Journal of Contemporary Law and Society, *Volume 2, Issue 1, March 2025, pp. 26-37*

TECHNICAL ARTICLE
Online ISSN: 3139-1079
Doi: 10.18311/JCLS/2025/v2i1/50693

Online ISSN : XXXX-XXXX

Journal of Contemporary Law and Society

Contents available at: *www.informaticsjournals.co.in/index.php/jcls*

JCLS

Regional Responses to Disaster Displacement: What India Can Learn from the Kampala Convention and Beyond

Chakraborty N.K.[1] and Shreyasi Bhattacharya[2*]

[1]Vice Chancellor at West Bengal National University of Juridical Sciences, Kolkata - 700098, West Bengal, India

[2]Research Fellow at West Bengal National University of Juridical Sciences, Kolkata - 700098, West Bengal, India; shreyasiphd2021@nujs.edu

Abstract

With increased climatic events and rise of natural disasters, internal displacement has overwhelmingly proliferated with IDMC estimates showing that out of the 83.4 million IDPs by the end of 2024, disasters remaining a major factor for displacement. India has been no exception with monsoon floods alone contributing to a displacement figuring around 2.4 million in 2024. Unlike refugees however, international mechanisms of internal displacement are still largely governed within the sovereign confines of the State. In absence of any international hard law framework governing the phenomenon of internal displacement, the Guiding Principles of 1998 is the primary soft law instrument which deals with IDPs. However, regionally, there lies numerous comprehensive frameworks that effectively encompass various aspects of internal displacement. In particular, the Kampala Convention developed in the African region exemplify what a well-informed IDP framework must encompass. It is the first regional, binding convention that deals with all the stages and issues surrounding internal displacement from a rights-based approach. In this article, the authors explore Kamapala Convention and other regional framework presently dealing with various aspects of IDPs, including but not limited to pre-displacement measures, humanitarian measures, rehabilitation etc and attempt to identify relevant norms regarding IDP protection. The authors further explore discourses Indian frameworks of displacement and its current shortcomings and discuss the issues concerning the uncoordinated disjointed mesh of laws governing IDPs in India which potentially vulnerate IDPs to natural disasters. Finally, the authors conclude with a discussion of some possible governing principles that must inform any Indian IDP related framework.

Keywords: *Internal Displacement, Kampala Convention, Natural Disasters, Vulnerability*

1.0 Introduction

In recent times, internal displacement (hereinafter referred to as 'IDP') has amounted to staggering scales with IDMC estimating that by the end of 2024, the IDP displacement figure standing at 83.4 million (GRID, 2025). Disasters have remained a major driver of internal displacement with 45.8 million new people being displaced due to disasters. Although most were able to return home, 9.8 million people remain displaced. Around 29 total countries and territories recorded the highest level of disaster induced displacements with cyclones contributing to around 54 percent of all the disaster related displacements (IDMC, 2025). East Asia and Pacific regions have contributed to majority of the disaster induced displacements followed by South Asia. Major disaster events such as cyclones in exposed countries such as Bangladesh, China, Phillipines and US displaced millions along with other events like earthquakes in Japan (GRID, 2025). Disaster induced displacements continued to unevenly impact low- and

middle-income countries and vulnerable communities For instance, floods in Brazil's Rio De Grande inundated an area similar in size to United Kingdom leading to 775000 displacements (Prevention Web, 2024).

The scale of disasters cast important questions upon protection frameworks present to address disaster induced displacement. An internally displaced person refers to those who have been forced to flee their homes by conflict, violence, persecution or disasters, but remain within the borders of the countries (*UNHCR India, unmentioned*). The Guiding Principles on Internal Displacement defines IDP as a "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 generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border." (*Guiding Principles on Internal Displacement* 1998, Art 2). Pre-emptive measures with strong legal and policy responses can prove to be effective when protecting IDP. For this purpose state level measures either incorporating existing frameworks or enshrining new principles in their legal regimes could provide for strong measures for protecting IDPs. Conversion of principles of IDP guidelines by some countries like Africa, has for instance provided a strong regime of protection of IDPs. Another approach would be to include displacement in frameworks where the issue becomes important but not the focus of attraction such as in disaster or climate change frameworks (GRID, 2025).

Recently, internal displacement has featured heavily on international frameworks dealing with climate change such as the Sendai Framework for Disaster Risk Reduction 2015-2030 (Sendai Framework/SFDRR). Displacement in the Sendai framework has been identified as both a major consequence and driver of the risk. In its Preamble it acknowledges the scale of disaster displacements (*Sendai Framework for Disaster Risk Reduction 2015, Preamble*). Building upon the earlier framework, the Sendai framework heavily discusses about disaster displacement. In particular Target B of the Sendai framework focuses the measurement of direct disaster impacts on the number of people affected, which includes disaster affected people (IDMC, 2017). Pre-emptive evacuations under Target G also provide additional displacement information. Under its Priority 4, the SFDRR emphasizes upon enhancing disaster preparedness for effective response and 'Build Back Better' in recovery, rehabilitation and reconstruction in relation to the needs of displaced persons living in temporary settlements, unable to return to their former homes or those who may have to be locally reintegrated or settled in some other place. It also speaks about relocation and evacuation of disaster displaced persons along with human mobility, a concept which features heavily in climate change discourses (IDMC, 2017).

