

Redefining the Refugee Crisis: Examining the Status of Climate-Induced Refugees and Internally Displaced Persons with Special Reference to India

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Abstract

Climate change is causing drastic impacts across the world. Temperature change, rising sea levels, and frequent disasters like floods are increasing. People are forced to flee their homeland since their place becomes inhabitable, leaving them homeless as refugees. But policies have yet to be created specifically to deal with climate refugees. Although terminologies like ‘climate refugee’ and ‘environmental refugee’ have been used interchangeably, this research uses the term ‘climate refugee’ to call attention to the social, economic, and political variables and how displaced people are moved and resettled. South Asian countries are highly prone to climate change impacts and produce climate refugees. In particular, this paper will examine India, where highly vulnerable populations are left homeless due to climate change impacts. This study is historical, descriptive and analytical in nature and has depended on primary sources like documents from the Government of India and secondary sources like books, journals for the purpose of analysis. The study concludes that the legal status of climate refugees is still a cliffhanger and recommends a more inclusive definition of refugees in international laws.

Keywords: International law, Migration, NAPCC, Persecution, UNHCR

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1 Introduction

The consequences of climate change are complex and intertwined. Climate change's most undefined impact in the world is climate-induced migration or the growing presence of climate refugees. Across the globe, wildfires, floods, and hurricanes are experienced by people, leading to their displacement from their homeland. According to a 2018 World Bank report, climate change is expected to result in the internal displacement of over 140 million people in regions like sub-Saharan Africa, South Asia, and South America by 2050¹. The migration of people due to climate change impacts can be internal and external.

Environmental degradation and climate change are increasingly contributing factors that directly cause, worsen, or combine with other elements to produce situations where people flee their native countries ². In 1990, The Intergovernmental Panel on Climate Change (IPCC) reported that climatic changes could significantly affect human migration, displacing millions due to shoreline erosion, coastal floods, and agricultural disruption. The most frequently stated estimate is the displacement of 216 million people by 2050³. Climate change, in conjunction with its attendant consequences such as a rise in sea level, agricultural land salinization, desertification, escalating water scarcity, and climate-induced events like storms and flooding, stands as the

¹ Nicole Greenfield, *Climate Migration and Equity*, CLIMATE MIGRATION, <https://www.nrdc.org/stories/climate-migration-equity> (last visited Sep. 11, 2023).

² UNHCR - Climate Change and Disaster Displacement, <https://www.unhcr.org/climate-change-and-disasters.html> (last visited Sep. 11, 2023).

³ World Bank Group, *Groundswell: Acting on Internal Climate Migration World Bank*, <https://www.worldbank.org/en/news/feature/2021/09/13/millions-on-the-move-in-their-own-countries-the-human-face-of-climate-change> (last visited Sep 15, 2023).

predominant catalysts of migration. However, other factors, such as governmental policies, population expansion, and community preparedness for natural disasters, are also crucial. Every one of these factors affect the vulnerability of a person. There is a projected rise in the rate of occurrence and severity of life-threatening climatic events, including droughts, storms, and floods⁴. This escalation is attributed to alterations in rainfall patterns and a heightened intensity of the hydrological cycle. By 2050, forecasts indicate that the South Asian monsoon will become more intense, leading to a potential increase of up to 20% in rainfall for regions like eastern India and Bangladesh⁵.

Climatic processes and climate events are the two main categories of climate drivers. Rising sea levels, increasing agricultural land salinisation, desertification, intensifying water scarcity, and lack of food security are examples of slow-onset effects of climate change. Certain coastal regions and small island states are blatantly rendered inhabitable by sea level rise. People are forced to relocate permanently⁶. Conversely, climate events like storms, hurricanes, monsoon floods, glacial lake outburst floods, and typhoons are unforeseen and radically and swiftly evict people from their land. The impact of Hurricanes Katrina and Rita, which occurred in August and September 2005 and affected the Gulf Coast of the United States, resulted in the displacement of approximately 2 million individuals, rendering them homeless. Non-climatic factors are still important. A

⁴ Relief Web, *Climate change, displacement, and managed retreat in coastal India*, <https://reliefweb.int/report/india/climate-change-displacement-and-managed-retreat-coastal-india> (last visited Sep 12, 2023).

⁵ Nicole Greenfield, *Climate Migration and Equity*, CLIMATE MIGRATION, <https://www.nrdc.org/stories/climate-migration-equity> (last visited Sep. 11, 2023).

⁶ Alan Dupont & Graeme Pearman, *Heating up the Planet: Climate Change and Security*, LOWY INST., <https://www.lowyinstitute.org/publications/heating-planet-climate-change-security> (last visited Sep 20, 2023).

community's susceptibility to the impacts of climate change is not static and can change due to factors unrelated to greenhouse gas emissions⁷. In this regard, the non-climatic factors (which place weaker individuals in vulnerable circumstances) may play a more significant role in determining the issue. An illustrative example is the potential transformation of a tropical typhoon into a calamity due to inadequate early-warning systems, inadequately constructed buildings, and an unprepared community. A community's susceptibility to climatic conditions is influenced by factors like its location (for example coastal area), and its capacity for adaptation, which encompasses the ability to withstand and recover from the storm's most severe impacts. By combining with and aggravating already-existing issues, climate change will test and overwhelm the adaptive capacities of many diverse communities. People will eventually have to move to places with better prospects since the land will eventually become unfit for supporting livelihoods.

There have been several initiatives to establish a new convention that mainly covers those relocated due to environmental issues or to widen the clarity in defining a political refugee to incorporate those dislocated due to such causes. Those displaced by severe weather do not automatically qualify for financial aid, food assistance, tools, shelter, educational opportunities, or medical care because there is no globally accepted definition of an environmental refugee. As a result, the global system needs a more structural approach to accommodate environmental refugees. No international authority is tasked with supporting or counting climate refugees, nor are they acknowledged as a concern in any legally binding international convention. Instead, providing humanitarian relief and funding early warning

⁷ Roger A. Pielke, Gwyn Prins, Steve Rayner & Daniel Sarewitz, *Lifting the Taboo on Adaptation*, 445 NATURE 597-598 (2007).

systems are the norm for Organisation for Economic Co-operation and Development (OECD) donor nations in reaction to extreme weather catastrophes. Anthropogenic climate change makes existing economic, social, and environmental vulnerabilities worse. By focusing solely on the consequences of climate change without considering the local environmental framework, peculiar policy distortions can arise. The study is historical, analytical and descriptive in nature. It is subdivided into four parts. The first part examines the available definitions and concepts related to climate refugees. The second part deals with the global status of climate refugees. The third part of the study stresses on the issues faced by climate refugees in India by looking into various case studies. The final part narrates the legal shortcomings in addressing the climate refugee crisis in the international and regional arena.

