

Feasibility Analysis of the UN Security Council's Involvement in Climate Change Issues: Using Climate Refugees as An Entry Point

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Abstract: In view of the increasingly severe negative impact of climate change on mankind, and given the current limited international intervention in this issue, the intervention of the UN Security Council should be sought. This paper takes the issue of climate refugees as a starting point. It proposes a strict limitation on the definition of climate refugees to help identify climate refugees more scientifically and accurately in reality. Given the difficulty of forming an effective protection system for climate refugees under the international framework, the need for the Security Council to intervene has increased significantly. Moreover, given the potential threat of climate refugees to global security, and considering that there is already a similar precedent, the Security Council should, by Article 41 of the UN Charter, adopt a resolution requesting all countries to take practical measures to mitigate the effects of climate change to reduce the generation of climate refugees and deploy response plans in advance for possible future climate refugees

Keywords: UN Security Council, climate change, climate refugees

1. Introduction

At present, all adverse influence accompanying climate change are impacting the normal functioning of human society. Population migration, both domestic and international, is rapidly increasing because of climate change. Although the concept of "climate refugees" has not yet gained widespread acceptance, the underlying data and discussions in this area are commonplace. A new World Bank survey reports that climate change could force 216 million people from their homes in six regions of the world by 2050 [1]. Frank Biermann, a professor of environmental policy science, led a report by researchers in the Netherlands that said there could be as many as 200 million climate refugees by 2050 globally [2]. Some scholars have also discussed the promotion of prevention or solution to this problem. One comment focused on the analysis of some tiny island developing states such as Fiji and Kiribati argued that a climate refugee protection treaty focusing on the three components of sovereignty, logistics of relocation, and funding must be established as soon as possible [3]. There is also a view that a new Protocol on Recognition, Protection, and Resettlement of Climate Refugees to the UNFCCC and a self-governed funding system are needed [4]. Professor Jerry I-H Hsiao, on the other hand, believes that after the disappearance of small island states, their people should be allowed

to build artificial islands under the UNCLOS framework to restore their states [5]. Based on the above discussion, the author notes that there is a lack of sufficient analysis of the role of the UN bodies, especially the Security Council, in solving the climate refugee problem, so in this paper, the author will try to give some views on the feasibility of the UN Security Council in solving the problem.

2. Anatomy of the Climate Refugee Problem

2.1. Definition of Climate Refugee

Although the term climate refugee can be traced back to the environmental refugee introduced by Professor El-Hinnawi in 1985, and scholars have been discussing various related terms for a long time, there is still no precise definition in international law. It is argued that the definition of climate refugees must include all six of the following elements: (1) Forced migration; (2) Temporary or permanent relocation; (3) Movement across borders; (4) Disruption caused by climate change; (5) Sudden or gradual environmental damage; (6) A standard for the human contribution to the disruption [6]. It has also been described as "people forced to flee their country for temporary or permanent transboundary migration due to numerous types of environmental damage that threaten human survival by climate change [7]".

The author believes that in the absence of a standard definition nowadays, various doctrinal definitions of climate refugees have their validity. Nevertheless, as a social problem that needs to be solved, the definition of climate refugees is related to how to help identify the neediest groups in the implementation of solutions, so it needs to be dealt with in a more pragmatic manner. Taking into account the well-established body of international law frameworks for refugees, the definition of climate refugees needs to be informed to a greater extent by previous refugee definitions, and its contribution to practical solutions is an important criterion for its appropriateness. Hence, it is particularly important to first go back to the traditional definition of a refugee. Under the 1951 Refugee Convention, a refugee is a person who has a sufficiently compelling fear of persecution on account of several political factors, such as race, religion, nationality, etc., outside the country of his nationality, and is therefore unable or unwilling to avail himself of the protection of that state. In the Cartagena Declaration on Refugees, the definition of a refugee also includes those fleeing incidents of serious disruption of public order. Regardless of the circumstances, one of the keys to meeting the definition is that the country is unable or unlikely to provide adequate protection. This is coupled with the fact that in practice, the protection of climate refugees should be based on the principle of non-return to the state where their physical safety and freedom would be seriously menaced (also known as the principle of non-refoulement). Combining the two points above, it can be inferred that for a climate refugee to be treated as a refugee, his or her residence in the country of origin or habitual residence needs to have been permanently, or lost for a considerable period, as a result of climate change. In contrast, some people who make short-term cross-border migrations only because of problems caused by climate change and are able to return to their original residence within a relatively short period of time that can be expected should only be recognized as climate migrants and not climate refugees. Since this paper wishes to explore the feasibility of the UN Security Council's involvement in solving the problem of climate refugees, the recognition of climate refugees should be strictly limited on this basis. In other words, climate refugees in this paper are limited to people who are forced to leave their states for permanent cross-border migration due to the permanent or almost permanent loss of human habitability in their original places of residence as a result of environmental damage directly caused by climate change.

