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# **INVISIBLE DISPLACEMENT AND CONSTITUTIONAL SILENCE: CLIMATE MOBILITY IN INDIA'S LEGAL FRAMEWORK**

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## **ABSTRACT**

Climate change has emerged as one of the most pressing drivers of human displacement in the twenty-first century, yet contemporary legal frameworks remain largely inadequate to address the complex realities of climate-induced migration. This article, titled “Invisible Displacement and Constitutional Silence: Climate Mobility in India’s Legal Framework” examines the intersection of environmental change, forced mobility, and legal invisibility within the Indian constitutional and administrative framework. It critically explores how rising sea levels, extreme weather events, desertification, and ecological degradation are increasingly producing displaced populations who fall outside the traditional categories of refugee, migrant, or internally displaced person under domestic and international law.

The study adopts a socio-legal approach to assess the gap between lived realities of climate-affected communities and the existing legal instruments such as the Constitution of India, the Disaster Management Act, 2005, environmental jurisprudence developed by the Supreme Court, and relevant international principles including the Principles on Internal Displacement. It argues that this gap results in a form of structural legal invisibility, where affected populations are neither formally recognized nor adequately protected, thereby limiting their access to rehabilitation, compensation, and fundamental rights protections under Article 21.

From a social science perspective, the article highlights how climate displacement reshapes identity, livelihood patterns, and social stratification, disproportionately impacting marginalized groups such as coastal communities, tribal populations, and agrarian workers. It further examines the role of state capacity, urban migration pressures, and governance failures in exacerbating vulnerability.

The article contends that India requires a recalibrated legal framework that integrates climate

justice into constitutional interpretation, strengthens anticipatory governance mechanisms, and recognises climate displacement as a distinct category of human rights concern. Ultimately, it argues for an expansion of the welfare and rights-based state paradigm to include climate-induced mobility as a legally cognizable phenomenon, ensuring dignity, protection, and substantive equality for affected populations.

**Keywords:**

Climate-induced displacement, legal recognition, socio-legal analysis, Article 21, environmental justice, internal migration.

## **1. INTRODUCTION**

Climate change has emerged as one of the most significant structural challenges facing contemporary legal systems, reshaping the relationship between human populations, territory, and governance.<sup>1</sup> Unlike traditional causes of migration, such as war, persecution, or economic deprivation, climate-induced displacement is uniquely characterised by its diffuse causality, gradual onset in some cases, and sudden catastrophic impact in others<sup>2</sup>. Rising sea levels, intensified cyclonic activity, irregular monsoons, glacial retreat, desertification, and heatwave proliferation are no longer abstract environmental phenomena; they are active drivers of human displacement across continents, particularly in vulnerable regions such as South Asia.<sup>3</sup>

India occupies a critical position in this global climate-displacement matrix. Its extensive coastline of over 7,500 kilometres, densely populated river basins such as the Ganga-Brahmaputra-Meghna system, and high dependence on climate-sensitive livelihoods such as agriculture and fisheries make it one of the most climate-exposed jurisdictions in the world.<sup>4</sup> Empirical studies already indicate recurring patterns of displacement in regions such as Assam due to annual flooding, the Sundarbans due to coastal erosion and salinity intrusion, Bihar due to riverine flooding, and parts of central and northern India due to drought and heat stress.<sup>5</sup> Despite this empirical reality, Indian law does not yet recognise climate-displaced persons as a distinct legal category.

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<sup>1</sup> Benoit Mayer, 'Climate Migration' (2016) 27 *GEILR* 1.

<sup>2</sup> IPCC, *Sixth Assessment Report* (2022).

<sup>3</sup> Jane McAdam, *Climate Change, Forced Migration and International Law* (OUP 2012).

<sup>4</sup> World Bank, *Groundswell Report* (2018).

<sup>5</sup> Internal Displacement Monitoring Centre, *GRID Report* (2023).

This gap goes beyond a mere issue of terminology and reflects a more fundamental limitation in the way law conceptualises social realities. Legal systems depend on classification to function, rights and protections become operational only when individuals or groups are placed within recognised legal categories. When such recognition is absent, protection becomes uneven, heavily dependent on administrative discretion, and lacking in clear, enforceable guarantees.

