Hello,

Greetings!

We like to jointly submit our points in response to call for input “Promotion and protection of human rights in the context of mitigation, adaptation, and financial actions to address climate change, with particular emphasis on loss and damage” issues by Special Rapporteur on the promotion and protection of human rights in the context of climate change.

**About us**

**Paryavaran Mitra** is a Ahmedabad based organization working on socio-environmental issues since 1997 to advocate for human rights in the face of growing environmental degradation and pollution. We are working extensively for increasing public participation in the environmental decision-making process in the state of Gujarat.

**Institute of Law, Nirma University**is one of the best law colleges in India with an aim to add international dimensions in legal education, , Nirma University offers a conducive environment for legal experts of tomorrow. Embracing the principles of Artificial Intelligence and professional legal excellence Nirma University imparts top-notch education and has produced next-gen lawyers, leaders, and policymakers over the years.

**Our submission is attached herewith.**

Thanking you,

Madhuri Parikh Mahesh Pandya

Director and Dean (I/C) Director

Institute of Law, Nirma University ParyavaranMitra

**Submissions from** [**Institute of Law, Nirma University**](https://law.nirmauni.ac.in/) **and** [**ParyavaranMitra**](http://paryavaranmitra.org.in/)

**Q. What legislation, policies and practices do you think are necessary to provide redress for particularly individuals and communities in vulnerable situations that have suffered and will continue to suffer loss and damage due to the adverse impacts of climate change?**

Any solution aimed at addressing this challenge within India, has to solve a few fundamental questions such as how can policymakers integrate principles of resilience with its economic development? How does the government ensure that mega-cities are less vulnerable to the effects of mass urbanization? What is India’s long-term plan to finance rehabilitation and reconstruction efforts in the event of climate-induced disasters?

To tackle with the issue of inter-state climate migration, the climate change needs to be addressed properly by the climate mitigation and adaptation policies. International, national, state city and community-wide organizations have to invest in climate changeadaptation and mitigation strategies in order to reduce displacements caused by more frequent disasters like floods, droughts, desertification etc. reducing the carbon emissions either by taxing them or by a mechanism like CDM would be helpful here. For instance, the **2015 Paris Climate Accord** highlighted this issue and has laid down country specific pledges to reduce emissions and curb further temperature rise, which implicitly would be able to tackle the problems of climate refugees by reducing the displacements as a result of more stable weather patterns.

For example- The Norwegian Refugee Council, a prominent humanitarian organization in Norway that works on global refugee issues, had suggested setting up of an international environmental migration fund bankrolled by industrialized nations. The idea of a UN pact to compensate victims of climate change is another suggestion. On these grounds, the issue of climate migration in India must be addressed by creating a separate fund for the victims to cope with the scarcity of resources.[[1]](#footnote-2)

The Urban Adaptation findings are more required for establishing the policy framework of climate migrants. There are number of indicators which can be used for accessing the rate of climate migrants and how one can use such economic indicators for policy framework viz. the expected job availability, percentage of labour under formal contracts, percentage of migrants who have saving schemes, public service accessibility indicators such as utilization of public services, availability of low-income housing, demand for water supply, among others. There may be more policy framework with respect to the social factors and its inclusions for example: the percentage of migrants who are fluent in local language, local residents’ attitude towards the migrants.[[2]](#footnote-3)

Persons residing in the areas which are prone to climate change related events should be given special training to deal with the disaster management. The Disaster Management Act, 2005 under Section 23 of the Act empowers the State to prepare a plan for dealing with the disaster and capacity building. It is the need of the hour that the areas which have the tendency to be affected by the climate change related events should be given special treatment and the special plan is required to be prepared for the same. These areas should also have compulsory emergency preparedness drills on frequent occasions and communication methods. Further, mechanisms relating to fast extraction of the human and life stocks should be prepared in case of disaster. In addition, a locality which is nearest but unaffected from the impact of disaster should be identified well in advance and the same should be used as temporary shelter along with the reservoir of potable water, food items and other essential needs should be maintained in that identified place.

As the climate change has led to the change in the weather patterns, there have been recurrence of drought and floods. It is the need of the hour that the agriculturist of the region should be given a crop insurance at a nominal fee or at the cost of the State Government. A proper legislation must be enacted which provides for the powers to competent authority relating to the identification of the regions which are drought or flood prone and apply the insurance scheme to these areas.

In addition, the MGNREGA, should provide for the additional days of work to the affected individuals, provisions should be made in the MGNREGA that the areas or persons affected by climate change related causes, should be given additional days of work under the MGNREGA scheme

One of the most preferred and economical method of the adaptation to climate change is from individual perspective is migration from the affected place. However, in many cases the women and children are left behind to deal with the problems and only the male migrates. In such situation, it is needed that the State/ District administration should come up with special schemes and policies which can ensure social security of the women, children and old age persons. The scheme should provide for the ensuring basic health care, basic needs and education in the primary and secondary classes.

Climate change resilient infrastructure is the need of the hour, the State should prepare a plan to identify the localities and the possible events which may adversely affect the specific area. Accordingly, the climate change resilient infrastructure should be created. The electricity supply, modes of communication, roads, bridges, transports and other infrastructural facilities in these areas are required to be certified to be climate resilient. Therefore, the State should come up with the laws and policies which mandates that the terms of the contract shall mandatorily contain the clause relating to the same. In case fault is found then the person liable for the deficiency should be made liable.