While the SFDRR is an important instrument, it is a voluntary and non-binding framework for reducing natural disaster risks (Stein & Walch, 2017). Regional conventions have adopted similar frameworks for climate change and disaster management and have been noted for providing enhanced protection regimes. Amongst these frameworks like the Kampala Convention in the African region and instruments in the Pacific regions have been hailed as the first of its kind to deal with disaster induced IDPs. In this paper, the authors study major frameworks related to disaster induced IDPs. For this purpose in the first section, the authors analyse the Kampala Convention laying down comprehensive protection to natural disaster induced IDPs. The authors then go on to study other regional instruments such as the Cartagena declaration and instruments developed by countries like Fiji and Vanuatu which has dealt with disaster induced IDPs. The authors finally briefly focus upon South Asian instruments policies developed in Bangladesh and analyse some of the features which can be incorporated in the context of India. The authors conclude that developing a disaster specific IDP framework in India is imminent, given the scale of natural disaster included displacement in India.

2.0 A Study of African Frameworks: Kampala Convention as a Model

As per IDMC reports, internal displacements due to natural disasters in Africa has increased six fold between 2009 to 2023. The number of times people were forced to flee disasters each year increased from 1.1 million displacements in 2009 to 6.3 million in 2023 (Pandey, 2024). Climate change has been identified as a major cause of displacement in Africa. This surge in the last 15 years have largely been due to climate change related disasters like floods and droughts. Floods have contributed to almost 69 percent of displacements in West Africa.

Amongst cyclones, Idai and Freddy have been identified as causing the largest amounts of disasters in the last 15 years (Mateko & Vutula, 2024). In light of such large-scale displacements, it is necessary to understand the legal framework governing disaster induced displacement in Africa (Pandey, 2024).

The Kampala Convention or the African Union Convention for the Protection and Assistance of IDPs in Africa established by the African Union is one of the most prominent mechanisms and the only legal convention to deal with internally displaced persons. It was adopted in October 2009, at a special summit in Kampala, Uganda and entered into force on December 2012 and has been so far ratified by 34 countries. It is considered to be the first regional, binding convention that deals with all the stages and issues surrounding internal displacement. Being influenced by the text of the Guiding Principles, it recognises the same as an important instrument in recognising the rights of IDPs. It marks the transition from a soft law to a hard law model of IDP protection (Addadzi-Koom, 2023, p. 329).

The objectives of the Convention, laid out under Article 3, include the promoting local, national and regional measures to mitigate, prohibit and eliminate root causes; creating a legal framework for preventing arbitrary displacement and for cooperation and solidarity among states; provide legal instrument for the protection and assistance of IDPs and delineate the responsibility of states. The objectives of the Convention also include envisaging a legal framework for the protection of persons displaced including by natural disasters which "have a devastating impact on human life, peace, stability, security, and development" (Mulugeta Abebe, 2011).

The Kampala Convention addresses internal displacement caused by a large number of factors, but notably it recognises both 'violations of human rights or natural or man-made disasters' as causes of displacement (Kampala Convention, Art 1(k)). Hence this can be interpreted to be broad enough to cover climate-change based displacement as well (Mativo, 2024, p. 153). It provides for a general human rights protection of non-discrimination underpinning state measures such as dignity, safety and freedom of IDPs and guarantee freedom of movement. Restrictions can be justified for reasons of public security, public order and heath (Kampala Convention, Art 9(2)(f)). The Convention also prevents return and resettlement to unsafe areas and lays down that IDPs may seek safety in any place within the country. Rights of asylum of persons outside the country is also guaranteed. With regard to all measures regarding protection of IDPs, states are mandated to permit the participation of IDPs themselves (Kampala Convention, Art 9(2)(k)).

Unlike the Guiding Principles which is more victim focused, the Kampala convention lays down state responsibility in protection of IDPs. Through its Article 4(2), the Convention urges state parties to "devise early warning systems, in the context of the continental early warning system, in areas of potential displacement, establish and implement disaster risk reduction strategies, emergency and disaster preparedness and management measures" and provide immediate assistance to IDPs displaced due to natural disasters including climate change (*Kampala Convention, Article 4(2)*). State parties are also responsible for taking special measures to protect against environmental degradation in areas where IDPs are located (*Kampala Convention, Article 9(2)(j)*). The Convention further affirms the rights of all persons to be protected from forced displacement due to natural disasters, especially groups vulnerable to climate invariability and degradation (*Kampala Convention, Article 9(2)(j)*) States are particularly required to protect communities dependent on land and in case of return to their places of origin, these communities should be given access to their land (*Kampala Convention, Article 4(5) & article 11(5)*). These places a strong negative obligation on states to prevent displacement unless compelled by public interest (Mulugeta Abebe, 2011). States are mandated to create conditions facilitating return, relocation or local integration in a way so as to ensure the dignity and safety of IDPs themselves. Where return is not possible because of severe or irreversible environmental development, local integration has to be facilitated by states in other areas (Mulugeta Abebe, 2011). Effective remedies for displaced persons are also to be provided by states. These include compensation to IDPs in case they refrain from protecting IDPs (*Kampala Convention, Article 12*). State responsibility also extends to multinational companies and their accountability in arbitrary displacement, providing that accountability of non-state actors involved in exploration and exploitation of economic and natural disasters have to be present (*Kampala Convention, Article 3(1)*).

The Kampala Convention includes a host of protection mechanisms for the rights of refugees. State parties are obligated under article 9 to prevent discrimination, committing genocide, any arbitrary killing and sexual violence or starvation (*Kampala Convention, Article 9*). Further, the provision mandates for state parties to ensure treatment of IPD with dignity, safety along with provision of humanitarian assistance including food, water, shelter, medical care and other health services, sanitation, education along with other necessary social services (*Kampala Convention, Article 9(2)*). Moreover, state parties are also to provide assistance to IDPs with special needs including separated and unaccompanied children, female heads of households, expectant mothers or those with young children, disabled persons. States are also to ensure reproductive health of IDP women along with appropriate psycho-social support for victims suffering from sexual violence (*Kampala Convention, Article 9(1)(d), (2)*). Other freedoms include protection against forcible return, freedom of movement and choice of residence, family reunification, protection of individual and collective property left behind during displacement. States are also to ensure and maintain the civilian character of the shelters of IDPs and protect them against any form of armed groups (*Kampala Convention, Article 9(2)(g)*).

