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THE CLIMATE CRISIS, GLOBAL LAND USE, AND HUMAN RIGHTS:
Crucial Considerations

Outcome Document

**Columbia Center on Sustainable Investment,
Sabin Center for Climate Change Law at Columbia Law School,
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THE CLIMATE CRISIS, GLOBAL LAND USE, AND HUMAN RIGHTS:
Crucial Considerations

In September 2019, an engaged audience gathered in New York during Climate Week for a day-long conference discussing issues at the intersection of land use, the climate crisis and clean energy transition, and human rights. This document synthesizes presentations and interactions from that day.

I. Opening remarks

Professor Michael Gerrard, Director of the Sabin Center for Climate Change Law, opened the conference with an overview of global land use trends and their relation to climate change. Professor Gerrard cited a recent report by the Intergovernmental Panel on Climate Change (IPCC), which found that emissions reductions alone will be insufficient to reach the Paris Agreement's target of keeping global warming below 1.5°C and that negative emissions technologies will be required. Professor Gerard warned that some of these technologies, like carbon sequestration, will exacerbate land shortages, as they add to the already immense demand for land fueled by factors such as rising global meat consumption and biofuels use. Models projecting land use needs for bio-energy carbon capture and storage (BECCS) indicate that for this strategy to viably remove carbon from the atmosphere at scale, an immense area of land, ranging from 460,000 to 6.6 million square kilometers, would be required. Worrisome trends in the demand for land are paralleled by a bleak outlook on land supply as climate change and related effects will actively reduce the world's available arable and habitable land. Professor Gerrard ended with a firm argument that securing and respecting land tenure for vulnerable people will be a crucial element of a just transition to a low-carbon world.

Watch the introductory remarks here.

II. Panel 1: Land tenure and land users: Understanding the people at the center of land

The conference's first panel focused on the people who use and rely on land for their survival, including those whose culture and identity are often inherently tied to the land. The panelists, three of whom were representatives of different Indigenous peoples, discussed the often unjust trade-offs between community rights and the land-intensive renewable and bioenergy projects forced upon such communities.

CCSI legal researcher Sam Szoke-Burke began by emphasizing that secure land tenure for communities and community members is not only a fundamental ethical consideration in the transition to renewables, but also a powerful tool in fighting climate change. Jane Meriwas, the Executive Director of Samburu Women's Trust, Kenya, spoke on the history of government appropriation of Indigenous lands and the continued difficulty of establishing formal land rights for pastoralists in Kenya, despite the existence of domestic legislation that allows for formalization. She added that her people already have experience dealing with droughts and other effects of climate change and know how to handle them, even though their adaptation

strategies are not sufficiently documented: “When you talk about climate change and crisis, Indigenous people have the solution.”

Rukka Sombolinggi, Secretary-General of the Indigenous Peoples Alliance of the Archipelago (AMAN), Indonesia, spoke of the grave threats facing Indigenous land defenders in Indonesia, where Indigenous lands are often taken by companies for palm oil production. Palm oil production is expected to increase in Indonesia, due in part to the global demand for biodiesel. The struggles of Indigenous peoples against such companies have been protracted and difficult, with little legislative progress despite sustained international attention and well-documented environmental impacts of large-scale oil palm plantations. Sombolinggi wanted the audience to know that her community is not against fighting climate change, or even against companies: “what we are against is injustice.”

Taiko Lemayian, a Maasai representative from Kajiado County, Kenya, shared his experience of being approached by several international wind-power firms that hoped to acquire his community’s lands. He reflected on the larger scramble for land in Africa to develop renewable energy projects and underlined the hurdles that communities face in understanding the implications of generations-long contracts that communities are often expected to sign, in obtaining fair appraisals for community lands, and in finding effective benefit-sharing models.

