
ANALYSIS OF THE LEGAL AND POLICY FRAMEWORK FOR THE PROTECTION OF NATURAL DISASTER- INDUCED INTERNALLY DISPLACED IN INDIA: LESSONS FROM THE KAMPALA CONVENTION

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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 frameworks in the African region which 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 Indian frameworks of displacement and its current shortcomings. The authors also 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

The Internal Displacement Monitoring Centre, in its 2025 GRID Report has estimated that as many as 65.8 million people have been displaced worldwide till the end of 2024. Amongst conflicts and disaster: the two main drivers of internal displacement, disaster have contributed to almost 70% of such total displacement with the data projecting that as many as 45.8 million have been displaced due to disasters (*GRID*, 2025). The numbers for 2024 depict two times more disaster induced displacements in 2024 than the annual average of the past decade (*GRID*, 2025). Storms and floods contributed to almost 96% of total disaster induced displacements (*IDMC*, 2025). East Asia and Pacific regions have contributed to majority of the disaster induced displacements followed by the Americas and 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).

All of the aforementioned data puts forth a significant question? How can such populations, displaced due to disasters, be afforded legal protection? 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; Guiding Principles on Internal Displacement*, Art 2). 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 disasters (*Sendai Framework for Disaster Risk Reduction 2015*, Preamble). Building upon the earlier framework, the Sendai framework heavily discusses about disaster induced displacement. In particular, Target B of the Sendai framework which focusses on substantial reduction of the total number of disaster affected people globally, focuses the measurement of direct disaster impacts through 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 on the enhancement of disaster preparedness so that there can be an effective response to the disasters and 'Build Back Better' measures can be adopted in recovery, rehabilitation and reconstruction for the 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 analyse the Kampala Convention laying down comprehensive protection to natural disaster induced IDPs. The authors then go on to study other relevant instruments in the African region such as the Great Lakes Protocol which also provide a comprehensive protection regime for IDPs. The authors finally upon the state of ad-hoc unstructured policies which are being adopted in India and conclude that developing a disaster specific IDP framework in India is imminent, given the scale of natural disaster included displacement in India.

2. A Study of African Frameworks: Kampala Convention as a Model

As per IDMC reports, internal displacements due to natural disasters in Africa has increased by almost six times in between 2009 to 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*). It hence pertinent in this context to look at the legal and policy framework governing the disaster-induced displaced in Africa (*Pandey, 2024*).

The Kampala Convention, negotiated under the aegis of the African Union is 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. It is influenced by the Guiding Principles and regards the Principles as an important instrument in recognising the rights of IDPs. The Kampala Convention essentially creates binding hard-law obligations out of the soft law model of the Principles (*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 (Mulugeta Abebe, 2011).

The Kampala Convention addresses internal displacement broadly, 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 health (*Kampala Convention*, Art 9(2)(f)). The Convention also prevents return and resettlement to unsafe areas and lays down that IDPs may seek refuge at any place within the country. Right 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. 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). Responsibility is also extended to the multinational companies, making them accountable for arbitrary displacement (*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 IDP with dignity, safety along with provision of humanitarian assistance including food, water, shelter, medical care and other health services, sanitation, education and other necessary social services (*Kampala Convention*, Article 9(2)). State parties are further required to provide assistance to IDPs with special needs, eg: separated and unaccompanied children, female heads of households, expectant mothers, those with young children, or 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 living in their country, possibly in collaboration with other international organisations or other civil society groups (*Kampala Convention*, Article 13). The provision further places the duty upon states to provide necessary documents, like passports, personal identification documents, birth and marriage certificates etc to the IDPs so as to ensure unfettered enjoyment of their rights. New documents either issued or replacing older destroyed documents are to be done without any 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 or 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. 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). States in line with African Charter, are required to submit reports every two years on measures taken to implement the Convention. The Convention follows a peer review mechanism. (*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. As only the states have *locus standi* before the Court on IDP issues, only the 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 envisages a proactive role for international organisation and humanitarian agencies in providing assistance to the IDPs (*Kampala Convention*, Article 6). The state parties too are expected to show respect to the mandates of African Union, the United Nations and other humanitarian organisations (*Kampala Convention*, Article 5(3)). In the discharge of its obligations, the state parties can seek assistance from such organisations and the civil society as well (*Kampala Convention*, Article 9(3)). In fact, via article 6, the Convention obligates international organisations to base their actions on principles of humanity, neutrality, independence and respect for international law. (*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 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 imposes all the responsibility on the state parties. Though the role of monitoring has been delegated to the ‘Conference of Parties’, its exact mandate and *modus operandi* has not been fleshed out. 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, given that the issue is one of ‘internal’ displacement, it is unclear as to how such disputes might arise between state parties. Instead, such disputes are more likely to be brought by non-state civil society actors, but, no such mechanism exists under the Convention (*Addadzi-Koom*, 2023). Moreover, delays and failures have marked the state reporting process resulting in ineffective state compliance monitoring (*ACHPR*, 2023).

3. IDPs and Other Instruments in African Region

A host of other instruments are also present in Africa regarding natural disaster-induced internal displacement. The 1981 African Charter on Human and Peoples’ Rights (ACHPR), the Revised African Convention on Conservation of Nature and Natural Resources and the 1969 OAU Convention also play an important role in the protection of IDPs (*Mativo*, 2024). The African Charter, the principle human rights document for the region, includes rights related to environment. The 1969 OAU Convention recognises climate refugees or displacement due to natural disasters within its definitional ambit (*Mativo*, 2024, p. 7). The African Charter on the Rights and Welfare of the Child and the Protocol on the Rights of Women have explicit provisions on internal displacement. An important regional milestone also emerged when in 2004 the ACHPR established a mandate to address the concerns of refugees, asylum seekers and displaced persons in Africa (*Mulugeta Abebe*, 2011). This ‘mandate’ laid the foundation for the establishment of ACPHR’s Special Rapporteur for these populations, in order to monitor and promote their rights.

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 take measures to protect the victims of natural disasters and conflict (Jegede, 2016, p.7).

Another significant instrument in IDP protection is the Great Lakes Protocol on Internal Displacement, signed by Heads of State and Government of 11 member states in 2006. 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 the Guiding Principles for providing protection and assistance to IDPs in the Great Lakes region. Article 6 further specifies the organs of the government which shall be responsible for providing protection and assistance to the IDPs, responsible for disaster preparedness and for negotiating a legislation which incorporates the Guiding Principles. The States have the responsibility to ensure that the IDPs participate in the 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). In article 2(4), the Protocol urges member states to “eliminate root causes” of displacement and to 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 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. The African region also presents potential examples of how Indian frameworks on disaster induced displacement could possibly be designed. In the next section, the authors discuss about the lack of regional frameworks in South Asia, and whether such frameworks could inform an Indian approach to disaster displacement.

4. Reflections from Africa: Principles to replace Ad-hocism in India

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 many IDPs were able to return once 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 be 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. India 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).

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). Currently, only India's National Disaster Management Plan contains policies on protection of vulnerable communities which could be treated as a part of IDP protection principles. A more holistic approach is required however, where the rights of IDPs, durable solutions and specific rights which become applicable during displacement needs to be delineated. Reliance could be placed upon international frameworks such as Sendai framework or the Global Compact of 2018 or the host of international soft law instruments to which India is a party to frame principles for protection of displaced populations.

7. 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.

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