In case the area contains specific and rare biodiversity of flora, fauna or organisms, in such cases, it should be ensured that the sample species of such flora, fauna and organisms should be collected and saved at a safer place to ensure that the biodiversity is not reduced. Therefore, it is needed in these areas survey of biodiversity should be undertaken on priority basis and the conclusions should be communicated to the competent authorities to deal with the matter.

**5. What international, regional and national policies and legal approaches are necessary to protect current and future generations and achieve intergenerational justice for particularly for individuals and communities, from the adverse impacts of climate change?**

The lack of structures to encourage long-term thinking is a systemic risk to intergenerational justice. Therefore, governments seeking to foster intergenerational justice must acknowledge that any decision taken in the present profoundly affects the ability of youth and future generation to enjoy the same opportunities as their parents and ancestors. The intergenerational justice involves multiple factors such as: political leadership, strategic vision, accountability and oversight institutions, anticipative and adaptive tools and age diversity in public life and decision making. Each of the constitution must adapt a regional measure necessary to inculcate national policies. These provisions respect the national integration and adaptation of policies for present and future generation. For example- The Belgium constitution clearly says- In the exercise of their respective competences, the Federal State, the Communities and the Regions pursue the objectives of sustainable development in its social, economic and environmental aspects, considering the solidarity between the generations.[[3]](#footnote-4) The Hungarian constitution says- The management and protection of national assets shall aim at serving public interest, meeting common needs and preserving natural resources, as well as at taking into account the needs of future generations.[[4]](#footnote-5)

To mitigate the adverse effect of climate change, it is important to know the local and the vulnerable group involved in the climate impact. The various ways are Targeting based on climate change impacts, Categorical targeting such as by gender, age, income, education, ability, ethnicity and social caste, Geographical targeting, etc. Many countries seems to be having promote local adaptation actions. For example- Nepal, Nepal[[5]](#footnote-6) put in place a climate change policy in 2011. The policy carries a strategic objective to ensure the participation of poor people, marginalized people, indigenous communities, women, children and youth in the implementation of climate adaptation and climate change-related programmes. It also includes a goal of allocating at least 80 percent of the total budget from the National Climate Change Fund directly to programme implementation at the community level. Through this, many ameliorations and improvisations were done, for instance Rehabilitation and improvement of irrigation canals and facilities, Construction of water tanks to store clean drinking water and construction of community pond, among others.[[6]](#footnote-7)

One of the recognised issues is that the future costs are not expected to be shared equally & evenly by the Countries[[7]](#footnote-8). This is the reason that equitable approach is required towards seeking to mitigate the climate change. Simultaneously, this approach should target to reduce the existing deep inequities & injustices. Recognising this very approach, United Nations Framework Convention on Climate Change adopted the principle of ‘common but differentiated responsibilities’. This created a divide between the developed & the developing countries & emphasised who created the most problem should bear the most burden. However, a systematic approach of global burden sharing has not been yet developed. Hence, now action needs to be taken up following this principle. The action also needs to be strong & fast enough. A divide can also be created between the affluent & poor. As it has been argued that affluent people lead the most high-carbon lifestyle[[8]](#footnote-9). Another global approach that can be adopted is by moving beyond the Gross Domestic Product (GDP) as an indicator for the success of economy. For instance, Bhutan has adopted the Gross National Happiness (GNH). It takes into consideration sustainable approach by measuring the success of the Nation on the parameters of social, economic & environment[[9]](#footnote-10).

1. Climate refugees/migrants in India: A need for policy [↑](#footnote-ref-2)
2. KaubinWosti, Lara Rubinyi et al, *Climate Migrants and Urban Adaptation in India and China*, Prepared for University of Notre Dame Global Adaptation Index (ND-GAIN), Workshop in International Public Affairs Spring 2016, p.27-28. [↑](#footnote-ref-3)
3. Article 7bis, Belgium Constitution. [↑](#footnote-ref-4)
4. Article 38. [↑](#footnote-ref-5)
5. Peniston, B. (2013). A Review of Nepal’s Local Adaptation Plans of Action (LAPA). High Mountains Adaptation Partnership.Available at https://www. climatelinks.org/sites/default/files/asset/document/NepalLAPAs\_Stocktaking\_TMI-Peniston-FINAL.pdf (accessed 23 October 2018) [↑](#footnote-ref-6)
6. GoN (2011).National Framework on Local Adaptation Plans for Action.Government of Nepal, Ministry of Science Technology and Environment. Kathmandu, Nepal [↑](#footnote-ref-7)
7. Page, E. (1999). Intergenerational justice and climate change. *Political Studies*, *47*(1), 53-66. [↑](#footnote-ref-8)
8. Sanson, A. V., & Burke, S. E. (2020). Climate change and children: An issue of intergenerational justice. In *Children and peace* (pp. 343-362).Springer, Cham. [↑](#footnote-ref-9)
9. Musikanski, L. (2014). Happiness in public policy. *Journal of Social Change*, *6*(1), 5. [↑](#footnote-ref-10)