



LEGAL FRAMEWORK FOR PROTECTION OF CLIMATE BASED MIGRATION IN INDIA

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Abstract

Climate change impacts have created environmental issues such as high sea levels, extreme weather and loss of agriculture. They leave those people who are displaced to move from one place to another. Talking about India, a country experiencing first-hand the fallouts of the changing climate, the problem of climate-induced migration has gotten more pronounced. The abstract delineates the legal infrastructure needed for climate change refugee protection setup in India. The abstract gets started by looking at the legal situation in India presently which is with connection to migration and environmental protection. It underscores discrepancies in institutions designed for dealing with refugees and displaced individuals, and the inadequacy of existing provisions in handling the particularities of climate-induced migration. The abstract, proposed in the abstraction, might rely on international legal instruments like the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, and regional agreements such as the Sendai Framework for Disaster Risk Reduction, to develop the required comprehensive legal framework designed for Indian circumstances. This study explores the legal aspects for weather-based migration protection in India. The evident consequences of climate change in making people move and migrate raise the issue of the protection and rights of climate migrants. The article covers the existing legal framework at national and international level, which climate change-induced migration faces, such as the National Disaster Management Authority Act, the National Action Plan on Climate Change, and the United Nations Convention on Climate Change. In general, the paper is drawn to examine the possible ways of reforming the legal scheme that protects climate migrants in India and contribute to the ongoing debate on climate justice and migration.

Keywords: Climate, Migration, Displacement, Policy, Impact

1. INTRODUCTION

Legal basis for migration is multifaceted and often differs across countries. In brief, migration policies are created personally to control the human movement across the borders and support migration culture. On the other hand, these pieces of legislations may not often fully deal with climate change mitigation and environmental conservation. The other way migration laws have an impact on climate change is through how they dictate migration routes. For instance, the adverse effects of more stringent immigration laws could lead to many people being pushed to migrate following the aftermath of disasters or other environmental problems. Such can result in the put pressure on resources and infrastructure of the destiny countries, thereby deteriorating the effects of climate change. Migration laws too can disrupt reselling of people in the face of climate change. For instance, the policies that restrict access to legal status, employment opportunities, resources and services for migrants can end up preventing the same from assessing and adapting to the impacts of climate change. As well positive effect of migration on the climate change can be also mentioned. Thus, migrants who go to locations, which are more environmentally stable, or they can learn to adopt a more

sustainable way of life contribute to the reduction of greenhouse gas emissions and the mitigation of the impacts of climate change. Also mentioned, migration facilitates exchange of knowledge, technology and resources which communities can use to address new environmental phenomena.

The legislative system of migration could be a crucial as it influence that extent of climate change and environmental balance. Policymakers should therefore pay such consequences much attention to and also take into account the climate change problem while adopting migration laws. One of the ways of doing this is to make sure that the migration policies' contribution to a world where everyone will live in harmony with nature. Migration is a difficult issue whose dynamics may change.

National Disaster Management Act, 2005 (NDMA)

The National Disaster Management Act, 2005 is the foundational Act passed by the Government of India to offer the required framework for disaster management in

the country. The Act is meant to provide a framework for disaster risk reduction and management, hence reducing the number of deaths, properties destroyed, and essential services disrupted during such emergencies. The Act sets up the National Disaster Management Authority (NDMD) as the central agency responsible for formulating and executing national disaster management policies and plans. It establishes SDMAs at the state level and DDMA at the district level for effectively coordinating and administering disaster management programs at the district level also. The Act lays down the disaster prevention measures, mitigation, preparedness, response and recovery plans. It further includes the making of a National Disaster Response Force (NDRF) for purposes of rescue and relief activity during disasters. According to the National Disaster Management Act, 2005, it is underlined that the disaster management must be a holistic and integrated approach which involves all the stakeholders, such as government officials, non-governmental organizations, and private sector among others. Through the fostering of a culture of preparedness as well as resilience, it seeks to build a secure and resistant society from natural calamities in India. The National Disaster Management Act (NDMA) of 2005 is the Indian law, which major role is to improve effectiveness of the disaster management across the country.

