

The Protection of Climate Refugees and Chinese Relief Approach from International Law

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Abstract: The situation of climate change has become increasingly serious after the industrial revolution due to human activities and the influence of factors such as the Earth's own temperature changes. Despite international efforts to combat climate change, the number of climate refugees generated by the dramatic effects of climate change continues to grow. The issue of climate governance is also becoming a serious international challenge. These situations have not only caused the destruction of the earth's environment, but also have also brought about a humanitarian disaster for humanity. Based on the actions China has taken in recent years in relation to global climate governance, this essay analyses how China can help climate refugees and protect the planet's climatic environment, both on its own and on an international level. This essay hopes that China will contribute "Chinese wisdom" and "Chinese solutions" to the problems of climate governance and climate refugee relief.

Keywords: Climate Refugees; International Law; Rights Protection; Climate governance; Chinese Save Approach.

1. Introduction

It is well known that human beings depend on a good climate and environment for their survival and development. However, in recent years, climate change has led to a verity of problems, which have been caused catastrophic damage. Many scientists believe that the main reasons of climate change is human activities in addition to the laws of the Earth's own regulation. Although the international community has long advocated reducing greenhouse gas emissions as a means of slowing down global warming, the amount of pollution caused by developed countries is still not insignificant due to the need for economic development, and many developing countries have not been able to effectively control their own greenhouse gas emissions. This has led to a further deterioration of the climate environment. However, climate change is causing almost irreversible damage, such as rising sea levels and droughts caused by warming. The international community should take responsibility for these issues, which are of global importance, and take steps to remedy the consequences of climate change disasters as far as possible. Among them, sea level rise and drought caused by global warming are putting many island nations at risk of coastal inundation and making it impossible to sustain normal life in arid areas. In this process, the issue of climate refugees as a result of climate change is coming to the forefront of countries' minds. For climate refugees, finding a new place to live is of great significance to the protection of their right to survival. Meanwhile, the international community is also concerned about how to provide reasonable relief and redress for these climate refugees.

It is worth noting that in the early days, the international community had relatively sufficient resources to provide humanitarian assistance to climate refugees because of their small numbers. However, with the increasing number of climate change disasters in recent years and the growing number of climate refugees groups, it is obvious that existing humanitarian aid is no longer able to support the needs of larger groups of climate refugees. Therefore, it becomes more and more important to protect the legitimate rights of climate refugees from the international law. Although there is an overlap between climate refugees and the current concept of refugees under international law, the lack of a clear definition of climate refugees under current international law has led to many obstacles and difficulties for climate refugees when making a refugee claim. For example, how to protect the rights of climate refugees from the perspective of international law; how sovereign states

can take responsibilities for climate refugees are practical issues that need to be addressed urgently in international law at present. This essay will analyse the dilemma facing the protection of climate refugees and how China should provide relief to international refugees from the perspective of international law.

2. Climate refugees' basic overviews

2.1 Concepts of climate refugees

Climate refugees are groups of refugees who are forced to leave their homeland and migrate across borders due to abnormal climate change. In practice, however, the concept of climate refugees is not currently defined in international law. In 1951, the Convention relating to the Status of Refugees, the United Nations only defines the concept of "international refugees," as "persons who, owing to well-founded fear of being persecuted for reasons of race, religion, ethnicity, or political opinions, have left the country of which they form part and, owing to such fear, are unwilling to accept the protection of the country of which they form part. Persons who, owing to such fear, are unwilling to accept the protection of the State of which they are nationals." In the same year, the European Intergovernmental Committee on Migration (IGOM) added to the definition of "international refugees" to include "victims of a war or disaster which has seriously impaired living conditions". This group of refugees is also referred to as "displaced persons". This essay argues that climate refugees are closely related to climate change, and dramatic climate change often affects particular geographical areas, such as small island states that are forced to gradually reduce their size due to rising sea-levels as a result of global warming, so these people displaced by climate disasters should be considered "international refugees".

Climate refugees have characteristics that distinguish it from other refugees. Firstly, the main cause of climate refugees is environment anomalies due to drastic climate change. Factors such as population growth and poverty cannot be ignored as indirect cause of climate refugees. Because the cause of any change are always multifaceted, it would be inconsistent with a realistic approach to emphasized that climate refugees arise solely because of the deterioration of the climate. However, abnormal climate change is the main cause of climate refugees compared to other causes [1]. Second, the movement of climate refugees must be forced due to climatic reasons. If climate refugees are not a group that has to migrate, many people will use the refugee excuse to illegally emigrate due to ineffective international refugee protection legislation. This would be another excuse for many countries to deny protection to refugees and would leave refugees in genuine need of protection without the help they deserve. Therefore, only people who have been objectively forced to migrate as a result of abnormal climate change can truly be called climate refugees [1].

