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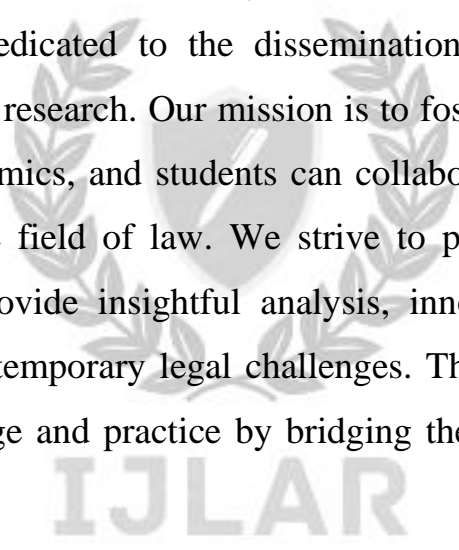
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Introduction

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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

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THE STATUS OF CLIMATE REFUGEES WITH SPECIAL REFERENCE TO HUMAN RIGHTS: A CRITICAL ANALYSIS

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ABSTRACT

Climate change increasingly forces people to move due to extreme events and slow-onset degradation, yet those displaced remain inadequately recognised within formal refugee protection regimes. The research analyses the protection gap between international refugee law and the realities of climate mobility, and evaluates how international human rights standards can provide minimum guarantees where refugee status is unavailable. This study critically examines the status of climate refugees with special reference to human rights, focusing on India's legal and policy response to climate-induced displacement. In the Indian context, the study assesses the relevance of constitutional guarantees under Articles 14 and 21, and the operational role of the Disaster Management Act, 2005 and the Environment (Protection) Act, 1986 in prevention, relief, rehabilitation, and risk governance. It identifies key limitations such as lack of a specific legal definition, inconsistent administrative practices, documentation barriers, and weak long-term rehabilitation frameworks. The study concludes by proposing a rights-based approach for recognition, protection, and durable solutions for climate-displaced persons in India.

Keywords: Climate refugees; Climate-induced displacement; Human rights; India; Disaster Management Act, 2005; Constitutional protection.

1 INTRODUCTION

Climate-induced displacement has emerged as one of the most pressing governance and rights challenges of the twenty-first century, yet people forced to move because of sea-level rise, extreme weather, desertification, and slow-onset environmental change

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remain only partially visible in law and policy. The term “climate refugees” is widely used in public discourse to describe persons compelled to leave habitual homes due to climate impacts, but the label sits uneasily within the classic refugee framework because it is not anchored in the 1951 Refugee Convention’s persecution-based grounds. This mismatch creates a protection gap, especially where displacement is cross-border and host states rely on immigration control rather than protection standards.²

In India, the urgency is sharpened by dense coastal populations, climate-sensitive livelihoods, and recurring disasters that trigger both temporary and protracted movement. While India has no dedicated statute recognising “climate refugees,” several legal instruments become relevant depending on whether movement is internal or cross-border. For internal displacement, relief, evacuation, and recovery measures are typically routed through the Disaster Management Act, 2005, especially its provisions enabling national coordination and prescribing minimum standards of relief. Environmental governance frameworks such as the Environment (Protection) Act, 1986 empower the Union to take measures and issue directions that matter for prevention, mitigation and regulation. For cross-border arrivals, the Foreigners Act, 1946—particularly its power to issue orders regulating entry, presence and departure—often frames state response.³

A human-rights lens is central because climate displacement predictably affects access to life, dignity, housing, health, food, water and livelihood. In India, Articles 14 and 21 of the Constitution provide the normative core for equality and protection of life and personal liberty, which becomes crucial when disaster response, relocation, or exclusionary administrative practices deepen vulnerability. Internationally, the ICCPR and ICESCR inform minimum baselines for civil-political and socio-economic protections, while the UN Guiding Principles on Internal Displacement consolidate standards relevant to internally displaced persons, including protection against arbitrary displacement and guarantees during return or resettlement. This study therefore

² Abdulaziz I. Almulhim et al., “Climate-induced migration in the Global South: an in depth analysis,”

³ *npj Climate Action* 47- (2024).