The Convention envisages creating a register of all IDPs within their jurisdiction, possibly in collaboration with other international organisations of other civil society groups (*Kampala Convention, Article 13*). The provision places the duty upon states to ensure that relevant documents are issued to IDPs for enjoyment of their rights, like passports, personal identification documents along with records of life events such as birth, marriage certificates etc. New documents either issued or replacing older destroyed documents are to be done without any reasonable conditions such as requiring return to place of habitual residence etc. Moreover, the Convention mandates that failure to issue documents must not issue IDPs' rights to exercise of manage their human rights. The Convention also enables authorities to issue documents to women, men or unaccompanied children to issue documents in their own name and obtain equal rights (*Kampala Convention, Article 13*). The Convention also allows for complaints by IDPs before African Commission of Human Rights and African Court of Justice (*Kampala Convention, Article 20(3)*). It is notably the first of its kind to link displacement to climate change, as it provides protection for any displacement due to climate change (*Kampala Convention, Article 5*). It also calls states to designate a focal point and appropriate necessary funds for implementing the Convention (*Kampala Convention, Article 3(2)*).

In situations of displacement by neighbouring countries, or responsibility to wider international community, the African Union schema provides for collective responsibility of states for taking regionalist interventions for grave breaches of human rights and humanitarian laws. In this context, a monitoring mechanism is set up through Conference of Parties where states supervise and monitor the adherence to the Convention. Other enforcement mechanisms involve state party reporting under article 14(4) of the Convention. States in line with African Charter, are required to submit reports every two years on the legislative and other measures taken to implement the Convention. The Convention also follows the peer review mechanism under the African Peer Review Mechanism, whereby state parties are required to provide reports on how measures taken under the Convention, when they submit their report (*Rules of procedure of African Commission, rule 86(2); Addadzi-Koom, 2023 p.340*).

Article 22(1) of the Kampala Convention further lays down that in case of any disputes or differences arising between parties regarding application or interpretation of the Convention, direct consultations have to be conducted to amicably settle the disputes between parties. In case of failure to amicably resolve disputes, the dispute may be referred to the African Court of Justice and Human Rights. The African Court was established in July 2008 via the Protocol on the Statute of the African Court of Justice and Human Rights. It is yet to become operative due to insufficient number of ratifications. In order for the Court to become operative it required 13 ratifications. So far only 8 countries have ratified it. Under the Convention, only states have locus standi before the Court on IDP issues. Thus, only state parties to the 2008 Protocol have the power to bring an action before the Court (Addadzi-Koom, 2023).

The Convention is also unique in the sense that it recognises partnership between African Union and international organisations. It provides for obligation of international organisations for protecting and assisting IDPs (*Kampala Convention, Article 6*). It provides for

strong role of international organisation mandating that African union and United Nations as well as international humanitarian organisations are mandated to provide for protection and assistance to internally displaced persons as per international law (*Kampala Convention, Article 5(3)*). Moreover, inter-agency global framework and provisions on the role of organisations are also included within the ambit of the Convention. This is line with other provisions of regional and international cooperation which provides that states will discharge such obligations as required with assistance from international organisations and humanitarian agencies, civil society organisations and other relevant actors (*Kampala Convention, Article 9(3)*). In fact, via article 6, the Convention obligates international organisations to act in accordance the principles of "humanity, neutrality, impartiality and independence of humanitarian actors, and ensure respect for relevant international standards and codes of conduct" (*Kampala Convention, Article 6*). Organisations like UNHCR, IOM and ICRC etc. have established working relationships with African Union (IOM, 2022).

The Kampala Convention, although being one of a kind, has been subject to certain criticisms. The foremost being that the Convention makes States the primary enabler of the provisions of the Convention. This raises certain enforcement issues. Enforcement issues in Africa with respect to IDPs have been mired by a political culture of impunity, with human rights violations being committed by influential people in government, thus rendering a violent atmosphere for the victims of such violations (Kamungi, 2021). The Convention introduces a mixture of judicial and non-judicial enforcement mechanisms that in reality impose all the responsibility on state parties. While compliance is monitored by Conference of Parties, their mandate and mode of operation is not specified. This ambiguity impacts their enforcement powers. While the Convention requires by virtue of its article 22, that disputes between state parties on interpretation and application of State parties have to be settled through direct consultation, before approaching African Court, due to the territorial nature of the IDP issues, it is unclear as to how such disputes might arise between state parties, which will prompt one state to bring an action against the other. Instead such actions, are more likely to be brought by non-state civil society actors. However, the Convention does not provide for any mechanism through which NGOs and other individuals can bring actions against any state actor (Addadzi-Koom, 2023). Moreover, there has been a record of delay and failure in state reporting to the African Commission on Human and Peoples' Rights under article 62 of the African Charter on Human and Peoples' Rights which have resulted in ineffective state compliance monitoring (ACHPR, 2023).

3.0 IPDs and Other Instruments in African Region

A host of other instruments are also present in Africa regarding natural disaster induced internal displacements. The 1981 African Charter on Human and Peoples' Rights and the Revised African Convention on Conservation of Nature and Natural Resources have governed the law Convention governing the Specific Aspects of Refugee Problems (also called the OAU Convention) (Mativo, 2024). The African Charter is the umbrella legislation governing human rights under in the African region. The Charter includes rights related to environmental rights implying that it is ideal for protection against climate change related consequences. The 1969 OAU convention and OAU Convention on Refugees also recognises climate refugees or displacement due to natural disasters within its definitional ambit, thus providing for the scope of protection of internally displaced persons due to natural disasters (Mativo, 2024), p. 7). Other instruments like the African Charter on the Rights and Welfare of the Child and the Protocol on the Rights of Women, for example, have explicit provision on internal displacement. An important regional milestone also emerged when in 2004 the ACHPR established a mandate on refugees, asylum seekers, migrants and displacement (Mulugeta Abebe, 2011).

