Should Internal Migrants Who Cannot Return Home due to COVID-19 Be Treated as Disaster IDPs? Lessons from India

Malavika Rao*

ABSTRACT

The article explores internal displacement from biological disasters such as epidemics and pandemics. The article analyses displacement in India from the coronavirus outbreak of 2019 and claims that the group of internal migrants who were unable to return to their homes and stranded in various parts of the country because of the national lockdown exhibits the characteristics of disaster-driven IDPs, and should, therefore, be treated so. This analysis reveals three main aspects leading up to a practical recommendation: the inconsistencies in the current Indian legal response can be attributed to the group’s non-recognition as internally displaced; the acknowledgment of the Disaster Management Act, 2005 as the appropriate national law to extend such protection; with the recommendation to explicitly integrate such persons as internally displaced under the Disaster Management Act. The article’s wider contribution is towards developing the corpus of protection to persons displaced by disasters under disaster management laws of countries.

1. INTRODUCTION

The global coronavirus outbreak of 2019 (hereinafter, COVID-19) was formally declared as an epidemic in India in 2020.¹ However, as days passed, it became more evident that COVID-19 in India was also a humanitarian crisis that pushed millions of people onto the streets. The aftermath of the disease in India ostensibly resulted

* PhD Candidate in International Law, Graduate Institute Geneva; Graduate Teaching Assistant, International Law Department, Graduate Institute Geneva, Geneva, Switzerland. Email: malavika.rao@graduateinstitute.ch.

¹ Government of India Ministry of Home Affairs, Order Dated 24th March 2020, available at: https://ndma.gov.in/images/covid/MHAorder240320.pdf (last visited 29 Aug. 2020).
in two patterns of displacement within the country: (i) that of several doctors and nurse practitioners being ostracised and evicted from their homes due to fears that they are disease-carriers; and (ii) that of millions of internal migrants who were stranded in various parts of the country as a result of the lockdown imposed by the government. The former pattern can be directly attributed to the stigma associated with the disease and the deliberate actions of homeowners and neighbours leading to the displacement of medical practitioners. The latter pattern, however, is not directly attributable to the disease, but arguably warrants an academic inquiry on the legal status of the group and is the focus of this article.

The article’s central claim is that the group of internal migrants that was stranded in various parts of India and unable to return home due to the national lockdown ought to be treated as internally displaced persons (IDPs) in a similar way to other disaster IDPs. The basis for this claim here is four-fold: (i) COVID-19 is a disaster for the purposes of the Disaster Management Act, 2005 (hereinafter, the DM Act) and as a basis for internal displacement as described by the Guiding Principles on Internal Displacement, 1998 (Guiding Principles); (ii) lockdown measures are essential to the management of diseases such as COVID-19 and ought to be considered as integral to constituting the disaster as a ‘driver’ of displacement; (iii) internal migrants, although having voluntarily migrated to cities from villages for work, were forcibly displaced on account of the sudden restrictions on movement; (iv) the theoretical nexus between disaster and displacement is well established in the international community.

The article makes a case for treating persons such as the internal migrants as IDPs and offers a practical recommendation to incorporate the concept of internal displacement in the DM Act. The article takes the view that the DM Act is the best-suited piece of legislation because it contains a broad understanding of disasters that can address unconventional disasters such as COVID-19. Additionally, the DM Act contains disaster management strategies such as preparedness, mitigation, evacuation, rehabilitation, and risk assessment that can feasibly absorb the concept of internal displacement. Lastly, the DM Act comprehensively engages with the district, state, national, and relevant stakeholders that are integral to provide protection and humanitarian assistance to such persons.

