

Climate Refugees: From Recognition to the Invocability of the Principle of Common but Differentiated Responsibilities*

[English version]

Refugiados climáticos: de su reconocimiento a la invocabilidad del principio de responsabilidad común pero diferenciada

Refugiados climáticos: do reconhecimento à invocabilidade do princípio da responsabilidade comum, porém diferenciada

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Abstract

This article develops a reflective exercise on the principle of common but differentiated responsibilities in the search for solutions to the climate refugee crisis. **Objective:** To establish guidelines on the need to invoke the principle of common but differentiated responsibilities for developed countries, which are the main contributors to climate change, in relation to the most vulnerable countries facing climate variations or rising sea levels. **Methodology:** This exercise was based on a documentary analysis of information from specialized databases. **Results:**

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Understanding the humanitarian issues faced by environmental refugees and an approach to the principle enabled a constructive scenario regarding the conditions of invocability, based on the privileged situation of developed countries due to their economic expansion and the environmental degradation caused by their industries.

Conclusions: The climate refugee crisis warrants the invocability of the principle of common but differentiated responsibilities as a valid approach that challenges States to act jointly and interdependently in order to find alternatives to the migration crisis caused by climate factors.

Keywords: refugees; climate change; environmental degradation; effects of human activities; migration (obtained from the UNESCO Thesaurus).

Resumen

En el presente artículo se desarrolla un ejercicio reflexivo acerca del principio de responsabilidad común, pero diferenciada en la búsqueda de soluciones a la crisis de los refugiados climáticos. **Objetivo:** establecer pautas sobre la necesidad de invocar el principio de responsabilidad común, pero diferenciada de los países desarrollados, que son los principales causantes del cambio climático, respecto a los países más vulnerables a las variaciones climáticas o al aumento del nivel del mar. **Metodología:** este ejercicio se enmarcó desde el análisis documental de información en bases de datos especializadas. **Resultados:** el entendimiento de la problemática humanitaria de los refugiados ambientales, y un acercamiento al principio posibilitó un escenario propositivo respecto a sus condiciones de invocabilidad, sustentadas en la situación privilegiada de los países desarrollados gracias al proceso de expansión económica y la degradación ambiental ocasionada por sus industrias. **Conclusiones:** la crisis de los refugiados climáticos amerita la invocabilidad del principio de responsabilidad común, pero diferenciada como una aproximación válida que le plantea un desafío a los Estados de actuar de forma conjunta, e interdependiente con el fin de buscar alternativas a la crisis migratoria ocasionada por causas climáticas.

Palabras clave: refugiados; cambio climático; deterioro ambiental; efectos de las actividades humanas; migración (obtenidos del tesoro de la UNESCO).

Resumo

Este artigo desenvolve um exercício de reflexão sobre o princípio da responsabilidade comum, porém diferenciada, na busca de soluções para a crise dos refugiados climáticos.

Objetivo: estabelecer diretrizes sobre a necessidade de invocar o princípio da responsabilidade comum, porém diferenciada, dos países desenvolvidos, que são os principais causadores das mudanças climáticas, em relação aos países mais vulneráveis às variações climáticas ou ao aumento do nível do mar. **Metodologia:** esse exercício foi baseado na análise documental de informações em bancos de dados especializados.

Resultados: a compreensão do problema humanitário dos refugiados ambientais e uma abordagem do princípio possibilitaram um cenário proativo em relação às suas condições de invocabilidade, com base na situação privilegiada dos países desenvolvidos graças ao processo de expansão econômica e à degradação ambiental causada por suas indústrias. **Conclusões:** a crise dos refugiados climáticos merece a invocabilidade do princípio da responsabilidade comum, porém diferenciada, como uma abordagem válida que desafia os Estados a agirem de forma conjunta e interdependente a fim de buscar alternativas para a crise migratória induzida pelo clima.

Palavras chaves: refugiados; mudança climática; degradação ambiental; efeitos das atividades humanas; migração (extraído do tesouro da UNESCO).

Introduction

Climate refugees, as a vulnerable population group forced to relocate to other territories or countries due to climatic causes, have become one of the most urgent challenges the international community must address in its efforts to combat climate change. This migratory phenomenon, driven by poor living conditions in their home territories and leading these refugees to leave their own country, is causing a humanitarian crisis that is already beginning to be seen primarily in the South Pacific Island states, such as Kiribati and Tuvalu (McNamara, 2015).

