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International migration opportunities as post-disaster humanitarian intervention

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Abstract

The frequency and intensity of natural disasters from climate events have been increasing in the last few years. While scientists are careful in causally linking these natural disasters to climate change, the record-breaking extreme climate events such as typhoon Haiyan in the Philippines speak for itself. Formerly a laggard in climate talks, adaptation has now gained footing not just in the UNFCCC but also among different countries. Decision 1/CP.16 also known as The Cancun Agreements invites all parties to the UNFCCC to enhance action on adaptation and undertake measures with regard to climate change induced displacement and migration. It is exactly this COP decision, which motivated the governments of Norway and Switzerland to establish the Nansen Initiative and craft a protection agenda for people who are at risk of disaster-induced cross-border displacement. Despite these efforts, there has yet to be a legally binding migration treaty that climate change victims can invoke. In this paper, we will look into the feasibility of immigration opportunities as humanitarian aid for victims of extreme climate events. Inspired by US and Canada immigration relief measures for typhoon Haiyan victims in the Philippines, we use a socio-political approach in constructing an immigration humanitarian model, which we would like to recommend as a potential humanitarian intervention after climate disasters. This recommendation is not only intended to address UNFCCC's Decision 2/CP.19 (the Warsaw International Mechanism on Loss and Damage) but to also provoke ambition and compassion from countries that are historically responsible for climate change.

1. Introduction

The frequency and intensity of natural disasters from climate events have been increasing in the last few years. While scientists are careful in causally linking these natural disasters to climate change, the record-breaking extreme climate events such as typhoon Haiyan in the year 2013 speak for itself. These climate extremes are not without consequences. Most, if not all, extreme climate events bring damage to life and property. Unfortunately, it is generally the less developed countries that are more affected by extreme events compared to developed countries (Kreft et al. 2015). In addition, there are less developed countries such as Pakistan and the Philippines that are repeatedly affected by catastrophes (ibid). In this unique case where sudden-onset events become commonplace, both reactive and proactive adaptation becomes a “must” (Biagini et al. 2014).

One of reactive adaptation measures of climate change victims of sudden-onset events is migration. With the potential of being a proactive adaptation measure, migration and its relation to climate change has been widely debated in both the academic and political arena (Hillmann et al. 2015). Despite the broad attention that it receives, migration as an adaptation option has yet to be fully mainstreamed in multilateral climate policy. There has yet to be a legally binding migration treaty that climate change victims can invoke.

In this paper, we looked into the feasibility of immigration opportunities as humanitarian aid for victims of extreme climate events. Inspired by the United States (US) and Canada immigration relief measures for typhoon Haiyan victims in the Philippines, we use a socio-political approach in constructing an international humanitarian migration model, which we would like to recommend as a potential humanitarian intervention after climate disasters. In order to construct this migration model, we conducted a stock taking of recent multilateral initiatives and mandates involving migration and climate change and we reviewed landmark immigration relief measures such as those of the US and Canada through a sociological lens. Our paper makes use of Bassett and Fogelman’s (2013) reformist adaptation, which places more emphasis on the social and political dimensions of vulnerability and seeks to alter the rules that create vulnerability by working within the existing system.

The following section is dedicated to recent climate change and migration multilateral mandates, which are important first steps in mainstreaming migration in climate policy. Section three reviews the sociology of immigration relief measures of the US and Canada for victims of extreme weather events. Section four introduces our international humanitarian migration

model as a potential humanitarian aid of concerned states for victims of extreme weather events. We conclude this paper in section five with a call for ambition and compassion from states historically responsible for climate change

2. Climate Change and Migration Mandates

The year 2010 has been pivotal for the topic of migration. The Cancun Agreements (Decision 1/CP.16) adopted by the Conference of Parties (COP) in COP 16 contained a decision to establish the Cancun Adaptation Framework and an invitation to parties to enhance adaptation action under this framework by undertaking several activities, one of which is to undertake “measures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at the national, regional and international levels” (UNFCCC 2010). This invitation to parties takes into account common but differentiated responsibilities (CBDR) and respective capabilities as well as specific national and regional development priorities, objectives and circumstances (ibid).