The article’s choice of the Indian example is motivated by the sheer extent of internal displacement in this instance, considered to be the largest in post-Independent India. The analysis of COVID-19 in India also reveals the uncertainties around considering biological disasters as drivers of internal displacement. Additionally, the article’s analysis of the Indian disaster management law is useful to many other countries that have similar disaster management laws in place. For these reasons, the

2 J. Yeung & S. Gupta, “Doctors Evicted from Their Homes in India as Fear Spreads amid Coronavirus Lockdown”, CNN, 25 Mar. 2020, available at: https://edition.cnn.com/2020/03/25/asia/india-coronavirus-doctors-discrimination-intl-hnk/index.html (last visited 27 Aug. 2020).
3 For instance, see the work of the Platform on Disaster Displacement: Follow up to the Nansen Initiative, available at: https://disasterdisplacement.org (last visited 26 Jul. 2020).
4 S. Infante, “India’s Coronavirus Migration Crisis”, JSTOR Daily, 17 Jun. 2020, available at: https://daily.jstor.org/indias-migration-crisis/ (last visited 30 Jul. 2020).
5 Reliefweb, National Disaster Management Authorities, available at: https://reliefweb.int/national-disaster-management-authorities (last visited 26 Jul. 2020).
Indian example is highly relevant to the Refugee Survey Quarterly readership interested in issues of internal displacement.

2. COVID-19 AND INTERNAL DISPLACEMENT IN INDIA

The Government of India declared a national lockdown on 24 March 2020 with a complete closure of business in its efforts to contain the spread of COVID-19. The executive order for the lockdown was issued under the DM Act, the national law for the effective management of disasters. The DM Act classifies disasters as natural disasters such as earthquakes, floods, storms and man-made disasters such as nuclear, chemical, and biological disasters. COVID-19 as an epidemic is a biological disaster under the DM Act.

This decision to introduce movement restrictions exacerbated several existing social and economic disparities in the country. However, it particularly affected the vulnerable group of migrant workers. As in most developing countries, migrant workers from villages in India constitute a significant portion of the labour force in the informal sector in Indian cities. It is estimated that there are around 139 million internal migrant workers in Indian cities. Most of them are employed on a daily-wage basis in the construction, manufacturing, hospitality sectors, and industrial units. In the immediate aftermath of the lockdown, it is estimated that nearly 10 million migrant workers began their journeys back home on foot, walking hundreds of miles and unsure of their precarious future in the cities because of their employment being disrupted. Additionally, with all public transport being suspended, around 200 migrant workers were killed while returning to their villages in road accidents alone. Cumulatively, the lockdown affected around 100 million migrant workers in India.

6 Government of India Ministry of Home Affairs, Order Dated 24th March 2020, available at: https://www.mha.gov.in/sites/default/files/MHAorder%20copy_0.pdf (last visited 29 Jul. 2020).
7 s 2(d), The DM Act, Government of India (entry into force: 23 Dec. 2005).
8 The International Labour Organisation predicts that 400 million people in India are at risk of falling into poverty because of coronavirus. available at: https://economictimes.indiatimes.com/news/economy/indicators/about-400-million-workers-in-india-may-sink-into-poverty-un-report/articleshow/75041922.cms (last visited 27 Jul. 2020).
9 N. Bhowmik, “They Treat Us Like Stray Dogs: Migrant Workers Flee India’s Cities”, National Geographic, 27 May 2020, available at: https://www.nationalgeographic.com/history/2020/05/they-treat-us-like-stray-dogs-migrant-workers-flee-india-cities/ (last visited 27 Aug. 2020).
10 National Disaster Management Authority, COVID-19 Impacts and Responses: The Indian experience, Jan.–May 2020, available at: https://ndma.gov.in/images/covid/COVID-19-Indian-Experience.pdf (last visited 27 Aug. 2020).
11 M. Kugler & S. Sinha, “The Impact of COVID-19 and the Policy Response in India”, The Brookings Institution, 13 Jul. 2020, available at: https://www.brookings.edu/blog/future-development/2020/07/13/the-impact-of-covid-19-and-the-policy-response-in-india/ (last visited 23 Jul. 2020).
12 A. Banerji, “Nearly 200 Migrant Workers Killed on India’s Roads During Coronavirus Lockdown”, Reuters, 2 Jun. 2020, available at: https://www.reuters.com/article/us-health-coronavirus-india-migrants/nearly-200-migrant-workers-killed-on-indias-roads-during-coronavirus-lockdown-idUSKBN2392LG (last visited 20 Aug. 2020).
13 Office of the High Commissioner of Human Rights (OHCHR), COVID-19: Urgent Help for India’s Forgotten Migrant Workers Must Follow Supreme Court Ruling, Say UN Experts, Geneva, OHCHR, 2020, available at: https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25926 (last visited 21 Jul. 2020).
Popular media extensively reported on the plight of migrant workers and the need for national legislation to ensure their legal protection.\(^\text{14}\) Yet their inability to return as a consequence of the lockdown warrants a deeper academic inquiry, especially on the legal status of migrant workers. The following sections speculate that, from the policy perspective at least, this group of internal migrants are, in fact, very much like IDPs. Had the Indian government recognised this conceptual similarity before the national lockdown, it could have opened up the potential to respond to the practical situation in which the internal migrants found themselves by drawing on approaches and strategy from the IDP field.

