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# A lack of legal frameworks for internally displaced persons impacted by climate change and natural disasters: Analysis of regulatory challenges in Bangladesh, India and the Pacific Islands

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**Abstract:** *The issue of internal displacement of persons (IDPs) due to climate change (CC) and natural disasters (ND) is an area of global concern. With the increasing impacts of CC and ND (henceforth written as CC-ND), forced displacement and relocation are the only cogent solutions, but at huge physical, economic, and psychological costs, causing imbalances in well-being. However, despite the recognition and efforts directed towards addressing climate change and tackling its impacts, the pathways to safe relocation and, possibly, avoiding displacement are still restricted by barriers for a majority of vulnerable populations who are directly exposed to and affected by the harsh impacts of CC, ND, and displacement. This study uses a comparative case study approach to critically examine the patterns of internal displacement due to the compounding impacts of CC-ND in Bangladesh, India and the Pacific Islands, and also examines the impact on the well-being of IDPs. Furthermore, the study also attempts to critically examine the legal frameworks of each of these case studies to identify their relevance and note any gaps in addressing the issue of CC-ND induced internal displacement. Finally, it attempts to make policy recommendations to better respond to this issue.*

**Keywords:** *climate change; natural disasters; internally displaced persons; climate change and natural disaster induced internal displacement; well-being*

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## 1. Introduction

The United Nations Guiding Principles on Internal Displacement were developed in recognition of the absence of a regulatory framework and mechanisms to address and tackle the increasing challenges of internal displacement and the needs of those involuntarily uprooted from their homes. The principles define IDPs 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 in order 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 framework hence serves the purpose of recognising the rights of the internally displaced, assuring them of full protection and assistance in all phases of displacement, and providing safe pathways for return, resettlement and reintegration (OHCHR 1998).

The United Nations High Commissioner for Refugees (UNHCR) Strategic Directions (2017–2021) highlight climate induced displacement as one of the key drivers of forced displacement apart from conflict. The compounding impacts of poverty, diminishing livelihoods, increasing globalisation, speedy urbanisation, climate change, natural disasters and the slow onset of environmental degradation are expected to displace a huge population of people across the globe (UNHCR 2017). Hence, identifying and understanding the close relationship between these phenomena is just as important as identifying their exacerbating impacts on issues of internal displacement.

In 2020, disasters such as typhoons, floods, earthquakes, and volcanic eruptions in East Asia and the Pacific region resulted in the internal displacement of almost 12.1 million. In the same year, about five million were internally displaced due to Cyclone Amphan in India, Bangladesh and Myanmar in South and Southeast Asia. Similarly, about 94% of the total population of ND induced displacement in East Asia and the Pacific has been due to extreme natural events fuelled by abnormal climates — such as La Niña, which is considered to be a direct impact of CC (IDMC 2021).

The increase in the intensity, frequency and unpredictability of ND such as floods and typhoons is thought to be the direct impact of CC, which is further worsened by anthropogenic harms such as increasing greenhouse effects, aerosols, changes in land cover, and deforestation. The impacts of CC are also exacerbating problems for the vast majority of the population, putting them at high risk of being internally displaced. Additional challenges in developing effective mitigation and response strategies, such as an early warning system and viable protection mechanisms for IDPs, are thus of growing concern (IDMC 2021).

The regions of Bangladesh, India and the Pacific Islands have been selected as the case studies for this paper from the Asia Pacific region based on the following shared characteristics. First, these countries contribute very little to the global average per capita CO<sub>2</sub> emissions as compared to countries of the global north. In 2018, the global average per capita CO<sub>2</sub> emissions were 4.49 metric tons, for which Bangladesh, India and the Pacific Islands recorded 0.51, 1.80, and 1.54 respectively. The average per capita emissions of all three together was less than half of the global average, with the United States of America (USA) alone emitting 15.24 metric tonnes per capita (World Bank 2018).

Second, all of the regions share similar geography of both coastal and inland territories, increasing their vulnerability to changing climatic conditions such as sea-level rise, flood, storm surge, soil erosion and tropical cyclones. Finally, all of the regions are developing countries with high engagement and dependency on agriculture and fisheries. Thus, the livelihoods of the population are largely affected by CC-ND with very little to no mechanisms in place to effectively address the needs of IDPs, or combat and adapt to these changes.

Hence, the study attempts to analyse the legal frameworks related to CC-ND induced internal displacement in regions of Bangladesh, India and the Pacific Islands. This study identifies the preemptive and proactive steps that governments need to take in addressing the issues faced by CC-ND induced IDPs, as well as the short- and long-term impacts of displacements on highly vulnerable groups.

