

Climate Change Induced Forced Migrants: in need of dignified recognition under a new Protocol

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This article has been written in April 2009 to support a campaign of Equity and Justice Working Group Bangladesh (Equitybd). Equitybd calls global leaders to develop a new legal instrument under a Protocol to the UNFCCC to ensure social, cultural and economic rehabilitation of the 'climate refugees' through recognizing them as 'Universal Natural Persons'.

1. Summary

The First Assessment Report of the Intergovernmental Panel on Climate Change¹ (IPCC AR1) in 1990 noted that the greatest single impact of climate change might be on human migration. The report estimated that by 2050, 150 million people could be displaced by climate change related phenomenon like desertification, increasing water scarcity, floods and storm etc.² More recent studies on the impact of climate change estimates even more people to be displaced by the same period; for instance, Professor Norman Myers of Oxford University argued that 'when global warming takes hold there could be as many as 200 million people displaced by 2050 by the disruptions of monsoon systems and other rainfall regimes, by droughts of unprecedented severity and duration, and by sea level rise and coastal flooding'³. Again, Stern Review on the Economics of Climate Change in 2006⁴ and a Christian Aid report in 2007⁵ estimates displacement of respectively 200 million and 250 million people by climate change related phenomena. Thus, the number of future climate migration shows a terrifying figure, a ten fold increase on today's entire population of documented refugees and internally displaced persons (IPDs)⁶. It would mean that by 2050 one in every 45 people in the world would have been displaced by climate change⁷.

¹ IPCC was set up jointly by the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP) in 1988 to provide authoritative assessments, based on the best scientific literature, on climate change causes, impacts and possible response strategies.

² www.ipcc.ch/ipcc-reports/assessments-reports.htm

³ Myers, Norman, 'Environmental Refugees: An emergent security issue', 13th Economic Forum, May 2005, Prague. www.osce.org/documents/eea/2005/05/14488-en.pdf

⁴ Stern Review on the Economics of Climate Change 2006, www.hm-treasury.gov.uk/sternreview_index.htm

⁵ Human tide: the ream migration crisis, Christian Aid 2007

⁶ Brown, Oil, The Numbers Game, Forced Migration Review, October 2008, Issue 31; www.fmreview.org

⁷ From a predicted global population of 9.075 billion in 2050 from 6.54 billion in at an annual growth rate of 1.1%

Although many of scholarly articles warned about future floods of the climate change induced forced migrants but, still, no policy measures taken so far; even the terms and concepts of referring climate change- affected population are found dissimilar throughout the literature. These are such as ecological and environmental refugees, climate refugees, climate change migrants, environmentally-induced forced migrants etc. The United Nations Environment Program (UNEP) termed these future migrants as ‘environmental refugees’-people who have been forced to leave their traditional habitat, temporarily or permanently, because of marked environmental disruption (natural and/or triggered by people) that jeopardized their existence and/or seriously affect the quality of their life. However, 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.

In this context, the office of the United Nations High Commissioner for Refugees (UNHCR)⁸ and International Organization for Migration (IOM)⁹ 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.¹⁰ In fact, the current mandate of UNHCR on refugees’ covers only individual who flee their countries because of state-led persecution based on race, religion, political opinion, or ethnicity. The official definition of refugee is based on very narrow legal concern recognized under the 1951 Geneva Convention that characterize ‘refugee’ as;

...’a person who is outside his or her country of nationality or habitual residence, and cannot rely on his of her home state for the fear of maltreatment’

Considering the legal concern on the term ‘refugee’, some international organizations are trying to treat climate change induced forced migrants as ‘environmentally displaced person’ which is in line with the mandates of the UNHCR’s Internally Displaced Persons (IDPs) wherein international communities made less responsible to mitigate the crisis.¹¹ Climate induced forced migrants and IDPs falling within the same category may undermine notion of justice to the climate change induced migrants and, again, the definition of these two that are not clearly recognizable may not receive appropriate assistance.¹²

Questioning appropriateness of the terminology ‘environmentally displaced person’ someone can argue – are the environmental factors only driving force of displacement and migration? Are the poor countries individually capable to face the crises that have

⁸ The Office of the United Nations High Commissioner for Refugees was established on December 14, 1950 by the United Nations General Assembly. The agency is mandated to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide.

⁹ Established in 1951, IOM is the leading inter-governmental organization in the field of migration and works closely with governmental, intergovernmental and non-governmental partners.

¹⁰ Biermann, Frank and Ingrid Boas; Protecting Climate Refugees: The Case for a Global Protocol.