2.1. Indian government’s response to disaster displacement
India has one of the highest numbers of disaster displacements in the world.\(^\text{15}\) The Internal Displacement Monitoring Centre (IDMC) Global Report on Internal Displacement 2020 states that there were five million new disaster displacements in India in 2019.\(^\text{16}\) The major drivers of displacement in India are mainly natural hazards such as floods and tropical storms. Conflict and violence that are motivated by ethnic and communal clashes are also commonly prevalent.\(^\text{17}\) The DM Act and its administrative body, The National Disaster Management Authority (NDMA), prescribe the broad mandate for legal and policy responses of prevention, preparedness, and mitigation of disasters in India. Some of the main responses include strategies for disaster risk reduction, emergency preparedness and management, and more imminently, to provide relevant and timely information, relocation, and compensation to persons affected by disasters. The NDMA formulated a National Disaster Management Plan in 2019 (hereinafter, National Plan) that provides a plan of action for all stages of disaster management.\(^\text{18}\) With the help of the above, India has successfully managed displacements and rehabilitated people during Cyclones Amphan and Nisarga in 2020, Cyclones Fani and Vayu in 2019 among several others over the years. However, there is a crucial commonality in India’s efforts – that all of the disasters are natural disasters.

As will be seen in the following sections, COVID-19 presented a peculiar challenge to the Indian government. The disaster was certainly included within the NDMA’s ambit, but there was no protocol in place to deal with displacement, unlike the cyclones. Egregiously, the National Plan does not explicitly refer to internal displacement at all concerning any of the disasters in the DM Act. This brings one to

\(^\text{14}\) Among others, see T. Setalvad, “The Migrant’s Right to Vote: EC Must Ensure Optimal Conditions for Exercise of This Freedom”, The Indian Express, 18 Jul. 2020, available at: https://indianexpress.com/article/opinion/columns/election-comission-right-to-vote-migrant-workers-6511095/ (last visited 24 Jul. 2020); P. Karthik, “The Migrant Crisis Must Push for Structural Reforms”, The Observer Research Foundation, 1 Jul. 2020, available at: https://www.orfonline.org/expert-speak/migrant-labour-crisis-must-push-structural-reforms-68874/ (last visited 18 Jul. 2020).

\(^\text{15}\) Internal Displacement Monitoring Centre (IDMC), India: Country Information, IDMC, available at: https://www.internal-displacement.org/countries/india (last visited 24 Jul. 2020).

\(^\text{16}\) Available at: https://www.internal-displacement.org/global-report/grid2020/ (last visited 22 Jul. 2020).

\(^\text{17}\) Ibid.; Regional Overview: South Asia, available at: https://www.internal-displacement.org/global-report/grid2020/downloads/2020-IDMC-GRID-south-asia.pdf?v=1.17 (last visited 28 Jul. 2020).