2.2. Status of the Climate Refugee Problem

Since sea level rise is one of the most damaging and far-reaching of the many negative issues of climate change on human habitats, this section will demonstrate a low-altitude country Kiribati, explore the dilemmas faced by all the countries, and briefly discuss the causes of the current lack of protection faced by climate refugees.

A very typical island nation, Kiribati is located in the central of the Pacific Ocean and consists of 32 atolls and one isolated island. The vast majority of the 811 square kilometers of land is less than two meters above sea level [8]. On this basis, Kiribati has long been considered a country at high risk of being severely impacted or even endangered by rising sea levels. Studies have also shown that while the impact of sea level rise on island size may be limited, its impact on island geomorphology is still relatively significant [9]. And because of the constant elevation of the islands, the low-lying atolls in Kiribati remain highly vulnerable to flooding or seawater inundation [9]. And sea level rise is only a partial manifestation of the devastating effects of climate change. Its impact on Kiribati also includes an increased risk of vector and waterborne diseases, particularly dengue and cholera [10]. In addition, changes in weather and soil conditions are challenging crop production in Kiribati and threatening local food security [10]. Despite the damage caused by climate change, Kiribati is the country with almost the lowest greenhouse gas emissions in the world. According to relevant data, Kiribati's per capita CO₂ emissions in 2014 were only 0.6 tons [10], which is only 3.7 percent of the U.S. per capita emissions. This underscores the obvious truth that, when it comes to climate change, low greenhouse gas emissions in some countries will not prevent the damage from occurring, and not only that, but many low-emitting countries will have to bear a greater cost than high-emitting countries, a cost that not every country is capable of dealing with.

With the idea of escaping from the negative effects of climate change, some citizens of Kiribati are seeking to flee their homes. The relative proximity of Oceanic countries such as Australia/New Zealand was a solid option for them. It is in this context that the famous *Ioane Teitioda v. New Zealand* case was born. The final decision did not result in teitioda being granted refugee status, it still had some positive impact on the resolution of the climate refugee issue. The New Zealand court found that in the factual context of the case, the parties did not qualify for refugee status under the Refugee Convention because of climate change, and that there was no evidence that the Kiribati government had failed to provide due protection to its citizens, and that the terms of the ICCPR did not apply in this case. At the same time, however, it recognizes the possibility that environmental damage caused by climate change may help the person concerned to obtain refugee status in the future. Moreover, the decision issued by the UN Commission on Human Rights in 2020, in which it found for the first time that climate change may lead to serious violations of the rights of individuals, can be seen as an important precursor to the widespread international recognition of climate refugees. What can be seen is that this case is exposing the lack of proper recognition and protection of climate refugees, but it is also helping to increase society's awareness and understanding of the issue.

Kiribati is not the only small island nation struggling with climate change issues; in Oceania alone, there are Fiji, Tuvalu, Palau, and Samoa. Tuvalu once claimed to be considering suing Australia and the United States because their huge greenhouse gas emissions were causing sea level rise and putting the country at risk. Conspicuously, due to the difficulties and shortcomings in jurisdiction, admissibility, and legal basis of such cases, it is extremely difficult to successfully proceed with the lawsuit and ultimately reach an effective decision. It was also with the aim of expanding its influence in the international community and bringing more attention to the difficult situation of small island states in the face of sea level rise that AOSIS was formed. But despite this, small island states still have a long way to go when it comes to climate refugees.

2.3. Dilemmas Facing Climate Refugee Protection

In general, the biggest dilemma of the current climate refugee issue mainly lies in the fact that under the existing international law framework, it is basically impossible for climate refugees to obtain their refugee status in the original refugee treaties incorporated into their system, while new international treaties or agreements to deal with the issue are slow to be born.

