

# DISASTER-INDUCED DISPLACEMENT IN INDIA: Law, Policy and Practice

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*[Abstract: Disaster-induced displacement is a significant and growing concern, especially in developing countries like India, exacerbated by their vulnerability to natural hazards such as floods, cyclones, droughts, and earthquakes. As climate change intensifies the frequency and severity of these events, millions are increasingly at risk of displacement, resulting in profound social, economic, and legal challenges. This paper explores disaster-induced displacement through a legal and policy lens, examining the adequacy of current frameworks in addressing the protection needs of affected populations. The paper is divided into four parts. The first part of the paper provides a foundational understanding of disaster-induced displacement, outlining its causes, consequences, and unique characteristics that distinguish it from other forms of displacement. The second part delves into international legal frameworks, such as the United Nations Guiding Principles on Internal Displacement and the Sendai Framework for Disaster Risk Reduction, which outlines states' obligations in protecting those displaced by disasters. In the third part, the author discusses India's legal and policy responses towards the issue of disaster-induced displacement. The absence of dedicated legal safeguards leaves disaster-displaced individuals vulnerable to inadequate resettlement and rehabilitation measures, perpetuating cycles of vulnerability. The last part concludes the paper by emphasising the need for a more comprehensive approach to disaster-induced displacement in India.]*

## I

### **Introduction**

Disasters can be natural as well as man-made. It brings devastation and many other problems. Disasters, be they natural or man-made, are a significant threat to the life and well-being of mankind and its healthy environment. Despite their diverse origins and differential impacts on distinct socio-economic contexts, they create similar risks for people everywhere: landlessness, homelessness, joblessness, marginalisation, food insecurity, loss of access to common property assets, increased morbidity

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and mortality, and social disarticulation.<sup>1</sup> Displacement is one of the most visible and wretched consequences of disaster. Disaster is one of the main reasons behind human displacement, apart from war and armed conflict. Every year, some twenty-five million people flee from sudden-onset disasters such as floods, storms, mudslides, earthquakes, tsunamis, and more. Disasters caused some thirty-two million internal displacements in 148 countries and territories in 2022, an increase of nearly forty per cent from the twenty million displacements in 2021 and well above the annual average of twenty-three million displacements from 2012 to 2021, marking the highest figure in a decade. Weather-related disasters caused ninety per cent of those displacements, most in Asia.<sup>2</sup> In the 2023 Monsoon season, more than 200 people were killed in North India due to floods, and many were displaced.

### **Understanding Disaster and Disaster-induced Displacement**

Disaster is a sudden calamity that brings damage, loss and destruction, causing loss of life and property. The intensity of damage varies and depends on its nature, geographical location, socio-economic status of potential victims, etc. Their origin can be natural, such as earthquakes, floods, and hurricanes, or human origin, such as accidents and terrorist acts. Due to climate change and global warming, disasters are now more fatal and unexpected. Due to its varying nature, the word 'disaster' has different definitions; few of the definitions can be considered for this research article.

The term disaster is defined under section 2 (a) of the Disaster Management Act 2005, which defines disaster as "A catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area." Further, the United Nations Office for Disaster Risk Reduction (UNDRR) defines a disaster as "A serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the

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<sup>1</sup> Admasu Alemayehu Adisu, *The African Internal Displacement Problem and the Responses of African Union: - An Examination of the Essential Features of the AU IDPs Convention* (Unpublished LLM thesis, Addis Ababa University Faculty of Law)

<sup>2</sup> U.N Secretary General, "International cooperation on humanitarian assistance in the field of natural disasters, from relief to development," U.N Doc. A/78/360 (September 18, 2023) available at: <https://www.undrr.org/media/91020/download?startDownload=true> (last visited: 11 Nov. 2023)

following: human, material, economic and environmental losses and impacts”<sup>3</sup>

The Nansen Initiative’s Protection Agenda<sup>4</sup> defines disaster displacement as: “Situations where people are forced or obliged to leave their homes or places of habitual residence as a result of a disaster or to avoid the impact of an immediate and foreseeable natural hazard. Such displacement results from the fact that affected persons are exposed to a natural hazard in a situation where they are too vulnerable and lack the resilience to withstand the impacts of that hazard.”<sup>5</sup> Displaced people are uprooted from their lives, which exacerbates their vulnerabilities and exposes them to new risks and obstacles in unfamiliar social, economic, and physical contexts.<sup>6</sup> Disaster displacement depends on three factors: the intensity of the hazardous event, the exposure of people and assets to it and their vulnerability. Displaced populations are the disaster-affected persons forced to leave their homes because of the direct or indirect consequences of disasters, usually in search of food, shelter, livelihood, and overall safety. But often, in their search for alternative means of survival, they suffer extreme hardships and a wide range of risks and dangers because of their total lack of preparedness to meet such emergencies and the sudden erosion of the network of support provided by their community and family.