At the same time, while states are making commitments within the framework of international climate change negotiations, such as increased investment in clean technologies, financial cooperation, and knowledge transfer, there is also a clear need to adopt a constant commitment in the search for solutions to the problem of climate refugees (Hartmann, 2010; Biermann & Boas, 2010).

In this article, which examines the situation of climate refugees, the objective is to establish guidelines for discussion on the need to invoke the principle of common but differentiated responsibilities. This aims to assign a permanent and greater duty of cooperation from developed countries, which are the main contributors to climate change, in relation to the most vulnerable countries facing climate variations or rising sea levels.

The methodology chosen to achieve this objective was the documentary analysis of specialized information, through which it was possible to construct a niche citation at three levels: in-degree, out-degree, and betweenness. This approach allowed the classification and characterization of the extracted information regarding studies on 'climate refugees', 'environmental responsibility', or the 'principles of international environmental law', among other specific topics.

This paper, a product of research conducted under project INV-DER-3439 and funded by the Universidad Militar Nueva Granada, is organized into five distinct sections. First, it provides an overview of the current climate crisis. Second, it examines the social impacts of human mobility caused by climatic factors. Third, it discusses the cases of Kiribati and Tuvalu to offer a final approach to the issue of recognizing the status of climate refugees. Lastly, it develops the principle of common but differentiated responsibilities as a proposed approach. This leads to the discussion and conclusion sections.

As a result, the article presents a reflective and constructive scenario regarding the need to consider the principle of common but differentiated responsibilities by developed countries in relation to climate refugees. This emphasis is based on the privileged situation these countries enjoy today (Pauw et al., 2014; Berkey, 2017), largely due to the industrialization and economic expansion that

began during the Industrial Revolution, with their economic growth driven by the exploitation and global environmental degradation caused by their industries (Hormio, 2023; Leimona et al., 2024; Frumhoff et al., 2015).

Furthermore, this approach is supported by the fact that the territories most severely affected by climate change have minimal capacities to support their population (Taupo, 2019; Edmonds & Noy, 2018; Cauchi et al., 2021). In this context, forced displacement leads to a humanitarian crisis that must be addressed by the international human rights protection system. While there should ideally be no distinction between 'climate refugees' and refugees fleeing social, political, or other causes, in practice, this distinction should be considered (Piguët et al., 2011; Baldwin et al., 2019).

Methodology

The methodology chosen to achieve the proposed objective was documentary analysis. For this purpose, five bibliometric criteria proposed by Zupic and Čater (2015) were employed in this type of exercise, namely, analysis of bibliographic coupling, co-authorship, co-occurrence of words—words frequently co-occur in documents—, citations, and co-citations. This strategy is effective for conducting documentary analysis studies on very specific topics or those that lack sufficient approaches (Yang et al., 2016).

Following these criteria, a detailed search was conducted in Web of Science, Scopus, Jstor, and Hein Online—specialized databases for articles and scientific research output, including books and book chapters—. Given the relevance and timeliness of this topic, although the initial time frame consulted was 2010–2023, with a total of 105 results in the mentioned databases to build a citation niche at three levels, the search was expanded to include other sources and texts published in the 1980s and 1990s.

The criteria followed for selecting the cited sources were based on three levels or indicators used in bibliometric analysis: in-degree —representing the number of times a document was cited by authors—, out-degree —considering the number of times a document cites others—, and betweenness —based on intermediary connections in a network— (Wallis, 2007; Duque & Cervantes-Cervantes, 2019). This approach enabled the classification of subtopics related to environmental principles, climate change, and migration studies.

Three analytical categories emerged from this exercise, which can be illustratively compared to a tree. The in-degree represents the roots that support the initial approaches to the principle of common but differentiated responsibilities

and the social impacts of climate change, serving as foundational references for the subject of study. For example, this led to authors such as Archer and Rahmstorf (2010) or Houghton and Woodwell (1989).

Next, the betweenness criterion represented the trunk, where documents citing the texts identified in the first criterion were placed —here, we found approaches by authors like Sanson et al. (2019), Berchin et al. (2017), and Lister (2014)—, which are also cited by the more recent documents that make up the out-degree, or the leaves and fruits of the tree, including authors like Klinenberg et al. (2020) and Askland et al. (2022), among others.