2.2 The importance of protecting climate refugees

For most of countries, climate change has already affected international diplomacy, domestic politics, economy and other aspects. Specifically, the number of climate refugees involved may not be very large at the time when the problem of sea level rise become apparent. With humanitarian assistance from the international community and the help of traditional refugee protection organizations, these climate refugees will be able to settle in a short period of time, thereby safeguarding their basic human rights [2]. However, humanitarian aid from the international community alone is not enough to guarantee the rights of climate refugees, and the effects of climate change have taken countries beyond the stage where they can save themselves by going it alone. Helping refugees displaced by the danger of climate change had become one of the measures taken by countries to help themselves.

This essay argues that the issue of climate change and climate refugees is a problem that should be faced by all of humanity, not by individuals or countries alone. The reasons are as follows: First, climate change leading to sea level rise is a consequence of the rapid economic development pursued by mankind as a whole. Therefore, it should be shared by all mankind, and especially developed

countries, which emit more greenhouse gases, should bear more obligations. The "climate refugees" resulting from climate warming are also a product of global environmental impacts, which should be borne globally and should not be excluded from the protection of international law [3]. Second, the rate of global warming has increased since the twentieth century, with more rapid industrial development and increasingly large emissions of greenhouse gases in the early developed countries. Therefore, while the major countries responsible for this phenomenon should take more responsibilities. The developing countries should also take responsibility commensurate with their development status and do what they can to reduce the impact of climate change. The international community should also take responsibility for the climate refugees displaced by climate change, in line with the principle of "common but differentiated responsibilities".

As the coastal areas of many small island states are severely affected by rising sea levels and their territories shrink over time, the migration routes of climate refugees are also changing. In the early years, when the migration did not attract international attention, it may have been confined to areas between islands ridge or within national borders, but as sea levels gradually rise, more and more areas are at risk of backing up and being completely swallowed up by the sea. As a result, the overall number of climate refugees will increase significantly. The current international legal system offers only limited protection to those displaced by climate change, and if the resettlement of such groups is not addressed, prolonged detention may lead to serious social security risks [2]. While international refugees have in the early days relied on humanitarian aid from the international community and the assistance of refugee protection organizations to ease their resettlement. However, as a result of the drastic changes in climate, the risk are becoming increasingly apparent. In the light of these changes, it has become an important and necessary obligation of the international community, especially neighboring countries, to provide assistance to climate refugees, as this would otherwise lead to similar social security problems such as smuggling.

2.3 The protection dilemma of climate refugee

Firstly, there are problems with the definition of climate refugees in international terms. The biggest obstacle to climate refugees protection is the absence of a concept in international law that recognizes the legal status of climate refugees and the lack of specific laws and regulations to protect the rights of climate refugees. In principle, International refugee law and climate change law should offer the possibilities to solve the problems of climate refugees, but these two regimes do not provide appropriate assistance and protection for those fleeing environmental disasters. Among them, the climate change law focuses on climate change mitigation and adaptation measures to climate change. It does not focus on the legal status of climate refugees who are forced to migrate to other countries because of the impact of climate change on their living environment. The narrow definition of refugee in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol has instead limited the protection of climate refugees [4].

Second, climate refugees also face the challenges of international recognition. There are also many different opinions on the definition of climate refugees in different countries. Even if some countries admit the existence of "climate refugees," there are controversies among them: whether this "forced migration" of climate refugees is permanent or temporary? Are the natural disasters that cause people to migrate instantaneously or over time? Do people migrate because of the local environment has become completely unlivable, or do they simply seek a better living condition?[5] All of these issues are affecting the international legal status of climate refugees. In addition, many countries are looking for excuses to avoid accepting refugees from outside their borders because of the large amount of money, land and other resources needed to accommodate climate refugees. As a result, small island states whose land is submerged due to sea level rise must also deal with the inability of different countries to host more climate refugees due to economic and political factors. In addition, because the climate issue involves industries, agriculture, energy, transportation, and other issues that fall within the scope of domestic policies, countries tend to use a domestic rather than an international perspective to look at these issues. Therefore, the attitude of countries toward solving the climate

problems are also ambiguous. Thus, the choice of refugee host countries and the treatment of refugees face the same dilemma [5]. Therefore, in the protection of the rights of climate refugees, it is important not to focus only on the international law level but to ignore the practical issues.

