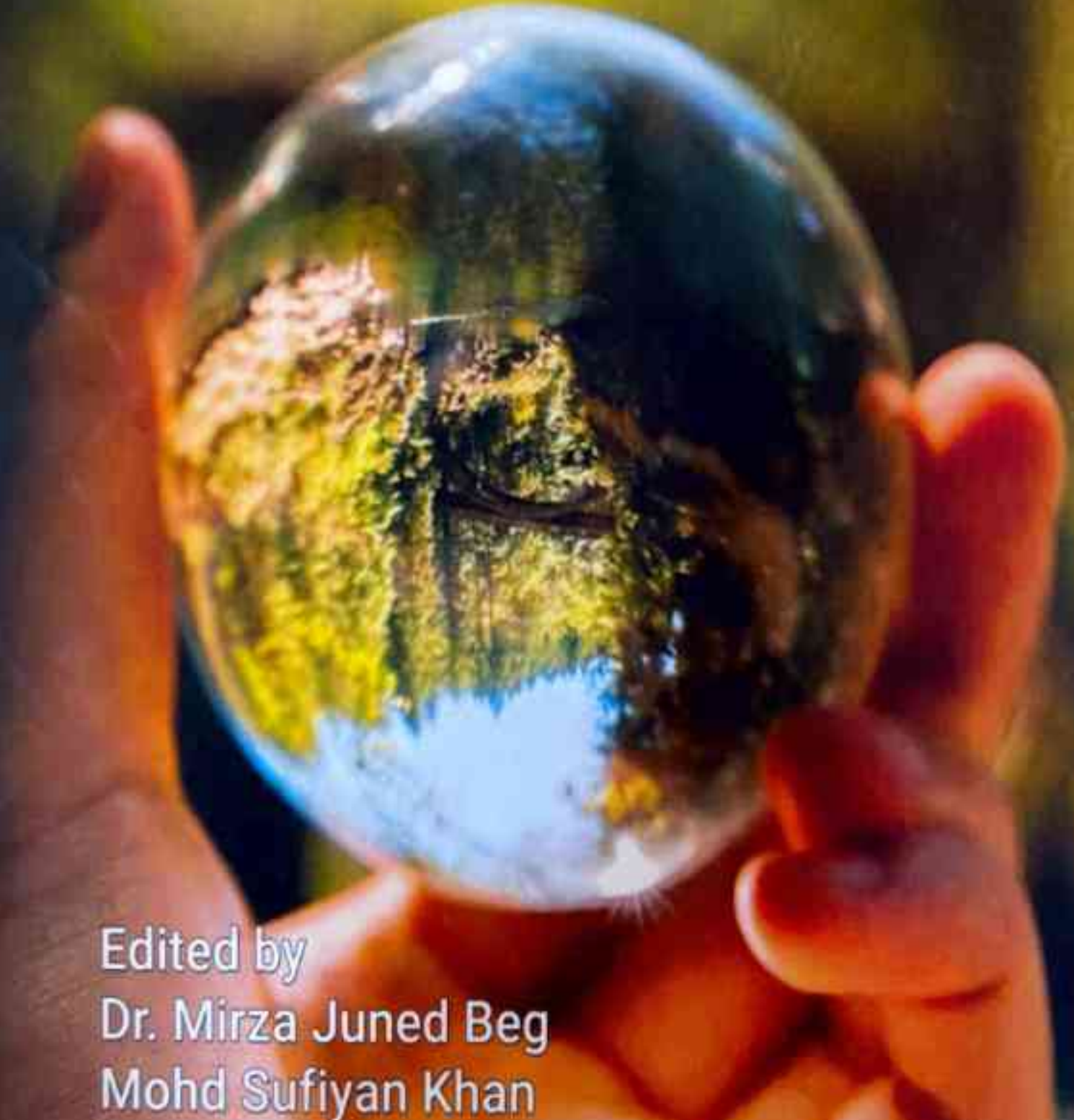


Environmental Norms and Sustainable Development Responsibility & Governance

**Foreword by Prof. (Dr) Manoj Kumar Sinha
Director, Indian Law Institute**



**Edited by
Dr. Mirza Juned Beg
Mohd Sufiyan Khan**

PUBLISHER:



SDR INNOWAYS INDIA PVT. LTD.

