

A Billion Indians in a Changing Climate

By

Alina Pathan*

Introduction

Climate change is seen worldwide as a serious and urgent issue. The Earth has warmed by 0.7°C since 1900 and will be subject to further warming over coming decades simply due to past emissions. Average global temperatures are estimated on current trends to rise by 2–3°C within the next fifty years, with several degrees more by the end of the century if emissions continue to grow (Stern 2006: 56).

Climate change will affect people around the world, threatening basic elements of life: access to water, food, health, and use of land and the environment. According to the Intergovernmental Panel on Climate Change (IPCC) with temperatures continuing to rise globally in the future, sea levels will rise, snow and ice coverage will decrease, and precipitation will increase in certain areas while droughts increase elsewhere. Also heat waves and cyclone activities will increase (IPCC 2007a: 2.).

In climate change discussions, much attention has been paid to the meteorological impacts of climate change. This is understandable as to appreciate the impacts of climate change, one must comprehend the scientific data, which is in itself complicated as precise scenarios cannot be made.

Oli Brown (2008b) has stated that while much time and energy has gone in determining the meteorological impacts of climate change, much less time and resources have been spent on empirical analysis on the impacts of climate change on human population. As the science of climate change is complex enough, its impact on societies with differing resources and varied capacity to adapt to external shocks, is even more unpredictable than the science. One of the significant consequences of climate change will be the question of human displacement. Climate change will have a significant impact on migration by reducing agricultural potential, increasing extreme weather events and destroying low-lying coastal areas. Poverty, falling ecosystems,

* University of Helsinki, Institute of Development Studies.
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vulnerability to natural hazards and environmental changes driven by gradual climate change are all linked to environmental migration. At the moment, majority of environmental migrants originate in rural areas of least developed countries and move and settle in urban centres within their home countries. From the point of view of India, a major concern is the vulnerable area of the Bay of Bengal (Brown 2008b: 12; Morton, Boncour & Laczko et al. 2008: 5–6).

The concept of so-called “environmental/climate migration” is problematic because nobody really knows precisely what climate change will mean for human population distribution. In the absence of concrete figures, it becomes difficult to persuade policymakers of its importance. In addition, isolating environmental factors from other drivers of migration is difficult. Defining environmental migration too widely can be damaging for those most in need of protection. However, nine out of ten disasters are now climate-related, so it is increasingly crucial to pay attention to rising natural disasters and their impacts to human population (Brown 2008b: X; Dun & Gemenne 2008: 10; Kirsch-Wood, Korreborg & Linde et al. 2008: 40).

The research focuses on the question: what are most serious climate change risks to human population in India? The focus of social impacts is especially on the question of human displacement. In addition to the main research question, emphasis is on identifying geographical hot spots and vulnerable groups in India as well as main policies and actions needed to protect vulnerable people.

The main methods and data collection techniques are literature review and interviews.¹ The interviewees represented 8 different organizations such as non-governmental organizations (4 interviewees), universities (4 interviewees), media (1 interviewee) as well as authorities of West Bengal State (2 interviewees). Due to the interviewee’s organizations, the views are mainly reflected from a West Bengal perspective.

The structure of the essay is as follows. Section 2 goes through the climate change phenomenon, climate change policy and climate change migration. Section 3 discusses climate-related natural disasters in India so far, future impacts of climate change and potential future impacts on human displacement. Present and needed Indian climate policies according to the interviews are discussed in section 4. Finally, section 5 concludes the essay.

Climate Change

Reasons and Impacts

Climate change is due to the increased greenhouse effect. Greenhouse effect itself is a natural process, which enables life on the Planet Earth. Certain atmosphere gases allow sunlight through the atmosphere but simultaneously trap some of the Sun’s energy, warming the Earth enough to support life (ilmasto.org 2008a). Thus, atmospheric gases act as a glass in a greenhouse. Without the greenhouse effect, the world’s average temperature would be

approximately -18°C while due to the greenhouse effect it is actually $+14^{\circ}\text{C}$ (FMI 2008a).

Human activities produce a significant amount of greenhouse gases such as carbon dioxide, methane and nitrous oxide, which strengthen the natural greenhouse effect and as a consequence climate changes. Especially the use of fossil fuels such as coal, oil and natural gas, causes significant emissions. Fossil fuels are used most in energy production and transport. Greenhouse gas emissions are also created in agriculture, industrial processes, landfills, land-use change (e.g. deforestation) and forest fires (ilmasto.org 2008a).

In 1988 the IPCC was established. The IPCC has since produced climate change reports for political decision making and has been chaired by Indian Rajendra Pachauri. IPCC's climate change reports are prepared in research groups who collect and evaluate published scientific data on climate change. Therefore, IPCC does not do research itself but gathers and analyses scientific information for national and international decision making (FMI 2008b). IPCC's newest report is from the year 2007. The report pointed out that global warming is an undisputable fact. On the basis of findings, it can be seen that Earth's average temperature has risen 0.74 degrees during the last 100 years, oceans have become warmer, the rate of ice and snow melting has accelerated and sea level has risen 10 centimetres since 1961. In addition, carbon dioxide concentrations in the atmosphere have increased by 31 per cent. The report especially emphasized the impacts of human activities on global warming. Global greenhouse gas emissions due to human activities have grown since pre-industrial times, with an increase of 70 per cent between 1970 and 2004 (Figure 1). (ilmasto.org 2008b; IPCC 2007 ENG: 2-6.)

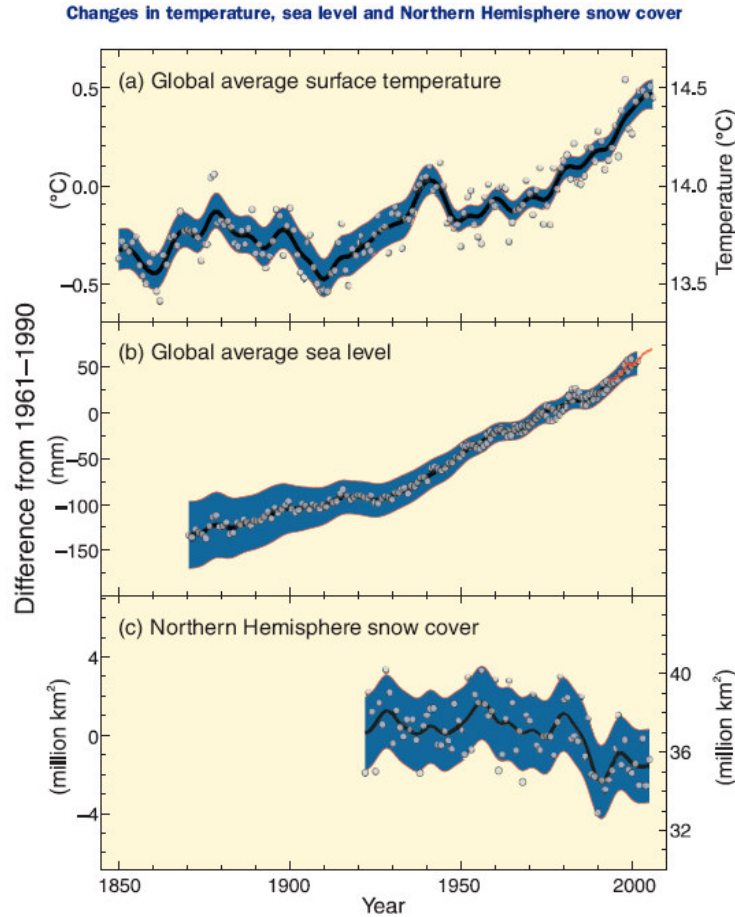


Figure 1. Observed changes in (a) global average surface temperature; (b) global average sea level from tide gauge (blue) and satellite (red) data and (c) Northern Hemisphere snow cover for March–April (IPCC 2007b, 3).

IPCC assesses the scientific, technical and socio-economic information relevant for the understanding of the risk of human-induced climate change. In the case of Asia, the impacts have been projected to be among others as follows (IPCC 2007b):

- By the 2050s, freshwater availability in Central, South, East and South-East Asia, particularly in large river basins, is projected to decrease.
- Coastal areas, especially heavily populated mega delta regions in South, East and South-East Asia, will be at greatest risk due to increased flooding from the sea and, in some mega deltas, flooding from the rivers.
- Climate change is projected to compound the pressures on natural resources and the environment associated with rapid urbanization, industrialization and economic development.

- Endemic morbidity and mortality due to diarrhoeal disease primarily associated with floods and droughts are expected to rise in East, South and South-East Asia due to projected changes in the hydrological cycle.

IPCC has projected that by the end of this century the global average temperature will rise by 1.1–6.4 degrees and sea level will rise 17 centimetres. Droughts will increase in already dry areas while floods will increase in coastal areas, low-lying lands and river deltas. Heavy rains and cloud bursts will also increase (ilmasto.org 2008b). Snow covered areas will also decrease. Very high temperature heat waves and tropical hurricanes are also among the impacts of climate change in different regional areas (IPCC 2007b: 12.).

Climate change does not only occur from global greenhouse gases but also regionally from local pollution. Atmospheric brown clouds (ABCs) are formed by regional pollution and consist of tiny particles of soot, sulphates, nitrates, fly ash and other pollutants. The main sources of ABCs are fossil fuel combustion, bio fuel cooking and biomass burning. Therefore traffic and small-scale combustion especially contribute to ABCs. Regional emissions have been noticed to have an impact on the greenhouse gas effect when air pollution forms a brown surface on glaciers and snow packs and results in surface dimming. The “darker” surface thus reduces solar radiation and contributes to global warming. From a global perspective, aerosol particles in ABCs may have masked as much as 25–75 per cent of global warming due to greenhouse gases. The reduced solar radiation could lead to droughts in Africa and Asia. Locally ABCs have been shown to diminish the formation of rain clouds. Therefore ABCs can lead to a reduction and redistribution in monsoon precipitation. The combined effect of greenhouse gases and ABCs are especially damaging to global water budget and food security. Air pollution is also a major cause of health problems. The role of ABCs is increasingly crucial in Asia, which is the home to more than half of the world’s population and accounts for almost 70 per cent of the world’s poor. Asia has fast growing economies and high rates of industrialization. Moreover 40 per cent of the Asian population are living in cities and the rate is expected to increase. The number of motor vehicles and consumption of energy are also on the rise. At the same time when ABCs sources are increasing, they accelerate the impacts to, for example, agricultural productivity and water stress. (UNEP 2008: III-VI, 4.)

International Climate Change Policy

The starting point of climate policy can be seen as began in 1988 when the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) established IPCC. In 1990 IPCC published its first report, which notified that greenhouse gases strengthen the natural greenhouse effect. After a series of governmental meetings, over 160 countries signed the United Nations Framework Convention on Climate Change (UNFCCC)² at the UN’s 1992 Rio de Janeiro Conference on Environment and Development (UNCED). The UNFCCC was designed to set industrialized countries on the path of emission reductions. The UNFCCC is still the most

important climate policy negotiation forum and system (*Financial Times* 2008: 8; Godrej 2006: 97-98).

Despite climate policy actions and IPCC's reports in 1990 and 1995, the climate change issue did not gather great interest in the United States. Especially the oil and coal lobby were strongly opposing research results on climate change. In 1997 before the Climate Convention in Kyoto, Japan, a US resolution proposed that the US would rule out any action on climate change if such actions would harm the US economy and unless developing countries also participated in greenhouse gas emission reductions. During the 1997 Climate Convention in Kyoto, the Kyoto Protocol was signed. The protocol was a supplement to the UNFCCC and set targets and timelines for industrialized countries for the 2008–2012 Kyoto Protocol period. The average emission reduction target was 5 per cent below 1990 levels. The Kyoto Protocol set tighter and more detailed reporting obligations than the UNFCCC. Most developed countries apart from the US ratified the Kyoto Protocol during 1997–2001. In 2001 US President George W. Bush delivered a speech in which he rejected the Kyoto Protocol and doubted the science on climate change. As a turning point for the Kyoto Protocol, Russia agreed to ratify the protocol in 2004, which guaranteed the treaty to come into force after the number of countries ratifying the protocol passed the 55 per cent needed (*Financial Times* 2008: 8-9; Godrej 2006: 98-103; Ministry of Environment 2008).

In 2007 President Bush changed his position on climate change and for the first time agreed to enter international negotiations on a successor to the Kyoto Protocol. At Bali in December 2007, a Bali Action Plan was agreed on. The plan stated that climate convention negotiations must be concluded by the Copenhagen Climate Conference by December 2009. In 2008 at a G8 meeting, the US agreed to sign long-term goals on emissions cuts. However, India, Brazil, South Africa, Mexico and China drafted a statement at the G8 summit calling for rich countries to take a more ambitious goal of cutting emissions by 80-95 per cent by 2050 compared to 1990 levels. This would allow developing countries to continue to increase their emissions longer. Developing countries do not however form a homogenous group for which reason especially the US requires India and China to join in emission reduction targets. India remains strongly opposed to emission obligations (*Financial Times* 2008: 6-8; Kaskinen et al 2009: 19).

In 2008, the US citizens elected Barack Obama as their new president. President Obama has taken a new line on climate policy and has pledged an 80 per cent emission reduction target by 2050.³ The Kyoto Treaty period ends at the end of 2012 and a new climate agreement should be negotiated at Copenhagen in December 2009. It will be a challenge for the new Obama administration to prepare their climate strategy by December.

One of the most difficult topics in the international climate negotiations has been the fact of different greenhouse gas emission amounts in various countries. Figure 2 presents cumulative carbon dioxide emissions during 1840–2004. The United States of America has clearly been the major emitter of carbon dioxide. Rich countries mostly dominate the overall emission accounts

but due to their huge populations, China and India also have their own share of emissions. Rich countries account for 45 per cent of CO₂ emissions although they account for just 15 per cent of the world population. Sub-Saharan Africa also accounts for around 11 per cent of the world population, but represents 2 per cent of global emissions. Low income countries as a group account for one-third of the world's population but for just 7 per cent of emissions (UNDP 2007: 40-42).

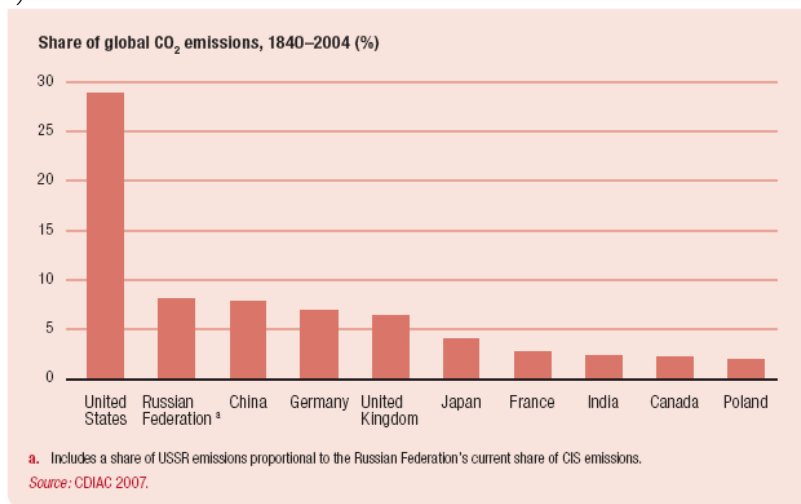


Figure 2. Cumulative CO₂ emissions 1840-2004 (UNDP 2007:40).

With countries such as the United States, while contributing to large portion of global emissions, having previously objected to measures on emission reductions, it is no surprise that developing countries have opposed obligatory emission reductions. The latter have especially referred to their low emissions per capita. Calculating and reporting green house gas emissions are also a complex task. In developing countries there are few organizations that are capable of doing this and the quality of emission data varies. Developing countries have also not been willing to develop accounting measures. Exact figures could encourage industrialized countries to gradually demand emission reduction measures and targets from developing countries. They have also stated that they need technology transfer and funding to be able to reduce emissions (Kaskinen et al 2009: 19-20). Developing countries however form a versatile group and there are huge differences in released emissions among different countries. Also the issue of Atmospheric Brown Clouds (ABCs) mentioned earlier, demonstrates the additional effect of industrialization especially in India and China and their contribution to regional climate change.

However, India has not been willing to commit to greenhouse gas emission reductions in international climate negotiations. India has emphasized equity and its low emissions per capita. India has, above all, emphasized “development first” policy; actions taken by developing countries should be development actions with climate co-benefits but not vice versa (Vihma 2009: 50). More on Indian national climate policy is presented in section 5.

Climate Change and Migration

Migration due to environmental change is not a new issue. Scarce resources have driven people to escape throughout history. What distinguishes the climate change we talk about now from previous climate changes is the magnitude of the impact. In addition, the global scale of environmental changes and the potential of human agency to respond to it are new phenomena (Boano & Morris 2008: 5).

Already in 1990 the IPCC noted that one of the greatest single impacts of climate change might be on human migration due to shoreline erosion, coastal flooding and agricultural disruption. In the mid-1990s 25 million people were considered to have been forced out from their homes and land because of serious environmental pressures such as pollution land degradation, droughts and natural disasters. This figure exceeded refugee figures from war and political persecution together (Brown 2008a: 11).

Professor Norman Myers from Oxford University has estimated that climate change could displace 200 million people by 2050.⁴ The figure would mean in practice that one in every 45 people in the world would be displaced by climate change in 2050. However, there are no certainties of exact figures because climate change impacts on human populations are not clearly known. Climate migrants will occur both from climate processes, which are slow-onset changes such as sea-level rise, salinisation of agricultural land, desertification, growing water scarcity and food insecurity, as well as climate events, which are sudden and dramatic hazards such as monsoon floods, storms, hurricanes and typhoons. In addition non-climate drivers are equally important. Vulnerability to, for example, natural disasters depend vastly on the communities' potentials to protect themselves from the impacts. Poor built houses, lack of warning systems and peoples' ignorance of needed actions in the event of a storm, all increase vulnerability. Therefore, a community's vulnerability depends on its exposure to climatic conditions such as a coastal location as well as the community's adaptive capacity. (Brown 2008a: 11-18.)

Adaptive capacity varies by regions, countries and communities. Also national and individual wealth determines vulnerability and can enable better disaster risk reduction, disaster education and prompter responses. Richer countries have better potentials to protect their citizens and richer citizens have more options than poorer people. Climate change will primarily have an impact on already existing problems such as food security questions and water scarcity. But the impacts of climate change and amount of people displaced by climate change will depend on the temperature rise in the future. At the moment, there are only different kinds of scenarios available as the future is impossible to predict precisely. Impacts on forced migration will depend on the following issues:

- The quantity of future greenhouse gas emissions.
- The rate of future population growth and distribution.
- The meteorological evolution of climate change.

- The effectiveness of local and national adaptation strategies (Brown 2008a:18, 27).

Several scholars emphasize that it must be kept in mind that migration is always due to several reasons: environmental, economic and social. When climate stresses coincide with economic and/or social stresses, potential for forced migration increases significantly. Thus, environmental processes are hard to separate from other processes. Migration is typically not the first adaptive measure for households. Only when immediate needs cannot be met and communities and governments have failed in giving assistance, people will consider migration as an option. Especially migration related to gradual climate processes requires access to money, family networks and contacts, if people have any choice. Most people displaced by climate change will look for new homes within their own country where they have existing cultural or ethnic bonds. Intercontinental migration is likely to follow pre-existing paths and old colonial relationships. South and East Asia are considered to be especially vulnerable to large-scale forced migration because of their low-lying mega cities (Jakarta, Shanghai, Tokyo, Manila, Bangkok and Mumbai). In addition small islands states are particularly vulnerable (Boano 2008: 9, 31; Brown 2008a:22-24).

People's vulnerability to environmental change reflects a combination of their exposure, sensitivity and adaptive capacity. As a result, degree of vulnerability varies widely within countries, communities and even households. For instance, poor people's exposure to the impacts of climate change is often higher than others because economic and political forces confine them to living in high-risk landscapes. Meanwhile, one of the most important factors shaping adaptive capacity is people's access to and control over natural, human, social, physical, political and financial resources. Women are especially in risk as gendered roles, as well as cultural prescriptions and prohibitions, make it far more difficult for most women and female-headed households to migrate in response to environmental change (Warner et al 2009: 21).

The problem with climate migrants is their "invisibility" in the refugee framework. The term environmental refugee is not a legal term in the sense of the 1951 Convention or the 1967 Protocol on refugee definitions. The term forced migrant has been suggested to be more appropriate as it characterizes people fleeing their place of residence due to environmental stress, whether they are internally displaced or have crossed international borders. There is also little international interest in extending the refugee regime to applying to environmental or climate refugees. Rather receiving states are willing to restrict the refugee regime than extend it (Boano 2008: 12). Brown (2008b: 41) states that despite this, the international community will have to deal with the large-scale displacement of climate change and rethink current policies.

Climate Change and Impacts on India

This section presents some examples on on-going gradual climate processes and climate events in India as well as expected impacts for the coming years.

Impacts So Far

People in India, especially the poorest, are vulnerable to the impacts of climate change because India's economy is highly dependent on natural resources. Over 55 per cent of workers are engaged in agriculture and related sectors and many others receive their living in coastal areas through tourism or fishing. Most of India's poorest people live in rural areas and rely totally on natural resources for their food, shelter and income. People, especially in rural areas, are already experiencing the impacts of climate change such as diminishing water resources and natural disasters and are trying to cope with scarce resources (UNDP 2009).