Karol Boudreaux, Landesa’s Chief Program Officer, noted that land rights are critically important because they provide a degree of stability that enables farmers and other land users to plan how they will use natural resources into the future. Land rights can also be used to strengthen livelihoods while simultaneously strengthening environmental protections and supporting climate change mitigation. Boudreaux recounted how a legal change in the Sahel region resulted in farmers being given rights to the trees on their property. In Francophone Africa, such rights had previously belonged to the State due to legislative remnants from colonial times, and many trees had been cleared simply because farmers were not responsible for them. The reallocation of ownership of trees helped lead to a great resurgence of tree cover in the region.

During the Q&A, an audience member asked about the scale of climate solutions, citing E.F. Schumacher’s *Small is Beautiful* to argue that a focus on low-unit cost inspires only industrial and poorly-suited solutions. Sombolonggi agreed and pointed to food systems as an example of the importance of local, small-scale production. She also noted that Indigenous economies, as a result of their cooperation with nature, can produce riches for all members of nearby communities, whereas the global economy is owned or controlled by a small number of actors.

Watch Panel 1 here.

III. Panel 2: Carbon sequestration, biofuels, renewable energy and land use

The second session of the day focused on the effects of biofuels, carbon sequestration, and other climate change mitigation strategies on land use and land rights, and was facilitated by Professor Michael Burger, Executive Director of the Sabin Center. He began the discussion by asking the panelists about biofuels. Mark Lutes, a senior policy advisor to the World Wildlife Fund,

underlined that the global economy must transition to a circular bioeconomy, "no matter what," though the question remains whether such a transition will be top down or bottom up. Lutes also pointed out the immense challenges in decarbonizing sectors like shipping and aviation without using highly land-intensive strategies like biofuel-generated energy. Yet biofuel crops like oil palm are not only highly land-intensive, but have been linked to serious human rights violations across the globe. Katharina Rall, a researcher with Human Rights Watch (HRW), spoke of her organization's recent research with AMAN on oil palm-related human rights violations in Indonesia. Rall echoed Sombolinggi's sobering message and contextualized it globally, pointing out that the abuses in Indonesia are "very typical of these types of situations." In most cases, the HRW and AMAN report found, company conversations with communities happened only after forests were destroyed, water polluted, and existing laws regarding community consultation ignored.

Professor Barron Orr, a Professor at the University of Arizona and lead scientist at the UN Convention to Combat Desertification, shared his perspective on land degradation. Without a holistic understanding of land use, he said, there cannot be effective and sustainable conservation and agricultural practices: "We need to know exactly where to do reforestation in each ecosystem to optimize our interventions." Otherwise, he warned, these interventions are likely to be counter productive.

The panelists also proposed direct interventions to more responsibly advance climate mitigation solutions. Several panelists mentioned the importance of: standards for improving the sustainability and transparency of supply chains, land titling, and more meaningful community consultations. Professor Orr highlighted the importance of tying the value chains of controversial or destructive commodities to geography, citing Leonardo Bonnani's *Sourcemap*.

Watch Panel 2 here.

IV. Panel 3: Displacement and disruption of land-based systems by climate change

The third panel, facilitated by Ama Francis, a fellow at the Sabin Center, focused on climate-related displacement. The panelists reflected on the legal, economic, and data challenges of climate migration with an eye to the most urgent demands of the present day. Satyendra Prasad, Fiji's Ambassador to the United Nations, and Natasha Lycia Ora Bannan, Associate Counsel at LatinoJustice, gave accounts of two places, Fiji and Puerto Rico, where the climate crisis is already a day-to-day reality. Prasad and Ora Bannan both focused their discussion on the economic and political dimensions of the crisis, including the lack of international financial support for vulnerable nations and areas. Prasad explained the immense difficulties involved in relocating communities in Fiji; forty-five have already been selected for relocation, although many others are deemed to be in danger from sea-level rise. Voicing his frustration with the empty talk of the international community, Prasad asked, "How many more UN summits do we have to convene on taxpayer money to keep saying the same thing?" Ora Bannan gave an account of Hurricane Maria's impact on Puerto Rico as a confluence of not just environmental factors but also political failures. Puerto Rico's political relationship with the US government and a protracted economic crisis have rendered the island unable to respond to climate disasters.