³ “Chapter 3: Oceans and Coastal Ecosystems and their Services,” *IPCC available at: <https://www.ipcc.ch/report/ar6/wg2/chapter/chapter-3/>* (last visited April 28, 2026).

critically examines how these instruments interact, where gaps persist, and what rights-based legal recognition could mean in the Indian context.

1.1 Meaning and Scope of Climate Refugees

The expression “climate refugees” generally refers to persons compelled to leave their habitual residence because climate change and related environmental impacts seriously threaten life, safety, or subsistence; however, it is not a term of art in binding international refugee law. The scope of the term is therefore functional rather than formal: it may cover internally displaced persons (IDPs) and cross-border movers, including those displaced by sudden-onset disasters (cyclones, floods) and slow-onset processes (sea-level rise, salinisation, drought). In the absence of a dedicated international treaty category, protection debates increasingly rely on human-rights-sensitive climate instruments, including the Paris Agreement’s acknowledgement that climate action should respect and consider human rights and the rights of migrants and persons in vulnerable situations.⁴ In India, the practical scope of “climate refugee” claims depends on whether movement is internal or cross-border. For internal displacement, the Disaster Management Act, 2005 provides the operational backbone for evacuation, relief, and rehabilitation, including Section 12 (guidelines for minimum standards of relief) and Section 35 (measures by the Central Government) that become relevant when displacement requires coordinated response and restoration of basic necessities. For cross-border arrivals linked to climate stressors, the Foreigners Act, 1946—especially Section 3 (power to make orders)—is often the controlling legal framework regulating entry and presence, which can leave protection contingent on executive discretion rather than an explicit rights-based status.⁵

1.2 Nature and Dimensions of Climate-Induced Displacement

⁴ “A Global Migration Framework Under Water: How Can the International Community Protect Climate Refugees?,” *Chicago Journal of International Law* available at: <https://cjl.uchicago.edu/online-archive/global-migration-framework-under-water-how-can-international-community-protect> (last visited April 28, 2026).

⁵ Vajiram Content Team, “Disaster Management Act 2005, Background, Objectives, Key Provisions” *vajiramandravi*, 12 December 2025.

Climate-induced displacement is multi-causal and often circular: households may move temporarily during disasters, return, and then re-migrate as repeated shocks erode assets, land productivity, and public services. This produces layered patterns—seasonal mobility, distress migration, urban informal settlement growth, and planned relocation—where “choice” is constrained by risk and poverty. The Sendai Framework underscores prevention, preparedness and “Build Back Better,” which is directly relevant to displacement risk reduction and durable solutions in disaster-prone regions.

Within India’s legal architecture, the environmental and rehabilitation dimensions intersect. The Environment (Protection) Act, 1986 empowers the Union under Section 3 (power to take measures to protect and improve the environment) and Section 5 (power to issue directions), which matter for risk mitigation, industrial regulation, and pollution control that can aggravate climate vulnerability. Where displacement becomes permanent or involves acquisition/relocation, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 provides a statutory framework for rehabilitation and resettlement (including preparation of an R&R scheme and the R&R award), while the Forest Rights Act recognises and vests forest-related rights crucial for communities whose climate vulnerability is intensified by insecure tenure and exclusion from resources.⁶

1.3 Relevance of Human Rights in Climate Migration

Human rights are central to climate migration because displacement typically entails foreseeable deprivations affecting life, dignity, equality, health, housing, work, education, and access to basic services. In India, Articles 14 and 21 of the Constitution form the core normative basis to evaluate whether state actions or omissions during evacuation, sheltering, relocation, or exclusion from aid meet minimum standards of fairness, non-discrimination, and protection of life and personal liberty. These constitutional guarantees also provide the evaluative frame for administrative measures under disaster and immigration laws when they have disproportionate impacts on vulnerable groups.⁷

⁶ Sneha Mahawar, “Environment (Protection) Act, 1986” *iPleaders*, 2022 available at: <https://blog.ipleaders.in/environment-protection-act-1986-2/> (last visited April 28, 2026).

⁷ DTE Staff, “Right against climate change part of right to life, equality: Read the Supreme Court’s exact arguments” *Down To Earth*, 8 April 2024.