Several interviewees mentioned that due to climate change monsoon and precipitation patterns have changed. Especially winter and monsoon have experienced delays. There has been only a minor increase in total rainfall itself but heavy rainfall has increased. The temperature data in Kolkata shows an increasing trend in annual minimum temperatures indicating that the winters are disappearing. Other impacts derive from the melting of the Himalayas, which affects rivers even all the way to the Sundarbans.⁵ Coastal erosion has also occurred and reduced coastal tourism. Interviewees mentioned that there have also been flash and sudden floods. Floods are often followed by droughts. In Mumbai there have been sudden cloud bursts. Especially in risk are those dependent on agriculture and fisheries. According to interviewees pattern of rainfall and seasonal changes are affecting crops. A late monsoon can spell agricultural loss for crops to be sown in June. Also the increasing salinity of soil is reducing agricultural productivity. According to a professor interviewed, in a study concerning families that are dependent of high altitude animals, people have moved further north and some are changing their livelihoods to agriculture.

Almost 60 per cent of India's mangrove habitat is located in the Sundarbans region. However, the region is in increasing risk because of rise in sea level. Some of the islands have been already submerged and 15 per cent are expected to lose their landmass by 2020. Satellite imagery shows that the sea level in the Sundarbans has risen at an average rate of 3.14 centimetres a year over the past two decades, which is much higher than the global average of two millimetres a year (Bhaumik 2003; Sen & Danda 2007: 6–7). The Sundarbans' ecosystems and biodiversity are also being heavily affected by impacts of climate change.

According to the interviewees, flooding in the Sundarbans region is problematic. The embankments are built to protect people from flooding and to protect agricultural land. In the Sundarbans region people plant two crops a

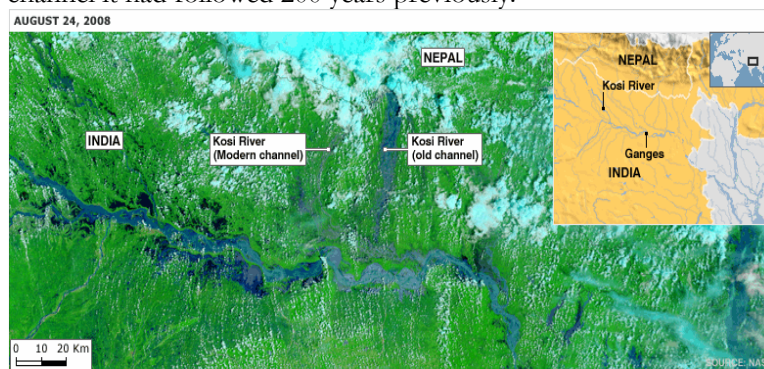
year, one in January and another in June–July. Usually when floods strike, people lose a standing crop. Cultivation and harvesting are the most vulnerable times for flooding. Embankments are built but they also trap water in. In the Sundarbans region, 85 per cent of the people are dependent on cultivation. Also there is a problem when embankments are built by the governments. There have been flaws in construction and material choices. As construction companies are interested in getting construction agreements, they might build them badly wilfully to receive a new agreement later. According to the interviewees, if local people were involved, they would build the embankments properly to safeguard their own interests. However, there have also been problems in engaging local people as they expect the government to take care of the issue.

In coastal areas, important adaptation measures include finding salt tolerant plant species when sea water intrudes agricultural land. According to interviewees, in some areas of the Sundarbans old salt tolerant plant varieties have been re-planted. Inland fisheries are also important in the Sundarbans but they suffer from saltwater intrusion after storms. Therefore freshwater fish suffer. Together with NGOs and research institutes efforts are being made to select fish species that survive both in freshwater and salt water. Also utilising people's traditional knowledge is important. Old best practices and traditional knowledge can be used to modify solutions to new circumstances instead of creating completely new ones.

Interviewees mentioned the flooding in Bihar in 2008 as an example of climate events. Heavy monsoon rain caused the river to change its course and flooded vast areas in India and Nepal causing displacement (Box 1).

Box1: Bihar River Changes Course

In 2008 monsoon rains caused the Kosi river, a tributary of the Ganges to change its course. The areas affected are not normally prone to floods. Normally the Kosi curved westwards out of Nepal in a C-shape. But in the heavy rains that hit the region, the river burst its banks and diverted southwards through the state of Bihar sending huge waves into an old, previously abandoned channel it had followed 200 years previously.



The disaster began when a dam burst on the Saptakoshi river in Nepal. The Saptakoshi, which becomes the Kosi when it enters India, subsequently broke its banks in Bihar. Severe flooding in the state of Bihar caused 100 villages to be completely submerged and displaced a million people in India and Nepal. People had to flee to unsanitary relief camps lacking of adequate emergency supplies. Bihar is one of India's poorest states. Limited supplies of safe drinking water and poor hygiene conditions posed a threat of diseases such as cholera. Officials said the flooding was the worst in 50 years in the region.



References and photos: BBC

http://news.bbc.co.uk/2/hi/south_asia/7591006.stm

Intensifying Climate Change Risks

South Asia will also suffer from problems relating to water availability, reductions in yields of wheat and maize and increases in disease, flooding in particular areas and drought in others as well as disruptions in the monsoon cycle. The specific impacts on the monsoon by climate change are still, however, unknown. By the end of the century, climate models suggest that the Indian region will receive generally more precipitation in average. Timing of the monsoon could change as well as its spatial distribution and there could be breaks within the monsoon. Water availability reductions are especially possible for areas of North India where majority of water needs are met by Himalayan snow-pack melt during the dry summer months. The loss of this water resource due to climate change will affect water management and irrigated crop production and increase unsustainable groundwater pumping. Highland communities will again be affected by snow and glacier melt by the terrain becoming unstable (Rajan 2008: 5, 8).

Climate change represents additional stress to India's ecological and socioeconomic systems that are already facing severe pressure caused by rapid urbanisation, industrialisation and economic development. One fourth of the Indian population lives by the country's long coast and is strongly dependent on coastal livelihoods. Coastal regions will suffer most from sea level rising and storm surges. Especially India's east coast is vulnerable to cyclones in the Bay of Bengal (DEFRA 2005). Below are presented expected climate change impacts on India.

Changes in Precipitation, Floods, Water Supply

Several areas suffer already from water scarcity. Even though the Indian population represents 16 per cent of the world population, it has only 4 per cent of the world's freshwater resources. Water supply will vary in different areas. Annual precipitation will increase but at the same time the number of rainy days will decrease. This means that regional distribution is large and also the number of heavy rainfall days will increase. Especially India's western coast and central parts will suffer from heavy rainfall. Extreme precipitation has already occurred in Mumbai in 2005 and caused floods in Gujarat in 2005 and 2006. These changes are expected to increase the vulnerability of Indian agriculture and natural resource-linked livelihoods as well as agricultural productivity. In urban areas the poor, who typically reside in areas prone to flooding, are the most vulnerable to water scarcity especially as they largely depend on informal water sources (Revi 2008: 212–213).

Impact of climate change on monsoon system is not yet certain. The timing of monsoon may change as well as its regional distribution. There may also be breaks during the monsoon. North India is expected to face most water shortages as the area is heavily dependent during dry summer months on water from snow-melting streams from the Himalayas. The loss of this water resource will affect substantially water supply, irrigation of agricultural land as well as would increase the use of ground water (DEFRA 2005; Rajan 2008: 8; Revi 2008: 212–213).

Drought

One of the most serious climate change risks to the Indian economy and its people is the increased intensity, frequency and geographical coverage of drought. Especially in rural areas droughts have a heavy impact on agriculture, animal husbandry, forestry and fishing. Drought can lead to cycles of seasonal and distress migration and increase rural debt and farmer suicides, some of which already exist as problems from before. In cities drought has impacts on drinking water shortages and increases food and biomass fuel prices. It can also have second-order impact such as depress demand for urban-produced secondary goods and services due to depressed agricultural demand and increase seasonal and distress migration from rural areas. Climate change is expected to increase drought in western India where five river basins are expected to be affected leading to acute to severe water shortages to several cities in Gujarat (Revi 2008: 213).

Cyclonic Storms, Storm Surge and Coastal Flooding

Cyclone intensity is expected to increase but the intensity will depend on how much the sea surface temperature will rise. India's east coast is clearly at risk as the frequency of cyclones in the Bay of Bengal is high. Also the high concentration of population on India's and Bangladesh's eastern coasts

increases the vulnerability of the region. There have already been several devastating cyclones in the area such as in Orissa, India in 1999 and in Bangladesh in 1991 causing serious damage and loss of life and property. Cyclones and storm surges are a particular risk for large cities such as Mumbai and Chennai. These areas are also, among others, at risk of sea-level rise. Other areas at risk are Khambhat and Kutch in Gujarat and part of the Konkan coast and south Kerala. The deltas of the Ganga, Krishna, Godavari, Cauvery and Mahanadi are expected to be lost as well as settlement areas, irrigated land and urban settlements situated there. Losing these economic and cultural regions could have a serious impact on the states of West Bengal, Orissa, Andhra Pradesh and Tamil Nadu. Impact of climate change on saltwater intrusion in the coastal zone and on coastal agriculture and fisheries are also expected to be significant (Revi 2008: 216).

Health Risks

Climate change is expected to increase environmental health risks in India such as water-borne diseases (diarrhoea, cholera and typhoid). Malaria is also a major concern. Malaria is expected to expand to new areas in western and southern India, which places a large population in risk. As Indian cities have already become major reservoirs of vector-borne diseases such as malaria and dengue fever, morbidity risks are expected to increase in the future (DEFRA 2005; Revi 2008: 217).

Climate impacts mentioned by the interviewees were in line with impacts mentioned in literature. Interviewees mentioned also changes in precipitation, increase of heavy rainfall and other extreme weather events as well as increase in diseases such as malaria and diarrhoea. Also the interviewees emphasized the social impacts of climatic events and processes such as loss of livelihoods, houses and cattle as well as the increase of debt traps through agricultural pattern changes. According to them, climate change could have a severe impact on the Ganga River. The river is considered to be mother river of India because many depend on it. Impact on Ganga could affect agricultural lands, irrigation as well as cause famines and drought and have severe impact on the Indian economy. Interviewees warned that while all environmental impacts should not be related to climate change, at the same time it is important to understand how different processes and human activities interlink.

Interviewees mentioned trans-boundary water disputes as an example of the role of climate change to potentially increasing political risks. As water sources are becoming increasingly scarce, China has considered plans to divert water from the Brahmaputra River to northern part of China and thus cut off Brahmaputra's river flows to India. Conflicts may also occur between states and districts because of use of water and especially due to crops demanding high amounts of water.

Impacts on Displacement in India

The IPCC even in its most conservative scenario estimates that sea level with rise in 2100 by 40 centimetres than today. This will cause coastal flooding affecting 80 million people in Asia. Majority of those affected will be in India and Bangladesh. Sudhir Chella Rajan (2008) is one of the few scholars who have done research on future climate migration in India and tried to estimate rough figures of the amount of people affected. According to Rajan's study, if global temperatures rise as much as 4–5 degrees Celsius following business-as-usual growth in greenhouse gas emissions, about 125 million people could be homeless in India and Bangladesh by the end of the century due to sea level rise and drought, associated with shrinking water supplies and monsoon variability. In this estimate, 75 million would be from Bangladesh and the rest from India's coastal and vulnerable areas. Majority of the Bangladeshi migrants are expected to immigrate to India despite the fact that India is already trying to restrict illegal immigrants from Bangladesh with a fence along their border.⁶ With a 4–5 degree rise in global temperatures, sea levels could rise 3–5 metres. Such an increase would imply the breaking-up of Greenland and Antarctica ice sheets. The level of sea rise is still being debated due to the complexity of climate modelling (Rajan 2008: 1–4).

Bangladesh, Pakistan and India share a coastal region called Low Elevation Coastal Zone (LECZ). The LECZ is within 10 metres above average sea level. The size of the area is 160 000 m² with a population of 130 million people. Almost 97 per cent of its population resides in equal numbers in Bangladesh and India. Bangladesh is as a whole a low-lying delta region and India has a long coast line with large cities along it. In Bangladesh, rural population will be most vulnerable whereas in India, rural and urban groups will be equally affected. Figure 3 illustrates the population density of India within the LECZ. At risk are expected to be cities such as Mumbai and Kolkata, which are at average elevations of 2–10 metres. Migration is likely to focus from these cities and other coastal cities such as Chennai to other large urban settlements in the inner country rather than to smaller cities in the coastline. Thus cities coping with growing populations already such as Delhi, Bangalore, Ahmedabad, Pune and Hyderabad will have to prepare for large numbers of migrants from the coast (Rajan 2008: 1, 6).

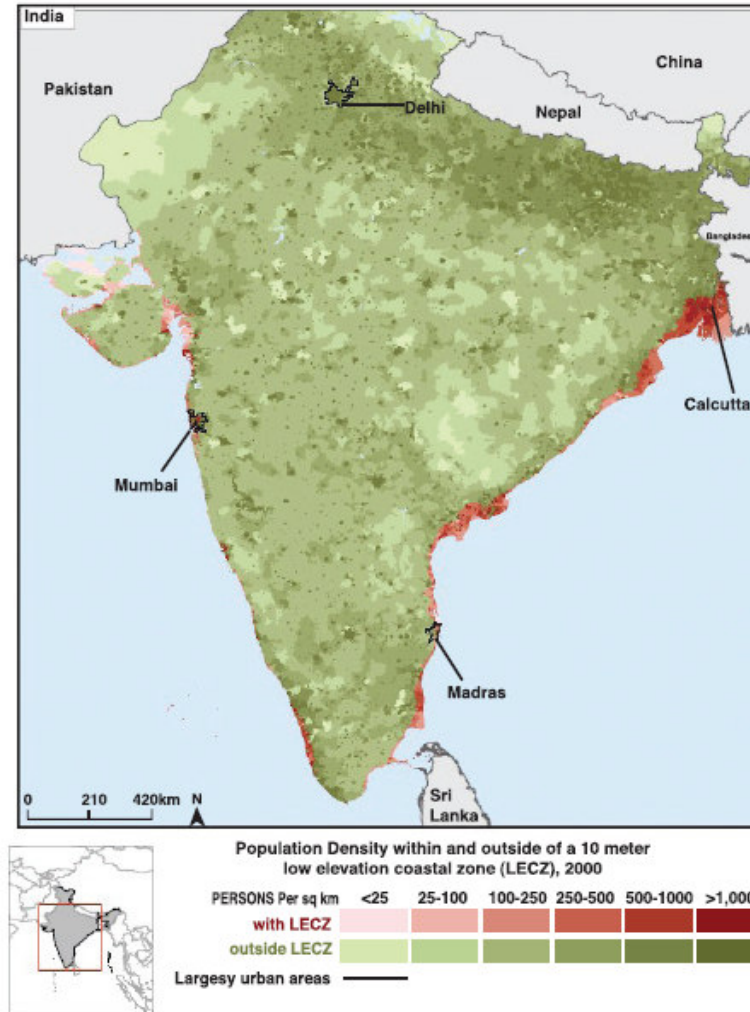


Figure 3. Population density within and outside a 10 meter low elevation coastal zone (Rajan 2008: 6)

Coastal population will face storm surges and coastal erosion. Most vulnerable communities will be those most exposed to these stresses and those with least capacity to respond and recover. When the point of ability to cope with the impact has been reached, mass movements of large coastal groups, villages, towns and even cities could occur. Historical evidence has shown that migration as such takes place in waves, often towards areas where there are family or community contracts, job opportunities and cultural affinities. Especially younger people tend to migrate first and urban areas are the largest recipients (Rajan 2008: 7).

But interior parts of India can also generate climate migrants. Vulnerable areas have been identified within India that will be most vulnerable to climate change as well as to negative trade effects of globalization. These

areas include among others western Rajasthan, southern Gujarat, Maharashtra and Madhya Pradesh. These migrants as well as sea level rise migrants will likely migrate in waves. Agricultural workers will become landless and suffer a serious threat to their livelihoods. Many of the migrants will head to urban areas and even to largest cities on the coast and be twice vulnerable to climate change but this time to sea level rise (Rajan 2008: 8).

Information on internal displacement caused by climate-derived processes and events is not widely available. Interviewees emphasized especially the Sundarbans region as an example of gradual climate-related displacement. According to the interviewees as a result of submerging islands in the Sundarbans, people have had to move to local islands due to loss of land but have remained in coastal areas. If they do not find livelihoods in coastal regions they tend to move further. One of the problems is that many do not speak several languages⁷ and therefore tend to stay in local regions. Some may migrate to Kolkata or other areas. People in the Sundarbans have low level of education, so their possibilities are limited. Migrants' possibilities can be especially diminished if they are perceived as a threat to locals. Mainly, however, people are not willing to leave their homes unless there are no other alternatives. Interviewees mentioned that people try to manage as long as possible in their home areas.

According to several interviewees, in the case of both temporary and permanent displacement the question of addressing people's needs is vital. Sanitation, food, water, housing and livelihoods are the main necessities. Interviewees also emphasized that people will need to know where to get information from and who will help them. At the moment there are no particular mechanisms, and information passes from person to person. Interviewees mentioned that there has been some assistance to people who have had to migrate due to erosion but most people do not have enough resources to take care of their own destiny. Some non-governmental organizations have built schools and resource centres in the Sundarbans region in higher points of the islands. The resource centres provide information on, among others, disaster management. Interviewees mentioned that it is vital to identify vulnerable groups and create disaster response teams accordingly. Interviewees predicted that as people are not willing to leave their home areas even though circumstances worsen, people would only leave once their situation has become very bad. At that point many will have nothing and will have a tough time finding a livelihood for themselves. People's reluctance to leave is, according to the interviewees, due to the fact that people are very apprehensive of uncertainty and fear the unknown. They are also concerned of what kind of assistance package they will receive from the government.

Indian Policies and Actions on Climate Change

In India environmental and climate policy issues are dealt within the central and state governments. In general, some issues are handled only at central government level, some only at state government level and some are

overlapping. In the central government there is a Ministry of Environment, which is the highest policy making body. State government ministers and departments can also make political decisions but never beyond the central government. In climate issues mitigation policies are set mainly by the central government and adaptation measures by the states.⁸

Policies So Far

Climate change is a rather recent topic in Indian policy. India signed the United Nations Framework Convention on Climate Change on 10 June 1992 and ratified it on 1 November 1993. It ratified the Kyoto Protocol in on 26 August 2002 and hosted the eighth Conference of the Parties to the UNFCCC in October 2002 in Delhi. In 2004, India submitted its first national communication to the UNFCCC (McKibbin 2004: 8).

An Indian report from 2005 stated that climate change remains relatively a low priority issue in India for policymaking and the general public. The issue was considered distant in comparison to developmental needs such as reducing poverty, generating employment and providing basic services and infrastructure. The Indian industry has been exempt from mandatory requirements to reduce greenhouse gas emissions but has, however, been active in developing Clean Development Mechanism (CDM)⁹ projects (TERI 2005: 10).

In 2007, the Indian Government created the Advisory Council on Climate Change, which is chaired by the Prime Minister. The Council has broad based representation from different key stakeholders. It held its first meeting on 13 July 2007. The plan was India's first step towards taking action on a national scale towards tackling impacts of climate change. In his opening remarks at the first meeting of the Council of Climate Change, Prime Minister Manmohan Singh acknowledged the findings of IPCC that climate change is a validated fact. He also pointed out the need to act on climate change, as India is dependent and vulnerable of the monsoons and the Himalayan snow-fed rivers as well as having a long coastline. In addition, growing needs of the economy puts pressure on natural resources. Singh emphasized on the importance of documenting work India has done in following a less-energy intensive path to developing new CDM projects and that climate change should be made a critical parameter in plan formulation and investment decisions. He also pointed out the challenge in addressing the global issue of climate change without compromising the imperatives of poverty alleviation. Other actions considered important were focusing on understanding and mapping the monsoon at sub-regional levels, technology development to respond to climate variability in agriculture to ensure food security and economic modelling in Indian circumstances as well as preparing a road map for energy efficiency and sustainable development in major sectors like agriculture, forestry, industry, transport, power, housing and environment infrastructure (Majumder 2007; Prime Minister's Office 2007).

The National Action Plan on Climate Change itself extends to the year 2017. It includes 8 national "missions" for solar energy, energy efficiency, water

conservation, more public transport, sustainable agriculture, sustaining the Himalayas and scientific research. The National Action Plan on Climate Change does not directly discuss the matter of impact of climate change to human displacement. The main targets of the national missions are as follows (Prime Minister's Council on Climate Change 2007: 3–5):

1. National Solar Mission: Aim to promote the development and use of solar energy for power generation and other uses with the ultimate objective of making solar competitive with fossil-based energy options.
2. National Mission for Enhanced Energy Efficiency: Current initiatives are expected to yield savings of 10,000 MW by 2012.
3. National Mission on Sustainable Habitat: To promote energy efficiency as a core component of urban planning, in building, urban waste management and recycling, efficient vehicles and incentives for public transportation.
4. National Water Mission: With water scarcity projected to worsen as a result of climate change, the plan sets a goal of a 20 per cent improvement in water use efficiency through pricing and other measures.
5. National Mission for Sustaining the Himalayan Ecosystem: The plan aims to conserve biodiversity, forest cover, and other ecological values in the Himalayan region, where glaciers that are a major source of India's water supply are projected to recede as a result of global warming.
6. National Mission for a "Green India": Goals include the afforestation of 6 million hectares of degraded forest lands and expanding forest cover from 23 per cent to 33 per cent of India's territory.
7. National Mission for Sustainable Agriculture: The plan aims to support climate adaptation in agriculture through the development of climate-resilient crops, expansion of weather insurance mechanisms, and agricultural practices.
8. National Mission on Strategic Knowledge for Climate Change: To gain a better understanding of climate science, impacts and challenges, the plan envisions a new Climate Science Research Fund, improved climate modelling, and increased international collaboration. It also encourages private sector initiatives to develop adaptation and mitigation technologies through venture capital funds.