This challenge must also be understood through the lens of climate justice. Countries in the Global South, including India, face disproportionate exposure to climate impacts despite contributing comparatively less to global emissions. As a result, climate-induced displacement reflects not only environmental change but also historical and structural inequalities embedded within the international legal order.

This article therefore seeks to critically examine the gap between environmental displacement and legal recognition in India, situating the analysis within constitutional law, international legal frameworks, disaster governance structures, and socio-legal theory.

## **2. CONCEPTUAL FRAMEWORK: UNDERSTANDING CLIMATE DISPLACEMENT**

Climate-induced displacement is a legally and conceptually contested phenomenon that resists easy categorisation within traditional migration and refugee law frameworks. At its most basic level, it refers to the forced or compelled movement of individuals, households, or entire communities due to environmental changes linked to climate variability and long-term climatic transformation.<sup>6</sup> However, this seemingly simple definition conceals deep doctrinal complexities that arise from the intersection of environmental science, migration theory, and legal classification.

The International Organization for Migration defines environmental migrants as persons who are compelled to leave their habitual residence due to sudden or progressive environmental changes that adversely affect their living conditions.<sup>7</sup> While this definition is widely cited in policy discourse, its primary function is descriptive rather than normative, which limits its

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<sup>6</sup> IOM, *Glossary on Migration* (2019).

<sup>7</sup> International Organization for Migration, *Migration and the Environment* (MC/INF/288, 2007).

utility in legal adjudication or rights-based claims.

A major conceptual difficulty arises from the problem of causation. Climate change rarely operates as a singular or exclusive cause of displacement. Instead, it interacts with pre-existing socio-economic vulnerabilities, governance deficits, infrastructural inequalities, and demographic pressures. The Intergovernmental Panel on Climate Change has therefore characterised climate change as a risk multiplier rather than a direct causal trigger of migration.<sup>8</sup> This framing, while scientifically accurate, complicates legal attribution because it diffuses responsibility across multiple causal chains, making it difficult to establish a clear legal link between state obligation and individual displacement.

From a jurisprudential perspective, this raises a fundamental tension within legal reasoning itself. Law traditionally relies on linear causality, where harm can be traced to a specific actor or identifiable event.

Another significant challenge lies in the conceptual distinction between voluntary migration and forced displacement. Classical migration theory assumes a binary framework: individuals either migrate voluntarily for better opportunities or are forcibly displaced due to persecution or immediate threats. Climate-induced mobility disrupts this thought by producing what scholars describe as a constrained choice.<sup>9</sup> In such situations, individuals may technically retain the freedom to stay, but the erosion of environmental viability, such as declining agricultural productivity, water scarcity, or recurrent flooding, renders staying practically unsustainable. This creates a grey zone of mobility that is neither fully voluntary nor formally recognised as forced displacement under law.

This ambiguity has direct legal consequences because they are then neither recognised as refugees under international law nor fully covered under domestic disaster relief mechanisms, resulting in a significant protection gap.

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<sup>8</sup> Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability* (Working Group II Contribution to the Sixth Assessment Report, Cambridge University Press 2022) ch 7.

<sup>9</sup> Stephen Castles, 'Environmental Change and Forced Migration: Making Sense of the Debate' (2002) 17 *New Issues in Refugee Research* 1, 8–10.

### **3. INTERNATIONAL LEGAL FRAMEWORK: STRUCTURAL LIMITATIONS AND NORMATIVE FAILURE**

The international legal regime governing displacement is historically rooted in post World War II geopolitical realities and therefore reflects the concerns of persecution based migration rather than environmentally induced mobility.<sup>10</sup>

The cornerstone of international refugee protection, the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, defines a refugee as an individual who has a well founded fear of persecution based on race, religion, nationality, political opinion, or membership of a particular social group.<sup>11</sup> This definition is intentionally narrow and presupposes human agency in the form of persecutory conduct. Climate change, however, is a systemic and non intentional process, thereby falling outside the conceptual architecture of persecution based protection.