\(^\text{18}\) National Disaster Management Authority, Government of India, National Plan 2019, available at: https://ndma.gov.in/images/policyplan/dmplan/ndmp-2019.pdf (last visited 25 Jul. 2020).
question how the Indian government relocated thousands of displaced people in the wake of cyclones, but never anticipated displacement from COVID-19. The essence of internal displacement is vaguely captured in mandating relief, evacuation, and rehabilitation of persons at risk in the DM Act and its National Plan. India’s long history with cyclones led to the gradual development of an uncodified understanding of internal displacement as part of natural disasters. With biological disasters like COVID-19, there existed no such precedence.

2.2. Stranded migrant workers as IDPs

Each year, millions of people voluntarily move to cities to secure their livelihoods. In the ordinary course of events, the legal status of the group being analysed is of migrant workers under Indian laws. Migrant workers are characterised by the voluntary motivation to migrate for work. For instance, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 recognises the group as migrant workers who are employed through a recruiter to do skilled, unskilled, technical, manual, supervisory, or clerical work and are under a contract of employment.19

On the contrary, many such migrant workers fled from the cities and were stranded in various parts of the country out of necessity during the COVID-19 lockdown. This was because their livelihoods were threatened by the lockdown measures on account of losing work or for not having sufficient income to sustain themselves. Reports documenting their experiences suggest that many such persons rushed back to their villages to secure their next meals and to have a roof over their heads.20 This was done despite pushbacks from the police authorities and extreme heat in the country. Walter Kalin’s analysis of the Guiding Principles reveals that the identification of IDPs is guided by the existence of involuntary or coerced movement within the boundaries of a country.21 Moreover, Kalin observes that internal displacement can also be construed when persons leave voluntarily to another part of the country, but cannot return to their homes because of events occurring during their absence that make their return impossible or unreasonable.22 While the Guiding Principles are not binding law, they reflect an international policy approach to conceptualise internal displacement as a policy concern. In the present case, the group of migrant workers seems to be coerced by economic deprivation as a consequence of the disaster. Furthermore, the lockdown measures present a situation that prevented the group from being able to go back to their homes to secure their well-being.

19 Government of India, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, available at: https://clc.gov.in/clc/acts-rules/inter-state-migrant-workmen (last visited 27 Aug. 2020).

20 Bhowmik, “They Treat Us Like Stray Dogs”; S. Joy, “Send Us Back Home”; Stranded Migrant Workers in Delhi”, Deccan Herald, 28 Mar. 2020, available at: https://www.deccanherald.com/national/send-us-back-home-stranded-migrant-workers-in-delhi-818656.html (last visited 3 Sep. 2020).

21 W. Kalin, “Guiding Principles on Internal Displacement: Annotations”, Studies in Transnational Legal Policy, 38, American Society of International Law and The Brookings Institution, 2008, 3, available at: https://www.brookings.edu/wp-content/uploads/2016/06/spring_guiding_principles.pdf (last visited 1 Sep. 2020).

22 Ibid. 4.
Despite this, the affected group of people continued to be straitjacketed into one identity by the government, media, and the local populations – migrant workers. This was mainly, and rightly so, because of the immediate attention to the intolerable economic conditions of the group that was threatened of their livelihood, and subsequently on the pressing need to reform labour laws to protect their livelihoods. However, this does not prevent the group from being treated as internally displaced as well. The Central Government remained oblivious to the possibility of the affected group of people assuming several legal identities “simultaneously or consecutively”. Vincent Chetail’s analysis of legal categories of refugees, smuggled migrants, and migrant workers reveals the rather porous and fluid nature of such categories, that a person may be a refugee and a migrant worker or smuggled migrant at the same time. Applying this analysis to the category of internal migrants, it can be concluded that although the group arrived in cities as migrant workers, they transitioned into a situation of internal displacement when they were unable to return to their homes after the lockdown was announced. Particularly, migrant workers became internally displaced in the process of reverse migration from cities to villages. It is therefore critical to identify and recognise the fluidity of their legal identities and not fixate on their rigid categorisation as only migrant workers. But can such stranded migrant workers be treated as IDPs? The following analysis addresses the situation in India but raises questions about the broader implications of using a similar approach in situations where people are unable to return to their homes because of disasters.

