



# UNHCR

United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

UNHCR

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The Office of the United Nations High Commissioner for Refugees (UNHCR) welcomes the consolidation of the principles on the protection of the environment during and after armed conflict and during occupation, particularly the recognition and safekeeping of indigenous communities and their environment; and the need to prevent and mitigate environmental degradation in areas where persons displaced by armed conflict are located, while providing relief and assistance for such persons and local communities, including by international organizations.

In UNHCR's view, these principles shed light on the necessary framework required to prevent and reduce the negative impacts on the environment caused by armed conflict, highlighting the vulnerability of peoples, their ancestral territories and the risk of human displacement. These principles bring much-needed clarifications to the application of precautionary measures that should be upheld by all actors involved in circumstances of armed conflict, including international organizations such as UNHCR, that possess a clear mandate to provide relief and assistance to displaced populations and host communities.

UNHCR welcomes the specific attention given to the relationship between human displacement, the environment and armed conflict. This is particularly relevant for UNHCR since the adverse effects of environmental degradation and the interaction with armed conflict may, in some circumstances, constitute elements which may form the basis of claims for refugee status. People displaced across borders may be refugees when environmental degradation limits access to and control over land, natural resources and livelihoods, in conditions which lead to persecution and violation of individual rights and freedoms. Entire populations may be gradually or immediately affected or suffer longer-term diminutions in their enjoyment of human rights, risks against which the State is unable or unwilling to protect, particularly in times of conflict.

In addition, UNHCR welcomes the call made to States and international organizations to protect the environment in areas where displaced people are located or residing. Recognizing a right to a healthy environment in times of conflict can advance the protection of refugees, other displaced people and their host communities.

UNHCR would like to take this opportunity to suggest some adjustments and clarifications to the International Law Commission, potentially through its commentary to the principles, on the following:

- The principles recall that States should take appropriate measures in the event of an armed conflict, to protect the environment of the territories that indigenous peoples inhabit. It would be appreciated if the Commission could clarify the extent to which these principles also apply to the protection of the environment of territories where other peoples reside, such as ethnic minorities who depend on certain natural resources. Further, it would also be beneficial to acknowledge the protection of territories that are

part of the livelihood of nomadic peoples. For this reason, UNHCR suggests a more inclusive term that includes not only indigenous peoples but other communities as well.

- While the principles and the commentaries clarify that States must consult and cooperate with indigenous communities to determine the entry and operation of military forces and military activities in their territories, it would be appreciated if the International Law Commission can elaborate on two specific issues. First it would be helpful to shed light on how States would operate whenever military activities taking place in ancestral territories concern more than one State, meaning that the process of consultation with indigenous peoples is not exclusive of one State's jurisdiction. Second, it would be appreciated if the Commission could expand on the responsibility of States in preventing non-state actors and corporations from breaching and negatively affecting ancestral territories in the event of armed conflict. While the principles are clear on the norms that States must fulfil in the exercise of their military activities, there should be greater clarity on what are the positive and negative obligations that States must enforce to prevent non-state actors from affecting ancestral territory.
- The commentary on Principle 8, on 'Human Displacement', refers in paragraph 6 to the Global Compact on Safe, Orderly Regular Migration, as a recent General Assembly-affirmed instrument which refers to the relationship between migration and environmental degradation. UNHCR notes that this section of the commentary might also usefully include a reference to the Global Compact on Refugees, also affirmed by the General Assembly in December 2018 (A/RES/73/151, A/73/12 Part II). The Global Compact on Refugees also refers relevantly to the role of environmental degradation in contributing to forced displacement, and the need for guidance and support to address protection and other humanitarian challenges in this context (see UNHCR, [Climate change and the Global Compact on Refugees](#), 2018; see also Türk, V. and Garlick, M., 'Addressing Displacement in the Context of Disasters and the Adverse Effects of Climate Change: Elements and Opportunities in the Global Compact on Refugees', *International Journal of Refugee Law*, Volume 31, Issue 2-3, June/October 2019, Pages 389–399, <https://doi.org/10.1093/ijrl/eez029>).
- Finally, the principles acknowledge the application of remedial measures to mitigate environmental damage after armed conflict. It would be appreciated if the Commission could elaborate further on how these remedial measures –including relief and assistance—would operate when populations have been displaced.