



Climate-Induced Displacement and Migration: Policy Gaps and Policy Alternative

A Likely Legal Instrument for a Rights-Based Political Solution

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Exposure to the risk of climatic disaster
Photo: Collected

Climate-induced displacement and migration involve two different dimensions; a) cause dimension e.g. climate-induced disaster events and their residual impacts, and b) consequence dimension e.g. socio-economic deprivation and violation of human rights etc.

Every conflict and unrest has its own cause and character but there has been a causal link between climate and conflict as climate change has catalytic effects to a potential conflict.

Sudden dramatic onset disasters like cyclone, river erosion etc. displaces people nearby, and they forced to migrate permanently when disaster ravaged economic and social context 'push' them away.

Fleeing from climate hotspots is not an 'adaptation strategy'; it is an attempt of 'survival' in the context of 'adaptation failure'.

The flow of present-day migration is the likely result of 0.85 degree centigrade temperature rise since the late 19th century. We are expecting to limit temperature rise conveniently below 1.5 degree centigrade by 2100. Ironically, we are heading towards a world with of 2.7 degree centigrade temperature rise or more by 2050.

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Executive Summary

The causes and consequences of climate-induced displacement and migration involve complex and multidimensional aspects; firstly, climate-induced disasters and their long-term residual impacts act both as visible and invisible drivers of migration, secondly, variation in climatic factors has a direct influence on conflicts that again force people to flee away from the conflict-prone areas, thirdly, climate-induced migrants essentially face violation, denial and abuse of human rights during their mobility within national jurisdiction and while crossing international boundary.

The aspects of climate-induced displacement and migration stated above involve two different dimensions; a) cause dimension e.g. climate related disaster events and their residual impacts, and b) consequence dimension e.g. socio-economic deprivation and violation of human rights etc. However, the recent policy discussion emphasizes only on the 'cause dimension' putting more responsibility to the national government to address the crisis. On the other hand, the consequence of climate-induced migration, especially in the case of cross-border migration, is less discussed as it bears implication to the international laws and policies and demands a new protection measure for the future wave of climate migrants. Climate-induced migrants neither qualify criteria under Refugee Convention 1951, nor fully protected by Guiding Principles on Internal Displacement as this is not legally binding and designed to apply forcibly displaced people by natural and human made disasters inside their own country.

Considering climate-induced displacement and migration as a pressing global issue, this policy paper analyses the causes and consequences of forced displacement and migration, analyses existing protection mechanisms both in national and international level and argues for a new Legal Protocol under the UNFCCC for a long-term rights-based solution of the crisis.

This briefing paper proposes six elements to be considered to the Protocol; they are; a) addressing causes of displacement and migration (both sudden and slow onset events) with a clear guideline in 'Global Adaptation Goal' and National Adaptation Plan with the provision of certain percentage of resources directly to the climate vulnerable communities, b) clear indication and guideline on State activities for undertaking long-term relocation strategy within the country through social empowerment and economic capacity building, c) State protection mechanism (social safety nets) and support services for the people trapped in the risky hotspots and urban slums, d) human rights based protection for the climate induced internal and

cross-border migrants, and trapped population e) provision for 'ex situ' adaptation (adaptation beyond boundaries) with of full fundamental rights as per constitution of the host country and f) provision for 'entire community' migration, especially for the sinking island nations who are under threat of forced eviction by the impacts of climate change such as sea level rise.

The suggested elements to the Protocol may open space for further discussion in developing a rights-based Protocol for addressing climate induced displacement and migration.

Displacement and Migration: Contemporary scenario and climate change link

The recent talks on the desperate movement of 'migrants' escaping either from the conflict-prone areas in the Middle East or poverty stricken areas in sub-Saharan Africa are now dominating global political and policy discussions. By the end of September 2015, more than 600,000 migrants and refugees, including women and small children, forced to sail on small boats in the dreadful high seas to escape poverty and conflict, while some 3,100 had lost their lives by drowning en-route to Europe via the Mediterranean Sea (IOM 2015). It is the largest population movement Europe has had to grapple with since World War II. According to the UN refugee agency UNHCR, more than half of those arriving are from Syria. Almost five years of conflict have left this Middle Eastern country in tatters and displaced more than half of its pre-war population of 22.4 million (Mayer-Hohdahl, A., 2015). On the other hand, thousands of fortune seekers from Myanmar and Bangladesh have taken the deadly sea route towards South East Asian countries, also to the Far East. Many on them helplessly died from drowning, hunger and by inhuman torture of the human traffickers in the detention camps. According to an estimate by the UNHCR, during January to March 2015 about 25000 people took unsafe sea route tempted by the human traffickers, while several hundred died en-route as the traffickers abandoned them on the sea (UNHCR 2015).

From the above scenario, displacement and migration plainly could be perceived as an outcome of 'conflicts' arises from global geo-politics and political hegemony, however recent research findings establishes an invisible role of climate change impacts in triggering conflict, especially war in Syria. Kelley et. al., (2015) pointed to a connected path running from human interference with climate to severe drought to agricultural collapse and mass human migration. Syria and the greater Fertile Crescent (FC), where agriculture and animal herding began some 12,000 years ago (Salamini F. et. al 2002) experienced drought in

instrumental record from 2007-2010 that caused consecutive crop failure for several years and forced to flee as many as 10.5 million people to urban centers (ibid). As evidenced from the opinion of migrated people in Syria, the study finds drought and unemployment as invisible drivers of pushing people toward revolution and contributing to political unrest.

