

Environmental Law and Policy: Climate Change as a Threat to International Peace and Security

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Introduction

AWARDING the 2007 Nobel Peace Prize to Al Gore and the Intergovernmental Panel on Climate Change signaled, among other things, that climate change is a very real process that is causing an incredible amount of global change and even conflict. It also recognized that climate change will perhaps constitute one of the more dire environmental threats that this generation will face. The threat, however, is not just environmental; climate change effects have been seen in social, political, and even economic contexts. In this paper, I argue that climate change and its accompanying environmental degradation contribute to creating conflicts that rise to the level of implicating global peace. I will first begin my discussion with an examination of the notion of “international peace and security” generally. I will then look at the causal effects of climate change and its ability to exacerbate state vulnerabilities. Next, I will show that the existing means of enforcement are inadequate, and that the enforcement power of the Security Council offers a better alternative. Lastly, I will examine the competency of the Security Council to even address climate change and the arguments posed against it.

Thus, I endeavor to show that there exists a viable legal basis for the Security Council to declare climate change a threat to international peace and security to be included on their agenda.

What is International Peace and Security?

The Security Council is the organ of the United Nations entrusted to maintain international peace and security. The following discussion, however, will center primarily on the concept of international peace and security generally. It will focus on how the concept was first thought of and the evolution into its current meaning. The discussion of security within the context of the Security Council will be addressed in a later section of the paper.

Security was on the minds of global leaders when they convened in San Francisco in 1945 to create the United Nations (“UN”). In fact, the first line in the UN

Charter’s preamble outlines the need to protect “succeeding generations from the scourges of war.”¹

In order to achieve that goal, the UN founders appreciated the power of creating a collective security organization to maintain international peace and security. At that time, with the recent occurrences of two world wars, the notion of what constituted an international threat to peace and security primarily involved interstate armed conflict in the traditional military sense. The UN system was to comprise a unity of states that would act collectively to condemn acts of state violence, where “aggression against one is aggression against all.”² Today, the idea of security has expanded from the traditional understanding of interstate armed conflict. Many threats are not so obvious and may not even originate from countries themselves, but from non-state actors. Today’s threats are globally created and necessitate the kind of multilateral cooperation first envisioned by the UN founders.

Recognizing the evolved and changed nature of the threats we now face in the 21st century, former Secretary General Kofi Annan convened a panel of experts in September 2003 – the High Level Panel on Threats, Challenges and Change (“High Level Panel”) – to ascertain the current threats to international peace and security.³ In their report, the High Level Panel defined international peace and security as “any event or process that leads to large-scale death or lessening of life chances and undermines States as the basic unit of the international system.”⁴ Following from that definition, the panel identified six groups that constitute threats: interstate conflict; internal conflict; terrorism; nuclear, chemical and biological weapons; transnational organized crime; and economic and social threats including disease, extreme poverty, and environmental degradation.⁵ Kofi Annan included climate change and its accompanying environmental degradation in his characterization of the above-mentioned groups as “soft threats.” He further stressed that the United Nations does not have the luxury of dividing its attention between the traditional “hard threats,” such as weapons of mass destruction, and the “soft” ones.

To that end, he noted, “in truth, we do not have to choose. The United Nations must confront all these threats and challenges – new and old, ‘hard’ and ‘soft’.”⁶ Reaffirming the expanded definition of international peace and security proffered by the High Level Panel, the former Secretary General labeled climate change and environmental degradation, among other things, as having the potential to produce “catastrophic consequences,” and thus were viable threats to international peace and security.⁷

Including climate change in the expanded 21st century definition of what constitutes a threat to international peace and security reorients the issue into a security context, rather than just a negative environmental process. This critical reframing of the issue has resulted in the possibility that climate change could be included on the Security Council’s agenda. However, although it may be considered a threat to international peace and security, the question of whether it belongs on the Council’s agenda is another issue entirely. Before a conclusion can be reached either way, the causal effects of climate change must first be examined. This is necessary in order to discern whether the effects of climate change and its accompanying environmental degradation are severe enough to equal the level of threat posed by issues currently on the Council’s agenda.