At the international level, the ICCPR and ICESCR articulate minimum guarantees relevant to climate displacement, including protections linked to life, freedom of movement, and socio-economic entitlements essential for survival and dignity. The UN Guiding Principles on Internal Displacement consolidate standards for IDPs, including protection from arbitrary displacement and guarantees related to assistance, documentation, family unity, and durable solutions during return, resettlement, or local integration. Read together with climate governance instruments such as the UNFCCC and Paris Agreement, a rights-based approach strengthens the argument that climate-displaced persons should not be treated as “invisible migrants,” but as rights-holders entitled to protection, participation, and remedies.⁸

1.4 Objectives of the Study

1. To examine the meaning and practical scope of “climate refugees” in relation to climate-induced displacement in India.
2. To identify key gaps in international and domestic legal protection for climate-displaced persons without relying on case-law analysis.
3. To assess the adequacy of India’s existing statutory framework (disaster management, environmental governance, immigration control, and rehabilitation norms) for climate displacement.
4. To evaluate climate displacement through constitutional and international human rights standards relevant to India.

1.5 Research Questions

1. How should “climate refugees” be understood and scoped for legal analysis in the Indian context?
2. What are the principal patterns and drivers of climate-induced displacement affecting India (internal and cross-border)?

⁸ “International Covenant on Civil and Political Rights,” *OHCHR available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (last visited April 28, 2026).

3. To what extent do the Disaster Management Act, 2005 and Environment (Protection) Act, 1986 address prevention, protection, and rehabilitation needs linked to climate displacement?
4. How do constitutional guarantees (especially Articles 14 and 21) and international human rights obligations inform protection standards for climate-displaced persons?

1.6 Research Methodology

This study adopts a doctrinal methodology based on analysis of primary legal materials and authoritative instruments relevant to climate-induced displacement. It examines the text, scope, and operational implications of India's constitutional provisions (notably Articles 14 and 21), selected central statutes addressing disaster response, environmental governance, immigration control, and rehabilitation/resettlement, and key international frameworks on climate change and human rights. The method involves close reading of statutory provisions, delegated frameworks where necessary, and comparative evaluation against international standards such as the ICCPR, ICESCR, and the Guiding Principles on Internal Displacement. The focus remains on normative coherence, gaps, and reform possibilities.

1.8 Research Gap

Despite rich international scholarship, there remains a significant India-focused gap on how climate displacement should be legally recognised and operationalised through enforceable entitlements rather than welfare discretion. Existing Indian responses rely mainly on disaster relief and general environmental regulation, but do not clearly specify rights to documentation, durable housing, livelihood restoration, and non-discrimination for climate-displaced persons. Cross-border movement is largely filtered through immigration control without a consistent rights-based protection standard. Further, most writing under-examines how constitutional guarantees (Articles 14 and 21) can be translated into administrative protocols across states for prevention, planned relocation, and long-term rehabilitation.

2 CLIMATE CHANGE AND FORCED HUMAN MOBILITY

2.1 Climate Change as a Driver of Displacement

Climate impacts drive displacement through direct threats to safety and indirect pressures on income, food security, health, and public services. Where hazards become frequent and severe, temporary evacuation can shift into long-term displacement, especially when reconstruction is delayed or when land becomes unsafe due to erosion or salinisation. Global policy processes under the UNFCCC increasingly acknowledge human mobility as part of the loss-and-damage conversation, including institutional focus on approaches to avert, minimise and address displacement linked to adverse climate effects.⁹

In India, the legal “trigger” for state action in many climate-linked events is the Disaster Management Act, 2005, which provides a governance framework for preparedness, response, relief and recovery. Section 12 mandates guidelines for minimum standards of relief to disaster-affected persons, and these standards become crucial when mass evacuation, temporary shelters, and restoration of basic needs follow floods, cyclones, or heat-related emergencies. The statutory design places climate-linked displacement practically within disaster administration, even though the law does not create a distinct “climate displaced” legal status.¹⁰

2.2 Environmental Degradation and Loss of Livelihood

Environmental degradation—soil salinity, groundwater stress, reduced agricultural productivity, heat stress, and ecosystem decline—pushes households to move when income sources collapse and local coping capacity is exhausted. Such movements are often gradual, multi-stage, and economically compelled, blurring the line between “voluntary migration” and displacement. Migration research and policy material on environmental migration emphasises that climate and environmental drivers interact with poverty, governance, and labour markets, producing predictable patterns of rural distress migration and urban informalisation.