In this way, a critical approach to climate change policy was formulated, emphasizing the various actors responsible for the climate-induced migration crisis. This approach aimed to advance the debate towards invoking the principle of common but differentiated responsibilities of developed countries in relation to vulnerable countries, given the humanitarian crisis of climate refugees.

Results

Climate Crisis and Human Mobility

The 1950s and 1960s encompassed a period in contemporary history marked by significant social and political turbulence. Movements advocating for civil and political rights and large-scale military conflicts in countries like Vietnam and Korea defined an era of change. However, regarding energy and the environment, the crisis that began to emerge and developed during these decades also had a significant impact on the world.

This crisis triggered subsequent events, such as the oil embargo against the United States and other Western countries by the Organization of the Petroleum Exporting Countries (OPEC) in response to support for Israel during the Yom Kippur War. This not only caused a sudden spike in oil prices but also resulted in a global economic recession (Crosby, 1995; Lattès & Wilson, 2013). At the same time, the environmental crisis that had been ongoing since the Industrial Revolution, which had not yet been relevant to the political agenda, began to chart a new roadmap (Hughes, 2016).

Overpopulation and the effects of unchecked industrialization were contributing to an irreversible deterioration of air, water, and soil (Banister, 2011; Korstanje, 2018). Moreover, the depletion of natural resources, such as forests

and animal and plant species suitable for human consumption, was becoming a growing concern (Orr, 2022; Paterson, 2014). In this context, the Club of Rome¹, an international forum that brought together scientists, academics, politicians, and leaders from around the world, published a report in 1972 titled *The Limits to Growth*, with support from the Massachusetts Institute of Technology (MIT). This report raised alarms worldwide about the evidence of a potential environmental collapse.

With a nascent political and activist environmental movement emerging globally, the States began to adopt measures to address these concerns. In the United States, for example, the Environmental Protection Agency was established; while in Colombia, Decree 2811 of 1974 was enacted, structuring the *National Code of Renewable Natural Resources and Environmental Protection*. Thus, the action plan gradually implemented in state apparatuses covered a wide range of topics, including air pollution, natural and water resources, biodiversity, and sustainable development.

In climatic matters, the 1980s were significant, as the findings made by the scientific community regarding global warming brought greater prominence to this phenomenon—along with the issues stemming from the destruction of the ozone layer—, not only in the realm of public opinion or the scientific community itself but also in the global political landscape (Archer & Rahmstorf, 2010). Since then, climate change² has become a leading environmental issue, recognized as one of the most urgent problems facing humanity³ (Klinenberg et al., 2020; Sanson et al., 2019).

One impact also associated with climate change is the rising sea level, which has negatively affected human life, ecosystems, and key economic sectors such as tourism. An example of this is Cartagena de Indias, a coastal city in Colombia, that has experienced floods in recent decades that have progressively encroached upon parts of its territory, particularly in areas like La Boquilla, Manzanillo, Bocagrande, and even the Historic Center.

Around the world, rising sea levels are flooding coastal regions, forcing inhabitants to abandon them. This phenomenon, coupled with storms and

1 The Club of Rome report was a milestone in raising global awareness about environmental issues. Following its publication, the Stockholm Conference was organized in 1972, a historic event that brought together world leaders to discuss the environmental crisis.

2 This phenomenon, caused by the increase in greenhouse gas emissions in the atmosphere, primarily results from human activities such as the burning of fossil fuels, deforestation, livestock farming, and agriculture (Houghton & Woodwell, 1989; Moore, 2003).

3 Not surprisingly, since the Industrial Revolution, deforestation, agriculture, livestock farming, and the burning of fossil fuels (notably oil, coal, and natural gas) have significantly contributed to climate change by releasing CO₂, methane, and nitrous oxide, among other agents, into the Earth's atmosphere (Hughes, 2009).

flooding, has generated migratory flows toward areas more suitable for living (Lister, 2014). With the intensification and frequency of extreme weather events caused by climate change, displacement has emerged as a critical issue concerning a new vulnerable group in need of special protection: climate refugees, who are often those displaced within their territory or to another due to climatic causes (Berchin et al., 2017; Askland et al., 2022).

Human mobility and the climate crisis manifested as displacement due to climatic causes, can be approached through direct displacement. This is understood as the mobility of individuals forced to leave their homes due to endogenous factors; for example, the flooding of their lands, and direct exogenous displacement, which in this case is caused by external variables to the terrestrial territory, such as rising sea levels (Biermann & Boas, 2008).