The global economic system, Ora Bannan urged, must change, so that people are guaranteed the right to live on their land.

Dina Ionesco, Head of the Migration, Environment and Climate Change Division at the UN Migration Agency, described the growing international attention now devoted to climate-induced migration, citing the UN Framework Convention on Climate Change and a recent New Zealand court case. Ionesco described the question of measurement and data as central to her work on defining and securing status for climate migrants. Data was a point of contention among the panelists, some of whom were concerned that fixating on measurement can be used as an excuse to delay action. Regardless, understanding likely impacts can be critical in preparing for future challenges. Alex DeSherbinin, Associate Director for Science Applications at the Center for International Earth Science Information Network, walked through several ways of modelling climate migration, and also advocated for improved legal protections, equitable and inclusive processes, impact assessments, and new sources of finance.

While all panelists agreed that the lack of funding for effective resettlement and protection programs was a critical problem, Prasad and Ora Bannan questioned whether current economic and legal systems can adequately provide for just and equitable responses to climate disasters, with Ora Bannan concluding that "there is a huge normative gap to allow a proper response."

Watch Panel 3 here.

V. Panel 4: The big picture: Solutions and next steps

With a better view of the scope of global challenges at the nexus of land use and climate change, the final panel focused on solutions and next steps. Kaitlin Cordes, Head of Land and Agriculture, and Lead for Human Rights and Investment at CCSI, facilitated the discussion. She began by asking, "how can we roll up our sleeves and work together collectively?" Much of the conversation thereafter focused on changing legal frameworks and strategies, and finding coherent and place-based solutions.

Professor César Rodríguez-Garavito, of the New York University School of Law, described a recent successful court case in Colombia, where young climate activists sued the government for neglecting to meet its promise to end deforestation in the Amazon by 2020. By focusing on winnable battles and working together for publicity, climate activists and lawyers succeeded in holding the government to its commitments. Professor Rodríguez-Garavito emphasized the importance of intergenerational collaboration, which can help center efforts on the rights and livelihoods of future generations.

This theme was echoed by Professor Gerald Torres, from Cornell Law School, who emphasized the importance of treaty litigation concerning Indigenous peoples' rights over natural resources. Professor Torres referenced the 2018 U.S. Supreme Court Case of *Washington vs. United States*, in which several Tribes sued Washington State for violating their treaty-based fishing rights by building barrier culverts in rivers and streams. Torres argued in evocative terms about the case's transformative power. For the first time, the government's obligation to protect the commons

was recognized as legally binding, with the court guaranteeing not only the tribes' rights to fish, but also their right to have fish in the river in the first place.

Cynthia Rosenzweig, Senior Research Scientist at the NASA Goddard Institute for Space Studies and a co-author of the IPCC special report on climate change and land, noted the report's three main focus areas: desertification, land degradation, and food security, as well as the bi-causal relationship between food systems and climate change. She also warned about the potential for competition between climate change mitigation technologies and food security. Though there are many possible solutions to addressing the tangle of land and food problems, Rosenzweig emphasized the importance of several solutions intricately linked to food systems, such as dietary changes and addressing food waste in high-income countries.

Janene Yazzie, Co-Convenor for the Indigenous Peoples Major Group on Sustainable Development, gave a rousing speech on the fight of Indigenous communities for basic dignity in the face of a predatory economic and social machine that generates hierarchy, waste, and destruction. Yazzie linked the contemporary climate crisis to a history of violence, settler colonialism, and exclusion for Indigenous peoples. Describing possible solutions, she spoke of the Right Energy Partnership (REP), an Indigenous-led renewable energy initiative that incorporates the free, prior and informed consent of local Indigenous communities into its design and ethos. The first REP project is slated to take place in Indonesia and was designed by the host community to use discarded materials for turbines.

The day ended with a sense of not only the technical challenges facing us, but also the profound human dimension of climate change, and the need for urgent and collaborative action to tackle the challenges at the nexus of climate, land, and human rights.

Watch Panel 4 here.