This exclusion is not merely incidental; it stems from the underlying approach of international law, which has traditionally treated human rights violations and environmental factors as separate issues. As a result, even when climate change seriously threatens life and livelihood, affected individuals often do not meet the legal requirements for recognition as refugees. Courts and asylum authorities across different countries have generally been reluctant to broaden the refugee definition to include environmental harm, which continues to leave such individuals without adequate protection at the international level.

In response to growing recognition of this gap, soft law instruments have emerged within the United Nations system. The UN Guiding Principles on Internal Displacement (1998) extend protection to individuals displaced by natural or human made disasters.<sup>12</sup> While this inclusion appears to provide coverage for climate related displacement, the instrument is non binding and lacks enforcement mechanisms. It operates as a normative framework rather than a legal obligation, thereby limiting its practical effectiveness.

The international climate regime under the United Nations Framework Convention on Climate

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<sup>10</sup>James C Hathaway, *The Law of Refugee Status* (2nd edn, Cambridge University Press 2014) 1–5.

<sup>11</sup>Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, art 1A(2); Protocol Relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267.

<sup>12</sup> UN Commission on Human Rights, *Guiding Principles on Internal Displacement* (11 February 1998) UN Doc E/CN.4/1998/53/Add.2.

Change (UNFCCC), the Kyoto Protocol, and the Paris Agreement acknowledges displacement only indirectly. The Paris Agreement recognises the importance of averting, minimising, and addressing loss and damage associated with climate change impacts, including displacement, in its preambular language.<sup>13</sup> However, this recognition does not translate into binding legal obligations or individual rights. The Agreement remains state centric and mitigation focused, prioritising emission reduction and adaptation finance over rights based protection of displaced populations.

The Warsaw International Mechanism for Loss and Damage, including its Task Force on Displacement, represents an institutional attempt to address the issue.<sup>14</sup> However, its mandate is primarily advisory, focusing on knowledge sharing, coordination, and policy guidance rather than enforceable legal protection. Consequently, affected populations remain dependent on domestic legal systems for actual protection.

Similarly, the Nansen Initiative on Disaster Induced Cross Border Displacement and the subsequent Platform on Disaster Displacement have contributed significantly to normative development by articulating principles of protection and cooperation.<sup>15</sup> Yet these frameworks are voluntary and rely on state consent, making them vulnerable to political discretion. They do not create justiciable rights or binding obligations, thereby reinforcing the non enforceability of climate displacement norms in international law.

A deeper structural problem within international law is its fragmentation across multiple regimes. Refugee law, human rights law, environmental law, and disaster risk reduction frameworks operate independently without integration. This fragmentation leads to overlapping yet incomplete protections, where different aspects of displacement are partially addressed but no comprehensive legal regime exists.<sup>16</sup> Climate induced displacement falls precisely within these interstitial spaces, resulting in normative invisibility.

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<sup>13</sup> Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) Preamble para 8.

<sup>14</sup> UNFCCC, *Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts* (Decision 2/CP.19, Warsaw, 2013).

<sup>15</sup> Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change* (2015).

<sup>16</sup> International Law Commission, *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law* (UN Doc A/CN.4/L.682, 2006); Stephen Humphreys, 'Climate Change and Human Rights: A Rough Guide' (2008) 19 *International Journal of Refugee Law* 365.

International human rights law theoretically offers potential protection through rights such as the right to life, food, water, and adequate housing under instruments such as the International Covenant on Economic Social and Cultural Rights.<sup>17</sup> However, enforcement depends on domestic incorporation and state capacity. There is no global enforcement mechanism capable of translating climate related human rights violations into actionable protection for displaced persons.

Moreover, states remain reluctant to expand legal categories of migration due to concerns regarding border control, resource allocation, and potential migration influxes. This political resistance has prevented the emergence of a binding international treaty on climate induced displacement, despite repeated calls from scholars and international organisations.<sup>18</sup>

The cumulative effect of these limitations is the creation of a global protection gap.