In the case of indirect displacement, this phenomenon occurs as a consequence of leaving a territory due to socioeconomic impacts caused by endogenous or exogenous factors; for example, due to the deterioration of livelihoods, food sovereignty, or the degradation of infrastructures that ensure decent housing (Valencia et al., 2015).

Thus, climate refugees are those who, due to direct and indirect endogenous or exogenous causes, become more vulnerable to displacement from rising sea levels, economic, social, or environmental impacts, or other climatic causes (Balesh, 2015). Those who are especially characterized as part of this vulnerable group are the inhabitants of low coastal areas, such as the island states located in the Pacific Ocean, and coastal regions of underdeveloped countries and river deltas (Kirsch, 2020).

In this context, although international instruments such as the *Stockholm Declaration* and the UNFCCC remain important reference points in the development of environmental protection and the guidance of principles regarding adaptation and mitigation measures for climate change, in practice, they do not include mechanisms that directly impact climate refugees (Biermann & Boas, 2010; Rosignoli, 2022).

Despite the above, and even though the vulnerability of this group requiring special protection has been addressed at various Conferences of the Parties (COP) of the UNFCCC, the proposal that has most closely captured this scenario is found in the *Male Declaration* of 2007. This declaration was primarily driven by representatives of island states affected by rising sea levels, aiming to reorient the direction that, until then, the international community had given to the human dimension of climate change (Farbotko et al., 2016).

Thus, there is a strong emphasis on the need to characterize and seek solutions regarding the impacts of climate change on human rights. The *Male Declaration* concludes that the right to enjoy a healthy environment is a

prerequisite for enjoying all other human rights (Jodoin et al., 2021; Holloway et al., 2003).

In sum, this declaration is a historic document that recognizes that global atmospheric warming and rising sea levels are serious problems threatening coastal areas, particularly those located in the South Pacific region (Dolla, 2015). Notably, in the Maldives, one of the signatory states of the declaration, rising sea levels have already begun to affect the rights of its population.

In 2015, several representatives of the signatory states of the *Male Declaration* adopted the *Suva Declaration*, which reaffirms the commitments already made in the first instrument and again calls on the international community to intensify its efforts to combat climate change (Dolla, 2015). During the summit where this declaration was signed, the *Charter of the Pacific Islands Development Forum (PIDF)* was also subscribed, which aims to be recognized as an intergovernmental organization before the international community.

One of its latest pronouncements occurred in 2022, where representatives from several island states, led by Tonga, the Marshall Islands, Fiji, the Federated States of Micronesia, and the Solomon Islands, announced that they would initiate a long path for the International Court of Justice to define the obligations of developed states to protect the rights of present and future generations in light of the global and human issues arising from climate change (Kirsch, 2020; McDave & Dagadu, 2023).

As a preliminary conclusion, the human crisis caused by climate change, evidenced by forced displacement in coastal areas and an increasing number of climate refugees worldwide, is a prelude to a climate emergency and an existential threat to the inhabitants of certain regions (Rosignoli, 2022). The rising sea level is already causing severe problems along the Pacific Islands States and in other densely populated coastal areas, such as the aforementioned Cartagena de Indias in Colombia or the city of Venice in Italy.

The Case of Kiribati and Tuvalu, and the Status of Their Climate Refugees

Kiribati is an island state located in the Pacific Ocean, composed of 32 atolls and one island, with a population estimated at no more than 119,000 inhabitants as of the 2020 census, and its geography is diverse. The Gilbert Islands, the largest group of islands, are coral atolls with white sandy beaches and crystal-clear lagoons. As for the Phoenix Islands and the Line Islands, they are more remote and less populated atolls (Cannon et al., 2021).

Kiribati's economy is based on fishing and tourism. Although fishing is the country's main source of income, tourism has gained momentum since Kiribati

attracted global attention at the turn of the millennium. Despite this, it ranks as one of the most vulnerable countries in the world, both environmentally and climatically, as well as economically (Storey & Hunter, 2010). Most of its inhabitants survive on incomes that place them below the threshold of development, in precarious conditions, and with poor access to basic services (Eurich et al., 2023).

In the last decade, Kiribati has once again come into the spotlight of the media and the international community due to its extreme vulnerability to climate change. Rising sea levels are flooding the islands, and projections indicate that it is expected to be one of the first countries to disappear underwater (Storey & Hunter, 2010; Nakayama et al., 2019; Cauchi et al., 2019). Currently, the government of Kiribati is working jointly with the international community in search of definitive solutions; however, the relocation of its population to other territories will be the next step to be adopted shortly (Mortreux et al., 2023).