A question arises as to whether pandemics and consequent lockdown measures qualify as a driver of internal displacement. The article argues in the affirmative for the following reasons. First, the Guiding Principles provide a list of non-exhaustive root causes of internal displacement, including natural or human-made disasters. While the Guiding Principles do not define human-made disasters, they certainly include biological disasters from public health emergencies such as pandemics and epidemics. A similar categorisation of natural and man-made disasters exists under section 2(d) of the DM Act. As mentioned earlier, COVID-19 is considered as a biological disaster in India. The NDMA states that biological disasters are in the form of pandemics and epidemics and are either caused or conveyed by biological vectors such as the outbreak of epidemic diseases, plant, or animal contagion, insects.

23 The notion that “the same person may fit into several legal categories, either simultaneously or consecutively” is influenced by Professor Vincent Chetail’s ideas. See V. Chetail, International Migration Law, Oxford, Oxford University Press, 2019, 14, emphasis added.

24 Ibid. 277.

25 Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39. Addendum: Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add, 11 Feb. 1998, Annex, 5, para. 3.

26 W. Kalin, R. C. Williams, K. Koser & A. Solomon, “Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges”, Studies in Transnational Legal Policy, 41, American Society of International Law and The Brookings Institution, 2010, 76, available at: https://www.brookings.edu/wp-content/uploads/2016/06/0119_internal_displacement_complete.pdf (last visited 14 Sep. 2020).

27 The Disaster Management Act, 2005, Government of India, (entry into force: 23 Dec. 2005).
or animal plagues, and infestation. A similar definition for biological hazards commonly exist at the international level as provided in the United Nations International Strategy for Disaster Reduction (UNISDR), and the Sendai Framework for Disaster Risk Reduction (2015–2030). Therefore, pandemics represent a recognised driver of internal displacement.

Secondly, this line of analysis coheres with earlier studies that identified five trends emerging from health disasters that ought to be considered as integral to the management of disasters after the Ebola Virus Disease outbreak in 2014 in West Africa. They include internal displacement from fleeing the virus, fleeing quarantine, seeking healthcare, forced evictions and fleeing stigma, and fleeing violence and rights violations. In this regard, migrant workers suffered severe human rights violations, in particular, of the rights to adequate food and shelter during the lockdown period. The Stranded Workers Action Network’s (SWAN) survey of 11,159 migrant workers in April revealed an urgent hunger crisis in the group. It concluded that 50 per cent of the survey group did not have food rations to sustain themselves for more than 1 day. Seventy per cent of the survey group did not have food for more than 2 days. Furthermore, the stigma surrounding the group as possibly carrying the virus resulted in harsh discrimination against them. For instance, health officials sprayed disinfectant on a group of migrant workers in Bareilly, in the state of Uttar Pradesh. These events are contrary to the right to life guaranteed to every person under Article 21 of the Indian Constitution and are instrumental to their conceptualisation as internally displaced. The fact that stranded migrant workers in