The author believes that the main reasons for this unfavorable situation are the following: (1) From the most basic level, the international community has not yet reached an effective consensus on the definition of climate refugees, which makes the identification and recognition of climate refugees in practice lack the relevant legal basis. Only after the definition of climate refugees is clearly understood can a series of measures be taken to solve the problem. (2) Like all other refugee issues, the issue of climate refugees raises concerns about the sovereignty and security of many countries, and the existence of terrorist factors has to a certain extent hindered the substantive resolution of this issue. On the other hand, if the number of incoming climate refugees is not set appropriately, it may lead to uneven distribution of resources in a particular area, which may lead to security conflicts between the incoming and the local population. (3) It is difficult to accurately identify the contribution of each country to the climate change problem, which in turn makes it almost impossible to agree on the allocation of responsibility for the introduction of climate refugees. Considering that the number of climate refugees is likely to be very large in the future, the cost of resettling the climate refugee population will be correspondingly high, and the low tolerance of countries for this cost further complicates the negotiation and disposal of the climate refugee issue. It is against this backdrop that the need to promote the prevention of climate refugees in other ways, the accurate and effective identification of climate refugees, and the subsequent resettlement, cannot be overstated. Continued delays in taking effective action on this issue will only increase the cost of solving this inevitable problem in the future. Therefore, as the world's largest international intergovernmental organization, there is a need to further engage the United Nations in addressing the issue of climate refugees.

3. Feasibility of UN Security Council involvement

As for the intervention of Security Council to solve the problem of climate refugees, the author will first discuss whether the issue is within the remit of Security Council and the significance of its intervention in this issue. Then, by introducing a precedent for reference, a possible model of Security Council intervention is given for reference.

3.1. Status and mandate of the UN Security Council

As a subordinate body of the United Nations, the Security Council is authorized to determine the existence of any threat to or breach of world peace, aggression by a state or group of states against other states, and to make the appropriate approach following the relevant provisions of the UN Charter, and in this way to maintain or restore peace and security in the world. The Council has the authority to decide, under the Charter, to use all measures other than force to urge some or all Members to implement its resolutions to achieve its purposes. Compared with other approaches, the Security Council's involvement in requiring countries to take practical measures to help prevent and mitigate climate refugees can lead to faster decision-making and more efficient implementation. In particular, this approach will enable the international community to provide reasonable assistance to climate migrants who are already in a refugee situation, especially when it is not possible to form laws and treaties as quickly as possible, but there is a pressing need to address the issue. In addition, according to the mandate of the UN Charter, the Council can urge member states to adopt a wide range of means other than force, including but not limited to legislation in the relevant areas as soon as possible, economic assistance, facilitation at the level of transportation, and a series of actions

designed to guarantee human rights. Currently, most of the international treaties in the field of addressing climate change do not contain legal obligations attached to the parties, i.e., there are very few legally binding provisions. However, the resolutions of the Security Council are legally binding, and the relevant parties involved in the resolutions are obliged to implement the relevant provisions. This makes the implementation of a Security Council resolution on climate refugees far better than if it were driven by the provisions of the treaty alone. The urgency of the climate refugee issue and the high demand for practical responses by its nature are consistent with the nature of the Security Council's involvement in the problem.

3.2. The Pertinence of Climate Refugee Issues to Peace and Security

The refugee problem has been around for a long time, and the potential security threats and environmental resource pressures it poses to refugee-hosting countries have long been discussed. Take Pakistan's acceptance of Afghan refugees as an example, since the 1970s, Pakistan has long accepted a large number of Afghan refugees who entered its territory due to war and extreme poverty. The rapid increase in population and livestock in a short time has increased the scarcity of environmental resources in Pakistan to a large extent and even triggered violent conflicts between local residents and Afghan herders [11]. In addition, refugees have led to a disproportionate population of some religions, which in turn has exacerbated sectarian and inter-ethnic conflicts in Pakistani society. The infiltration of extremists and terrorist groups has created a greater security risk and heavy counter-terrorism expenditure for Pakistan [11]. Likewise, there is a similar potential for negative impacts on peace and security if the climate refugee problem is not properly addressed. Environmental damage and competition for scarce resources (of which climate refugees are clearly an important element) can have as serious an impact on peace and stability among nations as a direct military threat [12]. Data show that the increase in refugees due to climate change is intensifying competition for resources and armed conflict in developing countries [13]. The cross-border security risks caused by climate change are likely to lead to social unrest and violent conflicts in some regions, and it is urgent for countries to strengthen global governance cooperation [14]. Based on the above analysis, it can be concluded that the issue of climate refugees is and will be a serious Trojan horse to global peace and security in the future, and that the involvement of the Security Council will be necessary and effective.