Displacement due to disasters often disintegrates families and breaks down the community support system, causing already marginalised sections of society. For example, it intensifies domestic violence, trafficking and exploitation. It prompts school drop-out, especially for girl children.<sup>7</sup> Disasters disrupt everyday life, producing a cascade of impacts ranging from biophysical to economic, the intensity of which is mainly measured in

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<sup>3</sup> United Nation Office for Disaster Risk Reduction, available at: <https://www.undrr.org/terminology/disaster> (last visited 10 Nov. 2023)

<sup>4</sup> The Nansen Initiative is a state-led, bottom-up consultative process intended to build consensus on the development of a protection agenda addressing the needs of people displaced across international borders in the context of disasters and the effects of climate change.

<sup>5</sup> Platform on Disaster Displacement, available at: <https://disasterdisplacement.org/the-platform/key-definitions/#:~:text=DISASTER%20DISPLACEMENT%20refers%20to%20situations,immediate%20and%20foreseeable%20natural%20hazard.> (last visited: 5 Oct 2023)

<sup>6</sup> Stockholm Environment Institute, *Disaster and climate-induced migration and displacement* (Nov. 2019) available at: [https://www.jstor-org-hpnlu.knimbus.com/stable/pdf/resrep25053.pdf?refreqid=fastly-default%3A854e8a767fd8c1594c4d3e11bd473045&ab\\_segments=0%2Fbasic\\_search\\_gsv2%2Fcontrol&origin=&initiator=&acceptTC=1](https://www.jstor-org-hpnlu.knimbus.com/stable/pdf/resrep25053.pdf?refreqid=fastly-default%3A854e8a767fd8c1594c4d3e11bd473045&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&origin=&initiator=&acceptTC=1) (last visited: Oct. 5 2023)

<sup>7</sup> Eric Neumayer & Thomas Plümper, *The Gendered Nature of Natural Disasters: The Impact of Catastrophic Events on the Gender Gap in Life Expectancy, 1981-2002* XCVII Annals of the Association of American Geographers, 551 (2007) 6.

terms of life: human and cattle, material and monetary, and environmental losses.<sup>8</sup>

The detrimental consequences of climate change and other natural hazards can overwhelm a community or society's resilience and adaptive capacity, resulting in a disaster that may force displacement. Disaster displacement can occur due to an involuntary planned relocation process, an ordered or coerced evacuation, or a spontaneous departure. Such displacement can occur within a country (internal displacement), or across international borders (cross-border disaster displacement).<sup>9</sup>

In 2023, the state of Himachal Pradesh faced deadly disasters. Unprecedented rains during the monsoon season in several pockets have wreaked havoc across the state. It caused disastrous events like flash floods, cloudbursts and associated landslides. Around 400 people lost their lives, and many injured. Apart from this, there is a massive loss of livestock. Due to the sinking of the land, many buildings were damaged, and around 10,000 people were displaced. Kullu, Mandi, Shimla, Sirmaur, Solan, and Chamba districts were some of the worst affected.<sup>10</sup>

## II

### **International legal framework on Disaster-induced displacement**

International concern at the rising frequency and severity of natural hazards is mounting. There is increased impetus worldwide to put in place political, legal, technical, financial and institutional measures that will reduce the destructive effects on the lives and livelihoods of individuals and communities.<sup>11</sup> Various efforts have been taken at the international level to address the concerns related to the disaster, which includes the International Day for Disaster Risk Reduction, which was started in 1989. The period from 1990 to 2000 was declared an International Decade for

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<sup>8</sup> Futane, Priya R, *A critical study of the law relating to disaster management in India*, (2013) (Unpublished PhD thesis, Karnataka University).

<sup>9</sup> Internal Displacement Monitoring Centre, *Disaster Displacement: A Global Review (2008-2018)*

May 2019, available at: <https://www.internaldisplacement.org/sites/default/files/publications/documents/201905-disaster-displacement-global-review-2008-2018.pdf> (Last Visited: 13 Nov. 2023)

<sup>10</sup> Environics India, " *Preliminary analysis of 2023 disaster across Himachal Pradesh* (Sep. 2023) available at:

<https://environicsindia.in/2023/09/08/preliminary-analysis-of-2023-disaster-across-himachal-pradesh/> (Last visited Oct. 05, 2023)

<sup>11</sup> Aditi Tyagi, *Policy Efforts in Context of Disaster Management at Global Level and Initiatives by Various Governments*, LXXIV IJPS 444 (2013).