2. Climate Refugees: Concepts and Definitions

In international discussions, terms such as ‘environmental migrants’, ‘climate change-driven migrants’, and ‘individuals displaced due to environmental factors’ are used. There is a significant and intimate relationship between language and politics, as theorists, writers, and activists of various political persuasions have argued throughout history⁸. This relationship has practical political implications. Within UN regulations, presently there is no explicit legal definition of what constitutes a climate refugee. People who are already at risk of environmental disaster may find it difficult to get the proper protection and assistance they need to go elsewhere if there is no legal definition or provision for those who are displaced due to climate change or other environmental concerns. Because of this, a lot of people have pushed for the

⁸ HANS OSTROM & WILLIAM HALTOM, *ORWELL’S “POLITICS AND THE ENGLISH LANGUAGE” IN THE AGE OF PSEUDOCRACY* (Routledge, 1st ed. 2018).

legalisation of climate refugees⁹. Nonetheless, there is disagreement among those advocating for its acceptance on whether a new, distinct legal framework should be established or climate refugees should be included in the current UN legislative framework¹⁰. In particular, the word refugee is used in a way that pulls from a rights-based lexicon typically associated with legal authority. Countries "may not forcibly return refugees to a territory where they face danger or discriminate between groups of refugees," according to international law, which guarantees refugees the right to safe sanctuary¹¹. This demonstrates the claim made by numerous political theorists that duties result from rights¹². Thus, being labelled as a refugee has serious repercussions, as it forces host nations to adequately care for and protect them, not out of charity or hospitality, but rather as a requirement based on the law.

It is crucial to realise that climate refugees are not migrants. With the possibility of migrating back to their nation of origin, pull factors for migrants include greater economic opportunities and favourable sociocultural or political conditions. However, owing to push factors like war or the fear of violence, it is almost impossible for refugees to return to their own countries. Like cyclones, salination, rising sea levels, extreme heat waves, and desertification, climate change events can also serve as compelling reasons for migration, leading to enduring consequences like food and water scarcity,

⁹ Andrea Mayr, *Prison Discourse: Language as a Means of Control and Resistance* (Palgrave Macmillan, 2003).

¹⁰ Frank Biermann & Ingrid Boas, *Preparing for a warmer world: Towards a global governance system to protect climate refugees*, 10(1) *Global Environmental Politics*, 60, 60-68, (2010).

¹¹ UNHCR, *Protecting Refugees: Questions and Answers*, UNHCR, <https://www.unhcr.org/publications/brochures/3b779dfe2/protecting-refugees-questions-answers.html> (last visited Sep 16, 2023).

¹² Ivar Kolstad, *Human rights and assigned duties: Implications for corporations*, 10 (4) *Human Rights Review*, 569, 569-582, (2008).

biodiversity loss, and livelihood disruptions. and other resources. As a result, the term 'climate refugee' best captures the severity of the situation. Many have argued that a more precise definition of climate refugees is needed, as the absence of agreement on a definition hinders international cooperation and organisation that is required to establish the necessary material and legal infrastructures to address displacement-related issues¹³. The term 'climate refugees' gained prominence in public discussions following 1985, when the expert Essam El-Hinnawi from the UN Environment Programme (UNEP) introduced the concept of environmental refugee. Hinnawi defines environmental refugees as individuals compelled to relocate or depart from their customary dwelling, either temporarily or permanently, due to a significant and visible environmental disturbance, whether natural or human-induced, threatening their survival or significantly impacting their living conditions¹⁴. This definition is also used for the term climate refugees. He has identified three primary categories of refugees driven by climate change: (1) those who have been temporarily displaced and who are given a chance to return to their former residence after the status quo has been reinstated; (2) who leave their native home because it has so deteriorated that it is no longer habitable, (3) Permanently displaced people who relocate elsewhere¹⁵. Lester Brown of the World Watch Institute coined the phrase environmental refugee, which first appeared in the 1970s¹⁶. The prominence of environmental/climate displacement terminology can be

¹³ Issa Ibrahim Berchin, et al. *Climate change and forced migrations: An effort towards recognizing climate refugees*, 84 GEOFORUM. 147, 147-150, (2017).

¹⁴ Essam sEl- Hinnawi, *Environmental refugees*, United Nations, <https://digitallibrary.un.org/record/121267?ln=en> (last visited February 1, 2023)

¹⁵ *supra* note 14

¹⁶ James Morrissey, *Rethinking the 'debate on environmental refugees': From 'maximilists and minimalists' to 'proponents and critics'*, 19(1), JOURNAL OF POLITICAL ECOLOGY, 36, 36-49 (2012).

attributed significantly to the diligent investigations and contributions of renowned legal officials who investigated the possibilities for anthropological catastrophe in this context and sought to establish standardised frameworks. While lacking significant legal relevance on a global level, the term has been employed by various media platforms, advocates, non-governmental organizations, politicians, and academics, albeit facing resistance from certain quarters.

The 1951 Convention on the Status of Refugees defines a 'refugee' as an individual who has crossed an international boundary due to a legitimate fear of persecution based on factors like race, religion, nationality, belonging to a specific social group, or political beliefs. It glaringly does not use the words environment, climate, or disasters¹⁷. It is essential to incorporate these terms because climate change stands as the most significant challenge of our time. The concern is that the current international law is not equipped to protect climate refugees. There are no binding agreements requiring countries to aid refugees fleeing climate distortions. A definition of a 'climate refugee' should consider the following criteria: compelled migration, whether it is a short-term or prolonged repositioning, cross-border movements, disturbances associated with climate change, abrupt or slow environmental upheaval, and a standard indicating that human involvement is more probable than not in causing the disruption¹⁸. On the other hand, climate-displaced persons move within the border of their own country. In the past, most internal climate displacement has typically happened, with people being able to return soon after the disaster. However, due to climate change, some locations are steadily becoming inhospitable, making it harder to return. Internal or external forced population displacement can lead to conflict and friction with

¹⁷ UNHCR, *The Refugee Convention*, 1-272, (1951).

¹⁸ Bonnie Docherty & Tyler Giannini, *Confronting a Rising Tide: A Proposal for a Convention on Climate*, HARV. ENVTL. L. REV (2009)

other residents of the destination regions. According to the IPCC's 2019 special report, population displacement can increase competition for access to food, clean water, and jobs, as well as ethnic conflicts or gender violence that already exist. Additionally, migration brought on by the climate frequently coexists with displacement brought on by military conflict, making the situation worse in precarious regions devastated by war and violence. In addition to the internal displacement due to conflict and violence, there were 23.7 million climate change-induced refugees worldwide in 2021¹⁹. China (with 6.0 million), the Philippines (with 5.7 million), and India (with 4.9 million) witnessed the most substantial displacements during the backdrop of catastrophic events in 2021. The case of the Teitota family²⁰ is the first case of requesting refugee status owing to the effects of climate change. They submitted an application for refugee position in New Zealand in 2015, as they had to flee from the vanishing island nation of Kiribati. Their appeal was made to the New Zealand high court but was rejected²¹.

Although the terminologies 'climate refugee' and 'environmental refugee' have been used interchangeably, this research uses the term 'climate refugee' to call attention to the social, economic, and political variables that influence global warming and how displaced people are moved and resettled. The same fundamental freedoms and universal human rights

¹⁹ The Hindu, *Nearly 5 million people in India internally displaced due to climate change, disasters in 2021: UN*, <https://www.thehindu.com/news/national/nearly-5-million-people-in-india-internally-displaced-due-to-climate-change-disasters-in-2021-un/article65535820.ece> (last visited February 23, 2023).