The NDMA was promulgated with the purpose to create an appropriate legal infrastructure to combat the rising indiscriminate pace and strength of disasters in India. Its passage came in the wake of the so-called "Boxing Day tsunami" that occurred in the Indian Ocean in 2004 and emphasized the urgency of a coordinated and anticipatory plan.

Objectives

The main function of NDMA is to create the appropriate laws that will enable disaster management in India to be achieved. It attempts to unify disaster management programs, build a risk-aware world, and provide a rapid and effective response, relief work, and restoration operations accordingly.

Key Provisions

The NDMA formulates the National Disaster Management Authority as the supreme body with all the powers to plan, formulate and develop policy, plan and guidelines of disaster management at the national level.

- State Disaster Management Authorities (SDMAs): The Act empowers the states in the country by creating SDMAs, which should ensure that the state-wise disaster management activities are coordinated and implemented.
- District Disaster Management Authorities (DDMAs): It mandates DDMA formation district by district, which is charged with disaster management activities coordination and implementation at the district level.
- National Plan, State Plans, and District Plans: NDMA is the organization that requires preparing national, state, and district-level disaster management plans to follow a

coordinated and organized path for handling disaster preparedness and response.

- Disaster Response: The Act clearly specifies the tasks and responsibilities of the appropriate offices, such as government agencies, non-government organizations (NGOs), and the private sector, in the field of disaster response and recovery operations.
- Prevention and Mitigation: It calls for the implementation of these preventive measures including the use of early warning systems, public awareness campaigns; to strengthen infrastructure.
- Rehabilitation and Reconstruction: Through NDMA, Guidelines are adopted for the restoration of disaster-affected areas with special emphasis on long-term recovery and building resilience of the community.

NDMA is an act which provides the law for a purpose of preparedness and coordination towards disaster management in India, also promoting prevention and mitigation. It institutionalized disaster management structures throughout the national, state, and division levels that improved coordination and cooperation among various agencies. The Act encourages the comprehensive strategy for disaster management, including predication, reaction, recovery, and build-back-better. guidelines, and that a joint effort is put out in place to address the preparedness and recovery issues.

The primary objective of the NDMA is to establish a legal framework for effective disaster management in India. It aims to coordinate disaster response efforts, promote a culture of prevention and preparedness, and ensure timely and effective response, relief, and rehabilitation.

2. FOREST RIGHTS ACT, 2006

The Forest Rights Act (FRA) 2006 has proved to be a landmark legislation in India that is concerned with claiming and protecting land and forest rights of the indigenous communities and tribal peoples. The Act was designed to address past mistakes targeted these groups and also give them a chance to take part in the management and the protection of the forest. The Forest Rights Act envisages for the recognition of individual and group rights over forest lands and resources including the rights to live in and cultivate forest land, the rights to own minor forest produce, and the rights to meet and manage forests. In addition, it prohibits the formation of any local FRC to acknowledge and allocate the forest rights. The Act underlines the role of social justice, biosphere conservation and local communities in the balance of forest ecosystems. The Forest Rights Act is equipped with mechanisms which in turn help in mitigation of conflicts for forest resources by safeguarding the rights of these communities, conservation and sustainable management of forests and establishment of development that is inclusive. The Forest Rights Act 2006, has a very important purpose to promote the rights of tribal and forest-occupying communities, protect biodiversity and enable sustainable development in India.

Through Forest Rights Act (FRA) 2006 enacted in India with a purpose of granting forest rights and occupancy to the forest dwellers including tribes, other traditional forest dwellers. Apart from the fact that the FRA which among other things deals with historical injustices is aimed at protecting the rights of forest-dependent communities, it also has links to climate change mitigation and adaptation.

Conservation and Sustainable Management

The FRA is designed to enable community members to participate in the conservation, management, and sustainable utilization of forests, such as protection of biodiversity and carbon sequestration. Acknowledging and upholding the land and resource rights of community dwelling people will lead them to take part in the practice of sustainable forest management, such as agroforestry, afforestation and non-timber forest products harvesting which will favour the climate change mitigation strategies.

Enhanced Resilience to Climate Change

With the FRA to provide them with land and resource rights, forest-dependent communities can gain the capacity to endure climate change-associated impacts. Land security provides indigenous communities with a basis to develop adaptation programs, including diversified livelihoods, water resources management, and conservation of community traditionally relevant for climate resilience.