Natural Disaster Reduction (IDNDR,1990-2000). A World Conference on Natural Disaster Reduction was held in Yokohama in May 1994 as a mid-term review of the IDNDR program, where a plan of action for disaster reduction, called the 'Yokohama Strategy'<sup>12</sup>, was evolved which gave guidelines for 'natural disaster prevention, preparedness and mitigation'. In 1999, the United Nations Office for Disaster Risk Reduction (UNDRR) was established. The main objective was to streamline the implementation of the International Strategy for Disaster Risk Reduction. The current mandate of UNDRR is to implement the Sendai Framework on Disaster Risk Reduction.

The International Strategy for Disaster Reduction was adopted by the Economic and Social Council and General Assembly of the United Nations in 2000 to provide a global framework for action to reduce human, social, economic and environmental losses from natural hazards and related technological and environmental disasters. World Conference on Disaster Reduction was held from 18-22 January 2005 in Kobe, Hyogo, Japan, and adopted the Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (popularly referred to as Hyogo Framework).

The 2004 tsunami was eye-opening for the world, especially in South Asia. In the aftermath of the 2006 tsunami, a meeting was held by the experts in Dhaka. The meeting outcome was a draft of the Comprehensive Framework on Disaster Management titled "Disaster Management in South Asia: A Comprehensive Regional Framework for Action 2006-2015", popularly known as SAARC Framework for Action (SFA). Also, during that time, an agreement was adopted by the Association of South East Asian Nations (ASEAN). The agreement is on Disaster Management and Emergency Response ("AADMER"). The AADMER is also ASEAN's affirmation of its commitment to the Hyogo Framework for Action 2005-2015 (HFA). Under this agreement, ASEAN framed two work plans from 2010-2015 and 2021-2025.

In 2006, the consensus emerged from the UN consultative process calling for restructuring and broadening the international strategy for disaster risk reduction (ISDR) into a Global Platform for Disaster Risk Reduction. An International Conference on "Building a Local Government Alliance for Disaster Risk Reduction" was held and hosted by the Metropolitan City of

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<sup>12</sup> United Nation Office for Disaster Risk Reduction, *Yokohama Strategy and Plan of Action for a Safer World: guidelines for natural disaster prevention, preparedness and mitigation*, available at: <https://www.undrr.org/publication/yokohama-strategy-and-plan-action-safer-world-guidelines-natural-disaster-prevention> (last visited Oct 15, 2023)

Incheon, Korea, in August 2009.<sup>13</sup> However, all these meetings, conferences and events focused on the prevention and mitigation of disasters, but not much focus was given to the displacement of people due to disasters.

### **Sendai framework**

The successor to the Hyogo Framework for Action is the Sendai Framework. It came out as an outcome of intergovernmental consultations held in 2014. The UNDRR has the responsibility to follow up on it. This framework coordinates with the Paris Agreement, sustainable development goals, and Adis Ababa's action agenda. The UN General Assembly endorsed it following the 2015 Third UN World Conference on Disaster Risk Reduction (WCDRR), and advocates for: *“The substantial reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries.”* Under this framework, the primary responsibility to deal with the disaster is of the State. However, the state should share this responsibility with other stakeholders such as local government, private sector and others. Through priority 4, the framework seeks to enhance disaster preparedness for effective response and to “Build Back Better” in recovery, rehabilitation and reconstruction.

In 2019, the UN Office for Disaster Risk Reduction (UNDRR) partnered with the Platform on Disaster Displacement and the Norwegian Refugee Council to produce the Words into Action guidelines on Disaster Displacement. The main objective of the guidelines is to guide the governments on implementing Sendai Framework Target (e) which deals with disaster displacement and related human suffering.<sup>14</sup>

### **Internal displacement**

When discussing international protection of disaster-induced displacement, displacement can be divided into two parts: Internal and cross-border. Displacement due to disasters is primarily internal. People displaced due to disasters migrate from one place to another within the same country. Also, another fact to consider is that internal displacement due to disasters mostly happens in underdeveloped countries. The main reason behind this is the pre-existing exposure of these countries to extreme

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<sup>13</sup> United Nations secretariat of the International Strategy for Disaster Reduction, *Local Governments and Disaster Risk Reduction Good Practices and Lessons Learned 8*, (2010) available at:

