Recognition of climate change induced Migrants under Legal framework: Looking for an Appropriate way.
Structure of the Presentation

- Understanding climate change as a distinct cause of new trend of Migration
- Existing international legal instruments on migration and climate change
- Why is special protection and recognition in a new legal framework necessary for this new group of climate migrants?
- How can the human rights of climate change migrants be guaranteed?
- If no new legal order is possible, then is there any alternative remedy to ensure human rights for climate migrants?
- Conclusion
Who are climate migrants?

The uniqueness of climate change being cause of migration is that it sometimes roots out an entire village, locality, race or community and forced to mobilize them from their place of origin to another place whereas mostly traditional economic and social factors work behind an individual’s decision to migrate.

The people, by nature, are not likely to leave the place of their forefathers permanently rather they are likely to stay there any how despite all difficulties but it is the **climate change** which forces them to uproot the physical, emotional and historical attachment to the place of their birth and grown up.
Climate Induced Migration: A New Paradigm of Global Crisis.

- The Intergovernmental panel on climate change (IPCC) stated that by 2050, 150 million people around the globe could be displaced because of climate change factors.
- UNEP argues that by 2060 there could be 50 million environmental refugees in Africa alone.
- If sea level rises by 1 meter due to climate change, island nations such as the Maldives, the Marshall Islands, Kiribati or Tuvalu will be largely uninhabitable and force people to take refuge in other countries.
- From Bangladesh to Papua New Guinea, people have already started losing their land and the situation is going to be terrified for the very small island countries.
- Lohachara Island in India’s Hooghly River, once home to 10,000 people, has already been submerged.
11 Islands That Will Completely Disappear When Sea Levels Rise

- Solomon Islands
- Kiribati
- Maldives
- Seychelles
- Torres Strait Islands
- Tegua
- Micronesia
- Palau
- Carteret Islands
- Tuvalu
- Bangladesh

Source: http://www.businessinsider.com
Maldives' case

- Maldives, an island country will be no more in the world map in a day and the day is not too far.
- Because unavailability of fresh water due to soil intrusion, the loss of agriculture, damage to the near sea-shore marine environment and the ultimate loss of their economic base might compel the entire population as well as their Government to leave earlier than actual disappearance of their motherland.
- Such a situation can be compared with the fact of extinguishment of some rare species of other living creatures and that will be something simply collapses of mankind.
A case study of Bangladesh.

- 30% of its land falls in the coastal belt where nearly 35 million people live in.
- According to a World Bank report, Bangladesh will face 30 cm and 50 cm sea level rises in 2030 and 2050 respectively.
- Satellite images show that the New Moore Island or South Talpotti Island in the Bay of Bengal has disappeared due to sea level rise.
- If the recent trend of climate aggression does not change Bangladesh alone will outnumber the total number of the current refugees worldwide.
Climate Migrants: Looking for a legal recognition.

- The different terminologies used to address them are “ecological” and “environmental refugees”, “climate refugees”, “climate change migrants”, “environmentally-induced forced migrants” etc.

- The use of the term “environmental refugees” or “climate change refugee” is not justified because the particular term “refugee” is commonly used and legally defined in the 1951 Refugee Convention.
Article 1A(2) of the 1951 Convention and Protocol Relating to the Status of Refugees...

- The term “refugee” shall apply to any person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and.....

- The basic distinction between a refugee and a migrant caused by climate change is that the migrants do not move because of fear of persecution.
To qualify as “refugee” as per the 1951 Convention, people must cross international border.

- Article 3(d) of the International Convention on the Protection of the Rights of All Migrant Workers and members of their Families provides that the Convention shall not apply to refugees and stateless persons. Still, the most developed countries as well as the regular migrant receiving countries such as USA, European countries, Japan, Canada have not yet signed the convention.

- By definition the internally displaced persons (IDP) are they who flee natural and man-made disasters and remain in their country and it does not apply for these victim too.
Do the existing international instruments address the crisis?

- The mandate of the UNHCR is to coordinate and supervise the refugee issues in line with the 1951 Convention relating to the Status of Refugees.
- UNHCR covers only individuals who flee their countries because of state-led persecution based on race, religion, political opinion or ethnicity.
- United Nations Framework Convention on Climate Change (UNFCC) has not clearly said anything about migration issues either internal or cross border resulting from climate change.
- Tragedy is that the countries contributing very insignificantly to global warming is likely to accept all the burden and distress.
Needs Address in International Framework

- Should it be an entirely new one or to adopt a separate protocol to any existing convention?
- The problem is that which existing instrument is appropriate for adding a new protocol or amending necessary clauses.
- Adopting a new instrument will be difficult especially to make the developed and polluting countries party to that new one considering their record of non-signing, non-ratification of many existing instruments.
- I think, it will be comparatively easy to adopt a separate protocol under the UN Framework Convention on Climate Change by clearly terming this new group under an appropriate terminology.
Needs for Regional Legal Framework

- The climate induced migrants of **Bangladesh, Maldives**, immediate after the disaster will be forced to move to its neighboring country like India, and of course, not to the **most polluting country USA** or **other developed countries**.
- But unfortunately there is no regional instrument in the world to address the issue.
- Even, none of the South Asian countries have signed the Refugee Convention too.

• Despite the fact of having no specific convention in this regard, we can still compel the developed countries, particularly the most polluting countries to address the human rights of these climate change induced migrants by **progressive interpretation** of the existing legal instruments to which they are party and as such they are under obligation to abide by.
Universal Declaration of Human Rights, 1948

- **Article 1** provides that *all human beings* are born free and *equal in dignity* and *rights*. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

- **Article 3** provides that *everyone* has the *right to life*, liberty and security of person.

- **Article 25(1)** provides that *Everyone* has the right to a *standard of living adequate for the health and well-being of himself and of his family, including food, clothing, and housing.*
International Covenant on Economic, Social and Cultural Rights, 1967

- Article 11
  - Everyone has the right to an adequate standard of living for himself and his family, including adequate food, clothing and housing. Everyone has the right to be free from hunger.

International Covenant on Civil and Political Rights, 1967

- Article 6
  - Everyone has the right to life.

- Article 12
  - Everyone has the right to freedom of movement and to leave and enter his own country.

- Article 16
  - Everyone has the right to be recognized everywhere as a person before the law.

- Article 24
  - Every child has the right to a nationality.