Reduction of Deforestation and Forest Degradation

Through vested forest rights title in local societies, the FRA aims to reduce illegal encroachment and deforestation activities in forests. Secure property rights can enable communities to have the required legal backing, which together with incentives prescribes that the forests remain free of illegal logging, land-conversion and any other destructive activities thus, abating depletion of carbon sinks and reduction of greenhouse gas emissions.

Challenges and Implementation Gaps

FRA Law, on the other hand, stipulates the creation of Community Forest Resource (CFR) rights, which in turn enable communities to collectively manage and conserve forest resources. The CFR rights-based community-based forest conservation and monitoring initiatives such as the reporting of forest carbon stocks and biodiversity conservation; these, in turn, tracking the implementation of forest protection measures and serving the fight against climate change and adaptation.

Like any other policy designed to address climate change, the FRA has its share of drawbacks and implementation gaps. They include insufficiency of awareness, administrative barriers, and even conflict over resource access and rights. A successful execution of the FRA must be buttressed by capacity building, institution support, and participation of relevant stakeholders like forest dependent communities, government agencies, civil society organizations, and private companies.

Impact on Conservation Efforts

Critics apparently believe that FRA the very tool which gives impetus to the individual and community's rights

can be against the conservation efforts in the protected areas and the ecologically fragile regions. Worry has arisen on community rights to forests without proper monitoring and controlling standards is probably to cause overexploitation of reserves and biodiversity reduction. FRA often results in squabbling with conservation groups and local residents especially where the forest provides habitat for important wildlife species. The instances come where expressing of forest rights under the FRA has conflicted with goals of the wildlife conservation, thus creating tensions between conservation and livelihood sources. Forest-dwelling communities which do not have support, resources and capacity to effectively decide on matters of rights and sustainable forest resource management are in most cases the majority.

The lack of investment in capacity building, training, and infrastructure development has been the reason low levels of participation by communities in forest governance and management. The deficiency of this policy demands active measures to toughen the implementation of the FPR, make it more understandable, involve all forest-dependent communities, put a balance on conservation and livelihood goals, and give necessary support and training to all stakeholders for effective forest sustainability.

National Policy on Disaster Management, 2009

Destruction caused by nature such as hurricanes, floods, droughts, earthquake and tsunamis have enormous repercussions on the lives and livelihoods of individuals which forces them to move away and at times loses their lives and property. Climate change induces more frequent and stronger natural disasters, and such circumstances are both further complicating disaster management and migration issues. Such countries like the majority of the states have also developed national strategies toward disaster management so that they can direct their efforts in terms of preparedness, response and recovery. For instance, the NPDM 2009 as national policy on disaster management, has been designed with the intention of enhancing disaster management abilities in India and also fostering a culture of preparedness in its citizens. Contrary to that, climate change emigrational effects can be noted more frequently, with estimates saying that tens of millions of people will be forced to leave their homes due to sea-level rise, extreme weather events, and fresh water shortage. This has entailed that increasing attention should be focused on the links existing between climate change, disasters and migration in national policies structures. In this study we will study two different forms of resilience, NPDM in India and its approach towards disaster management, and the role climate change plays in the migration process. Through the consideration of diverse views, it is expected that our insights will be enriched with regards to the current problems and possible solutions of the complicated links between disasters, climate change and migration.

In the context of global warming, the NPDM policy in India was laid out as a response to the growing threat of natural disasters such as cyclones, floods, earthquakes, and landslides. The policy seeks to develop a holistic approach to disaster management that encompasses precaution, mitigation, preparedness, response, and

resilience measures across government. The main components of NPDM are development of a National Disaster Management Authority (NDMA), designing disaster management plans at the national, state and district levels, and building researches and capacities in disaster risk reduction through various platforms. It additionally stresses on the role of the community in disaster mitigation and in increasing their resilience to natural disasters. This is demonstrated through actions like the School's Safety Program. The National Disaster Management Plan, 2009 is a framework intended to ensure having a comprehensive and preventive approach to disaster management in India. The policy was designed to ensure an ability to address the growing number and severity of natural disasters in the country, as well as cooperation among relevant agencies to these disasters.