[https://www.preventionweb.net/files/13627\\_LocalGovernmentsandDisasterRiskRedu.pdf](https://www.preventionweb.net/files/13627_LocalGovernmentsandDisasterRiskRedu.pdf)  
(Last visited Oct 9, 2023)

<sup>14</sup> Sendai Framework for Disaster Risk Reduction



weather events and the limited capacity to respond and recover.<sup>15</sup> This vulnerability is increasing day by day due to climate change. There is no specific international convention or treaty on this. However, in this case, the United Nations Guiding Principles of Internal Displacement<sup>16</sup> may provide a protection framework. These guidelines are non-binding in their enforcement and have their basis in the law relating to human rights. They provide norms and principles for the protection of Internally displaced persons.<sup>17</sup>

Under the Guiding Principles, IDPs are defined as: “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or **natural or human-made disasters**, and who have not crossed an internationally recognised state border.” The guiding principles impose primary responsibility on the national governments to protect and assist IDPs. Governments are also to recognise the rights of IDPs.<sup>18</sup> Even after their displacement, the persons enjoy basic economic, social, political and cultural rights along with the right to basic humanitarian assistance. Apart from that, they have the right to education, freedom of movement and residence and also the right against violence. They can also get assistance from a competent authority. Displaced people can receive aid from competent authorities in their voluntary, dignified, and safe return, resettlement, or local integration, including assistance reclaiming lost property and possessions. Without restoration, the Guiding Principles ask for compensation or reparation.<sup>19</sup>

### **Cross-border Displacement**

The vast majority of disaster-displaced people remain in their nation. Some, however, cross borders in search of safety, protection, and support in another country. While extensive and systematic data collecting and analysis on cross-border disaster displacement is missing, based on current

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<sup>15</sup> Alice Thomas, *Protecting People Displaced by Weather-Related Disasters and Climate Change: Experience from the Field* XV VJEL 804 (2014)

<sup>16</sup> The [Guiding Principles](#) are 30 standards that outline the protections available to internally displaced people (IDPs). They detail the rights and guarantees relevant to the protection of IDPs from forced displacement to their protection and assistance during displacement up to the achievement of durable solutions.

<sup>17</sup> Hereinafter referred as IDPs

<sup>18</sup> Principle 3, Guiding Principles On Internal Displacement

<sup>19</sup> Supra Note 16

data, Africa, along with Central and South America, has seen the most significant number of cross-border disaster displacement incidents.<sup>20</sup>

Disasters caused some 32.6 million internal displacements in 148 countries and territories in 2022, an increase of nearly 40 per cent from the 23.7 million displacements in 2021 and well above the annual average of 23.1 million displacements from 2012 to 2021, marking the highest figure in a decade. Weather-related disasters caused 98 per cent of those displacements, most in Asia. At least 8.7 million people in 88 countries and territories remained displaced owing to disasters as of 2022, an increase from the 5.9 million people who remained displaced at the end of 2021. 8 Displacement due to climate-related disasters and related food insecurity often led to families being splintered, the breakdown of community support systems, loss of assets and income, increased debt and heightened exposure to violence, gender-based violence, trafficking, exploitation and abuse.<sup>21</sup>

According to the Nansen initiative, the Protection of the persons who cross borders after disasters can be done in two ways. Firstly, states can admit such persons and allow them to stay temporarily, or they can refrain the foreigners from returning to the disaster-affected country. In both these conditions, humanitarian needs provided are temporary, which gives rise to the need to provide a permanent solution. Moreover, international law doesn't explicitly address the conditions under which a disaster-displaced person can be admitted or returned by a state or what rights and freedom the displaced person will enjoy. Due to this, many countries have developed tools that allow them to admit or not return disaster-displaced persons on their territory on an individual or group basis. These humanitarian protection measures are generally temporary and may be based on regular immigration law, exceptional immigration categories, or provisions related to the protection of refugees or similar norms of international human rights law.<sup>22</sup>

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<sup>20</sup> The Nansen Initiative, *Agenda For The Protection Of Cross-Border Displaced Persons In The Context Of Disasters And Climate Change*, (2014) available at: [https://disasterdisplacement.org/wp-content/uploads/2014/08/EN\\_Protection\\_Agenda\\_Volume\\_I\\_-low\\_res.pdf](https://disasterdisplacement.org/wp-content/uploads/2014/08/EN_Protection_Agenda_Volume_I_-low_res.pdf) (last visited Sep. 05, 2023).

<sup>21</sup> Supra Note 3.