Likewise, the environmental degradation and competition over shrinking resources also have played, and continue to play, a critical role in communal conflicts in the Sahelian countries such as Mali, Niger, and Chad. The Darfur Conflict in the South Sudan-the World's Worst Humanitarian Crisis, labeled as Genocide- emerged from an environmental crisis and competition over natural resource that started to erupt following of 1980s and 1990s, drought, desertification, and widespread famine (Sikainga, A., 2009).

In Bangladesh, though it's not so severe, environmental degradation and conflicts over natural resource are also becoming unavoidable cause of displacement and migration. In the South West coastal districts (mainly in Khulna, Satkhira and Bagerhat) there are conflict between rich shrimp farmers and poor crop cultivators, with the later reported to be deliberately causing breaches in embankments to further salinize agricultural lands so that the crop cultivators are forced to sell or lease their damaged land (World Bank, 2010).

Nonetheless, every conflict and unrest has its own cause and character but there has been a causal link between climate and conflict as climate change impact, in many cases, has been evidenced as 'threat multiplier' or catalytic effects to a potential conflict. Though, in individual country context, the impacts of climate change are 'apolitical' in nature but long standing consequences of such impacts like deprivation from socio-economic rights, denial and violation of human rights, social and economic inequality etc. and their collective demand often twisted to political chaos. Given the context, Johnstone, S., and Jeffrey, M., (2011) marked the political context of Arab Spring inconsequential right at that moment and pointed to global warming for contextualizing/making the cause of Arab Spring earlier.

Displacement and Migration: Interplay of climatic and non-climatic factors

While the causal relationship between climate change and conflict is context specific and requires further investigation to categorically connect recent conflicts to climate change, there is more certain knowledge advanced by the scientific arena that already established casual link between climate change and migration. Climate change, as the definitive cause of

frequent and intense natural disasters, is generally understood as one of the potential causes of forced displacement and migration.

Considering only the climatic factors as the drivers of forced migration, Robert McLeman grouped the drivers distinctly into two- climate processes and climate events. Climate processes refer to slow onset changes such as sea-level rise, salinization of agricultural land, desertification, and growing water scarcity and food insecurity. Climate events, on the other hand, refer sudden and dramatic hazards such as monsoon floods, glacial lake outburst floods, storms, hurricanes and typhoons (Brown, O., 2008). Strikingly, both the drivers' e.g. slow and sudden climatic events are rising up with the rise of global average temperature resulting from human activities that has direct influence in amassing green house gases in the atmosphere since the industrial revolution.

According to 'Research on the Epidemiology of Disasters' report, 87 percent of recorded disasters in 2014 was related to climate. While the frequency of geo-physical disasters (earthquakes, tsunamis, volcanic eruptions) remained broadly constant, the climate-related disasters rose by 44 percent from the 1994-2000 average (EM-DAT 2015). Such increase in climate-induced disasters implies a casual relationship between climate change and forced migration. Several study reports and policy papers (e.g. NAPA, Bangladesh 2005; IOM 2010; IRIN 2010; Hutton, D., & Haque, C.E., 2004; Kolmannskog, V. and Trebbi 2010; McAdam, J., 2012; Khatun 2013) and empirical observations reported displacement resulting from climatic factors. However, Kniveton, D., et. al. (2008) argue that migration is subjected to many different variables, hence direct causal link between climate change and migration is still an assumption and the 'linear relationship' has not been evidenced by empirical investigation.

In fact, people leave their homes from the context of 'multi-causality'. Expect the case of disaster, environment change is not the only driver for displacement and migration; it is interplay of five other drivers- social, political, economic, environmental and demographic driver (Foresight 2011). In each case, it is the existence of spatial and temporal variability in one or more of these five dimensions that creates the conditions (or 'drivers') for migration, allowing that these might interact or overlap in different ways in different places. Areas that are more exposed to the climatic hazards might experience displacement and migration resulting from direct loss and damages of productive assets, loss of livelihoods, loss of eco-system services etc. These impacts have significant influence on the 'economic driver' of migration like employment opportunities, income/ wage/ well-being etc. When

climate stresses coincide with economic or social stresses, the potential for forced migration from the vulnerable areas increases significantly. Evidence suggests that the sudden and dramatic onset disasters like cyclone, river erosion etc. force people to dislocate to a nearby place, and they migrate permanently, aftermath of the disaster, when economic and social context 'push' them or 'pull' them.

Though it is context specific, 'political driver' e.g. governance also could influence migration of the displaced people, both in good and bad ways. This has been evidenced from Cyclone Aila in Bangladesh in 2009 and Cyclone Nargis in Myanmar in 2008 that governance failure e.g. delay in response caused food and drinking water crisis and have forced the displaced people to migrate (Shamsuddoha Md. et. al. 2013, Lachowski, T., 2013).

There is another debate on the context whether people are 'forced' to migrate or migrate 'voluntarily'. The issue here is the extent to which migrants have choices. Theoretically, the decision of migration, whether it is to long distance or short distance, permanent or temporary etc. depends on the extent of disaster impacts on their livelihoods as they have limited livelihoods opportunity both in terms of diversity and capacity to work on. People who are in relatively better position with social and human capital choose to be migrated in a planned way. However it's a choice between staying and starving, or to be exposed to the risks associated with the movement (Barnett, J and Webber, M 2010).