In order to approach disaster prevention, mitigation, response, relief, and rehabilitation from the point of view of a comprehensive effort. This should include the integration of disaster management with the development process and a safety and resilience culture among communities' promotion. To facilitate efficient coordination and collaboration between government bodies, non-governmental organizations as well as all the other actors in the process of managing disasters. Establish early warning, forecasting and monitor mechanisms for disasters to reduce the impact they are causing on lives and properties. For the purpose of fostering research and development in disaster management, and also of capacity-building plus training for all the stakeholders involved with response to disaster. As a guiding document, the National Disaster Management Policy, 2009 is meant to ensure that India is able to adequately respond to emergencies and prevent the unnecessary loss of lives, minimize damage and thereby-able sustainable development in the light of increasing frequency and severity of disasters.

The National Policy on Disaster Management (NPDM) 2009 that has been formulated by the Government of India is an illustrative framework aimed at guiding various disaster management actions in the country. The NDP was designed to address the growing number of disasters in India, both natural and man-made, including earthquakes, floods, cyclones, industrial mishaps and attacks by terror groups. It consolidates earlier initiatives and policies as to the NDMA (2005) into a holistic and integrated approach for disaster management.

Objectives

The core objective of the NPDM is to provide an active and well-conceived solution to a disaster situation which considers all the factors of disaster management that include the prevention, mitigation, preparedness, response, and recovery. It seeks to enhance the efficiency of the institutional framework, provide coordination among all stakeholders and promote community participation in disaster risk reduction and management.

Key Principles

- **Comprehensive Approach:** NPDM is a multi-phased disaster management which ensures that all the steps of disaster management cycle like

prevention, preparedness, response, and recovery are done.

- **Multi-hazard Focus:** Acknowledging the complex spectrum of the risks in India, National Policy of Disaster Management (NPDM) deals both with natural and manmade hazards including geological, hydro-meteorological, and industrial hazards.
- **Risk Reduction:** The policy first emphasizes the necessity of disaster risk reduction (DRR) measures like the assessment of vulnerability, the deployment of early warning systems, the construction of infrastructure, as well as the launch of public awareness campaigns to prevent the occurrence of disasters or minimize its effects.
- **Community Participation:** The NPDM understands the need for community engagement in disaster management approaches; they capitalize on local expertise, resources, and capacity building to increase resilience and effective response capabilities.
- **Integration with Development:** This is a process that focuses on putting in place risk reduction and management practices into development planning so as to mainstream resilience-building measures and, thus, curb possible vulnerabilities.
- **Capacity Building:** The policy emphasizes training, capacity building, and awareness building initiatives at all the levels so the national capabilities can be honored and the response efficiency can be improved.

Institutional Framework

The NDMU demonstrates a solid institutional framework for disaster management through enshrining bodies like (NDMA) at the national level, (SDMAs) at the state level and (DDMAs) at the district level. It points the way for stakeholders to be identified with their particular roles, responsibilities, and coordination mechanisms among government agencies, NGOs, civil society organizations, and the private sector.

Implementation

NPDM is a document that suggests and gives plans of actions to the successful deployment of disaster management programs, such as capacity building, infrastructure development, early warning systems, risk reduction initiatives of the community, and integrating disaster management into programs of development. The National Disaster Management Policy (NDMP) 2009 provides an overall framework covering all aspects of disaster risk reduction and management in the country. Through multi-hazard approach, active community participation, and the reinforcement of institutional mechanisms, the NDP (National Disaster Prevention and Mitigation Plan) is intended to increase the Philippines' resilience against disasters and, by so doing, minimize their socio-economic and human impacts.

Indian Perspective

Many states in India have their plan for responding to the impacts of climate change migration, which has measures aiming to address climate change effects. Such plans usually deal with disaster preparedness, plumbing, and provision of clean water and better sanitation services, as well as supporting sustainable livelihoods in the affected communities. Numerous states of India have created specialized disaster management authorities who have the responsibility to coordinate and implement disaster relief and reduced risk measures. These authorities regularly play a lead role in disaster management which is particularly the case in the periods of severe climate disasters. India is focusing on the development of climate-proof infrastructure which will control the exposure of communities to the climate change hazards. It also involves erecting cyclones shields, flood embankment and other structures that can defend communities against extreme weather occurrences. The Climate Movements instituted by different states of India aim at assisting those who are now forced to migrate because of the undesired impacts of climate change. Which usually consists of various capacity and training programs, alongside sustainable livelihoods and agricultural practices. Some states in India have created climate resilience funds at the state level to finance local adaptation plans and undertake community-specific climate risk reduction projects. The grants usually are the source of funding for the projects targeting strengthening the adaptability of communities vulnerable to climate inspired migration. These state-level policies and programs at the crucial position of guarding the innocent ones from climate-induced migration impacts in India. On the other hand, we still require increased funding and stronger mechanisms of enforcement to be able to achieve this task in the years to come.