Any action on climate displacement by State is addressed by the African Commission in its successive resolutions on climate change. Resolution 153 of 2009, 271 of 2014 and 342 of 2016 deals with human rights of IDPs (Jegede, 2016). These resolutions urge member states to implement measures for protection of vulnerable groups including victims of natural disasters and conflict (Jegede, 2016, p.7).

Another significant instrument in IDP protection is the Great Lakes Protocol on Internal Displacement i.e. the Protocol on Protection and Assistance to Internally

Displaced Persons was signed as part of the Pact on Security, Stability and Development in the Great Lakes Region by Heads of State and Government of 11 member states on 15th December 2006, under the International Conference on the Great Lakes Region (ICGLR). Member states have ratified the Pact, thus also acceding to the IDP protocol. It establishes a legal framework incorporating the Guiding Principles. Article 6 of the Protocol deals with IDPs. It obliges State parties to adopt Guiding Principles as a regional framework for providing protection and assistance to internally displaced persons in the Great Lakes region. Article 6 further lays down that the procedures for relocation int eh context of development projects and specify the organs of the government responsible for providing protection and assistance IDPs, disaster preparedness and implementing the legislation incorporating Guiding Principles. Moreover, States are to ensure effective participation of IDPs in preparation and design of such legislation. The Great Lakes Convention is an extremely innovating way in which soft law principles can be adopted in hard law instruments (Kälin, 2007).

The Protocol shares many resemblances to the Kampala Convention. Both documents share similar definitions of IDPs, referring to either human or natural made disasters. The IDP Protocol adds another clause including those who have been displaced by large scale displacements (Great Lakes Protocol, Art 1(5)). The AU Convention does not include displacement due to development projects, but has a specific section i.e. article 10 which focuses on displacement induced by projects. Unlike the Kampala Convention, the Guiding Principles also referred heavily in the IDP Protocol, although both build upon international humanitarian law and human rights law along with UN guiding principles (Great Lakes Protocol, Art 1(5)). The Kampala Convention, in comparison to the Protocol, also is wide in its application to stakeholders, applying to non-state actors. While the Protocol is focused only upon the State parties (Great Lakes Protocol, Art 3,4,5,6). The Protocol evokes respect to Security Council Resolution 1296 which applies to civilian population during armed conflict along with Security Council Resolution 1325 applicable to the protection of women and their role during armed conflict (International Refugee Rights Initiative, 2014). The Protocol also refers to elimination of root causes. In article 2(4), the Protocol urges member states to eliminate root causes of displacement and ensure legal protection by member states for IDP populations. This principle is also reflected in the Kampala Convention. With regard to arbitrary displacement, the Kampala Convention is stronger in its protection measures, while the same is mentioned in the non-binding Model legislation which is attached to the IDP Protocol. While both instruments agree upon individual criminal responsibility for acts of arbitrary displacement, the IDP protocol does not mention this explicitly. Article 3(g) of the Kampala Convention lays down that state parties are to undertake individual responsibility for arbitrary displacement as per domestic and international criminal law.

The African region exhibits robust and dynamic regimes for IDP protection particularly in the context of natural disaster induced displacements. Having studied the mechanism in African context, it might be useful to understand the framework in other regional contexts.

4.0 Latin American Frameworks on IDP Protection

While discussing regional frameworks, it might be worthwhile to look into other significant instruments governing IDPs. Latin America has been rich in its protection of human rights particularly as evidenced by instruments like the 1948 American Declaration of Rights and Duties of Man which affirmed the right to asylum (American Declaration of Human Rights, Art 22). In the backdrop of the mass refugee crisis in 1960s, the Inter-American Committee of Human Rights recommended the preparation of a regional instrument for protection of refugees (Michael Reed-Hurtado, 2013). This however was never considered formally by the political bodies of Organization of American States. The refugee crisis spiralled into the 1980s and recognition of the same was taken by the 1981 Colloquium consisting of group of regional experts under the auspices of the Universidad Autónoma de México following lack of response by States. The Colloquium promoted basic human rights principles and noted that it was essential to extend protection in Latin American to people who were fleeing their country as a result of aggression of human rights violation, among others. Following continued lack of response from states, a colloquium was again convened in 1984 in Cartagena to establish 'humanitarian practices and principles' for protecting a growing number of Central Americans who were forced to leave their countries. The Cartagena

Declaration was a result of all these deliberations. While it was non-binding, its value rested on pragmatism and commitment to applying protection principles (Michael Reed-Hurtado, 2013). The Declaration established the principle of non-refoulement as one of the core protection principles (Conclusion No. 5, Cartagena Declaration). The principle emerged as a result of the interactions between international refugee law and international human rights law for safeguarding right to receive protection from risk of persecution along with the freedom from harm to life, liberty or person. The Cartagena Declaration, a significant instrument for protection of refugees in 1980s is known for its expanded refugee definition in comparison to the 1951 Convention and its 1967 Protocol (Castillo, 2015). The extended definition included 'persons who had fled their country because of lives, safety or freedom threatened by generalised violence, foreign aggression, internal conflicts or massive human rights violation or other circumstances disturbing pubic order.' (Castillo, 2015) This definition to a large extent, was based on the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

While the Cartagena Declaration did not explicitly provide any recognition for protection of refugees of natural disasters, there has been a growing recognition of refugees arising out of climate change and natural disasters. For instance, in 2010, Mexico provided protection to Haitians who were displaced due to massive earthquakes based on an expanded definition of Cartagena Declaration (Refugee Law Initiative, 2021). There have been deliberations on this extended use. In 2021, in a Workshop on Displacement and Migration, Justice John M. Mativo of the High Court of Kenya opined that the phrase 'events seriously disturbing public order' under the 1969 OAU Convention could be interpreted in a manner so as to address current causes of displacement in Africa, including climate change. Professor Walter Kälin, Special Envoy of the Platform on Disaster Displacement and former Representative of the United Nations Secretary-General also in this workshop, while speaking in the context of the human rights of Internally Displaced Persons (IDPs), also noted the potential for 'mega-disasters' to seriously disturb public order (Platform on Disaster Displacement 2021).