Given the context, Locke C. Adger, et. al. (2000) noted that the types and decision of migration are highly dependent on the social and ecological contexts from which people move and to which they move. Migration, especially when it is a response to slower-acting climate processes rather than a sudden climatic event like a cyclone typically requires access to money, family

networks and contacts in the destination. However, chronic and long-term adverse effects of an extreme weather event on the provision of environmental and non-environmental goods and services force people to be migrated, especially during the post disaster response and recovery, when the government functions broadly fails to restore the situation or fails to continue providing basic services to the affected population. Post-disaster scenario, however, seems to be similar to conflict or post-conflict situations, with huge number of deaths, people displaced, very often left alone by their States, being unwilling or unable to provide sufficient help and restore their rights (Lachowski, T., 2013).

Climate change induced displacement and migration: a bleak reality for the future

Climate change will create a "new waves of refugees"
US President Barak Obama in a press statement on 19 June 2013

In a press statement at the Brandenburg Gate in Berlin, the US President Barack Obama, alongside German Chancellor Angela Merkel, says 'we must move toward a global compact to confront a changing climate, otherwise a grim alternative affects all nations- more severe storms, more famine and floods, new waves of refugees...'. Although political rhetoric is often hollow, as said by Randall, A., (2013), UK Climate Change and Migration Coalition but such a statement would help augmenting policy urgency at least in the Northern countries that seem to be frighten predicting the new waves of climate-induced migrants.

From the scientific community, in the 1970s Lester Brown of the Worldwatch Institute first introduced the issue 'climate or environmental refugees'. Jacobson, J. (1988) made an estimation of 10 million environmental refugees largely from the Sahelian States in which rural-urban or North-South migration occurred during



Climate-induced displacement
Photo: Din Mohammad Shibly

the drought in mid-1980s (Black, R. 2001). Jacobson's estimate has been repeated by numerous authors, and again new estimate came up over the years by different authors against the projection of climate variability ranging from rising seas to declining precipitation, from sudden disaster events to slow-onsets and with the perplexing numbers.

Counting on all the possible drivers of environmental migration Myers, N., (1993) forecasts 150 million environmental migrants by 2050, the figure that is used by the IPCC assessment report terming migration as the gravest effects of climate change. Myers, N., (1996), however, has subsequently put the potential number at 200 million environmental migrants by 2050 from sea-level rise alone, and so far the highest estimation goes upto 300 million by 2050 (Christian Aid 2007).

Where there is perhaps more justification to be required on the accuracy of the number of future migrants but number of people who already displaced or migrated is still huge. According to an estimation by Allison, P. (2015), Hurricane Katrina in the United States displaced more than a million people from the Gulf Coast region and following of Hurricane Katrina population of New Orleans fell from 484,674 in April 2000 to an estimated 230,172 in July 2006, a decrease of 254,502 people and a loss of over half of the city's population. The Philippines which was hit by several successive cyclones and storms e.g. typhoon Haiyan and typhoon Bopha in 2013, typhoon Hagupit in 2014 is struggling with 383,000 involuntary displaced persons who couldn't make effort to back home of origin (IDMC 2015).

Bangladesh, which is frequently cited as a 'ground case' of displacement and migration, is also struggling with an increased number of displaced people resulting from both slow and sudden onsets. Riverbank erosion generally makes about 50,000 to 2, 00,000 people homeless annually (CEGIS, 2007). Next to river bank erosion, water logging is perhaps the most recent sub-national level phenomenon that has been causing failure of crop production in the South-western and South central coastal areas and leading to displacement and migration (Bijoy, M.R 2012). Ahmed, A.U & Neelormi (2008) accounted forced displacement of 80,000 people from several South-western districts only for water logging. ECHO (2009) reported out-migration of 100,000 people, primarily male looking for work, only from four Upazilas those were successively affected by Cyclone Sidr in 2007 and Cyclone Aila in 2009. McAdam, J (2009) observed that people from the Southern part of Bangladesh have been gathering to the capital city and same in Kiribati and Tuvalu where people have gathered to the mainland from the scattered island. Though most of the displacement and migration are internal and temporal

in nature but significant permanent migration also occur, typically when people find no livelihoods opportunity back in the home of origin and when they have social link elsewhere in the country and across the border.

There are many stories of cross border migration from the Southern part of Bangladesh-the cyclone Sidr and Aila affected areas. It's more than six years since Cyclone Aila hit the country, still more than 100000 people believed to be living on embankment and in makeshift shelters (Fatima, R. et.al. 2014). Being unable to return their home of origin many people is found to cross border along with risks and uncertainties.

However, options of migration for the women, children, elderly, disable and poorest of the poor are relatively less and they are likely to be trapped in the vulnerable and unsafe locations.

Amongst the past examples of cross border migration, Homer-Dixon, T., (1994) draws on the evidence from South Asia that Bangladeshi migrants 'have expanded the population of neighboring areas of India by 12 to 17 million' over the last forty years, whilst 'the population of the state of Assam has been boosted by at least seven million'. El Hinnawi, E. (1985) and Jacobson, J. (1988) cited additional examples of environmental refugees from across the Sahel and the Horn of Africa, as well as the Soviet Union and the United States.

This is only the partial scenario of present-day migration, which is the likely result/ outcome of 0.85 degree centigrade temperature rises since the late 19th century, and now we are expecting to limit temperature rise conveniently below 1.5 degree centigrade by 2100.