667, Rajaward, Kulpahar/Bhopal/Delhi



Imprint:

KAVYA PUBLICATIONS

Abhinav R.H.4, Awadhपुरi, Bhopal-462002, M.P.

Centre

2097/22, Balaji Market, Chah Indara

Bhagirath Place, Delhi-110006

Mob. : 7905266820, 9918801353

Website: www.kavyapublications.com

E-Mail: editor@kavyapublications.com

ISBN : 978-93-91722-83-8

Price : 999/-

Year : 2022

Copyright© Dr. Mirza Juned Beg & Mohd Sufiyan Khan
This book is printed at MTL and published by author Ajay
Agrawal, CEO of SDR Innoways India Pvt. Ltd. Kulpahar
Mahoba with its imprint and centre, Kavya Publications
Delhi.

All rights Reserved.

No part of this publication may be reproduced, transmitted
or stored in a retrieval system, in any form or by any means,
electronic, mechanical, photocopying recording or
otherwise, without the prior permission of the publisher

INDEX

1. Impact of Climate Change on Human Rights: A Legal Perspectives 9
-Prof. (Dr.) Iqbal-Ali Khan
2. Implications of Water Rights in Indian Legal System 21
-Dr. Sandhya Verma & Dr. Anjum Parvez
3. Modernity and its Impact on Indigenous People: Failed Promises of Forest Rights act, 2006 28
-Dr. Sachin Sharma
4. Disaster Dislocation and Weaker Section of Civilization: A Human Rights Standpoint 40
-Dr Seema Siddiqui and Aijaz Hussain
5. Constitutional Concern for Biodiversity 51
-Amrita Mishra
6. Religious Beliefs and Practices Fostering Environmental Consciousness in India 58
-Dr. Shikha Uniyal Gairola and Dr. Khaleeq Ahmad
7. Environmental Protection and Carbon Neutrality in Special Reference to India 66
-Dr Sushim Shukla, Amit Kumar Shukla Akshaya Kishor
8. Human Rights or Environmental Rights: A Comparative Perspective on Eliminating the Dichotomy 78
-Abhijit B
9. Problem of Noise Pollution in India 89
-Mr. Surya Saxena and Ms. Surbhi Goyal
10. Significance of Granting IPR to Green Technology in Conserving and Promoting Green Covers 101
-Dr. Hina Kausar and Nikhil B M
11. Environment Impact Assessment: A Historical & Critical Analysis 110
-Puneet Sharma, Shrestha Kabra and Shivam Mehta

CHAPTER - 4

DISASTER DISLOCATION AND WEAKER SECTION OF CIVILIZATION: A HUMAN RIGHTS STANDPOINT

-Dr Seema Siddiqui⁷⁷ & Aijaz Hussain⁷⁸

Introduction

"The rights of every man are diminished when the rights of one man are threatened."

-John F. Kennedy

Climate change is the major crisis of contemporary world and disaster displacement one of its most disturbing concerns. Entire populations are already suffering the impacts, but vulnerable people living in some of the most fragile and conflict-affected countries are often disproportionately affected. Each year globally millions of people are forced to leave their native places due to droughts, hurricane, floods, melting glaciers, earthquakes and other natural hazards. Several find shelter within their own nation, but some have to move another nation. While some refuge is well documented but the total figure is unidentified. Contemporary international law does not offer a right to admission and stay for those escaping to abroad. Experts warn that changing pattern of weather is likely to upsurge displacement in the upcoming years, both internally and across borders. Displacement has shocking impacts on people and societies. Disaster displacement creates complex humanitarian and development challenges that immediately call for partnerships and action.

⁷⁷ Assistant Professor of Law, Lucknow.

⁷⁸ Assistant Professor of Law, Shia PG College, Lucknow.

People displaced due to natural disaster often lose family members, endure family separation; lose their possessions, and experience trauma and depression. They need similar protection and assistance. They lose important documents which limits their access to public services. They lose property and it may take years (if ever) before they receive compensation for their loss. At the time of natural disaster the vulnerable groups suffer more. Sexual abuse and rape of women is often a tool of disaster displacement while gender-based violence is unfortunately common among women displaced by both natural disasters. Children displaced natural disasters are often more susceptible to recruitment by armed forces. Vulnerable groups also frequently experience discrimination in the provision of assistance.