---

28 NDMA website, available at: https://ndma.gov.in/en/2013-05-03-08-06-02/disaster/man-made-disaster/biological.html (last visited 2 Sep. 2020).
29 According to the UNISDR, “biological hazards are of organic origin or conveyed by biological vectors, including pathogenic microorganisms, toxins and bioactive substances. Examples are bacteria, viruses or parasites, as well as venomous wildlife and insects, poisonous plants, and mosquitoes carrying disease-causing agents”, available at: https://www.preventionweb.net/files/52828_05biologicalhazardsriskassessment.pdf (last visited 3 Sep. 2020).
30 The Sendai Framework for Disaster Risk Reduction considers biological hazards to include epidemics and pandemics, available at: https://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf (last visited 2 Sep. 2020).
31 Internal Displacement Monitoring Centre, Displaced by Disease: 5 Displacement Patterns Emerging from the Ebola Epidemic, Geneva, Nov. 2014, available at: https://www.internal-displacement.org/expert-opinion/displaced-by-disease-5-displacement-patterns-emerging-from-the-ebola-epidemic (last visited 17 Jul. 2020).
32 The Hindu Data Team, “96% Migrant Workers Did Not Get Rations from the Government, 90% Did Not Receive Wages During Lockdown: Survey”, The Hindu, 20 Apr. 2020, available at: https://www.thehindu.com/data/data-96-migrant-workers-did-not-get-rations-from-the-government-90-did-not-receive-wages-during-lockdown-survey/article31384413.ece (last visited 25 Jul. 2020).
33 Ibid. See also, H. Mander, “For India’s Migrant Workers, the Prospect of Life with Dignity Has Become More Remote”, Scroll, 5 May 2020, available at: https://scroll.in/article/961030/harsh-mander-for-indias-migrant-workers-the-prospect-of-life-with-dignity-has-become-more-remote (last visited 22 Jul. 2020).
34 Aljazeera, “Migrants in India Sprayed with Disinfectant to Fight Coronavirus”, Aljazeera, 30 Mar. 2020, available at: https://www.aljazeera.com/news/2020/03/migrants-india-sprayed-disinfectant-fight-corona-virus-200330135052425.html (last visited 24 Jul. 2020).
35 The Supreme Court of India in Petition (Civil) No. 196/2001, People’s Union for Civil Liberties v Union of India & Others established the right to food as part of the right to life in Art. 21 of the Indian Constitution. Art. 21 of the Indian Constitution reads, “No person shall be deprived of his life or personal
conditions of starvation were prevented from returning to their villages is also to be regarded as the group fleeing human rights violations, specifically of the rights to food, water, shelter, and livelihood in cities.

Based on the above analysis, there is a clear case for considering the group as being internally displaced. More importantly, doing so would have allowed for preventive measures that protected their basic human rights and ensured the safe relocation of the group rather than a deficient and reactionary government response. The recognition of these events as a situation of internal displacement would have provided a vital point of reference in the Guiding Principles to provide assistance and protection to the group. For instance, the Guiding Principles reaffirm the international law obligations, including the human rights obligations, of all relevant authorities. They also ensure that authorities explore all feasible alternatives to avoid or minimise displacement. Moreover, the authorities are to make proper accommodation and ensure satisfactory conditions of safety, nutrition, health, and hygiene, and that members of a family are not separated. The Guiding Principles also provide a normative framework of rights of IDPs, such as the right to seek safety in another part of the country, the right to be reunited with their families, the right to an adequate standard of living, safe access to food and potable water, shelter and housing, medical services, and sanitation.

In this manner, the Guiding Principles explain important international standards in protecting the group which is exactly amiss in the present situation. The reality transpired as the group being rendered homeless, in starvation and initially required to pay for their journeys back to their villages. Upon public outrage and directions by the Supreme Court of India, state governments and the Indian Railways collectively contributed to transport migrant workers to their homes by special trains. Moreover, the Central Government could have disbursed economic relief packages to the group much earlier and more efficiently under the Pradhan Mantri Garib Kalyan Yojana (PMGKY) and, in particular, the Garib Kalyan Rozgar Abhiyaan (GKRA) which was set up for the specific purpose of providing employment to the group of migrant workers. Additionally, state governments that were receiving internal migrants could have better managed their return. Many persons were stranded.

liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of the laws within the territory of India.”

Principle 5, Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, 11 Feb. 1998, 6, available at: https://www.refworld.org/docid/3c3da07f7.html (last visited 4 Sep. 2020).

Ibid., Principle 7(1), 7.

Ibid., Principle 7(2), 7.

Ibid., Principle 15, 10.

Ibid., Principle 17, 10.

Ibid., Principle 18 (1), 11.

Ibid., Principle 18 (2), 11.