Ironically, we are heading towards a world with of 2.7 degree centigrade temperature rise or more by 2050 as current trend of emission reductions and emission reduction pledges made under INDC (Intended Nationally Determined Contributions) is grossly inadequate to halt temperature rise to a convenient level. As of October 19, 2015 the 123 INDCs, covering 150 countries, submitted to the UNFCCC represent 85.8 percent of global GHG emissions in 2012 (Spencer, T., Pierfederici, R. et. al. 2015). There is still a massive gap between the level of effort proposed in the INDCs and the level of action required to keep warming below 1.5 degree centigrade.

Therefore, the future scenario of climate induced migration is rather bleak as the observed and unprecedented rise in global temperature will cause dramatic increase of disaster events, will limit options and choices to adapt with unpredictable and frequent chances, will force people to be displaced and migrated while undermining human security around the world even to a grave extent.



Tales of Zahura Begum, who doesn't know why 'Allah' is so harsh on her

Zahura Begum of Gabura Union, Satkhira, Khulna trapped in the situation alone as her two sons migrated to India almost two years back. Though she and her family somehow survived from the devastation of Cyclone Sidr but couldn't stay together. Staying together and starving is unbearable, it's better that my two sons left me behind alone and making their livings- I am happy with this, as says Zahura.

Zahura, once a happy housewife with two sons and one daughter, has been facing the hard reality of the impacts of climate change since times. Tropical cyclones inundated her homestead several times since the independent in 1971, now regularly being flooded during strong tidal action. There is no agriculture in several villages, everywhere is saline water...even I will not be able to treat you with a glass of drinking water, this is scarcer, costlier. ..says Zahura. The smallholders are selling their small pieces of land to the wealthy shrimp farm owners. The availability of saline water boasts shrimp cultivation putting livelihoods of agricultural labor in stake. As number of shrimp farms, locally known as Gher', goes high, the numbers of migrated people also goes high as the shrimp farm require seasonal and comparatively less labor.

Finding no employment scope in the locality even in the surrounding villages, Alamin and Billal, sons of Zahura, tried many different occupations-from selling daily labor to shrimp fry collection- but failed to make livings. Facing such a dearth situation some of the villagers already migrated to the neighboring country that Billal knew. He communicated few of the already migrated villagers and also took the same way with the help of a local broker/ human trafficker who he paid USD 25. In the following month Billal took his brother Alamin to him.

I lost everything...I lost my family, says distressed Zahura. Zahura doesn't know why 'Allah', as she believes so, is so harsh on her. She stared toward open sky with blank eyes as if Allah lives there.

Climate-induced human rights violation: everybody's concern but nobody's obligation

One billion people are migrants. No longer can we merely count them; we must protect their rights.
William Lacy Swing, Director General, IOM

Understandably, the US President Barak Obama warns the global leadership about the 'new wave of refugees' if they fail to combat climate change as an issue of global urgency. The scary concern of the US President could be translated to its two broad implications;
a) addressing root causes of climate change e.g. emission reduction and limit global warming to a

convenient level and, b) addressing the effects of root cause (i.e. climate induced disasters) that are forcing displacement and migration.

Likewise, many heads of the States in the UN Sustainable Development Summit 2015 referred to climate change and natural disasters amongst the various drivers of migration and called to address them collectively. Such an approach of addressing migration is perceived merely looking into one-side of the coin i.e. addressing factors/drivers of migration at local and national level, but this certainly ignores tackling consequences that migrant people face in the course of involuntary exodus elsewhere within the country or beyond the national jurisdiction-the other side of the coin.

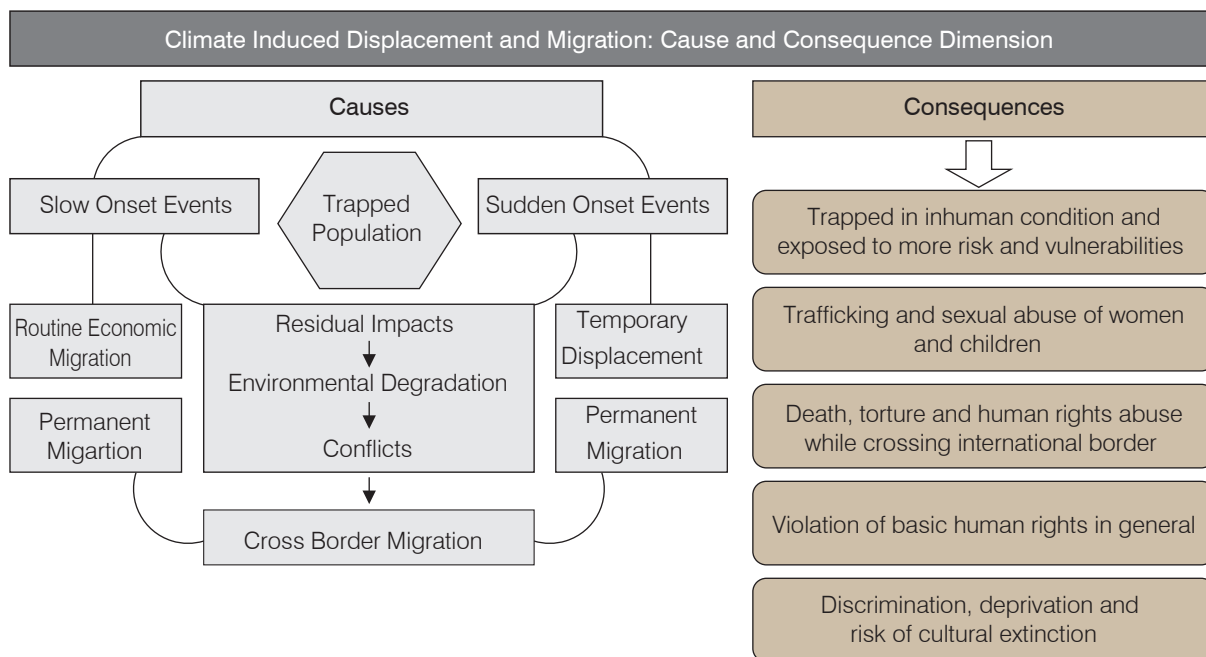


Figure: Causes and consequences dimensions of climate induced displacement and migration