²⁰ *Ioane Teitota v. The Chief Executive of the Ministry of Business, Innovation and Employment*, [2015] NZSC 107

²¹ John Podesta, *The climate crisis, migration, and refugees*, Brookings, <https://www.brookings.edu/research/the-climate-crisis-migration-and-refugees/> (last visited November 2023).

apply to both migrants and refugees, and they must always be upheld, defended, and realised. However, migrants and refugees are different populations controlled by two separate legal systems. Within the framework of present-day refugee and climate regulations, the idea and concept of 'climate refugees' have not been recognised internationally. The absence of explicit recognition, acknowledgement, or comprehension within the United Nations High Commissioner for Refugees (UNHCR) pertaining to safeguarding climate refugees remains evident. Both the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol lack clear emphasis and explicit provisions to deal with the threat of displacement brought on by climate change and its outcomes on the societal structure and fundamental human rights. Nonetheless, within various Conference of the Parties (COP) sessions, discussions, and negotiations, the concern of climate-induced displacement has been sporadically addressed, albeit in a limited manner. This article focuses on the term 'climate refugee'. It makes the argument for the need to protect climate refugees under a comprehensive and legally binding framework by accounting for both migrations caused by climate-related factors and the political aspect of the climate catastrophe itself (whether by revising the 1951 Refugee Convention or developing an altogether new framework).

Along with refugees, internally displaced persons (IDPs) find themselves at the frontline of climate emergency. Many inhabit climate 'hotspots' where they typically lack the means to adjust to an increasingly inhospitable environment. Individuals experience internal displacement when they are compelled to abandon their residences due to conflict, violence, violations of human rights, natural disasters, or other emergencies within their country's borders. This encompasses scenarios where individuals relocate voluntarily in search of safety or essential services. On an annual basis, millions of

individuals are displaced globally, officially recognized as internally displaced persons (IDPs). Internal displacement often evolves into a prolonged circumstance, with many individuals residing in a state of uncertainty for extended periods in IDP camps, urban slums, or other places of sanctuary. Individuals who have been forcibly displaced from their homes and do not or cannot cross a border are not classified as refugees, regardless of sharing similar circumstances and obstacles as those who do. Unlike refugees, these internally displaced persons lack a distinct legal status under international law with rights specific to their situation. The term 'internally displaced person' serves a purely descriptive purpose²²

3. Status of Climate Refugees in the Global Scenario

While the United Nations has established a system to protect civilians from political violence, no organised system is established to protect people who flee their homes due to weather hazards every year. The UNHCR has declined to give them the status of refugees, and they are often referred to as 'environmental migrants'²³. In India, the year 2020 witnessed a staggering displacement of 3,856,000 individuals due to environmental disasters, which was 989 times higher than the number of people displaced by conflicts, amounting to 3,900 individuals²⁴. It is crucial to emphasize that climate refugees should not be conflated with migrants. The push factors for

²² United Nations, *About internally displaced persons*, <https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons> (last visited June 8, 2023).

²³ *Id*

²⁴ Sumaira Abdulali & Laika Abdulali, *Victims of the weather: How climate change is creating more refugees than other conflicts*, FORBES INDIA, <https://www.forbesindia.com/blog/climate-change/victims-of-the-weather-how-climate-change-is-creating-more-refugees-than-other-conflicts/> (last visited July 21, 2023).

migrants to move to another place might be a better livelihood and socio-cultural-political factors, and they are left with the choice to go back to their place of origin. In this highly turbulent world, where climate change-induced disasters occur frequently, it will be a huge challenge for the international community as the number of climate refugees will take a toll. In order to safeguard climate refugees, the international community will have to either expand the definition of 'refugees' to include them or establish a new legal category and supporting institutional framework. The impact of a disaster is often disproportionate. Vulnerable people living in fragile or conflict-affected countries are largely affected as they often lack adequate mechanisms and resources to cope with disasters. Climate hot spots can easily trigger displacement of people, and the situation may worsen for those who are already displaced by other factors like political violence or stateless people. This again leads to a secondary displacement (United Nations High Commissioner for Refugees). These displaced people are mostly devoid of the right to fundamental facilities in life, like clean drinking water and sanitation facilities.

United Nations (UN) 2030 Sustainable Development Agenda includes a number of migration-related targets and calls for periodical reviews of progress made toward those goals using data that, in certain cases, is broken down by migratory status. While many people seek solace in their home country, some are forced to travel overseas. More of these movements are projected as a result of climate change. The 1951 Refugee Convention does not provide a precise description of 'climate refugees'. The fact that there is no legal term to identify those who are forced to migrate because of environmental difficulties puts them in a precarious legal position, which is why it is so problematic. Those who are forcibly transferred owing to climatically related disasters yet leave their nation of origin are referred to as 'externally

displaced persons'. However, because the vast majority of the data available focuses on internally displaced populations, it is difficult to grasp the scale of international migration resulting from natural disasters. The absence of a legal structure at the global level to focus on the issue of external climate migrants prevents its development, which adds to the lack of data²⁵. Internal displacement of people typically occurs when a disaster strikes. However, some individuals are compelled to cross international borders. The most current Groundswell report from the World Bank assessments points out that by 2050, about 216 million people may move inside their own countries across six regions. According to the estimate, South Asia may see 40 million internal climate migrants. Changes in the availability of water become the primary driver of internal migration in different regions across the world, such as North Africa²⁶.

A long-term concern, climate change has the capability to seriously destabilise economies and communities. A hundred kilometres or less from the coast is where 40% of the world's population resides. These people may be forced from their homes as a consequence of increasing sea levels, increasing the number of refugees. Climate hazards have the potential to cascade. For instance, a large number of families may be forced to leave an area due to the erosion of coastal areas brought on by climate change. The affected population's health, education, and way of life may be impacted by this. In October 2021, U.S. President Joe Biden issued a significant report on climate migration that showed a thorough awareness of the

²⁵ Joanna Apap and Capucine du Perron de Reve, "European Parliament." European Parliamentary Research Service, https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698753/EPRS_BRI698753_EN.pdf. (last visited Sep 12, 2024)

²⁶ Groundswell report, World Bank, <https://www.worldbank.org/en/news/press-release/2021/09/13/climate-change-could-force-216-million-people-to-migrate-within-their-own-countries-by-2050> (last visited Sep 12, 2024).

interrelated concerns of climate change and migration. The U.S. government is now acknowledging for the first time how migration and climate change are related. The report urges the creation of proactive and humane management plans for the flow of climate refugees²⁷. Although the UNHRC and the IPCC acknowledge the widespread human migration caused by climate change, giving these individuals refugee status has been controversial. This resistance is influenced by two factors. First, countries and international organisations alike continue to face legal and political problems in demonstrating a clear association between global climate change and human resettlement. Second, by categorising these populations as refugees, governments are held responsible by various humanitarian laws, comprising the 1951 UN Refugee Convention and the 1967 Protocol. No one who has been displaced due to climate change has been offered refugee status, although their number is three times higher than conflict-related refugees²⁸.