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Causal Effects of Climate Change

A discussion concerning what causes anthropogenic and naturally-occurring climate change is beyond the scope of this paper.⁸ For the purposes of my discussion, I will primarily be focusing on the causal effects brought on by climate change and its accompanying environmental degradation on human security. The process of climate change is defined as:

a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.⁹

According to the Intergovernmental Panel on Climate Change (IPCC), the years between 1995 and 2006 represented the world’s warmest temperatures.¹⁰ The overall warming of the earth’s temperature has the potential to produce adverse effects. Adverse effects as defined in the UNFCCC means “changes in the physical environment or biota resulting from climate change which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and welfare.”¹¹

Already, these effects have manifested in several ways, resulting in negative causal connections between climate change and conflict. It is important to note however, that climate change is not just a threat in and of itself. The United States Center for Naval Analysis (CNA) assembled a panel of retired army generals to study the issue of climate change with respect to its impact on American national security. In their 2007 report, the military panel identified climate change as having the capacity to act as a threat multiplier.¹² Climate change acts as a threat multiplier in that it exacerbates already fragile situations and creates even more political instability.¹³ Current UN Secretary General Ban Ki-Moon also agreed with the CNA’s assessment of climate change in his speech before the Security Council in 2007, where he stated that this concept was “especially true in vulnerable regions that face multiple stresses at the same time — pre-existing conflict, poverty and unequal access to resources, weak institutions, food insecurity, and the incidence of diseases such as HIV/AIDS.”¹⁴

Climate change and its accompanying environmental degradation have been responsible for contributing to, among other things, increasing infectious disease vectors, mass migration, glacial melting, extreme weather occurrences, salination of the water supply, and an increase in floods and droughts.¹⁵ Admittedly, a whole other paper could be written evaluating the direct and multiplier effects of climate change. However, for the sake of brevity, I will discuss two different cases that represent clear and convincing evidence that climate change does in fact implicate international peace and security.

Rising Sea Levels

According to the IPCC, rising sea levels and global warming due to climate change go hand in hand.¹⁶ One of the more dramatic effects of this sea rise is the possible flooding and eventual sinking of low-lying coastal areas. This is especially true in states located in the South Pacific and along the coastal areas of Asia. The very real possibility of the existential threat

that climate change poses to these nations creates a devastating situation where “UN member states cease to exist geographically.”¹⁷

The resulting loss of land mass inevitably leads to an increase in forced migration of environmental refugees. Residents of the Solomon Islands have already begun moving to Papua New Guinea due to the flooding that has made parts of their island uninhabitable. It is reported that by 2015, the Solomon Islands are expected to be completely submerged under water due to the effects of climate change.¹⁸ Estimates suggest that there could be between 150-200 million environmental refugees by 2050.¹⁹ There are as many as 5.5 million people living in the coastal region of Bangladesh. A mere 45-centimeter rise in sea level will force their relocation. Although some of those residents may choose to move more inland, some may still seek to move to India or Pakistan. A similar past instance of forced Bangladeshi migration in the region had been the cause of violent conflict.²⁰ Furthermore, future predictions of violent conflict in the region are being made in a report requested by the United States Pentagon outlining the “worst-case scenario” situations that could be induced by climate change. The report predicted that by 2010, there will be an increase in “border skirmishes and conflict in Bangladesh, India and China, as mass migration occurs toward Burma.”²¹

Unless the massive amounts of migration can be properly managed, violence, it seems, will be inevitable. The Security Council has already recognized that mass migration movements may constitute a threat to international peace and security.²² The potential for conflict is even greater in developing countries where the infrastructure, governance, and carrying capacity to absorb such a large population are weak.

Water Scarcity

Climate change has been shown to cause a decrease in precipitation and an increase in desertification.²³ The decrease in rainfall reduces the availability of water, decreasing the amount of agricultural output, which ultimately results in food shortages.²⁴ This is particularly true in Egypt, where a projected increase in “evapotranspiration”²⁵ will increase the water required by agricultural production, thus limiting yields. The search for more water could result in greater international tensions and conflicts.

