

## FROM DISPLACEMENT TO DIGNITY: CLIMATE-INDUCED MIGRATION AND ARTICLE 21

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### INTRODUCTION: CLIMATE DISPLACEMENT AND THE CRISIS OF LEGAL RECOGNITION

Migration, as per the international organization for migration (IOM), is the relocation of individuals away from their primary residence, either internally or across borders, for temporary or permanent periods. Extending this, the UN Framework Convention on Climate Change (UNFCCC) recognizes 'migrant' as anyone residing outside their place of origin prolonging beyond three months period. Such migrations may be voluntary, guided by desire for education, work, or better livelihoods or involuntary, commonly forced by environmental disasters or escalating socio-economic conditions. In vulnerable regions of the developing world, climate change has become a major determinant behind growing patterns of internal and cross border displacement.<sup>1</sup> Weather related disasters independently triggered 250 million internal displacements all over the world over the past 10 years, which is equal to over 67,000 displacements each day.<sup>2</sup>

Migration caused by climate effects can be classified by the speed of onset. Sudden-onset displacement manifests from calamities such as hurricanes, floods, or cyclones, which are strongly associated to climate change, these are primarily involuntary and shaped by intense hardships. The 2018 Kerala floods, cyclone Amphan in 2020, and the 2024 Wayanad landslides which displaced hundreds of people,<sup>3</sup> are illustrative examples. Slow-onset displacement, in distinction, occurs slowly due to variables like drought, soil erosion, or rising sea levels that threaten survival. The Sundarbans delta in West Bengal illustrates this, where coastal land erosion and salinisation have pushed people to move in search of secure livelihoods.<sup>4</sup>

### MEASURING THE CRISIS: CLIMATE DISPLACEMENT

The remarkable scale of climate displacement in south Asia, especially in India, is beyond the capability of temporary or fragmented solutions to address. India ranks 6<sup>th</sup> globally in long-term vulnerability and suffered over 80,000 deaths and USD 180 billion in economic losses between 1993 and 2022.<sup>5</sup> In the year 2024, the country recorded more than 5.4 million internal displacements due to disasters and maximum were due to flooding and cyclones. Importantly, these displacements occurred within national borders.<sup>6</sup>

Earlier data postulates a similar trend developing, in 2019, India, Bangladesh, and the Philippines, reported over 4 million people who had been displaced by disasters. In addition, projections for the region are similarly dire. Under high warming conditions, it is projected that south Asia will experience approximately 40 million internal climate migrants by the year 2050. Within India, there are some specific areas which appear to be at greater risk. For example, the Gangetic plains along with several large coastal urban centres such as Mumbai and Chennai, experience multiple vulnerabilities. They are exposed to extreme climate impacts, act as

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major destinations for migrants, and have increased pressure on their rural-urban migration flows. When combined, these factors make climate displacement in India both a humanitarian and constitutional emergency.<sup>7</sup>

### LEGAL INVISIBILITY AND THE REGULATORY GAP FOR CLIMATE DISPLACEMENT

The main legal obstacle that climate-displaced people face in India is their lack of legal recognition. Internationally, individuals displaced due to climate related disasters do not qualify for protection under the 1951 refugee convention<sup>8</sup> and the Paris agreement (2015), acknowledges the issue but do not impose binding obligations on states for legal recognition or rehabilitation of those displaced from climate change.<sup>9</sup>

Domestically, India's legal framework reveals several limitations. While the disaster management act, 2005 provides for short-term minimum assistance for disaster migration but lacks extensive provisions for long-term rehabilitation, compensation, or governance of climate migration.<sup>10</sup> India's national policy on resettlement and rehabilitation (2007) is also limited to displacement resulting from development projects and does not include those displaced by natural disaster or climate change.<sup>11</sup> On this basis, India lacks a legislation recognising individuals as refugees who are displaced due to climate reasons.

Owing to the legislative inadequacy, the judiciary has developed as an essential actor in remedying structural legislative and regulatory omissions. Even though climate change has recently been affirmed in Indian judicial disposition, courts have long established environmental governance through doctrines including the polluter pays principle, sustainable development, and the public trust doctrine.<sup>12</sup> In response to absence of legislative initiative, constitutional courts progressively operate as forums for holding the state accountable. With regard to judiciary's long-standing practice of extensive constitutional interpretation, judicial action is necessary to

safeguard life and human dignity in climate induced displacement.

### ARTICLE 21 AND THE CONSTITUTIONALIZATION OF CLIMATE INDUCED DISPLACEMENT

The central legal contention is that climate-related displacement must be recognized as a breach of fundamental rights that requires a shift from ad hoc disaster relief to a constitutional duty of prevention and rehabilitation. In *M.K. Ranjitsinh v. Union of India* (2024)<sup>13</sup>, the Supreme Court constitutionalised climate justice by recognizing the right to protection from the adverse effects of climate change, rooted in article 21<sup>14</sup> and 14<sup>15</sup>. Expanding upon precedents like *Virender Gaur v. State of Haryana* (1994)<sup>16</sup> and *M.C. Mehta v. Kamal Nath* (2000)<sup>17</sup>, the court defined a distinct right to be free from the harmful impacts of climate change rather than merely environmental harm. The court has fundamentally transformed climate change from a policy issue to a constitutional issue, establishing that the state's obligations extend beyond immediate relief to include preventative measures, long term rehabilitation and equitable relocation.<sup>18</sup>

The Supreme Court in *M.C. Mehta v. Kamal Nath* (1997)<sup>19</sup> ruled that states are trustees of natural resources, not owners of them. When interpreted together with Article 51A(g)<sup>20</sup> and Article 48A<sup>21</sup>, this doctrine adds to the environmental component of article 21. State inaction on slow-onset environmental degradation or in preparing adequately for sudden disasters can result in a violation of the right to life, which provides a link between governance failures in vulnerable areas to violations of fundamental rights.