Although many humanitarian organizations attach great importance to the issue of climate refugees, and the United Nations High Commissioner for Refugees (UNHCR) has made great efforts to this end, these organizations no longer have sufficient manpower and material resources to help these climate refugees due to the drastic climate change and the increasing number of climate refugees. So the situation of the climate refugees is not optimistic. According to information the UN website, the total budget for UNHCR's operations to provide humanitarian assistance to tens of millions of refugees, displaced persons and stateless persons around the globe in 2013 was approximately \$5.27 billion. However, with approximately 2 percent of the budget funded by the UN and the remaining 98 percent pledged by States, UNHCR has been under a financial strain. Even if that much money were devoted to refugee protection, it would not be possible to feed and shelter all traditional refugees, let alone to include climate refugees [5].

In summary, climate refugees face not only the problems of international recognition and protection, but also the related problems of the international community's capacity to receive climate refugees and provide them with the necessary material help and rights guarantee mechanism.

3. Climate refugees and climate governance

3.1 The relationship between climate refugees and climate governance

The extreme weather changes that climate refugees face are inextricably linked to climate change. On November 13, 2021, the COP 26 UN Climate Change Conference (COP26) concluded in Glasgow, UK. Andrew Harper, UNHCR's Special Adviser on Climate Action, suggested that people need all countries to do what they can to avoid catastrophic humanitarian outcomes as a result of climate emergencies. This is also a good example of the importance of climate governance to stabilize the growth in the number of climate refugees. While most people believe that the cause of climate change is due to natural climate fluctuations, it is undeniable that human activities are also an important trigger. Due to the uncertainty of climate change, the issue of how to govern different situations in the face of climate change has also become one of the topics of active international discussions.

The process of climate governance is closely linked to the control of the number of climate refugees. The International Federation of Red Cross and Red Crescent Societies reports that 10.3 million people will be displaced by natural disasters between September 2020 and February 2021, more than four times the number of war refugees (2.3 million) in the same period. In addition, the World Bank warns that if the international communities does not take action on global warming, 200 million people will be forced to find new homes by 2050 [6]. UNHCR Global Spokesperson Catherine Mahoney mentioned that the climate crisis is a human crisis, and the displacement of people is one of the most devastating consequences of climate change. They call for urgent action and collective action to reduce the impact of climate change on the most vulnerable communities.[6] This also illustrates that under the climate crisis, if we do not pay more attention to climate governance and reduce the harm caused by climate change, small island countries will continue to produce a large number of climate refugees. While their own social stability will be severely traumatized, it will also have an impact on the international community that cannot be ignored. Therefore, the active participation of countries in global climate governance is of great significance to control the growth of the number of climate refugees, and it is a long way to go.

The Paris Agreement has clearly set out the principle of common but differentiated responsibilities between developed and developing countries in the global climate governance. The principle of common but differentiated responsibilities means that developed and developing countries should share the responsibilities for protecting and improving the global environment. However, based on the difference in the size of contribution to environmental damage and the level of capacity between developed and developing countries, developed countries should be distinguished from developing

countries in assuming primary responsibility. In the field of national climate, the responsibilities of developed countries include taking on heavier responsibilities for mitigation and adaptation, and providing developing countries with the responsibilities afterwards [7]. Developing countries, especially the most vulnerable countries and small island states, experience unfair threats that are highly disproportionate to their destructive behaviors, leading to a widening gap of rich and poor between developed and developing countries and affecting equitable development among these countries. This raises the ethical need for justice and fairness in the process of global climate responsibility allocation. Therefore, in the process of promoting climate governance, the principle of common but differentiated responsibilities should be maintained, and the responsibilities and the obligations of the states should accept and fulfill should be further clarified accordingly. This will directly or indirectly provide positive assistance to the control of the number of climate refugees and the humanitarian relief for climate refugees. It can be seen that the principle of common but differentiated responsibilities is based on the ethical needs of environmental justice. In the international political contest, it plays the political function of regulating the distribution of responsibilities among countries and is eventually realized through the treaty rules of international environmental law [7]. Following the principle of common but differentiated responsibility is conducive to providing help and support to small island countries, especially reducing the pressure on climate refugees saving in small island countries.

