although the five mentioned scenarios are established by international law, they can serve to categorize climate displacement in the United States. Often, IDPs located within their country’s borders are waiting on emergency response, governmental support, or temporary or permanent housing. The climate displacement of people in the United States will be influenced by a mix of the five scenarios described by Kälin. The absence of a long-term response system or program for IDPs in the United States triggers a consideration of international law, and thus in this Note, I present the UN’s framework of IDP as a possible solution.

The influence of international law on domestic policies is often dismissed because countries, autonomous in their own political structures, introduce and implement domestic law throughout their own legislative or judicial systems. In the United States, interpreting and understanding international legal commitments leads to a “relationship between international law and the U.S. legal system [that] implicates complex legal dynamics.”<sup>190</sup> As complex as some

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186. Off. for the Coord. of Humanitarian Affs., *Guiding Principles on Internal Displacement*, at 1, U.N. Doc. OCHA/IDP/2004/01 (2004) (emphasis added), <https://www.unhcr.org/en-us/43ce1cff2> [<https://perma.cc/D3KV-AZKS>]. States as referred to in this definition refers to nation states, not international countries.

187. Lyster & Burkett, *supra* note 23, at 101.

188. Walter Kälin, *Conceptualizing Climate-Induced Displacement*, in *CLIMATE CHANGE AND DISPLACEMENT: MULTIDISCIPLINARY PERSPECTIVES* 81, 85–86 (Jane McAdam ed., 2010).

189. *Id.*; see also Lyster & Burkett, *supra* note 23, at 101.

190. STEPHEN P. MULLIGAN, CONG. RSCH. SERV., RL32528, *INTERNATIONAL LAW AND AGREEMENTS: THEIR EFFECT UPON U.S. LAW* 32 (2018), <https://fas.org/spp/crs/misc/RL32528.pdf> [<https://perma.cc/HZT4-SCRIP>]. Mulligan explained that the complex legal dynamics involved between international and domestic U.S. law derive from the different stakeholders involved. For example,

of these dynamics may be and as limited as the United States may be in implementing international law, nothing stops the *influence* that international law frameworks can have in the United States, as it relates particularly to climate change and climate crisis.

An IDP framework centers people at the core of climate crisis and outlines in thirty principles the needs of internally displaced people.<sup>191</sup> Most importantly, the framework “identif[ies] rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during [their] return or resettlement and reintegration.”<sup>192</sup> The thirty principles include, for example, the right to receive humanitarian assistance, the right not to be prosecuted or punished for seeking support, the right to be protected against being arbitrarily displaced, and the right to liberty and security. This Note does not go into detail about each of the principles; rather, it presents an overview as to how the principles can be applied when establishing an internally displaced framework in the United States. A solution to climate displacement in the United States is influenced both by the Principles of Environmental Justice and by the UN’s IDP framework.

*C. The U.S. Agency for International Development Assistance to Internally Displaced Persons Policy*

The U.S. Agency for International Development (USAID) has discussed and used the IDP framework in the United States. USAID created the USAID Assistance to Internally Displaced Persons Policy (the U.S. Policy) in 2004 and drew from the IDP Guiding Principles discussed above.<sup>193</sup> However, even though the United States is familiar with an IDP framework and developed the U.S. Policy with this framework in mind, the focus remained exclusively on IDPs abroad and did not account for displaced persons within the U.S. border. Not considering domestically displaced persons “perhaps suggest[s] that the . . . authors did not think IDP’s a significant policy problem for the U.S.”<sup>194</sup> The disregard for a domestic focus is not uncommon, as most of the time the United States tends to focus on international support for other countries but lacks the acknowledgement that some international problems are similar to domestic problems. This is as true of poverty as it is of climate change.

Not focusing on domestically displaced persons points to the ongoing belief in American exceptionalism discussed earlier. United States domestic

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Mulligan mentioned that the legislative branch has certain powers to shape and define the United States’ international obligations while the Executive branch also has direct influence on international law due to foreign policy and foreign affairs. *Id.*

191. Off. for the Coord. of Humanitarian Affs., *supra* note 186.

192. *Id.* at 1.

193. See U.S. AGENCY FOR INT’L DEV., USAID ASSISTANCE TO INTERNALLY DISPLACED PERSONS POLICY (2004), <https://www.geneseo.edu/~iompress/USAIDidpPolicy.pdf> [<https://perma.cc/Z97F-9EDU>].

194. Carson, *supra* note 143, at 1298.

communities are as impacted as international communities when discussing the climate crisis and climate displacement, but on an ongoing basis, the United States seems to lack the vision to see this. When it finally realizes that these challenges are similar, it might be too late to rectify and mitigate the damage. Climate displacement in the United States will require a coordination of federal, state, and local governments and agencies. Although this Note does not explore what this coordination would entail or under what mechanism it would be established, this Note does recognize that an approach to climate adaptation and climate displacement must be centered on the recognition that equity, climate justice, and environmental (in)justice will play a pivotal role in addressing the movement of people from city to city, county to county, or state to state. The IDP framework is not perfect but does provide a starting point from where an approach to climate displacement can be modeled. The changing infrastructure of cities that will host climate-displaced people will also be a key issue in the near future, and as more people become displaced, a regional approach across the United States might be more efficient and prudent. For now, an IDP framework can help guide how regional approaches are planned and implemented.

