



Forced Migration: State of the Field

Ranabir Samaddar

Abstract

This reflective piece focuses on the field of forced migration studies as it has come out of the restrictive framework of refugee studies, and has evolved to embrace many other aspects of migration. The author believes that it has now entered a critical post-colonial phase. While celebrating this transition, he cautions against development of new orthodoxy. He urges young entrants to keep their minds open and to continue to engage critically with the subject.

Author Profile

Ranabir Samaddar is a founder of the Mahanirban Calcutta Research Group and its journal, *Refugee Watch*. He was earlier Professor of South Asia Studies at University of Calcutta. He is also the Founder-Director of the Peace Studies Programme at the South Asia Forum for Human Rights, Kathmandu. Known for his critical studies on contemporary issues of justice, human rights, and democracy in the context of post-colonial nationalism, trans-border migration, community history, and technological restructuring in South Asia, he has published extensively and served on commissions on issues such as partitions, forced displacement, refugee care and protection, minority rights and forms of autonomy in India.

When around the mid-nineties, I began in my small way forced migration studies, I was, of course, aware of bonded labour, indentured labour, village to city migration of labour in forms of servitude, etc., in short, different forms in which the “forced” comes into play, I did not take up refugee studies as a separate field of research. Forced migration was, it appeared from the beginning, a much more holistic concept. At the International Association for the Study of Forced Migration (IASFM) Conference in Cairo in 2008, B.S. Chimni made this important point. In the course of appreciating his insights I commented there that refugee studies scholars were a bit late in recognising this. In some senses, scholars in South Asia had through their work demonstrated the inter connections between various forms of “force”.¹

More deeply, the reason for this change was a realisation that only with a post-colonial sense of history we can move on from the old, restricted, “northern” way of looking at things to the broader, more historical, political way of looking at the phenomenon of forced migration. A critical post-colonial approach was important. It encouraged a critical post-colonial way of chronicling and analysing various forms of forced migration, which now marks the writings of a number of scholars. These writings are informed by a strong sense of history, awareness of the distinct nature of post-colonial politics and society, and an appreciation of the migrant and the refugee appearing as the subject of history of our time that is marked by the return of the empire. The writings on India’s refugee protection policy for instance are marked by collaborative research, critical post-coloniality and a strong sense of the significance of the local in this globalizing time.

In the course of all these developments in the field, I followed up my earlier work, *The Marginal Nation: The Cross-Border Migration from Bangladesh to West Bengal*, with a long view of citizenship and alien-hood in the Northeast of India; looking at histories of hatred, reconciliation, friendships and enmities.² Some of this research brought out the significance of the camp as a liminal space of subjectivity and submission, of control and escape, despair and inefficacy of international norms, laws, and arrangements, and brought out the IDPs’ own voices about what could be done and how.

One can see through all of this that forced migration studies has come out of the restrictive framework of refugee studies, and has evolved to embrace many other aspects of migration, and has now entered a critical post-colonial phase. This should not be turned into a new dogma, its role is to impart criticality of approach, and it should be able to place migration in the gray zone of force/volition, subjectivity/conditions, human rights/humanitarianism, and all other binaries that at times lead us to a blind alley.

¹ The specific reference here is to the work undertaken by scholars at Calcutta Research Group, which includes *Refugees and the State: History of Asylum and Care, 1947-2000* (Sage, 2003), *Internal Displacement in South Asia: Relevance of UN Guiding Principles* (Sage, 2005), and the report, *Voices of the IDPs in South Asia* (CRG, 2008).

² See Ranabir Samaddar and Paula Banarjee, *Migration and Circles of Insecurity* (New Delhi: Rupa, 2010).