⁹ Laura Corlin et al., “Climate, migration and health: a global perspective,” 10 *BMJ paediatrics open* e002703 (2026).

¹⁰ “Paradigm Shift in Disaster Management—From Relief centric to Response Centric – Geography of Natural Hazards and Disaster Management,” available at: <https://ebooks.inflibnet.ac.in/geop15/chapter/paradigm-shift-in-disaster-management-from-relief-centric-to-response-centric/> (last visited April 28, 2026).

From an Indian statutory perspective, environmental governance powers matter because failure to prevent or regulate environmental harm can compound climate vulnerability. The Environment (Protection) Act, 1986 authorises the Central Government under Section 3 to take measures to protect and improve the environment and under Section 5 to issue binding directions; these provisions are relevant to regulating activities that increase ecological fragility and to enforcing standards that can reduce risk in climate-sensitive regions. Where environmental decline intersects with displacement, the adequacy and enforcement of these powers influence whether people can remain safely with viable livelihoods.

2.3 Internal and Cross-Border Movement of Affected Populations

Most climate-related displacement occurs internally, because people initially relocate to safer areas within the same state or to nearby cities where social networks and labour opportunities exist. Disaster displacement datasets underline that “new internal displacements” from disasters recur annually, and repeated cycles of movement are common where reconstruction is weak or where hazards repeatedly affect the same geography. This pattern is critical for India, where internal mobility frequently becomes the de facto adaptation pathway in the absence of planned relocation and durable livelihood support.¹¹

Cross-border movement linked to climate stress is harder to classify legally because many states apply general immigration control frameworks rather than protection-oriented standards. In India, the Foreigners Act, 1946 is central, and Section 3 empowers the Central Government to make orders regulating foreigners’ entry, presence and departure, which can dominate responses to cross-border arrivals even when movement is connected to environmental collapse. Internationally, climate mobility is discussed within the UNFCCC’s loss-and-damage architecture, including the Task Force on Displacement under the Warsaw International Mechanism, but this does not itself create an enforceable refugee status.

2.4 Vulnerability of Marginalized Communities to Climate Migration

¹¹ “Disasters triggered nearly 265 million forced movements over the past decade,” *IDMC - Internal Displacement Monitoring Centre* available at: <https://www.internal-displacement.org/news/disasters-triggered-nearly-265-million-forced-movements-over-the-past-decade/> (last visited April 28, 2026).

Climate migration disproportionately affects those with least resources to adapt—landless labourers, informal workers, women-headed households, Scheduled Tribes, and children—because they face higher exposure, weaker asset buffers, and barriers to state support and documentation. International human rights treaties require non-discrimination and protection of basic entitlements, which becomes decisive when displacement leads to exclusion from shelters, rations, healthcare, schooling, or employment in destination areas. The ICESCR and ICCPR provide foundational norms on equality, dignity, and minimum conditions of life that should inform displacement governance.¹²

In the Indian context, forest- and commons-dependent communities are uniquely vulnerable where climate stress intersects with insecure tenure and restricted access to resources. The Forest Rights Act framework (Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act) is relevant because it recognises forest-related rights and provides a basis for livelihood security, reducing distress migration pressures in ecologically fragile landscapes. Where relocation or land acquisition is pursued as a response to climate risk, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 becomes central to rehabilitation and resettlement planning, emphasizing procedural safeguards and R&R measures for affected families.

3 INTERNATIONAL LEGAL POSITION OF CLIMATE REFUGEES

3.1 Position of Climate Refugees under International Refugee Law

The 1951 Refugee Convention and the 1967 Protocol define refugee status through a well-founded fear of persecution for specific grounds and do not explicitly include climate-related harm as an independent basis. Consequently, persons displaced solely by climate impacts typically fall outside the conventional definition, even when their movement is compelled and survival-based. This doctrinal mismatch is a major reason why “climate refugees” remain largely unrecognised in formal refugee status

¹² “International Covenant on Civil and Political Rights,” *OHCHR available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>* (last visited April 28, 2026).

determination, leaving protection to ad hoc humanitarian practices and domestic discretion.