The consequence of climate-induced displacement and migration is essentially violation of human rights of the most vulnerable communities and countries (Leckie, S., 2008, UNHCR 2009, Limon, M. 2009, Naser, M.M. 2010, MaAdam, J and Soul 2010) . A climate migrants either internally displaced or crosses border has to compromise enjoying of many international human rights instruments namely right to self determination (ICCPR, ICESCR, Art 1), right to life (ICCPR, Art 6) right to health (ICESCR, Art 12), right to water (CEDAW Art. 14), means of subsistence (ICESCR, Art 1), standard of living and adequate houses guaranteed under Article 12 of ICESCR, culture (Art. 27 of ICCPR) and right to property (UDHR, Art. 17). The basic principle of these human rights instruments is that in no circumstance the human life can be compromised.

Climate change also has implication to violation of the socio-economic dimension of human rights-causing potential harm to the most poverty-stricken communities, exacerbating poverty and inequality, damaging traditional livelihood sources of indigenous communities and, eventually posing threat to cultural extinction of certain groups (Lachowski, T., 2013). There are also concerns regarding the risks of trafficking and sexual exploitation of young women and children and women headed households who are believed to be particularly vulnerable to this risk.

Hence, it's injustice when someone's activity is directly causing death to other through contributing more disasters to occur. it's denial of justice to the people whose basic human rights- the right to adequate food, the right to water, the right to health, right to adequate housing, right to self determination etc. are diminished

through forcing them towards involuntary and unsafe migration, and conflicts leading to both intra-state and inter-state abuses of fundamental rights.

Given the context, while the UNFCCC clearly points the casual relationship between 'climate change and human activity', the 2009 Report of the UNHCR on Human Rights observes the link between 'climate change and violation of human rights'. And, while William Lacy Swing, Director General, IOM called upon global leadership to protect rights of migrants' people (irrespective of refugees and climate migrants), MaAdam, J and Soul (2010) argue that climate migrants are unlikely to benefit from the human rights based complementary protection unless there is considerable jurisprudential development in place. To protect rights of the climate-induced migrants there should have scope for litigation against violation of rights either in domestic or international courts, without having a legal obligation a case eventually will be rejected. In this relation Nuffer, S., (2007) referred to a case of Inuit people against the United States before Inter American Commission on Human Rights that was rejected by the Commission. The Inuit people filed the case as acts or omission of a given state caused degradation of natural environment that led violation of their basic rights and cultural extinction.

Climate Induced Migrants: Refugee or Refuse-e

The call of IOM's director general to the global leadership to protect rights of the migrants is rather an

'ethical concern' not linked to any 'legal obligation' as currently no stand-alone international legal instrument in place to address climate-induced migration. Even the international legal instruments are silent in defining climate-induced migrants. Many scholarly writings and other instruments termed them with different nomenclature like ecological and environmental refugees, climate refugees, climate change migrants, environmentally-induced forced migrants etc.

With respect to different terminology, Myers, N. (2005) termed 'environmental refugee' as those who can no longer gain a secure livelihood in their homelands and who feel they have no alternative but to seek sanctuary elsewhere. Biermann, F and Boas, I. (2007) defined climate refugee as 'people have to leave their habitats, immediately or in the near future, because of sudden or gradual alterations in their natural environment related to at least one of the three impacts of climate change e.g. sea level rise, extreme weather events and drought and water scarcity. Hodgkinson et. al. (2008) categorizes them as 'persons displaced by climate change'. Interestingly, all the authoritative definitions cited above are contextualized from a 'cause' driven outlook, carefully avoided the consequences of migration, especially its internal and trans-boundary dimension. Such 'cause focused' definition could be viewed as an intention, may be unintentional, to mingle climate migrants with the internally displaced persons (IDPs) that Hodgkinson et. al. clearly meant.

Intermingling of climate-induced forced migrants with IDPs, resulting mainly from environmental degradation and development devastation, falls under the mandates of UNHCR's existing voluntary measures, wherein international communities are made less responsible to mitigate the crisis (McGregor, J. 1994). Climate induced forced migrants and IDPs falling within the same category may undermine notion of justice to the climate-induced migrants (Dun, O., and Francois, G., 2008) and, again, if the definition of these two that are not clearly recognizable may not receive appropriate assistance.

On the other hand, the use of the term environmental or climate change 'refugee' raises many objections as this particular term is commonly used and legally defined in the 1951 Refugee Covenant. The current mandate of UNHCR on 'refugees' covers only individual who flee their country because of state-led persecution based on race, religion, political opinion, or ethnicity. The UNHCR and IMO have advised that the terms like 'Climate Refugees' or 'Environmental Refugees' have no legal basis in international refugee law and should be avoided in order not to undermine the international legal regime for the protection of refugees (Biermann, F and Boas, I., 2008).