Partition and Population Flows

I often suggest that Twentieth Century will be remembered as a century of partitions. Partition leads to forced migration – refugee flows and flows of other types. The stakes in studying partition as a major marker in forced migration studies is still not appreciated. Partition of the Ottoman Empire, of Germany, Palestine, and Korea in the last century, or the Indian Partition – these are only some of the major events to shape the story of forced migration. May be we have to master the art of writing event-centric history to bring out the depths of the phenomenon of forced migration. There are so many unnoticed events, which are neither as major nor as infamous as the Partition of 1947, but which create their histories of migration. These small histories can enrich our forced migration studies.

Partition also makes the question of return crucial. Do partition refugees have right to return? If they have the right to return, then what is the period they will enjoy the right? Also, will there be certain conditions, in as much as we know that there may be forced return. Partition is the prism in which the stakes in the study of forced migration become sharper. But there is a danger also. Partition scholars take post-partition migration to be a unique process, and ignore the possibility that post-partition migration can be built on lines of historical continuity, and it is important to find out the continuities and discontinuities in the process. In *The Marginal Nation* I wanted to caution against such uniqueness. Do we study for instance the nature of forced migration in Europe in their century of religious wars, and compare that with what happened in India when the great religious war broke out in the second half of the forties of the last century? Can we compare the subjectivity evoked in Brecht's *Mother Courage* and Manto's *Toba Tek Singh*?

Of course there is the fact that, at least in India, migration studies picked up after the mid-nineties of the last century when more and more scholars started studying forced migration, when the historical fact of partition repeatedly came up along with the fact of fifty years of our independence. So independence was Janus faced. We can thus say: the citizen is the defence of the visibility of constitution; the alien is the shadow, its prey. The citizen exists in the alien as the savage form. Citizen is articulate; the alien is inaudible, silent. Yet what are the ways in which the alien overcomes the two obstacles of inaudibility and invisibility? To understand this life world of visibility and shadow, forced migration studies will have to adopt the strategy of interrogating alterity.

IDPs and Forced Migration Studies

The IDP issue has done enormous service to forced migration studies. It is not unexpected however that some of those engaged in refugee studies for years may see this in a different light and think that this is stealing the show, or taking us away from concern for refugees. Also scholars may think that IDPs are “another” governmental category, a creation of the policy world. While there may be some truth in this observation, I still think that by including the IDPs, forced migration studies has widened in scope and has become more truthful to the world. We are now able to link issues of nation, sovereignty, economy, globalisation, social violence, developmental issues, etc. in a more meaningful way. We have become aware of displacement as the most critical issue of our time – and all these after we could connect and integrate the IDP issue and the phenomenon of forced migration.

Recognition of the rights of the IDPs is the collective product of decades of struggles of population groups trying to survive. It is strange that very few big names in refugee studies care to see displacement in a broad light or do any worthwhile research on IDP issues.

The point that the proportion of refugees has gone down for the last twenty years and the proportion of different categories of IDPs have gone up is significant, because we witness today massive and mixed flows of people across and within countries, and these flows in the wake of globalisation should make us sit up and wonder how worth are the various categories of displaced population groups that we use in terms of analysis and policy response? The UNHCR in one of its recent notes has taken cognizance of this. Old protection strategies are failing. New strategies are needed to ensure the rights of victims of protracted state of displacement. Old forms of refugee status determination do not make much sense in this new situation. Old guarantees of asylum likewise do not make sense in the light of preventing strategies like fortress Europe. Also, how does one distinguish between a classic refugee, a person escaping hunger and in search of work by any means and anyhow, and say, trafficked labour in servitude?