3.2 China's Practical Actions on Climate Governance

Global climate change is a major long-term ecological crisis facing the world and the greatest threat to human survival and development. Therefore, countries started to tackle climate change from the 1990s, reached many global climate governance consensuses, and built the institutional structure of global climate governance. The climate change negotiations are a continuous and complex process of multifarious interactions among countries, full of cooperation and competition. As a participant in the whole process, China has witnessed the transformation of the world's political and economic landscape, which is "rising in the east and falling in the west". China's position and responsibilities in global climate governance are becoming more and more significant[8]. The rise of climate refugees is one of the consequences of drastic climate change, and climate governance is also an important part of climate refugee save actions. Therefore, the actions put in place by China in global climate governance also play an important role in the protection of climate refugees.

Although China is a continental country, it has been actively taking responsibilities for global climate governance because of its large land area and its significant influence on climate change. As the process of global climate governance progresses, China plays three different types of "roles": First, China was the most active "participant" in offering its opinions. Second, with the development of science and technology, economy and other fields, China gradually began to make practical actions to carry out climate governance. This is when China became a "contributor". Third, as China has accumulated more experience in global climate governance, it has recognized that its abilities to take more responsibilities. As a result, it has been actively exploring and gradually transforming into a "leader". Nowadays, China is combining and flexibly shifting among these three images according to the actual situation. For example, China has provided Chinese solutions and contributed Chinese wisdom to global climate governance in COP26 as a participant, contributor and leader at the same time.

At the COP26 preparatory meeting, China emphasized that COP26 should send a strong political signal of firmly upholding multilateralism and respecting multilateral rules. Adhere to the principles and requirements of the UN Framework Convention on Climate Change and the Paris Agreement. All parties should focus on the implementation of existing commitments, enhance international mutual trust, effectively translate goals into policies, measures, and concrete actions for implementation, and avoid turning raising goals into a useless signal[9]. In addition to actively participating in COP26 and contributing Chinese wisdom, China has always maintained the principle of common but differentiated responsibilities as the foundation of global climate governance,

showing its role as a great power. As the largest developing country in the world, China stands firmly on the side of developing countries. It emphasizes that developed and developing countries have different stages of development, historical responsibilities and coping capacities, and their responsibilities should be different. At the same time, China proposes to build a fair and reasonable global climate governance system with win-win cooperation [10].

China is not only active contributing to international meetings and events, but is also planning its own climate governance goals and plans. Since the 18th Party Congress of China, guided by Xi Jinping's thought on ecological civilization, China has implemented the new development concepts, and put climate change in a more outstanding position in national governance. It has continuously increased the reduction of carbon emission, and strengthened the target of independent contribution, and made the greatest efforts to improve the efforts to address climate change and promoted the comprehensive green transformation of economic and social development. It has made positive contributions to the global response to climate change [11]. At the same time, Xi Jinping has proposed the aim of "building an image outside and promoting development inside" to address the issue of climate governance. In view of the need for new forces in global climate governance, China has been improving climate governance at home and taking their responsibilities in the international society in accordance with the development of global climate and combined with joint efforts at domestic and international society.

4. China's Future save approach for Climate Refugees

4.1 For Chinese own aspect: Promote the issue of climate refugees' rights save

China has a vast territory, and the sea-level rise due to climate change is only significant in the coastal areas and the islands of China. But the problems caused by a drastic climate change are not only sea-level rise, but also may lead to disasters such as droughts, floods and hazy days within the mainland. In this case, small-scale "climate migration" has already occurred in China. For example, since 2001, the Ningxia government has proposed the concept of "ecological migration", emphasizing that migration is not only for poverty relief; but also for rebuilding the fragile ecological environment in the areas[12]. The Ningxia Hui Autonomous Region is a drought-prone area in China, and in 2014, a large-scale drought occurred in the south-central part of the Ningxia Hui Autonomous Region. Because of the drought, people had to migrate due to land carrying capacity problems. Wang Yiming, a professor at the School of Resources and Environment of Ningxia University, clearly supports the migration claim. He believes that the south-central part of Ningxia is a place where one side of the land can not support the people which live there. Through migration can ease the current environmental pressure and also get the people out of poverty as soon as possible by getting rid of the land that does not have the conditions for live.[12] In addition to this, although China has not received any climate refugees from abroad in recent years, as the climate changes, the territory of China may also continue to generate situations where migration has to be done due to climate issues. Based on this, China should accumulate relevant experience and apply relevant rescue and relief experience to international climate refugee saving.