Climate-migration is not only an issue confronting India but also many other nations. Although there is no particular comprehensive national policy which specifically deals with this, a number of state level initiatives along with programs in India have been launched to cope with climate induced migration and protect vulnerable communities. Some examples are as follows:

- **SAPCC:** Various Indian States have been creating SAPCCs which highlight strategies on adaptation and mitigation. Such plans often incorporate actions to face the effects of migration resulting from climate change, through the preparations of alternative income for the migrants, making environmentally strong infrastructure and disaster proofing the areas with poor resilience.
- **Land Use Policies:** There are a few states that have designed land use policies with measures to control construction and development in the ecologically fragile areas prone to floods, sea level rise and landslides. Such policies are formulated with an aim to impede imposition of forced migration caused by environmental degradation.
- **Disaster Management Plans:** states have plans for disaster management covering also climate-

triggered hazards such cyclones, floods, and droughts. Such plans are sometimes based on issuing early warnings, evacuation procedures, and providing support to displaced populations as a relief measure.

- **Resettlement and Rehabilitation Programs:** States which are displaced by the flow of climate change affected migration may have various rehabilitation and resettlement programs which can help these displaced communities. In such programs, the authorities have to provide means for allocation of land, housing assistance, employment, access to healthcare and education among others.
- **Community-Based Adaptation Initiatives:** In some states, local governments work together with local communities to develop community-based adaptation strategies that enable communities to enhance their resilience against climate change. This is usually achieved by implementing programs which promote sustainable farming, water management, and natural resources conservation.
- **Legal Frameworks:** There are certain states in the country that have carried out or are currently running legislation to sharpen the rights and entitlements of climate migrants. Similarly, Odisha state, has written a Climate Change Adaptation Policy that covers their residence rights, as migrants and their access to social security programs.
- **International Collaboration:** States may also take a joint work with other countries or international organizations to respond to climate induced migration problem. Say, like, the state of Kerala collaborated with (UNDP) in programmes relating to climate change adaptation and disaster risk reduction.

These state-level policies and programs play a crucial role in protecting communities from the impacts of climate-induced migration, there is also a need for coordinated action at the national level to address the underlying drivers of migration and ensure the rights and well-being of affected populations.

3. CONCLUSION

The earth's climate is being assailed to such an extent that the repercussion of these climate change can be felt across the world. The impact can be different, depending on the factors of the location and agglomeration. The number of people displaced from their homeland has been increasing as the catastrophes rise that are linked to the climate change. Often known as climate refugees, they are people who are punished by the lack of the right to shelter and lack of rights. According to the UNHCR, though, protecting the climate refugees is the most important; and it has initiated to relocate the climate refugees. Recently, UN Human Rights Committee (UNHRC) said that no nation will deport/return a refugee whose life is in danger because of the climate change. Though this decision is not enforceable for the countries, it does put on them a pressure to act quickly before the phenomenon of climate

migration. India is just one of those nation in the linear that might deal with a huge migrant influx from neighboring states. Sundarban delta in the middle of Bangladesh is one of the high-risk zones, and there are about 50–120 million refugees who are going to flee to India. India must have in position a crisis-ready framework for managing the refugee policy. A clear legal mechanism to protect migration from climatic conditions is absolutely important in the context of India. As climate change is making more and more people migrate, we should enact appropriate legislation that will improve climate migrants' rights and their overall conditions. The current Indian legal framework comprising of the Environment (Protection) Act, the Disaster Management Act and the National Disaster Management Plan to certain extent guard the rights of the climate migrants. Nevertheless, if we aim to develop this area further, we need to introduce concrete laws and regulations that are tailored to meet these specific needs.

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