Rethinking Law

The UN Convention of Refugees has completed 60 years and UN Guiding Principles on Internal Displacement have also been in existence for more than 15 years. In some senses the 1951 Convention is dated. The cold war perspective is long over. The nature of forced migration has changed. New forms of servitude have appeared along with new vulnerabilities. The 1951 Convention also does not address the issue of burden sharing. But no one wants to open the can, lest the worms should come out. Likewise the Guiding Principles emphasise only a particular context. It is too much rooted in a particular reading of the contexts of Africa, some parts of Latin America, and the Caucasus. It ignores developmental displacement, and places the issue in the framework of what is known as sovereignty as responsibility. While the Guiding Principles have done service to the cause of the displaced population groups, yet it left open many occasions for abuse. Great Powers can intervene on the pretext of saving endangered population groups (recall Libya) while they may be the ones responsible to a large extent for the unsettling scenario. Again while they may be responsible for economic catastrophes in many countries and regions, they can appear as saviours. On top of that, while the origin of the Guiding Principles in the human rights principles is clear, its structure carries the state of international law in the last three decades of the last century. Without taking away anything from the merits of these principles, one would not be incorrect to emphasize that there has to be a different way from the one adopted in these principles that seem to focus on responsibility without recognising the discriminatory history of responsibility. In a sense, the Guiding Principles has removed the focus from the issue of developmental displacement in today's world.

Yet the modality of guiding principles is significant and has dialogic potentiality. It offers new insights into the process of law making. If one took 1951 Convention one could see the reason for its wide acceptance. It creates a legal person of the refugee, a whole penumbra of institutions and an office, without making any one nation,

government or individual, responsible for creating refugee-hood. It was able to merge in a milieu of a fantasy, the ethics of humanitarian protection and guarantee of rights of a refugee, who, in the words of Hannah Arendt, does not have a right to claim rights. The law thus succeeded.

Likewise, the Guiding Principles are not law, yet they have the appearance of some kind of moral injunction with at least the partial effectiveness of law. So countries may not have signed the Principles, they are only a resolution. Yet they appear as giving birth to some kind of law. How do we retain this fantasy and proceed?

My view is that not only we need to move on to the regional level as the most crucial level in framing the international, but there too we shall have to innovate the art of successful law making by combining the fantasy with injunction. The art of governmentality will never cease to be relevant. I think that the important point here is how to produce the consent that is necessary for enacting what is termed as soft law. On one hand, we have sovereignty as an important factor in treaty making process, which is a crucial part of international law making also we have great power concord and combined pressure to produce the law, .On the other hand there is the effort to produce consent of the probable treaty parties. This is a process, which is getting more and more intriguing. How to produce consent for a treaty is a serious problem for 'the international' that we speak of today. It may be that the more we decentralise the process the more we shall produce the consent necessary for law. After all we may not need grand and universal laws any more, or at least not to the extent to which we are led to believe. As if the world will break down if we do not have a single treaty, a single convention, a single office. And therefore, what we need is possibly not books and books on soft law (because the soft may be more insidious, as we have seen this in the iniquitous application of the principle of intervention on humanitarian grounds), but more work on the process of producing the consensus at different levels and making that work. In a sense legal pluralism is the need of the hour in things like this.

Legal Mechanisms and the Ethics of Care

The ethical practices of care and protection, to the extent they are there in the legal mechanisms for protection of the displaced persons, are like a double edged sword. They strengthen the principles of humanitarianism which we need in our individual and collective lives. Yet, when applied, they tend to reduce the persons they seek to protect and care for to being objects of care and charity. Therefore, in the refugee protection literature there is this debate on "charity or rights", which Joya Chatterjee highlighted in her work of Bengal partition refugees. Also some people say that whatever protection people have got are not due to the principles of care and hospitality, but through struggle for rights. This is how basic rightlessness is removed, as Hannah Arendt pointed out. Similarly Derrida argued in a profound way that while the principle of care and hospitality is unavoidable, yet we care only to the extent self-care allows. Thus there is always a limit to the care that these international legal mechanisms offer. At times the United States will bomb a country such as Iraq or Afghanistan, create refugees, displace millions, and then the so-called international community will invoke the principles of care to rush into those bombed out countries, and within the limits set by the big power help the displaced. That is why people in war ravaged countries sometimes despise the humanitarian workers,

many of whom are inspired with the noblest values, yet get represented as the ones who have come to supply artificial legs in the evening after they cut off their legs in the morning on the order of a tyrant. Therefore, the process of infusing the legal and administrative mechanisms of protection of the displaced with the principles of care and protection is a contradictory one. And one has to examine this process through an examination of the self-care involved in the big humanitarian enterprises we witness today.