To qualify as 'refugee', in the legal sense, a case of persecution by own government should be established; hence a case of persecution cannot be established for the climate migrants crossing national boundary, because environmental factors are non-discriminatory i.e. affecting all groups and individuals alike and not an account of any specific characteristics that the group or individual might possess (Fatima, R., et. al. 2014). Unable to prove political persecution in their country of origin the climate migrants fall through the cracks of asylum law. For instance in 2012 New Zealand refused to grant refugee status to the citizen of Kiribati on the ground of climate change, again in 2015 New Zealand has deported a Kiribati man who lost a legal battle to be the first person granted refugee status on the grounds of climate change alone (BBC News, 2015).

While, it is impossible to find the reasonable casual link between the disaster itself and the policy of State authorities, 'attacking' its own population, by the use of climate tragedy, at the point when it occurs, (Lachowski, T. 2013) but there is certainly a historical casual link and responsibility between 'climate-induced disasters and certain rich countries'.

Whatever is the terminology debate, we cannot refuse the fact that such people need to 'seek refugee' from the impacts of climate change (Soderbergh 2011, McAdam, J. 2012).

Discussion on Climate Migrants at the UNFCCC: [a bracketed agenda]

The predicted unmanageable future flow of climate-induced migrants and violation of their 'fundamental human rights' as the consequence have drawn huge academic and advocacy interest by the scientists, international organizations, human rights advocates, however couldn't succeed influencing policy stakeholders and consequently failed to profile a strong case at negotiation table. The main cause of 'policy denial' is the undeniable trans-boundary movement of climate-induced migrants what the developed country always have tried to keep out of focus. However, reflecting on the submissions to the UNFCCC by applied research and the humanitarian community the issue of climate induced migration, for the first time, was appeared in an assembly text of the Poznan Climate Conference in December 2008 (Warner, K., 2012). Again, a UNFCCC Non-paper (No 41) produced in Barcelona inter-sessional in October 2009 refers to migration and displacement; however many issues that were mentioned in the initial assembly text as well as in the Non-paper were edited out, consolidated, or removed by the Parties during the period of refining the text on the road to the Copenhagen, COP 15 in 2009 (ibid).

It's only in 2010, the Cancun Adaptation Framework- the draft agreement of COP 16 includes a stand-alone paragraph 14(f) on displacement and migration that reads;

14. Invites all Parties to enhance action on adaptation under the Cancun Adaptation Framework, taking into account their common but differentiated responsibilities and respective capabilities, and specific national and regional development priorities, objectives and circumstances, by undertaking, inter alia, the following: ... (f) *Measures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at national, regional and international levels.*"

While, Para 14 (f) provides space mainly to progress academic discourses (to enhance understanding, coordination and cooperation etc.), it purposefully avoided the essential elements of undertaking measures for addressing causes and consequences of climate-induced displacement and migration. It's a politically neutral position on a highly political issue that has both domestic and trans-boundary implications. Given the neutrality of Para 14(f), there has been much effort in national, regional and international levels (e.g. IPCC AR 5 Report, Nansen Initiative etc.) that certainly contributes to enhance understanding of climate-induced displacement and migration but there has been none of 'political initiative' to address the issue in a comprehensive manner.

Aside with Para 14 (f) - a stand-alone paragraph on displacement and migration- the issue also has been

discussing under 'loss and damage work-stream' of Cancun Adaptation Framework and the relevant text has been included in the 'draft decision 3' of the 18th Conference of the Parties held in Qatar in 2012. Para 7 (vi) of the draft decision reads;

Para 7...acknowledges the further work to advance the understanding of and expertise on loss and damage, which includes, inter alia, the following:..... (vi) *How impacts of climate change are affecting patterns of migration, displacement and human mobility; (Decision 3/CP.18, UNFCCC 2012).*

According to the decision 3/CP.18COP, the 19th Conference of the Parties held in Warsaw in 2013 established the Warsaw International Mechanism, along with an Executive Committee, for loss and damage associated with climate change impacts (Decision 2/CP.19, UNFCCC 2014) and requests the Executive Committee on loss and damage to develop its initial two-year work plan, including the scheduling of meetings, taking into account the issues outlined in paragraph 7 of decision 3/CP.18, which includes displacement and migration. (Para 9, Decision 2/CP.19).

In the way of negotiation from COP 16 in Cancun in 2010 to the latest ADP Inter-sessional held in Bonn in October 2015, the issue of 'displacement and migration' remains as an element of addressing 'loss and damage'. Article 5 of the draft agreement and draft decision of ADP (Enhanced Action Plan on Durban Platform) Work-stream (UNFCCC 2015), which hopefully will be culminated to a 'Legally Binding Agreement' in Paris in December 2015, includes two options; along with other measures,

Sideline Activity: The Nansen Initiative

Referring to the Para 14 (f) of Cancun Adaptation Framework the Nansen Initiative was launched in 2012 by Norway and Switzerland to build consensus among the countries on a protection agenda for people displaced across borders. With the active participation of several state and non-state actors, this Initiative have organized several regional and global consultations with an aim to develop key principles and elements to protect people displaced across borders in the context of disasters caused by natural hazards, including those linked to climate change.