As a continental country, China has a relatively small number of neighboring small island countries in its neighboring countries. Therefore, while China does not have a policy regime to directly receive climate refugees or establish clear laws and regulations to protect and provide relief to climate refugees with international law, China's actions in global climate governance in recent years have actually slowed the rise of climate refugees. Chinese Premier Li Keqiang has emphasized that the issue of refugees and migrants is a humanitarian crisis that torments the conscience of human society. We live in the same global village, where every life is precious and every dignity should be upheld. And many refugees are suffering from hunger, disease, and even disappearance or death in their lives, which seriously shocks people's mentality. The humanitarian spirit must be promoted, the moral bottom line must not be broken, and the international communities must effectively give a help to refugees, so that they can feel the warmth and care of human beings and rekindle their hope for life.

Thus, to solve the problem of refugees and migrants, we need to strengthen international cooperation and develop and carry out comprehensive and systematic solutions under the framework of the United Nations. At the same time, it is necessary to take into full consideration the history and the actual situation of each country; and to clarify the scope of responsibilities they should assume. Specifically, on the one hand, both transit and destination countries of refugees and migrants should play their roles in appropriate ways according to their own capacities. Among them, raising funds and supplies and ensuring the basic livelihood of refugees is the top priority. On the other hand, war and conflict, poverty and backwardness in the countries are the main root causes of the refugee problems, and it is important to focus on them.[13] On the issue of climate refugee treatment, China can raise funds and materials, initiate humanitarian aid to help these climate refugees secure basic livelihoods, and can organize volunteer support activities.

4.2 From International aspect: China should take the initiative to raise its voice on the issue of climate refugee rights protection

According to a report released by UNHCR on October 30, about 80 percent of the world's displaced people come from "frontline countries in climate emergencies". On the occasion of the COP26 summit, UNHCR again warned that the human cost of climate change is already being revealed, leading to more displacement of people and making life more difficult for those already affected by climate change [14]. Some experts believe that the COP26 negotiations will not go too far on the issue of "climate migrants", but in any case, the international communities' efforts on climate issues will help reduce the size of this group in the future. For example, China has paid much attention to climate governance issues in recent years, not only introducing relevant measures to advocate low-carbon living and environmental protection at home; but also actively participating in global climate governance on the international stage, transforming itself from a participant and contributor to a leader, contributing "Chinese wisdom" and "Chinese solutions" to global climate governance. These programs and initiatives have greatly promoted the process of international climate governance.

In addition, the Chinese delegation actively participated in the consultations on various issues, advocated adhering to the objectives and requirements of the United Nations Framework Convention on Climate Change and the Paris Agreement; implemented the principle of "common but differentiated responsibilities" and the institutional arrangement of autonomous national contributions, effectively safeguarding the interests of the majority of developing countries, and it has made an important contribution to the success of the Conference [15]. However, the principle of common but differentiated responsibilities is not only a principle that developed and developing countries should abide by in the face of climate governance; but also plays an important role in the relief of climate refugees. Although China has not established clear laws and regulations to protect climate refugees or directly accept climate refugees, China advocates adhering to the principle of common but differentiated responsibilities and continuously increasing its efforts in climate governance. In the process of conducting global climate governance, it is actually curbing the growth of the number of climate refugees. Therefore, China's current actions and efforts are more effective than directly rescuing climate refugees. This essay argues that China can learn from its experience in COP26 and its previous practical actions in climate governance, such as taking more responsibilities than it can afford in the principle of common but differentiated responsibilities. From the perspective of climate governance, China can take the initiative to call on the international community to pay more attention to climate refugees and take corresponding protection measures.

5. Conclusions

Although climate refugees are still facing challenges, the rights and benefits of climate refugees are gaining attention and protection with the international communities pays more attention to climate governance. In addition, the COP26 conference has raised awareness of climate governance and increased international attention to climate refugees. Global climate governance is not something that

can be undertaken by one person or only one country, but is a responsibility that should be shouldered by every country. China, as the largest developing country, not only attaches importance to its own climate governance; but also takes its own responsibilities in the process of global climate governance. It actively cooperates with the international community, provides its own opinions and suggestions in international conferences, and takes the initiative to provide humanitarian assistance to climate refugees. In the face of the climate crisis, countries and international organizations around the world should unite to help these people who have to be displaced due to climate change, so that they can leave the climate crisis.

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