An example of a negative effect of water scarcity is found in the current Darfur conflict. The United Nations Environment Programme (UNEP) issued a

“Post-Conflict Environmental Assessment on Sudan.” In their report, UNEP found that the cause for conflict in Darfur could be in part attributed to climate change and its accompanying environmental degradation. Rainfall in the region had decreased by 30 percent.²⁶ The decrease in rainfall resulted in the desertification of millions of hectares of land. This forced many of the pastoralist societies to move south in search of a more arable area.²⁷ According to the report, climate change and its resulting desertification and drought are “clearly linked to conflict, as there are strong indications that the hardship caused to pastoralist societies by desertification is one of the underlying causes of the current war in Darfur.”²⁸ The report warns that unless the negative effects of climate change can be contained, the potential for new and successive conflicts in Africa, especially in the countries surrounding the Sahel belt, will be very high.²⁹

The example of the Darfur conflict demonstrates that water scarcity can act as a catalyst for civil unrest, especially in areas already pressured by high population numbers. In 2005, former UN Secretary General Boutros Boutros-Ghali warned of the inevitability of “water wars” between the countries surrounding the Nile basin.³⁰ The overall effect is that climate change will exacerbate already existing tensions over scarce resources.³¹

Acting as a threat multiplier by contributing to droughts, desertification, food shortages and potential resource wars, climate change and its accompanying environmental degradation can clearly be shown to catalyze violent conflict, which can in turn ultimately threaten international peace and security.

Existing Enforcement Mechanisms

Before the Security Council’s enforcement mechanisms can be discussed, the existing means of enforcement must first be examined.

Initially, the means by which climate change and its resulting environmental degradation can be addressed is through diplomacy and negotiation in order to create a new environmental framework. However, this process is quite political in nature. Because of this, diplomacy and negotiation can often take a very long time to produce a document of substantial force.³² The Kyoto Protocol (Kyoto), which creates targets for its state parties to reduce the amount of green house gases they produce,³³ is a telling example of just how lengthy the process can be. Kyoto was first opened for signatures in March of 1998. However, the protocol finally came into force

eight years later, in February of 2005, when it received the requisite number of ratifications.³⁴

Many of the effects of climate change discussed in the prior section have contributed to creating problems where time is of the essence. In such a situation, the many years it could potentially take to negotiate a new climate change instrument cannot be afforded, and a more expedient enforcement mechanism is needed. Another drawback with Kyoto and other environmentally-focused treaties is that the choice to engage in the negotiation process of the treaty in the first place is entirely voluntary.

The second means by which climate change can be addressed is through the environmental treaties themselves. Although they embody the spirit of international cooperation, these treaties are only enforceable against those states that sign and ratify them. However, even a high member rate may not be enough. In their report, the High Level Panel found that most environmental treaties are “undermined by inadequate implementation and enforcement by the Member States.”³⁵

There are two relevant instruments addressing climate change: the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol. The UNFCCC is a framework of guiding principles. Although the framework is significant for being the first attempt at trying to deal with the problem of climate change, it lacks any sort of significant enforcement power.

In contrast, the Kyoto Protocol does have specific emission targets and commits state parties to reaching those targets. Unfortunately, the obligations and the corresponding commitment period expire in 2012.³⁶ Another source of impotence is the fact that the United States, China and India — arguably some of the world’s largest green house gas polluters — have not acceded to the treaty.

The last existing means by which climate change can potentially be addressed is through bringing a suit before the International Court of Justice (ICJ). Using the ICJ may be problematic because of issues of standing, jurisdiction, and a limited remedy scheme. With regard to standing, the Court can only hear cases brought by a state who has suffered an actual injury by another state. However, this presents complications with the issue of causation, and a state may lack standing if a direct injury cannot be shown.³⁷

Without delving into the various ways by which the ICJ could exert jurisdiction over a particular state, it is primarily based upon the consent of a state to be

subject to the ICJ’s ruling in a particular type of case. Thus, the Court could potentially lack the competency to render a ruling in an environmental dispute.³⁸ Another limitation with bringing a suit before the ICJ is the fact that the court is restricted in the types of remedies it can create. Since it is limited to providing a remedy for an actual breach that caused an injury, future threats may not be addressed. The Court may issue advisory opinions or fashion some sort of provisional remedy in order to prevent future harm. However, advisory opinions are non-binding and provisional remedies are only applicable to the parties of the suit.³⁹

While they offer legitimate forms of recourse for many environmental disputes, the existing mechanisms discussed above all rely on the voluntary consent by states. Time can also be an issue, as is the case with negotiation, and the solutions may not even begin to address future threats, as is the case with the ICJ. Therefore, although these forms of enforcement should continue to be utilized, the Security Council’s Chapter VII authority is still needed to address the issue of climate change, if for nothing more than to act as a necessary last resort of protection and enforcement.