Meanwhile, the Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change has been developed and endorsed by a global intergovernmental consultation held in October 2015 in Geneva, Switzerland. Rather than calling for a new binding international convention on cross-border disaster-displacement, this agenda supports an approach that focuses on the integration of effective practices by States and (sub-) regional organizations into their own normative frameworks in accordance with their specific situations and challenges.

The Agenda identifies several actions that can be undertaken by the States, they are a) Managing Disaster Displacement Risk in the Country of Origin, b) Reducing Vulnerability and Building Resilience to Displacement Risk, c) Migration with Dignity, d) Planned Relocation and, e) Assisting Internally Displaced Persons.

Interestingly, the Agenda uses "protection" to refer to any positive action undertaken by the States on the ground of humanitarian response, but it does not aim to expand States' legal obligations under international refugee and human rights law for cross-border disaster-displaced persons and persons at risk of being displaced. In doing so, the Agenda, entirely ignores addressing the root cause (global warming) and historical liability of the rich countries for creating present-day migrants' crisis, rather puts more responsibilities to the States of migrant's origin to solve the crisis.

Option 1 reads;

'The governing body/CMP/CMA shall, at its first session, establish a climate change displacement coordination facility to help coordinate efforts to address the displacement of people as a result of the extreme impacts of climate change'.

On the other hand 'Option 2' reads...,

[No reference to loss and damage (no Article 5).].

Interestingly, both the options remained within 'bracket' - meaning that the country Parties don't agree either of the options. There is strong opposition from the developed countries in including a separate chapter on loss and damage, even to include a reference on loss and damage in the 2015 Paris Deal. Therefore, inclusion of 'loss and damage' as well as 'displacement and migration' in the legally binding agreement would be a major issue of debate and disagreement in the 21st Conference of the Parties in Paris in 2015.

Migration in the context of climate change: not an 'adaptation strategy' rather 'failure of adaptation'

Though the UNFCCC provides a space for climate-induced displacement and migration under Para 14

(f) of Cancun Adaptation Framework and under Warsaw International Mechanism on loss and damage, but literally in both cases the measures for addressing displacement and migration are perceived as undertaking of adaptation actions. It's a misleading notion as 'adaptation' is a country driven voluntary approach, and adaptation actions are site specific, 'in situ', and have its limits and boundary.

While 'adaptation' is defined as the adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects (IPCC 2007), some authors (McLeman, R. and Smith, B. 2006, Barnett, J and Webber, M. 2010, Adger, W.N. et. al., 2003; Tacoli, C. 2011, Barnett, J. and O'Neill, S.J. 2012) bracketed climate-induced migration as an effective response to 'climatic stimuli' and as an adaptation strategy. Barnett, J and O'Neill, S.J. 2012, Black, R. et.al 2012 and Siddiqui, T. 2012 noted that migration may lead to reduction in vulnerability through enhancement in livelihoods, earning of remittances etc. that helps origin communities sustain consumption of basic needs such as food in times of livelihood shocks and finance the acquisition of human, social, physical and natural capital.

Fleeing from climate hotspots is not an 'adaptation

strategy', it is an attempt of 'survival' of the people who have been forced or pushed away by the climatic stimuli in the context of 'adaptation failure'. Such people's attempt cannot be considered as an 'adaptation strategy' unless they are not supported by a 'global adaptation goal' and 'adaptation framework' that accommodates both internal and cross-border migration.

The other proposition is: if we really consider people's attempts of internal and cross border migration as an adaption strategy then there should have an option for 'ex-situ' adaptation i.e. adaptation beyond political boundaries under bilateral agreement between countries, with of all fundamental rights as per constitution of the host country . Such bi-lateral arrangement is particularly applicable for the AOSIS countries, where even an entire state is under threat of inundation and forced eviction by the impacts of climate change such as sea level rise. They neither will be able to undertake adaptation action within the country nor could demand 'adaptation' (in the sense of relocation) in other country. Though there was an appeal from the President of Kiribati in 2011 for relocating his country's population to artificial island (Vidal 2011), but such an appeal for 'ex-situ' adaptation only bears moral significance as there is no international obligation to protect Pacific peoples from drowning by seal level rise. Such relocation also raises concern on the sovereignty of the statehood and self- determination status of its population.

A likely Framework on Forced Displacement and Migration

As referred in many literatures, the existing legal and institutional arrangements to address climate change induced displacement and migration is full of gaps. Though, as per national constitution and existing international legal frameworks every State is duty bound to ensure protection of their own citizen with fundamental human rights when the remain within the State boundary but there are certain circumstances e.g. cross border migration of the sinking island nations when neither of the most relevant legal frameworks - namely 1951 Refugee Law and Guiding Principles on IDPs - precisely and definitively addresses the issue of climate-induced migrants. Even there is no specific international institution with of clear mandate to deal with the climate migrants, to address causes of displacement and migration and ensure their rights and entitlement as a global citizen.

Ideally there should have an independent, stand-alone legal protocol under the function and authority of the Conference of the Parties (COPs) of the UNFCCC. Discussion at the UNFCCC e.g. Para 14 (f) of the

Elements of the proposed Protocol on climate-induced migrants

1. Addressing causes of displacement and migration

- Addressing both slow onset and sudden onset disasters
- Addressing environmental degradation and residual impacts of disasters

2. Relocation within the country

- Long-term strategy for social and economical empowerment and planned relocation within the country
- Develop Guiding Principles on Climate-Induced Internal Displacement and Migration under the mandate and legal framework of the Protocol

3. Ensuring economic well-being of the trapped and most vulnerable groups

- State's protection mechanism (social safety nets) and support services for the people trapped in the risky hotspots
- Adequate support services for the vulnerable groups e.g. women, children, indigenous, people, disable people etc.

