

Bill No. 160 of 2022

THE CLIMATE MIGRANTS (PROTECTION AND
REHABILITATION) BILL, 2022

By

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BILL

*to establish an appropriate policy framework for the protection and rehabilitation of
internally displaced climate migrants and for all matters connected therewith
and incidental thereto.*

WHEREAS the Constitution requires all persons to be treated in a fair and just manner consistent with the guarantees of equality, fairness and due process of law;

AND WHEREAS, climate change has been argued to be a critical factor accelerating all other drivers of forced displacement;

AND WHEREAS there is a need to assess and acknowledge the role of climate change in internal migration;

AND WHEREAS there is a need to ensure welfare of persons displaced in the context of disasters and climate change;

AND WHEREAS the Union of India is signatory to the UN Guiding Principles on Internal Migration (1998) which lists principles related to protection from displacement and during displacement, humanitarian assistance, return, resettlement and reintegration;

AND WHEREAS there is a need to consolidate, streamline and harmonize the varied practices, policies and standards applicable to climate migrants in India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title, extent and commencement.	<p>1. (1) This Act may be called the Climate Migrants (Protection and Rehabilitation) Act, 2022.</p> <p>(2) This extends to the whole of India.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p>	5
Definitions.	<p>2. In this Act, unless the context otherwise requires:—</p> <p>(a) "Authority" refers to the National Climate Migration Authority established under clause 4;</p> <p>(b) "climate induced factors" refers to climate extremes, natural disasters and extensive risks associated with climate change including extreme and erratic fluctuations of the natural flow in downstream of rivers;</p> <p>(c) "climate migrants" means a person, group of persons, households or entire community who have been permanently or temporarily,—</p> <p>(i) forcibly displaced due to climate induced factor; or</p> <p>(ii) evacuated by government on account of untenable and risk prone habitats; or</p> <p>(iii) who migrate voluntarily due to worsened living conditions and livelihood opportunities on account of climate events, slow onset or quick onset, from their area of habitual residence as a result of disasters or stress caused by climate induced factors or slow-onset climatic processes;</p> <p>(d) "climate migration" includes processes of displacement, migration and planned relocation;</p> <p>(e) "Fund" refers to the Climate Migration Fund set up for the climate migrants under section 6;</p> <p>(f) "slow onset climate change events" includes but not limited to increased aridity and recurrent droughts of varying degrees, desertification, sea-level rise, glacial melt, coastal and riverine erosion, extreme and erratic fluctuations in rainfall patterns and waterflows;</p> <p>(g) "migration" refers to internal migration wherein persons move under the responsibility of their own state, without crossing borders and are not seeking protection from a third country or at the international level;</p> <p>(h) "natural disasters" refers to flood, drought, cyclone, landslide, avalanche, erosion (coastal and riverine), earthquakes; and</p> <p>(i) "prescribed" means prescribed by rules made under this Act.</p>	10 15 20 25
National policy for Climate Migration.	<p>3. The Central Government shall, as soon as may be but within one year of the commencement of this Act and in consultation with the Governments of the States, formulate, a National Policy for addressing climate-induced migration for the welfare of the climate migrants in terms of protection, relief and rehabilitation, uniformly throughout the country.</p>	35
Establishment of the National Climate Migration Authority.	<p>4. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish an authority to be called the National Climate Migration Authority for carrying out the purposes of this Act.</p>	40

(2) The Authority shall be inter-ministerial agency consisting of representatives of members concerning various departments of the Central Government including but not limited to Ministry of Forest, Environment and Climate Change, Ministry of Home Affairs, Ministry of Labour and Employment, Ministry of Rural Development, Ministry of Women and Child Development, Ministry of Agriculture, Ministry of Law and Justice, Ministry of Jal Shakti and Ministry of Housing and Urban Affairs to be appointed by the Central Government in such manner as may be prescribed.

(3) The State Governments shall establish inter-departmental Climate Migration Authorities at the state level across India to provide for the seamless protection and rehabilitation of climate migrants.

(4) The State Governments shall establish sub-district level Migration Facilitation Centres to identify, document and monitor all in-bound and out-bound climate migration to and from the respective areas.

(5) Each State Authority will be tasked to prepare action plans, lay down guidelines for lower authorities and other government departments, coordinate the enforcement and implementation of the plans, recommend provision of funds for its activities, including prevention, mitigation and rehabilitation of climate migrants as may be prescribed.