Security Council’s enforcement mechanisms

As explained in an earlier section of this paper, although the UN as a whole is concerned with global peace and security, the primary responsibility of maintaining international peace and security has been conferred upon the Security Council.⁴⁰ Moreover, in addition to maintenance, the Security Council is vested with the further role of identifying potential threats and deciding what measures should be taken to restore and ultimately maintain international peace and security. According to Article 39 of the UN Charter:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.⁴¹

The various means afforded to the Security Council are detailed in Chapters VI and VII of the Charter. Although the focus of this paper revolves on the Security Council’s use of their Chapter VII authority to address climate change, Chapter VI will be briefly examined.

Chapter VI encompasses peaceful dispute settlement mechanisms to help members resolve conflicts that can endanger international peace and security. Under Chapter VI, the Security Council may recommend a number of dispute settlement procedures such as “solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means.”⁴² Without any doubt, the use of the peaceful means of settlement of disputes and conflicts is the most desired method by which to address threats to international peace and security. However, similar to the problems posed with the existing mechanisms of enforcement, the Security Council’s Chapter VI authority is completely subject to the consent of the relevant member countries of the UN.

Chapter VII of the charter however, provides the Security Council with binding enforcement power. Express consent by member states is not needed once the Security Council invokes their Chapter VII authority based on the implicit consent provided by member states’ ratification of the UN charter. Additionally, Article 25 states that the “Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.”⁴³ Further reinforcing the Council’s binding authority of their Chapter VII decisions, Article 48 of Chapter VII dictates that the “action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the members of the United Nations” (emphasis added).⁴⁴

The various types of enforcement mechanisms available to the Council under Chapter VII are listed in Articles 41 and 42, respectively. Article 41 mandates a variety of non-forceful measures, whereas Article 42 allows for coercive military force. Both articles will be discussed in turn. It is important to note that although I argue for climate change to be included on the Security Council’s agenda as a threat to international peace and security, I also argue (as will be discussed below) that it would be inappropriate to subject the issue of climate change to Article 42 measures. Article 41 states:

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other

means of communication, and the severance of diplomatic relations.⁴⁵

In the past, Article 41 has been used to freeze funds and impose economic sanctions, restrict the ability of government officials to travel, deteriorate diplomatic relations and effectively interrupt communications over land, air, water, post, and radio.⁴⁶ It is important to note, however, that these measures do not represent an exhaustive list of what is available. In fact, the International Criminal Tribunal for the former Yugoslavia (ICTY) opined in its ruling on the *Tadic* case: “It is evident that the measures set out in Article 41 are merely illustrative examples which obviously do not exclude other measures. All the Article requires is that they do not involve ‘the use of force.’ It is a negative definition.”⁴⁷

Thus, the Security Council would be able to fashion an enforcement measure appropriate to the security issue of climate change that could go above and beyond those already delineated in Article 41. Furthermore, under Chapter VII, the problems described concerning the existing enforcement mechanisms are alleviated. Unlike the ICJ and international environmental treaties, jurisdiction does not present any sort of challenges for the Security Council, as all members of the UN have provided consent through ratification of the charter itself. Additionally, standing is not an issue, as the Security Council has the power to investigate possible threats to international peace and security, and according to Articles 11(3) and 99 respectively, both the General Assembly and the Secretary General can refer situations to the Security Council which may implicate international peace and security.⁴⁸

Unlike the diplomatic/negotiation process, the Security Council also has the capacity to make their decisions and implement enforcement mechanisms with expediency — a point of significance in situations like rising sea levels, where time is of the essence. Another benefit of subjecting climate change to Article 41 measures is that the binding nature of Chapter VII could translate into creating a deterrent for many states who would not want to be subject to the “wrath” of the Security Council. The fact that the Council is such a powerful organ within the UN system also brings a certain gravitas to the issue by providing more of a publicized forum than any of the other mechanisms ever could.

In terms of remedies, the Security Council also provides a more effective platform than the ICJ. As mentioned earlier, the ICJ can only fashion remedies that are binding on the parties to the suit. However,

the Security Council's Article 41 measures can be binding on all states.⁴⁹ Thus, the Security Council's Article 41 enforcement power would provide a quick and effective tool in dealing with the issue of climate change.

“...the Security Council would be able to fashion an enforcement measure appropriate to the security issue of climate change that could go above and beyond those already delineated in Article 41.”