## **2. Research objectives and research questions**

### Research Objectives

The overarching objective of the study is to critically examine existing regulatory frameworks regarding the protection of internally displaced persons due to climate change and natural disasters, and make policy recommendations for Bangladesh, India and the Pacific Islands.

The specific research objectives are outlined as follows:

- To examine the impact of climate change and natural disasters on the well-being of internally displaced persons.
- To evaluate the existing laws and policies of Bangladesh, India and the Pacific Islands relating to the protection of internally displaced persons due to climate change and natural disasters.

### Research Questions

- How has climate change and natural disaster displacement affected the well-being of internally displaced persons in Bangladesh, India and the Pacific Islands?
- How can the policies of Bangladesh, India and the Pacific Islands improve the conditions and effectively address the needs of the persons internally displaced by climate change and natural disasters?

### 3. Methodology

Qualitative in nature, this study's research design involves secondary research of existing literature available on each case study. The study derives data from various sources such as academic research papers, reports produced by the national government, the United Nations (UN), and non-governmental organisations (NGOs).

The study employs a comparative case study approach to examine and analyse the impacts of CC-ND on the well-being of IDPs in Bangladesh, India and the Pacific Islands. A comparative case study approach allows the examination of a particular 'phenomenon of interest' (Bartlett and Vavrus 2017), sharing similar characteristics in order to derive conclusions based on the identified similarities and differences (Oliver 2004).

The study thus aims to use this method to understand the relationship between the phenomenon of CC-ND and its impacts on IDPs belonging to different geographical and cultural contexts. Apart from the examination of the phenomenon and comparisons of the various contexts, this methodology is also helpful in critically evaluating the effectiveness of existing regulatory frameworks and proposing specific policy recommendations (Lotf et al. 2020) that address the issue as well as the needs of CC-ND induced IDPs.

### 4. Theoretical framework

The Intergovernmental Panel on Climate Change (IPCC) indicates that the impending impacts and projected risks of CC are appearing at a much faster rate and are expected to get severe sooner than anticipated. The report additionally highlights the observed impacts of CC on the small islands of the Pacific region with the rise in sea level, heavy rainfalls, tropical cyclones and storms, and in regions of South Asia with the surge in surface temperature and uneven observations of precipitations (IPCC 2022).

The effects of CC transcend the changes in the immediate environment, extending further into the intricacies of human rights as well. As in the case of any violation and/or unfulfillment of human rights, the detrimental effects of CC are unequivocally felt most by those whose fundamental human rights are either already in a state of violation or whose protection is inadequate (Aliozi 2020).

It is imperative to address the issue of CC as more than an issue pertaining to the environment and understand it as an “ethical, legal and political issue” (Aliozi 2021). The ethical issues posed by climate change may be viewed through a theory of justice and in conjunction with other issues such as poverty or development (Caney 2021). The interconnectedness between CC, resource ownership, economic growth and poverty reduction may be observed alongside the dependency of people on food, water, health and land.

As an overarching framework, climate justice thus helps in navigating through the different dimensions of justice and sheds light on the inadequacy and inapplicability of human rights approaches to grasp the rights violations and injustices caused directly and/or indirectly due to CC. The latter is more significant given that most human rights laws do not explicitly address or incorporate issues relating to the protection of the environment, apart from stating the obvious such as the rights to life, health, and a safe environment (Aliozi 2020).

Climate justice provides a lens to clearly see the inequitable impacts of CC and the challenges in providing justice to the vulnerable, and aids in critically analysing existing regulatory frameworks that fail to address the burning issue of CC. In the policy brief, Aliozi (2021) stresses the need to examine climate justice alongside “equality, human rights, collective rights, and intergenerational justice”. The importance of this revolves around understanding arguments situated for example around climate justice and distributive justice. This helps to better address the notion of “skewed vulnerabilities”, providing explanations for why certain vulnerable people and the countries least responsible for causing CC are exposed and bear the immediate, gradual and harsher effects of anthropogenic CC, with very limited access and/or ownership of resources to cope with its impacts (Gardiner 2011).

## **5. Conceptual framework**

In an attempt to examine the key concept of CC-ND induced displaced persons, the current study examines other related concepts to establish understandings and analysis that identify their similarities and differences within the scope of the study. Whilst attempting to examine the causal relationship between CC-ND, it is crucial to specify conceptual definitions as well. The United Nations Framework Convention on Climate Change

(UNFCCC) defines CC as “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods” (UNFCCC 1992). ND, on the other hand, is referred to as a sudden and unexpected natural event that occurs within a short warning time, causing direct and indirect losses during or after the onset of the event (Virendra 2014).

The United Nations Guiding Principles on Internal Displacement defines IDPs 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” (OHCHR 1998).

