There are a number of possible arguments and reasons for why populations displaced by floods, droughts and other environmental hazards do not have the same legal protection as other types of migrants, such as refugees fleeing war (protected through the UN's Geneva Convention relating to the status of refugees, among other instruments).

For instance, it may be more challenging to define the migration as 'forced' or to define the category of affected people. There is also the question of who should take responsibility to ensure migrants are safe, treated with dignity and empowered, and how this responsibility should be managed. Should countries that emit high levels of CO₂ be responsible, for example, and should the migration be dealt with through a short-term humanitarian response to disaster?

This paper, a chapter in a 2014 book, argues that environmental stress-induced migration and displacement is best explained by historical and political factors. It reaches this conclusion by analysing the cases of five countries which are all highly vulnerable to climate change's impacts: Bangladesh, Ethiopia, Ghana, Kenya and Vietnam. None offer legal protection to environmental migrants.

Migration, more generally, is a highly sensitive issue in these countries. For instance, in Kenya, where land is the main source of livelihoods, there is ongoing use of eviction (i.e. forced migration) and displacement as tools for politically excluding communities, claiming power and accessing resources, the paper's authors say. These conditions, which stem from Kenya's colonial history, underlie many recent instances of violence and conflict in the country. Until such complex dynamics of wider migration and land rights issues are resolved, the authors assert that a rights-protection gap for Kenya's environmental migrants will remain.

Similarly, Bangladesh has a very politically charged, recent history of migration. Huge population movements following the 1947 partition of India and Pakistan left a legacy of 'political, social and cultural trauma', the authors state. Such traumatic associations mean that 'displacement' and 'displaced people', and the rights of displaced people, are not yet explicitly recognised in national legal and political frameworks.

The authors include a case study of how rights are not protected for people forced to move by 'silent and incremental' river bank erosion in Bangladesh. This environmental problem is thought to displace one million people every year. There are compensation measures for people who lose homes and land through erosion, but these tend only to benefit larger and more politically powerful landowners, a phenomenon perhaps linked to the lack of transparency. The authors assert that, in contrast, the majority of displaced people become increasingly marginalised and impoverished, and either become landless labourers in nearby villages or move to towns and cities.

The paper also points out that, in the five countries considered, migration due to climate change is seen as a future challenge and takes less priority than more immediate developmental and poverty reduction goals. However, it also posits that these countries' still-fragile governing bodies have a general reluctance to address human rights issues.

It also argues that it is not just material rights, such as shelter and sanitation, which are important for migrants. Political rights are very important too — such as the opportunity for migrants to contribute to decisions about resettlement schemes.