In 2024, on the 40th anniversary of the Cartagena Declaration for refugees, representatives from Latin America and Caribbean countries gathered in Santiago, Chile for the Ministerial Event for the Cartagena 40+ process. This led to the culmination of the Chile Action plan, which in a historic feat dedicated a chapter to protection in context of disaster related forced displacement. The Action Plan outlined specific action plans aimed to provide protection for displacement and climate change, including programme for prevention, preparedness, and humanitarian action, rights and welfare of persons, regional solidarity program for collective support of displaced persons. The action plan spoke about the need for strengthening registration systems, data collection, statistical information for vulnerable groups, development of early warning systems (Platform on Disaster Displacement, 2024). The Action Plan serves as an important soft law instrument which could lead to widespread protection of internal displaced persons.

5.0 Legal frameworks in Pacific Islands

Human mobility forms a core part of the instruments in Pacific Islands to address internal displacement. This has been addressed by several countries in their instruments on disasters and climate change in the form of both hard and soft law instruments by countries like Marshall Islands, Samoa, Palau, Tonga, New Zealand etc. Specific instruments on internal displacement has been adopted by two countries - Vanuatu and Fiji. In 2018, Vanuatu adopted a soft law instrument- National Policy on Climate Change and Disaster Induced Displacement. This was built upon the previous instruments in the country such as the National Adaptation Plan of 2007 and the Climate Change Policy 2016-2030. The National Policy was adopted by the government in wake of the damage caused by Cyclone Pam in 2015 in consultation with IOM over 3 years.

The Policy discussed about twelve strategic priority areas, identifying system level and sector level measures to be taken along with intersectional areas including women's leadership, gender responsiveness, social inclusion and community involvement. Notably, during the process of preparing this policy, local authorities were provided a significant role (UNHCR, 2022). The Climate Change policy also addresses durable solutions to displacement, including planned relocation, sustainable integration in places of refuge or remaining in situ. In fact, displacement is defined as a conceptualised as a process involving loss

of land rights and livelihood preservation in the policy. (Vanuatu: Climate Change and Disaster Risk Reduction Policy 2022-2030, 2022), this definition incorporates additional elements upon those present in the Guiding Principles (Moore, 2023).

Fiji, another country vulnerable to severe effects of climate change adopted the National Adaptation Plan in 2018 along with the National Disaster Risk Reduction Policy (2018-2030) and the another set of guidelines in the context of displacement and climate change in 2019 (Forced Migration Review, 2022). Several policy principles such as human rights and gender-based approaches were identified by the Plan. Significantly planned relocation forms a bulk of the framework for both the countries. Similar to planned relocation measures in Vanuatu's Climate Change Policy, Fiji has adopted the National Planned Relocation Guidelines in 2018 to manage relocation for climate change affected communities. These Guidelines lay down principles and safeguards modelled upon international, domestic and customary law to enable the government in providing assistance to relocating communities along with suggesting responses to deal with displacement (UNHCR, 2022). It was considered as the first state-led relocation of climate change affected communities (Moore, 2023). In 2023, Fiji further adopted the Standard Operating Procedures for Planned Relocation to implement the planned relocation guidelines for addressing the needs of climate displaced persons (UNHCR, 2025). These relocation and climate guidelines based upon principles of IDP guidelines 1998, SDG frameworks and UNFCC along with other human rights instruments, have shaped displacement responses in Fiji, and have acted as living documents, transforming and interacting with communities and stakeholders throughout the implementation processes (Forced Migration Review, 2022). Drawing upon these principles, the guidelines recognise that the State has the primary duty and responsibility to provide minimum standard protection and assistance to people at risk of disasters and environmental change. In pursuance of the same the policy adopts a human rights based approach based on principles of ICCPR and ICESR focusing upon rights of vulnerable communities like women, elderly persons and persons with disabilities. The Displacement Guidelines also recognise issues posed by rapid and slow onset hazards and other temporary, recurrent or permanent displacements (Moore, 2023). Both the policies exhibit how existing principles for developing climate mobility protection (McAdam, 2011) can be contextualised, reconfigured and applied in the global landscape based upon specific legal and political systems (Moore, 2023).

The experience of Fiji and Vanuatu demonstrates community involvement to be the centre piece of any policy making or state led initiative. For instance, the Fijian SOPs lay down that mere request from communities is not sufficient, a 90 percent consensus must be present form eligible voting community members (a sub-set of 90 percent consensus is required from vulnerable communities like women, elderly people and LGBTQ groups) and 60 percent of the community and these specific groups must agree with the measures suggested by scoping studies, new sites, housing plans and processes of relocation etc. Moreover, the SOPs require a participatory process through selecting community representatives who become crucial during the multiple stages of decision-making. Communities are also encouraged to craft solutions on their own (Moore, 2023).

Funding has remained a key challenge in these processes. The relocation of Vunidogola was hailed as the first climate related state led relocation in Fiji. However, despite the government spending more than three times its budget, community members claimed they were forced to self-fund over 60 percent of the project themselves. A relocation fund had been set up in 2019, however funding remains a key challenge, nevertheless. Vanuatu had faced similar problems with lack of coordination between government departments as well as lack of physical infrastructure. Despite fund sharing agreements, partnerships with external collaborators, arranging adequate funds has remained a key challenge (Moore, 2023).