The next COP decisions no longer contain any explicit reference to “climate change induced displacement, migration or planned relocation” (UNFCCC 2010). There are, however, COP decisions that seek to address loss and damage arising from adverse impacts of climate change, including both extreme events and slow onset events. The Warsaw International Mechanism for Loss and Damage Associated with Climate Change Impacts (Decision 2/CP.19) mostly aims to advance knowledge and understanding about loss and damage. Only paragraph 5.c.iii gives an impression of action other than dialogue or further study. It suggests enhanced action and support to address loss and damage in order to enable countries to take actions including that “where necessary, facilitate the development and implementation of additional approaches to address loss and damage associated with climate change impacts, including extreme weather events and slow onset events” (UNFCCC 2013). The Paris Agreement in its Article 8 paragraph 4 lays down more concrete suggestions for areas of cooperation and facilitation to enhance understanding, action and support of parties (UNFCCC 2015). These include early warning systems, emergency preparedness, slow onset events, events that may involve irreversible and permanent loss and damage, comprehensive risk assessment and management, risk insurance facilities, climate risk pooling and other insurance solutions, non-economic losses, and resilience of communities, livelihoods and ecosystems (ibid). Article 9 of the Paris Agreement, reminiscent of the CBDR principle

invoked in the Cancun Agreements, calls on developed countries to “provide financial resources to assist developing countries with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention” (ibid). Furthermore, the provision of financial resources should take into account “country-driven strategies, and the needs and priorities and needs of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change and have significant capacity constraints” (ibid). Indeed, the ability of poorer countries in the South may be unlikely to initiate sufficient adaptation programs and climate-induced migration might be the only option for their communities (Biermann and Boas 2010).

Within the UNFCCC, an aspiration to globally address the impacts of climate change is quite apparent in every COP decision. However, effectively translating this aspiration to reality has been elusive up to now. Global action is being outpaced by the impacts of climate change, leaving survival of climate vulnerable communities to the best of luck. If climate change is not reason enough to welcome the transnational migration of climate change victims, we argue for doing so on humanitarian grounds. An example would be the case of a family from the small Pacific Island State of Tuvalu granted New Zealand residency in 2014 after arguing, among other things, that the effects of climate change would have adverse impacts on them if they were forced to return home (McAdam 2015). The New Zealand Immigration and Protection Tribunal ultimately permitted them to stay in New Zealand based purely on humanitarian and discretionary grounds, because of their strong family ties within New Zealand (ibid).

In the next section, we look at how the US and Canada used immigration relief measures as a humanitarian response to victims of extreme weather events. These immigration relief measures also use family ties as one of their prerequisites for application.

3. Landmark Immigration Relief Measures through a Sociological Lens

We have argued elsewhere that familial affiliation of those affected by climate disasters can reinforce cross-border migration through immigration relief opportunities provided by states (Mosuela and Matias 2015). The US and Canada have been the only states offering such emergency response schemes, other than the usual aid, to disaster victims. Both states have had existing strong and friendly bilateral relations with the Philippines, particularly in administering development support. The US and Canada host a considerable amount of Filipino residents and it is assumed that it has played a role in opening their borders particularly to those kin being affected by disasters.

Canada has introduced immigration relief measures as part of their humanitarian assistance to the Philippines during typhoon Ketsana in 2009 and Haiyan in 2013. The Immigration and Refugee Board (IRB) of Canada prioritized the processing of application of Family Class applicants “under the Immigration and Refugee Protection Act (specifically, spouses, common law and conjugal partners, dependent children, parents, grandparents and orphaned family members)” who were proven to be “directly and significantly affected” by the disasters (IRB 2009). Expedited scheduling and processing as well as possibility of appealing on “humanitarian and compassionate grounds” were the benefits of the said immigration measure (ibid) for the Philippines. In addition, appeals from Filipino citizens temporarily in Canada (i.e. visitors, international students and temporary foreign workers) who were personally affected by the typhoon and who needed to extend their stay were said to be evaluated in a “compassionate and flexible” approach (Government of Canada 2014). In line with these measures, CIC set up exclusive email addresses and a phone line to act on requests from applicants and their families (ibid). As a result, as of April 1, 2014, there were 1,097 approved applications from those affected. Of those, 245 were Temporary Resident applications and 852 were for Permanent Residence.