<sup>22</sup> Supra Note 21



### III

#### **Law and policy on Disasters-induced displacement– An Indian Approach**

India, owing to its vast population and geography, is confronting a broad spectrum of disastrous consequences. The country is already experiencing increasing and intensifying trends of extreme climate events, such as heavy precipitation, floods, drought-like conditions, and extreme heat. The Global Climate Risk Index (CRI) classifies India amongst the top ten countries most vulnerable to climate events; India was ranked seventh in the 2021 CRI report. Approximately seventy-five per cent of the districts in India are identified as extreme event hotspots, while around forty per cent of districts have shown a significant shift in weather patterns.<sup>23</sup> India is vulnerable, in varying degrees, to many disasters. More than 58.6% of the landmass is prone to earthquakes of moderate to very high intensity; over 40 million hectares (12%) of its land is prone to floods and river erosion; close to 5,700 km, out of the 7,516 km long coastline is prone to cyclones and tsunamis; 68% of its cultivable area is vulnerable to droughts; and, its hilly areas are at risk from landslides and avalanches.<sup>24</sup>

Apart from this, there are risks of chemical, biological, radiological and nuclear hazards. Disaster risks are further intensified due to shifting demographics, socio-economic conditions, environmental conditions, etc. Intensive urbanisation and unplanned construction in sensitive zones also increase the chances of disasters. The recent destruction in Shimla city in Himachal Pradesh exemplifies this. Urbanisation disasters frequently result in the widespread loss of human habitation and shelter, stripping people of their privacy, dignity, and safety and leaving them vulnerable to the whims of the weather, including rain, wind, and temperature. Reconstruction and recovery following a disaster are complicated processes that provide numerous difficulties for the government and the impacted people.<sup>25</sup>

#### **Disaster Management Act, 2005**

In the last few decades, India has significantly changed its disaster management approach. The Bhuj earthquake and the 2004 tsunami acted as catalysts and brought disaster management to the forefront of the policy

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<sup>23</sup> Abinash Mohanty and Shreya Wadhawan, *Mapping India's Climate Vulnerability-A District-Level Assessment*, available at: <https://www.ceew.in/publications/mapping-climate-change-vulnerability-index-of-india-a-district-level-assessment> , (Last visited: Oct 9, 2023)

<sup>24</sup> Press Information Bureau, Government of India, Ministry of Earth Science, *Forecasting of Natural Calamities*, available at: <https://pib.gov.in/newsite/PrintRelease.aspx?relid=112453> (last visited Oct. 10 2023)

<sup>25</sup> National Disaster Management Authority, Ministry of Home Affairs, Government of India, NATIONAL GUIDELINES ON TEMPORARY SHELTERS FOR DISASTER-AFFECTED FAMILIES, available at-<https://nidm.gov.in/PDF/pubs/NDMA/24.pdf> (Last visited: 03 Oct. 2023).

agenda. In the year 2005, the Indian government Disaster Management Act.<sup>26</sup> The Act established the National Disaster Management Authority (NDMA), chaired by the Prime minister<sup>27</sup> and assisted by the National executive committee, which consists of secretaries of various ministries and department heads<sup>28</sup>.

The primary functions of the NDMA are to “lay down policies, plans and guidelines on disaster management to be followed by the State Disaster Management Authorities (SDMA) and different Ministries or Departments of the Government of India to draw up their plans for ensuring timely and effective response to disasters; approve the National Plan prepared by the NEC and other plans prepared by the Ministries or Departments; coordinate their enforcement and implementation; take such other measures for the prevention and mitigation of disasters, or preparedness and capacity building for dealing with disaster situations; and recommended guidelines for the minimum standards of relief to be provided to persons affected by disasters.”<sup>29</sup> The act establishes State Disaster Management Authorities (SDMA) chaired by Chief Ministers<sup>30</sup>, assisted by State Executive Committees.<sup>31</sup> The primary function of the SDMA is to lay down state disaster management policy following national disaster management policy. At the district level, the District Disaster Management Authorities<sup>32</sup> (DDMA) are responsible for disaster management. The DDMA works under the District Magistrate/ Collector. Similarly, the local authorities are also involved in the disaster management process.<sup>33</sup> Thus, the Act provides a detailed, four-tier administrative set-up at the national, state and district levels, and to an extent at the taluka level, for optimum disaster management.