According to an interviewee from West Bengal, the national action plan was prepared entirely by the central government. The central government requested suggestions from the state governments and they have responded accordingly. For example, the West Bengal Government emphasized the need for an action plan for the Sundarbans area as well as more actions on non-conventional energy. There was also a commission established between the central and state governments to come together on climate change. According to the interviewee these kinds of commissions are set up when the government feels there is a large gap in perception. At the time of the interviews (January 2009), the state of West Bengal was also planning to establish a climate change institute together with The Energy Resources Institute (TERI) to make climate change information such as how best practices can be multiplied, climate change

projections, vulnerability assessments and climate modelling available under one roof.

Some interviewees emphasized that there is increasingly more actions on climate change and natural disasters, keeping in mind how recent the subject of climate change is in Indian policy. Non-governmental organizations have raised climate change as one of their biggest issues and are increasingly working on it by awareness raising campaigns and lobbying to the government and private sector. Also there have been gradual improvements in disaster management plans and warning systems. Cyclone shelters in coastal areas as well as GPS¹⁰ warning systems for fishermen at deep oceans are some of the examples of these efforts.

Actions Needed

Climate change will have a powerful impact on India causing migration to urban areas and making people homeless. According to Rajan (2008: 1–3), even if global warming contained below 2 degree Celsius, the number of migrants would still be approximately 5 million people. The estimation of 125 million people displaced in the case of 4–5 degree Celsius global temperature rise, would be an overwhelming burden for India and be impossible to adapt to. Therefore, India should seek policy options that lead to sustainable development such as an economic growth that moves towards de-carbonization and climate change mitigation, as adaptation costs will be too high to bear. Rajan claims that India has not been active enough in reducing greenhouse gas emissions and has rather settled to be a beneficiary of project investments through the Clean Development Mechanism (CDM) (Rajan 2008: 1–3).

The interviewees had, assumedly due to their different background organizations, different views on how India has succeeded in climate issues. One common view raised in several interviews was that the Indian Government is not doing enough on its part of tackling climate change. Issues such as energy efficiency and transferring to liquefied petroleum gas (LPG) and renewable energy sources are not being adequately dealt with. Climate change was not considered to be a priority for India because development was rated higher on the political agenda. However, interviewees underlined that the people suffering most through climate change are poor people. Among those people especially vulnerable were considered to be marginalized people living in coastal areas who have no education and few health facilities.

Opinions of the National Action Plan on Climate Change also varied among the interviewees. Some considered it to be more words than actions. Many agreed that it was a good basis and outline but there were several issues to be added and more emphasized in practice. The plan should be implemented by research and complemented by a goal-oriented, systematic plan. Interviewees emphasized that mention of the vulnerable coastal areas were especially lacking in the National Action Plan. This was also an issue the West Bengal State Government was requesting the central government to include due to the vulnerability of the Sundarbans area.¹¹

One issue raised was that the government was giving an impression that “everything is in control” even though things were not. Some interviewees stated that the government is scared of anything negative and is therefore not thinking proactively. On the other hand, the government noted that climate change is a common responsibility. It was not just the government that received criticism but the overall mood among people and organizations in India. For example, the previously mentioned attitude of denial and understatement was considered to have started among the people, not the government. Ordinary people, who are also suffering from climatic impacts such as sea level rising and salinity, are pushing the responsibility of acting on the government even though, according to one interviewee, “they are the ones getting drowned.” Also the private sector has not, even among international companies operating in India, taken enough social responsibility. India was considered an economically strong and sound country. However, it is not advantageous to spend money on social and environmental issues if they do not produce profit.

“Planning is not Part of this Country.” – Interviewee, 13.1.2009

The interviewees called for a change in mindset in different levels of the society. Different interviewees put their emphasis on different actors, together covering a wide range: central government, local governments, private sector, common people and communities. The Indian mentality of accepting one's faith was considered damaging in the case of climate change. Because people tend to think one cannot change his/her own faith, people consider that climatic processes and events are non-avoidable. People take them as they come and are not, therefore, willing to act proactively. This mindset is reflected in different actors' opinions. Some interviewees pointed out that people are setting entrapping themselves by neglecting, for example, natural disaster reduction and prediction measures or even warnings; people unnecessarily pay with their lives when they could be saved. In addition, interviewees pointed out that many people argue that climate change is not a new issue. This kind of argument is based on the opinion that climate change has always been here. Despite the scientific results related to climate change, many consider it to be a bigger issue now because people are talking more about it.

“There is a Hangover Over Colonial Powers” – Interviewee, 13.1.2009

An issue reflecting the attitude towards climate change in India is the feeling that climate change is created by the West and the “white people”. Reason behind this is the scepticism of the colonial period and western actions, which still persist strongly among the Indian people. According to the interviewees, the West is commonly considered, as trying to limit India's growth by trying to commit India to emission reductions. The United States especially should first act on climate change as it has contributed so vastly to the problem and has not signed the Kyoto Protocol. This sort of attitude was considered partly harmful because it diminishes proactive measures on climate change.

Interviewees mentioned that also the industrial lobby use this kind of mentality as an argument to emphasize that it is the West who should act. Climate change is therefore partly overlooked as a scientific and political issue due to denial and anti-colonial sentiments as well as growing nationalism and middle class. Interviewees believed India will take an active role only if there is strong international pressure. Some interviewees criticized the Indian Government for not wanting to do anything voluntarily and only reacting on the matter. There are differences in climate change attitudes between governmental representatives and climate scientists and others who are a minority. The other side of the picture is, according to the interviewees, the large impacts of not-acting. Even in the case of vast migration caused by climate change, interviewees mentioned that people will tend to think that just as climate change, migration has always taken place.

Another challenge, according to the interviewees, will be convincing the larger public of the needs of action. This will be achieved only by a powerful commitment and motivation deriving from the government in cooperation with other actors. Interviewees mentioned that when people are not aware of the objectives and understand why something should be done, they are unwilling to change their habits. Especially in rural areas people are not aware of issues such as climate change where emphasis is more on short term than long-term benefits. Capacity building and raising awareness were thus emphasized in making people understand and then try to implement policies. Some non-governmental organizations have tried to demonstrate to people that even if agricultural productivity is reduced in a short term, in the long run future benefits can be guaranteed. But, according to the interviewees, there is still a strong need to pass information deeper into rural areas and offer better information overall. In addition local people should be consulted, for example, in embankment construction because they are aware of good materials. Also using local workforce creates jobs for the communities concerned.

In addition to a mindset change, interviewees called for actors to work together on climate change. Non-governmental organizations, states and government bodies, private sector and communities should seek for a common goal. The common goal and motivation is however yet to be created. There are differences among states in mitigation actions for which a strong national agenda is needed. There is also the financial challenge for different actors to work on climate change. Interviewees mentioned that financing climate adaptation such as desalination is very expensive and therefore India should commit to mitigating its emissions. Technology is expensive and it is impossible for India to find funds for all the technology needed. Therefore technology transfer is considered a must. In addition, in view of India's different geographical and socio-economic conditions, multi-layered strategies should be planned.

Interviewees also mentioned that to adapt to climate change, Indians should adapt new food patterns. As an example, one university professor mentioned the potential in eating oysters and seaweed. So far they have not been consumed as food and people have not been aware that they are edible. Also

less water intensive crops should be selected. As mentioned previously such fish and plant species, which can tolerate salt water, will be needed.

Of course, interviewees emphasized on the need for a global solution and the responsibility of the global community. All interviewees were well aware of the impact of climate change to human development in India but there were variations on whether India should commit to legally binding emission reduction targets or reduce emissions voluntarily. Many interviewees felt that India's stand on climate change is conditioned by what other countries do. For that and other reasons mentioned above, with the current economic situation, also mentioned by interviewees, and with a new US President, it will be more than interesting to see, what stand India will take in the climate negotiations in Copenhagen in December 2009.

Environmental NGO interviewees also emphasized that climate change policy should not be seen merely as a burden but also as an opportunity. There could be several jobs created in the renewable energy sector. But at the same time interviewees mentioned that there is a powerful energy industry lobby in the fossil fuel sector diminishing these potentials.

The interviewees pointed out that the severe challenges brought about by climate change should be the rationale why India should act proactively. The huge costs of 'not acting', the impact on wildlife and prospect of extinction of species, human displacement, livelihoods and development could all crumble the economic growth and development achieved so far.

Conclusions

Climate change is a process that is caused by industrialization and has intensified significantly during the latter part of the twentieth century and the beginning of the new millennium. India will be amongst the countries suffering most from impact of climate change. Most severe impact on India will be changes in precipitation, floods, water scarcity, drought, cyclonic storms and storm surges as well as health risks. These will, among others, affect people's livelihoods, economy, increase poverty and displace people. India is already now suffering from intensifying natural disasters.

India sees climate change as an environmental problem created by the unsustainable part of the first world, but in the eyes of other countries, India is also contributing to the problem. India's international climate policy is partly formed by anti-West and anti-colonialist sentiments. India also refers to its huge number of poor people, which limits its potentials to legally bind to any international climate agreement. Climate change policy is also a rather new area in Indian politics. The National Action Plan was introduced in 2007 and therefore India still needs time to find best and cost-efficient practices.

India is in a difficult situation, as it should at the same time reduce emissions, and improve the economical situation of its people through development, and thus reduce poverty. There are variations between countries in adapting to climate change. Richer countries have better financial opportunities to protect their citizens from, for example, natural disasters

whereas similar natural disasters may cause severe consequences in poorer countries. Poor people, also in India, are worst hit by impacts of natural disasters and climate change itself. The better the economical situation of the country—the better capability of financing climate changes adaptation. Therefore, also international financial aid is needed for adaptation.

A culture of information sharing and capacity building should be created between different organizations and stakeholders to work together and find suitable solutions to mitigate and adapt to climate change. Above all, India should take a firm position on climate change and implement effectively the missions of the National Action Plan. Climate change is a ticking time bomb where all actions not taken today, will multiply the problems for tomorrow. The international community as well as individual countries should commit to actions on climate change to especially protect the poor and the vulnerable. With a billion people population and continually growing, India has a lot at stake.

Notes

1 I conducted interviews with 11 persons in Kolkata during a research fellowship at Mahanirban Calcutta Research Group (CRG) in January 2009.

2 The Convention on Climate Change sets an overall framework for intergovernmental efforts to tackle the challenge posed by climate change. It recognizes that the climate system is a shared resource whose stability can be affected by industrial and other emissions of carbon dioxide and other greenhouse gases. The Convention enjoys near universal membership, with 192 countries having ratified. The Convention entered into force on 21 March 1994 (unfccc.int).

3 <http://my.barackobama.com/page/content/newenergy>

4 Myers has been since cited in IPCC publications and the *Stern Review on the Economics of Climate Change*.

5 The Sundarbans is an area shared by India and Bangladesh and is the world's largest delta and mangrove forest. The region consists of 102 islands. The Sundarbans are located at an area below Kolkata in India and Dhaka in Bangladesh where the Ganges and Brahmaputra rivers join and flow in the Bay of Bengal.

6 India has a 4000 kilometre long fence along the Bangladeshi border. The fence initially tried to stop smuggling, trafficking and illegal immigration (estimated 20 million people annually). Construction started in 2002. The 3.6 metre high, double wire fence serves also the purpose of controlling the flow of future forced climate migrants (Brown 2008b, 40).

7 In India, 29 languages have more than a million native speakers.

8 State official interviewee.

9 A mechanism under the Kyoto Protocol through which developed countries may finance greenhouse-gas emission reduction or removal projects in developing countries, and receive credits for doing so which they may apply towards meeting mandatory limits on their own emissions (<http://unfccc.int>)

10 The Global Positioning System (GPS) is a global navigation satellite system (GNSS) developed by the United States Department of Defense. It can be used freely, and is often used by civilians for navigation purposes.

11 “If glaciers melt, the Sundarbans and West Bengal will be heavily affected. [Indian Government] have good reasons to do something, but will they? Or only when get slapped?” – Interviewee, 13.1.2009

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Abbreviations

ABC	Atmospheric brown cloud
CDM	Clean Development Mechanism
CRG	Mahanirban Calcutta Research Group
IPCC	Intergovernmental Panel on Climate Change
LECZ	Low Elevation Coastal Zone
LPG	Liquefied petroleum gas
NGO	Non-governmental Organization
UNCED	United Nations Conference on Environment and Development
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
WMO	World Meteorological Organization

The Point of No Return - Exploring Law on Cross-Border Displacement in the Context of Climate Change

By

Vikram Kolmannskog *

Climate Change and Displacement

The First Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) noted that the greatest single impact of climate change might be on human mobility (Intergovernmental Panel on Climate Change 1990). In 2007, the Fourth Assessment Report of the IPCC authoritatively established that human induced climate change is accelerating and already has severe impacts on the environment and human lives (Intergovernmental Panel on Climate Change 2007). A significant impact of climate change is the increase in the frequency and severity of climate-related hazards. Hazards combined with vulnerability can result in disasters (International Strategy for Disaster Reduction 2004). The overall trend shows that the number of recorded natural disasters has doubled from approximately 200 to over 400 per year over the past two decades and the number of people reported affected has reached an unprecedented high, annual average of 231 million people, of whom 98 per cent are affected by climate-related disasters (Emergency Events Database). This may be "the new normal" (Holmes 2008).

There may be a risk in focusing on protection of displaced persons in a climate change context, namely that we put less effort into *preventing* climate change, disasters and displacement. For example, the government of Tuvalu does not want relocation to feature in international agreements because of its fear that if it does, industrialised countries may simply think that they can solve problems like rising sea levels by relocating affected populations rather than reducing greenhouse gas emissions (Inside Story 2009). It is important to stress that the international community's responsibility regarding climate change and displacement has at least three main elements.

First, mitigation of climate change is a must. This is a question of preventing displacement from occurring in the first place, and all authorities

* Norwegian Refugee Council (NRC)
Refugee Watch, 34, December 2009

and international actors are obliged to respect and ensure respect for their obligations under international law so as to prevent and avoid conditions that might lead to displacement (see for example 1998 UN Guiding Principles on Internal Displacement, Principle 5). Mitigation of climate change is an obligation under climate change law (see for example the 1992 UN Framework Convention on Climate Change article 2 a). The broader concept of sustainable development also limits some rights to development so as not to cause damage to the environment of other states (see for example the 1992 Rio Declaration on Environment and Development, Principle 2; and McAdam and Sau 2008). Similarly, the no-harm rule in international law requires states to prevent damage and to minimise the risk of damage to other states (Verheyen and Roderick 2008).

Second, the international community has a responsibility to support and strengthen states' adaptation to climate change (see for example the 2007 Bali Action Plan article 1 c). This is also a question of preventing displacement. While reducing the disaster risk can reduce the need to move, however, some people are displaced now and are likely to be displaced in the near future by climate change and disasters. Adaptation action must include the protection of those who are displaced.

Third, the international community therefore has a responsibility to support protection of internally displaced persons but also provide substitute protection to those displaced across borders.

While there is not a monocausal relation between climate change, disasters and displacement, the existence of a clear link between the phenomena is increasingly recognised (Kolmannskog 2008a). Voluntary migration can be a form of coping or adaptation, but climate change and disasters also contribute to forced displacement as a survival strategy. The current projections for the number of people who will be displaced by climate change vary wildly. According to a recent study by OCHA and IDMC, millions are already displaced by climate-related disasters each year, disasters which are increasing both in frequency and severity due to *inter alia* climate change (OCHA and IDMC 2009).

A typology of climate change, displacement and protection has been developed by the Inter-Agency Standing Committee (IASC) Task Force on Climate Change (Informal Group on Migration/Displacement and Climate Change of the IASC 2008). One type is displacement linked to sudden-onset disasters, such as floods and storms. According to the OCHA-IDMC study, more than 20 million people were displaced as a result of climate-related sudden-onset disasters in 2008.

A second type is displacement linked to slow-onset disasters, such as drought, which can seriously impact on people's livelihoods. According to the OCHA-IDMC study, more than 26,5 million people were reported affected by drought in 2008, but estimates for slow-onset disaster-related displacement are not readily available, and determining the element of force and ascribing causation is much more complex than in sudden-onset disasters. A particular slow-onset disaster case, which is separated out as a

third type in the IASC typology, is that linked to sea-level rise and resulting in loss of state territory as in the case of small island states.

A third – the fourth in the IASC typology – type is displacement linked to conflict. According to the OCHA-IDMC study, 42 million people were living in forced displacement due to conflict and persecution in 2008. According to some researchers, climate change impacts such as drought may have consequences for conflict, for example by making resources scarcer (German Advisory Council on Global Change, 2008; Black R. et al., 2008).

In addition to those mentioned in the IASC typology, we could also add another type linked to response measures to mitigate or adapt to climate change. For example, biofuel-projects and forest conservation could lead to displacement (IDMC 2007), and climate change may increase evacuations and relocations (Kolmannskog 2009a).

Finally, it is important not to overlook those who are not displaced. While some remain because of resilient capacity, others may in fact be *forced to stay*. They do not have the resources to move (Black R. et al., 2008). Displacement will result in particular needs, but it is important to stress that many of those left behind after a disaster may also have very serious protection concerns and there is a need for an inclusive approach to all affected.

While there may be several other effects of climate change on displacement, this article uses the IASC typology focusing on disasters and conflict as a background. While climate change is a point of departure, much of this article will also apply to those displaced by events or processes less related to climate change, and the terms “disaster” and “conflict” are used broadly. The end results for someone fleeing an earthquake, tsunami or cyclone are often the same, namely displacement with particular protection needs.

In all the four types relating to displacement discussed above, the displacement may be internal or cross-border, temporary or permanent. While it is likely that the majority of the displaced remain within their country of origin and the 1998 UN Guiding Principles on Internal Displacement applies to them, some may cross internationally recognised borders (Informal Group on Migration/Displacement and Climate Change of the IASC 2008). In the following, the focus is on cross-border displacement and protection possibilities within existing instruments and mechanisms. A main contribution of this article is the clarification that some of the displaced should indeed be considered refugees and a proposal that considerations relating to the possibility, permissibility and reasonableness of return may provide a starting point to strengthen or even expand existing instruments and mechanisms to address the cross-border protection gap.

Cross-Border Relocation, Resettlement and Statelessness

While there is a refugee resettlement regime built on principles of solidarity and burden sharing, there is no established international law,

policy or practice on cross-border relocation and resettlement in the context of climate change and disasters. Involuntary relocation can only be a last solution (Kolmannskog V 2009a; Barnett J and Webber M 2009). In some extreme cases, such as in the case of potential statelessness, there may be a need for a cross-border relocation. The President of the Maldives has announced that they want to buy land in another country (Guardian 2008). The government of Kiribati is trying to secure enhanced labour migration options to Australia and New Zealand, but they also recognise that migration schemes will eventually need to be accompanied by humanitarian options and are keen to secure international agreements in which other governments recognise that climate change has contributed to their predicament and acknowledge relocation as part of their obligation to assist (Inside Story 2009). As already mentioned, the government of Tuvalu, on the other hand, does not want relocation to feature in international agreements. There are references to relocation in the negotiating text for a new climate change agreement (Kolmannskog V 2009b).

It is still unclear whether people who lose their state due to climate change impacts, such as the “sinking” island state citizens, would be considered stateless. According to the 1954 Convention Relating to the Status of Stateless Persons article 1, a stateless person is “a person who is not considered as a national by any state under the operation of its law.” According to McAdam, the “sinking” island citizens would not be protected because the definition of statelessness is premised on the denial of nationality through the operation of the law of a particular state, rather than through the disappearance of a state altogether (McAdam and Sau 2008). Furthermore, current legal regimes are hardly sufficient to address their very specific needs, including relocation.

The Office of the UN High Commissioner on Refugees (UNHCR) has been mandated to engage in preventing and reducing statelessness as well as to protect stateless persons (see GA/RES/50/152, 9 February 1996, paras.14-15). In a recent submission to the climate change negotiations, UNHCR recommends multilateral comprehensive agreements that could provide where and on what legal basis populations affected by climate change would be permitted to move and their status (UNHCR 2009a). Stateless refugees are protected by the 1951 Convention relating to the Status of Refugees.

The Refugee Regime

According to article 1A of the 1951 Convention relating to the Status of Refugees, as modified by the 1967 Protocol, a refugee is a person who owing to a 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 is unable, or owing to such fear, is unwilling to avail himself of the protection of that country or who, not having a nationality and being outside the country of his former

habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

Displacement in the context of climate change and disasters was not considered by the drafters when formulating this definition. Nonetheless, some people displaced across borders in the context of climate change could qualify for refugee status and protection. Serious or systematic human rights violations are normally considered to amount to persecution (UNHCR 1992 para 53). Experience shows that situations of both natural disasters and conflict are prone to human rights violations. For example, the recognition of the human rights, discrimination and persecution aspect in natural disaster situations, in particular in the aftermath of the 2004 Asian Tsunami, led to the development of the IASC Operational Guidelines on Human Rights and Natural Disasters. The 1951 Convention as well as UNHCR's mandate, will as a minimum be applicable in situations where the victims of natural disasters flee because their government has consciously withheld or obstructed assistance in order to punish or marginalize them on one of the five grounds (UNHCR 2009b). In addition, there are often several reasons why a person moves, and convention refugees may flee in the context of disasters while the well-founded fear of persecution exists independently (Kolmannskog V 2008a).

There are regional instruments with broader definitions, but none explicitly mention climate change or disasters as a reason to grant refugee status. The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa article 1.2 includes as refugees persons forced to flee due to "events seriously disturbing public order." Although there have been examples of practice to permit people displaced by disasters across borders to remain temporarily, it seems that in most cases African governments have not characterised this as an obligation arising under the OAU Convention (Edwards A 2006). In Latin America, the 1984 Cartagena Declaration on Refugees, which has inspired the legislation of many states in the region, also includes as refugees in article 3 persons forced to flee due to "other circumstances which have seriously disturbed public order." However, the International Conference on Central American Refugees does not understand the "other circumstances" to include natural disasters (CIREFCA 1989). Jurisprudence based on these regional definitions is scarce, however, and there is a need to develop doctrine and guidance to states on the interpretation of these criteria. We may also see a change in practice and interpretation with the increasing frequency and severity of disasters and ensuing displacement.

