
UNDER THE SHADOW OF THE CLIMATE CRISIS: INDIA'S CLIMATE-INDUCED MIGRANTS' LEGAL INVISIBILITY

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ABSTRACT

Climate change is not a distant threat; it is a current reality that disproportionately affects disadvantaged groups, especially in the Global South. Climate-induced migrants are among the most impacted individuals, compelled to relocate from their residences due to sea-level rise, flooding, droughts, glacial melt, and other climate-related disturbances. In India, despite increasing awareness of the climate catastrophe, there is a notable lack of legal and policy acknowledgement for individuals displaced by it. Climate migrants have an ambiguous position, lacking protection under international refugee law and Indian government regulations. This article contends that the legal invisibility of climate-induced migration signifies a profound systemic failure to acknowledge vulnerability, defend human rights, and address one of the most pressing humanitarian crises of our times. Based on empirical facts, constitutional principles, case law, and multidisciplinary study, the article advocates for a comprehensive, rights-based legal framework. It advocates for legal acknowledgement, judicial enhancement of Article 21 protections, regional collaboration, urban planning improvements, and grassroots engagement. This study aims to add to the continuing discourse on climate justice, constitutional morality, and the future of migration law in India.

Introduction

India is situated at the forefront of the climate crisis. Its geography, which encompasses Himalayan glaciers, deltaic coasts, drought-prone interiors, and swiftly urbanising metros, renders it particularly susceptible to both sudden and slow-onset climate events. Climate-induced sea-level rise alone poses a hazard to the displacement of millions, with a coastline spanning more than 7,500 kilometres. However, those who have been displaced continue to be legally unrecognised, despite the increasing evidence of ecological duress and migratory movement. Architesh Panda characterises this as "a burgeoning population of stateless individuals that were not generated by war or politics, but rather by weather."¹

These climate migrants frequently evacuate due to the collapse of their livelihoods, crop failure, soil salinisation, flash flooding, or heatwaves. However, they are not classified as refugees, are not safeguarded by disaster law, and are rarely accommodated by metropolitan policy once they have been displaced. Angela Williams argues that this structural failure is not merely a policy oversight, but rather a legal perpetuation of insecurity.² The law eliminates the visibility of climate migrants and excludes them from systems of aid, rehabilitation, or dignity by disregarding their legal identity.

This essay investigates the systemic marginalisation that these individuals experience, the failure of international and domestic legal frameworks to acknowledge their existence, and the scope and scale of climate-induced migration in India. It presents a compelling argument for structural legal reform, which is founded on human rights, constitutional obligations, and climate justice.

Crisis Mapping: Climate-Induced Migration in India

India is currently experiencing unprecedented levels of climate-induced migration. Over 3.9 million individuals were displaced by environmental disasters in 2020, which is a higher number than any other country on a global scale, according to the Internal Displacement Monitoring Centre.³ Conversely, conflict-induced displacement in the same year resulted in the

¹ Architesh Panda, *Climate Refugees: Implications for India*, 45 *Econ. & Pol. Wkly.* 76, 76 (May 15–21, 2010).

² Angela Williams, *Climate Change Law: Creating and Sustaining Social and Economic Insecurity*, 20 *Soc. & Legal Stud.* 499, 500 (2011).

³ Gauri S. Rane & Riddhi Jangam, *India's Climate Refugees and Legal Implications*, 8 *Int'l J. L.* 118, 120 (2022).

displacement of less than 4,000 individuals. This stark discrepancy emphasises that environmental degradation, rather than war, is increasingly dominating the process of internal migration.

The displacement of more than 10,000 residents on Lohachara Island and Ghoramara Island in West Bengal was the result of the island's submersion and erosion.⁴ Nevertheless, these "climate refugees" were assimilated into neighbouring regions without formal recognition, compensation, or resettlement rights. Seasonal migrants are being compelled to relocate to cities such as Delhi and Mumbai as a result of the chronic droughts that have devastated agricultural livelihoods in Bundelkhand. Saltwater intrusion, loss of arable land, and the collapse of aquaculture are causing migration in coastal villages in Odisha and Andhra Pradesh, without the need for a disaster declaration.⁵

These movements are largely invisible to the law due to their gradual, internal nature, and economic desperation. They are not classified as displaced persons by the government, and no institution monitors their movements. As Gauri Rane and Riddhi Jangam observe, "the absence of legal recognition results in a lack of accountability; a displacement without a history and a future without rights."⁶

The Limitations of Refugee Law in the Global Legal Landscape

A refugee is defined by the 1951 Refugee Convention as an individual who is subject to persecution as a result of their "race, religion, nationality, membership in a particular social group, or political opinion."⁷ Environmental displacement does not meet the criteria. Despite the fact that the conditions are equally life-threatening, the principle of non-refoulement, which is the fundamental protection in refugee law, is unavailable to those who are fleeing from climatic collapse.