3.2 Protection under International Human Rights Framework

Even where refugee law does not apply, international human rights law offers broad protections to all persons within a state's jurisdiction, including displaced persons. The ICCPR safeguards core civil and political rights, while the ICESCR protects socio-economic rights such as health, food, water, housing, and work—rights that are routinely threatened during displacement and in unsafe informal settlements. These norms strengthen arguments for minimum standards of treatment, non-discrimination, and basic entitlements for climate-displaced persons regardless of formal “refugee” labels.¹³

For children and women affected by climate displacement, specialised human rights instruments sharpen state obligations. The Convention on the Rights of the Child (CRC) requires protection against discrimination and promotes rights to survival, development, health and education, all of which are jeopardised in displacement contexts. CEDAW requires elimination of discrimination against women, which is directly relevant where displacement increases risks of exploitation, loss of access to services, and exclusion from relief and livelihood schemes.

3.3 Role of International Environmental Law in Climate Displacement

International environmental law, particularly the UNFCCC and the Paris Agreement, shapes how states plan mitigation and adaptation and how they cooperate on addressing climate impacts that can cause displacement. Loss and damage mechanisms under the UNFCCC recognise the importance of addressing adverse effects from both extreme events and slow onset events, and the Task Force on Displacement promotes integrated approaches to avert, minimise and address displacement related to climate impacts. While these frameworks are not status-conferring like refugee law, they provide governance pathways for policy coordination and support.

¹³ “International Covenant on Civil and Political Rights,” *OHCHR available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (last visited April 28, 2026).

3.4 Gaps in Existing International Protection Mechanisms

The principal gap is normative: no binding, universally accepted instrument squarely defines climate refugees or establishes predictable admission and rights for cross-border climate-displaced persons. Operationally, protection remains uneven, and many people experience prolonged “protection limbo” between migration control and humanitarian relief. Evidence on the scale of disaster-related displacement underscores the urgency of closing this gap through stronger standards for prevention, planned relocation, and durable solutions, especially as repeated hazards make return unsafe or economically impossible for many communities.

4 HUMAN RIGHTS DIMENSIONS OF CLIMATE REFUGEES

4.1 Right to Life, Dignity and Livelihood of Climate Refugees

Climate displacement directly implicates the right to life and dignity where hazards, unsafe shelter, hunger, disease, and heat exposure threaten survival. In India, Article 21 of the Constitution protects life and personal liberty, and Article 14 guarantees equality before law and equal protection—together forming the constitutional foundation for scrutinising whether relief, evacuation, relocation, or exclusionary practices violate minimum standards of fairness and dignity. These rights become especially salient when displacement leads to precarious living conditions and livelihood collapse.¹⁴

4.2 Right to Shelter, Food, Water and Health

Shelter and basic necessities are not only humanitarian needs but also legal entitlements within a rights-based framework. The ICESCR emphasises socio-economic rights crucial to survival and dignity, and displacement governance must therefore prioritise adequate shelter, food security, safe water, sanitation, and healthcare access. In India, the Disaster Management Act, 2005 operationalises these concerns through relief standards, with Section 12 mandating minimum standards of relief and enabling guideline-based benchmarks that can be applied to shelters, essential supplies and immediate rehabilitation in disaster-induced displacement.

¹⁴ Manupatra, “Articles – Manupatra” available at: <https://articles.manupatra.com/article-details/FROM-CLEAN-AIR-TO-CLIMATE-JUSTICE-THE-EXPANDING-CANVAS-OF-ENVIRONMENTAL-RIGHTS-IN-INDIA> (last visited April 28, 2026).

4.3 Rights of Women, Children and Indigenous Communities

Displacement magnifies gendered and child-specific harms, including heightened risks of exploitation, disrupted education, early marriage pressures, and barriers to healthcare and nutrition. The CRC and CEDAW provide treaty-based obligations that require states to ensure non-discrimination, protection, and access to services for children and women in displacement settings. For indigenous and forest-dependent communities, international standards like UNDRIP strengthen the normative emphasis on land, culture, participation, and protection from forced relocation without safeguards, which is relevant when climate adaptation measures involve relocation or restrictions on traditional livelihoods.¹⁵

4.4 State Responsibility for Protection of Displaced Persons

State responsibility extends beyond emergency relief to prevention, risk reduction, and durable solutions. The Guiding Principles on Internal Displacement consolidate protections against arbitrary displacement and require safeguards during relocation and return, supporting a rights-based approach to internal climate displacement. Disaster risk reduction frameworks emphasise resilience and risk governance, reinforcing that preventing displacement and ensuring safe recovery are continuing obligations rather than short-term charity.