With a warm climate and high humidity characteristic of its geographical location, the islands of Kiribati experience little variation in temperature throughout the year, with a prevalence of droughts, especially during seasons associated with *La Niña* phenomenon. Furthermore, the limitations of a very restricted land area, both for the habitation of its citizens and for agricultural models, place this state in a situation of extreme climate vulnerability (Storey & Hunter, 2010).

The case of Tuvalu, another island state situated in the South Pacific, is similar to that of Kiribati. Its geographical location, low elevation, and the constant threats it faces put it in a state of climate vulnerability (Farbotko & Lazrus, 2012). This situation has led both its current leaders and the international community to consider the possibility of relocating its inhabitants, whose population was nearly 12,000 at the beginning of the 2020s (Andrew et al., 2022).

In fact, when analyzing Tuvalu's specific conditions, it can be characterized as a more isolated and smaller country compared to other Pacific Island states, as it consists of just nine habitable islands and atolls with a total land area of no more than 26 square kilometers. Over measurable timescales, both land and sea surface temperatures have been steadily increasing since the mid-20th century, with sea levels rising by 3.9 mm per year. This rate is three times faster than the global average but similar to that of Kiribati (Klepp & Fünfgeld, 2022).

Ocean acidification is another effect of climate variability affecting both countries, disrupting coral reef calcification and impacting marine biodiversity (Islam et al., 2023). Additionally, socio-environmental conflicts have increased in their territories due to soil salinization affecting agricultural production models

and changes in rainfall patterns, along with unpredictable yet increasingly intense events like storm surges, droughts, and winds (Andrew et al., 2022; Klepp & Fünfgeld, 2022; Eurich et al., 2023).

Given this situation, projections indicate that Kiribati and Tuvalu, as states, are at risk of disappearing before reaching the middle of the 21st century. The results of this projection were presented in 2005 at the 60th General Assembly of the United Nations, where the possibility of relocation and the issue of nationals from these two states potentially becoming climate refugees were discussed for the first time (Vousdoukas et al., 2023).

This scenario had already been considered by the Alliance of Small Island States (AOSIS) in the early 1990s as part of the preparatory phase for the Rio de Janeiro Summit (Konrad, 2022). Since then, island states—including Tuvalu and Kiribati—have been lobbying the international community and developed countries to recognize them as Small Island Developing States (SIDS) with their unique climate and environmental circumstances.

This advocacy focuses on the recognition of climate refugees from island states—and generally from any territory affected by climate causes—within the status granted by the 1951 Geneva Convention on the *Status of Refugees*. However, the problem with this recognition stems from the scope defined by Article 1 of the Convention, which establishes a temporal framework for refugee status resulting from events that occurred before January 1, 1951, and as a consequence of such events, as specified in paragraph 2 of Section A of the same article.

In this regard, concerning the impacts caused by climate change, refugee status cannot be granted due to the lack of explicit characterization in the Convention. In fact, those forced to leave their territory due to climate causes lack refugee status and the rights protected by international law.

However, some authors, such as Borrás (2006), who support the inclusion of climate refugees with a special protection status, argue that the 1951 Geneva Convention is a legal framework with a global and comprehensive vocation in favor of any refugee, and that this status has evolved over the years. Similarly, the 1967 Protocol on the Status of Refugees laid the groundwork for a future extension of the definition of 'refugee' under the international human rights protection system.

In contrast to this argument, it has been the recipient states' governments themselves that refuse to extend refugee status, as they do not recognize the link between refugees and forced displacement due to climate causes.

Specifically, displacement «due to persecution» and «due to environmental causes», such as floods or storms, fall into two very different categories. This distinction exists despite the fact that the impacts on the population are equivalent (Loughry & McAdam, 2008; Ďurková et al., 2012). In conclusion, as long as

adverse climate effects are not recognized as causes of displacement, the international community will face a significant challenge in equating climate change to a government, subversive group, or individual in terms of being persecutors.

The Principle of Common but Differentiated Responsibility: An Opportunity

The principle of common but differentiated responsibility is one of the foundational principles of international environmental law. It was conceived and widely discussed in the *Rio de Janeiro Declaration* of 1992 and has been incorporated into various international instruments, such as the UNFCCC and the *Paris Agreement* (Matsui, 2002).