Article 42 allows for the Security Council to use military force in order to maintain international peace and security.⁵⁰ Although it is one of the two enforcement measures the Security Council can employ under their Chapter VII authority, I argue that the issue of climate change should not be subject to the measures provided in Article 42.

First, a major driver of international law is international cooperation. According to the preamble in the UNFCCC, “[t]he global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response.”⁵¹ Engaging in military action pits states against each other and goes against the spirit of cooperation espoused in the UNFCCC and against International Environmental Law in general.

Secondly, war by nature is a very damaging act. This notion was recognized and condemned in the Rio Declaration, which states that “warfare is inherently destructive...and peace, development and environmental protection are interdependent and indivisible.”⁵² Thus, to employ military measures in order to combat climate change and protect against the accompanying environmental degradation would, again, be contrary to the principles espoused in international environmental treaties.

Lastly, Article 42 enforcement mechanisms should not be used to address the issue of climate change, as the military itself represents a major source of pollution. The resulting environmental degradation can manifest in the form of land and water pollution and higher carbon emissions. In fact, the activities of the United States military accounts for more than 10% of the country's total carbon emissions.⁵³ In addition to the high emissions they produce, using military measures under Article 42 would divert important resources away from achieving possible social, political and environmental alternatives.⁵⁴

Therefore, Chapter VII, Article 42 measures should not be applied by the Security Council in addressing climate change as a threat to international peace and security.

Competency of the Security Council to include climate change on its agenda

The following section will discuss whether climate change can legally fall within the ambit of the Security Council's purview.

Beginning with the end of the cold war, the Security Council's agenda has significantly expanded to include a wide range of issues.⁵⁵ An explanation, in part, is found with the Security Council's acknowledgment in 1992 that environmental and social issues could become threats to international peace and security. The council reiterated their recognition with the following statement:

The absence of war and military conflicts amongst states does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security.⁵⁶

With respect to environmental impact, the Security Council first addressed this issue when it censured Saddam Hussein's burning of Kuwaiti oil wells during the first Iraq war. The council, cognizant of the environmental impact, found Iraq liable for the environmental damage caused by its unlawful invasion.⁵⁷

The Security Council also acted in an environmental context with their resolution in 2001 that condemned the exploitation of natural resources to finance the conflict and war occurring in the Congo at the time.⁵⁸

These two resolutions are examples of the fact that the Security Council has dealt with environmentally related conflict issues in the past. It is important to note that the above-mentioned statements on environmental damage and exploitation were both made within the context of an already existing state conflict. Nevertheless, the following examples show how the Security Council still expanded their agenda and dealt with issues that went beyond the traditional definition of international peace and security.

Following the attacks on September 11, 2001, the Security Council declared terrorism to be a threat to international peace and security. This marked a departure from past resolutions, which were usually limited to geographic locations and limited in time

and scope. Generally, resolutions made pursuant to the Council's Chapter VII authority were directed at named states or identified organizations with the purpose of extinguishing a particular threat.⁵⁹ Usually, the Chapter VII resolutions were strictly defined because "by their nature these restrictions are imposed for a limited purpose — to secure compliance by a target state — and explicitly or implicitly are limited in time until that purpose is accomplished."⁶⁰ However, identifying terrorism as a threat to international peace and security marks a departure from that process as it deals with a conflict generally.⁶¹

Similar to terrorism, the Security Council has passed resolutions in relation to other conflict-fueling issues, not defined by any geographic or temporal scope. These include approving the Kimberly process, which works to prohibit the sale of conflict diamonds,⁶² concerns with the humanitarian conditions, and safety of refugee camps⁶³ and the prohibition against using children in armed conflict.⁶⁴

In 2004, the Security Council again broadened the scope of its agenda to include the declaration that weapons of mass destruction (WMD) constitute a threat to international peace and security.⁶⁵ Although the security threat posed by WMD seems rather obvious, the resolution still enlarged the Security Council's Chapter VII authority because it was a "broad and open-ended characterization"⁶⁶ of the problem.