5 LEGAL AND POLICY FRAMEWORK IN INDIA

5.1 Constitutional Protection Available to Climate-Displaced Persons

Constitutional protections are the primary normative shield for climate-displaced persons within India. Article 14 requires equality and non-arbitrariness in state action, and Article 21 protects life and personal liberty, which is directly implicated when people are exposed to life-threatening conditions due to inadequate shelters, denial of aid, unsafe relocation, or loss of basic necessities. These provisions support a rights-based reading of state obligations during disaster response and rehabilitation, even without a climate-displacement-specific statute.

¹⁵ “Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979,” *OHCHR available at*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women> (last visited April 28, 2026).

5.2 Indian Environmental and Disaster Management Laws

The Disaster Management Act, 2005 structures institutional roles and minimum relief standards, while the Environment (Protection) Act, 1986 empowers the Central Government to take protective measures and issue directions affecting environmental risk governance. Together, these statutes are central to preventing and responding to displacement, because they frame preparedness, response, and environmental regulation that can reduce vulnerability. Yet, neither statute defines “climate displaced persons” or guarantees a coherent package of long-term entitlements such as livelihood restoration, housing permanence, and social integration.

5.3 Administrative and Policy Responses to Climate-Induced Displacement

Administrative responses largely operate through disaster relief machinery and climate policy planning. The NAPCC provides a national mission framework that shapes adaptation priorities, while relief and shelter standards are guided by DM Act-linked benchmarks and NDMA guidance on minimum standards of relief. UNFCCC processes and the Paris framework also inform India’s broader climate policy direction, but domestic implementation still requires clearer articulation of how climate displacement will be addressed through planned relocation, risk-informed development, and durable rehabilitation measures.

5.4 Limitations of the Existing Indian Legal Framework

A core limitation is the absence of a dedicated legal status and entitlements for climate-displaced persons, leading to inconsistent treatment across events and states. For cross-border movement, the Foreigners Act, 1946 (notably Section 3) positions the response within immigration control rather than rights-based protection, making outcomes dependent on executive orders and policy discretion. For internal displacement, relief and rehabilitation remain scheme-driven and may not ensure durable solutions.

5.4 Case Laws

In *Vellore Citizens Welfare Forum v. Union of India*¹⁶, the Supreme Court embedded precautionary principle and polluter pays within Article 21 environmental protection, shaping state duties relevant to climate-vulnerability governance.

In *M.C. Mehta v. Union of India*¹⁷, the Court treated environmental harm as infringing Article 21,

and enforced regulatory responsibility under environmental statutes, supporting prevention duties in climate-risk zones.

In *Subhash Kumar v. State of Bihar*¹⁸, the Court recognised the right to a pollution-free environment as part of Article 21, strengthening claims where ecological degradation drives displacement.

In *Olga Tellis v. Bombay Municipal Corporation*¹⁹, the Court linked right to livelihood with Article 21, relevant where climate shocks destroy livelihoods and force distress migration.

In *Narmada Bachao Andolan v. Union of India*²⁰, the Court addressed displacement and rehabilitation expectations, informing standards for resettlement when relocation is used as an adaptation measure.

In *T.N. Godavarman Thirumulpad v. Union of India*²¹, forest protection duties were strengthened; this is significant for climate-affected forest communities where tenure and ecosystems affect displacement risk.