The consequences of climate aberrations are most acutely felt by Small Island Developing States (SIDS). Because of the large concentration of people and economic activity in coastal areas, they are extremely vulnerable. Additionally, their economy is significantly dependent on natural resources compared to developed countries²⁹. The rising sea level poses the greatest threat to them, with several islands at risk of becoming uninhabitable. For the majority of them, adaptation

²⁷ The White House, *Report On The Impact Of Climate Change On Migration* (2021) <https://www.whitehouse.gov/wp-content/uploads/2021/10/Report-on-the-Impact-of-Climate-Change-on-Migration.pdf> (last visited Sep 12, 2024)

²⁸ Surabhi Arul, *India needs to recognise the rights of climate refugees: IDR, India Development Review*, <https://idronline.org/article/climate-emergency/india-needs-to-recognise-the-rights-of-climate-refugees/> (last visited Sep 12, 2024)

²⁹ Leonard Nurse, Roger Mclean, John Agard and Lino Briguglio, *Small Islands*, Cambridge University Press, (2014)

and migration are driven by the impact of increasing temperatures on agricultural productivity. South Asia suffers greatly from the human and financial implications of climate vulnerability. By 2050, the number of climate refugees could reach up to 1.2 billion.³⁰ This represents a catastrophic economic blow and a tremendous challenge for a region that is still regaining its footing following the pandemic and making investments in equitable and sustainable growth. If intense carbon emissions continue, almost 800 million people in South Asia will live in places predicted to be among the world's most sensitive to climate change by the year 2050. The risk of flooding is present in around 80% of the main cities in South Asia, and it is exacerbated in low-lying, highly populated coastal areas due to rising sea³¹. South Asia is an area that is exposed to climatic variations. Nations like the Maldives, Sri Lanka, Bangladesh, Nepal, and India, make this vulnerability more obvious than ever. In the SAARC region, people have experienced vulnerability and adversity as a result of catastrophic climate-related events such as the 2005 tsunami and the 2015 heatwaves. Certain Himalayan glaciers are in a state of total dissolution, while the Maldivian islands and the Sundarbans' mangrove forests are on the brink of submersion³².

³⁰ Sean McAllister, *There could be 1.2 billion climate refugees by 2050*, <https://www.zurich.com/en/media/magazine/2022/there-could-be-1-2-billion-climate-refugees-by-2050-here-s-what-you-need-to-know> (last visited Sep 14, 2024)

³¹ Cecile Fruman & Saleemul Huq, *Cross-border action on climate disasters is urgent in South Asia*, World Bank Blogs, <https://blogs.worldbank.org/end-povertyinsouthasia/cross-border-action-climate-disasters-urgent-south-asia>. (last visited Sep 14, 2024)

³² Stellina Jolly & Nafees Ahmad, *Climate refugees in South Asia: Protection under International Legal Standards and state practices in South Asia*, Springer (2019) <https://www.springerprofessional.de/en/climate-refugees-in-south-asia/16885710>

South Asia represents a region with diverse backgrounds, religions, and ethnicities. However, it is plagued by vulnerabilities, including climate change, water scarcity, resource exploitation, poverty, and inadequate governance³³. As a result, these elements raise the possibility of conflict related to climate. Since hundreds of rivers join in the deltaic landscape surrounding it, flooding is extremely possible and common. The combined delta in Bangladesh includes the Ganges, Brahmaputra-Jamuna, and Meghna rivers. Additionally, the Bay of Bengal is prone to intense and persistent cyclonic activity, which can result in torrential rain followed by damage to property and the death of people. In already flood-prone areas, the melting of the Himalayan ice cover makes floods even worse. According to the World Bank, 13.3 million Bangladeshis could be displaced by 2050 due to climate change³⁴. The phrase "those displaced by land degradation, flooding, or drought" was referred to as an 'environmental refugee' in the first report of the IPCC³⁵. The phrase 'climate refugee' was explicitly coined by Biermann and Boas to refer only to those fleeing the direct consequences of climatic irregularities, which include increasing sea levels, extreme weather occurrences, prolonged droughts, and shortages of water³⁶. The Geneva Refugee Convention's legal definition of the term led the United Nations (UN) refugee organisation to reject the term 'refugee'. The terms 'environmental migration' and 'climate refugees' are used in

³³ Mabroor Hassan, Manzoor Khan Afridi, & Muhammed Irfan Khan, *Environmental diplomacy in South Asia: Considering the Environmental Security, conflict and development nexus*, *Geoforum*, 127, 127-130 (2017).

³⁴ Matt Raulerson, *Bangladesh's flood displacement: Yet another case for Loss & Damage*, *Climate Refugees*, <https://www.climate-refugees.org/spotlight/2022/6/29/bangladesh-flooding> (last visited Sep 9, 2024).

³⁵ IPCC Climate change: The IPCC impact assessment (1990): 5-10

³⁶ Frank Biermann, and Ingrid Boas, *Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees*, 10(1) *GLOBAL ENVIRONMENTAL POLITICS*, 60, 60-88, (2010).

the third IPCC report. The fourth IPCC report from 2007 uses the phrase 'environmental migration' rather than the word 'refugee' entirely, highlighting the reality that 'there is no consensus on the definition of an environmental migrant in any case'³⁷.

4. Climate Refugees in India

India stands among the nation's most susceptible to the repercussions of climate change. Its high population density and poverty levels aggregate the problem even more. The Climate Vulnerability Index (CVI) maps the climate-vulnerable population in India, and it was found that 80 per cent of the population resides in districts highly susceptible to severe hydro-meteorological disasters³⁸. Over 45 per cent of these districts have experienced detrimental alterations in their landscapes and infrastructure³⁹. In 2020, it was estimated that 14 million people in India migrated due to extreme weather events, and by the year 2050, it is estimated that climate change will lead to the displacement of approximately 45 million individuals in India⁴⁰. In 2021, the UNHCR reported that

³⁷ IPCC "Climate Change," Impacts, Adaptation and Vulnerability (2007): 365.

³⁸ Abinash Mohanty, A., & Shreya Wadhawan, *Mapping India's climate vulnerability: A district level assessment*, HINDUSTAN TIMES, <https://www.hindustantimes.com/ht-insight/climate-change/mapping-india-s-climate-vulnerability-a-district-level-assessment-101636642145178.html> (last visited November 11, 2023).

³⁹ Jacob, S, *Above 80% of Indians live in districts vulnerable to climate risks: Report*, BUSINESS STANDARD, https://www.business-standard.com/article/current-affairs/above-80-of-indians-live-in-districts-vulnerable-to-climate-risks-report-121102600434_1.html#:~:text=More%20than%2080%20per%20cent,by%20the%20Council%20on%20Energy (last visited July 21, 2023).

⁴⁰ Surabhi Arul, *India needs to recognise the rights of climate refugees: IDR, India Development Review*, <https://idronline.org/article/climate-emergency/india-needs-to-recognise-the-rights-of-climate-refugees> (last visited August 10, 2024).

roughly 5 million people in India were relocated as an outcome of climatic changes and environmental hazards⁴¹. This part particularly focuses on the climate refugees created due to floods and coastal erosion in different parts of India.

Due to climate change, India is at risk of experiencing a massive migration from neighbouring countries like Bangladesh which is prone to cyclones and droughts that cause displacement⁴². Unfortunately, there are no policies for how to deal with refugees and decisions are made on a case-by-case basis, which allows for inconsistent and irregular management of refugees, migrants, and asylum seekers. In India, the legal system pertaining to refugees operates on an ad hoc basis, with refugee and asylum seeker status being granted by the judiciary and administrative authorities on a case-by-case approach. This creates a unique blend of both ad-hoc administrative measures and the assertion of constitutional rights through the judiciary⁴³. The conventions and protocols related to refugees are not binding for non-signatory nations, India being a non-signatory nation, its commitment towards refugees flows from other non-binding conventions of the United Nations and other international organisations working on human rights⁴⁴.

India currently does not formally collect data on internal migrants brought on by the climate change. Internally displaced persons (IDPs) represent a segment of the global population that is particularly susceptible to various forms of

⁴¹ Shiv Sahay Singh, *Hungry Tides of the Sundarbans: How the rising seas create environmental migrants*, *The Hindu*, <https://www.thehindu.com/sci-tech/energy-and-environment/hungry-tides-in-the-sundarbans/article61615848.ece> (last visited February 23, 2023).