Although the definition in the UN Guiding Principles provides no explicit mentions of CC or ND induced displacements, for the purpose of this study, CC induced IDPs can be defined as persons or groups of persons who have been forced to leave their places of habitual residence as a result of both the immediate and gradual impact of climate change. In the case of ND induced displacements, displacement is caused due to the occurrence of natural disasters and the need to avoid the after-effects of natural disasters. However, despite the differences in the causal factors of displacements in the two definitions, two common elements remain central to the definition of IDP. First, the movement is forced and involuntary and second, movement takes place within national borders.

The study also aims to examine the impact of CC-ND on the well-being of the IDPs in Bangladesh, India and the Pacific Islands. CC-ND directly or indirectly affects the well-being of the internally displaced. The ineffectiveness of protection mechanisms could potentially increase vulnerability and impede people’s ability to be resilient, which are key components in assessing an individual’s well-being (Virendra 2014). The compounding impact of CC-ND can thus result in the decline of the well-being of the displaced due to the irreparable damage, and loss of not just their livelihoods but also of social and emotional support.

## **6. Literature review**

### **6.1. Case study: *Bangladesh***

Bangladesh is one of the many countries in South Asia at high risk of rising sea levels, storm surges and inundations, and as a consequence, at heightened risk of displacement. UNICEF points out that Bangladesh’s flat topography, dense population and weak infrastructure makes it uniquely vulnerable to the impacts of climate change (UNICEF 2019, 7).

In particular, the coastal areas of Bangladesh are the most affected by CC, resulting in thousands of people getting internally displaced every year (Chowdhury et al. 2020). The number of displaced people is rising at an alarming rate in the country due to CC-related push factors, such as sea-level rise, cyclones, flash floods, riverbank erosion and salinity intrusion (Hasnat et al. 2016). Moreover, it is projected that a mean sea level rise of three metres will inundate about 69 percent of the exposed areas of the country (Alam et al. 2018).

The high vulnerability of the country to CC has resulted in an increasing pattern of CC induced internal displacement. According to a study by the Comprehensive Disaster Management Programme, by 2050, one in every seven people in Bangladesh will be displaced as a result of CC, with the majority of displacement occurring within Bangladesh, and not across borders (CDMP II 2014). According to the 2021 *Internal Displacement Index Report*, disasters were the key drivers of displacement in Bangladesh in 2020, resulting in a total of 4.4 million new displacements. While Cyclone Amphan in late May resulted in 2.5 million displacements, monsoon floods which inundated a quarter of the country by late July, displaced about 1.9 million people in areas of Chittagong, Sylhet, Dhaka, Rangpur and Mymensingh (IDMC 2021a, 49).

The fundamental rights of IDPs to livelihood, adequate housing, equal access to education and development have been severely affected as a result of CC-ND induced displacement. Acknowledging the prevalence of CC-ND induced displacement in Bangladesh, the Internal Displacement Monitoring Centre (IDMC) notes that the impacts of displacement have resulted in the deterioration of people's normal livelihoods, heightened food insecurity, disrupted children's education, and increased the risk of health problems such as waterborne and infectious diseases (IDMC 2021b).

Unfortunately, due to a lack of information about CC-ND induced IDPs, weak monitoring institutions, low inclusion of stakeholders, insufficient incentives, and lack of international financial assistance, Bangladesh has not been able to make significant progress in adopting CC related policies within existing policy frameworks (Khan 2019, 107). Moreover, the lack of academic research to guide policymakers in providing legal assistance through a human rights-based approach for CC-ND induced IDPs is also evident.

Further, human rights protections for CC-ND induced IDPs get minimal attention from relevant policymakers and other stakeholders in Bangladesh due to various social and legal barriers. Within the social spheres of the country, CC-ND induced IDPs are found to be the most marginalised, with no empirical evidence on the quality of their well-being (Khan 2019, 109). At the same time, the vulnerabilities of CC-ND induced IDPs is also diverse as it includes but is not limited to women, children, elderly

and persons with disabilities. Research has found that of the vulnerable groups, children are the most affected by CC induced displacements (UNICEF 2016, 9) as their well-being is severely threatened and they are at heightened risks for child marriage or child labour (UNICEF 2019, 29). In particular, girls who move to big cities due to CC are at risk of being forced into sexual exploitation as they do not have alternative ways to make a living. In addition, families who have migrated to urban slums due to CC, lack adequate basic services to provide for children's needs, which could negatively impact children's well-being (UNICEF 2016, 32).

In terms of the legal context, the increased focus of the government on development-related issues than on human rights-related issues has resulted in inadequate laws protecting the rights of

CC-ND induced IDPs. Such a lack thus inevitably increases their vulnerabilities, further ignoring their needs and concerns.