Displacement due to climate change violates the constitutionally protected rights to livelihood and dignity under article 21. In *Olga Tellis v. municipal corporation* (1985)<sup>22</sup>, the right to livelihood was included under right to life by The Supreme Court. When climate related events cause destruction to agricultural lands, homes, and local economies, they take away the means

of subsistence of the people, forcing displacement as a matter of survival rather than choice. As a result, when viewed from a constitutional standpoint, climate induced displacement is not just a humanitarian disaster, but an infringement on the fundamental rights ingrained in state's failure to act and protect its vulnerable communities.

### THE STATE OBLIGATION GAP IN CLIMATE-INDUCED DISPLACEMENT

India's existing legal and policy structure is inadequately designed to provide the expanded positive obligations as per article 21, as recognized in *M.K. Ranjitsinh v. Union of India* and earlier precedents. The disaster management act 2005, the central legislation for governing disaster response, is designed around an event-centric and relief-oriented approach, it offers primacy to emergency assistance, without establishing a right-based framework for climate displaced individuals and communities. In particular, it fails to provide for long-term rehabilitation, compensation, land security, or legal recognition of permanent displacement

It only addresses *ex post facto* relief, while failing to consider *ex ante* prevention and *ex post* rehabilitation.<sup>23</sup> This compromises the substantive obligations set out under article 21, which requires the state to act where environmental disasters threaten life or livelihood.

Displacement due to climate is hardly ever caused solely by environmental factors, it arises from a layered crisis where climate stressors augment pre-existing socio-economic and structural inequalities. The intergovernmental panel on climate change (IPCC) characterizes "vulnerability" by the extent to which a system is prone to climate hazards and is deficient in the adaptive capacity to manage their negative effects. Environmental incidents become disasters mainly when they impact marginalized populations with weak resilience and reduced resilience.<sup>24</sup>

In Meenakshipuram, Tamil Nadu, prolonged periods of drought, coupled with market failure combined with social exclusion faced primarily by the scheduled castes, impacted their access to welfare and adaptive resources.<sup>25</sup> The government decisions that favour the value of property or affluent regions create additional obstacles, turning climate risk into forced migration of vulnerable populations. This disparity in protection raises substantial constitutional questions, as the right to live with dignity under article 21 is not contingent upon either the economic utility or the value of the property. It's the state's duty to implement equitable and non-discriminatory actions to prevent the forced displacement of vulnerable populations due to climate related reasons.

In *Teitiota v. New Zealand* (2020),<sup>26</sup> the United Nations human rights committee observed that while climate change can invoke the right to life (ICCPR article 6),<sup>27</sup> and the prohibition of cruel, inhuman or degrading treatment (ICCPR article 7),<sup>28</sup> consequently introducing the ambit of non-refoulement to include climate-related harms. At the same time, the committee relied on a high threshold of "actual or imminent risk of specific and sufficiently severe harm", excluding slow-onset climate displacement from protection.<sup>29</sup> This affirms the limitations of the current mechanisms and supports the argument for a broader interpretation of article 21 and the need for a lower standard. Under article 21, the potential loss of life and dignity due to climate displacement cannot be overlooked just because the danger is not immediate or fully realised.

### FROM DISASTER RELIEF TO RIGHTS PROTECTION: PROPOSING A CLIMATE DISPLACEMENT ACT

To fill the constitutional void concerning climate-related displacement in India, it is necessary to institute a Climate Displacement Act (CDA) which incorporates a right-based and preventive approach. Though, the Rehabilitation and relocation of person displaced due to climate change bill, 2022, demonstrated emergent legislative consciousness of climate-

induced displacement, its inability to materialise signals the deficiency of an integrated and enforceable framework.<sup>30</sup> A CDA would provide the long-absent 'procedure established by law' under article 21 moving government's response from ad-hoc disaster relief to durable climate justice. In this regard, the act should formally recognise climate-displaced individuals as a separate category of internally displaced persons (IDPs), including from both sudden-onset and slow-onset disasters.

The recognition of climate-displaced individuals as IDPs must trigger legally enforceable rights to planned relocation, secure resettlement and restoration of livelihoods. The law must require the construction of resilient infrastructure within climate vulnerable zones in order to avoid additional displacement due to climate change. Effective implementation of the act will depend on an independent institutional authority to oversee its implementation, special protections for marginalised populations, and the judicial oversight to ensure accountability and adherence to the principles of the constitution.

## CONCLUSION

The immense climate-induced displacements across India, adjacent to severe human and economic effects, represent a crisis that hinder the right to life and dignity. The unacknowledged status of climate migrants constitutes a constitutional violation, as the government's neglect to provide effective rehabilitation violates article 21. The Supreme Court's judgement in M.K. Ranjitsinh provides the important constitutional bridge, acknowledging the right to protection from adverse climate effects and mandating a positive fiduciary obligation on the state that transcends narrow international standards. Applying this jurisprudence into a climate displacement act is paramount to replace temporary relief with long-term, right-based structure upholding life with dignity for all.

## ENDNOTES

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