Supreme Court of India, Suo motu writ petition (civil). No(s). 6/2020, available at: https://main.sci.gov.in/supremecourt/2020/11706/11706_2020_34_24_22239_Order_28-May-2020.pdf (last visited 14 Sep. 2020).

FE online, “PM Modi Garib Kalyan Package: Crores of People Get Food, Cash, Cylinders, and More Worth Rs 65k Crore”, Financial Express, 20 Jun. 2020, available at: https://www.financialexpress.com/economy/pm-modi-garib-kalyan-package-crores-of-people-get-food-cash-cylinders-and-more-worth-rs-65k-crore/1998028/ (last visited 3 Sep 2020).
at the borders as they feared being quarantined by state authorities. The following section explores the potential of the DM Act in offering a solution to groups such as the internal migrants.

2.3. The integration of internal displacement in the DM Act
The complacency of the Indian Government’s actions flows from the inadequacies of the DM Act. It also flows from the reticence of the Supreme Court of India in deliberating on the concept of internal displacement. To this date, barring the High Court of Delhi’s acknowledgment of the Guiding Principles in the case of Union of India & Ors. v Vijay Mam as supplementary to domestic laws, Indian courts have remained silent on internal displacement.46

In hindsight, the Indian experience with internal displacement from COVID-19 comes across as a muddled attempt to reconcile a novel driver of disaster to an archaic legal framework that does not acknowledge displacement as part of the disaster response. Any semblance of addressing internal displacement from disasters comes not from the law, but trial and error efforts of managing cyclones in India.

The non-incorporation of internal displacement in Indian laws and by India’s courts resulted in two legal fallacies: (i) the displacement from COVID-19 was erroneously conceived as voluntary migration, and the displaced group was construed to be migrant workers and not IDPs, and (ii) India invoked the DM Act to address the COVID-19 crisis and the subsequent impact on migrant workers. Months later, the NDMA set-up a National Migrant Information System (NMIS) and issued orders to state governments to facilitate the movement of migrant workers by trains.47 However, the DM Act does not make any reference to internal displacement, and any attempts to rehabilitate displaced migrant workers came as ad hoc measures of the NDMA.

Based on this assessment, the article recommends that changes be made to the National Disaster Management Plan, 2019 to integrate strategies for internal displacement as part of disaster management. The high frequency of disaster displacements in India does not warrant ad hoc measures from the NDMA but concerted legislative amendments under the DM Act. As it stands today, the DM Act is equipped to integrate internal displacement within its ambit. Strategies pursuant to mitigating internal displacement from disasters can be inserted into the National Disaster Management Plan, 2019, and future policies. For instance, one of the tasks of the state governments is to conduct Hazard Risk Vulnerability and Capacity Assessment (HRVCA).48 Under this, state governments are directed to regularly

45 G. Pandey, “Coronavirus in India: Migrants Running Away from Quarantine”, BBC, 14 Apr. 2020, available at: https://www.bbc.com/news/world-asia-india-52276606 (last visited 3 Sep. 2020).
46 High Court of Delhi at New Delhi, LPA No. 332, 2011.
47 Government of India, MHA D.O. Letter dated 16.05.20 about National Migrant Information System (NMIS), D.O.40-10/2020-DM-I(A), 16 May 2020, available at: https://ndma.gov.in/images/covid/MHA-DO-Lr-Dt-16.5.2020-to-CS-regarding-online-NMIS-Dashbord.pdf (last visited Jul. 25 2020); Government of India, MHA Guidelines dated 29.04.20 about movement of migrant labourers, students and pilgrims, No. 40-3/2020-DM-I(A), 29 Apr. 2020, available at: https://ndma.gov.in/images/covid/MHA-Order-Dt-29.4.2020-on-movement-of-migrant-workers-pilgrims.pdf (last visited 29 Jul. 2020).
48 National Disaster Management Authority, Government of India, National Plan 2019, 235.
identify vulnerable populations/communities/settlements and to identify particular
groups that may require special attention in the event of biological or public health
emergencies. By integrating the concept of internal displacement, it can be better
understood by state governments to also assess and take measures to prevent any
foreseeable or related displacements that may arise in the case of such disasters. Additionally, the National Plan already includes several international instruments
that are relevant to strengthen disaster management such as the Paris Agreement,
2016, the Sustainable Development Goals (SDGs), and the Sendai Framework for
Disaster Risk Reduction (2015–2030). Inclusion of the Guiding Principles will
strengthen the existing theoretical nexus between disasters and displacement in the
DM Act. Such measures provide a plan of action for the NDMA to address displacement in the future, whether they are in the nature of earthquakes, floods, tsunamis,
chemical, biological, or nuclear disasters.