In a very similar response, the United States Citizenship and Immigration Services (USCIS) has instituted immigration relief measures to Filipino nationals residing in the US and their kin affected by typhoon Haiyan. However, it has not granted “Temporary Protected Status” (TPS) designation to the Philippines. One of the options accessible is request for a change or an extension of non-immigrant status (i.e. visitor visas, student, and temporary employment status) for an individual currently in the US who is out of status. This measure can support Filipino citizens to re-enter lawful status by avoiding the negative immigration consequences (i.e. reinstatement to lawful status when one’s legal status has lapsed is not usually possible) of remaining in the US beyond an authorized period of stay. Another relief measure that can be requested is expedited processing of immigrant petitions for immediate relatives of US citizens and relatives of lawful permanent residents (LPR) with current priority dates. Immediate relatives refer to a spouse, parent, step-parent, child and step-child under the age of 21, of a US citizen (USC) and the spouse of a deceased USC. Some requirements need to be fulfilled: a step-parent or child will only qualify if the marriage creating the step parent/child relationship occurred before the child’s 18th birthday; and, a USC filing a petition on behalf of a parent must be 21 years old. Other immigration relief measures for Filipino nationals affected by the typhoon involve extensions of grants of parole and advance parole, expedited processing of an advance parole application, expedited adjudication of an em-

ployment authorization application, expedited adjudication for off-campus employment authorization for F-1 students experiencing severe economic hardship, and assistance to LPR stranded outside the US without proper documentation establishing LPR status (Official Website of the Department of Homeland Security 2013; Reeves 2013).

The case of US and Canada provides an exemplary case of humanitarian post-disaster interventions through loosening tight immigration and admission state policies. They represent how states could or should treat those people affected by a humanitarian crisis and of the protection they should receive when they cannot all be protected within their own countries. These particular states view migration not only as a reactive strategy but also a proactive one. Instead of regarding migration as a last-resort option, these states utilize migration strategy as a coping mechanism and a way of adapting to climate-related hazard.

In our reflection of the case, we have found it necessary to extend its analysis to developing a comprehensive model state response to managing disaster-induced movements. For reasons that cross-border movement schemes pose as better alternative to financial aid and that there is a growing awareness of communal risks, such as environmental change brought about by extreme climate events, which is arguably encouraging a sense of shared future, thereby a collective responsibility on a transnational scale among countries. We intend to consider some elements other industrialized countries can potentially take into account as part of humanitarian post-disaster interventions within the context of cosmopolitanism and human rights. Those elements, which have already been present in such interventions but not elaborated, are transnational migrant networks and skilled labor. The model we propose is a more progressive implication of cosmopolitanism wherein states take action not only in a charitable way but also being bounded by moral duties when they provide humanitarian assistance to the global needy. Even more so if the countries share common political values, a security agreement, and mutual strategic and economic interests.

In times of climate-related hazard, practices of cosmopolitanism surpassing the nation-state model show their relevance in the case of the US and Canada and their respective alliances with the Philippines. Such practices provide fundamental bases for a more just global governance. Drawing on Penz (2010), strong practices of cosmopolitanism, such as articulation of ethical values and relations between countries, should be expressed globally. Bounded by moral obligations, states play an essential role in upholding moral community and humanity as a whole.

One instrument advancing international ethical responsibility is opening states' borders for the protection of the right to free movement, a basic right of human beings. Opening states'

borders pertains to both exit and entry to enable a certain category of people to move beyond their national territory. Cross-border movement should be an option following a climate disaster, especially when countries lack certain measures and resources to protect their citizens within their borders.

Cross-border movement as an adaptation policy raises human rights concerns. The emphasis is on ethical instead of legal responsibilities because claiming universal human rights is not a legal assertion (Penz 2010; Humphreys 2010). Internationally protected human rights are primarily moral or political assertions, and as such normally carry higher authority than a legal one (Humphreys 2010). Migration and settlement is considered an internationally protected human right, along with rights to health and life; rights to food, water, shelter, and property; rights connected with livelihood and culture; and with personal security in case of conflict (ibid).