## **6.2. Case study: India**

The pattern of internal displacement in India is affected by both the slow and sudden onset of ND. In 2020, Cyclone Amphan hit the Indian states of West Bengal and Odisha, displacing 2.4 million people (IDMC 2021a, 53). At the same time, damage in the coastal areas of India due to rising sea levels was also severe (Black et al. 2021). A figure indicated that about 3,829 kilometres out of the total coastline of 7,517 kilometres eroded due to sea-level rise (Rajawat et al. 2014, 125). With about 170 million people residing in the coastal regions, this phenomenon is projected to increase the number of IDPs in the near future, with the impact also likely to be equally or more catastrophic (Panda 2020).

In the context of India, three specific causes can be identified that increase vulnerability and reduce resilience to CC-ND induced IDPs. First, there is the inherent challenge that the differences in the geographical characteristics of the country pose to CC-ND induced IDPs, as CC dramatically affects the geography and vice versa (Dangermond and Artz 2010). Undoubtedly, geographical characteristics are some of the most significant compounding factors for vulnerability to CC (IPCC 2022, 20). Hence, examining the geographic characteristics is essential in reducing the vulnerabilities of marginalised groups and responding to hazards and risks. With the country exposed to the Indian Ocean on East, West, and South sides, the damage caused by changes in marine ecosystems and rising sea levels due to CC is significant. Furthermore, the West Himalayas, located in the northwest region packed with riverine and valleys of the country, is also experiencing the impacts of CC with an increase in the magnitude and unpredictability of ND such as floods and drought (IPCC 2022). The vast section of the region's population who reside in riverine lands and valleys are thus exposed to heightened risks of displacement.



The second factor is the industrial structure of India. Enhancing resilience regarding livelihood is a critical measure for helping IDPs return to their previous level of well-being. Unfortunately, India's industrial structure, which accounts for about 54 percent of the country's total workforce engaged in primary industries such as agriculture is highly vulnerable to ND and CC. Agriculture is one of the industries most severely affected by CC (IPCC 2022, 37). Studies show the impact of CC extending beyond the agricultural sector to workers' means of livelihood as well (Panda 2017, 615). The far-reaching impacts of CC-ND on the marine ecosystems and farmlands reduce the productivity of farmlands and fisheries, resulting in the increased vulnerability of those in the industry of losing their livelihoods (Alakkat 2011). Therefore, it can be clearly anticipated that the susceptibility of losing the means of livelihood due to ND is exceptionally high, with the impacts of CC also contributing to the loss.

The final factor is the social structure of India which is deeply rooted in categorising individuals and communities based on their caste and class background. The structural inequalities embedded in the principles of patriarchy and the caste system create additional barriers for marginalised groups to recover from the adversities of CC-ND (Sujakhu et al. 2019). Particularly for women, this social structure can doubly reinforce the result of the aforementioned geographical characteristics and the vulnerability of their livelihood. For instance, girls are almost always the first one's to be exposed to the aftermath of school dropout syndrome, as also substantiated by research indicating the increased dropout rate for girls during and after disasters (Yadav and Lal 2018, 5). Additionally, the practice of caste-based occupation and restrictions placed on vulnerable groups such as low caste groups and women further exacerbates the problem, as on top of being displaced, they cannot seek new working opportunities to sustain themselves (Krishnan 2022). This impedes their efforts to maintain their well-being and increase their resilience during and/or after displacement.

### **6.3. Case study: *The Pacific Islands***

Pacific Island Countries (PICs) contribute the least to global greenhouse gas emissions, yet vulnerabilities for these island countries and islanders continue to worsen from exposure to the deleterious effects of CC. The significant increase in temperature, rising sea levels, strong wave currents, tropical cyclones, and other CC related risks (Nand and Bardsley 2020) have inevitably impacted PICs and exacerbated vulnerabilities to CC. The harsh impacts of CC induced risks have become the single largest cause of the slow onset of displacement on the slowly disappearing Pacific Islands (Perkiss and Moerman 2018), with estimates of 665,000 to 1.7 million getting forcibly displaced by 2050 (Ferris et al. 2011). The impacts of CC are already materialising directly and indirectly and the risk it poses for PICs is only anticipated to get worse in the near future.

If in yesteryear Pacific islanders were subjected to forced relocation and displacement due to colonialism, today the same is caused by CC-ND (Tabe 2019). In 2014 the village of Vunidogoloa in Vanua Levu was the first village to relocate to Fiji due to sea-level rise, rampant flooding, coastal erosion and tidal surges (Charan et al. 2017). Although relocation could be the only cogent solution to increasing adversity for the islanders, the impact and choice of human mobility transcend the notion of movement and relocation. Displacement for Pacific communities could mean severance from their ancestral lands, and cultural and spiritual wellbeing (Boege 2010). The subjective understandings within the local discourses regarding CC and displacement reflect the intricate relationship between cultural factors, the motives for moving, and the perceived outcomes. Findings from a study conducted in Kiribati, Tuvalu and Nauru suggested a great sense of attachment of the islanders to their ancestral lands and emphasised the threat that such severance could have to their lands and culture (Oakes 2019).