5. (1) It shall be the duty of the Authority to promote and undertake by such measures as it thinks fit or deem necessary, prevention, preparedness, adaptation and mitigation measures with regard to climate migration.

Functions of the Authority.

(2) Without prejudice to the generality of the provisions of sub-section (1) the measures referred to therein may provide for,—

(A) monitoring and assessing risk of climate migration including:—

(a) continued monitoring and assessment of risk at the community and agency level to inform preventive and containment steps and mitigate harm to the habitat and communities including conducting community risk assessments periodically in climate migration hotspots in order to analyse and evaluate risk, vulnerability and priorities of the community concerned, advance planning and mitigation;

(b) incorporating and strengthening existing systems including strengthening forecasting mechanisms by investing in technology and research to simulate the effects of different climate events on different areas and communities and identify climate migration hotspots.

(c) National Disaster Management Authority and other government agencies to monitor slow onset events including but not limited to rising temperatures, desertification, depletion of groundwater table, loss of bio-diversity, land and forest degradation, glacial retreat, sea-level rise and coastal erosion, ocean acidification, salinization of land and groundwater, and changes in river flow patterns;

(d) incorporating advance early warning systems, standard operating procedures and operational frameworks prepared by the Disaster Management Authorities for holistic approach to dealing with displacement due to sudden events including but not limited to cyclones, landslides, floods, earthquakes, volcanic eruptions and forest fires.

(B) prevention and mitigation of climate migration including,—

(a) using MGNREGS and other public works programs to strengthen infrastructure development in the said hotspots in order to prevent or reduce the speed of onset of climate change events;

(b) incorporating adaptive measures related to agriculture, land and water use techniques and livelihood diversification options among residents of said hotspots in order to prevent or reduce the speed of onset of climate change events;

(c) promoting shift to organic agriculture, water absorption measures and shift to less water intensive crops and rain water harvesting;

(d) risk reduction in the form of state sponsored crop and cattle insurance and other similar social protection schemes to be made available to those living in the said hotspots;

(e) investment in sustainable infrastructure and preparation of inclusive policies towards making cities more resilient to climate change in order to sustain the large influx of migrant population. 5

(f) investment in temporary shelters through MGNREGS, other public works programmes and other funds as allocated in order to provide safe, accessible and sustainable shelter to climate migrants in case of sudden events.

(g) preparation of contingency plans for communities residing in areas which cannot be adapted to in the foreseeable future due to existing changes in climate such as riverine areas, low lying coastal areas and others, to be built only after rigorous consultation and complete involvement of the to-be displaced community. 10

(h) ensuring that resettlement areas for climate migrants are not in migration hotspots and that resettlement plans should not disrupt the ecological balance and social harmony of the pre-existing host community. 15

(C) relief and compensation for climate migrants including:—

(a) providing climate migrants with temporary shelter arrangements maintaining basic living standards, security and sanitary provisions including potable water, and sufficient and hygienic toilet facilities; 20

(b) providing climate migrants in temporary shelters with sufficient nutrition including cooked food, dry ration and cooking fuels as per the capacity and infrastructure of the said shelters;

(c) equipping temporary shelters with primary healthcare facilities and supply of essential medicines, to be accessed by all residents of the temporary shelter without any discrimination and absolutely free of any charges, and facilitating transfer of individuals requiring additional medical facilities to the nearest public hospital capable of providing required care at the earliest; 25

(d) ensuring temporary shelters basic safety, security and privacy provisions for women and children, including but not limited to presence and accessibility of female response personnel at all times, sufficient communication infrastructure, and frameworks to address complaints related to gender based violence in said shelters as per existing laws; 30

(e) arranging mental health support at said temporary shelter including but not limited to psychological counselling and access to trained medical professional and social worker, on account of psychological stress that is likely in the aftermath of a climatic event; 35

(f) effective monitoring and vigilance in coordination with district authorities, labour departments and local police to prevent cases of debt bondage, forced labour and child labour among displaced migrants; 40

(g) providing temporary certificates to climate migrants for identification and continued registration with the existing social protection delivery systems;

(h) providing adequate loss and damage in lieu of damages caused and losses incurred due to the onset of the climatic event including but limited to direct cash transfers, land grants and housing support; 45

(D) resettlement, rehabilitation and re-integration of climate migrants including,—

(a) registration of climate migrants with special focus on those who have lost valid government issued identification certificates in order to ensure seamless delivery of social protection schemes and until such process is complete, temporary certificates to be provided during relief operations to act as sufficient document for accessing welfare schemes including but not limited to Mahatma Gandhi National Rural Employment 50

Guarantee Scheme, Public Distribution System, childcare, pension, cash transfers and other social protection schemes.