#### **4. INDIAN CONSTITUTIONAL FRAMEWORK AND JUDICIAL EVOLUTION**

The Indian constitutional framework, though lacking an explicit reference to climate-induced displacement, provides a rich and evolving jurisprudential foundation through which such displacement may be indirectly addressed. The interpretive elasticity of fundamental rights, particularly Article 21, has enabled the Supreme Court of India to progressively expand the meaning of the “right to life” beyond mere animal existence to include dignified living, environmental integrity, livelihood security, and access to basic resources. This doctrinal evolution is crucial for understanding how climate-induced displacement can be situated within constitutional adjudication, even in the absence of explicit legislative recognition.

The landmark judgment in *Maneka Gandhi v Union of India* established that any deprivation of life or personal liberty must satisfy the triad of fairness, reasonableness, and non-arbitrariness.<sup>19</sup> This interpretive shift laid the foundation for a substantive due process standard under Article 21, which later enabled courts to read environmental and livelihood rights into the constitutional guarantee of life. Building upon this, the Court in *Francis Coralie Mullin v*

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<sup>17</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.

<sup>18</sup> Jane McAdam, *Climate Change, Forced Migration, and International Law* (Oxford University Press 2012).

<sup>19</sup> *Maneka Gandhi v Union of India* AIR 1978 SC 597.

*Union Territory of Delhi* held that the right to life includes the right to live with dignity and all that goes along with it, including shelter and basic necessities.<sup>20</sup>

In the context of displacement, *Olga Tellis v Bombay Municipal Corporation* is particularly significant, as the Court recognised that the right to livelihood is an integral facet of the right to life.<sup>21</sup> This recognition is directly relevant to climate-induced displacement, where environmental degradation destroys traditional livelihoods, particularly in agrarian, coastal, and forest-dependent communities. When livelihood systems collapse due to climate stressors, displacement becomes not merely a physical relocation but a constitutional injury.

Further, in *Chameli Singh v State of Uttar Pradesh*, the Supreme Court explicitly recognised the right to shelter as part of the right to life under Article 21.<sup>22</sup> Climate-induced displacement, by its very nature, results in the destruction or severe degradation of shelter, thereby engaging constitutional protections at a fundamental level.

Similarly, *Subhash Kumar v State of Bihar* reaffirmed that the right to life includes the right to enjoy pollution-free water and air, thereby constitutionalising environmental quality as a fundamental right.<sup>23</sup>

Despite this great jurisprudence, a critical gap persists in the constitutional treatment of climate-induced displacement as a distinct category. Judicial engagement has largely been reactive and case-specific, rather than doctrinally recognising climate displacement as a systemic constitutional issue. This has resulted in what may be described as a “doctrinal silence,” where courts acknowledge environmental harm but do not explicitly translate it into rights-based protections for climate-displaced populations.

Articles 14 and 19 of the Constitution further reinforce potential protections. Article 14’s guarantee of equality before law and equal protection of law may be interpreted to prohibit arbitrary exclusion of climate-displaced persons from state rehabilitation schemes or welfare entitlements.<sup>24</sup> Similarly, Article 19(1)(d), which guarantees freedom of movement, becomes

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<sup>20</sup> Francis Coralie Mullin v Union Territory of Delhi AIR 1981 SC 746.

<sup>21</sup> Olga Tellis v Bombay Municipal Corporation AIR 1986 SC 180.

<sup>22</sup> Chameli Singh v State of Uttar Pradesh (1996) 2 SCC 549.

<sup>23</sup> Subhash Kumar v State of Bihar AIR 1991 SC 420.

<sup>24</sup> Constitution of India, Article 14.

particularly relevant in contexts where environmental degradation forces migration, raising questions about whether such movement is genuinely voluntary or structurally compelled.<sup>25</sup>

However, despite this strong doctrinal foundation, the absence of legislative recognition results in fragmented implementation. Relief and rehabilitation mechanisms under disaster governance frameworks remain discretionary and event-based, failing to address slow-onset displacement or long-term ecological migration. This creates a gap between constitutional promise and administrative reality.

## **5. ENVIRONMENTAL JURISPRUDENCE AND DISASTER LAW: THE LIMITS OF STATE RESPONSE**

The evolution of environmental jurisprudence in India represents one of the most progressive judicial developments in comparative constitutional law. The Supreme Court has consistently expanded the scope of environmental protection through innovative interpretation of Article 21, transforming it into a repository of substantive environmental rights.