While forced displacement due to CC and ND threatens the cultural identities of the islanders, the impacts on mental health are also of increasing concern, especially for populations already marginalised. In a study with Tuvaluans it was found that the compounded impact of existing difficulties, CC and its unforeseeable impacts was a serious determinant of distress, heightening people's chances of experiencing anxiety, tiredness, sadness and depressive symptoms (Gibson et al. 2019), causing additional impairments in daily activities (Gibson et al. 2020). Although an unexplored and unrecognised area in research and law (Price 2019), these findings indicate the increasing risk to the mental health and wellbeing of the vulnerable populations in small island developing states (SIDS), urging decision makers to take into serious consideration the mental health issues caused by CC (Kelman et al. 2021).

Emerging literature on CC related issues in PICs also shed light on the changing narratives of the islanders towards CC, with increasing emphasis on the need for the global community to expedite efforts to reduce global greenhouse gas emissions and on the different roles required in resisting CC (Kirsch 2020). A 2018 study found that involving women in improving climate adaptation policies in the Pacific was an integral step in not only recognising the significance of gender participation but also in evaluating the differences in vulnerabilities and addressing the needs of women (McLeod et al. 2018), with women recognised as recovery enablers in the aftermath of Cyclone Pam in Vanuatu for their dynamic roles as capital mobilisers, leaders, innovators and entrepreneurs (Clissold et al. 2020). Yet improvement in women's vulnerabilities and wellbeing continues to be excluded from policies and practices, leaving them to be passive victims to acute and gradual disasters as well as to inequitable systems of governance.

## 7. Legal frameworks of case studies & policy recommendations

### 7.1. Bangladesh: *Domestic legal framework*

Bangladesh has signed, ratified, and acceded to most of the international conventions, treaties, and protocols related to the protection of environmental rights. Yet, the supreme law of the land fails to guarantee environmental rights as fundamental rights for its people. In the absence of the recognition of environmental rights, it is difficult to protect and promote the rights of CC-ND induced IDPs within the current legal framework of Bangladesh. Khan (2019) noted that human rights protection for CC-ND induced IDPs is uncertain in Bangladesh. Since ensuring the fundamental rights of citizens is already an inherent challenge due to the lack of state resources and capacity, guaranteeing the rights of CC-ND induced IDPs requiring special attention is even more uncertain. The government has made significant advances in disaster risk reductions, specifically in reducing mortality rates but the link between disaster risk reduction and CC, and the large-scale impacts of CC induced ND is yet to be fully established (UNICEF 2019, 35). As a result, CC-ND induced IDPs lack sufficient political and media attention.

Article 18 (A) of the Constitution of the People's Republic of Bangladesh includes the protection and improvement of the environment and biodiversity, however, the issues of CC-ND induced IDPs remain unrecognised and unaddressed (Bangladesh Constitution 1972). It is thus of prime importance to legally recognise, enhance and effectively implement the rights of CC-ND induced IDPs.

For instance, Article 28 (4) ensures that the State can make special provisions in favour of women and children, and/or for the advancement of any disadvantaged section of the population. This can also be interpreted as obliging the State to make special provisions for the advancement and protection of CC-ND induced IDPs.

Similarly, Articles 31 and 32 of the Constitution mention the right to life and the right to a healthy environment. Additionally, Article 31 ensures every citizen has the right to protection from action detrimental to life, liberty, body, reputation or property, except by the law. This then translates into the recognition of CC-ND induced IDPs as citizens of the state whose rights are fundamentally protected by the State.

### ***Policy recommendations***

- *Establish a strong database and documentation in Bangladesh regarding the number of CC-ND induced IDPs (Rana and Iлина 2021, 2). This will assist in the process of in-depth assessment and analysis of the changing trends and*

impacts of internal displacement. These databases could disaggregate data by gender, age, location, and cause of internal displacement, which would help in approximating the population of CC-ND induced IDPs. Specifically, a clear database on women, children and farmers of the coastal areas who are forced to displace is necessary as they are the most vulnerable to displacement.