6.0 South Asian and frameworks on disaster management and lessons for India

Before proceeding to the Indian context, it might be apposite to consider similar instruments within South Asia. South Asian countries account for 36 percent of the total reported displacement worldwide. Since 1970s, the amount of people displaced due to natural disasters have dramatically arisen (Ginnetti & Lavell, 2015). Due to the high population density, thus leading to increasing exposure and vulnerability, displacement events in South

Asia has also increased. Displacement events with 3 million or more people displaced have become common since 1980s. Moreover, due to the uneven distribution of population, displacement is also uneven. For instance, displacement for 1 million persons in India is equivalent to one person displaced in Maldives. Sri Lanka, is one of the most vulnerable countries where almost 15000 people per million risk being displaced every year. Transboundary hazards like the 2005 Kashmir earthquake also potentially increases risk of cross border displacement (Ginnetti & Lavell, 2015).

Most South Asian countries consider internal displacement to be an internal matter (Mathur, 2020). Most countries lack a national policy on resettlement or rehabilitation nor are they party to any regional or international treaties or frameworks. Instead, countries adopt ad-hoc policies which fail to address long term issues. Within South Asia, countries like Bangladesh stand out for developing some of the disaster displaced related frameworks. In 2021, Bangladesh developed a national strategy for on Internal Displacement Management to address disaster and climate induced internal displacement (*Displacement, Policy Brief from Bangladesh*). Based upon international principles of Sendai frameworks, SDG goals, it covers prevention, protection during displacement and durable solutions. The Strategy and its Action Plan establish an inter-ministerial and inter-agency National Taskforce on Displacement to review its implementation. The policy particularly focuses upon a rights-based approach with rights such as non-discrimination, right to life, liberty and security, right to livelihood being recognised within the ambit of the policy (Platform on Disaster Management, 2025).

India, one of the most vulnerable countries to climate change, however lacks any policy on internal displacement. In 2024, India recorded the highest levels of displacements since 2012 at 5.4 million which included 2.4 million displaced by worst monsoon floods. IDMC notes that 40 percent of India's population live on territory susceptible to flooding. While relief centres were opened to shelter displaced people, however owing to longer duration of floods, aid supplied became stretched. Although may IDPs were able to return one floods receded, 50,000 still remain displaced (IDMC, 2024, India). Storms have been another major cause for displacement, triggering an additional 1.6 million movements in the country. Cyclone Dana which formed in Bay of Bengal in late October caused widespread displacements in West Bengal and Odisha. Pre-emptive measures by State governments and Indian Meteorological societies ensured no casualties in Odisha (IDMC, 2024, India).

The mitigation approaches by authorities in case of Cyclone Dana exhibit effectiveness of pre-emptive measures. However, long term pan-Indian approaches are necessary to create a sustainable measure to prevent displacement. It might be useful to review the existing frameworks in India in this regard. Natural disaster induced internal displacement in India is instead governed through a host of multi-sectoral legislations since India lacks any specific instrument on the same. For instance, if displacement is caused due to acquisition of land for developmental purposes, the protection of the people displaced is facilitated through the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Similarly, for people displaced due to natural disasters, they would be governed under the umbrella law for disaster management i.e. the Disaster Management Act of 2005. In terms of disaster management, the Act itself suffers from several drawbacks such as absence of community management, centralisation of power etc (Singh, 2025, p. 68). The National Disaster Management Plan, which was formulated in pursuance of the Disaster Management Act 2005, speaks about measures like relocation, rehabilitation, reconstruction as part of the disaster recovery process. However, nowhere does it address internal displacement as a separate or comprehensive process (National Disaster Management Plan 2019, p 295). In judicial forums as well barring compensation which is seen as an ex gratia rather than a legal right, the concept of internal displacement due to natural disasters have been barely discussed. Indian Courts from time to time have acknowledged Guiding Principles, but have generally remained silent on the phenomenon of internal displacement (Union of India & Ors. v Vijay Mam 2012 SCC OnLine Del 3218.). In absence of any national policies, it generally falls upon the state governments to formulate their own frameworks to deal with disaster induced displacement (Forced Migration Review, unmentioned). This is further worsened by the fact that India has not committed to international instruments for refugee protection regimes, such as the 1951 Refugee Convention, which could allow it to adopt core humanitarian principles like non-refoulement as a general protection measure to protect IDPs (Al

Jazeera, 2024). In 2022, a private member's bill titled the Rehabilitation and Relocation of Persons Displaced due to Climate Change Bill, 2022 was introduced in the Lok Sabha, for addressing disaster- and climate change-induced displacements in India. However, this bill still remains pending the Parliament (*EPW*, 2024, Editorial.).

India's failure to incorporate internal displacement as a separate phenomenon leads to disjointed, ununiform efforts within state territories. In this context it might be apposite to visualise some core principles which could be adopted within the Indian regime for internal displacement. In particular, principles such as planned relocation, protection of human rights remain core lessons for India to adapted into an IDP regime. A disaster induced IDP regime would further require mitigation efforts like early warning systems, community led recovery measures and a strong foundation in core humanitarian principles. Indian already has a strong foundation of constitutional guarantees of life and liberty which can promote protection of human rights principles within a natural disaster induced IDP regime (Constitution of India, Article 14, 19, 21, 32).