The Possibility, Permissibility and Reasonableness of Return

Since many of the cross-border displaced persons will not qualify as either stateless persons or refugees, some advocates for their protection have suggested amending the 1951 Convention. But any initiative to modify the refugee definition would risk a renegotiation of the Convention, which,

in the current political situation, may undermine the international refugee protection regime altogether (Kolmannskog V 2008a; and UNHCR 2009b). Some solution to the normative protection gap may be found in the broader human rights law and considerations of the possibility, permissibility and reasonableness of return.

We may see cases where return of a person to his or her place of origin at some point becomes *impossible* due to climate change and disasters. The “sinking” island states may be an extreme example. In other cases disasters are likely to affect infrastructure, which may be necessary to effectuate a return.

Forced return may also be *impermissible* either because it is considered a direct breach of a fundamental right or considered to be a more indirect breach of such a right. (There is also a prohibition of collective expulsion, i.e. of decisions to collectively send persons back, without assessing their individual situation, in for example the 1950 European Convention on Human Rights and Fundamental Freedoms Protocol 4 article 4.) The principle of *non-refoulement* in the Convention relating to the Status of Refugees article 33(1) stipulates a prohibition of expelling or returning (“refouler”) a refugee “in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a social group or political opinion.” This fundamental principle is widely regarded as being a part of customary international law and has counterparts in human rights law. Since many of the displaced in the context of climate change will not qualify as refugees, the focus here is on the broader human rights principle.

In human rights law, *non-refoulement* is an absolute and general ban on sending a person, independent of conduct or status, to places where they risk certain rights violations. The 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment article 3(1) states that “[n]o State Party shall expel, return (*refouler*) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” According to case-law, the 1950 European Convention on Human Rights and Fundamental Freedoms article 3, the ban on torture and inhuman and degrading treatment, implies a duty not to return a person to a place where they risk exposure to the prohibited treatment (see for example *Soering v. the United Kingdom*, application no. 14038/88, 7 July 1989; and *Chahal v. the United Kingdom*, application no. 22414/93, 15 November 1996). There are also statements to a similar effect by the Human Rights Committee regarding the 1967 International Covenant on Civil and Political Rights article 7 (*Chitat Ng v. Canada*, Communication No. 469/1991, UN Doc CCPR/C/49/D/469/1991). Most agree that the prohibition on torture is a peremptory norm, but there is disagreement regarding the extent to which one is protected by customary law against lesser ill-treatment and human rights violations.

No matter how much a disaster has been induced or created by humans, it is doubtful, to say the least, if it can meet the international definition of torture as the infliction of severe pain or suffering by a public official for an enumerated purpose such as punishment or obtaining a confession (see also McAdam and Sau 2008). It could also seem far-fetched to call a disaster cruel, inhuman or degrading treatment. In some cases, rather than claiming that a person is returned to ill treatment, the return itself could arguably constitute the ill treatment and perhaps even torture. Let us illustrate with a rather extreme example: How should we consider a case where a public official leaves a person to fend for himself with hardly any means in the middle of a desert? There is a continuum between direct and indirect human rights violations.

Generally, courts have carefully circumscribed the meaning of “inhuman or degrading treatment” so that it cannot be used as a remedy for general poverty, unemployment, or lack of resources or medical care except in the most exceptional circumstances (see for example *HLR v. France* (1997) 20 EHRR 29; and McAdam and Sau 2008), but there are cases where the concept of “inhuman treatment” has been interpreted rather progressively. In the case of *D v. the United Kingdom* (application number 30240/96, 2 May 1997) the European Court of Human Rights considered that returning an HIV-infected person to St. Kitts would amount to “inhuman treatment,” due to *inter alia* the lack of sufficient medical treatment, social network, a home or any prospect of income. During and after the hurricane Mitch in Central-America in 1998 homes and vital infrastructure was destroyed or damaged hindering the provision of basic services such as clean water, electricity and food. One could consider that persons with particular vulnerabilities are protected against return to such circumstances. In *D v. the United Kingdom* the Court reserves to itself “sufficient flexibility to address the application of that Article in other contexts which might arise”, and even when “the source of the risk of proscribed treatment in the receiving country stems from factors which cannot engage either directly or indirectly the responsibility of the public authorities of that country” it is not prevented from scrutinising a claim under article 3. Clearly, law relating to the permissibility of return is relevant in a climate change context.

It may also be considered that return in some cases is *unreasonable*. The circumstances in *D. v. the United Kingdom* were categorised by the Court as “very exceptional”, and subsequent case law has interpreted the possibilities offered by the case quite restrictively. In for example *Bensaid v. the United Kingdom* (application number 44599/98, 6 February 2001) the applicant was suffering from schizophrenia, but was not protected against return to Algeria. The risk that the applicant would, if returned, suffer treatment reaching the threshold of article 3 was “less certain and more speculative” than in *D. v. the United Kingdom*. However, there was a separate opinion joined by two other judges, clarifying that it was only with “considerable hesitation” that they had found that return would not violate article 3, and, there exists “powerful and compelling humanitarian

considerations in the present case which would justify and merit reconsideration by the national authorities of the decision to remove the applicant to Algeria.” Not only strict permissibility, but also a more discretionary reasonableness of return, would be relevant for states to consider in the context of climate change.

Climate change and disasters have negative effects on the realisation of several human rights (OHCHR 2009). In theory any human rights violation under systems such as the European Convention on Human Rights could give rise to a *non-refoulement* obligation (*R v. Special Adjudicator ex parte Ullah*, 2004 UKHL 26, paras 24-25). Importantly, the right to life is non-derogable and has very limited exceptions (article 2(2) and article 15(2)). Hence, a person should not be sent back where there is a danger to his or her life. In addition one could apply the *non-refoulement* of refugee law (which includes protection of life) by analogy. Climate change and disasters also affect other human rights such as the right to food, the right to water, the right to health and the right to adequate housing (OHCHR 2009). Except for absolute rights such as the right to life and the ban on torture and certain ill treatment, most human rights provisions permit a balancing test between the interests of the individual and the state. In light of the “new normal” of climate change with more frequent and severe disasters, however, it can no longer be “virtually impossible for an applicant to establish that control on immigration was disproportionate to any breach of such human rights” (*Kacaj v. Secretary of State for the Home Department* [2002] EWCA Civ 314, para 26, referred to in *McAdam and Sau* 2008). These rights will often also be linked to the right to life, and could arguably also be linked to the ban on inhuman and degrading treatment. And, as already mentioned, even if return is not a strictly impermissible, it may be considered unreasonable.

Related to the question of permissibility and reasonableness of return is the principle of return in safety and dignity. International treaties, UN resolutions, UNHCR handbooks and the High Commissioners’ speeches indicate that important elements of the norm include participation, voluntariness, restoration of rights and sustainability of returns (Bradley 2007).

If return is not possible, permissible or reasonable due to circumstances in the place of origin and personal conditions including particular vulnerabilities, a person should receive protection regardless of the initial cause of movement. The Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons has argued that in the context of climate change such persons could in fact be considered displaced (Kälin W 2008b). In cases of slow-onset disasters it would not be so much a question of why someone left initially, but rather whether the gradual degradation has reached a critical point where they cannot be expected to return *now*. In the annotations to the definition of internally displaced persons in the 1998 UN Guiding Principles on Internal Displacement, people who have left voluntarily to another part of their country but cannot return to their homes because of events occurring during

their absence that make return impossible or unreasonable, are also considered displaced (Kälén W 2008a). To a certain degree this line of thinking is also acknowledged in traditional refugee law with the recognition of *sur place* refugees who were not refugees when they left their country, but who became refugees at a later date due to circumstances arising in the country of origin or as a result of their own actions.

Naturally, it is the present and future risk of rights violations, rather than the past, which is crucial in determining protection need. Where this need is acknowledged, a clear protection status should also be granted. Existing human rights law, including the *non-refoulement* principle, does not provide for a right to stay nor dictate the content of any protection, but it must include non-rejection at the border to be effective and can provide a basis for some form of complementary protection.

State Practice and Complementary Protection in Natural Disaster Cases

Complementary forms of protection have been granted to persons who do not fit so well in the refugee definition, but nonetheless are considered to be in need of substitute protection. The conditions to obtain and the content of complementary protection depend on national and regional legislation. The rights are often similar to or somewhat less favourable than those afforded refugees according to the 1951 Convention. States have granted protection in several cases of natural disaster displacement. This may be either because they consider return impermissible due to human rights and *non-refoulement*, or because they consider return unreasonable and therefore see protection as a humanitarian gesture and within their sovereign discretion. In any case this practice relates to the question of return and can be built upon to address the normative protection gap.

The people of Tuvalu and Kiribati are not comfortable with the media and public opinion labelling them “climate refugees” (Inside Story 2009). They say it is the actions of other countries that will ultimately force their movement, not the actions of their own leaders. We should not assume that people displaced by climate change and disasters will automatically and permanently lose the protection of their state of origin. The responsibility of neighbouring and more distant states receiving the displaced should come in support of that of the state of nationality. The American Temporary Protected Status mechanism seems to reflect such thinking. In 1990, Temporary Protected Status (TPS) was adopted as the statutory embodiment of safe haven in the USA for those who do not qualify as refugees but are nonetheless reluctant to return to potentially dangerous situations. According to the 1965 Immigration and Nationality Act section 244, the nationals of a foreign state can be designated for such status if three conditions are fulfilled:

- 1) There has been an environmental disaster in the foreign state resulting in a substantial, but temporary, disruption of living conditions;
- 2) The foreign state is unable, temporarily, to handle adequately the return of its own nationals; and
- 3) The foreign state officially has requested such designation.

In the aftermath of the hurricane Mitch in 1998, the USA took an unprecedented decision to grant TPS to Hondurans and Nicaraguans and other Central Americans. 81,875 Hondurans and 4,309 Nicaraguans benefited from TPS in the first years (Wasem and Ester 2006). The repeated US extensions of TPS for Hondurans and Nicaraguans is commendable, but it does not change the fact that the individuals in question are still residing in the country on a temporary basis ten years after the disaster struck. The TPS provision states that a bill or amendment that provides for the adjustment to lawful temporary or legal permanent resident (LPR) status for anyone receiving TPS requires a supermajority vote in the Senate (i.e., three-fifths of all Senators) voting affirmatively (Wasem and Ester 2006). Legislation to allow Hondurans and others to adjust to LPR status received considerable attention in past Congresses, but was not enacted (Wasem and Ester 2006).

Only a few of the other nationalities that appear to qualify for TPS have been accepted. The wide discretion in designating countries for TPS raises a concern that the failure to designate a country may be due to domestic politics, ideology, geographical proximity to the United States, foreign policy interests, the number of nationals present in the United States who would benefit from a designation and other factors unrelated to human rights protection (Frelick and Kohlen 1995). Furthermore, in extreme disaster scenarios, the state of origin may be unable to even advocate with other states on behalf of its citizens in distress. There are also cases in which displacement relates to a certain unwillingness to protect on part of the state of origin, including even active human rights violation. While the American model recognises a role for the state of origin, it is not a strong, legal obligation to protect the individual. It is facultative; a state *can* be designated for such status. It is a deal between the USA and another *state*, not first and foremost a duty to the individual.

In Finland and Sweden another model has been chosen. While they emphasise that the first alternative in natural disasters is internal flight and international humanitarian help, the countries also recognise that complementary protection may be necessary (Kolmannskog V and Myrstad F 2009). There are provisions in both countries' Aliens Acts to extend either temporary or permanent protection to foreign nationals who cannot return safely to their home country because of an "environmental disaster" (see for example the Swedish Aliens Act 2005:716, Chapter 4 Section 2; Kolmannskog V and Myrstad F 2009). The content of such protection is similar to refugee protection and regular citizen standards, including for example the right to work.

While other countries may not have an explicit recognition of such displacement in their legislation, some have an inclusive practice of temporary or discretionary “humanitarian” stay. From 2001 to 2006 there was a presumption in Denmark that families with young children, and eventually also landless people, should not be returned to Afghanistan due to the drought there (Kolmannskog V and Myrstad F 2009). In non-EU countries there is also increasing attention being paid to the topic. Norway recognises the need to be able to grant (possibly temporary) residence permits to people who come from an area affected by a natural disaster (OT.PRP. 75 (2006-2007), para 38(c); and Kolmannskog V and Myrstad F 2009).

State Practice and Complementary Protection in Conflict Cases

In addition to sudden-onset and slow-onset disaster displacement, climate change and disasters could also contribute to increasing conflict and related cross-border displacement. People fleeing generalised violence, including climate-related violent conflict, are often recognized as refugees by many states and by UNHCR. In other states they benefit from complementary forms of protection on the basis of human rights law, including at a minimum protection against forcible return. Regional instruments like the OAU Convention and the Cartagena Declaration include as refugees persons fleeing from “generalised violence.” The EU Temporary Protection Directive provides for temporary protection in mass-influx situations of persons fleeing armed conflict, and the EU Qualification Directive extends subsidiary protection if there is “a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict” (article 2 e, cf. 15 c). The tension between the criteria “individual threat” and “indiscriminate violence” has been the subject of some debate. According to the Advocate General Maduro of the European Court of Justice, the standard of proof for demonstrating the individual nature of the threat is lower than under 15 a (death penalty) and b (torture or inhuman or degrading treatment or punishment); and the more severe the violence, the less is the need for an applicant to demonstrate an “individual threat” (*Elgafaji v. (the Dutch) Staatssecretaris van Justitie*, case C-465/07, 9 September 2008). Apart from those of the OAU and the EU many countries do not yet recognize people fleeing generalised violence as refugees or persons qualifying for complementary protection. This area of law therefore also needs further harmonisation and binding force. As in the disaster displacement cases, one could build further on human rights and *non-refoulement*, which guide law on when return is permissible and reasonable and when a protection status should be granted.

Conclusion and Recommendations

This paper has explored law and policy on cross-border displacement in the context of climate change. Some displaced persons may qualify as either stateless persons or refugees and states should recognise them as such. States should also ensure that migration management systems provide for the entry and protection of others in need. The human rights regime and complementary protection mechanisms can be built on for such solutions. While bilateral deals such as those under the American TPS, is one option, the receiving states must also use their sovereign right to grant safe haven in accordance with basic human rights commitments. If return is not possible, permissible or reasonable due to circumstances in the place of origin and personal conditions including particular vulnerabilities, a person should receive protection. Temporary or more permanent protection would of course also alleviate pressure on a state struggling with disasters or violent conflicts. As many of the domestic approaches are discretionary and vary greatly, there is a need to address these questions at a regional and international level, but states should also already start adapting their national laws to better respond to climate change and cross-border displacement. Finally, since most of the displaced persons remain in developing countries, the rich, polluting countries must also contribute to protection by supporting these countries.

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Struggles on the Borders of Higher Education: The Subjectivation of Indian Students in Australia

By

Brett Neilson*

It all began with an incident of racism. At 3am on the morning of 29 April 2008 in the Melbourne suburb of Clifton Hill, 23-year-old Jalvinder Singh was stabbed four times in the chest. The incident occurred in his workplace, a yellow cab he drove to support his studies as an international student in hospitality management at the Carrick Institute of Education, one of the many private colleges for Vocational and Educational Training (VET) established in Australia's cities over the past decade.

This was not the first attack upon an Indian taxi driver in Melbourne. On 8 August 2006, Rajneesh Joga, a student from Hyderabad studying towards a Masters of Accounting course at the Royal Melbourne Institute of Technology, was killed when an assailant tried to hijack his cab by pushing him out of the moving vehicle (Petrie & Holroyd 2006). On that occasion, a protest quickly ensued. Taxi drivers, many of them from India and in particular the state of Punjab, assembled at the corner of Flinders and Swanston Streets, one of the city's busiest intersections. Chanting angrily, they blocked traffic and issued a set of demands to improve their safety and working conditions (Hagan 2006). Somali drivers held solidarity protests at the airport. Eventually these actions were disbanded when the Victorian Government agreed to meet a delegation of the drivers. But over a year later, the government had not yet addressed their demands.

In the wake of Jalvinder Singh's stabbing, the taxi drivers would not be so naïve about the prospects of negotiation with government. Hours after the discovery of Singh's injured body, a crowd of taxi drivers, mostly international students from South Asia, began to gather again at the intersection of Flinders and Swanston. As the morning progressed their numbers swelled to about one thousand. Cabs were positioned to block some of Melbourne's busiest thoroughfares, causing commuter havoc and bringing the city to a standstill. A number of local political actors joined the fray, among them individuals involved in anarchist, socialist and student

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organising. As the media arrived, the drivers upped the ante. They removed their shirts, and began to chant '*Hai bai?*'. Refusing the ministrations of police and government, they too issued a set of demands: compensation for the victim, punishment for the criminal, installation of safety screens in all cabs, pre-payment of fares around the clock, protection for drivers and members of the public at key points after hours, police investigation of all complaints made by migrant drivers, and removal of all parking fines issued during the protest.

As the city's traffic ground to a halt and police attended the scene, it became apparent that the protest would not end in the manner of the previous one. The drivers, many of whom had assembled as a result of the circulation of SMS messages, would not move. As they attempted to identify leaders or negotiators, government and police became increasingly frustrated. 'They are not an organised group', declared Public Transport Minister Lynne Kosky, 'which is actually very difficult' (ABC 2008). Presumably this meant that the drivers were not organized like a trade union with a clear line of command and spokespeople. Inspector Steve Beith of the Victoria Police explained: 'There doesn't seem to be any structure or organizers. Every time we try to speak to anybody the shouting and chants start. It's very difficult to hear what they're trying to say. There appears to be different groups with different organizers of those groups. It's very hard to work out who's who' (*Times of India* 2008). After 22 hours, the government conceded to many of the driver's demands. A group of migrant workers, organized along multiple and decentralized lines that were illegible to the state, had, by means of a technically illegal strike, won their way.

The subsequent government backtracking and ramping up of safety inspections in the cab industry is perhaps a predictable coda to this story. While no fines were issued and taxi fares in Melbourne are now prepaid between 10pm and 5am, there were at least a dozen reports of retaliatory sackings of student drivers for their participation in the protest. There is also ongoing tension around the issue of safety screens. Meanwhile, violent attacks against South Asian taxi drivers and international students more generally increased. In May 2009, when a string of attacks were reported widely in the Indian media, the Indian Foreign Minister requested an explanation from Australian officials in Delhi (Wade and Das, 2009). Although the Australian Prime Minister issued an apology, he initially denied the racial motivation of the attacks (Wade and Johnston, 2009). In response, the Federation of Indian Students in Australia organised a small well-ordered protest outside the hospital where an injured student was recovering. At the same time, assorted networks of Indian students and cab drivers began to gather at the site of the April 2008 strike, but the blockade they established was violently disrupted by police just before the morning rush hour. Similar protests unfolded in Sydney, drawing media attention from around the world and raising concerns about the continued viability of Australia's education export industry (Healy, 2009).

Miraculously, Jalvinder Singh survived the attack and has made a near to complete recovery. But this paper interests itself in neither the upshot of the event nor the unfortunate individual who lay at its centre. Rather it seeks to understand how migrant workers, such as those involved in this taxi strike, enter and transform the space of the 'political' by negotiating, if not transgressing, the many borders that mark their lives. It investigates how contemporary citizenship becomes a site for the multiplication of subjectivities that disturb distinctions between the student, migrant and worker to spark new political possibilities, and how spaces are opened up for the development of innovative forms of organization. It asks: how do such subjects come to make claims in a context where they are regularly exploited and frequently misrecognized, only to withdraw into a space of quietude and invisibility, where they nonetheless remain threatening since they can be known only in, through and by their unpredictability?

But who are the Melbourne taxi drivers? And what leads them to be removing their clothing and shouting angrily in the middle of an Australian city? The media reporting of the event provides a clue that assists to answer these questions. For in the Australian media, from Newspapers to Television to the Internet, the protesters were consistently described as cab drivers or 'cabbies' as the vernacular would have it. While in the Indian media, which closely followed the event, they were regularly described as students. What is at stake in these different nomenclatures, which are surely both applicable to the strike's participants but worlds apart in their connotations and stakes?

Let me make this claim: an analysis which works either from the national perspective of Australia (in classifying these subjects as cab drivers) or from the national perspective of India (in viewing them as students) will fail to grasp the complexity and force of this political event. This is because it is precisely a transnational event, which unfolds in a context of migrancy and flusters many of the divisions of labour and geography by which such actions are typically understood (or, better, misunderstood) in national or international frames. At stake is a new kind of labour politics whose effectiveness lies in its flight from the paranoid triad of union, state and firm. In a longer piece written with Sandro Mezzadra, I have tried to give a conceptual name to the conditions that facilitate such political action by writing of *the global multiplication of labour* (Mezzadra & Neilson 2008).

The term *multiplication of labour* is meant to register at once the intensification and fragmentation of what classical political economy called the international division of labour. On the one hand, and in a quite obvious sense, it describes the tendency for work to colonize the time of life, the pace and seemingly greater intensity of work in neoliberal contexts where precarity, information technology and transnational connections are fast becoming norms. On the other hand, it seeks to describe a shift in the geopolitical configuration of the world by which international borders are no longer the only or necessarily the most relevant barriers for dividing or restricting the mobility of labour. Far from the early celebrations of

globalization as a move towards a borderless world, we can now recognize that transnational processes have occasioned a proliferation of borders at both the sub- and supra-state scales. This implies at once an *explosion* of traditional nation-state geographies and an *implosion* that forces seemingly discrete territories and actors into unexpected connections that facilitate processes of production and labour exploitation.