- The government should routinely conduct monitoring and evaluation of the social and economic impacts of CC-ND induced IDPs. More specifically, monitoring should focus on short and long-term impacts to determine durable solutions to the problems of IDPs. Investigations into damage and loss of infrastructure should be required to develop effective relocation strategies and inform the planning of urban policies.
- In the absence of a governing agency or legislation mandating the full protection and assistance of CC-ND induced IDPs, the government should draft specific laws for the protection and promotion of the rights of CC-ND induced IDPs and make necessary amendments to existing ones to ensure that a strong human rights protection mechanism is put into effect for this population (Khan 2019, 111). New policies must be climate risk screened, where the voices, perspectives and needs of women and children are included in new CC adaptation initiatives for improving the well-being of these IDPs.
- The government should integrate mechanisms for safeguarding the well-being of CC-ND induced IDPs into national sustainable policies and plans. These mechanisms could also focus on ensuring capacity building for alternative livelihood opportunities for CC-ND induced IDPs, ensuring the effective participation and inclusion of at-risk populations in the decision-making process to better address the changing circumstances, and provide better support systems to increase their knowledge and skills to combat and adapt to the impacts of CC.

## 7.2. India: Domestic legal framework

Neither the national laws nor specific policies in India directly address internal displacement, IDPs and CC as a subject of law or policy within its domestic legal system and policy implementation. Even in the presence of laws relating to the environment such as The Oriental Gas Company Act (1857), The Indian Forest Act (1927) and The Motor Vehicles Act (1939), the enactment of which dates back to colonial years, reformations and/or formulation of new national laws specifically on CC have not been made. However, the National Action Plan on Climate Change (2008) (NAPCC) and the Disaster Management Act (2005) can be examined to identify policies relevant to CC-ND induced IDPs.

The NAPCC sets out extensive plans and response systems to reduce the adverse effects of CC, with its eight national missions thoroughly responding to the causes and impact of CC. They include solar energy, efficient energy, sustainable habitats, water, sustaining the Himalayan ecosystem, Green India, sustainable agriculture, and strategic knowledge for climate change (Pandve 2009, 17). Apart from addressing the mitigation of the negative impacts of CC, the NAPCC also includes measures like the National Disaster Management programme and a high-resolution storm surge model for coastal regions that aim to improve the well-being of CC-ND induced IDPs (NAPCC 2008). However, the NAPCC at large does not focus on the issue of CC-ND induced IDPs and has limitations concerning its counteractive measures for responding to the impacts of CC. One such limitation is the lack of specificity in the implementation measures of the policies, which could detract from evaluations of the effectiveness of policies (Rattani 2018, 32). For example, the missions on sustainable agriculture, water and the sustainable Himalayan ecosystem do not include measurable targets.

The Disaster Management Act has a more holistic approach to managing disaster situations with the inclusion of scientific, engineering, social and financial processes (Das 2012, 41). The Act places responsibility on the national and state authorities to support and guarantee the provision of shelter, food, drinking water, healthcare and services (in accordance with the standards laid down by the national and state authorities) to people who have been affected by natural or man-made disasters. Additionally, the Act urges the authorities to establish minimum guidelines for relief for disaster victims and seeks input on relief action and risk management from the National Disaster Force and the National Institute of Disaster Management (Disaster Management Act 2005).

### **Policy recommendations**

- *The focus of the existing national policies must be more direct and inclusive in addressing the needs of CC-ND induced IDPs, especially by increasing the participation of the affected groups to reflect a bottom-up approach. Moreover, these policies must also emphasise preventive methods, including but not limited to protection systems such as early alarm systems and CC-ND resilience building in regions at high risk of CC-ND, such as arid and coastal areas across India.*
- *The policies should develop specific intervention plans to address the multitude of factors that weaken the restorative mechanisms and focus on solutions to decrease the vulnerability and increase the resilience of the IDPs. These policies should also be designed to target specific vulnerable groups such as children, women and people belonging to low caste groups, to reduce and/or negate impacts of any other forms of inequalities in maintaining well-being.*

- *The government must develop a practical assistance and welfare system that will be able to secure the livelihoods of CC-ND induced IDPs. For instance, improving agricultural productivity through technical cooperation and government investment in agricultural technology could be one way to reduce farmers' vulnerability and enhance their resilience. Another effective mechanism to minimise the loss of physical and economic assets could be establishing pathways to seek sufficient social assistance from the government.*
- *Any policies relating to CC-ND induced internal displacement should be based on the fundamental principles of non-discrimination, equity, and accessibility to justice.*

### 7.3. Pacific Islands: Domestic legal framework

The Climate Change Act 2021 of Fiji and the 2018 Vanuatu National Policy on Climate Change and Disaster-Induced Displacement are the only available legal policies relevant to CC-ND induced internal displacement amongst PICs. The policies for both Fiji and Vanuatu elaborately address the issues of CC, and CC-ND induced displacement as relevant to the specificities of the country. However, apart from these two, other island countries lack significant legislation that identifies and addresses CC-ND induced IDPs as a priority.