This principle acknowledges the shared responsibility of all states in environmental protection and addressing climate change, but with a differentiated allocation based on the history, circumstances, and capabilities of some states to fulfill this duty (Rajamani, 2000). Specifically, it establishes that states with a high level of development or those that have disproportionately contributed to environmental damage since the Industrial Revolution bear a greater responsibility than other states.

From the principle of common but differentiated responsibilities, the adoption of special and differentiated measures among states is justified to address global environmental issues within the framework of bilateral and multilateral agreements (Stone, 2004). For example, it requires developed countries to bear a greater financial burden by providing economic and technological assistance to states that lack sufficient means and resources to fully meet their environmental obligations (Bortscheller, 2009; Matsui, 2002).

This principle, which has been key in climate change adaptation and mitigation measures, has led states to agree in forums such as UNFCCC negotiations on the obligation to reduce their greenhouse gas emissions from two standards: a full standard for developing states and a differentiated standard for states under this threshold according to their capabilities (Honkonen, 2009).

In the case of the *Paris Agreement*, the obligations of developed states to provide financial assistance to developing states to meet their emissions reduction goals were established. It also included the duty to provide assistance through technology, training, and enhancing their adaptation and mitigation capabilities.

The common but differentiated responsibility of states in the area of climate change is projected as one of the most pressing challenges currently facing the international community. It is a complex issue, mainly due to the resistance of a

few developed states, such as the United States or China, to meet their obligations (Honkonen, 2009).

In practice, the obligation to reduce greenhouse gas emissions, which are among the main drivers of climate change, represents a significant impact on the productivity of these powers, which are unwilling to sacrifice their economic development in the short and medium term.

Nevertheless, support for affected states has been provided through international cooperation programs, delivering humanitarian supplies during climate disasters, and developing capabilities to address this phenomenon (Hervé, 2010). It is worth noting that cooperation is not part of the principle of common but differentiated responsibilities, but rather pertains to the principle of cooperation, which encourages states to work together to address global environmental issues.

As noted by authors such as Lister (2014), Ďurková et al. (2012), and Berchin et al. (2017), the lack of political will to take the necessary steps to tackle climate change, particularly to reduce greenhouse gas emissions, prevents the effective implementation of the principle of common but differentiated responsibilities.

Although this hinders the adoption of effective measures to address climate change, even at the cost of productivity in activities generating these gases, it is worth considering whether this principle might instead focus on other solutions, such as a coordinated response to the issue of climate refugees, a topic to be discussed in the next section.

Nonetheless, regarding commitments derived from this principle, significant progress has been made in this direction over the past decade. The 2015 *Paris Agreement*, which was a milestone in this respect, succeeded in committing all signatory state representatives to limit the rise in global average temperature to 1.5 degrees Celsius above pre-industrial levels. To achieve this goal, all states, especially developed states, were urged to provide the financial and technological assistance necessary for developing states that could not contribute to this goal.

The principle of common but differentiated responsibility is undoubtedly an opportunity to collectively overcome the challenges posed by climate change. As will be further explored in the next section, it also presents an opportunity for developed states to settle the historical debt they owe to states below this threshold, particularly those whose inhabitants are now victims of climate-induced displacement.

Discussion

Since the *first SIDS Conference* in 1994 in Bridgetown (Barbados), where representatives of Small Island Developing States developed a roadmap known as the *Barbados Plan of Action* (later updated at the *third SIDS Conference* in 2014 in Samoa through the Samoa Pathway), efforts have been made to recognize climate refugees as having a special *status*.

This recognition is based, on the one hand, on the *Malé Declaration*, and on the other, on the report from the *4th Assessment of the Intergovernmental Panel on Climate Change* (IPCC), which shows that the negative effects of climate change will first impact island countries and the most vulnerable communities, especially those in developing countries.

Additionally, in 2022, representatives of several island states that make up the SIDS announced their intention to bring this strategic litigation to the International Court of Justice. Their goal was to define the obligations of developed states to safeguard the rights of present and future generations in the face of the global climate crisis and concerning environmental refugees. If this litigation is resolved in favor of the claimants, it could mark a turning point in international environmental law (McDave & Dagadu, 2023).