Labour process theorists have long argued that the detailed division of labour within industries leads to a proliferation of job titles and opportunities for managerial control (Braverman 1974, Burawoy 1979). Research on the transnational dimensions of the labour process has highlighted how 'global, national and local factors, give birth to new forms of labour regime and workplace relations' (Pun and Smith 2007: 28). Meanwhile, the so-called new international labour studies have focused on the expansion of the social division of labour, examining 'the uneven nature of class stratification, identity formation and labour organisation across a divided and divisive international division of labour' (Taylor 2009: 437). In both contexts there has been growing attention to transborder labour movements and an increased understanding of how gender and race shape the composition of workforces. The concept of the global multiplication of labour goes further to ask how the criss-crossing of labour processes with the social construction, reproduction, utilisation and restructuring of labour forces entail a spatial reorganisation of labour in a multiscalar frame. In this frame international divisions have no fundamental privilege over other geographical, political and social divides. This implies attention to how labour organisation and struggles are linked to political subjectivity.

It is crucial to note that multiplication does not exclude division. We do not suggest a substitution of concepts. Indeed, multiplication implies division, or, even more strongly, we can say multiplication is a form of division. By speaking of the multiplication of labour we point to the fact that division works in a fundamentally different way than it does in the world as constructed within the frame of the international division of labour. We also want to signal how things have moved beyond what in the late 1970s the German social scientists Froebel et al. (1980) called the 'new international division of labor', which involved the shift of material production from developed to less developed nations with a greater role for multinational corporations and effects of deindustrialization in the North and dependency in the South. The division of labour now tends to operate both beyond and below international borders or stable geopolitical divisions such as the three worlds model or those elaborated around binaries such as centre/periphery or North/South. It functions rather through a continuous multiplication of control devices that correspond to the multiplication of labour regimes and the subjectivities implied by them *within* each single space constructed as separate within models of the international division of labour. Corollary to this is the presence of particular kinds of labour regimes across different global and local spaces. This leads to a situation where the division of labour

must be considered within a multiplicity of overlapping sites that are themselves internally heterogeneous.

While various degrees of informality in working patterns have been always the case in the global economy, the means by which the borders between these multiple and hierarchised statuses are policed have become increasingly fine-tuned and governmentalised. In the case of Australia, there has been an effort to match the statistical survey of labour market categories to migration flow data, which, more comprehensively than most countries, detects information on non-permanent movements and outflows (Hugo 2008). This occurs in the context of a points-based migration system that reacts to the new flexibility and interpenetration of labour markets and economic systems.

Particularly relevant for this paper is how this attempt to correlate labour market dynamics to migration control overlaps higher education reforms that enforce a marketisation of the sector, prompting the aggressive recruitment of international students and an increasing emphasis upon vocational skills training. In this context, there is a multiplication of labour statuses that crosses not only the social topology of citizenship but also the borders that regulate access to higher education and those that establish its internal disciplinary divisions. The increasing complexity of these articulations exposes fault lines that are opened up not only by the inventiveness of migrants, who continuously find tactics to negotiate and move through the multiplicities and hierarchies of the system, but also by a myriad of other actors including labour brokers and higher education recruiters working along the boundaries between legality and illegality. To speak of the multiplication of labour in this context is at once to note the continuities with longstanding systems of migration and labour control and to register the qualitative differences that emerge with the increasing governmentalisation, calibration and correlation of these linked but not fully compatible systems. Moreover, it is important to analyze the way in which the resulting gaps and borders produce political subjects that engage in resistance and are as much hampered by those.

Let me try to give some empirical specificity to this conceptual discussion by returning to the scene of the Melbourne taxi strike. There is certainly a sense in which the participants in this event confront a proliferation of borders. These include not only the international borders they cross to come to Australia but also the urban borders they cross in their routine working lives (to potentially lethal effect) as well as the social borders that divide them from their clients and the owners from whom they lease the cabs. The presence of this ethnicised workforce in the Melbourne cab industry creates novel connections between the Australian state of Victoria and the Indian state of Punjab. But it also produces new kinds of heterogeneity and division within both these sites, not least those entailed by the globalisation of higher education systems that facilitate the mobility of these subjects.

That many of the Indian taxi drivers in Melbourne are also international students who study in the city's universities and vocational colleges is already an important register of the multiplication of labour. This is not only because the business of being a student can itself be considered a form of work, as many exponents of student unionism have argued. There are also many Australian students who juggle full-time study and part-time (or increasingly full-time) work. The financial pressures upon students who accumulate debt for their study (under Australia's HECS scheme in the case of citizens) but who must meanwhile survive in cities with overvalued real estate prices and inflated living costs are high. But in the case of international students they are even higher. This is because the visas under which most of them are admitted to the country (the 572 and 573 visas) require proof of significant financial liquidity at the time of their issuance while also restricting the number of hours their holders can work to 20 per week while studying.

It is worth investigating in some detail the juridical and political arrangements surrounding the presence of international students in Australia as this provides crucial background for understanding the plight of the Melbourne taxi drivers. Let me begin with the mere details of the visa system before delving into the processes by which these students are recruited and the incentives provided to them in the context of strong international competition for higher education export.

It is safe to assume that most of the taxi drivers would hold either 572 (for Vocational Education and Training) or 573 visas (for Higher Education including undergraduate and Masters by course work degrees), although in the case of Indian students these visas hold the same requirements and restrictions as the 574 visa (for higher research degrees). For all of these visas (as for English language study), India is a Level 4 country. Essentially this means that Indian applicants for these visas must show proof of possessing sufficient funds to cover not only their travel and tuition fees but also three years of living expenses in Australia (at AUD 12,000 per year). In the case of Level 3 countries like China, there must be proof of support for two years. For Level 2 countries like Israel or Indonesia, proof must be furnished for only one year. Applicants from Level 1 countries such as the United States or Sweden need not provide evidence of possessing such funds but can simply declare that they are available to them.

In effect, applicants from the poorest countries must show proof of greater wealth than those from richer nations if they wish to study in Australia. These funds can be furnished through loans or the liquidation of non-cash assets from an acceptable source. In practice most Indian students require about AUD 50,000 to successfully apply for study in Australia and they obtain these funds through loans. Dutch anthropologist Michiel Baas, who conducted fieldwork with Indian students in Melbourne in 2005, reports that many of these loans are obtained by means of multiple mortgages on family-homes in India. In some cases documents are falsified

to overvalue these properties, since their real value would be insufficient to repay the loans in the case of default. This puts pressure on students as they know they have burdened their families with a loan it will be difficult to repay in India. Also the interest due on these loans impacts immediately on family finances. Most students try to begin repayments as soon as possible by working while they are studying in Australia (Baas 2007).

This is where the 20-hour per week during semester work restriction on international students becomes relevant. Most students come to Australia with the expectation they will need to find part-time work and many hope to find employment in their chosen field. But this almost always proves impossible due to lack of experience and the need to begin working straight away. Most end up accepting low-paying jobs, including taxi driving but also night-time positions in gas stations, convenience stores, restaurants and the security industry. Many female students enter the informal domestic and care work markets. The cash-in-hand nature of most of these positions allows students to work over 20 hours per week but also means they are frequently paid below the minimum wage, often, as Baas (2007) has shown, by older migrants who are members of established communities of the same ethnicity as the students themselves. In any case, it is evident that a vast many international students work over 20 hours a week, placing them in breach of Australia's immigration laws and effectively making them illegal workers (Nyland et al. 2008). A submission to an Australian Senate inquiry of 2005 details raids by the then Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) on student workplaces and homes as well as numerous episodes of detention and deportation (Rost 2005).

The question arises as to why international students would choose to accept such a path rather than say staying in India, a country that experienced a massive economic boom throughout the present decade, continues to fare well in the global economic crisis and is currently attracting many return migrants. The answer to this question is relatively simple: permanent residency. Since 2001, international students in Australia have had a path to obtaining permanent residency – a desirable status for Indian citizens seeking to establish themselves in global labour markets. A successful PR application requires a score of 120 points in an assessment exercise that hinges mainly on the skill level of the applicant's occupation, his/her age, work experience and English language proficiency.

Such a score is extremely difficult to achieve unless the applicant has two years of higher education in a field listed on the MODL (Migration Occupations in Demand List), a condition that earns an extra 15 points in the assessment exercise or an extra 20 points in the case of a firm employment offer. The MODL is a register maintained by the Australian Government to fit to the profile of skilled migrants to statistically constructed shortages in the national labour market. The list is regularly adjusted as part of Australia's 'points-based' (or just-in-time) migration

system (for a wider discussion of this migration regime see Spruce & Vanni 2005).

It seems clear that for many Indian students in Australia the obtainment of PR is (or has become) a key purpose of their presence in the country (Baas 2006). Websites of educational consultants in India announce the possibility of obtaining PR as a selling point for Australia's export education services and although Australian higher education recruitment delegations in India are not allowed to give migration advice they frequently report that interested applicants already have this information. In short the path to PR (or the issuance of 880, 881 or 882 visas for onshore skilled overseas students) has shored up Australia's higher education export against the fierce competition from more prestigious university destinations such as the United States and United Kingdom, although Canada has recently adopted similar measures to facilitate its competition with Australia (see Citizenship and Immigration Canada 2008).

According to a Reserve Bank of Australia report published in June 2008, education exports are now the country's top service exports and third only to coal and iron ore in the list of the country's top earning exports (Hall & Hooper 2008). There are thousands of jobs and vast amounts of money at stake. Not least the university sector displays a structural dependence on the revenue raised from this export activity, which came to partly substitute the percentage fall in government funding from the mid-1990s under conservative government rule.

But such export has also changed the higher education sector, particularly in the Vocational and Educational Training market. There has been a rapid multiplication of private vocational colleges, marketing degrees to international students in fields listed on the MODL (such as hairdressing and cooking). There has even arisen a secondary market catering to students who wish to change their degree if they have been studying in a field, which has been dropped from the MODL. In effect, these colleges act as default migration agencies (or PR factories as some of the international students call them), recruiting students through their own agents (rather than through IDP – International Development Program, the main international student recruitment agency for Australia which is owned by a holding company of 38 universities plus <http://www.seek.com> the country's largest internet jobs site) (Baas 2007).

Accounts of these vocational colleges point to a variety of practices and standards. Among the more scandalous allegations are failing students to increase revenue intake, awarding certificates to students who did not attend classes (at extra cost), using restaurant and hotel kitchens as classrooms instead of investing in expensive equipment (in effect forcing students into unpaid labour), advertising work experience placements and then expecting students to find this work themselves, and falsifying documents to testify that students have worked for 900 hours in their chosen occupations to satisfy PR requirements. Questions also arise around

the English language instruction that occurs in some of these colleges. As of May 2009, the Australian Government has launched an investigation into these practices in what appears to be a combination of border policing, moral panic about educational standards and an attempt to shore up market reputation in face of international reports about the violent attacks against Indian students (Das, 2009).

In any case, it should be clear that international students do not choose to undertake training in areas such as hairdressing or commercial cookery in order to return to countries like India to work in these professions (where they are low status and poorly paid jobs). Nor is it likely that many of these students move on to work in these areas in Australia. Most students who enter these vocational colleges are in Australia to work and migrate. The situation is slightly different for students enrolled in Australian universities, who may undertake courses in areas such as business, accounting or information technology. These students may hope to eventually gain work in these areas but while they are students they are obliged to work part time due to the financial pressures they have placed upon their families. Whether or not they have decided to study in Australia because of the possibility to obtain PR, many international students acquire the desire to do so.

Let me return to the theoretical concerns of the paper by noting that this case study demonstrates the blurring of many of the categories typically used to establish the division of labour. First among these is that of skilled versus unskilled. The possibility of obtaining PR through higher education exists due to the construction of a skills shortage in the Australian labour market. Paradoxically, it facilitates the entry of migrants who work in unskilled jobs such as taxi driving. The situation is one in which education becomes the pretence for migration. There is a blurring of the categories of student and migrant. But the categories of student and worker also blur (in a sense other than the one in which studying can be identified as work).

It is important in considering the media coverage of the Melbourne taxi strike that the Indian newspapers tended to describe the participants as students while the Australian press repeatedly referred to them as cabbies. That these identifications emerged from different national perspectives suggests that the complexity that invests the figure of the student-migrant-worker cannot be grasped within the analytical frame provided by the concept of the international division of labour. The merging of these categories implies transnational movement and connections – thus there is the need for a new concept to effectively analyse the taxi strike: the global multiplication of labour. This points to a continuous multiplication of control devices that correspond to the multiplication of labour regimes and the subjectivities implied by them *within* each single space constructed as separate within models of the international division of labour. In the case of the subjectivities I have been analysing these control devices include visa regulations, IELTS, student loans, university and vocational college policies,

taxi industry protocols, detention centres, policing methods, the MODL, and so on.

As crucial as these control devices may be, it would be a mistake to conclude that the subjectivity of the group in question is merely an effect of institutional regulation. Political subjectivity cannot be reduced to a configuration of citizenship, and precisely for this reason, citizenship has become a site of conflict and struggle. This is particularly clear in the case of international students, whose migration decisions may involve instrumental decisions about the obtainment of PR and/or desires regarding global labour market trajectories. It is in the complex articulation of these control devices that the production of multiple and shifting borders occurs. There is a need to recognize that, as Étienne Balibar puts it, borders no longer exist only ‘*at the edge of the territory*, marking the point where it ends’ but ‘*have been transported into the middle of political space*’ (2004, 109). Corollary to this is the realization that an analysis, which constructs the Indian student-migrant-worker as an excluded other of Australian society, will only go so far to explain the nature and the political potency of the taxi strike. The mere fact of the taxi strike shows that the proliferation of borders, in this instance, produces subjects in the dual sense of the two original Latin meanings of *sub-iectum* (that which is subjected, passive; that which is the subject, active; in French: *assujetti* and *sujet*); both subjection and subjectivation.

It is strange and revealing that the migration of international students to Australia is described within Australian government literature as higher education export. At some basic level, the phrase seems to confuse the acts of coming and going. But the expression also registers one of the factors that have given Indian students in Australia significant political clout despite their vulnerable labour market positions – the substantial contribution they make to the national economy. An analysis that constructs the Indian student-migrant-worker as an excluded other of Australian society cannot fully explain the nature and the political potency of the 2008 taxi strike. These subjects, many of whom are on the path to permanent residency, exist neither inside nor outside the construct of the national labour market and its attendant juridical schemes. Their working lives are carried out in a zone where internality and externality mix and borders proliferate within the space of the nation-state once imagined as unitary and homogeneous.

Contrary to Ernesto Laclau (2005), who argues that it is only through exclusion that a society can construct itself as a totality, it is necessary to point to mechanisms of differential inclusion that filter and stratify subjects in motion. Laclau argues that for an excluded element to become a politically effective movement it must undergo a ‘partial surrender’ of the particularities that compose it, ‘*stressing what all particularities have, equivalentially, in common*’ (78). But, in the context I have been discussing, effective political is not about the operation of difference within a chain of equivalence that weakens differential claims to the point that they function

as empty signifiers. What is important about the organisational and political form that emerged in and through the 2008 taxi strike was its internal heterogeneity and multiplicity. To recall the words of the Victorian police officer quoted earlier, there appeared ‘to be different groups with different organizers of those groups’ (*Times of India*, 2008). The protest was only so ungovernable and illegible to the state because this proliferation of differences eluded the logic of representation and equivalence. A corollary to this is the production of a new political subject – the student-migrant-worker – whose distinguishing mark lies in its crossing of the borders and legal statuses established by the global multiplication of labour.

Let me be clear. The fact that the subjectivity in motion at the 2008 taxi-strike is that of the student-migrant-worker does not mean that we can imagine some easy alliance of solidarity between students, migrants and workers. These subjects, when constituted separately, do not necessarily share social views, political outlooks or labour market experiences. But this does not mean that we must flatten the differences between them to compose an empty populism. The mode of interconnection between such subjects is not an articulation that collapses all differences into equivalences but rather a process of *translation* that, as Naoki Sakai (1997) writes, cannot be conceived as a ‘form of communication between fully formed, different but *comparable*, communities’ (15). Translation in this sense is a principle of political organisation. The political creativity of the subjects involved in the strike mobilises such a process of translation, giving rise to patterns of multiplication and proliferation that may be fleeting and conflictual but do not result in a politically debilitating dispersion of forces and alliances. This protest, apart from winning claims, generated new compositions of political relations – between taxi drivers and student groups, between South Asian and Somalian drivers, and even by one account, between some factions of taxi drivers and the established trade union movement (Thompson, 2009). While these are also inherently unstable relations, they are among the more important outcomes of the protest, since they provide contingent but potentially effective platforms for further political struggle.

The practice and experience of struggle is commensurable with such a practice of translation which does not seek to level all languages onto an even field. Such translation, however, does lead us to ask how a ‘win or lose’ politics of struggle can be thought across a politics of translation in which one usually gains and loses something simultaneously. What is required is a reorientation of the political that allows for both of these moments and their different possible rhythms, timings and temporalities. At stake is neither a politics of the event, which foregrounds the moment of uprising and disruption, nor a politics of articulation, which foregrounds how contingent social arrangements can provide possibilities for strategic and limited contestations. By highlighting at once the struggles and the necessary work of translation at play in the 2008 Melbourne taxi strike, it becomes possible to suggest that both the multiplication of labor and the proliferation of

borders must be taken into account in any attempt to elaborate a new concept of the political.

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Biographical Note

Brett Neilson is Director of the Centre for Cultural Research at the University of Western Sydney. He is author of *Free Trade in the Bermuda Triangle ... and Other Tales of Counterglobalization* (Minnesota 2004) and has published in venues such as *Variant*, *Mute*, *Posse*, *Derive/Approdi*, *Vacarme*, *Subtropen*, *Conflitti globali*, *Il Manifesto*, *Carta*, *Open*, *transversal* and *Framework*.

Global Citizenship: The Case of Migrants and Residents

By

Raffaele Marchetti

Migration: A Political Issue

Migration constitutes a particularly challenging paradox of the globalizing age. On the one hand, migration is facilitated by a number of developments including easier international transports, increased IT technologies, and higher financial capabilities. Accordingly, individuals nowadays can travel easily, know more about the destination countries, and have (relatively) more money to pay for their movement. On the other hand, however, migration is constrained by normative, political, and legal barriers erected by receiving countries. Principles of political communitarianism, nationalistic and racist feelings and the legal privileges of national citizenship prevent individuals from moving to the richer countries of the global north. Economic reasons are played out in both directions equally to attract working force when needed, and to repel labour competition when under the threat of unemployment. Hence global practical possibilities are constrained by national normative limits.

The kind of global vs. local tension underpins the (non)-management of the issue of migration at the international and global level. While international migration is increasing putting under pressure the current institutional framework, the kind of response that is given to it remains within the limits of national policies. Beyond the exceptional case of the Geneva Convention on Refugees (created in a very different international context for a very specific category of migrant), there is no effective and comprehensive international institution dedicated to the issue of migration. The International Labor Organization (ILO) has during the years elaborated a number of conventions but they remain depressingly unattended. Limited cooperation is achieved within the General Agreement on Trade and Services (GATS) for what concerns high-skilled workers only. Also, limited cooperation is developing through a number of UN conventions on illegal migration, human smuggling and trafficking. Regional cooperation, such as the case of the European Union, is more significant, though being territorially delimited it reproduces the logic of state management writ large. All in all, the general and more quantitatively significant case of economic migrants is left to the free will of national policies, with no international regime emerging for its collective management.

Two practical considerations related to the power position of receiving countries explain why the issue of migration is stuck in such a desolating stalemate (Zolberg 1992; Koslowski 2004). From an economic point of view, the economies of the rich countries can collect working force from poor countries whenever they need, for foreign labour is in abundant supply globally speaking. Consequently, states do not need to commit to any long-term inter-governmental agreement for they can always—bilaterally or unilaterally—open up their borders and immediately fill the labour gaps in their domestic economic system. Instead, from a political point of view, receiving countries are continuously under pressure from an electorate that is often threatened by (real or perceived) menaces generated by the inflow of foreigners. Employment, national culture and even public institutions are usually depicted by (not exclusively right-wing) political parties as destabilized by the integration of alien members.

In this paper, I develop a normative argument with the intent of providing a better defense of the idea of a world migratory regime by bridging two different discourses. Normative arguments based on the ideal of cosmopolitanism will be used to prove the case for the re-thinking of the notion of citizenship and global democracy. In particular, this paper will begin by setting the definitional characteristics of the migratory phenomenon and of the political concept of citizenship, and will proceed to a survey of current policies regarding migration. The core argument about the cosmopolitan interpretation of migration and citizenship will then be introduced. Finally, some political institutional recommendations will be offered on the cosmopolitan governance of migration.

Migration: A Matter of Citizenships

In a sociological sense migration occurs every time one moves from the original community (defined, among other, by a net of social relations with reference to a defined territory) to another one. Local migration has always been a constitutive phenomenon of human history. Although the main character of societies has been their permanency, there has always been collective displacement of people. Moreover an important, often unregulated, feature of socio-economic systems was movement of specific groups of people such as merchants, slaves, soldiers, artists, scientists, and those escaping from dangers and looking for a better fate. The conquest of the 'new world' gave a strong impulse to long-distance migratory fluxes towards the North and the South American continents from Europe and Africa. In the following centuries up till this day, both voluntary and forced movements of people had increased substantially thanks to the new opportunities offered by the technological progress of the industrial revolution applied to the means of both communication and transportation. The linguistic heterogeneity present in almost every idiom is probably one of the clearest evidence of the continuous and persistent relationship between peoples throughout human history.