A not-so-obvious security threat, however, was the declaration recognizing that the HIV/AIDS epidemic posed a threat to international peace and security.⁶⁷ With regard to geographical scope, although there is a focus on Africa, the resolution is meant to address cases of HIV/AIDS globally. Additionally, there is no delineated temporal scope.⁶⁸ Although HIV/AIDS may not present a direct risk to international peace and security, similar to climate change, it can act as a threat multiplier. According to the UNAIDS 2008 report on the global AIDS epidemic, the impact of HIV/AIDS can result in various deleterious societal impacts including disrupting traditional family structures, inhibiting economic development, and adding stress to an already weakened social infrastructure.⁶⁹ Additionally, HIV infection rates amongst soldiers in various African countries are between 30-40%, thus threatening the integrity of the very defense and security forces of those nations.

The persistence of HIV/AIDS in these states acts to multiply the factors contributing to an increasingly vulnerable situation. All of these threats, when aggregated, result in creating a destabilizing force.

The compromise on domestic stability can easily spill over into other states, ultimately causing regional instability and conflict.⁷⁰

The prior examples demonstrate how issues that were traditionally thought of as being "soft threats" were reoriented into threats to international peace and security. The inclusion of those threats on the Security Council's agenda has paved the way for climate change to be considered as well.

The only limitation that the Security Council would have to adhere to is to stay within the confines of the conditions of Article 39. In order to determine whether something is a threat to international peace and security, the Council must first assess that the issue at hand is "international" in nature.⁷¹

This first requirement is limited by Article 2 of the UN Charter, which states that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state."⁷²

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Secondly, the Security Council must determine that an actual threat to peace and security is posed by the issue at hand. Unlike the first prong of the test, determining what constitutes a threat is not as easily discernible. There is no guidance provided by Article 39 itself; however, most scholars agree that the Security Council has wide discretion in what they constitute as a threat to international peace and security.⁷³ Nevertheless, Article 24 of the UN Charter dictates that "In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations."⁷⁴ Furthermore, the Council is guided by the Court in *Tadic*, which held that within the Security Council's Article 39 power, "the determination that there exists such a threat is not a totally unfettered discretion, as it has to remain, at the very least, within the limits of the Purposes and Principles of the Charter."⁷⁵

The threats posed by climate change sufficiently meet the first prong of the test. The origins, occurrences and impacts of climate change exist on a global scale.

As for the second prong, it is evident that the threats being posed are creating a situation in which states are facing an existential threat where time is truly of the essence. Additionally, the multiplier effect of climate change is evidenced by the devastating conflict in Sudan.

Therefore, it would be difficult for the Security Council not to accept climate change as a threat to international peace and security. Additionally, as explained in the above examples of other threats, geographic and temporal restriction of the issue is no longer a constraining factor when declaring what constitutes a threat. Furthermore, as climate-change-related effects are becoming more severe in their impact, the Security Council's authority is needed, at the very least, to provide a safety net and gap-filling role when the existing enforcement mechanisms fail. Consequently, climate change does constitute a threat to international peace and security, falling within the ambit of the Security Council's Chapter VII enforcement power and overall agenda.

Opposition: The Usual Suspects

Climate change in general represents a polarizing issue between developed and developing states. To be sure, the UNFCCC contains many provisions that recognize the common but differentiated responsibilities between developed and developing nations.⁷⁶ As such, most of the opposition to the idea that climate change should be included on the Security Council's agenda as a threat to international peace and security comes from the developing nations.

It should be noted, however, that a number of developing states, especially the small island developing states, are in favor of including climate change on the Security Council's agenda.⁷⁷

“...It would be difficult for the Security Council not to accept climate change as a threat to international peace and security.”

A summary of arguments against including climate change on the Council's agenda will be discussed in the context of the first-ever Security Council debate that occurred on April 17, 2007. Initiated by the United Kingdom, who held the presidency position at that time, the debate included 55 countries and Secretary General Ban Ki Moon. The following represents the major arguments representing the crux of many developing nations' opposition.

Climate change is beyond the mandate of the Security Council

Many of the developing states who spoke at the debate reiterated their belief that the Security Council was not the appropriate forum in which to manage climate change. Their argument hinged on the composition and function of the Security Council. Because of these institutional concerns, the Council is seen as very undemocratic and unrepresentative of the rest of the UN membership.⁷⁸ Furthermore, there is a concern amongst developing states that the permanent veto members of the Council are trying to “disguise imperialistic or paternalistic motives as humanitarian or environmental concerns.”⁷⁹

Representing the African States during the debate, the representative from Sudan argued that by putting climate change onto the Security Council's agenda, the Council is actually encroaching on the functions of the other UN organs, namely the General Assembly and the Economic and Social Council (“ECOSOC”).⁸⁰ Related to this encroachment and the accusation of paternalistic motives, the Sudanese representative further argued that the “Security Council tries to justify by linking all issues to the question of security — compromises the principles and purposes of the United Nations Charter and is also undermining the relevant bodies.”