In recent years, disaster displacement has been reported in Indian-controlled Kashmir and other parts of the nation, but figures are hard to come by due to access constraints and lack of reporting. In 2020 more than 1,800 people were forced to shelter in camps in Delhi. According to Internal Displacement Monitoring Centre, 2020, India has one of the highest numbers of disaster displacements in the world.

As reported that on 11th May, 2020, no concentrated outbreak had been reported in refugee and internally displaced camps and settlements, the risk of transmission of COVID-19 could be heightened in situations of fragility, high population density and refugees living in camps. According to UNHCR IN 2020 out of 215 countries, areas and territories globally affected by COVID-19, 134 refugee hosting countries are reporting local transmissions.

The need for protection and conservation of the environment and for sustainable use of natural resources is reflected in the constitutional framework of India and also in the international commitments of India. A piece of legislation which deals with rehabilitation in case of climate events is the Disaster Management Act, 2005. India is not party to the 1951 Refugee Convention or its 1967 Protocol and does not have a national refugee protection framework.

The authors in this paper deals with the issues and challenges relating to vulnerable groups and disaster displacement, Constitutional and legal framework, International Human rights Law, role of International Institutions and various concern agencies and what are the policies and guidelines for their protection and rehabilitation.

Meaning, Definition and Key Concepts of Climate Refugees

In 1970s the word 'environmental refugee' was first used but it arrived to governmental discourse in the year 1985.⁷⁹ The selection of the term 'refugee' is very controversial.⁸⁰ However, it may offer a valuable descriptor; it does not exactly reflect in legal terms the status of those who move.⁸¹ **Prof. Lester Brown**⁸² was coined the term "environmental refugees" that indicating people who are forced to leave their home because of changing pattern of environment and climate around them, conceding their well-being and livelihood.

Climate refugees are people who leave their native place (home) due to environment dilapidation and changing weather patterns. Therefore, Climate Refugees are defined as people who have been forcibly evacuated as a result of environmental disasters triggered by climate change. According to **Article 1 of the Refugee Convention, 1951** the 'Refugee' is a legal term which has a very explicit connotation which focusing on a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion."

⁷⁹ A. Suhrke and A. Visentin, 'The Environmental Refugee: A New Approach' 12:1 *Canada's Periodical on Refugees* 73 (1991).

⁸⁰ Interestingly, the Australian Labor Party uses the term 'climate change refugees', implying a sense of legal recognition and obligation: *Our Drowning Neighbours: Labor's Policy Discussion Paper on Climate Change in the Pacific* (ALP, 2006).

⁸¹ See D. Keane, 'The Environmental Causes and Consequences of Migration: A Search for the Meaning of "Environmental Refugees"' 16 *Georgetown International Environmental Law Review* 109 (2004).

⁸² Lester R. Brown, *Twenty-Two Dimensions of the Population Problem* 102 (Worldwatch Institute, 1976).

According to **1951 Convention**, people leaving their countries for reasons related to climate change may not be measured refugees because this Convention does not recognize the climate stressors as a hounding agent. Thus, even if somebody is defined as a “climate refugee” it does not mean they would legally be in the same position as other refugees.

The Academic Researcher Docherty⁸³ proposed a definition of ‘climate refugees’ which is certainly useful in defining the circumstances of ‘climate refugees’, comprised of the subsequent parts i.e. forced migration, temporary or permanent relocation, movement across the borders, disruption according to global climate change, sudden or gradual environmental disruption, and a quite likely standard for human contribution to the disruption.⁸⁴

The International Organization for Migration (IOM) defines ‘environmental migrants’ as:

*“persons or groups of persons who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad.”*⁸⁵

Individuals who displaced by climate change defined as “persons or groups of persons who, for compelling reasons of sudden or progressive changes in the environment as a result of climate change that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either

⁸³ Docherty et al. (2009)

⁸⁴ Olivia Long, “Climate Refugee: A Global Crisis”, available at: <https://helprefugees.org/news/the-plight-and-rise-of-climate-refugees/>, (accessed on 28th August, 2021).

⁸⁵ International Organization for Migration, ‘Discussion Note: Migration and the Environment’, 94th session, Doc. No. MC/INF/288 (1 November 2007), para 6. For other definitions, see egs listed in Renaud and others, ‘Control, Adapt or Flee’, 13.