Rafael Leal-Arcas elucidates that "climate migrants" are becoming more visible in political discourse; however, they are still not included in the legal framework due to the fact that the reasons for their migration are not perceived as persecution.⁸ The International Organisation

⁴ Panda, *supra* note 1, at 78.

⁵ *Id.* at 77.

⁶ Rane & Jangam, *supra* note 3, at 121.

⁷ U.N. Convention Relating to the Status of Refugees art. 1, July 28, 1951, 189 U.N.T.S. 150.

⁸ Rafael Leal-Arcas, *Climate Migrants: Legal Options*, 37 *Procedia - Soc. & Behav. Sci.* 86, 93 (2012).

for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) have acknowledged the existence of climate-induced displacement. However, they prefer non-binding terms, such as "persons displaced in the context of disasters and climate change," which do not impose any enforceable obligations.⁹

Legal progress has been restricted. The courts in New Zealand and Australia have heard asylum claims from Pacific Islanders who are fleeing the rising seas. However, the majority of these claims have been rejected, as the argument is that environmental degradation does not constitute persecution.¹⁰ In the interim, regional frameworks, such as the Kampala Convention, acknowledge displacement as a result of disasters; however, they are not applicable to India. Angela Williams criticises the international legal system for perpetuating "a humanitarian deficit concealed by the language of sovereignty."¹¹

Domestic Legal Gaps: Selective Visibility and Silence

India lacks a national refugee law and is not a signatory to the 1951 Refugee Convention. Furthermore, it is devoid of any policy or statute that acknowledges climate-induced migrants. Displacement resulting from flooding, droughts, and rising seas is regarded as an administrative inconvenience rather than a legal crisis.

The Disaster Management Act of 2005 emphasises short-term response, including evacuation, temporary shelter, and emergency medical assistance.¹² It does not require the long-term rehabilitation or the recognition of displaced individuals as a legally protected class. In the same vein, the Land Acquisition Act of 2013 offers compensation for displacement caused by projects, but it does not address land loss caused by climate change.

The right to migration, resettlement, or rehabilitation from climate duress has not been judicially articulated, despite the fact that constitutional jurisprudence has expanded environmental rights under Article 21.¹³ The Supreme Court held in *M.K. Ranjitsinh v. Union of India* that citizens have a "right to be protected from adverse climate effects." However, the

⁹ Id. at 94.

¹⁰ Id.

¹¹ Williams, *supra* note 2, at 504.

¹² Disaster Management Act, 2005, No. 53, Acts of Parliament, 2005 (India).

¹³ India Const. art. 21.

court did not specify the scope of this right or operationalise the protections.¹⁴

Furthermore, the Citizenship Amendment Act of 2019, which was enacted in 2019, implemented a communal filter that prioritises specific religious communities and excludes Muslim migrants, including those who are escaping the devastation of the climate in Bangladesh.¹⁵ This not only undermines secular constitutionalism but also establishes an exclusionary legal framework for vulnerable climate-displaced individuals.

Urban Injustice and Climate Displacement

The overwhelming majority of climate migrants in India relocate from rural regions to urban centres. Nevertheless, Indian communities, which are intentionally constructed to exclude, do not provide either dignity or inclusion. In urban slums situated near storm sewers, garbage dumps, and floodplains, migrants from flood-affected Assam, drought-hit Chhattisgarh, or cyclone-prone Odisha frequently establish themselves. These areas are the most susceptible to flooding during the monsoon season and are not given the utmost priority in municipal planning.

Eric Chu and Kavya Michael's groundbreaking investigation of Bengaluru and Surat illustrates the systematic exclusion of migrants from urban adaptation plans.¹⁶ Infrastructure that was constructed subsequent to the 2006 floods in Surat resulted in the displacement of informal settlements on riverbanks, which were primarily inhabited by migrants, to the city's periphery, a significant distance from services and livelihoods. Slum areas were bypassed in Bengaluru by rainwater catchment and lake rejuvenation initiatives. Migrants were not registered or enumerated in disaster risk mapping.

The failure is not merely distributive; it is also recognitional. Urban migrants are denied formal tenancy, excluded from welfare systems linked to permanent residency, and rendered invisible to policymakers.¹⁷ Their ecological vulnerability is further exacerbated by this legal erasure.

¹⁴ M.K. Ranjitsinh v. Union of India, W.P. (C) No. 838/2019 (India).