7.0 Conclusion

International frameworks such as the Kampala regime emerge as key models which envisage comprehensive protection for IDP regimes. The recognition of disaster induced displacement within the legal framework remains a major challenge for India. Although India has been witnessing a host of natural disaster induced displacement, apart from some fleeting references to rehabilitation it lacks any framework to tackle the same. Similar to the Land Rehabilitation Act 2013, which dealt with development induced displacement, there is a requirement to develop a legal framework- either hard law or soft law principles to govern natural disaster induced displacements in India. Moreover, any framework that addresses displacement in India would be incomplete without considering the effects of climate change. Recognition of the phenomenon of IDP remains a first step in envisaging any framework for protection of IDPs in India, either by an affirmation to international legal frameworks, or creating contextual definitions of IDPs suited to domestic circumstances. The recognition of the phenomenon would create the foundation for an extensive legal framework dealing with the same.

8.0 References

Addadzi-Koom, M.E. (2023), Breating Life into the Kampala Convention: Towards Workable Enforcement Mechanisms, 67 J. Afr. law 329.

2025 Global Report on Internal Displacement *(GRID)*, IDMC - Internal Displacement Monitoring Centre, https://www.internal-displacement.org/global-report/grid2025 (last visited Jul. 29, 2025).

Abebe Mulugeta. (2011). *The African Union Convention on Internally Displaced Persons: Its Codification Background, Scope, and Enforcement Challenges*, 29 Refugee Survey Quarterly 28

ACHPR(2023),ACHPR79:KeyStakeholdersMustCoordinate Their Efforts for States to Submit Periodic Reports, ISHR (May 24, 2024), https://ishr.ch/latest-updates/achpr79-key-stakeholders-must-coordinate-their-efforts-for-states-to-submit-periodic-reports/.

Al Jazeera (2024), India's Stateless Babies: How Lawless Asylum Rules Leave Refugees in Limbo | Refugees News, https://www.aljazeera.com/features/2024/1/5/stateless-babies-in-northeast-india-refugee-mothers-pray-for-nationhood (last visited Jul. 29, 2025).

Jegede, Ademola Oluborode (2016), Rights Away from Home: Climate-Induced Displacement of Indigenous Peoples and the Extraterritorial Application of the Kampala Convention, 16 Afr. Hum. Rights Law J. 58.

African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa ("Kampala Convention") 2009.

Kamungi, P. (2021). Beyond Good Intentions: Implementing the Kampala Convention, Forced Migration Review, https://www.fmreview.org/kamungi/ (last visited Jul. 29, 2025).

Castillo, C. (2015). The Cartagena process: 30 years of innovation and solidarity, https://ora.ox.ac.uk/objects/uuid:9863f6a5-bab6-430d-bb9e-9b9ceb772fbb

Conclusion No. 5, Cartagena Declaration on Refugees 1984

Disaster Induced Displacement and Durable Solutions in Africa | *PreventionWeb*, (Jul. 10, 2024), https://www.preventionweb.net/publication/disaster-induced-displacement-and-durable-solutions-africa.

Disasters, Climate Change and Public Order: A Principled Application of Regional Refugee Definitions - Refugee Law Initiative Blog, https://rli.blogs.sas.ac.uk/2021/05/24/disasters-climate-change-and-public-order/ (last visited Jul. 29, 2025).

Displacement, *Policy Brief from Bangladesh - The National Strategy on Internal Displacement Management and Its*

Action Plan, PAMAD Project (Apr. 30, 2025), https://pamad.disasterdisplacement.org/2025/04/30/policy-brief-from-bangladesh/.

Guiding Principles on Internal Displacement, UNHCR, https://www.unhcr.org/media/guiding-principles-internal-displacement (last visited Jul. 29, 2025).

Ginnetti, Justin & Lavell, Chris (2015). The Risk of Disaster-Induced Displacement in South Asia. https:// api.internal-displacement.org/sites/default/files/ publications/documents/201504-ap-south-asia-disaster-induced-displacement-risk-en.pdf

Pandey, K. (2024). In Africa, Internal Displacements Great Lakes Protocol, Protocol on the Protection and Assistance to Internally Displaced Persons in the Great Lakes Region 2006

IDMC Report: Record 83 Million People Living in Internal Displacement Worldwide, International Organization for Migration, https://www.iom.int/news/idmc-report-record-83-million-people-living-internal-displacement-worldwide (last visited Jul. 29, 2025).

IDMC India 2024 - Internal Displacement Monitoring Centre, https://www.internal-displacement.org/countries/india/ (last visited Jul. 29, 2025).

IOM (2022), IOM and AU Sign New 3-Year Agreement to Strengthen Migration Policies and Frameworks in Africa, https://www.iom.int/news/iom-and-au-sign-new-3-year-agreement-strengthen-migration-policies-and-frameworks-africa

IDMC, 2017, Positioned for Action: Displacement in the Sendai Framework for Disaster Risk Reduction (2017), https://api.internal-displacement.org/sites/default/files/publications/documents/20170216-idmc-briefing-paper-drr.pdf?_gl=1*1qact6d*_ga*MTMxNDYyNzYxMS4xNzQ4ODUxMzM5*_ga_PKVS5L6N8V*czE3NTM3NjY3NjUkbzEyJGcxJHQxNzUzNzY2OTU1JGo2MCRsMCRoMA.

Internal Displacement in India: Causes, Protection and Dilemmas, Forced Migration Review, https://www.fmreview.org/lama/ (last visited Jul. 29, 2025).

Internally Displaced People, UNHCR India, https://www.unhcr.org/in/about-unhcr/who-we-protect/internally-displaced-people (last visited Jul. 29, 2025).

International Refugee Rights Initiative (2014). Comparison of the Kampala Convention and the IDP Protocol of the Great Lakes Pact file:///C:/Users/shrey/Downloads/COMPARISON%20OF%20THE%20KAMPALA%20CONVENTION%20AND%20THE.pdf

Kampala Convention, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 2009.