Some may argue that it is interesting that this argument would be proffered by developing nations, much less Sudan, considering that developing countries are more affected by climate change. However, it appears that even though the threats to peace and security brought on by climate change may be an important issue, even more concerning to many of these nations is the right to participate in the decision-making process of how those threats will be dealt with.⁸¹

Although this argument has validity, the problem really implicates the underlying institutional concerns with the composition and overall functioning of the Security Council. Given the fact that many of the permanent five members would be remiss to give up their power, Security Council reform seems to be nowhere in sight. Climate change and its accompanying degradation are too critical to wait for the necessary enlargement of the Council's permanent members in order to ensure a measured level of democratic legitimacy.

Climate change is not a security issue

Another common argument made by the developing states was that climate change is more appropriately

framed as a sustainable development issue, not a security one. As the representative from Pakistan who was speaking on behalf of the Group of 77 and China, stated, the issue of sustainable development is within the ambit of the General Assembly and the ECOSOC.⁸² Moreover, with respect to dealing with climate change, the UNFCCC and the Kyoto Protocol are more appropriate forums.⁸³

In response to this argument, states are more likely to pour financial, political and technological resources into the issue of climate change if it is framed as a security issue, instead of a development or human rights issue.⁸⁴ With respect to relying on multilateral environmental treaties, the problematic enforcement issues discussed earlier still remain. Thus, including climate change on the Security Council's agenda is still required.

Climate change is being used to alter the common but differentiated responsibilities

Lastly, an accusation was made by many developing states that the Security Council debate on climate change was an attempt by developed countries to "shirk" their responsibilities under UNFCCC and Kyoto. According to the representative from Egypt, it is the developed states that have caused the current climate crisis because they have "continued to pour emissions into the upper atmosphere and have failed to fulfill their obligation...according to the provisions of the UNFCCC and the Kyoto Protocol."⁸⁵ He further stated that the way to a solution involves the fulfillment of treaty commitments based on the principle of common but differential responsibilities "and not according to the principle of shared responsibilities which some countries are seeking to promote."⁸⁶ Central to this argument is the developing states' fear that the Security Council would issue opinions and make decisions without fully recognizing the responsibilities and contribution made by developed states in creating the problem of climate change.⁸⁷

This argument is not very strong. During the debate, a number of developed states reinforced their commitment to the notion of common but differentiated responsibilities.⁸⁸ Additionally, the United Kingdom, whose concept paper promulgated the debate on climate change, acknowledged the importance of the principle when it stated that parties to the UNFCCC should try to reduce and stabilize "greenhouse gas concentrations in the atmosphere at a safe level, based on the principle of common but differentiated responsibilities and respective capabilities."⁸⁹ Furthermore, in the interest of attaining a globally applicable solution, it is doubtful

that the developed countries would risk alienating the participation of developing nations by trying to absolve themselves of their common but differentiated responsibilities.

Conclusion

In this paper I have attempted to argue that climate change should be considered a threat to international peace and security to be included on the Security Council's agenda. An examination of the existing enforcement mechanisms reveals their inadequacy when states are facing the very real existential threat posed by climate change. Additionally, the fact that they also act as very potent threat multipliers suggests that climate change and its accompanying environmental degradation can create the level and severity of conflict on par with the issues that are already on the Security Council's agenda. Therefore, the evidence is clear that climate change and the kinds of conflicts it can create meet the requirements espoused in Article 39 of the Charter.

Making climate change potentially subject to the Council's Chapter VII powers helps to increase the publicity surrounding the issue and provides a fail-safe enforcement mechanism, should binding authority on the issue ever be needed. Despite the protestations put forth by many developing nations, the Security Council is still the most viable platform in the face of severe global environmental degradation caused by climate change. As such, climate change should be recognized as a threat to international peace and security and should accordingly be included on the Security Council's agenda.

**The author notes that this article was written during the fall of 2008. Subsequent events that may have occurred since then are therefore not reflected in this essay.*

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