Indian environmental law has been shaped by a series of landmark judgments that collectively constitutionalise environmental protection.

The environmental jurisprudence of the Supreme Court has been particularly expansive in integrating principles of sustainable development, precautionary principle, and polluter pays doctrine into Indian constitutional law. In *Vellore Citizens Welfare Forum v Union of India*, the Court explicitly recognised these principles as part of domestic environmental law.<sup>26</sup> These doctrines are significant in the context of climate displacement because they impose affirmative obligations on the State to prevent environmental degradation rather than merely respond to its consequences.

In *Indian Council for Enviro-Legal Action v Union of India*, the Court reinforced the polluter pays principle, holding that environmental harm must be remedied by those responsible for it.<sup>27</sup> However, climate-induced displacement creates a distinct challenge for this principle because the causes are spread out, global in nature, and occur over long periods, making it difficult to

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<sup>25</sup> Constitution of India, Article 19(1)(d)

<sup>26</sup> *Vellore Citizens Welfare Forum v Union of India* (1996) 5 SCC 647.

<sup>27</sup> *Indian Council for Enviro-Legal Action v Union of India* (1996) 3 SCC 212.

identify any single responsible party.

The Court's decision in *Rural Litigation and Entitlement Kendra v State of Uttar Pradesh* further demonstrates judicial willingness to intervene in cases involving ecological degradation and displacement risks, particularly where environmental harm threatens the right to life of affected communities.<sup>28</sup>

Similarly, in *Narmada Bachao Andolan v Union of India*, the Court engaged with issues of large-scale displacement arising from development projects, recognising the need to balance development with human rights and rehabilitation.<sup>29</sup> Although this case concerned development-induced displacement rather than climate displacement, its reasoning is instructive for understanding state obligations in mass displacement contexts.

In *M.C. Mehta v Union of India*, the Supreme Court developed doctrines such as absolute liability for hazardous industries, significantly strengthening environmental accountability.<sup>30</sup>

Similarly, in *T.N. Godavarman Thirumulpad v Union of India*, the Court adopted an expansive continuing mandamus approach to forest conservation, effectively placing ecological governance under sustained judicial supervision.<sup>31</sup>

Directive Principles of State Policy provide important normative guidance for addressing climate-induced displacement. Article 39(b) and (c) emphasise the equitable distribution of material resources and the prevention of concentration of wealth<sup>32</sup>, while Article 41 envisages public assistance in cases of unemployment, old age, and disablement, which may be interpretively extended to situations of environmental displacement.<sup>33</sup> Article 47 imposes a duty on the State to improve public health<sup>34</sup>, and Article 48A specifically mandates environmental protection and improvement.<sup>35</sup> Although these provisions are non-justiciable, when read in conjunction with fundamental rights, they contribute to a broader constitutional

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<sup>28</sup> *Rural Litigation and Entitlement Kendra v State of Uttar Pradesh* AIR 1985 SC 652.

<sup>29</sup> *Narmada Bachao Andolan v Union of India* (2000) 10 SCC 664.

<sup>30</sup> *M.C. Mehta v Union of India* (1987) AIR 1086 SC.

<sup>31</sup> *T.N. Godavarman Thirumulpad v Union of India* (1997) 2 SCC 267.

<sup>32</sup> Constitution of India, Articles 39(b) and 39(c).

<sup>33</sup> Constitution of India, Article 41.

<sup>34</sup> Constitution of India, Article 47.

<sup>35</sup> Constitution of India, Article 48A.

framework capable of supporting a rights-based approach to climate-induced displacement.

## **6. DISASTER MANAGEMENT FRAMEWORK IN INDIA**

Disaster management law in India forms the primary institutional framework through which the State responds to environmental crises.

The Disaster Management Act, 2005 constitutes India's primary statutory framework for disaster governance. It establishes institutional structures such as the National Disaster Management Authority (NDMA)<sup>36</sup> and State Disaster Management Authorities to coordinate response and relief efforts.<sup>37</sup> However, its architecture is fundamentally event-centric, designed to address sudden-onset disasters such as floods, cyclones, and earthquakes.