3. CONCLUSIONS
The Indian example provides a crucial entryway to understanding the dynamic legal
status of stranded migrant workers. As seen above, the group can be simultaneously
considered as migrant workers, internal migrants, and in a situation of internal dis-
placement as stranded migrant workers. The article’s analysis of India reveals a criti-
cal interpretation of internal displacement as per the Guiding Principles – that stranded migrant workers are in a situation of internal displacement when they are unable
to return to their homes on account of a disaster. More so, the analysis of COVID-19 as
a biological disaster/hazard advances the discussion for studying patterns of internal
displacement from novel trends of disasters. Therefore, the article’s insights pave
way for protecting groups such as the migrant workers in India like IDPs. It is im-
portant to note similar internal displacements because of the COVID-19 outbreak
among migrant workers in Latin American countries and China, for instance, in add-
ition to a focus only on the social and economic protections against layoffs to the
group.

The article’s analysis of incorporating internal displacement within the DM Act
has far-reaching consequences on the domestic legal frameworks of most other coun-
tries as well. Over 140 countries have disaster management authorities in place. These authorities exist as disaster management authorities as in Anguilla, British
Virgin Islands, Pakistan, Australia, Fiji, Sri Lanka; as hazard management bodies in
the Cayman Islands and Switzerland; as civil defence or protection authorities in
Germany, Greece, China, and the UK; and in the security departments of govern-
ments of Maldives, Sierra Leone, and Northern Marina Islands. A few countries al-
ready include internal displacement in their national policies. For instance, the
National Disaster Management Policy of the Republic of Liberia accounts for the

---

49 Ibid. 5.
50 International Labour Organisation (ILO), Social Protections for Migrant Workers: A Necessary Response to
the COVID-19 Crisis, ILO briefs, 23 Jun. 2020, available at: https://www.ilo.org/wcmsp5/groups/public/
ed_protect/—soc_sec/documents/publication/wcms_748979.pdf (last visited 4 Sep. 2020).
51 Reliefweb, National Disaster Management Authorities.
adverse impacts of displacement of people in consequence of disasters.\textsuperscript{52} Likewise, the National Plan for Disaster Management (2016–2020) of Bangladesh prioritises IDPs in the planning of temporary relocation measures and the provision of relief supplies and in maintaining a database for displacements arising from disasters.\textsuperscript{53} By virtue of the expansive potential of disaster management laws and policies to feasibly integrate internal displacement world over, the article strongly urges the international community to additionally consider this recommendation of integrating internal displacement in the disaster management laws of countries at large.

\textsuperscript{52} Republic of Liberia, \textit{National Disaster Management Policy}, Oct. 2012, available at: http://www.mia.gov.lr/doc/Web\%20National\%20Disaster\%20Risk\%20Management\%20Policy-clean-12102012.pdf (last visited 26 Jul. 2020).

\textsuperscript{53} Government of the People’s Republic of Bangladesh, Ministry of Disaster Management Relief, \textit{National Plan for Disaster Management} (2016-2020), 27 Mar. 2017, available at: https://modmr.portal.gov.bd/sites/default/files/files/modmr.portal.gov.bd/policies/0a654dce_9456_46ad_b5c4_15ddf8c4c0d/NPDM(2016-2020)%20-Final.pdf (last visited 25 Jul. 2020).