¹¹ J. McGregor, ‘Climate Change and Involuntary Migration: Implications for Food Security, Food Policy 19, no 2 (1994)

¹² Dun, Olivia and Francois Gemenne, Defining ‘environmental migration’, Forced Migration Review, October 2008, Issue 31; www.fmreview.org

been cumulatively build-up by the rich countries? Why to fit 'climate related forced displaced persons' to the 'political refugees' or to the IDPs? Why should inhabitants of some atolls in the Maldives and inhabitants of the coastal areas of Bangladesh receive similar treatment as the political refugees, which are narrowly defined under the 1951 Geneva Convention? The people forced to be migrated due to climate change should bestow a different status and a different term and they should be given a dignified status 'Universal Natural Person' with social, cultural and economic rehabilitation. Finally, to rightly address the global processes of forced displacement it is important to develop a legal framework, supposedly under the United Nations Framework Convention Climate Change (UNFCCC), which reflects one of the most fundamental issues related to the climate change: accountability - the obligation on the polluting countries of the global north to address the needs of the countries that will suffer most in the global south.¹³

2. Climate Change-induced Forced Displacement: consequence of global process not a local crisis

Climate change will significantly affect migration in three distinct ways. First, the effects of warming and drying in some regions will reduce agriculture potentials and undermine 'ecosystem services' such as clean water and fertile soil. Second, the increase in extreme weather events-in particular, heavy precipitation and resulting flash or river floods in tropical regions. Finally, sea level rise will permanently destroy extensive and highly productive low-laying coastal areas that are home to millions of people who will have to relocate permanently.¹⁴ In addition to this, in many countries, one cumulative impact of climate change will be to increase the potential for violent conflict. More recently, people, including the UN Secretary General Ban Ki Moon have started arguing that the Darfur conflict that caused massive scale of displacement began as an ecological crisis, arising at least in part from climate change.¹⁵

In this relation the Fourth Assessment Report of IPCC (IPCC AR4), published in 2007, outlines climate change impacts in six main areas: ecosystem; food; water; health; coasts; and industry, settlement and society.¹⁶ The IPCC Assessment Reports also recognize that the developing countries and the poorest people will suffer the most from climate change because of unfavorable geography, limited assets, and a greater dependence on climate-sensitive sources of income. Some of the impacts could be in the form of new challenges and others could emerge as old threats made more severe by climate change.

¹³ Biermann, Frank and Ingrid Boas; Protecting Climate Refugees: The Case for a Global Protocol.

¹⁴ Morton, Andrew; Philippe Boncour and Frank Laczko; Human security policy challenges; Forced Migration Review, Issue 31, October 2008.

¹⁵ Ban Ki-moon, 'A climate culprit in Darfur,' in the Washington Post, 16 June 2007.

¹⁶ IPCC Synthesis Report, PP. 48-53

For instance, along with other extreme weather events like flooding and tropical cyclone, sea level rise is an impending threat to the coastal areas in Bangladesh which has long and densely populated coastlines with many low-lying remote islands. In the severe climate change scenario, sea level rise poses an existential threat that would inundate 18 percent of Bangladesh's total land, directly impacting 11 percent of the country's population. Salt water intrusion from sea level rise in low-lying agricultural plains, along with other hazards, could lead to 40 percent decrease in food grain production and would increase forced migration to the urban slum areas.¹⁷ Estimates show that with just a 1 to 2 degree increase in temperature would force physical dislocation of more than 35 million people in Bangladesh. It's a question of survival for such low-laying coastal countries and low-laying islands nations, for instance it's a concern of existence of the people of the Maldives that are located only few meters above sea level. About 85 per cent of the Maldives' main island, which contains the capital Male, would be swamped. Most of the Maldives would be turned into sandbars, forcing 300,000 people to flee to India or Sri Lanka. Vietnam could lose 500,000 hectares of land in the Red River Delta and another 2 million hectares in the Mekong Delta, displacing roughly 10 million people. In West Africa, up to 70 per cent of the Nigerian coast would be inundated by a one-meter rise, affecting more than 2.7 million hectares and pushing some beaches three kilometers inland. Gambia's capital, Banjul, would be entirely submerged. In the Mediterranean, Egypt would lose at least 2 million hectares of land in the fertile Nile Delta, displacing 8–10 million people, including nearly the entire population of Alexandria. The demise of this historic city would cost the country over \$32 billion, close to a third of its annual gross national product (GNP) in 1999. South American cities would suffer some of the worst economic effects. In Guyana 600,000 people would be displaced – 80 per cent of the population. The cost would be \$4 billion, or 1,000 per cent of Guyana's tiny GNP.