Within this context, the principle of common but differentiated responsibility stands as a cornerstone of international environmental law. It provides an opportunity for the international community to elevate cooperation to a new level in addressing the challenges that come with recognizing climate refugees as having a «refugee» status (Matsui, 2002; Zickgraf, 2019). The cases of Kiribati and Tuvalu could set a precedent, given the inability of local governments to implement plans to migrate to other islands or continental territories or to acquire suitable lands to relocate their inhabitants.

However, the international legal regime that conceives and protects refugee status will never be comparable to the protection that states of origin can provide to their inhabitants in conditions of vulnerability due to climate causes (Konrad, 2022; Borrás, 2006). Assuming that applying the principle of common but differentiated responsibility could solve the problem of climate refugees ignores the root cause of the issue, but it would be a crucial first step.

Achieving this will require political will to overcome these challenges, whether to extend refugee status to this population group or to fulfill obligations derived from the principle of common but differentiated responsibility. The developed and industrialized states that benefited from the boom brought about by the Industrial Revolution and globalization are those that have most contributed to greenhouse gas emissions and thus to climate change, making them the primary actors called upon to seek long-term solutions to this issue.

Regarding the case of Kiribati and Tuvalu, the tendency of the population is to stay within their territory, not only because of the uncertainty of relocating to another country as climate refugees but also due to cultural ties and beliefs that bind them to the land where their ancestors lived. Since the end of the last decade, the population has increasingly seen displacement as a last resort (Loughry & McAdam, 2008).

Another relevant point for invoking the principle of common but differentiated responsibility is that states less affected by their geographical location, which are also in better economic condition, are the ones that have most contributed to the climate crisis affecting island states and other vulnerable territories—for example, states adjacent to the Caribbean—with an increasing trend toward environmental vulnerability due to rising sea levels and recurring natural disasters.

Although refugee status was originally conceived for reasons of political, social, religious, or even racial persecution, the extension of the principle of common but differentiated responsibility should lead the international community to extend this status to climate refugees (Borrás, 2006). This argument is based on the need to update the definition of refugees, which has not changed in recent decades, and to truly apply differentiated responsibility between the affected countries and those with significant influence in multilateral decision-making.

Additionally, legally recognizing climate refugees' status would not necessarily devalue the scope of the regime that currently protects all refugees. It is a form of forced migration driven by environmental factors, constituting a justified exception to the rule of recognition within the context of international human rights protection (Myers, 1993).

The real debate should focus on whether assigning refugee status to climate refugees would lead to renegotiating international instruments. If this were the case, the adjustment process for these instruments should be justified by the need to extend the framework to include other forms of forced displacement.

In this regard, the lack of political will regarding migration policies could be substituted through compensatory obligations related to climate change or by extending these obligations to migration issues within negotiations on climate mitigation and adaptation instruments. This might create a more favorable scenario for overcoming this lack of will (Borrás, 2006).

Ultimately, the common but differentiated responsibility of states in climate change matters—and in migration concerning environmental refugees—, while complex, will be crucial to addressing this global issue shortly. It is about recognizing that this generation, represented internationally by current governments, expects solutions to ensure a sustainable future and a habitable planet with dignity for all.

Conclusions

Climate refugees, understood as individuals who have been forced to migrate to other territories or countries due to climatic changes and rising sea levels, present a challenge to international environmental law and the global human rights protection system, as they are not covered by refugee status. The lack of political will, as well as the international community's responsibility to address the issue, has stalled any progress in recognizing this status.

In this context, the principle of common but differentiated responsibility held by developed countries in relation to those that are geographically or economically vulnerable to climate change could serve as a crucial first step and a fundamental shift in addressing the issues associated with climate change. This principle could become a key reference point, not only in the effective protection of the environment but also in the strategies for adaptation and mitigation to climate change that the international community implements through cooperation.

The principle of common but differentiated responsibility, which has helped lay the groundwork for actions from the global economic north toward less developed countries, can and should be extended to finding solutions to the migration crisis caused by climate change. This includes cooperation for the resettlement of populations in other countries, the transfer of knowledge, the creation of adaptation capacities to new environments, and support for funding projects that allow these groups to start afresh.

In summary, the fight against climate change is an integral challenge that must consider a series of political, economic, and social variables beyond mere solutions aimed at overcoming the current environmental crisis. It is a challenge that states must face, and one they can overcome if they act together, recognizing their strengths but also acknowledging that they are vulnerable in certain aspects and, therefore, must rely on one another.

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