¹⁵ Citizenship (Amendment) Act, 2019, No. 47, Acts of Parliament, 2019 (India).

¹⁶ Eric Chu & Kavya Michael, Recognition in Urban Climate Justice: Marginality and Exclusion of Migrants in Indian Cities, 31 *Env't & Urbanization* 139, 142 (2019).

¹⁷ *Id.* at 149.

The Question of Recognition and Human Rights

Climate displacement affects a variety of human rights, including the right to life, housing, health, water, education, and subsistence. However, these rights are still merely aspirations for climate migrants. Parkhi Saxena contends that the absence of legal identity renders it impossible to assert even the most fundamental entitlements.¹⁸ Food ration schemes, health insurance, and voting registers are not accessible to migrants who lack documentation.

Women are at an increased risk of experiencing sexual violence in relief shelters, as well as being excluded from land titles and lacking access to facilities. Migration, malnutrition, and the loss of identity documents are among the factors that contribute to the school attrition rate among children. Saxena underscores that the rights violation is not a coincidence; it is the result of the state's refusal to acknowledge climate migrants as legal entities.¹⁹

Angela Williams observes that the law frequently perpetuates insecurity by means of omission. The law eliminates lived experiences of displacement by exclusively emphasising emissions targets and disaster response.²⁰ Not humanitarian aid or charity, but rather accountability, recognition, and rights, are required.

Regional Issues: The Bangladesh-India Nexus

Additionally, India is confronted with external climate migration pressures. By 2050, Bangladesh, which is one of the most climate-vulnerable nations, is expected to lose 17% of its coastal land, potentially displacing over 20 million people.²¹ Border tensions and communal polarisation will be exacerbated as a result of the fact that a significant number of individuals will seek refuge in India, particularly in Assam and West Bengal.

A response has not been developed by the Indian legal system. There is no diplomatic roadmap, no SAARC-level cooperation, and no cross-border displacement framework. The Citizenship Amendment Act, rather than resolving the issue, exacerbates exclusion by mandating religious

¹⁸ Parkhi Saxena, *Climate-Induced Migration and Protection of Human Rights of the Migrants*, 1 HPNLU J. Env't & Disaster Mgmt. 90, 94 (2020).

¹⁹ *Id.*

²⁰ Williams, *supra* note 2, at 505.

²¹ Panda, *supra* note 1, at 79.

identity as a condition for entrance.²² This is not only impractical in the face of environmental catastrophe, but it is also discriminatory.

Policy Suggestions

Legal Recognition:

The Indian state is required to acknowledge "climate migrants" as a distinct legal category. This can be accomplished by enacting a distinct law or amending the Disaster Management Act. This recognition must grant rights to shelter, healthcare, sustenance, and employment, as well as enable the transfer of entitlements.²³

Urban Inclusion:

The inclusion of migrant communities in climate resilience planning must be mandated by municipal planning statutes. Social audits, participatory cartography, and the identification of informal settlements are indispensable.²⁴

Data and Documentation:

The Census and disaster registers must document displacement resulting from climate events. In order to guarantee targeted intervention, it is imperative that this data be disaggregated by gender, caste, and geography.²⁵

Judicial Expansion:

The Indian judiciary is required to interpret Article 21 to encompass a right to rehabilitation from climate displacement. M.K. Ranjitsinh is a start; however, additional articulation is necessary to operationalise this privilege.²⁶

Regional Collaboration:

SAARC is required to establish a Climate Displacement Protocol that includes shared

²² Citizenship (Amendment) Act, *supra* note 14.

²³ Saxena, *supra* note 17, at 97.

²⁴ Chu & Michael, *supra* note 15, at 150.

²⁵ Saxena, *supra* note 17, at 98.

²⁶ Ranjitsinh, *supra* note 13.

responsibilities for legal aid, funding, and resettlement. India must assume a leadership role in the establishment of this multilateral framework.²⁷

Strengthen Social Institutions:

Migrants must be enabled to access documents, assert claims, and reconstruct livelihoods through the empowerment of NGOs, social workers, and legal aid clinics.²⁸

Conclusion

Migration driven by climate change is a crucial concern of our era. In India, it signifies not just a humanitarian catastrophe but also a legal one. The prevailing regime of silence, isolation, and denial is unsustainable. Legal acknowledgement is not solely symbolic; it constitutes the initial step towards justice. By integrating rights, equity, and visibility into legislation and policy, India may convert its climatic vulnerability into ethical leadership.

²⁷ Panda, *supra* note 1, at 79.

²⁸ Saxena, *supra* note 17, at 99.