4. Ensuring human rights-based protection for the climate migrants

- Securing fundamental human rights of the climate induced internal and cross-border migrants, and trapped population
- Ensuring options for litigations for the climate migrants against rights violation both in domestic and international courts

5. Provision of cross border (*ex-situ*) adaptation

- Provision of cross border migration through agreement between country of migrant's origin and migrant's host country.
- Securing rights of the migrants in line with the host country's constitutions

6. Entire community migration

- Special provision for the sinking island nations for entire community migration through bi-lateral agreement under the Protocol

Cancun Adaptation Framework already laid a foundation to progress further discussion in addressing climate-induced displacement and migration. The IPCC's Assessment Reports, especially the 5th Assessment Report, bring this matter as policy urgency with of its consistent knowledge on the causes and consequences of displacement and migration. Hence the institutional uniqueness of the UNFCCC in facilitating 'science and policy' interaction and recognizing academic thoughts and CSOs proposition in the COP process puts this UN organization (UNFCCC) in a better place for negotiating such a Protocol. UNFCCC also has its institutional structures; two subsidiary bodies, one is mandated for scientific and technological advice and the other one is for implementation.

Such a Protocol should be drawn on the basis of the widely agreed principles of the UNFCCC such as 'Common but Differentiated Responsibilities and Respective Capacities' and should focus both at international and domestic levels and ensure comprehensive protection from the impacts of climate change, and should guarantee protection of substantive human rights as per international law. The Protocol should consider six essential elements, they are;

- a) **Addressing causes of displacement and migration (both sudden and slow onset events) that are forcing people to be displaced and migrated:** The requirement for addressing causes and consequences of displacement and migration should be included in 'Global Adaptation Goal' of the Paris Deal. Aligning with the spirit of 'Global Adaptation Goal' the national action plan (e.g

National Adaptation Plan- NAP) should emphasize addressing of climate-induced displacement and migration through undertaking risk management and risk reduction strategies/actions informed by site-specific climate vulnerability analysis.

- b) **Relocation within the country:** There should have clear indication and guideline in the Protocol for undertaking long-term relocation strategy within the country through social empowerment and economic capacity building within the country. Under the mandate of the proposed legal Protocol an individual country should prepare its Guiding Principles on Climate Change Induced Internal Displacement and migration, and should ensure its proper implementation with international support and cooperation.
- c) **Ensuring economic well-being of the trapped and most vulnerable group:** There should have specific guideline in the Protocol on State's protection mechanism (social safety nets) and support services for the people trapped in the risky hotspots, also for the people gathered in the urban slums and face social and economic deprivation and discrimination. The most climate vulnerable group e.g. women, children, indigenous people, disable people are also the discriminated members of same as well of the bigger community. Many of them do not have the resources to be able to migrate to avoid the impacts of floods, storms, and droughts. In both circumstances their right to livelihoods (decent work) and economic well-being are in stake, hence they should be supported for their socio-economic development under the Protocol and with of international support and

cooperation.

- d) **Ensuring human rights-based protection of the climate migrants:** The Protocol should ensure human rights-based protection for the internally displaced persons and for the left behind people trapped in the risky hotspots: People who are forced to migrate as an attempt of survival face discrimination and human rights abuse. People either 'move away' or 'trapped in the risky locations' face another phase of discrimination and deprivation. Rights of the climate-induced migrants should fundamentally be protected by State law under the guidance of international Protocol. There also should have options for the climate migrants for litigations against rights violation both in domestic and international courts.
- e) **Clear provision for 'ex situ' adaptation (adaptation beyond boundaries) for migrants crossing international border:** This could be in the form of a long-term strategic partnership between countries (country of origin of the climate induced migrants and host country) that will transform 'push factors' to 'pull factors' through empowerment and capacity building of the people exposed to the threat of eviction and employ them in the host country or elsewhere in international job market with of full fundamental rights as per constitution of the host country. However, this cannot be seen just providing scope of 'economic empowerment' their rights and dignity also should be protected by adequate legal measures.
- f) **Entire community relocation beyond the boundaries:** Provision for 'entire community'

migration for the sinking island nations who are under threat of forced eviction by the impacts of climate change such as sea level rise. This also could be in the form of a long-term strategic partnership between countries (country of origin of the climate induced forced migrants and host country).

Concluding Remarks

Response to the refugee crisis, in general, is now dominating political discussions across the World and this also has created a strong rationale to address climate change induced displacement and migration taking into account a holistic analysis on the causes of migration and consequences that the migrants' face in country and crossing the international border. Meantime many authors e.g. Frank, B. and Boas, I. (2008), Shamsuddoha, Md and Chowdhury, R., K., (2009), Environmental Justice Foundation (2012) argued for a completely new legal instrument- a separate, independent legal and political regime created under a Protocol on the Recognition, Protection, and Resettlement of Climate-induced Migrants to the United Nations Framework Convention on Climate Change.

This policy paper establishes a strong rationale on the previous arguments with a thorough analysis on cause effect relationship, existing policy spaces and policy gaps. The suggested elements to the Protocol may open space for further discussion in developing a rights-based Protocol for addressing climate induced displacement and migration.

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Temporary displacement by cyclone
Photo: Atiqui Alam Polash





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