Adapting to Climate Change: Devising a Novel Legal Framework for Climate Migration

The United Nations Development Program’s 2007/08 Human Development Report refers to climate change as “the defining human development issue of our generation.” While the legal regime governing climate change is aimed primarily at mitigation, there is increasing recognition that mitigation alone is insufficient. The Human Development Report recognizes that millions of the world’s poorest people are already being forced to cope with the impacts of climate change in the form of increased exposure to drought, to more intense storms, to floods and other environmental stress. The problem is compounded by the fact that these consequences will impact those communities which are least able to defend themselves—the poor and the vulnerable. Rising sea levels will affect coastal areas throughout the world, including the US, where it is estimated that 3.7 million people are at the risk of being affected by more frequent flooding. While affluent societies will build sea walls and other defenses, poorer communities will migrate inland causing environmental stress in these areas and yet others will, in extreme situations, migrate across international borders.

The Intergovernmental Panel on Climate Change (IPCC) noted as early as 1990, “The greatest single impact of climate change could be on human migration – with millions of people displaced by shoreline erosion, coastal flooding and agricultural disruption.” Despite this recognition over two decades ago, the international community is yet to come up with a legal framework to govern climate migrants. While it is hard to predict the numbers of displaced persons and those forced to migrate as a result of climate change, estimates range from 20-200 million people by the year 2050. Those living on small island states, amounting to approximately 5% of the world’s population, are particularly vulnerable, giving rise to many legal questions relating to disappearance of states, sovereignty, nationality, ethnic identity and language.

The proposed project seeks to look at migration as a strategy of adaptation, albeit an extreme one. Under contemporary international law, only political refugees enjoy protection whereas millions of people who will be forced to migrate as a result of climate-induced events such as sea level rise and severe weather events have no legal protection at all. Currently, a legal vacuum exists in relation to such migrants. The proposed project seeks to work towards an innovative approach to developing a legal framework to govern climate migration, particularly across international borders. As more and more people are forced to migrate due to climate-induced events, it has been predicted that this could lead to conflicts over natural resources which may, in turn, lead to destabilizing international peace and security. There is an urgent need for the international community to design a legal regime governing climate migrants as the question is not “if” but rather “when” it will happen.