The results of modeling longer-term changes in coastlines as a result of rising sea-levels suggest that governments may be required to support mass movements of coastal population. Some recent studies already suggested that climate change induced migrants could potentially cross international borders. For example, the Development, Concepts and Doctrine Centre Global Strategic Trend Programme of the UK's Ministry of Defense foresee large migration flows from sub-Saharan Africa towards Mediterranean, the Middle East and Europe between 2007 and 2036.¹⁸ The German Advisory Council of Global Change projects mass migration to the United States from the Caribbean islands and Central America and many migration flows within Central America.¹⁹ Meantime, in light of this looming climate migration crisis, many international humanitarian organizations, CSOs and, even the governments of the at-risk countries are demanding protection and resettlement of the forced migrants work in practice. For instance, in August 2006, the government of the Maldives organized a

¹⁷ Karim, Z., S. G. Hussain, and A. U. Ahmed. 1999. Climate Change Vulnerability of Crop Agriculture. In *Vulnerability and Adaptation to Climate Change for Bangladesh*, eds. S. Huq, Z. Karim, M. Asaduzzaman, and F. Mahtab. Kluwer Academic Publishers.

¹⁸ UK Development, Concepts and Doctrine Centre (DCDC); The DCDC Global Strategic Trends Programme

¹⁹ *The World in Transition: Climate Change as a Security Risk*; German Advisory Council on Global Change, 2007

meeting of the representatives of governments, environmental and humanitarian organizations and United Nations organizations on the resettlement and protection of 'climate refugees'. Therefore, it is important to mainstream environment and climate change considerations into migration management policy and practices, and to bring forced migration issues into global environmental and climate change discourse. The protection of climate refugees should be seen as a global problem and a global responsibility.

3. Climate Refugees or Internally Displaced Persons (IDPs): in need of new legal recognition

By definition the internally displaced persons (IDPs) are they who flee natural and man made disasters and remain in their own country. Rights of the IDPs are said to be protected by their own governments as per international humanitarian law as articulated in the Guiding Principles of Internally Displacement. The normative framework for people displaced either by the degradation of ecosystems; loss of habitat, natural disaster and development projects, and remains inside their country is well defined although their rights are found poorly protected in many cases. When people find themselves on the other side of an international border, then international obligation of the host country may come in to play, if there exist. But people cannot cross the border given the cause that they're forced to leave their habitat due to impact of climate change, they're unable to make livings inside the country as agricultural productions dropped drastically due to climate variability or saying that their habitat disappeared permanently into the sea unless there are any conventional rights.

In fact, displacement and environmental migration is nothing new phenomenon. Since years back people from the rural areas forced to flee firstly, to the urban areas and secondly, to the neighboring countries due to destruction/erosion of livelihoods preference caused by disasters. Destinations of these displaced people internally end up living in refugee camps or urban slums; these are environments in which health suffers dramatically, as they are characterized by close quarters, poor sanitation, and insufficient food supply or livelihood opportunities. From many evidences of internal migration a few could be highlighted from Bangladesh perspective; i.e. migration of around 20, 000 people from a South Eastern coastal island of Bangladesh, Kutubdia to Cox'sbazar, a sea resort town.²⁰ These people have been forced to be migrated as they lost their habitat during 1991 cyclone and, presently, living in an urban slum called 'Kutubdia Para' that lacks civic amenities and services declared in the Human Rights Covenants of the United Nations.²¹ Still people are moving away from this island as its surrounding is gradually going under water due to sea level rise. In a different scenario, under a government's resettlement programme for the land less people, about 400, 000

²⁰ Shamsuddoha, Md and Rezaul Karim Chowdhury; Environmental Refugees in Bangladesh, Campaign Brief 5, November 2007; www.equitybd.org

²¹ Rapid Appraisal by the authors

-600, 000 people²² have moved within in the country to the Chittagong Hill Tracts (CHT) in 1980s.

On the other hand, unable to make living inside the country, many people have migrated to the neighboring countries mainly to India and Pakistan. Since 1950s, 12 to 17 million Bangladeshi have been migrated (often illegally) to the adjacent states of India, mostly in Assam and Tripura.²³ Similarly, in search for better livings, many Bangladeshi have been migrated to Pakistan's coastal city, Karachi, where they live in urban slums (as illegal migrants) and work as fishing labor in deep sea fishing. In both the cases, internal and cross boarder migration, violation of the obligations of human rights is commonly found.