In this paper, however, another kind of definition of migration is used. Reference is made rather to the political than to the anthropological meaning of movement. While the sociological interpretation refers to phenomena that are almost as old as society itself, their political reading is more recent and is concerned with admission into foreign political society. A strict definition of immigration, in fact, needs to rely on the modern concept of citizenship and therefore of the nation-state. A conventional and symbolic date, which is used to signify the start of a new nation-state model of active membership, is considered to be August 26 1789, the Declaration des droits de l'homme et du citoyen. It is, in fact, from the period of the formation of the modern nation-state, that the distinction between e-migration and immigration and all the relative discriminations arise, which marks the difference between political communities today. More recently, at the beginning of XX century, another concrete and equally relevant event was the introduction of the passport as a compulsory means of trans-border travel. And finally, in recent decades a continuous tightening of the admission requirements has brought about the current state-centered apparatus (Torpey 2000; Salter 2003).

In this context, citizenship is understood as the set of entitlements that allows the acquisition of a full community membership that is the central element of any democratic political theory. Membership as the right to participate in the collective exercise of self-governance is also the core principle of most of the contemporary constitutions nowadays in force. Conventionally, three different sets of rights can be distinguished according to their scope: civil, political, and socio-economical rights (Marshall 1950). Two major principles of citizenship have been adopted throughout history: *jus solii* and *jus sanguinis*, integrated by the practices of naturalization. While the first grants citizenship to everyone born in the territory of the country, the second considers blood relationship as the marking element of distinction. This formed the base of the traditional concept of allegiance, according to which loyalty is due to one's own country, regardless of any other kind of secondary responsibilities extending beyond borders. This stance is, however, increasingly under pressure both from a normative point of view for its inconsistency with fundamental principles of impartiality, and as a matter of fact, for the increasing number of states that recognize the possibility of double or even multiple nationality (Habermas 1992, 2002).

The Origins and Policies of Current Migratory Institutions

Migration is commonly included in the list of the global issues, and yet is almost exclusively managed merely by national or regional policies¹. This 'disconnect' reveals a fundamental normative contradiction between claims (that are universal to all humans) and the communitarian entitlements (upheld by mainstream political philosophy as well as national and international laws). The most blatant example of this contradictory logic at work is possibly Article 13 of the Universal Declaration of Human Rights

adopted by the UN General Assembly in 1948 concerning the right to leave (but not to enter into) any country.

International law has played an important, and yet discontinuous, justificatory role in keeping the legal setting of migratory policy domestic. Although recognition of the human rights regime has grown substantially over the last fifty years as it has slowly challenged national sovereignty in many aspects, the alien's right to admission is still a solid prerogative of the state. But this has not always been the case. In the first stages of *jus gentium*, which were anchored to the tradition of the Law of Nature, in fact, the duty to admit the alien was accepted as standard; it was the expulsion of the alien that was considered exceptional. Vitoria, Grotius, and Pufendorf all recognize the principle of freedom of movement, together with a number of minor limits. Minimal rational principles common to mankind supported a legal system in which domestic and interstate relations were consistently linked. The *jus societatis et communicationis* and the *jus commercii* were the driving principles of the scholars of the Law of Nature regarding movement of people (Vitoria 1539; reprinted 1917; Grotius 1625; reprinted 1925, 1, II, § XIII and XV; Pufendorf 1672; reprinted 1934, 1, III, § III). This perspective was accepted for a long period.

Later on, the dominion theory and its subsequent developments, in exact opposition to the principles of the law of nature, formed a paramount historical and theoretical source of legitimacy for the current exclusionary attitude toward migration and citizenship. According to such a theory, citizenship was originally considered a good belonging to the state, whose right of property extends over its territory. The imperia on people, an expression of the dominium on the territory marked by the principle *qui in territorio meo, etiam meus subditus est*, granted the state absolute power over the political and social existence of individuals within its domain. Afterward, an important significant contractual variant was inserted into this tradition, which substantially modified the ethico-political justification of the state, but left intact the normative distinction between insiders and outsiders. With the American Revolution, and, above all, the French Revolution, in fact, citizens acquired an active part in collective decision-making and in the exercise of sovereignty, but the fundamental power to determine civil inclusion remained strictly the group's prerogatives. The universalistic law of nature coexisted with the domestic contractual framework, but a consistent and definitive synthesis was never established.

Until the beginning of the 20th century, this coexistence was well suited to the socio-economic circumstances. These principles, in fact, underpinned and legitimized a situation where both the country of destination and country of origin had a clear interest in favoring migration, as in the case of the migration from Europe to America. When the 'golden age' of free trade ended and a tougher nationalistic political era took the center-stage of international relations alongside protectionism, migration policies changed too. Suddenly, within a few decades most countries adopted entry limitations inspired by domestic political and economical ends. It was, in fact,

the supposed protection of domestic labor markets and welfare systems that convinced governments to invent new forms of barriers.

Thus while for many centuries a substantial trans-national flow of people characterized both the internal and the external image of many countries (Spencer 1993), today the situation is largely different. Current international customary law, which is consistent with the dominium theory of sovereignty, holds migration standards to be contrary to the original formulation of the *jus naturae*. While the formal difference consists in the switch from the moral to the legal status of law, the substantive change concerns the legitimate criteria for entrance. An absolute right to refuse admission is granted to the state. While sovereignty is threatened in other respects, legislating the admission of immigrants is one of the instances in which state prerogatives are most obviously still intact. Provided no relevant conventions or humanitarian measures are applicable², the refusal to admit the *alien* is never an illicit act. However, if an *alien* already resides in the national territory the right of the state to remove him/her is partially limited; accordingly, there is no absolute right to expulsion (Goodwin-Gill 1978, 136; Nascimbene 1984, § 6). The only agent towards whom the state has an international duty of admission, are its own citizens.

A Normative Argument

One way of re-interpreting the issue of immigration, as an historical development of the original dominium theory (through citizenship), happens through progressively drawing limits to state sovereignty according to international superior laws. Usually this interpretation implies considering migrants in the negative light as *aliens*, or non-citizens or non-subjects, the state being accepted as the only agent entitled to confer such privileged status (Nascimbene 1984, § II). This approach typically corresponds to the image of concentric circles, according to which the starting reference is the group (or even the family) and from there on progressive enlargements are envisaged. This mechanism inevitably generates exclusion. By contrast, the approach that this paper advocates is diametrically opposed to it: it is, instead, cosmopolitan and all-inclusive from the beginning. Migrants are considered cosmopolitan citizens entitled in certain degrees to rights which extend to different spheres of political action, for they have as great an ultimate right to freedom of choice and control over the decision-making processes world-wide as do 'permanent' residents. In accordance with a new concept of universal membership based on a de-territorialized notion of person's rights, this paper develops an argument for a consistent global democratic regime able to grant not only civil and social, but also political rights to migrants, through a legitimate migratory regulatory system.

Cosmopolitan Citizenship: Weighing Residents' and Newcomers' Claims

At the world level, a proper conception of political agency has to acknowledge the need for the enlargement of the current view of political agency. Traditional politics draws on a conception of responsibility and vulnerability, usually pertaining to the state domain, which is too narrow to deal properly with the ethical problems exacerbated by the increasingly global dimension of political life. In such an interdependent political situation, social freedom depends on the extent to which the individual can express his consent in several political domains. In this regard, world citizenship engenders a more consistent political means to address the phenomena which in fact affects one's life, and a more effective way of aligning one's personal with one's political identity (Linklater 1998; Hutchings & Dannreuther 1999; Dower & Williams 2002). Underpinning this is a concept of complex citizenship, according to which individuals and collective agents are entitled to a multilevel citizenship and, as a consequence, a political voice in the decision-making process at all socio-economical levels (Pogge 1992; Held 1995; Goodin 1996; Marchetti 2008a). This new interpretation of political agency is particularly significant in those cases, such as that of transnational migration, where traditional state-centric conceptions of citizenship demonstrate an increasing inappropriateness, both moral and political.

Two principal dilemmas centered on the notion of citizenship challenge any normative political theory which aims to deal with the theme of migration: how to deal with the received migrants, and if and how to admit new would-be migrants (Schwartz 1995; Bader 1997b, 2005; Seglow 2005; Juss 2006). Despite some recent attempts to consider migration from a wider perspective including a more global approach—a receivers' point of view still dominates in the normative literature on migration. Both explicitly nationalistic (Walzer 1981; Miller 2000; Meilaender 2001; Miller 2003) and globalistic scholars (Carens 1987, 1989; Bader 1997b) commonly adopt the partial perspective of the receiving countries, in as much as admission to a country is considered the principal (sometimes the only) turning point of the entire issue. As an alternative to this, a radical repositioning of the receivers is developed, and the shift from the state-centric paradigm of national membership to a truly global political principle of residency and multilevel citizenship becomes the turning point for the renewal of the cosmopolitan paradigm, and a unique chance for the social and political development of the theory and practice of democracy. In opting for a different vantage point based on an all-inclusive perspective, this paper thus deals with migration within a larger conceptual framework that includes a further crucial element, i.e. the institution of multilevel citizenship as inherently anchored to the distribution of international responsibility.

With regards to the political reading of migration, the cosmopolitanism argument on the movement of people stems from two

different observations: one descriptive and one prescriptive. In factual terms, migration is considered principally and inevitably as a global issue in that it refers to social phenomena primarily concerning the world level of political action and producing international effects. International inter-dependence is utterly evident with reference to the phenomenon of migration. International events such as the fall of the socialist regimes in Eastern Europe, the unleashing of civil wars, or the North-South divide- all constitute powerful international push-factors for migration. More, once migrants (are forced to) move, they “choose” their country of destination not only for the specific characteristics of the would-be receiving country, but very often by a comparative assessment of the remaining countries’ rules of admission. Asylum is, for instance, often sought in the most open countries. If a country restricts its admission rules, the remaining countries will receive an increase in requests of entry, as in a system of water-pumps in which when water goes down in a container, it goes up in the other. In normative terms, instead, the fundamental ethical postulate regarding cosmopolitan impartiality demands the extension of the application of the norm of non-discrimination also to the global level (Singer & Singer 1988; Goodin 1992; Marchetti 2006).

An interpretation of cosmopolitan citizenship in terms of freedom of movement forms the core of this paper. The fundamental principle of political justice is affirmed in the maximization of individual freedom of choice, as a tool for the maximization of social welfare (Marchetti 2005). In line with this universalistic and consequentialist reading of normative politics, equal status of cosmopolitan citizenship is granted to both migrants and receivers for what concerns individual possibility of choice. Accordingly, it takes as a primary object of concern the capacity of individuals to modify their personal choice possibility through changing place of residency, and thus, to pursue control over the political system and, *a fortiori*, over their own future. A cosmopolitan citizenship characterized by these entitlements becomes a *de facto* crucial institutional factor in order for the individuals to increase (but sometimes even simply to implement) their possibility of choice among differing life options and their capability to govern the social-political domain, by changing their place of residence. It is possible to argue that as much as at the domestic level the right to movement over the national territory has proved crucial in the self-realization of one’s personal projects, an equivalent international right would be equally beneficial to the welfare of the individual, in terms of choice opportunities and political control of one’s own life (Nett 1971, 218).

Nonetheless, for this to be consistent with the multilevel dimensionality of political life, an impartial weighing mechanism between the claims of migrants and those of local citizens has to be simultaneously envisaged. Having argued for a universal right to movement, it is here necessary to point out again that such a right has to be inserted into a wider institutional political framework, in which other different kinds of rights also have legitimate claims. While migrants and residents are equal on the basis of a fundamental right to the protection of possibility of choice, they may

nonetheless differ in that the social performance of their relative institutional entitlements—i.e. national citizenship—may become unbalanced. In this vein, the institution of national primary citizenship is only warranted to the extent that its long-term social performance consistently matches with the demands of the institution of cosmopolitan citizenship. Accordingly, different associative ties of the kind of national citizenship may gain a definitive legitimacy only through a comparative assessment with the migrants' conflicting entitlement. Such a comparative assessment between different citizenship-related entitlements is based on the expected capacity of each set of rights to contribute to the maximization of personal autonomy, intended as individual possibility of choice.

Open or Closed Borders?

A number of theoretical consequences pertaining to the status of the citizen are generated by the re-balancing of the notion of citizenship according to an impartial, global caliber of membership claims. The multilayered notion of cosmopolitan citizenship by definition entails political membership at different levels. While state membership would still remain inevitably subject to some constraints (e.g. not all can be American citizens), second order, global citizenship is characterized by all-inclusiveness (e.g. all can be world citizens). In this way, consequentialist cosmopolitanism grants to individuals civil, social and political rights in more than one country, and the complete parity of rights related to residency between local people and migrants (Goodin 1996, 357-62; Carter 2001, 109).

Accordingly, the state-centric point of view should be rejected for at least two reasons, which in different ways concern the principle of non-discrimination. Firstly, in conceding an almost absolute privilege to original residents, state-centric policies unequally weigh the fundamentally universal claims of individuals to equal choice opportunity. Secondly, the nationalist orientation should be rejected for the way it intentionally discriminates among would-be migrants, admitting only those who satisfy entry requirements shaped on the needs of the receiving countries. In fact, it is very often the case that current policies of admission filter the in-flow of would-be migrants in accordance with one-sided considerations based either on economy (their potential to contribute to domestic economy) or politics (the cultural, social or religious affinities to national society), leaving the remaining vast majority of would-be migrants unjustly excluded, without the right to appeal.

The radical alternative of completely opening-borders 3 here and now should equally be refused for a number of distinct reasons related both to migrants and to receiving populations. Concerning the former, a policy of open borders would be most likely self-defeating, in so far as it would subvert the expectations of would-be migrants themselves. The motivations to move of the would-be migrants in fact include the possibility to reach a specific country with its distinctive cultural, social, and economic context.

However, an unlimited inflow of foreign people would probably not be sustained by the destination country without a radical reshaping of its fundamental characteristics, thus disappointing the original objectives of the migrants themselves. As for local residents, their expectations should also be taken into account and with equal weight. At the moment, it is plausible to assert that most citizens of the potential receiving countries are not willing to accept such a universalistic policy, nor are their politicians. Where borders suddenly and completely open, the likely result would be a disruption of social identity and political institutions, with potentially huge social costs. The possibly most evident case of socio-political disruption caused by open borders was the in-flow of Jews in Palestine after WWII. With that, Arab Palestinian context was wiped away and the new state of Israel created on completely different grounds without much consultation of local residents. In this respect, the communitarian stance is partially right in claiming the importance of social identity and institutional traditions (Ackerman 1980, 95; Perry 1995, 110-24).

Since fully closed and fully open border policies are not viable in the near future and yet the right to movement is universal in principle, the subsequent problem then becomes, how to distribute a scarce good equally (i.e. the right of residency in a any state). The constraints, which, drawing on Humean terminology, I call the 'circumstances of migratory justice', consist in the fact that many want to enjoy the relevant good (i.e. right of residency), and yet such a good is not infinite at the national level. This situation is further aggravated by the current "win-or-lose all" process that continues to haunt the lives of many migrants everyday. Migrants refused at the border lose everything, while those who make it through (by chance or illicit means) win the 'gamble'. Those migrants refused (who may well have greater ethical grounds for wanting admittance) are excluded by a jungle system, where physical force and social power very often decide the result, beyond any moral constraints. The sacrifice of a few migrants (actually many lives) represents then the tragic cost of sustaining an unjust system: a cost which includes that of the other would-be migrants who remain at home, the legal migrants who have already been accepted, and the local population.

The response of cosmopolitanism to the arbitrariness of the present mechanisms for entering consists in a moralized and impartial treatment of the distribution of the permits of residency based on a universal right to movement embedded in an impartial global weighing mechanism. According to this cosmo-political interpretation of citizenship, the only viable solution to the distributive problem of admission consists in a kind of 'regulated openness' (Ghosh 2000, 25) or 'fairly open borders' (Bader 1997a) to be managed by an all-inclusive global institutions in charge of balancing the conflicting claims of residents and migrants. As argued elsewhere (Marchetti 2008b), since the issue at stake is global in kind, an adequate response cannot be other than equally global. In this regard, the establishment of international institutional framework of migratory cosmopolitanism, migration forms an essential component of the cosmopolitan model here envisaged.

Conclusions

To the original point of contention represented by the moral unaccountability of state migratory policies, this paper has suggested a cosmopolitan answer. The arbitrariness of the admission criteria has been criticized through the adoption of a radical change in political perspective, whereby migration and citizenship has been re-interpreted as global moral issues. The core of this cosmopolitan argument resides in a particular interpretation of the idea of a universal right to free passage, which takes into account the “circumstances of migratory justice”. In arguing for such a view, the key step consists in the recognition of the necessity of ‘framing’ the political responsibility for migratory regulation in full global terms. The political recommendations deriving from this recognition suggest the creation of a new system of international cooperation. The latter in particular, entailing the adoption of a convention on migrants and the establishment of a supra-national cooperative agency to manage migratory fluxes.

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Notes

¹ For a very recent attempt to deal collectively with this issue see (Global Commission on International Migration 2005; United Nations 2006). However, an effective implementation of such a proposal still seems far in the future.

² The UN Charter; the Universal Declaration of Human Rights (1948); the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (1966); the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); the International Convention on the Elimination of All Forms of Racial Discrimination (1965); the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); and the Geneva Refugee Convention (1951) all impose some limits on state sovereignty, according to the principle of non-discrimination. So do, other recommendations and non-binding documents from diverse international organisations related to the issue of migration such as the UNHCR; ILO; IOM, and WTO. The EU system is a *sui generis* institution, for while granting complete freedom of movement to its members, it is increasingly exclusionary toward non-members. It is important to remark, however, that these international agreements represent exceptional and external constraints on the original state entitlement to administer membership rights. In particular, they require the equal treatment of the aliens once they are in the national territory. Yet, only very rarely do they comment on the admission itself, except in the case of reunion of minors to parents and refugees.

³ (Carens 1987; Wihtol de Wenden 1999; Bhagwati 2003; Winters *et al.* 2003; Hayter 2004; Kukathas 2005; Pécoud & de Guchteneire 2005)



Waging Peace: Women, Restorative Justice, and the Pursuit of Human Rights in the Solomon Islands

By

Elizabeth Snyder *

Restraint and conciliation can seem maddeningly ineffective —
but they are still the last, best hope for peace.

Nicholas Kristof

Introduction

This paper will investigate the role of restorative justice practices and community-based approaches to conflict resolution in the Solomon Islands. Specifically, it will examine the grassroots initiatives by women in response to armed conflict. It will consider whether the strategies and outcomes of women peacemakers are consistent with broader social and political agendas for enhancing human rights and the rule of law. The paper begins with a brief overview of the relationship between criminal justice, human rights and the state, as well as the relevance of human rights to restorative justice. I will next explore the causes and impacts of armed conflict in the Solomon Islands and highlight the implications of state-endorsed violence and corruption on the criminal justice system. The paper then turns to the role of community-based women's groups in the Solomon Islands and investigates the challenges and successes faced by women peacebuilders. Key focal points are the impact of women's peace activities on inclusion, empowerment and security, and the similarities between traditional forms of restorative justice and contemporary conflict prevention and resolution. The paper concludes with a series of recommendations for strengthening human rights and the rule of law within the restorative justice paradigm. I propose that enhanced social justice in the Solomons requires greater linkages between state-administered justice and community-level dispute resolution. Improved collaboration must include the greater participation of women at all levels of decision-making and implementation—from family to community to nation.

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Human Rights, Criminal Justice and the State

Joanna Shapland asserts that the legitimacy of the state 'is bound up with its espousal of universalistic values' and the administration, within formal criminal justice procedures, of these values. Among these universal values is the state dispensation of justice that is truly just, that adheres to basic principles of human rights. Human rights legislation, Shapland argues, is a means of safeguarding these values and serves as a bulwark between the 'lone powerless defendant' and the potentially 'coercive state' (Shapland 2003:207-208). This focus on protecting defendants from state corruption or miscarriages of justice is seen in international documents outlining basic principles of human rights. The UN Universal Declaration of Human Rights declares that 'everyone has the right to life, liberty and security of person; no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment; no one shall be subjected to arbitrary arrest, detention or exile' (UN 1948). Later human rights legislation, including the United Nations Declaration on the Elimination of Violence Against Women and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, likewise focus on citizens' entitlement to security, liberty, political affiliation, due process and equality. They aim to ensure that defendants have both the tools and the support—i.e. formal legal counsel—to take on the state (Shapland 2003:208).

Human Rights and Restorative Justice

In recent years, restorative justice has assumed an increasingly prominent position in discussions of human rights and the rule of law. The Eleventh United Nations Congress on Crime Prevention and Criminal Justice, held in 2005, established a 'new high-water mark for restorative justice on the UN stage' (Porter 2005:1). The UN Congress promotes best practices in crime prevention and criminal justice and now considers restorative justice a necessary component of criminal justice reform. Proponents argue that restorative justice 'not only provides an alternative to prosecutions and imprisonment, but also holds offenders accountable in a manner that meets the needs of offenders, victims and the community' (Porter 2005:1). The issue of accountability is not limited to offenders, however. A key issue in the restorative justice debate is the reciprocal accountability of restorative principles themselves. A significant milestone occurred in 2002 when the UN Economic and Social Council adopted 'Basic Principles on the Use of Restorative Justice in Criminal Matters'. The basic principles acknowledge that restorative justice 'respects the dignity and equality of each person, builds understanding, and promotes social harmony through the healing of victims, offenders and communities' (UN 2002). The resolution provides guidelines for the implementation of restorative justice and encourages states to conduct research and evaluation of restorative justice programs. According to Paul McCold of the International Institute

for Restorative Practices, restorative justice principles 'have direct implications for how the United Nations organizes efforts to respond in the aftermath of mass violations of human rights and in the reconstruction of justice systems in countries recovering from occupation or authoritarian regimes'. McCold underscores the need for healing in the aftermath of violence and suggests that grassroots, community-level restorative justice is as essential as peace accords and the cessation of armed conflict. In short, restorative justice addresses the basic question: 'How do people stop hating each other?' (Porter 2005:2).