- 5 (b) facilitating return of climate migrants to the affected area if it is found to be fit and sustainable for their long-term habitation, the assessment of which area to be done in consultation with and active participation of the community.
- (c) working out of resettlement plan in case the area is be unfit for sustainable settlement as part of the aforementioned process, the said plan shall be made only after rigorous consultation and complete involvement of the displaced community and should not disrupt the ecological balance and social harmony of the pre-existing host community.
- 10 (d) providing alternative to climate migrants who depended on land, forest, water commons or other natural commons including but not limited to pastoralists, peasants, fishing community and tribal communities through means including but not limited to land grants, aid in the form of livestock, access to waterbodies, forests and other natural commons.
- 15 (e) extending re-skilling opportunities and livelihood diversification support to all climate migrants as well as proactive linkage of said migrants with existing government policies for livelihood diversification, skill development and employment;
- (f) providing for climate migrants to avail employment guarantee under Mahatma Gandhi National Rural Employment Guarantee Act as a means for income generation as well as an effective investment in the re-development of affected areas or new development in resettlement areas;
- (g) facilitating enrolment of climate migrants of school going age in available public schools in resettlement areas at any time of the year, including access to remedial classes to address any learning gap that may emerge due to the migration process;
- 25 (h) facilitating rehabilitation of children who lose their parents due to climate disasters and/or in the climate migration process, as per existing laws and policies; and
- (i) coordination with local authorities to facilitate registration of resettled climate migrants to the area's electoral rolls in order to guarantee their civil and political rights.

30 **6. The Central Government shall as soon as may be, by notification in the Official Gazette, establish a fund to be known as the Climate Migration Fund for the purposes of this Act with initial corpus of rupees one thousand crore to be provided by the Central Government by due appropriation made by law by Parliament in this behalf and thereafter the Central Government, State Governments and employers shall contribute to the Fund to such extent and in such manner as may be prescribed.**

Climate Migration Fund.

35 **7.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Savings.

40 **8.** If any difficulty arises in giving effect to the provision of this Act, the Central Government may by a notified order, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

Power to remove Difficulties.

Provided that no such order shall be issued after the expiry of three years from the date of commencement of this Act.

45 **9. (1)** The Central Government, in consultation with the State Governments, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

50 (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

As per the Internal Displacement Monitoring Centre, 38.5 lakh people were internally displaced in India due to disasters, as a result of a combination of increasing hazard intensity, high population exposure and high levels of social and economic vulnerability. The 2020 report of Action Aid and Climate Action Network stated that India had a total of 1.4 crore persons internally displaced due to climatic and environmental disruptions and projects that more than 4.5 crore people will be forced to migrate from their homes by 2050.

Current national legislations and policies primarily address the short-term and sudden onset climatic disasters. However, slow-onset climate change events such as increased aridity and recurrent droughts of varying degrees, desertification, sea-level rise, glacial melt, riverine erosion and losses caused by the same, are largely not incorporated and therefore communities suffering the impact, are not within the ambit of protection and rehabilitation. Much of the focus is on relief at the disaster site and addressing immediate issues of communities affected; their rehabilitation or support at destinations are concerns that remain unaddressed. As a result, economic and social precarities of such communities amplify several fold.

With rising climatic and ecological stress on habitats, and a projected increase of climate induced migration in the next decades, the need is to develop a comprehensive nationally integrated approach to develop with a view to address the causes, remedy effects and protect communities impacted.

Hence this Bill.

NEW DELHI;
7 July, 2022.

PRADYUT BORDOLOI

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the Climate Migration Authority. Clause 6 of the Bill provides for the Climate Migration Fund. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. Apart from one thousand crore rupees of initial corpus of the welfare fund, it is estimated that a sum of rupees three thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure of rupees one hundred crore may also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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