However, by adopting such instruments, states become vulnerable to expressing “selective compassion.” What we mean by that is the US and Canada schemes, for instance, consider only a particular group to be accepted, such as the kin of those legally residing in the US and Canada. By default, free movement entitlements are ignored for some by the selective compassion entrenched in such humanitarian post-disaster interventions.

a) Transnational migrant networks

Considering that states wish to maintain their sovereignty and overall security, transnational migrant networks can pose as an invaluable resource in adopting humanitarian post-disaster interventions. States can tap such networks while opening their borders to those kin embedded in the networks as it gives some assurance of general support upon arrival. Drawing on Hugo (2010), mobility is more probable to be considered as a choice in communities with a background of movement and dynamic migration networks. A priori migration may reinforce the adaptive capacity of the networks it builds; however, it may also lead to migration as an adaptation measure. As in the case with Typhoon Haiyan, survivors who have cross-border migrant family members were able to get assistance from them. In addition, those whose cross-border migrant family members were in the US or in Canada could apply for immigration relief. This immigration relief can be counted as migration as an adaptation measure.

b) Skilled labor

As in the case of the US scheme, TPS beneficiaries and eligible applicants can obtain temporary authorization to remain and work in the US for a set period of time. It may be prolonged if the conditions in the country of origin do not change (Official Website of the De-

partment of Homeland Security 2013; Seguritan 2014). The International Organization for Migration (IOM), for instance, recommends migration instruments, such as circular or temporary migration between developed and developing countries, as an adaptation response to climate-induced vulnerability. IOM proposes countries to go through bilateral agreements as cross-border migration is pursued so that host states are able to control the incoming movement (Vlassopoulos 2013).

4. Proposing an “International Humanitarian Migration” Model

We base our argument for an international humanitarian migration model on the assumption that states put their national interests ahead of global interests, even in the disbursement of humanitarian aid.

Warner et al. (2015) sees current humanitarian migration legislations to be a key gap across regions in the world because this only responds to emergency situations, with the assumption that recipients of these schemes will go back to their areas of origin once things get back to normal. While temporary visa waivers are common when a natural disaster happens (ibid), the immigration relief measures of US and Canada instituted after typhoon Haiyan in the Philippines show that countries are also open to welcoming permanent migrants.

We, therefore, propose two routes of international humanitarian migration response to extreme climate events. The first suggested route makes use of transnational migrant networks and the second suggested route makes use of skilled labor.

a) Family reunion humanitarian migration

The US and Canada typhoon Haiyan schemes for climate change victims who have familial ties to *a priori* migrants in their countries can be a good example of how states can support survivors of extreme climate events. Loosening of visa restrictions or expediting visa applications can be helpful in finding a safer residence for climate change victims.

b) Skilled labor humanitarian migration

Should a climate change victim not have familial ties to migrants in potential receiving countries, she or he can apply based on his or her labor skills. We propose that both low- or high-skilled labor be considered in humanitarian migration applications. We look to temporary and/or circular labor migration schemes such as those proposed by the European Union for

third countries (European Commission 2007) or implemented by New Zealand for foreigners as a starting point in developing a program for skilled labor humanitarian migration. In the case of Colombian temporary workers in Spain, the beneficiaries had support before and during their stay in Spain (de Moor 2011). They were also provided with training courses, which could potentially upgrade their skills.

5. Conclusion

Selective compassion is a legitimate concern with these immigration relief measures, but de Moor (2011, quoting Barnett and Webber 2009; Laczko and Collett 2005) points out that migration out of areas affected by recurring natural disasters reduces the amount of individuals exposed to the disaster and provides the area with an income stream that usually increases after a disaster has occurred.

Our proposed international humanitarian migration model is a supplement to traditional in-country humanitarian aid. We encourage developed countries to be ambitious with their compassionate stances and to consider offering immigration relief measures to countries hit by extreme weather events. By doing so, they are championing an internationally protected human right.

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