Humanitarianism is an ideology that works like a machine. We begin with sentiments, we create institutions to give effect to those sentiments, and then we legitimise those institutions with an overarching ideology of care, which often glosses over the injustices of the entire process through which persons have been reduced to being objects of care and protection. Hence the significance of the question of agency. And in any case a large number of the displaced millions on earth, possibly the majority of the displaced persons, do not depend on these legal arrangements. Care operates in the lives of the millions in a different way.

One can see this paradox even in the legal and administrative mechanisms for the protection of the displaced in India. There is no one single arrangement. Care of the displaced due to violence is organised along one line, or set of lines, while care of the displaced due to developmental activities runs along another set, while again the care of the displaced due to natural disasters is organised in a different set of ways. There are similarities in these three cases, yet the principle of care operates in a differential way. Humanitarianism in the nineteenth century was for the destitute, the abnormal, the poor in the colonies, etc. Now it is for the migrant, the abnormal subject of our time.

Yet, we cannot do away with the principle of care. The task possibly will be to organise the principle in a different way, to see how this operates in popular life, to entrust the people with the task of protector than making the mighty the protector of imperilled lives. Federalisation of care is important.

Likewise, the task of making dialogic, the principles of care and protection is important. This requires the insertion of the principle of justice, which will bring back the issues of claims and rights. We thus cannot avoid the contradiction between care and rights; therefore a dialectical view is necessary. Can justice be compatible with the principle of care? At the risk of sounding fearful and banal, I shall say yes it is possible, and that is the main task in public morality today. Only a sense of justice can make us more caring. If one notices the evolution of the jurisprudence on disability rights, as Kalpana Kannabiran has shown, you can see how a sense of justice can lead to a more caring deliberation and approach.

The Way Forward

Rights are indivisible. However, if the way forward is to do away with all the institutions and set up new ones, which will inevitably result in more centralization for controlling population movements is an open ended question A more dialogic relationship is necessary, also we have to struggle for minimizing - if we cannot do away altogether - the hold of security related thinking, provisions, and practices in

matters of recognizing and protecting the rights of the victims of forced migration. Institutions have their vested interests, their domains.

To try to reduce them is the need of the hour. To do so we have to begin with working out and formulating the consequences of the theoretical recognition that population flows are massive and mixed. The reality of these mixed and massive flows questions old polarities. They need to be recognized in their variety, plurality, and amorphous nature – and this is possible only when we have a more federal way of looking at things, not from an institutional-pyramid point of view from the top, but from the point of understanding how it works on the ground. We shall then be able to challenge the customary distinction between refugee studies and forced migration studies, and episodic violence and structural violence in terms of protection policies and institutions. We shall be able to ask, if constructing hierarchy of the victim is the appropriate way to frame protection policy. This way of analyzing through interrogation of received binaries is already evident in the ongoing studies on statelessness. These binaries in form of refugee/IDP, episodic violence/structural violence, citizen/stateless, movement due to fear/movement due to economic imperative, international norms/national responsibility, human rights/humanitarianism, et cetera – have been subjected to critical inquiry today. Such critical inquiry features in the more recent work in the area of forced migration studies. This is possible only when we consider forced migration studies not as an isolated discipline or a subject, defined by some strange esoteric rules, but as a field marked by lines of power and flight paths of various subjectivities.

To work with that awareness we require not only a sense of rights and responsibilities, but some sort of political awareness of the way in which the migrant appears in our civilized societies as abnormal. Interrogating the production of abnormality in the figure of the migrant has to be the main research concern. All these are additionally relevant when we recognize the current time as one of the return of primitive accumulation when footloose labour becomes the ubiquitous figure of abnormality in the society of the settled and the propertied.