In *Ioane Teitiota v. New Zealand*²² the Committee analysed climate harm under ICCPR Article 6, clarifying when removal may engage non-return obligations.

regimes. International refugee law does not expressly recognise climate refugees under the 1951 Convention framework, while international climate governance acknowledges human mobility mainly through loss-and-damage institutions rather than enforceable status. In India, constitutional rights, disaster management governance, and environmental regulation provide important but indirect protection; the absence of a dedicated legal definition and durable entitlements leaves

7 CONCLUSION AND RECOMMENDATIONS

7.1 Conclusion

Climate change is already shaping forced human mobility through disasters and slow-onset degradation, yet climate-displaced persons remain only partially protected by existing legal many

¹⁶ Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647

¹⁷ M.C. Mehta v. Union of India, (1987) 4 SCC 463; AIR 1988 SC 1037

¹⁸ Subhash Kumar v. State of Bihar, (1991) 1 SCC 598; AIR 1991 SC 420

¹⁹ Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545; AIR 1986 SC 180

²⁰ Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664; AIR 2000 SC 3751

²¹ T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267; AIR 1997 SC 1228

²² Ioane Teitiota v. New Zealand, CCPR/C/127/D/2728/2016

displaced persons dependent on fragmented schemes and executive discretion.

India confronts layered challenges: definitional ambiguity, administrative identification barriers, and limited long-term rehabilitation pathways for communities whose homes become repeatedly unsafe or economically non-viable. These challenges are intensified by the scale of disaster-related internal displacement globally and the growing climate hazard profile identified by scientific assessments, which suggest increasing pressure on governance capacity and social protection systems.²³

1. Absence of a Specific Legal Definition in India

A specific statutory definition matters because it anchors eligibility, duties, and enforceable entitlements; its absence means climate-displaced persons are treated under general disaster categories or as migrants without tailored safeguards. Internationally, the refugee law definition under the 1951 Convention framework does not expressly cover climate harm, and domestically India likewise lacks a dedicated category, leaving legal recognition fragmented across disaster relief and administrative discretion. This definitional gap is one reason protection remains uneven and reactive rather than rights-based and preventive.

2. Problems in Identification, Classification and Documentation

Identification difficulties arise where displacement is gradual, repeated, or economically mediated, making it hard to classify people as “disaster affected” at any single point. Documentation gaps then translate into exclusion from relief, rehabilitation schemes, and destination-area services. The Guiding Principles on Internal Displacement highlight the importance of protections during displacement, including documentation and non-discriminatory access to assistance, which is relevant for designing consistent administrative standards in India’s internal displacement settings.

²³ “Displacement risk: From hindsight to foresight,” *IDMC - Internal Displacement Monitoring Centre* available at: <https://www.internal-displacement.org/policy-analysis/displacement-risk-from-hindsight-to-foresight/> (last visited April 28, 2026).

3. Issues of Rehabilitation, Resettlement and Social Inclusion

Rehabilitation becomes complex when return is unsafe or impossible, requiring resettlement, land access, housing stability, and livelihood restoration. Where land acquisition or relocation is used, the RFCTLARR Act, 2013 provides a statutory rehabilitation and resettlement framework, but climate-driven relocation often occurs outside formal acquisition processes or through uneven state schemes, leaving gaps in consistent R&R delivery. For forest-dependent communities, insecure recognition of rights can exacerbate displacement pressures, making Forest Rights Act implementation relevant to stabilising livelihoods and reducing distress migration.²⁴

4. Human Rights Concerns in the Protection Process

Human rights concerns typically arise at three points: unequal access to relief and shelters; coercive or unsafe relocation; and exclusion from services and dignified work at destination areas. Constitutional guarantees under Articles 14 and 21 are central for setting minimum standards of fairness, dignity, and non-arbitrariness in state action, while ICCPR and ICESCR reinforce baseline obligations to protect life and ensure non-discriminatory access to essential socio-economic rights during displacement. These combined standards support the argument for a rights-based framework rather than purely discretionary relief.

7.2 Recommendations

India should adopt a rights-based, statutory and policy framework that (i) defines climate-induced displacement and sets eligibility standards; (ii) codifies minimum guarantees aligned with Articles 14 and 21 and with ICCPR/ICESCR baselines; (iii) operationalises DM Act relief standards into longer-term rehabilitation packages including housing, livelihood restoration, documentation support and social inclusion; and (iv) integrates planned relocation safeguards by linking climate relocation to R&R principles comparable to RFCTLARR where land and resettlement are involved, while ensuring tenure and livelihood protections for forest-dependent communities through effective Forest Rights Act implementation.

²⁴ Yash Mittal, "Rehabilitation Not Necessary In Land Acquisition Cases Except For Those Who Lost Residence Or Livelihood..." *Live Law*, 17 July 2025.

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