The Act also establishes an institute dedicated to the research, training and awareness of disaster management. It is known as the National Institute of Disaster Management.<sup>34</sup> It has also set up a National Disaster Response Force for ‘specialist response’ comprising of trained personnel from the Central Paramilitary Forces.<sup>35</sup> The Act ensures that the government and related authorities take “necessary measures for preparedness to promptly

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<sup>26</sup> Malini Nambiar, *A Decade of Disaster Risk Management in India*, L EPW 37 (2015) 7.

<sup>27</sup> Section 3, Disaster Management Act, 2005.

<sup>28</sup> Section 8, Disaster Management Act, 2005.

<sup>29</sup> Section 6, Disaster Management Act, 2005.

<sup>30</sup> Section 14, Disaster Management Act, 2005.

<sup>31</sup> Section 20, Disaster Management Act, 2005.

<sup>32</sup> Section 25, Disaster Management Act, 2005.

<sup>33</sup> Section 21, Disaster Management Act, 2005.

<sup>34</sup>Section 42, Disaster Management Act, 2005.

<sup>35</sup> Section 44, Disaster Management Act, 2005.

and effectively respond to any threatening disaster". There is a National Disaster Response fund for emergency relief and rehabilitation. The mitigation during disasters is to be borne by the National Mitigation Fund.

However, the act doesn't stress enough on resettlement or rehabilitation of the displaced population. The National Policy on Disaster Management 2009 and National Disaster Management Policy 2019 have focused on both short-term relief operations as well as long-term rehabilitation measures, such as the reconstruction of houses in safer locations and the provision of basic amenities, like drinking water, sanitation, roads, education, viable livelihood systems, health care, and upgradation of farming technologies etc., in the relocated areas, at the same time being gender sensitive.<sup>36</sup> Moreover, The Act, which intends to protect and promote the interests of the disaster victims, does not define the term 'victim' or identify 'vulnerable' populations. Their proper description is essential for efficient disaster management because post-disaster relief and rehabilitation packages are meant for the victims. At the same time, pre-disaster preventive and preparedness measures are designed for vulnerable populations. The Act does not give adequate attention to the rehabilitation of poor victims and their capacity to recover. It fails to understand that the poor are the first to be affected and the last to recover, and often, the majority of disaster victims are from the poorer sections

Disaster often results in displacement. It is one of the main reasons for displacement after conflicts and development. The number of displaced people depends upon the country's exposure to disasters and socio-economic conditions. In 2022, around 2.5 million people were displaced in India. Most displacements were due to floods, which account for more than ninety per cent of displacements. Assam was the most affected state. After the floods, cyclones hit the country with around 95000 displacements, mainly in Orissa and west Bengal from cyclone Sitrang.<sup>37</sup> In 2023, the state of Himachal Pradesh faced thousands of people displaced due to extreme rains and flash floods.

Regarding law and policy, India has a national framework to protect people displaced due to development and conflict, but it overlooks the disaster-induced IDPs. India is familiar with DI-IDPs, which can be protected under

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<sup>36</sup> Samling, C.L., Ghosh, A.K., Hazra, S. *Resettlement and Rehabilitation: Indian Scenario*. available at: [https://generic.wordpress.soton.ac.uk/deccma/wp-content/uploads/sites/181/2017/07/INDIA-Resettlement-Working-Paper\\_FEB2016.pdf](https://generic.wordpress.soton.ac.uk/deccma/wp-content/uploads/sites/181/2017/07/INDIA-Resettlement-Working-Paper_FEB2016.pdf) (Last visited: Oct 3 2023).

<sup>37</sup> Down to Earth, *Assam reflects the world's protracted disaster-induced displacement* (May 19, 2022) available at: <https://www.downtoearth.org.in/news/governance/assam-reflects-world-s-protracted-disaster-induced-displacement-82927> (last visited Sep. 01, 2023)

the Indian Disaster Management Act (DMA), 2005, and the subsequent policies and guidelines.<sup>38</sup> Regarding cross-border displacement, India is a receiving state for environmental refugees from Bangladesh<sup>39</sup>. However, there is not much data on people driven out of India due to disasters in India.