Clause 2 (Part 1) of the Climate Change Act 2021, defines climate displacement as “the displacement of people as a result of the direct or indirect impacts of climate change, including sudden and slow-onset climatic events and processes occurring either alone or in combination with other economic, social and political factors” (Climate Change Act 2021). The definition provided in the 2018 Vanuatu National Policy on Climate Change and Disaster-Induced Displacement includes “people displaced by natural hazards” together with people displaced by development and infrastructure (Vanuatu National Disaster Management Office 2018). The lack of precise identification and definition of IDPs due to CC-ND in the Vanuatu National Policy could thus be a fundamental barrier in recognising and responding to the specific needs and rights of IDPs due to CC-ND.

Acting as national instruments in their respective jurisdictions, both the Fijian Climate Change Act and the Vanuatu National Policy address the issue and allocate responsibilities to relevant actors to ensure the effective implementation of the stated policies. In the case of the former, Part 12 of the Act, “Climate Displacement and Relocation”, clearly specifies the principles and necessary procedures that needs to be undertaken to effectively develop and address relocation and assistance standards to protect at-risk and vulnerable communities from the adverse impacts of CC. According to the Act it is the responsibility of the Fijian Taskforce on Relocation and Displacement to effectively prepare and implement the Fijian Planned Relocation Guidelines to

facilitate “pro-active processes” to address the risks posed by CC-ND induced displacement. In the case of the Vanuatu National Policy, the responsibility is placed on the Ministry of Climate Change Adaptation, Meteorology, Geo-Hazards, Energy, Environment and Disaster Management to implement the policy. The policy identifies four “systems level” and eight “sectoral-level” strategic areas for addressing displacement and generating durable solutions. However, these intervention plans are not addressed specifically towards CC-ND induced displacement.

Additionally, both the frameworks have brief mentions of well-being, but in the context of the Climate Change Act it is referred to in light of intergenerational equity. While for the Vanuatu National Policy ensuring the psycho-social well-being of displaced people is one of the sectoral-level strategic areas. However, despite the impacts of climate change already occurring in the region, and more so in low-lying communities and on coral atolls, challenges of recognising and protecting the rights, livelihoods and well-being of the vulnerable communities through the law is still highly prevalent (Price 2019).

### **Policy recommendations**

- *The inclusion of CC-ND induced IDPs in the national laws, policies and development plans should be of fundamental priority to expedite actions to address and respond to the increasing issue, in developing durable recommendations, accelerating implementation measures, and in emboldening climate litigation to increase the political will and accountability of national and international communities for CC-ND induced IDPs in the PICs.*
- *The development of relevant frameworks and strategies should be done in close consultation with the vulnerable and affected groups (including but not limited to women, men, children, youth, community leaders, and people living in poverty) by civil society organisations, climate activists, front line workers, policy makers and experts, to reflect on the existing and emerging needs, concerns and challenges of the IDPs due to CC-ND.*
- *The PICs and the Pacific Islands Forum, in their independent and combined efforts, should recognise and address the exacerbated threat on vulnerable groups (such as women and children), and develop targeted provisions for the assistance, protection and mitigation of the risks of CC-ND induced internal displacement.*
- *PICs should continually work with the international community to ensure that the developed States from the global north are fulfilling their commitments to provide long-term financial support to enhance mitigation and adaptation strategies, to address the injustices posed by anthropogenic CC, to demand increased transparency in the use of natural resources and policy implementation, and to address the immediate and future needs of IDPs due to CC-ND in the Pacific region.*

## 8. Comparative analysis: Legal and situational

The overall analysis of the three case studies - Bangladesh, India and the Pacific Islands, has established that despite contributing the least to CC when compared to the global north, the susceptibility of these countries to the occurrences of CC-ND has increased at an alarming rate. The case studies also show that each of the three countries have experienced high vulnerability to CC and ND, with significant rates of sea-level rise, floodings and tropical cyclones, suggesting a clear need for coastal management policies to address this.

Apart from identifying and examining areas of similarities and differences in the patterns of CC-ND induced IDPs, the study also attempted to examine whether the existing legal frameworks of each of the case studies identify and thoroughly define and address CC-ND induced IDPs as well as their evolving needs. The comparative analysis of the existing legal frameworks of the three case studies found that despite the seriousness of the issue, Bangladesh and India failed to adequately define and address the issue of CC-ND induced IDPs. For the Pacific Islands, out of the 15 PICs only Fiji and Vanuatu defined and addressed the issue of IDPs due to CC-ND in their national laws and policies. This reflects a glaring gap in the regulatory frameworks of the three case studies, which undoubtedly is an area of increasing concern.