This creates a major doctrinal limitation. Slow-onset processes such as sea-level rise, coastal erosion, and desertification, key drivers of climate displacement, do not trigger immediate institutional response under the Act. As a result, displacement caused by gradual environmental degradation remains outside the effective scope of disaster governance.

Moreover, the Act conceptualises disaster management as emergency response rather than rights-based protection. Relief and rehabilitation measures are largely discretionary and administrative, without enforceable entitlements for displaced persons. This results in a lack of legal certainty and long-term protection for climate-displaced populations.

Judicial intervention in disaster and displacement contexts has been sporadic and case-specific. While courts have occasionally directed rehabilitation in environmental displacement scenarios, there is no consistent doctrinal framework treating climate-induced displacement as a constitutional issue. This reflects a broader absence of judicial recognition of climate displacement as a systemic legal category.

At the international level, the Sendai Framework for Disaster Risk Reduction (2015–2030) emphasises on resilience-building and risk reduction, including displacement prevention.<sup>38</sup>

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<sup>36</sup> National Disaster Management Authority (NDMA) Guidelines.

<sup>37</sup> Disaster Management Act 2005.

<sup>38</sup> UN Office for Disaster Risk Reduction (UNDRR), *Sendai Framework for Disaster Risk Reduction 2015–2030* (adopted 18 March 2015).

However, like most international instruments in this area, it remains non-binding and depends on voluntary state implementation.

From a constitutional standpoint, this fragmented governance raises concerns under Articles 14 and 21. Unequal access to rehabilitation and arbitrary exclusion from welfare measures violate substantive equality, while failure to ensure dignified resettlement implicates the right to life.

## **7. POLICY IMPLICATIONS AND LEGISLATIVE REFORM: TOWARDS A RIGHTS-BASED FRAMEWORK FOR CLIMATE DISPLACEMENT**

The preceding analysis demonstrates that climate-induced displacement occupies a persistent normative vacuum within both international and domestic legal systems. While constitutional interpretation, environmental jurisprudence, and disaster governance provide partial and fragmented responses, they fail to coalesce into a coherent rights-based framework. This necessitates a forward-looking examination of policy and legislative reforms capable of addressing the structural invisibility of climate-displaced populations.

A primary reform imperative is the recognition of climate-induced displacement as an independent legal category. At present, Indian law treats displacement either as a consequence of natural disasters under disaster management law or as incidental migration under general administrative governance. Neither framework adequately captures the systemic nature of climate-induced mobility. Legislative codification is therefore essential to create legal certainty, uniform standards, and enforceable entitlements.

A proposed Climate Displacement Protection Framework could be developed either as standalone legislation or as an integrated chapter within the Disaster Management Act, 2005. Such a framework must move beyond emergency relief and incorporate anticipatory governance, including early warning systems, planned relocation policies, and long-term rehabilitation guarantees. Importantly, it must conceptualise displacement not as a temporary disruption but as a durable condition requiring sustained state responsibility.

Another key reform area is the shift from discretionary relief to rights-based entitlements. Current disaster response mechanisms are largely administrative and contingent upon

executive discretion. This creates significant disparities in the treatment of similarly situated displaced populations. A rights-based approach would require statutory recognition of entitlements such as adequate housing, livelihood restoration, access to healthcare, and educational continuity for displaced communities.<sup>39</sup>

Planned relocation, also known as managed retreat, should be included in legal policies. Climate science shows that some areas may become unlivable in the future due to sea-level rise, salinity, or desertification. In such situations, waiting until people are forced to move is neither effective nor fair. Therefore, laws should support early relocation that is planned, respectful, and involves the affected communities, while also protecting their culture and dignity.<sup>40</sup>

Institutional restructuring is equally critical. At present, environmental regulation, disaster management, urban planning, and migration governance operate in siloed bureaucratic structures. This fragmentation prevents coordinated responses to climate displacement. A dedicated inter-ministerial authority or statutory commission on climate mobility could provide integrated governance, ensuring coordination across environmental, economic, and social policy domains.<sup>41</sup>

From a constitutional perspective, legislative reform is also necessary to give concrete effect to Articles 14 and 21. Judicial interpretation alone cannot sustain long-term structural governance in the absence of legislative backing. Codification would ensure that constitutional principles of equality, dignity, and life are operationalised in the context of environmental displacement.