⁴² Saleemul Huq, *Climate change and Bangladesh*, *SCIENCE*, 294(5547), 1617-1617. <https://doi.org/10.1126/science.294.5547.1617>, (2001).

⁴³ Saurabh Bhattacharjee, *India needs a refugee policy*, 43 (9) *ECONOMIC AND POLITICAL WEEKLY*, 71, 75, (2008).

⁴⁴ Pooja, *India's refugee policy*, Indian National Bar Association, <https://www.indianbarassociation.org/indias-refugee-policy/> (February 23, 2023).

adversity. Having been forcibly removed from their residences and sources of income, they are frequently exposed to hazardous environments and persist in encountering threats even subsequent to their escape in search of security. The UNHCR collaborates with various stakeholders and additional United Nations entities to ensure the safeguarding and assistance of IDPs. Internally displaced persons (IDPs) and refugees typically experience forced separation from their familiar surroundings and economic assets. Consequently, they are deprived of their sources of income and self-sufficiency. The Internal Displacement Monitoring Centres report estimates that from 2008 to 2019, cyclones, floods, and storms caused 3.6 million people to be relocated annually within the nation. India's 36 million coastline residents are at peril as an effect of increasing sea levels.⁴⁵ Regular cyclones made the lives of fishermen and farmers miserable. In West Bengal and Odisha, for example, they are relocating as their agricultural land becomes barren owing to salinisation and sea-level rise. People in the Himalayas are left with no other option other than to migrate to the plains in the north due to water scarcity and inconsistent rainfall. Each year, the flooding of the Brahmaputra River in Assam and Bihar leads to a considerable loss of both lives and means of sustenance. India needs to consider the climate refugees from its neighbours in addition to domestic displacement. The threats to neighbouring countries are growing due to floods and cyclones in Bangladesh, deforestation and desertification in the Himalayan region, and sea level rise. In 2020, Cyclone Amphan devastated India, Bangladesh, and Sri Lanka, killing over 128 people and leaving millions homeless and in poverty. The UNHRC reports that as of 2011, due to different circumstances from Afghanistan, Sri Lanka, Bangladesh, and Myanmar, India

⁴⁵ Norwegian Refugee Council, *Global Report On Internal Displacement*, <https://www.internaldisplacement.org/globalreport/grid2020/downloads/2020-IDMC-GRID-part1.pdf> (last visited November 20, 2020).

had roughly 2,04,600 refugees, asylum seekers, and others of concern⁴⁶. The existing climate-vulnerable populations in India will be significantly impacted by mass displacement if it goes unaccounted for. For both populations that are internally displaced and those who have crossed the border, policymakers need to start taking into account important issues related to urban and rural development as well as access to fundamental rights like health and education. UNHRC has identified India as a safe place for those who seek asylum, even though India is not a signatory of the 1951 UN Refugee Convention.

The National Action Plan for Climate Change (NAPCC), emphasises various facets of climate adaptation and has been adopted by India. While the majority of the plan is still in the nascent stage, the NAPCC can be utilised to work through policy measures that identify climate-related refugees as a susceptible category with specific norms for giving the status of climate refugees. But the NAPCC has various shortcomings. Most of them lack specific objectives, plans of action, time frames, and budgets. This must be taken into consideration. Instead of being exclusive to a few privileged groups, India's climate policy has to be more open and participative. Local people, officials, and business people must be made aware of the consequences of changes in the climatic patterns⁴⁷. The principles of the National Action Plan on Climate Change (NAPCC) encompass safeguarding the underprivileged through a comprehensive and sustainable development approach, attuned to climate variability, and attaining national economic advancement and poverty mitigation goals while ensuring environmental soundness. The

⁴⁶ Tuhina Banerjee, *Time we recognised 'climate migrants'*, 25(2) One India One People, 29, 29-30, (2020).

⁴⁷ Nirupama A K, *India's Climate Policy: Past, Present and Future Strategies*, 12 (1) JOURNAL OF POLITY AND SOCIETY 123-134 (2020).

fundamental values of inclusivity, sustainability, and poverty reduction embedded in the NAPCC can serve as a fundamental concept to effectively address the needs of refugees and internally displaced individuals in India. A designated climate refugee fund, distinct from the disaster management fund and the Prime Minister's Citizen Assistance and Relief in Emergency Situations (PM Cares) fund, should be established by encouraging both public and private contributions⁴⁸. It should be mandatory for states to pinpoint climate refugee settlements and enhance them using allocated resources under the NAPCC framework. Humanitarian assistance for climate refugees ought to be included in the Corporate Social Responsibility (CSR) legislation, which presently does not cover contributions related to disasters. Moreover, on a global scale, nations need to collaborate to recognize, formulate protective and rehabilitative policies, and allocate finances either within existing frameworks or through novel initiatives to address the escalating issue of climate-induced displacement⁴⁹.

The climatic changes placed India at peril because 80% of the population resides in districts most sensitive to major hydro-met catastrophes. According to a recent study on internal displacement due to disasters in Asia and the Pacific by the Internal Displacement Monitoring Centre and the Asia Development Bank, India is one of the topmost three nations with the greatest figure of internal displacements owing to floods (29.9 million), storms (11.3 million), and drought

⁴⁸ Surabhi Arul, *India needs to recognise the rights of climate refugees: IDR*, INDIA DEVELOPMENT REVIEW, <https://idronline.org/article/climate-emergency/india-needs-to-recognise-the-rights-of-climate-refugees/> (last visited December 2, 2022).

⁴⁹ *Id*

(68,000) between 2010 and 2021⁵⁰. As per the report of UNHCR, 50 lakh Indians were evacuated in 2021 as an impact of variations in climatic patterns and natural calamities. According to a UN report from December 2020, climate change has caused the displacement of about 1.4 crore Indians. Over 74% of districts in India are susceptible to intense weather occurrences, and 27 out of 35 states and union territories are affected⁵¹. In terms of absolute numbers, India has one of the highest levels of disaster displacement worldwide. According to Food and Agriculture Organization (FAO), agriculture is the worst affected sector if there is a drought, absorbing about 80% of all direct effects, with various effects on the production of food, food security, and livelihoods. Between 2008 and 2019, approximately 3.6 million people per year were displaced, the majority during the monsoon⁵².

Droughts can cause significant misery for rural people by causing starvation, displacement, the loss of natural resources, and seriously compromised economic performance. In India, there are primarily two types of climate-induced migration. The first group of migrants consists of those compelled to leave from villages to cities due to a natural hazard that could have shattered their crops and homes. They seek refuge in megacities because of the wide possibilities offered. Migrants from Bangladesh who move to India in search of better

⁵⁰Hari Kumar, *A case for climate migrants*, THE NEW INDIAN EXPRESS, <https://www.newindianexpress.com/magazine/voices/2022/oct/09/a-case-for-climate-migrants-2505433.html> (last visited January 30, 2023).

⁵¹ Abinash Mohanty & Shreya Wadhawan, *Mapping India's Climate Vulnerability A District Level Assessment* (2021), Council on Energy, Environment and Water (CEEW) <https://www.ceew.in/publications/mapping-climate-change-vulnerability-index-of-india-a-district-level-assessment>

⁵² Architect Panda, *Climate change, displacement, and managed retreat in coastal India*, <https://reliefweb.int/report/india/climate-change-displacement-and-managed-retreat-coastal-india> (last visited May 23, 2023).

opportunities form the second category. One of the most vulnerable nations to natural disasters is Bangladesh, whose territory is only five feet above sea level on 25% of its land and less than 15 feet above sea level on 2/3 of its land. Over the past three decades, the Brahmaputra river basin's increasing erosion has made almost a million people homeless. The 1951 Refugee Convention and the 1967 Protocol do not recognise climate refugees, excluding them from any legal protection under national and international legal systems. Reforms have generally lagged behind the problem over time because there hasn't been enough political will to deal with migration caused by climate change. Politically, there is hardly any sign that the government has any viable, durable plans for dealing with climate refugees from Bangladesh⁵³.