There are striking similarities between restorative justice practices and international agreements on human rights. For John Braithwaite, respect for fundamental human rights should be the yardstick by which restorative practices are designed, implemented and evaluated. Braithwaite outlines the connective links between restorative values and human rights. Common to both is the restoration of human dignity, freedom, damaged relationships, empowerment or self-determination, and a sense of duty as a citizen (Braithwaite 2000). Braithwaite insists that respect for fundamental human rights requires the establishment of 'consensus principles' or procedural safeguards in the application of restorative measures. Like criminal justice procedures, restorative processes are subject to power imbalances, intimidation and an absence of appropriate advocacy, especially for women and children. Braithwaite argues that accountability to human rights principles demands the right of participants to appeal the restorative resolution to a court of law. Of primary importance, Braithwaite contends, is the prevention of further injustice. To this end, restorative justice must be open to observation and evaluation to ensure its compliance with the standards of international human rights (Braithwaite 2003:9-11).

Fundamentals of Restorative Justice

Despite the commonalities between criminal justice systems and restorative justice in terms of human rights protections, many argue that Western-based modes of criminal justice fail to address 'the fundamental human right of being interconnected with one another in healthy communities' (Lerman 1999). Restorative justice offers an alternative to the more adversarial practices of criminal law that 'pits victims against offenders' and stresses 'control, punishment and incarceration' (Jolly 2003:269). Restorative justice aims to change the direction of criminal law by focusing instead on aiding victims and repairing communities. There is less concern for which law was broken, who broke it, and what punishment should be meted out; of primary importance is the discovery of who was harmed, how they were harmed, and what the offender and community can do to put it right (Lerman 1999). In contrast to the individual-oriented focus of modern criminal justice, restorative justice acknowledges 'the social context of disputes and their impacts on a variety of parties' (Dinnen 2006:401-402). This focus allows the major stakeholders in the event—

victim, offender and community—to move forward. The grievance is used as a catalyst ‘to re-engage and empower victims and community members toward rebuilding stronger connections’ (Lerman 1999).

It is important to note that this emphasis within restorative justice on community-oriented approaches, and the duty of local citizens to build and maintain peace, does not absolve the state of responsibility for protecting its citizens. Restorative justice repairs relationships within communities; it also seeks to enhance the relationship between communities and their governments in responding to crime. The best responses are those that combine state-based security measures and community-led practices of mediation and prevention. Within the restorative justice paradigm, governments are still responsible for preserving a just public order; the state is likewise accountable for the protection of procedural justice and human rights (Ashworth 2002:434). Tony Marshall emphasizes this complementarity by stating that criminal and restorative justice cannot exist side-by-side and remain entirely independent. While restorative justice involves a ‘devolution of control to individual citizens and communities’, it should be integrated as a ‘complementary process that improves the quality, effectiveness and efficiency of justice as a whole’ (Marshall 1998:31). Braithwaite highlights the importance of this shared state-community responsibility in his assertion that empowerment and non-domination are the most important aspects of restorative justice. Empowerment allows communities to substitute state control of justice processes with their own approaches to resolving conflict. Non-domination requires that communal decisions safeguard fundamental human rights. Ultimately, it is the duty of the state to uphold human rights as enshrined in law and to set limits on community justice. State-based adherence to human rights dictates limits to punishments for wrongdoing, whether in criminal or restorative justice practices (Braithwaite 2003:36).

Feminist scholars likewise urge caution in the application of restorative justice to crimes against women. Feminist critiques of modern judicial procedures highlight the adversarial nature of court proceedings and women’s lack of control over the process and outcomes. Restorative justice offers an alternative approach that promotes rather than obstructs the survivor’s recovery. At the same time, approaches to sexual violence must take into account the victim’s expressed preferences for redress, including more retributive measures. The same argument applies to traditional or customary practices, which place ‘undue stress on reconciliation and harmony of the community at the expense of the wronged woman’ (Jolly 2003:273). Feminists insist that criminal justice and restorative justice alike provide physical and emotional safety to survivors, avoid imbalances of power during negotiation and settlement, and ultimately prevent further gendered violence (Hopkins and Koss 2005:708).

Conflict in the Solomon Islands

The case of the Solomon Islands offers a number of challenges to this integrated or 'whole justice' approach (Marshall 1998:31). The Solomon Islands conflict erupted in May 1998 when a group of Guadalcanal youth, commonly referred to as the Isatabu Freedom Movement (IFM), violently evicted Malaitan settlers from their properties on Guadalcanal. Militants justified their actions based on government failure to address grievances of the Guadalcanal people: inadequate compensation for land loss and development activities; alleged murders carried out by Malaitans; discriminatory employment practices; and disrespect for indigenous Guadalcanal culture (SIA 2004:1). Malaitans responded to Guadalcanal incursions by forming the Malaita Eagle Force (MEF), comprised of various tribal groups and police officers. The social cost of the conflict has been aptly described as 'quantitatively incalculable (SIA 2004:1), with experiences ranging from murder, displacement, the kidnapping of children for use as soldiers, pack rapes and the destruction of property and livelihoods. A Social Impact Assessment conducted in 2004 reports over 100 deaths and up to 35,000 internally displaced persons concentrated in Honiara, Guadalcanal and Malaita. 85 percent of interviewees reported that their families were directly affected by the conflict; 75 percent of women say they have suffered 'direct personal trauma' (SIA 2004:iv, 35).

In addition to this devastating social impact, the eruption of violent conflict severely undermined the government's ability to fulfill basic state functions: raising revenue, managing state resources and maintaining law and order. Law enforcement and the administration of justice have been radically diminished by a financially constrained and ethically compromised police force. Malaitan police officers have been implicated in numerous human rights violations. Officers have sided with armed political groups and provided them with protection. In some cases, MEF militants were recruited into the Special Constables (SC) unit (Amnesty 2000:7). The police ultimately lost command and control over the deteriorating security situation, necessitating the arrival of an international regional assistance mission (RAMSI) in July 2003. By October 2004, there were 3,500 arrests, including high profile MEF and IFM leaders and combatants. In addition, 3,730 illegally-held firearms were confiscated (Amnesty 2004:1). Close to 30 villages in the Solomon Islands are now declared 'gun free'.

Despite international security measures, there is widespread concern that the peace will not last. Public confidence in the police force has plummeted, with continued claims of criminal activity with the Royal Solomons Islands Police (RSIP)—from extortion, to complicity with militant gangs, to police-sponsored violence. The Townsville Peace Accord (TPA) of October 2000 attempted to stop further killings but did not prevent a renewal of violence. Many claim the government contributed to the TPA's failure by refusing to enforce compliance and by avoiding investigations of human rights violations (Hegarty 2003). The inability of RAMSI to oversee a peaceful election in April 2006 has raised serious doubts about the overall success of the mission (*Wikipedia* 2006). For

Solomon Islanders, the root social and economic causes of the conflict have yet to be addressed. As Norman Arkwright observes, issues of social justice and compensation continue to be a 'minefield', reflecting the complex nature of competing demands from Malaitan and Guadalcanal leaders (Arkwright 2003:188). The people of Malu'u, when polled by outside observers, described the situation as 'peace with fear'. They fear retaliation from former militants as soon as RAMSI leaves (SIA 2004:10).

The Role of Women Peacemakers

Shapland reminds us that 'when there are miscarriages of justice or corruption, confidence in state criminal justice can come down with a bump' (Shapland 2003:208). There can be little doubt that the failure of the Solomon Islands government to prevent crime and conflict has eroded public confidence in the state's ability to maintain law and order and protect human rights. At the same time, the inadequacies of the state judicial system have intensified grassroots efforts to deter violence, resolve conflict and enhance human rights. At the forefront of these efforts are women. The strategies used by women peacemakers seek to bridge state and community, tradition and modernity, and resonate strongly with current 'best practices' in conflict prevention and resolution. Their collective activism underscores Sinclair Dinnen's claim that 'so-called traditional justice practices are neither uniform nor static and have adapted to the exigencies of introduced change' (Dinnen 2006:401).

Women are recognized throughout Melanesia as the 'moral and economic backbone of local societies' (Douglas 2000:11). They are responsible for preserving customs, repairing relationships and uniting warring parties. In family or community disputes, women frequently act as go-betweens and use their clothing, words and bodies to defuse conflicts between opposing members (Pollard 2000:44). Women in the Solomons are generally more positive about peace building programs than men. They readily list the activities of civic and church groups as effective safeguards against further violence (UNIFEM 2005:12). Women also engender higher levels of trust than men. They served as leaders on weapons collection committees under RAMSI and encouraged communities to become weapons-free villages (Women War Peace 2006:3). Studies of women peacemakers in the Solomons reveal that community and church-based groups are highly organized and use deliberate strategies to promote dialogue, reconciliation and the de-escalation of violence. A recent report from UNIFEM suggests that public security is enhanced by community-level measures to instill respect for traditional values and customs. Security is also bolstered by initiatives to integrate youths as valued members of society and by awareness raising campaigns about civic rights and responsibilities (UNIFEM 2005:15-16). In the Solomon Islands, such activities are conducted largely by women. Thus, while women suffered tremendous hardship as a result of the conflict, they are far from passive victims. Helen

Leslie aptly observes that violent upheavals disrupt social constructions of gender and open up opportunities for new roles and sources of empowerment. Solomon women have drawn on their traditional roles as wives, mothers and peacemakers; they have simultaneously forged new identities by crossing ethnic boundaries and conflict lines, facilitating political dialogue, and advocating reform—with government officials, militant leaders, and the police.

Applications of Restorative Justice

Women's peace activism is typically conducted collectively via church groups. Proponents of church-based restorative justice measures point to the strength of shared Christian beliefs in pursuing peace. Christianity is, as Bronwen Douglas notes, one of the few-shared values in an otherwise diverse, and frequently divided society. The church serves as the moral authority for village communities and the *de facto* provider of social services (education, health, welfare) in the absence of a strong and cohesive government. The church also acts as a counterweight to the 'doubtful legitimacy of the state' (Douglas 2000:12) and as an 'antidote to the collapse of internal security' (Douglas 2002:12). The absence of interdenominational rivalry and the broad range of denominational alliances among ethnic groups provide 'an alternative forum for interaction' and facilitate the role of churches in reconciliation and peacebuilding (Weir 2000:49). For women, church groups provide a culturally accepted form of collective social action. The application of 'low key' methods and a 'self-effacing ethos' allows women to pursue progressive, and often courageous, social agendas, in spite of their marginalization in national politics (Douglas 2002:12).

The restorative justice practiced by women bears striking resemblance to the four 'key values' of contemporary conflict resolution: open discussion of crime and its aftermath (*encounter*); encouraging offenders to 'make good' on the harm caused (*amends*); accommodating offenders back into the community (*reintegration*); and allowing all stakeholders affected by a crime to participate in its resolution (*inclusion*) (Restorative Justice Online 2005). The National Council of Women, which includes a broad range of church based groups, was formed in the early 1980s. It was initially established as 'the voice for Solomon Island women' and began by raising awareness about domestic violence (Billy 2000:173). With the eruption of armed conflict in 1998, the NCW turned its attention to peacebuilding. The National Council of Women made direct appeals to militants to disarm, presented them with food and basic necessities, and prayed with them for peace. The group organized food exchanges at checkpoints between women from warring ethnic communities. In 2000 the NCW brought together the governor-general of the Solomon Islands, the opposition leader and foreign diplomats. The meeting focused on international assistance between MEF and IFM factions and the promotion of peace, reconciliation, good governance, and democracy (Weir 2000:50). The goal of the National

Council of Women is the attainment of peace that is constructive, sustainable and inclusive.

A second major player in women's restorative justice initiatives is Women for Peace. Established in 2000, WFP is composed of a diverse group of women from Honiara. Its membership extends across ethnic lines and includes Guadalcanal and Malaitan women. Women for Peace works with traditional leaders, churches, community organizations, militant groups, the national government and the international community to enhance women's role in the peace process. The objectives of the WFP are two-fold: to 'actively and effectively support women's initiatives at all levels' and to find a peaceful solution to the political crisis (Pollard 2000:44). The organization's activities reveal a strong commitment to human rights and the enforcement of law and order. WFP members begin by listening and exchanging views with militants, government officials and the police in an effort to build trust and confidence. Open dialogue is then used to communicate women's experiences of the conflict and suggest non-violent means to maintain security. Delegates have attended conferences and forums, visited rural communities to aid the return of child militants, and provided essential goods to local families (Leslie 2002:15). They have met with police officers to encourage higher standards of professionalism and impartiality. Adherence to such standards, they argue, is a necessary precondition for the protection of human rights and the government's ability to pursue justice and redress for victims. Women for Peace also work to mobilize civil society in advancing peace and reconciliation, and seek assistance from international donors to strengthen and reform law enforcement (Pollard 2000:45).

Like Women for Peace, the Guadalcanal Women for Peace, established in the same year, simultaneously promotes non-violent solutions to conflict and a broader agenda for human rights. The group's platform includes short-term and long-term goals. The immediate need is to provide moral support for women, encourage the IFM to disband, and facilitate the return of militants to their families. The organization's long-term goals focus on alleviating the oppression of women and utilizing women's role as mothers to further the cause of peace. The Guadalcanal Women for Peace are committed to the principle that political participation is a basic human right and have spearheaded a vigorous public advocacy campaign regarding women's entitlements as citizens. Members raise awareness about domestic violence, incest, rape and gender equality. Central to the group's mission is the belief that humane and equitable treatment of all citizens begins with the family; only then can human rights be fostered in the community and nation as a whole (Paine 2000:48).

In sum, Solomon women have worked to alleviate conflict through structural and operational prevention. They contribute to structural or long-term prevention by reducing the potential for violence, promoting the cause of social justice and human rights, and advancing community-wide security. Women peacemakers in the Solomons also engage in operational or targeted prevention

through information-gathering and direct intervention with opposition parties (Shoemaker & Conaway 2005:11-12).

Challenges and Recommendations

The operation of fundamental judicial procedures is indispensable for the administration of justice and the protection of human rights. Similarly, the failure of authorities to ensure these practices has long-term and widespread implications on citizens' trust in the fairness, impartiality and competence of government. The application of human rights to conflict and post-conflict zones often focuses on documenting and denouncing human rights violations and campaigning against those who perpetrate abuses. An alternative approach, and one which resonates with more traditional practices, seeks to facilitate a just and peaceful transformation of the conflict. This 'transformative' approach to human rights is based on the belief that human rights abuses are 'often a precursor to and always a consequence of violent conflict; reconciliation or the cessation of conflict is seen as the best avenue for attaining social justice (International Alert 1998:2). According to this model, local communities must be empowered to address the root causes of the conflict and must work collectively to prevent or resolve tension between opposing groups. The transformative approach to human rights is comprehensive and addresses a full range of national and communal issues: demilitarization, reconciliation, sustainable development and increased political participation (International Alert 1998:8)

There is a strong link between a transformative model of human rights activism and restorative justice as practiced by women in the Solomon Islands. Rather than cataloguing or denouncing abuses, women peacemakers seek to gain access to members of civil society, state actors, and armed militants to encourage an end to violent conflict and urge compliance with basic human rights. Increasingly, proponents and practitioners of restorative justice are using the term 'transformative justice' to describe women's unique capacities as peacemakers and mediators. An acknowledgment of the transformative power of conciliation shifts the emphasis from the resolution of particular conflicts to the process of creating broad-based and sustainable peace within and across communities. Transformative justice is, as Margaret Jolly explains, 'the proactive process of creating peace and harmony in communities that is wedded to a deep desire for justice, through fairness for all — men and women, old and young' (Jolly 2003:273).

Women's indigenous peacemaking, in conjunction with Christianity, is proving critical to reconciliation and reconstruction in the Solomon Islands. Women peacebuilders promote increased cooperation between community, state, and international agencies and emphasize the necessity of joint efforts to enhance human rights and the rule of law. Their efforts parallel current 'best practices' in conflict resolution or transformation. Their proposals likewise resonate with those of activists, policy-makers and scholars who insist on an integrated or whole justice approach to crime prevention and management. Sinclair Dinnen maintains that the ability of

local communities to respond to violent crime and the willingness of the state to embrace grassroots initiatives is crucial to the development of more sustainable approaches to crime and conflict. The ultimate objective, he writes, 'is to transform both the state and community justice sectors, rendering the former more accessible, responsive, and accountable, while bringing the latter into a human rights and rule of law regulatory framework' (Dinnen 2006:419). David Hegarty makes a similar claim when he proposes that post-conflict situations require 'multifaceted action' and that the restoration of the rule of law requires 'an integrated approach involving policing, legal institution building, civil administration and the building of public support' (Hegarty 2003). Amnesty International echoes these sentiments and calls for a 'combined effort' by government and police services, the MEF and IFM leadership, as well as civil society (Amnesty 2000:32).

Despite women's success in enhancing security, fostering reconciliation, and preventing the re-emergence of violent conflict, serious challenges remain. UNIFEM lists the following indicators as primary catalysts for conflict: government corruption, lack of trust between political groups, and women's lack of participation in government processes (UNIFEM 2005:iii). In the Solomon Islands, as elsewhere around the world, the exclusion of women from the peace process jeopardizes a sustainable peace (UNDP 2002:13). The passage of UN Security Council Resolution 1325 was an important step in promoting gender in peace building operations and highlights the vital role of women in the prevention and resolution of conflicts, peace negotiations, humanitarian assistance and the maintenance of security (UNSC 2000). The participation of women in political and civic life is recognized in the Solomon Islands in legislative terms. Nevertheless, women remain excluded from high-level decision-making and are denied access to formal peace processes. There is also widespread concern that the deeper structural problems in state governance have not been reformed and that RAMSI 'applied an expensive band-aid to the nation's wounds (Moore 2005:59). Clive Moore soberly observes that any intervention that restores law and order, but neglects to reform a corrupt public service and criminal justice sector, is doomed to failure. In the Solomon Islands, where senior political figures and police officers still possess illegal high-powered weapons, a 'leadership code of ethics with checks and balances' is highly unlikely (Moore 2005:71). The riots of April 2006, and the resignation of Prime Minister Rini after only six days, are evidence of continued political instability and distrust.

Conclusion

The traumatic experiences of the Solomon's conflict require a continued commitment to reconciliation and healing between state and community, perpetrators and victims. A primary focus of human rights activism is support for individuals against the coercive or abusive power of

the state. While such efforts are vital, the condemnation of past human rights violations represents but one approach. Restorative justice offers a framework for repairing the harm caused by criminal acts, for strengthening state and local networks, and moving forward. The validity and efficacy of restorative justice can be seen in the growing integration of restorative practices in the criminal justice sector. An attorney from the American Bar Association writes that restorative justice transforms a 'cycle of fear' into a 'cycle of hope'. He adds: 'The basic human right of being recognized as a vital part of a community regardless of station becomes closer to reality' (Lerman 1999).

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Discussion Paper-I

The Destruction of a Refugee Camp in Greece: A Report by the Movement for the Rights of Refugees and Immigrants in Patras *

The consequences of the war by EU and US in Afghanistan are more than apparent in Greece. This war created thousands of refugees who are trying to survive by traveling to “democratic” Europe. Thousands have died on this “journey” and those that arrived alive face a “fortress Europe.” The following is a report about the destruction of a point of arrival, a refugee camp, in the third biggest town in Greece, Patras.

The Patras refugee camp was destroyed on July 12, 2009. It had a lifetime of approximately eight years. Located in the north of the city, next to a small river Milichos, behind Iroon Polytechniou Avenue, it consisted of about 150 small huts, in an area of 5 to 6 acres, with a mosque in the center and a few improvised shops. It hosted and protected 1000 to 2000 refugees from Afghanistan. Though it was an improvised camp, under miserable hygienic conditions, it was the last refuge, the last hope for refugees in Patras. At least 300 of them had applied for asylum and had managed to get a “red card,” while 200 others wanted one, but could not apply, since the authorities that are responsible for accepting and processing applications did not have a translator.

Several Attempts to Demolish the Camp were made by the Authorities

On the 23rd of January 2008, for example, with the use of a demolition protocol that was composed by the Prefecture and characterized the camp as “an arbitrary construction,” another effort to tear down the camp was made. This effort was preceded by an extensive operation that took place in order to arrest and remove from the city 1500 refugees. Both the arrest and the demolition activities were prevented after organized actions by the Movement of the rights of Refugees and Immigrants and a huge demonstration (of 2000 people) that took place with the participation of the refugees themselves in the end of January.

A year later, a second attempt was made on the 21st of January 2009, when a fire burnt down about 40 huts. Authorities accused the

* Refugee Watch, 34, December 2009

Afghans themselves as arsonists. The fire was put out and the camp was saved once more.

The solidarity movement supported this “miserable camp” and insisted to the end that before demolishing the already existing refugee camp, a new one should be built within the city limits, where people could move freely whenever and wherever they wanted.

This claim was widely accepted and adopted by some official members of Mr. Karamanlis’ government, such as the Minister for Home Affairs, Mr. Pr. Pavlopoulos. The Support Movement to the Immigrants and Refugees and other organizations defending refugees rights also demanded that asylum and travel documents should be issued to the refugees, the under age should be protected, and activities aiming to the social integration of the refugees should be supported.

After the recent European Union (EU) elections, along with the rise of the right-wing party of LAOS, the (supposedly) socialist party of PASOK acceded to the ruthless EU measures against refugees: “No tolerance to illegal immigrants.” Those were the words used before the elections by the leader of PASOK, Mr. G. Papandreou. These are the immediate reasons why the plans for building a new refugee camp were abandoned and instead cruel police measures were adopted, including the fortifying of the harbor and the launching of police invasions on the camp. In addition several arrests were made under terrorizing circumstances. The refugees who were not arrested (especially those who had a red card) were threatened to prevent them from going near the camp again.