The analysis suggests that the capacities of the legal frameworks are extremely limited thereby failing to address and respond to the issue of CC-ND induced IDPs, noting that all of the case studies are at the very forefront of the climate crisis. Due to the lack of specific and targeted frameworks to respond to the problems associated with CC-ND induced IDPs, measures to protect and improve their well-being are still largely undeveloped.

However, certain aspects of the legal frameworks of the three case studies were found to have some relevance and applicability to addressing the issue of CC-ND induced IDPs. The Constitution of Bangladesh (in Articles 18, 32 and 31) places responsibility on the government to protect and improve the environment and biodiversity and ensure the right to a healthy environment, and emphasises on the role of the State in protecting the citizens from any action that is detrimental to life, liberty, body, reputation or property (which can also be translated to the protection of CC-ND induced IDPs). The Disaster Management Act and the NAPCC of India, although not directly addressing the issue of internal displacement (or more specifically of CC-ND induced IDPs), have policies that respond to CC-ND and also discuss the minimisation of and recovery from the damages caused by ND.

For Fiji, the *Climate Change Act* legally recognises CC induced displacement by clearly explicating the impacts of CC on displacement and specifying provisions to negate the impacts of CC induced displacement and relocation. Finally, for Vanuatu, the National Policy on Climate Change and Disaster-Induced Displacement specifies policy measures to directly combat the issue of CC-ND induced IDPs.



## 9. Conclusion and way forward

The preamble of the 1992 United Nations Framework Convention on Climate Change (UNFCCC) commences with acknowledging the change in the Earth's climate and that the "adverse effects are a common concern of humankind." Alongside the UNFCCC, the preamble of the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) emphasises eradicating the root causes of internal displacement, "as well as addressing displacement caused by natural disasters", and shares the commitment to "provide durable solutions to situations of internally displaced persons by establishing an appropriate legal framework for their protection and assistance." (African Union 2009).

Almost three decades after the UNFCCC, Secretary General António Guterres made an alarming remark to the UN General Assembly on his priorities for 2022, reemphasising the deteriorating climatic conditions of our planet and the exacerbated outcomes.

*"In 2020, climate shocks forced 30 million people to flee their homes — three times more than those displaced by war and violence ... Small island nations, least developed countries, and poor and vulnerable people everywhere, are one shock away from doomsday ... All major-emitting developed and developing economies must do much more, much faster, to change the math and reduce the suffering — taking into account common but differentiated responsibilities ... Developing countries cannot wait any longer."* (United Nations 2022).

One of the significant commonalities between the regions of Bangladesh, India and the Pacific Islands is that they are among the regions most affected by the worsening climatic conditions and onsets of ND. With the majority of the people being dependent on agriculture and fisheries for sustenance, the impacts of CC-ND are felt directly on these very sources. The frequency and the magnitude of the calamities are increasing at a rapid pace, resulting in many also getting displaced and relocating to a new place altogether. However, the challenges of displacement extend further than human mobility, and into the uncertainties of resettlement and reintegration.

The global south bears the brunt of climate injustice with minimum to no preparedness, with its impact also resulting in increased internal displacement of vulnerable populations. Recognising the unparalleled damage and loss of climate change and the responsibilities of the developed parties to provide enhanced support and assistance to developing countries, the 27th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP27) concluded with a landmark decision to operationalise a 'loss and damage fund' through the Sharm el-Sheikh Implementation Plan (UNFCCC 2022).

The compounded impact of displacement due to CC-ND is most likely to reverberate into the lives of vulnerable individuals and communities, affecting not only their means of livelihood but also indefinitely increasing

poverty and inequalities. One of the key arguments of climate justice is the inequitable impacts of CC on the most vulnerable groups, who are the least responsible yet the most disadvantaged in terms of accessing and owning the resources for adapting to the changes. In the absence of a comprehensive regulatory framework that legally recognises CC-ND induced IDPs and addresses the seriousness of the issue, the challenges of seeking limited support and assistance seem very arduous for the displaced.

However, with the monumental decision by the United Nations General Assembly on 28 July, 2022, recognising “clean, healthy and sustainable environment” as a universal human right, the challenges of protecting the IDPs due to CC-ND, of expediting governmental actions to quickly adapt to and mitigate the environmental changes, and of prioritising “human-induced environmental degradation and climate change” could be mitigated, since governments are obligated to promote, protect and achieve this right at all cost. This historic resolution paves the way for a strong movement towards enhanced accountability, strategic litigation and protection — but most importantly for guaranteeing justice.

Therefore, it is crucial now more than ever for the governments of each of the studied nations to take proactive and progressive measures to protect the most vulnerable individuals and communities, who are on the brink of getting displaced from their homes. It is even more vital for the States to take legal measures that are aligned with the changing circumstances and needs of the people who are most affected by CC-ND, and to ensure that the ‘disproportionate impacts’ of the phenomenon are well under control.

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