Moore, 2023, Forced Migration Review (2022), *Putting Principles into Practice: Lessons from Fiji on Planned Relocations*, Forced Migration Review, https://www.fmreview.org/climate-crisis/moore/

Michael Reed-Hurtado (2013). The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America https://www.refworld.org/reference/lpprs/unhcr/2013/en/97247

Mativo, John (2024). Climate Change Displacement Litigation in Africa: A Human Rights and Refugee Law-Based Approach.

McAdam, Jane (2011). Swimming against the Tide: Why a Climate Change Displacement Treaty Is Not the Answer, International Journal of Refugee Law, Oxford Academic, https://academic.oup.com/ijrl/article-abstract/23/1/2/1589517 (last visited Jul. 29, 2025).

Mateko Freeman & Vutula, Noncedo. (2024). Disaster induced displacement and durable solutions in Africa, Natural Hazards https://www.preventionweb.net/publication/disaster-induced-displacement-and-durable-solutions-africa

Moore, Liam. (2023). How Should States Manage Climate Mobilities and Planned Relocations? Early Lessons from Fiji and Vanuatu, https://toda.org/assets/files/resources/policy-briefs/t-pb-178_how-should-states-manage-climate-mobilities_moore.pdf

National Disaster Management Plan (2019), Government of India.

National Disaster Management Plan (2019). https://ndma.gov.in/sites/default/files/PDF/ndmp-2019.pdf

Pandey, K. (2024). In Africa, Internal Displacements Caused by Disasters Increased Six-Fold in 15 Years: Report, Down To Earth (Nov. 29, 2024), https://www.downtoearth.org.in/africa/in-africa-internal-displacements-caused-by-disasters-increased-six-fold-in-15-years-report.

Platform on Disaster Management. (2025). Policy Brief from Bangladesh – The National Strategy on Internal Displacement Management and its Action Plan https://pamad.disasterdisplacement.org/2025/04/30/policy-brief-from-bangladesh/

Platform on Disaster Management. (2024). Press Release – Cartagena+40: Chile Declares a New Era of Regional Cooperation to Address Forced Displacement in the Latin America and the Caribbean Region https://disasterdisplacement.org/news-events/new-era-of-regional-cooperation-to-address-forced-displacement-in-the-latin-america-and-the-caribbean-region/

Priyanca Mathur (2020), IDRP Working Paper No. 6 the State of Research on Internal Displacement in Asia. https://sas-space.sas.ac.uk/9447/1/IDRP%20WPS%20No.%206.pdf

Prevention Web, 2024, Brazil: Floods Have Displaced 600,000 People, https://www.preventionweb.net/news/floods-south-brazil-have-displaced-600000-heres-why-region-likely-see-ever-more-extreme-rain (last visited Jun. 23, 2025).

Rules of procedure of African Commission, 2020

Refugee Law Initiative (2021), Disasters, climate change and public order: A principled application of regional refugee definitions, https://rli.blogs.sas.ac.uk/2021/05/24/disasters-climate-change-and-public-order/

Rights Away from Home: Climate-Induced Displacement of Indigenous Peoples and the Extraterritorial Application of the Kampala Convention, https://scielo.org.za/scielo.php?pid=S1996-20962016000100004&script=sci_abstract (last visited Jul. 29, 2025).

Singh A (2025), Disaster Law: Principles and Practice (EBC, 2025),

The American Declaration of the Rights and Duties of Man 1948

The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America, 1984 https://www.refworld.org/reference/lpprs/unhcr/2013/en/97247

The Constitution of India 1950

The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America (2017), https://www.cambridge.org/core/product/identifier/9781316771143%23CN-bp-5/type/book_part.

The Great Lakes Protocol on Internally Displaced Persons: Responses and Challenges | Brookings, https://www.brookings.edu/articles/the-great-lakes-protocol-on-internally-displaced-persons-responses-and-challenges/ (last visited Jul. 29, 2025).

EPW (2024), The Need for a National Policy on Internal Displacements | Economic and Political Weekly, 59 Economic & Political Weekly (2024), https://www.epw.in/journal/2024/21/editorials/need-national-policy-internal-displacements.html.

Stein, S. & Welch, C (2017) , The Sendai Framework for Disaster Risk Reduction 2015-2030 https://www.preventionweb.net/publication/sendai-framework-disaster-risk-reduction-tool-conflict-prevention.

The State of Research on Internal Displacement in Asia - Researching Internal Displacement, https://researchinginternaldisplacement.org/working-papers/the-state-of-research-on-internal-displacement-in-asia/ (last visited Jul. 29, 2025).

The Rules of Procedure of the African Commission on Human and Peoples' Rights 1988

Union of India & Ors. v Vijay Mam 2012 SCC OnLine Del 3218.

UNHCR India (unmentioned), Internally Displaced People, https://www.unhcr.org/in/about-unhcr/who-we-protect/internally-displaced-people (last visited Jun. 23, 2025).

UNHCR 2022, Global Report on Law and Policy on Internal Displacement, UNHCR INDIA, https://www.unhcr.org/in/media/global-report-law-and-policy-internal-displacement (last visited Jun. 21, 2025).

UNHCR, 2025, Global Report on Law and Policy on Internal Displacement: Implementing National Responsibility, https://www.unhcr.org/sites/default/files/2025-02/global-report-on-law-and-policy-on-internal-displacement.pdf

Walter Kälin (2007), The Great Lakes Protocol on Internally Displaced Persons: Responses and Challenges https://www.brookings.edu/articles/the-great-lakes-protocol-on-internally-displaced-persons-responses-and-challenges/

Vanuatu: Climate Change and Disaster Risk Reduction Policy 2022-2030 | PreventionWeb, (Mar. 14, 2022), https://www.preventionweb.net/publication/vanuatu-climate-change-and-disaster-risk-reduction-policy-2022-2030.