Under these circumstances – and especially because of the police actions - the number of residents in the camp dramatically declined during the past two months. The refugees stopped sleeping in the camp and dispersed within the city. Some of them fled to other places. Police authorities and the local political leadership were satisfied by the effectiveness of these measures and the decrease in the number of refugees, claiming that these measures helped to solve the “problem” of the camp without the need of creating a new host place.

Sunday morning of the 12th of July 2009, however, was the time of the “final solution.” At 5:30 am, police forces reinforced by six MAT squads (with blue and green overalls) - who came from Athens – surrounded the camp, under the presence of the local political leadership and a public prosecutor. Never before in Patras there was there a such “operation” by the police. And this “operation” was against people that are the victims of a war; that is, it is an “operation” against refugees that are created by the war of US and EU.

This operation found the parties of New Democracy, PASOK and LAOS, in agreement and in favour to the tough measures of the police forces. It was intended to solve the refugee problem in the city by military means. An official statement concerning this measure was released on Saturday evening, but it was not clear what it meant. Along with the remaining refugees, only 15 members of our organization and a few other

people in solidarity were present. Other people, including young members of anarchist groups, either failed to approach, got arrested or were detained for identification.

Some police forces encircled the camp while others invaded it. About 200 refugees who did not manage to escape were arrested. The leaders of the operation didn't permit to the members of our organization to have any access to information or to the refugees. Only after two hours of pressure did we see a document by the Prefecture that permitted the destruction of the camp. However its legality was questionable.

Bulldozers, trucks and buses (one double-decker bus and three normal ones) arrived. Bulldozers made the final attack on the camp, while the buses gathered the refugees. Under-age children were taken and left at a shelter in Konitsa (400 km north). The red card possessors were taken away to a hotel, since they had applied for asylum. Those who did not have the appropriate papers and were not under age (always according to the decisions made by the police) were driven to an unknown destination and detained, without anybody being informed about their whereabouts. At 8 am, when Afghans disappeared from the camp, the bulldozers and the trucks began demolishing the huts, excluding the mosque in order not to be blamed for disrespect to the religious place. A few minutes later flames appeared in the campsite, completing the demolition quickly and without exceptions. The mosque turned into ashes.

According to the police, the fire was started by the Afghans and as proof of this claim a videotape belonging to local TV stations showed three Afghans running in the camp. According to some uncertain sources by this time those three Afghans have had already been tried in court for committing arson.

Later the same morning, a second operation started, this time against the Sudanese who live in the south of the city. The Sudanese have no huts, only blankets and cardboard shelters. For the authorities, it was a good opportunity to "clear" Patras of all foreigners.

The Movement for the Rights of Refugees and Immigrants states, "It is a failure of policy to resort to military solutions as a response to social problems. It is a failure of policy to be unable to design a long-term immigration plan. It is a failure of policy to make decisions while ignoring the causes that produce refugees. Tomorrow, in one week or in one month refugees will be here again."

Doctors Without Borders (working inside the Afghans' camp since May 2008 providing primary medical care and psycho-social support) expressed its deep concern after the police operation in the camp of Patras: "Most of the people are forced to leave their country because of war or extreme poverty and face an uncertain future and a possible detention for an unknown period of time. This can have very negative effects on health and psychological state." The Communist Party and SYRIZA (left parties) made statements, condemned police operations against the Afghans' camp and called it brutal.

While police forces and political leadership seem satisfied by the outcome of the operation, the Movement for the Rights of Immigrants and Refugees and several other movements of solidarity with the refugees are planning the following actions:

- Supporting and offering solidarity to refugees and immigrants wherever they are found within the city, where they are hiding under the fear of arrests and deportations.
- Taking all the necessary legal actions in order to find out the legitimacy of the break down of the camp.
- Pushing the authorities to accept new applications for asylum.
- Demanding that the asylum seekers are treated with dignity and have their rights protected.
- Publishing the brutality, since 'hunting refugees' is cruel barbarism.

We demand:

- The release of the arrested.
- The issuing of asylum and travel documents to the refugees.
- The protection of the under-age with social inclusion measures.
- The social integration of the refugees.

As one of the asylum seekers told us yesterday "Even if the house of animals is destroyed, people permit them to build their house somewhere else. We don't even have this right."

Discussion Paper-II

A Sleep in a Sterile Zone

This military campaign too, is a part of the same regime *

The familiar sight of a Palestinian room - colorful blankets wrap those sleeping on the floor, crowded against each other. A khaki sleeve caught my eye. A ray of light crossing the frame from the right led to it. Then it became easier to notice a pair of army boots peeking under another blanket, a flexed knee in uniform and an upside-down helmet. These are Israeli soldiers. They are sleeping in a Palestinian home in Gaza. There is no trace of the inhabitants. They must have "fled" once more as refugees.

This photograph landed in my e-mailbox ten days ago with about another twenty. The accompanying letter iterated: "We should all be proud of the IDF... these brave kids defend our country" and, following, provided a recommendation which is also an authorization to distribute these images. This e-mail was signed by the CEO of the Israeli branch of a large European firm. His full personal data were prominently noted at the bottom of the letter. This is the most abstract photograph of a very harsh series, the last two of which come with a warning: these are not to be viewed by children. According to the sender, the rest may apparently be shared with them as a part of this war's booty.

Images similar to the one of soldiers asleep in a Palestinian home were disseminated to date only by soldiers who are members in *Shovrim Shitka* (Breaking the Silence) as a part of their sobering-up process from the missions the army had required them to carry out for the sake of 'state security'. Their photographs are not made public in the press but are exhibited in alternative venues. In Israel, at least, the occupation of a Palestinian home to provide soldiers with a place to sleep is not a media item. Were a press-photographer to shoot such a frame, the editor would not print it for 'lack of public interest'. But now the press has been kept away from Gaza, and it has a very meager supply of images of the ongoing horror there. Israel allows press-photographers to set themselves up on a hill adjacent to the Gaza Strip and shoot – long distance - the smoke billowing over the horizon, thus screening the inferno within. The hill overlooking Gaza is open to local tourist-visitors. For their convenience, someone has placed benches there as well as site-scape information booths. In the last few weeks, people have been arriving with children and binoculars to show their kids and watch Gaza being bombarded, and to take pleasure in Israel's might. When the man standing with his back to the camera returns home, he

* English translation: Tal Haran
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will download the photographs he took and distribute them to family and friends. He will show them that he too, was there, holding his fingers in a victory sign for the camera, while Gaza goes up in flames in the background. From time to time, this screen that insulates us from Gaza is ruptured by photographs transmitted via e-mail by Gazan photographers; unbearable images of severe destruction to civilians and their immediate environment. Very few of these are printed in the Israeli daily press. Those that are published are provided by Reuters (whose Gaza office was bombed yesterday) or AP. Some probably reach these news agencies by the Gazan agency Ramatan that currently employs 150 journalists and photographers in Gaza and has become a major supplier of news photographs worldwide (except to Israel). The person who proudly forwarded the photograph at hand did not see in it that which the soldiers of Breaking the Silence saw in the images they published in the past. They or others like them have refused to go to war this time around. Those who refused have been tried and incarcerated. The Israeli press has not reported this at all. The media's silencing their refusal joins the similar silencing of demonstrations by Jewish Israelis against the war, or the arrest and incarceration of dozens of demonstrators. No one will prosecute the soldiers in this picture or the one who photographed them, all having invaded a home and removed its inhabitants in order to have a place to sleep. Theirs is an 'act of state'.

The photograph I have chosen is a not particularly harsh sight. It shows soldiers asleep in Gaza. Even in the midst of battle soldiers need their sleep. The difficulty arises when one recalls that these colorful blankets in which the soldiers are curled up are not their own, that the dwellers of this home where they now sleep have been made homeless. One of the soldiers, wakened by a first ray of morning light before his mates, is taking pictures - for them, for their families, a souvenir - an image of a night's sleep in Gaza.

But, after all, this is Gaza. How can Israeli soldiers who participated in the destruction of Gaza - the devastation of entire neighborhoods, public buildings, fatal ruin of vital infrastructure, wounding thousands, bombing hospitals, civilian shelters, schools, killing of over one-thousand human beings - how can these soldiers who are "not exactly welcome guests" in Gaza, how can they possibly afford to sleep so peacefully in the midst of the inferno they have produced without sensing any immediate danger to their own lives? The answer lies in one of the Occupation's practices, most common since its inception - creating a 'sterile zone'. What is a sterile zone? An area emptied of Arabs so that the military can carry out its missions. In this image we are most likely witnessing the heart of the sterile zone. We have no knowledge of its range, its perimeter, but for these soldiers to sleep so serenely, so safely, not only the dwellers of this house had to be removed from the sterile zone, but the residents of the entire area.

For the Israeli soldier, a Palestinian home is a violable space. This point has not been born in the recent Gaza campaign. The history of this violability goes back slightly over sixty years old. At that time, the voices opposing the expulsion of Palestinians were hushed by another that

overtook the military and political leadership of the Jewish public, making expulsion a *fait-accompli*. This leading voice stammered in its official declarations but was nonetheless determined in its practical aspects and managed to expel 750,000 Arabs from the areas of British Mandate Palestine. For a whole year Jewish soldiers went from village to village and, when called upon, from home to home, tearing the Arabs away from their dwellings and lands. At times they used indirect means - rumors and truck convoys - and at others, violence and direct threat. Since then, the Palestinian home has not ceased to be threatened by the very thinking and operating pattern that to the Israeli public (as well as to world public opinion) presents that very home as an existential threat.

The residents of the Arab towns of Ramle, Bir Al-Saba, Majdal and Isdud, occupied by Israeli forces in the 1948 war, either escaped or were forcibly expelled and most of them were removed to Gaza and tripled its population at once. At the end of the war the Egyptians controlled Gaza and instated their own military administration. Israel did not manage that last "military victory" - the conquest of Gaza - before signing the ceasefire agreements with Egypt in 1949, thus giving birth to the narrow, troublesome 'strip' at the edge of the State of Israel. A 'strip' is a military-political term that expresses temporariness and designates a region that must be dealt with as undetermined, its situation to be solved. 'The Gaza Strip' was born as a problem. Since this birth, Israel has never ceased proposing 'solutions to the problem'. In 1949 Israel proposed a 'political' solution, aiming to annex the strip along with some of the refugees it harbored. But this political 'solution' with its military scent was rejected by the parties involved. In the 1956 Sinai campaign, the Strip was occupied along with the entire peninsula and Israel imposed its military administration. This did not last long for under American-Russian pressure Israel was forced to retreat from the territory it conquered. In 1967 Israel managed to re-conquer the Strip and take control of the 1948 refugees yet once again. Since then, for over forty years Israel has controlled the Palestinian population in Gaza. At least ever since the general closure Israel imposed upon the Gaza Strip in 1991 during the first Gulf War, such control entails cutting off the Strip from the West Bank as well as strict control over any entry and exit from it. By means of administering the crossings, Israel regulates life in Gaza. Since the Second Intifada, and ever more tightly since its 'disengagement', Israel has been managing a measured, chronic disaster, ever-watchful not to cross the fine line of a 'humanitarian catastrophe', enabling or preventing the flow of goods, people and means.

Since 1948, the Palestinian home is never the private domicile that shelters its dwellers from invaders and strangers. Israelis do not conceive of themselves as invaders or strangers, and the Palestinians are not regarded as homeowners in the simplest sense of the term. Their homes are vulnerable to nightly incursions, bulldozer activity, bombs dropped upon them from the skies, missile barrages or simply shootings that make them uninhabitable, expropriate them to create army outposts, positions and

headquarters, all given to changing circumstances and the increasing 'security necessities'. The explanation given for these ritual actions is that they are crucial in order to 'flush out the terrorists from their nests', 'suppress resistance' or 'destroy insurgent infrastructure'. Thus the Palestinian home is presented as a military outpost of the enemy, calling for military intervention. The Palestinian home constitutes a problem, and military intervention its solution or at least a means to 'solving the problem'. More precisely, the home becomes penetrable and violable because it has been perceived by some local Israeli commander as a 'security problem' or its solution, but it tends to be regarded again and again as a problem because it is always seen as penetrable.

Israel usually manages to carry out its destruction with a public silencer, without reverberating in Israeli or international public discourse, maintaining the status quo. Whenever its operations were intensified and expanded and the Palestinians persistently resisted Israeli military might with the meager means at their disposal, Israel has turned to 'the world' for help, to halt the self-same campaign it initiated and bring about a 'ceasefire' agreement. Usually, while conducting these negotiations, it manages to grab the chance for some more destructive actions and invades more homes. Any such military campaign renews the state of emergency, re-justifying its permanent validity since 1948, mobilizing one and all and helping to forget the preceding emergency. Most importantly – it prevents citizens from identifying the source of this state of emergency: the regime itself. This regime needs the state of emergency. It cannot survive without it. To this end it has been mobilizing its citizens for the past forty years and more to continue fighting its non-citizens subjects. The source of the real state of emergency is the existence of a regime that denies all of its subjects – both citizens and non-citizens – the viable possibility to build for themselves joint frames of living in their area; it does not let them exorcise themselves of the language of occupation in which any Arab is a potential member of the 'killer gangs' as they were termed in the 1940s, 'infiltrators' in the 1950s, 'militants' in the 1960s and 1970s, and 'terrorist organizations' ever since the 1980s.

"A ceasefire is enough for us", Ben Gurion wrote in 1949. "If we chase peace – the Arabs will expect us to pay a price – either borders or refugees, or both. Let us wait a few years." Ben Gurion wrote this in the very year the State of Israel was accepted as a member nation in the UN. In spite of its mass expulsion of Palestinians and the devastation of their habitat, Israel was recognized as a 'peace-seeking' state.

Within this pattern of suspending the final solution – be it peace, war or mass expulsion – the current campaign, too – constitutes colonial expansion and violent suppression of resistant people who have been made refugees. This recognition, namely the alliance of sovereign nation-states that back each other up in the wars they conduct against civilians who have been made refugees in their own land or outside, continues to condone Israel's countless military campaigns in the territories it has occupied.



Anonymous, Gaza, 2009

Book Review

Ravinder Kaur, *Since 1947: Partition Narratives among Punjabi Migrants of Delhi*, New Delhi, Oxford University Press, 2007. p. 16

The violent territorial rupture of 1947 and its legacy are central not only to the state formation in India and Pakistan but also in shaping the very contours of South Asia. The violence and bitterness that characterized the drawing of the fault line across a land which had for centuries remained one has been documented in a series of works. Ravinder Kaur's 'Since 1947' has focused on the twin processes of transformation that turned the ordinary people into refugees and then the refugees into citizens and then further to locals. The themes of displacement, belonging and re-association are explored through the unfolding of the various chapters of the book. The book seeks to trace the movement from North West Frontier Province and West Punjab to Delhi. However the movement she seeks to explore is not only at the level of physical displacement but also that of mental disruption. Following that displacement she further delves into the processes of integration through which these people re-adjusted their lives to the vastly changed conditions of their existence. Kaur is conscious of the fact that this movement cannot be mapped in a unilinear way, rather it is a multi-layered process shaped by class, caste and gender experiences. She points out in the very first chapter how the past encounters are routinely remodeled as present and how the present circumstances reshape the remembrance of the past. The narratives documented she holds would challenge the absolute understanding of the past and the present.

The main focus is on the period between 1947 to 1965 spanning from the Partition itself to the official closure of resettlement work in 1965. The study is based on three resettlement colonies built by the government to house the refugees. She explores how the narration of a local event, namely the demolitions carried out by the municipality, is connected to their original displacement from Pakistan at the time of the Partition. Ironically, many of the present residents had not even witnessed the trauma themselves, but through repeated narratives the events of Partition had become an integral part of their psyche. Thus the past rather than remaining locked as a moment in time continues to reappear in their everyday life shaping responses, strategies and even emotions. The present then is contextualized and often made comprehensible through the prism of the past. It is from this observation that she derives the methodology of the book. She documents the work through oral narratives using memory or more precisely collective memory as a tool. She is aware that venturing into the planes of memory would open to her hitherto unmarked paths between the past and present. This is all the more when the subject for the collection of

memory are persons rather than documents. By becoming a link between their past events and public recitals the study followed “sort of ethnographic journey into historic spaces, giving rise to disciplinary breaches.” Another very interesting tool she uses to unravel the multi layered movement and consequent re- settlement is the examination of the ingredients used in the pickles typically made in the Punjabi household as an indicator of the family’s location in the class structure.

The other salient aspect that she deals with is the refugee’s relation with the state. The moment of Partition and its consequence was not only the focal point in the lives of those affected by it but it was central to the formation of the post colonial state in India. It would be inadequate to portray the period of the Partition merely as a dichotomy between Hindus and Muslims, Congress and Muslim League, India and Pakistan. It is a period that signifies the coming of the Indian state on its own. The task of distributing emergency relief and then resettling refugees permanently provided the newly formed state with both a challenge and an opportunity. Kaur seeks to examine the constant negotiation between the state and the refugees in a quest to define their roles and opportunities in the new vastly changed circumstances. She unravels from the master narrative of Partition migration not only what is revealed but also that which is suppressed. Taking cue from this theme she has tried to organize her study through two trajectories—the state as the central organizing agency in the wake of the post –Partition reality and the noticeable absence of the state in the accounts of the survivors.

In the second chapter she introduces the additional theme of state/society split in the analytical frame and delineates the key concepts used in the book. The third chapter explores how the partition narratives are shaped. The images that the partition evokes tend to revolve around the experiences of the urban poor and rural folk. This meta narrative of partition masks the complexity and the multiple levels within the population movement. She delineates the multiple strands of the movement by separating out the various clusters of the movement—foot columns, railway journeys, military truck and finally air travel. Through the use of this innovative indicator she shows how with the differing mode of travel varying class position can be accurately inferred. With that their experience of Partition was also different. In the next chapter she traces the class divisions apparent in the journey to the transit refugee camps etc. In this chapter her focus is on examining state participation. The theme she touched upon in her introductory chapter is examined in greater details—the state striving to authenticate its legitimacy and the refugees by actively defining their role and space in this exercise seeking to gain leverage for collective bargaining. The postcolonial state in its splintered form alternated between an active organizer, a partially functioning structure of authority and even as a mere bystander in the entire process. The Partition involved loss for the victims both at the material and the emotive level. The policies and strategies of the state towards resettlement is in the final analysis an

attempt to restore these losses. Through Chapter 5 Kaur aims to demonstrate how in spite of the continuous presence of the state agencies, the power relation of the former with the refugee communities differ considerably in relation to the familial structure. By taking up three studies she shows that though on a superficial level the narratives sound quite similar but at a deeper level they appear very different from each other in their circumstances and outcomes. Chapter 6 touches upon a largely ignored theme of the Partition narrative—the untouchables. They remain unrepresented in the nationalist historiography right from the time of nation formation. Through the narratives she had gathered in her study she challenges the prevailing notion that because of the fear of pollution the untouchables were unscathed by the turmoil. For their varying realities it was seen that the members of this class were not critical of the state the way the others were. Kaur focuses on the process of integration in the following chapter. She points out that a fruitful integration process involves not only settling down and creating a space for themselves in their new world but the more complex process of actually obliterating their original homeland which in this case was also denoted as the ‘enemy’ state. In Delhi the migrants not only created a niche for themselves but also successfully edged out the local residents. It is the local-refugee dialectic and the entire process of refugees successfully claiming the locality, which form the core of this chapter. Here she introduces a new analytical tool. The use of letters written by people containing their personal accounts, comments on political situation, stories of individual support form a rich source through which the personal side of Partition can be explored. Moreover being unpolished accounts, written without the advantage of hindsight makes them especially interesting. The discussions also capture the resentment of original Delhi residents at the changing physical and cultural contours of the city. However she observes that this feeling remained simmering below the surface and did not really develop into a hostile conflict as the migrants in course of time developed into a successful group poised to take over the city. In the next chapter she delves into the debates surrounding the primordial identities of religion, language or region, that remained unresolved even after the refugees physically settled down in Delhi. She seeks not only to unearth how certain identities are pursued but also how some others are subsumed or suppressed and remain unarticulated.

The grand narrative of Partition, she points out, is characterized by two types of absences. In the first place there is a marked absence of untouchables and women in the Partition accounts. In the Partition narratives monopolized by the middle class these two sections never appear to tell their own story. Their experiences are subsumed within the main structure of the Partition narrative. The second type of absence is that of the Indian state in the master version of Partition migration and resettlement. There remains a large gap between the personal narratives and the evidence of state involvement in resettlement gathered from an array of documentary evidence. While she seeks to address the second lacuna throughout the

book, in the former case her efforts are largely limited to a chapter assigned to each section. Unlike the second theme she does not weave this so effortlessly into the main body of the book.

The book, in the final analysis, compresses the experience of 60 years of uprooting, migration and resettlement into the length of a book encompassing not only the events since 1947 but also the different communities and agencies playing a role in it. She also brings out how the events of the Partition have become a continuous point of reference for the residents to Delhi even when it comes to defining an event of local occurrence bearing little or no connection with the Partition. The master narrative recreates the events of Partition and the personal stories in a practiced seamless manner that glosses over any evidence to the contrary. This narrative of destruction followed by resurrection is a theme that seems concurrent to the very theme of Indian national movement. The hour of independence was marred by territorial partition, movement of population and internecine communal violence. This was a shared experience of the nascent nation and those rendered homeless by the process. The path followed by the nation and its migrants was concurrent and therefore its intricacies were appreciated by both.

By **Suparna Banerjee** *

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Refugee Watch, 34, December 2009