### **National Disaster Management Policy, 2007 (NDMP)**

The setting up of temporary camps for disaster-displaced persons is the responsibility of the district disaster management authority. These temporary camps must provide adequate drinking water, bathing and sanitation facilities. The community's kitchen can be used, if possible, to provide food to the displaced person. If the duration of stay in a temporary shelter is long and uncertain and where displacement is due to extreme weather conditions, Intermediate shelters can be constructed. Such shelters must be eco-friendly and have suitable facilities for everyday life. Educational institutions are discouraged from being used for rehabilitation. The reconstruction needs to be done with the participatory involvement of the government, affected community, NGOs and local corporations. Temporary shelters need to be constructed in the minimum possible time, and permanent reconstruction of the houses must be completed within 2 to 3 years. Central Ministries/Departments concerned and the State Governments should create dedicated project teams to speed up the reconstruction process.<sup>40</sup>

### **National Disaster Management Plan, 2019**

In 2019, the government devised a national disaster management plan. The plan is a mandate under section 11 of the Disaster Management Act and in compliance with the National Policy on Disaster Management, 2007. Apart from this plan, section 37 of the Disaster Management Act enjoins each ministry and department to have its disaster plan. On the issue of displacement, the NDMP mandates rehabilitation of the displaced population. It defines rehabilitation in broader terms as, "*An overall dynamic*

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<sup>38</sup> Chhaya Bhardwaj & A. Renganath, *Disaster-Induced Internal Displacement in India: Denial, Protection and Policy*, V *EnvJus* (2022), available at: [https://www.liebertpub.com/doi/10.1089/env.2021.0060#:~:text=India%20has%20a%20national%20framework,persons%20\(DI%2DIDPs\).&text=India%20is%20familiar%20with%20DI,7%20and%20the%20subsequent%20guidelines](https://www.liebertpub.com/doi/10.1089/env.2021.0060#:~:text=India%20has%20a%20national%20framework,persons%20(DI%2DIDPs).&text=India%20is%20familiar%20with%20DI,7%20and%20the%20subsequent%20guidelines), (last visited July 05, 2023)

<sup>39</sup> Tahmina Chumky, Mrittika Basu, et al., *Disaster-induced migration types and patterns, drivers, and impact: A union-level study in Bangladesh* I *World Dev. Sustain.* 1 (2022), available at: <https://www.sciencedirect.com/science/article/pii/S2772655X22000131> (last visited: Oct 29, 2023)

<sup>40</sup> National Disaster Management Policy, 2007.

*and intermediate strategy of institutional reforms and reinforcement, reconstruction and improvement of infrastructure and services; aimed towards support to true initiatives and actions of the affected populations in the political, economic and social domains, as well as reiteration of sustainable development."*

It mentions four kinds of rehabilitation: Physical, Social, Economic, and Psychological. Most importantly it discusses 'Relocation' as a part of Physical rehabilitation. In that context it says, *"Relocation is a very sensitive part of the physical rehabilitation process and it must be ensured that need based considerations and not extraneous factors should drive the relocation policy."* Regarding the funding it enjoin the state government to finalize the fund mobilization strategy through the relevant ministry of state government.

### **The Climate Migrants (Protection and Rehabilitation) Bill, 2022**

On December 9, 2022, Member of Parliament Pardyut Bordoloi introduced a private member bill to recognise climate migrants and ensure their holistic rehabilitation. The bill covers displacement relating to climate disasters but not all disasters. According to the preamble, the bill was introduced as India is a signatory to the UN Guiding Principles on Internal Migration (1998) which lists principles related to protection from displacement and during displacement, humanitarian assistance, return, resettlement and reintegration and also there is a need to consolidate, streamline and harmonize the varied practices, policies and standards applicable to climate migrants in India.<sup>41</sup>

The bill defines climate-induced factors as, "climate extremes, natural disasters and extensive risks associated with climate change including extreme and erratic fluctuations of the natural flow in downstream of rivers."<sup>42</sup> Under section 2 (c) it defines "climate migrants" as, "means a person, group of persons, households or entire community who have been permanently or temporarily, — (i) forcibly displaced due to climate induced factor; or (ii) evacuated by government on account of untenable and risk prone habitats; or (iii) who migrate voluntarily due to worsened living conditions and livelihood opportunities on account of climate events, slow onset or quick onset, from their area of habitual residence as a result of disasters or stress caused by climate-induced factors or slow-onset climatic processes"<sup>43</sup> . It provides an inclusive definition of "climate migration" as including processes of displacement, migration and planned relocation.<sup>44</sup>

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<sup>41</sup> Preamble to the The Climate Migrants (Protection and Rehabilitation) Bill, 2022

<sup>42</sup> Section 2(b), The Climate Migrants (Protection and Rehabilitation) Bill, 2022

<sup>43</sup> Section 2(c), The Climate Migrants (Protection and Rehabilitation) Bill, 2022

<sup>44</sup> Section 2(d), The Climate Migrants (Protection and Rehabilitation) Bill, 2022

