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Written Statement of Michael H. Burger, Executive Director, Sabin Center for Climate Change Law, on Climate Change and Human Rights

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The Sabin Center for Climate Change Law at Columbia Law School appreciates the opportunity to discuss the United States' commitments to address the human rights impacts of climate change. We will participate by telephone. We do not request the opportunity to speak during the hearing, and rely instead on this written statement as our testimony.

Since its 1st UPR, the United States has made important progress in addressing the need to both reduce greenhouse gas emissions and adapt to climate change impacts. In particular, President Obama's Climate Action Plan organizes earlier executive actions into a coherent strategy and articulates a vision for dealing with the complexity of climate change, which the executive branch has sought to implement in many different ways. The United States appropriately highlights the Climate Action Plan and the nation's domestic and international mitigation and adaptation efforts in its 2nd UPR Report. However, as the United States has previously recognized, the climate change poses very real to human rights. The United States can further demonstrate its global leadership on climate change by supporting ongoing international negotiations to address the critical issue of climate displacement and migration and, if necessary, initiating new ones.

In the coming decades, climate change will displace millions of people from their homes. Current estimates of the number of "climate refugees" and "environmental migrants" by 2050 range from 25 million to 1 billion people, and the number could soar still higher later in the century if greenhouse gas emissions are not seriously reduced. Indeed, it now appears very likely that the global average surface temperature increase will exceed the United Nations' target of 2°C, and it may well rise 3-4°C by 2100. An increase of this magnitude would lead to severe, pervasive and irreversible impacts on human and natural systems, rendering many areas uninhabitable and triggering massive displacement from vulnerable locations such as low-lying islands, coastlines and deserts. Thus, greenhouse gas emissions reductions are an essential means of protecting human rights.

Many of the people displaced by climate change will be unable to resettle within their own countries, either because there is no remaining habitable land, or because of the combined pressures of environmental degradation, poverty, socioeconomic upheaval, political conflict, and other destabilizing forces. The international community is faced with the strong likelihood of a climate diaspora of extraordinary proportions, a likelihood that without a plan for resettlement presents a looming human rights crisis. Indeed, without an international agreement in place, the time may well come when millions of people are displaced from their countries of origin and in search of new homes, whether on foot or on boats. This would not only constitute a major humanitarian crisis but could also lead to international conflict of an unprecedented scale, much of which would be concentrated in some of the world's most volatile regions. This is one of the primary reasons that security experts frequently refer to climate change as a "threat multiplier"

that exacerbates other security risks, such as persistent poverty, resource competition, poor governance, religious and ethnic conflict, and political instability. These conditions will directly impact individuals' human rights, including their rights to water, food, health, children's health, nationality and the full enjoyment of human rights.

The Conference of the Parties to the United Nations Framework Convention on Climate Change has acknowledged the need to advance our understanding of the problem of climate displacement and migration and has agreed to endeavor to address it. *See* Warsaw International Mechanism for Loss and Damage Associated with Climate Change Impacts, FCCC/CP/2013/10/Add.1. Yet, as of today, there is no international agreement on the obligations of countries with respect to persons displaced by climate change; nor is there an express agreement on the rights of displaced persons. The 1951 Convention Relating to the Status of Refugees and other instruments of international humanitarian law fail to address these questions. The draft negotiating text for the upcoming UNFCCC meeting in Paris includes an option that would establish a "climate change displacement coordination facility" as part of a loss and damage mechanism; the coordination facility would provide support for emergency relief, assist in providing organized migration and planned relocation, and undertake compensatory measures. Such a facility could certainly help with planning and managing international relocation efforts, and clarifying the obligations of countries. However, the draft text also includes an option for a loss and damage mechanism that does not include a displacement coordination facility, and another option that excludes a loss and damage mechanism altogether.

This issue has also received very little attention from domestic policymakers in the United States and abroad. A few of the most vulnerable countries have begun to develop relocation plans for their citizens and are attempting to acquire land in other territories for this purpose. A small handful of potential host countries have liberalized their immigration policies for people who are displaced by environmental disasters, and are otherwise attempting to develop a policy framework to address this issue. But most countries at most provide temporary protection status for people displaced by major natural disasters; opportunities for permanent resettlement are scarce. To date, no country has made a firm commitment to accept a large number of climate migrants into its territory or provide land and other services to them.

We appreciate the United States' many actions to mitigate greenhouse gas emissions and to address climate change impacts. We also appreciate the United States' recognition that climate change has implications for the full enjoyment of human rights and its addressing these issues through the UPR process. We urge the United States to deepen its engagement with the human rights impacts of climate change by demonstrating leadership on the issue of climate displacement and migration.

Accordingly, we recommend that the United States commit to the following as part of the UPR process:

- a. Supporting inclusion in the anticipated Paris Agreement of a climate change displacement coordination facility.
- b. Initiating separate negotiations, either inside or outside the context of the UNFCCC, to settle the questions of the rights of persons displaced as a result of climate change, including the right to nationality; national obligations with respect to admitting climate displaced persons; and legal implementation of these rights and obligations.
- c. Incorporating the closely related rights of nations and indigenous peoples to self-determination into international negotiations regarding climate change displacement and migration.