Adding to the above scenario, climate change will contribute both to increased internal displacement and cross boarder migration, while in Bangladesh by 2050 one in every 7 people would have been displaced by climate change impacts. Many of those displaced may never be able to return their home because their places of origin might have been destroyed or inundated permanently. Therefore, it's a priority to define the rights of people will be displaced permanently and will be forced to flee outside of their country in search of better livings. Climate change-induced forced migrants falling within the notion of IDPs may not receive proper attention and assistance; and in another scenario, countries may not be able to accommodate huge uprooted people resulted from weather extreme events. Linking climate change victims to the IDPs is politically motivated and, an approach of avoiding the obligations and responsibilities of the Annex 1 countries made under UNFCCC. Again people evicted by climate change could not be termed as 'climate refugees'. To qualify as refugees, in the legal sense, there should have evidences of persecution that their own governments are intentionally destroying their environment, habitats and livelihoods options. Climate change is a consequence of global process so someone cannot say that her/his livelihoods or habitat has been destroyed by an individual state. Given the inappropriateness of terminologies, the 'climate induced migrants' is in need of new legal recognition that will resonate a sense of global responsibility and accountability, as well as a sense of urgency for impending disasters.²⁴

4. Legal Frameworks on Human Rights: no directive exists to safeguard climate induced forced migrants

There is a growing debate over whether climate change- affected populations are a 'new' group in need of protection and if existing legal frameworks are sufficient to provide for their protection.²⁵ In fact, the existing international, regional and national

²² Smith, Dan and Janani Vevekananda. A Climate of Conflict: The links between climate change, peace and war; International Alert, November 2007

²³ Reuveny, Rafael. 'Environmental Change Migration and Conflict: Theoretical Analysis and Empirical Explorations,' GECHS, June 2005

²⁴ Stavropoulou, Maria; Forced Migration Review, October 2008, Issue 31; PP. 11-12

²⁵ Jenty Kirsch-Wood, Jacob Korreborg and Anne-Marie Linde. What humanitarians need to do? Forced Migration Review, October 2008, Issue 31;

legal instruments, covenants and norms are to protect the rights of the people forcibly displaced by conflict, persecution etc. It is therefore surprising that a similar framework to protect the rights of people forced to move because of climate-induced environmental change does not exist.²⁶ For instance the United Nations High Commissioner for Refugees -UNHCR's mandate is to lead and co-ordinate international action to protect refugees and resolve problem worldwide. Its responsibility includes supervising, in co-operation with States, the application of the 1951 Convention relating to the Status of Refugees. As defined in the Convention, refugees are persons who are outside their countries of origin because of a well founded fear of persecution based on their race, religion, nationality, political opinion or membership in a particular social group, and who cannot or do not want to return home. The mandate of the UN Refugee Convention does neither cover nor comply the core characteristics of the climate change induced migrants crisis.

In contrary, climate change-induced forced migration would undermine many other UN conventions. For instance,

- a) **Universal Declaration of Human Rights:** The 1948 Universal Declaration of Human Rights protects freedom of movements and other social, cultural and economic rights which might be threatened when people are forced to migrate by climate-induced environmental degradation.
- b) **Right to Adequate Housing:** The right to adequate housing is enshrined in several core international Human Rights instruments and most comprehensively under the International Covenant on Economic, Social and Cultural Rights as an element of the to an adequate standard of living. The right to adequate housing has been defined as 'the right to live somewhere in security, peace and dignity; Core elements of the rights include security of tenure, protection against forced evictions, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility, location and cultural adequacy.

Observed and projected climate change will affect the right to adequate housing in several ways; i) sea level rise and storm surge will have a direct impact on the coastal settlements, ii) In the low- laying countries such impacts have already led to the relocation of peoples and communities, iii) Settlements in low-laying mega-deltas are also particularly at risk, as evidenced by the millions of people and homes affected by flooding and river erosion. All these will cause permanent displacement of the people from their settlements to other areas.²⁷

- c) **The Right to Self Determination:** The right to self determination is a fundamental principle of international law. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil

²⁶ Zetter, Roger; Legal and normative frameworks; Forced Migration Review, October 2008, Issue 31; PP. 62-63

²⁷ Adapted from 'Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights; 15 January 2009

and Political Rights establishes that ‘all peoples have the right of self-determination’ by virtue of which ‘they freely determine their political status and freely pursue their economic, social and cultural development’.²⁸ Important aspects of the right to self-determination include the right of a people not to be deprived of its own means of subsistence and the obligation of a State party to promote the realization of the right to self-determination, including for people living outside its territory.