Accounting for the different needs and necessities of communities moving across the United States will be essential in planning an approach that upholds the human rights established by the UN's IDP framework. A solution forward, no matter at what level of coordination, must center people and must account for a network of support in transition, settlement, or resettlement. Moreover, the intersection of different bodies of laws will need to merge and develop new legal remedies or legal rights. Particularly, for “the internally displaced, property law, [I]ndigenous rights, and environmental laws might also apply[,] [and] [t]he number and diversity of relevant laws presents a coordination problem [and] also reveals a crippling compartmentalization of related legal regimes at a time when convergence is peculiarly necessary.”<sup>195</sup> The merging of disaster and climate change law will need to be addressed in a way that accounts for anti-compartmentalization and focuses on the overlap of existing housing inadequacy, property insurance, and disaster coverage. Addressing the different components in each of these areas of law will be crucial to ensure that the pre-existing injustices mentioned earlier will be addressed and included in a domestic solution to internally displaced persons.

#### *D. Challenges and Opportunities in an IDP Approach*

A critique of applying international law in a domestic setting is that, for the most part, international law is not binding; it does not require that domestic governments follow international law established by entities like the UN. Similarly, a challenge to an IDP approach is that the principles established within

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195. Burkett, *supra* note 183, at 462.

this framework “are non-binding norms” that “extend protections” for people moving within their country,<sup>196</sup> but that are limited beyond extending such protections.

The principles in the IDP framework are also considered non-binding norms. They are considered soft-law instruments and “although the Guiding Principles on Internal Displacement do not exclude climate change as a driver of internal displacement, they also do not provide specific provisions to guide domestic decision-making.”<sup>197</sup> This limitation is a challenge, and because these frameworks cannot bind state parties, they are often not considered. However, although “[t]hese laws and statements of norms may not yield actionable or favorable results, . . . they are established and relevant.”<sup>198</sup> The fact that these soft-law instruments do not bind or guide domestic decision-making should not exclude them in totality. The benefits and opportunities they provide are to be considered on a spectrum and on balance, and the benefits they provide can outweigh the challenges they encounter.

This Note presents an international solution to domestic climate displacement and challenges the notion that international law is not influential in a domestic setting. As an example, the Paris Climate Agreement is arguably also a soft-law framework. It does not legally bind international countries and does not legally regulate the progress of countries in addressing climate change. Countries are allowed to withdraw from the agreement at no legal penalty. This too is a soft-law framework established by an international entity like the UN. However, although a soft-law agreement, it is considered an international agreement that presents substantial opportunity to engage other countries in making a commitment to reducing their domestic impact on climate change. The opportunities and benefits of the agreement outweigh the challenges it presents; that it is considered soft law is not a reason to ignore it.

In a similar fashion, the fact that an IDP framework is considered soft law is not an impediment to adopting it in a domestic setting. The opportunity to ensure that internally displaced people receive the safety, protection, and dignity they deserve is an opportunity to address the way climate displacement will affect people. The benefits of an IDP framework have the potential to carry the Principles of Environmental Justice and the potential to address the long-lasting pre-existing injustices continuously faced by disadvantaged communities. In facing and addressing an issue as daunting as climate change, many solutions must be presented, and in doing so, an international framework makes sense for a global problem like climate change.

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196. *Id.* at 471.

197. *Id.* at 466.

198. *Id.* at 471.

## CONCLUSION

Addressing the U.S.-based climate crisis and climate displacement is the next step in the battle against climate change. The “otherization” of the climate crisis and climate displacement prevents a domestic focus and limits the reality that the climate crisis is currently being experienced by many communities across the United States. Climate change in the United States is experienced differently across the country. Some communities are experiencing devastating wildfires; others are facing drastic storms and hurricanes. Many communities are experiencing or will experience extreme heat or sea-level rise. These events are all connected to climate change.

The opportunity to adopt an IDP framework is innovative and more so when guided by climate justice and environmental justice. Ensuring the protection of communities across the United States is fundamental, and if a transition on climate crisis policy is focused on a domestic setting, the opportunity to mitigate and adapt to climate displacement will pay off in the future. This Note is an intervention in discourse. It challenges academia to focus on U.S.-based climate displacement and asks scholars not to abandon the focus on international communities, but to balance their focus and also to give communities in the United States the attention needed to fill a gap and to challenge the idea that climate crisis and climate displacement is happening only in a remote location.

The purpose of this Note is to present the idea that a focus on the U.S.-based climate crisis is crucial, as it demonstrates that climate change, the climate crisis, and climate displacement are happening now. Once we address the climate crisis and climate displacement challenges encountered by many Americans, the void discussed earlier will begin to fill and a concerted effort on domestic solutions will have achieved the “otherization” transition from “us” versus “them.”