It talks about establishing a National Climate Migration Authority, which will be an inter-ministerial agency consisting of representatives of members concerning various departments of the Central Government including but not limited to Ministry of Forest, Environment and Climate Change, Ministry of Home Affairs, Ministry of Labour and Employment, Ministry of Rural Development, Ministry of Women and Child Development, Ministry of Agriculture, Ministry of Law and Justice, Ministry of Jal Shakti and Ministry of Housing and Urban Affairs to be appointed by the Central Government in such manner as may be prescribed.<sup>45</sup> It also contains a provision for establishing of State Climate Migration Authority and Climate Change Fund.<sup>46</sup>

Overall, the bill's introduction is a laudable move, except that it does cover the migration caused by climate disasters only and not all the disasters. As disasters become more complex, "the practical and the theoretical challenges in turn become more complex." Accordingly, legal experts have begun to question, for instance, "whether it is appropriate to differentiate between displaced people who deserve 'protection' on account of climate change and those who are victims of 'mere' economic or environmental hardship." Some authors have asserted that there is, indeed, "no compelling reason to distinguish between climate-related and other natural disasters."<sup>47</sup>

## IV

### Conclusion

Disasters are one of the leading reasons behind displacement, and India is one of the most vulnerable countries in that matter. The other most serious consequence of disasters is disrupting the social fabric of the affected families and communities due to forced displacements or unwilling relocations, which sever their ties with relatives, friends, neighbours, and other familiar surroundings. This loss of social fabric creates economic and social uncertainties for the displaced/ relocated disaster victims in a strange land with unfamiliar host communities in the newly resettled place.<sup>48</sup> However, the word 'Disaster induced Displacement' has not been defined in India. Such displacement is covered under the Disaster Management Act 2005, as well as both local and national schemes, plans, and policies.

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<sup>45</sup> Section 4(2), The Climate Migrants (Protection and Rehabilitation) Bill, 2022

<sup>46</sup> Section 6, The Climate Migrants (Protection and Rehabilitation) Bill, 2022

<sup>47</sup> Micheal D. Cooper, *On the Nature of "Natural" Disaster* in MIGRATION AND DISASTER-INDUCED DISPLACEMENT: EUROPEAN POLICY, PRACTICE, AND PERSPECTIVE 6 (Centre for Global Development, ed. 2012),

<sup>48</sup> Supra Note 9.

The Tsunami in 2004 had left 10,000 displaced persons due to the disaster. Disasters triggered 40.5 million new IDPs across 149 countries and territories in 2020. India alone witnessed 3.9 million disaster displacements in 2020. During the 2020 COVID-19 pandemic lockdown, there were millions of DI-IDPs in 3 months who were mostly unprotected. There were thousands of unprotected DI-IDPs after the 1986 Bhopal gas tragedy. Decades later, there is no coherent policy even today to protect DI-IDPs in India. During the 2020 Vizag gas leak disaster, the displaced persons were unprotected and uncovered, thus highlighting a gap in protection policy for DI-IDPs.<sup>49</sup>

India has a well-defined political and legal strategy for the displacement caused due to development projects. However, there is a lack of such clarity in Disaster-induced displacement. The concept of *Parens-Patriae* is explained as the right of the sovereign and imposes a duty on the sovereign, in the public interest, to protect persons under disability who have no rightful protector". The doctrine is the inherent power and authority of a legislature to protect the person and property of persons and property non-Sui Jurists, such as minor, insane and incompetent persons. Therefore, the state is obliged to render adequate relief and rehabilitation to victims of disasters.<sup>50</sup>

Climate change is expected to increase disaster displacement and influence migration dynamics as the impacts of environmental hazards become more intense, especially in developing countries like India. Unsustainable development patterns, including poor urban planning, insufficient provision of social services, rapid urbanisation, poverty, and conflict, are all significant drivers of disaster displacement. Certain groups, particularly poor people living in high-risk areas, are more vulnerable to displacement during and after disasters.<sup>51</sup> India needs a comprehensive national policy on disaster-induced displacement with a clear demarcation of responsibilities of various stakeholders in the relocation and rehabilitation process and the socio-economic and cultural integration of the displaced person. The Nansen initiative strongly suggests tackling disaster displacement risk in the country of origin. These include effective practices to reduce vulnerability and build resilience to disaster displacement risk, facilitate migration and conduct planned relocation out of hazardous areas, and respond to the needs of IDPs.<sup>52</sup>

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<sup>49</sup> Supra Note 39.

<sup>50</sup> *Charan Lal Sahu v. Union of India & Ors.* 1990 SCC (1) 613

<sup>51</sup> Supra Note 7

<sup>52</sup> Supra Note 21