5. Climate-induced internal displacements in India

Several hazards like earthquakes, dry mass movement, volcanic activity, drought, erosion, wildfire, flood, extreme temperature, and storms contribute towards climate-induced internal displacements in India. Among these, flood and coastal erosion are the prominent hazards that cause internal displacements in India.

5.1 Flood-induced internal displacement

Most of the climate-induced displacement happens in India due to floods. The below table shows the intensity of flood-induced displacements in India from 2017-2022. In 2017, 14 lakhs people were displaced internally because of flood, and in 2019 the number nearly doubled to 2.6 million. In 2018, 2021, and in 2022, the number of internally displaced people crossed

⁵³ Nandan Sharalaya, *Taking India's Climate Migrants Seriously*, <https://the-diplomat.com/2018/08/taking-indias-climate-migrants-seriously/> (last visited August 10, 2023).

2 million⁵⁴. India witnessed around a hundred floods between 2017 and 2022. In 2022, 1,400,000 people were displaced due to floods in Assam. In West Bengal in 2021, the flood had displaced 750,000 people⁵⁵.

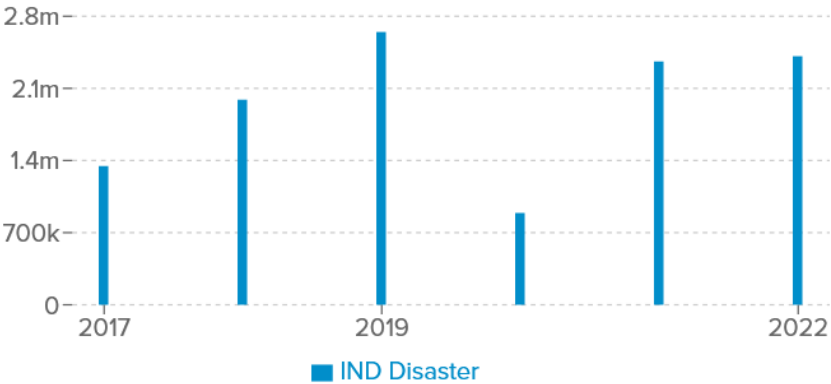


Figure 1: Data showing flood-induced displacements in India.

Source: <https://www.internal-displacement.org/database/displacement-data>

Kuttanad in the state of Kerala is now suffering the worst from climate change. For the past few years, floods have ruined crops and residential areas. Although all of Kuttanad is susceptible to flooding, residents of Kayal Land and Lower Kuttanad in the Alappuzha district are the hardest hit by rivers like the Pampa, Achankovil, Manimala, and Meenachil that flow into Vembanad Lake and Kuttanad. Changes in rainfall patterns are having a significant impact on agriculture, particularly paddy production, in this primarily agrarian region. Floods are now a yearly occurrence. Due to an increase in lake level between 2018 and 2022, the paddy polder's outer

⁵⁴ Norwegian Refugee Council, *Global Report On Internal Displacement*, <https://api.internaldisplacement.org/sites/default/files/publications/documents/2020-IDMC-GRID.pdf> (last visited November 20, 2023).

⁵⁵ *Id*

bund has broken five times⁵⁶. In addition to the rise in the frequency of floods, troubles are made worse by the slow rate at which floodwaters are receding. The impacts are quite visible in Kuttanad, and the region's severe ecological deterioration in recent decades has made the issues in the area below sea level worse. The people are left with no option to relocate to a better place of living; instead, they live in government-run camps or at relatives' houses when the flood hits. After the devastating floods that hit Kerala in 2018, people in certain flood-prone areas found it dangerous to live there, and some of them migrated to other places. Frequent occurrences of such natural disasters may trigger more fear and more migration.

Assam is India's other major flood and erosion-prone state. Millions of people in Assam rely on the river Brahmaputra for their livelihood. But living on the edge of the river has put them in an unpredictable situation. Millions of people in Assam now fear that they will have to relocate owing to unpredictable and extreme weather, which is a result of climate change⁵⁷. Landslides and floods constantly force people to migrate to other places. The displacement brought on by the floods might be either temporary or permanent. Over the years, many have been forced to relocate permanently due to erosion along river banks and riverine islands that is exacerbated by floods. The number of displaced people is only counted once they enter the government-established relief camps. According to estimates made by non-governmental organisations, such as the IDMC for India, 36 lakhs persons

⁵⁶ Sam Paul A & Hiran U, *Kuttanad's climate refugees*, <https://www.thehindu.com/news/national/kerala/kuttanads-climate-refugees/article65367111.ece> (last visited April 30, 2023).

⁵⁷ Snigdha Basu, *Assam floods: An environmental migrant crisis*, GoNewsIndia, <https://www.gonewsindia.com/latest-news/environment/assam-floods-an-environmental-migrant-crisis-16918> (last visited January 30, 2023).

were uprooted per annum between 2008 and 2019. According to the IDMC, the majority of these evictions were caused 'mostly by floods during the monsoon'⁵⁸.

Another case is that of the state of Uttarakhand in India. Over the next 30 years, climate change in Uttarakhand will progressively compel people to leave high-altitude farming and relocate to the plains. In Uttarakhand, the bulk of the population lives in villages and relies on terrace farming on steep hillsides for 71% of their sustenance. The majority of respondents believed that agricultural yields were falling, and 47% of them said that this was the main cause of people migrating⁵⁹. The limitations on mountain agriculture in Uttarakhand are connected to migration. Among other things, increasing climate impacts are lowering food yield and productivity and adding to the pressure on the state's population to migrate, which results in a high percentage of labour migrants⁶⁰.

5.2 Climate-induced displacement due to coastal erosion

Climate change puts forth the immense risks of sea level rise. The coastal regions in India have already started to experience its impacts, putting the livelihood of the people at risk. Around 7500 square kilometres of coastline in India faces the immense risk of rising sea-levels. During the last fifty years, 8.5 cm of sea level rise was recorded along the coastal surface of India⁶¹.

⁵⁸ *supra* note 54

⁵⁹ Brigitte Hoermann, Michael Kollmair, Soumyadeep Banerjee, *Labour migration for development in the western Hindu Kush-Himalayas*, Food and Agricultural Organisation of the UN, <https://agris.fao.org/agris-search/search.do?recordID=XF2015025532> (last visited January 1, 2023).

⁶⁰ Anmol Jain, *Labour Migration and Remittances in Uttarakhand: Case Study Report*, International Centre for Integrated Mountain Development, Kathmandu (2010)

⁶¹ Architesh Panda, *Climate change, displacement, and managed retreat in Coastal India*, Migration Policy Institute,

Communities along the east and west coast are at risk of climate-related displacements. The tropical storms from the Arabian sea and the Bay of Bengal are responsible for such issues. As per the details in a recent study, the highest percentage of erosion in the Indian shoreline has occurred in West Bengal, followed by Kerala. Gujarat and Odisha, respectively, during 1989-2001⁶².