The inundation and disappearance of the State territories and small island States would have implications on the right to self-determination. This also would give birth to a range of legal questions, including concerning the status of people living in such disappearing territories. Persons moving voluntarily or forcibly across an international border should be entitled human rights guarantees in a receiving State, but would often not have the right to entry to that State.

5. Equity Principle of the UNFCCC: what does remain behind?

Climate change is a consequence of the cumulative build-up of Green House Gases-GHG, dating back as far as the Industrial Revolution. It is therefore no surprise that developed countries are largely responsible for the build-up of GHGs and still emitting. The United States ranks as the highest contributor to cumulative CO₂ emissions (with a share of 29 percent), followed by the countries of the present European Union (26 percent) and Russia (8 percent).²⁹ Overall, developing countries have contributed only 24 percent to historical emissions, but their emissions are rising rapidly and at current trends would soon overtake the developed countries. Recognizing the importance of historical GHGs, there is a global commitment that developed countries should take the lead in combating climate change and related crises.³⁰

Although the industrialized countries, defined as annex I countries under the UNFCCC on climate change, have historically contributed most of the manmade GHGs emissions but the impacts of climate change would be distributed very unevenly and disproportionately. Those who have contributed least to the human-induced climate change should accept all the burden and distress. This unequal distribution of burdens of the effect of climate changes reflected in the article 3 of the convention (referred to as equity article). It stipulates that;

²⁸ The rights to self-determination is enshrined in Articles 1 and 55 of the Charter of the United Nations and also continued in the Declaration on the Right to Development and the United Nations Declaration on the Rights of Indigenous Peoples, arts. 3 and 4.

²⁹ These figures are based on emissions from 1850 to 2002. The European Union is treated as a single party reflecting its status in UNFCCC.

³⁰ Article 3.1 of the United Nations Framework Convention on Climate Change (UNFCCC) (http://unfccc.int/essential_background/convention/background/items/1355.php) and paragraph 1(b)(i) of the Bali Action Plan (http://unfccc.int/files/meetings/cop_13/application/pdf/cp_bali_action.pdf).

- a) Parties should protect the climate system ‘on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities,
- b) Developed countries should take the lead in combating and the adverse effect thereof.

In this relation full consideration should be given to the needs of the developing countries, especially those that are particularly vulnerable to the adverse effect of climate change and; that would have to bear a disproportionate and abnormal burden under the convention.³¹ This Equity Principle is a broader call to the developed countries to address the emerging needs and crises the developing countries will be facing. The ongoing negotiation on this Equity Principle of UNFCCC is focusing two major strategies to address climate change e.g. mitigation and adaptation. The first strategy, as article 2 of UNFCCC defines, aims to minimize the extent of global warming by reducing emissions and stabilizing GHGs concentration in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. The later one, adaptation, aims to strengthen the capacity of societies and ecosystems to cope with and adapt to climate change risks. Climate change adaptation includes wide range of actions and activities including relocating population from the flood-prone or from the at risk areas but, yet, it has not clearly defined how to address the multi-causality of forced displacement largely caused by climate change. There is a growing demand to recognize climate change- affected populations as a ‘new’ group in need of protection while existing legal frameworks and conventions are not sufficient to safeguard them.

6. Conclusion

The United Nations Framework Convention on Climate Change, which has near universal membership, provides the common international framework to address the causes and consequences of climate change, without however mentioning ‘climate change induced forced migrants’. Considering the notion of justice to the climate change induced migrants and also taking into consideration the article 13 of the 1948 Declaration of Human Right, the international community and especially the United Nations must ensure protection of the forced migrants; although the existing Human Rights law does not provide any clear answers as to the status of the population who will have been displaced from sinking islands. However, in line with the HR declaration and equity principle of UNFCCC a separate, independent legal and political regime needs to be created under a Protocol to safeguard the ‘climate change induced migrants’. This protocol could be drawn on widely agreed principles such as common but differentiated responsibilities of the country Parties; also must consider the 3 basic principles;

³¹ Adapted from Paras 1 and 2, article 3 of UNFCCC

- a) The legal debate over the issue of climate migrants must take into account the dignity of the concerned population as their own responsibilities for the past accumulation of GHGs are small. The people forced to be migrated due to climate change should bestow a different status and a different term and they should be given a dignified status 'Universal Natural Person' with social, cultural and economic rights.
- b) The climate refugees must be treated as permanent immigrants to the regions or countries that accept them.
- c) The climate change migrants should be tailored as entire groups of people, such as populations of a village, cities, provinces, or even entire nation, as in the case of small island states.

People could be homeless for many different reasons but we cannot make the people stateless.

Authors

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More information on this campaign is available at;

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