3.3. Security Council's Possible Path to Solving the Problem with an Informative Precedent

Indeed, there is precedent in Security Council resolutions for a range of measures, including preventive measures, to address this ongoing and continuing risk to global peace and security. For example, in resolution 1373 of 2001, states were required to guard against the financing of terrorism and to avoid providing any sort of support, active or passive, to those involved in terrorism, for the purpose of deterring terrorism from threatening peace. Considering the similarity between terrorism and the climate refugee problem in terms of threat and continuity to international security, Resolution 1373 should be considered as an appropriate reference to address the climate refugee problem through the relevant Security Council resolutions per Article 41 of the UN Charter.

Referring to the above-mentioned Security Council resolutions and taking into account the nature and characteristics of the climate refugee issue, the author believe that the following two points can provide reference for the future UN Security Council's involvement in the climate refugee issue: (1) Countries should adopt effective mitigation and adaptation measures, and actively complete their responsibilities for emission reduction under the Paris Agreement in full, and work to minimize the number of climate refugees. (2) Countries should enact relevant domestic laws and regulations to prevent and respond to the potential peace and security problems caused by climate refugees. On the

one hand, these laws and regulations should meet the needs of addressing climate change issues (e.g., strengthening coastal infrastructure to cope with sea level rise, high scale renewable energy development and utilization, etc.). On the other hand, the laws and regulations should effectively plan for the migration of climate refugees (such as raising necessary funds, setting up safe and reasonable temporary shelters, and anticipating appropriate vocational arrangements), so as to effectively reduce the potential security risks.

4. Conclusion

Given that the issue of climate refugees is affecting and will continue to affect global peace and security, the Security Council's involvement is not only an effective complement to the resolution of the climate refugee issue, but also a necessary step to ensure that countries take targeted measures to properly address the climate refugee issue, effectively prevent its impact on international security, and maintain world peace, based on the restrictions on the identification of climate refugees within the framework of this theme. In addition, the Security Council is not the only one that can be engaged and helped to solve the problem of climate refugees but can be actively involved in any issue related to peace and security. A greater role for the Council in the area of climate change would be useful and vital.

References

- [1] World Bank, <https://openknowledge.worldbank.org/handle/10986/36248>, last accessed 2022/09/06.
- [2] Migrant crisis: 'if we don't stop climate change...what we see right now is just the beginning'. *Inside Climate News*. <https://insideclimatenews.org/news/14092015/migrant-crisis-syria-europe-climate-change/>, last accessed 2022/09/06.
- [3] Balesh, R. *Submerging Islands: Tuvalu and Kiribati as Case Studies Illustrating the Need for Climate Refugee Treaty*. *Environmental and Earth Law Journal*, 5, 78-112 (2015).
- [4] Biermann, F., and Boas, I.: *Preparing for a warmer world: Towards a global governance system to protect climate refugees*. *Global Environmental Politics*, 10 (1): 60-88 (2010).
- [5] Jerry I-H Hsiao.: *Climate Refugee and Disappearing States: In Need for a New Legal Regime?* *Cultural and Religious Studies*, 5(5), 268-276 (2017).
- [6] Docherty B. and Giannin T.: *Confronting a Rising Tide: A Proposal for a Convention on Climate Change Refugees*. *Harvard Environmental Law Review*, 33(2), 349-403 (2009).
- [7] Cheng Yu.: *Climate Refugees' Natural Rights to Relief and Its Institutional Development*. *Pacific Journal*, 28(9), 92-106 (2020).
- [8] *The World Factbook*. CIA.gov. <https://www.cia.gov/the-world-factbook/countries/kiribati/>, last accessed 2022/09/24.
- [9] Webb A and Kench P.: *The dynamic response of reef islands to sea-level rise: Evidence from multi-decadal analysis of island change in the Central Pacific*, *Global and Planetary Change*, 5(3), 1-13 (2010).
- [10] WHO.int. <https://www.who.int/publications/i/item/WHO-FWC-PHE-EPE-15.51>, last accessed 2022/09/24.
- [11] Luo Yi.: *Pakistan's Afghan Refugee Issue and Its Security Challenges*, *Indian Ocean Economic and Political Review*, 6, 115-131 (2019).
- [12] Anton, D. K.: *Climate migration and security: securitisation as strategy in climate change politics*. *International Journal of Refugee Law*, 30(2), 403-406 (2018).
- [13] Changsong, L.: *Action Mechanism, Risk Assessment and Governance Path of Climate Security*, *Yuejiang Academic Journal*, 2, 46-60 (2022).
- [14] Mobjörk M., Gustafsson M., Sonnsjö H., Baalen S., Dellmuth L., Bremberg M.: *Climate-Related Security Risks: Towards an Integrated Approach*. Stockholm: SIPRI and Stockholm University, 1-71 (2016).