Table 1- Shoreline change in Coastal states of India

SI No	State	Shoreline change in percentage
1).	West Bengal	70%
2).	Kerala	65%
3).	Gujarat	60%
4).	Odisha	50%

Source- Compiled by authors

The state of Kerala is also been badly suffering from coastline erosion over the last few years. Hundreds of families in Kerala’s coastal villages have lost their houses⁶³. Kerala’s main mitigating strategy was to build sea walls, but according to experts, it has proven to be a failure. In Trivandrum, the coastal area of Valiyathura, the fishing villages of Poonthura, Panathura and Bimapalli are the worst affected areas over the last five years. The famous beach in Trivandrum, Shanghumugham, has been eroded. According to the National Centre for Sustainable Coastal Management (NCSCM), sixty-three per cent of Kerala’s coastline is eroding, and the wearing

<https://www.migrationpolicy.org/article/climate-change-displacement-managed-retreat-india> (last visited February 23, 2023)

⁶² *supra* note 61

⁶³ Haritha John, *Coastal erosion is chipping away at homes in Kerala, displacing hundreds*, SCROLL, <https://scroll.in/article/884068/coastal-erosion-is-chipping-away-at-homes-in-kerala-displacing-hundreds> (last visited April 20, 2023).

away is highest in the capital district of Kerala⁶⁴. In Ernakulam district, the rise of sea level is at a rate of 1.8mm/yr along the coastal areas⁶⁵. Chellanam is one of the worst affected areas in the Ernakulam district. The floods and related sea-level rise of 2018 evacuated around 1.4 million individuals in Kerala⁶⁶.

Odisha also faces sea-level rise risk. Estimate shows that 28 per cent of Odisha's 550 kilometres of coastline witnessed wearing away between the period of 1990 and 2016⁶⁷. Odisha is well known for its recurrent cyclones, evident indications of rising sea levels, and coastal blizzards along its Bay of Bengal coastline. Various villages in the Kendrapada district of Odisha faced coastal erosion; this erosion flickered displacement and migration. The families displaced in the villages of Satabhaya are described as India's first climate-induced refugees. A total of 818 families were rehabilitated, and among them, 247 were rehabilitated at the Bagapatia resettlement colony with farming plots and housing⁶⁸.

Around 54 islands in the Sundarbans region are inhabited, and this area constantly faces the threat of sea-level erosion and rise. Sea-level rise in the Sundarbans delta is alarming, and the average yearly rise in the region is 8 millimetres which are 5 millimetres higher than the global average⁶⁹. Other disturbing statistics show that the Indian portion of the delta is reducing at a rate of about 2 to 4 millimetres a year. From 1973-2010, 170 square kilometres of land eroded due to climate

⁶⁴ *Id*

⁶⁵ S. Sreekesh, Sreerama Naik S. R., & Seema Rani, *Effect of sea level changes on the groundwater quality along the coast of Ernakulam District*, 4(2) JOURNAL OF CLIMATE CHANGE, 51, 51-65 (2018) <https://doi.org/10.3233/jcc-1800013>

⁶⁶ *supra* note 61

⁶⁷ R. S. Kankara, M. V. Ramana Murthy & M. Rajeevan, *Report on National Assessment of Shoreline Changes along Indian Coast (1990-2016)*

⁶⁸ *Id*

⁶⁹ World Bank, *Landscape Narrative of the Sundarban: Towards Collaborative Management by Bangladesh and India* (2019).

change and rising sea levels⁷⁰. This data indicates the need for relocation in future. Around 1 million people will need to displace from the Sundarbans by 2050 due to the heavy risk of rising sea levels⁷¹. One of the severe consequences of rising sea-level in India, other than internal displacement and internal migration, is the rising repositioning in major coastal cities. Megacities like Kolkata, Mumbai, and Chennai face a severe threat from the sea-level rise. Repositioning and relocation are becoming important in this context; the dearth of effective anticipative repositioning of people from high-risk areas can result in forced climate migration and displacement in future.

7. Legal shortcomings in the international and regional scenarios

There needs to be more conceptual clarity in addressing climate change-induced displaced individuals⁷². The international society uses various terms to denote them: climate refugees, environmental migrants/refugees, climate change migrants, and environmentally displaced persons. Like the dearth of conceptual clarity, an important issue exists the need for an agreement in international relations to define climate refugees⁷³. Climate refugees are defined as people compelled to seek refuge in another country because of environmental changes rendering their habitat unsuitable for

⁷⁰ *supra* note 61

⁷¹ *supra* note 61

⁷² Christel Cournil, *The Question of the Protection of 'Environmental Refugees' from the Standpoint of International Law*, MIGRATION AND CLIMATE CHANGE 359-386, UNESCO Publishing/Cambridge University Press. (2011)

⁷³ Frank Biermann, and Ingrid Boas, *Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees*, 10(1) GLOBAL ENVIRONMENTAL POLITICS, 60, 60-88 (2010).

human habitation, primarily caused by human-induced climate-related events.

7.1 1951 convention

The 1951 convention describes a refugee as someone crossing an international border because they have a legitimate reason to fear persecution based on several factors mentioned earlier⁷⁴. The 1967 protocol extended the scope of refugees, but neither document don't recognise environmental issues as a genuine reason for the massive influx. Ecological refugees must meet the provisions mentioned in Art. 1 A (2) to get the status of refugees in international law⁷⁵. But climate change may be termed or interpreted as something negative in nature, as it affects people's rights and creates fear of torture. The absence of a well-defined definition and protective measures for environmental refugees carries implications on the global stage. For instance, in the plea from New Zealand, involving a family from Tuvalu for refugee status, it was absolute that the Refugee Convention does not currently cover such a category. However, in the *Teitiota case*, the New Zealand Immigration and Protection Tribunal expressed the potential for future interpretation that could encompass climate refugees within the definition of refugees. The tribunal emphasized the need for a careful examination of the unique aspects of each case.

7.2 Convention on Statelessness

Another important convention related to climate refugees is the Convention on Statelessness. Article 1(1) defines a stateless individual as someone who is not recognised as a citizen by any country according to its legal system⁷⁶. Climate-induced

⁷⁴ *supra* note 24.

⁷⁵ Frunes Mathilde, *The Legal Protection of Climate Change Refugees: An Analysis of the Proposed Solutions to Closing the Protection Gap*, <https://munin.uit.no/handle/10037/25197> (last visited August 17, 2023).

⁷⁶ Convention Relating to the Status of Stateless Persons, Apr. 26, 1954, Article 1

displacement can affect nationality and related rights. The UNFCCC has reached a consensus on taking steps to improve comprehension, coordination, and collaboration concerning displacement, migration, and planned relocations resulting from climate change, as deemed suitable, on national, regional, and global scales. But even after 11 years of the Cancun framework, nothing happened. In other words, no explicit regulatory frameworks or policies dealing with environmental displacement come into effect. The steps taken by UNFCCC are superficial and lack genuine interest in addressing the issue⁷⁷. The above examples show that international legal frameworks specific to environmental protection have limited applicability to the refugee crisis induced by environmental hazards.

7.3 1969 Convention on the Specific Aspects of Refugee Problems

In their definition of refugees, the 1969 Convention on the Specific Aspects of Refugee Problems in Africa mentioned the events causing significant disruptions to societal order as the reason for refugees' influx. Climate change can be considered an issue that seriously disturbs public order. Similarly, Article 3(3) of the Cartagena Declaration mentions other situations that have significantly disrupted societal order. This assertion is non-obligatory, but many Central and Latin American nations merged it into domestic law⁷⁸. This statement includes protection for environmental refugees, but as of now, the declaration is not taken to tackle the predicament of climate refugees.