International cooperation also forms a necessary component of reform. Given the transboundary nature of climate change, India cannot address displacement in isolation. Regional cooperation frameworks within South Asia, particularly through SAARC or

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<sup>39</sup> Walter Kälin, *Guiding Principles on Internal Displacement: Annotations* (2nd edn, American Society of International Law 2008); UN Committee on Economic, Social and Cultural Rights, *General Comment No 4: The Right to Adequate Housing* (1991) UN Doc E/1992/23.

<sup>40</sup> Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2014: Impacts, Adaptation and Vulnerability* (Cambridge University Press 2014) ch 20.

<sup>41</sup> Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2022: Impacts, Adaptation and Vulnerability* (Cambridge University Press 2022); UN Office for Disaster Risk Reduction (UNDRR), *Sendai Framework for Disaster Risk Reduction 2015–2030* (2015).

BIMSTEC, could facilitate shared protocols on disaster displacement, migration pathways, and resource allocation. Such regional mechanisms could complement global frameworks while addressing context-specific vulnerabilities.

Finally, data governance and climate risk mapping must be strengthened. Effective legal responses require accurate identification of at-risk populations, predictive modelling of displacement patterns, and integration of climate science into legal planning. Without robust data infrastructure, legal frameworks risk remaining aspirational rather than operational.

While the case for recognising climate-induced displacement as a distinct legal category is compelling, it is not without significant institutional and conceptual challenges. States often exhibit reluctance in expanding migration-related legal categories due to concerns over sovereignty, border control, and the potential for large-scale population movements that may strain administrative and economic resources. From a doctrinal perspective, there is also a risk that excessive proliferation of legal categories may dilute existing protections by creating overlapping or ambiguous classifications, thereby complicating implementation.

Further, the operationalisation of a rights-based framework for climate displacement raises serious administrative feasibility concerns. Identifying climate-displaced persons, especially in cases of slow-onset environmental change, involves complex questions of causation, attribution, and evidentiary standards. Institutional capacity constraints, particularly in developing countries, may hinder effective implementation of relocation, rehabilitation, and compensation mechanisms. These challenges suggest that while legal recognition is necessary, it must be carefully designed to balance normative ambition with institutional practicality.

## **CONCLUSION: TOWARDS A CONSTITUTIONAL REIMAGINATION OF CLIMATE MOBILITY**

Climate-induced mobility exposes a fundamental inadequacy in existing legal frameworks, which remain anchored in rigid categories ill-suited to the fluid and multi-causal nature of environmental displacement. As such movements become more frequent and structurally embedded, the continued reliance on traditional legal classifications risks rendering affected populations systematically unprotected.

In India, while constitutional jurisprudence offers a latent capacity to respond to these challenges, its transformative potential cannot be realised without deliberate legislative and institutional engagement. The absence of a coherent framework is no longer a neutral gap but an active site of exclusion. Addressing this requires a decisive shift towards recognising climate-related displacement as a matter of rights, backed by enforceable standards and coordinated governance mechanisms.

Ultimately, the question of climate displacement is inseparable from questions of justice, responsibility, and equity in a deeply unequal world.

### **LIST OF ABBREVIATIONS AND SYMBOLS**

- Art. - Article
- Arts. - Articles
- BIMSTEC - Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
- DPSP - Directive Principles of State Policy
- ICCPR - International Covenant on Civil and Political Rights
- ICESCR - International Covenant on Economic, Social and Cultural Rights
- IOM - International Organization for Migration
- IPCC - Intergovernmental Panel on Climate Change
- NDMA - National Disaster Management Authority
- SDMA - State Disaster Management Authority
- SAARC - South Asian Association for Regional Cooperation
- UN - United Nations
- UNDRR - United Nations Office for Disaster Risk Reduction
- UNFCCC - United Nations Framework Convention on Climate Change
- UNHCR - United Nations High Commissioner for Refugees
- WIM - Warsaw International Mechanism for Loss and Damage

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