⁷⁷ Lauren Nishimura, *Climate change migrants': Impediments to a protection framework and the need to incorporate migration into climate change adaptation strategies*, 27(1) INTERNATIONAL JOURNAL OF REFUGEE LAW, 107, 107-134 (2015).

⁷⁸ *supra* note 77.

7.4 UNHCR Strategic Framework for Climate Action

UNHCR Strategic Framework for Climate Action considers climatic aberrations as a threat multiplier problem which can result in massive displacement. The three pillars of action identified in the strategic framework are “law and policy, operations and environmental footprints”⁷⁹. This document seeks to provide direction for understanding and applying pertinent legal and policy frameworks, develop guidance and stimulate global dialogues, conserve, restore, and counteract environmental degradation in displacement scenarios, improve the ability of displaced individuals and host communities to withstand climate-related and other environmental risks, enhance preparedness, proactive actions, and responses to bolster the safety and solutions for displaced individuals and their hosts in disaster situations.

7.5 Provisions in Indian Constitution

Despite the provisions of Articles 21 (Right to Life) and 14 (Right to Equality) in the Constitution of India, which emphasise the rights to life and equality, climate refugees remain unprotected. There is no domestic law in India that governs how to handle refugees. In India, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act of 2013 controls the payment of compensation when the government acquires land for state-wide development projects, and the Disaster Management Act of 2005, is another piece of legislation that

⁷⁹UNHCR, *Strategic Framework for Climate Action*, UNHCR, <https://www.unhcr.org/sites/default/files/legacy-pdf/604a26d84.pdf> (last visited July 6, 2023).

addresses rehabilitation in the event of climatic calamities⁸⁰. However, the rehabilitation of international climate refugees is not covered by these regulations. Amending these regulations for safeguarding climate refugees is much needed in the backdrop of all the issues mentioned.

India is presently devoid of a legislative framework acknowledging climate migrants. A cohesive legal and policy structure is urgently required to safeguard the rights of individuals displaced or compelled to migrate due to environmental disruptions, with a view to mitigating further displacements. Existing policies predominantly address sudden disasters, neglecting gradual events. They primarily concentrate on immediate relief in disaster-stricken areas, often disregarding the holistic rehabilitation of the displaced population. On December 9, 2022, Member of Parliament Pradyut Bordoloi presented a private member bill aimed at acknowledging climate migrants and ensuring their comprehensive rehabilitation. Bordoloi discusses the Climate Migrants (Protection and Rehabilitation) Bill, 2022, as a viable long-term remedy for climate-induced migration within the nation⁸¹. He emphasized the necessity of the proposed bill, asserting that it will guarantee holistic rehabilitation. Should it be approved, the bill will establish, for the first time, a structured approach to rehabilitating individuals impacted by abrupt calamities like floods and cyclones, as well as gradual environmental changes such as river and ocean erosion, drought, and desertification. The bill is groundbreaking in its scope, encompassing both sudden calamities and slow-onset

⁸⁰ Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, No. 30, Acts of Parliament (2013)

⁸¹ Zumbish, *It is high time India has a law that recognises climate migrants*, Down-to-earth, <https://www.downtoearth.org.in/interviews/climate-change/-it-is-high-time-india-has-a-law-that-recognises-climate-migrant-s--91447> (last visited August 23, 2023).

events like droughts, erosion, glacial thaw, and desertification. The bill delineates the term "climate migrants," advocating for the establishment of a dedicated fund for their rehabilitation, as well as proposing the establishment of an inter-ministerial authority at national and state levels⁸².

India lacks a distinct law dedicated to regulating refugees within its legal framework. In the absence of such legislation, refugees fall under the purview of prevailing Indian statutes such as The Criminal Procedure Code, The Indian Penal Code, and The Evidence Act. Despite not ratifying the 1951 Convention on refugees and the 1967 Protocol, India is a party to numerous United Nations and World Conventions concerning Human Rights, refugee affairs, and associated subjects. The country's responsibilities towards refugees stem from the latter engagements. India joined the Executive Committee of the High Commissioner's Programme (EXCOM) in 1995⁸³. This body, affiliated with the UN, sanctions and oversees the material aid initiatives of UNHCR. Membership in the EXCOM denotes a specific interest and heightened dedication to refugee concerns. India supported the adoption of the Universal Declaration of Human Rights, underscoring entitlements for all individuals, regardless of citizenship status. Additionally, India backed the endorsement of the UN Declaration of Territorial Asylum in 1967. There exist several provisions within the Indian Constitution that are equally relevant to refugees residing in India, similar to those of Indian citizens⁸⁴. The Supreme Court of India has consistently asserted that the Fundamental Right articulated in Article 21 of the Indian Constitution concerning the Right to life and

⁸² *Id*

⁸³ T. Ananthachari, *Refugees in India: Legal Framework, Law Enforcement and Security*, ISIL Year Book of International Humanitarian andc Refugee Law, <http://www.worldlii.org/int/journals/ISILYBIHRL/2001/7.html> (last visited April 24, 2023).

⁸⁴ INDIA CONST. art. 21.

personal liberty is applicable to all individuals, regardless of their citizenship status⁸⁵. High Courts across India have readily embraced the principles of natural justice in addressing refugee matters, while also acknowledging the significant role played by the UNHCR in safeguarding the rights of refugees.

8. Conclusion

The climate-related issues put nations under pressure to safeguard their citizens from its consequences. This is a practically difficult task across the Global South, especially island nations at risk from increasing sea levels. Climate-vulnerable states have long been compelled to engage in labour-intensive production and extraction of raw materials for the Global North. The nature of climate-induced displacement is changing dramatically as natural disasters become more severe and last longer, to the point where people's homes worldwide are no longer habitable, and permanent resettlement may be required. Nevertheless, safeguards for individuals compelled to migrate across international borders due to climate change are inadequate, fragmented, and lack binding enforcement under various laws related to international humanitarian measures, human rights, and refugee protection. It is urgent to develop a new definition of "persecution" that could take into account the seriousness of the climate catastrophe and the displacement caused by it, as well as serve as the foundation for a normative framework of "climate refugee" protection, either establishing the Convention Relating to the Status of Climate Refugees as a new refugee pact or revising the 1951 Refugee Convention. The temporary nature of disaster displacement is a reason for the lack of permanent mechanisms for settling the issues of relocation due to climate change. There have been minimal national-level policy endeavours to strategize for the displacement of residents due to climate-related hazards, and

⁸⁵ *Id*

an inclusive national-level policy for the planned repositioning of climate change-affected individuals remains absent. The current legal and institutional structures in India do not explicitly recognise individuals who have experienced displacement due to the effects of climate change or environmental factors. The Inter-State Migrant Workmen Act of 1979, which regulates interstate migration, does not include a specific classification for individuals displaced by climate change-related risks, and there have been no proposed changes to concentrate on the problems they face. The inclusion of the term climate refugees in regional and international laws and the development of adequate policies for them is the need of the hour, considering the increasing effects of climate change across the world, especially in developing nations. India is facing the dual challenge of climate-induced internal displacement of people as well as the inflow of climate refugees from neighbouring nations. The lack of policies and legal agenda to tackle the issue of climate refugees, and climate-induced internally displaced people in India will intensify the challenge in future.