

CLIMATE CHANGE AND THE LEGAL TREATMENT OF ENVIRONMENTAL REFUGEES

MUDANÇAS CLIMÁTICAS E A TUTELA JURÍDICA DOS REFUGIADOS AMBIENTAIS

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Recebido em: 13/05/2017

Aprovado em: 21/07/2017

Doi: 10.5585/rdb.v17i7.696

ABSTRACT: The intensification of extreme weather events caused by climate changes has contributed to the massive displacement of people in the most vulnerable regions, causing an unprecedented migratory flow. Given this situation, and given the low capacity of resilience of the population and of the States that suffer such natural consequences, particularly in developing countries and small island countries, there is a growing concern about the lack of legal protection to such individuals. Therefore, because of the lack of adequate international protection for environmental refugees and an alarming regulatory gap, it is necessary to adopt urgent measures for the protection, mitigation and adaptation to minimize the impacts caused by climate change and protect the most vulnerable populations, forced to leave their States in search of better living conditions. In the present bibliographical and documentary research, the deductive method was used.

Keywords: International law. Climate changes. Environmental refugees. Legal protection.

RESUMO: A intensificação dos eventos climáticos extremos, causados por mudanças climáticas, tem contribuído para o deslocamento em massa de pessoas em regiões de maior vulnerabilidade, gerando um fluxo migratório sem precedentes. Diante desse quadro, e dada a baixa capacidade de resiliência da população e dos Estados que sofrem tais consequências naturais, principalmente nos países em desenvolvimento e nos pequenos países insulares, cresce a preocupação com a falta de proteção jurídica a tais indivíduos. Tendo isso em vista, e em virtude de não haver uma tutela internacional adequada aos refugiados ambientais, ante uma preocupante lacuna normativa, é necessário adotar medidas urgentes de tutela, mitigação e adaptação a fim de minimizar os impactos causados pelas alterações climáticas e resguardar as populações mais vulneráveis, forçadas a abandonar seus estados de origem em busca de melhores condições de vida. Na presente pesquisa, bibliográfica e documental, foi utilizado o método dedutivo.

Palavras-chave: Direito internacional. Mudanças climáticas. Refugiados ambientais. Tutela jurídica.

SUMMARY: Introduction; 1. International Migration Law and the refugees; 2. Climate change and displacement of people; 3. The situation of environmental refugees or displaced people; 4. The need of planning and reducing environmental impacts; 5. Resilience and adaptation measures; Conclusion; References.

INTRODUCTION

Much has been discussed over the autonomy of International Migration Law, due to the growing international migratory flow, which involves around 3% of the world's population, and which has been interpreted as a social and political phenomenon.

It is pointed out that human mobility is linked to the advance of transportation and communication, improving the mobility of people, as well as an idea of “deterritorialization”, consisting in the uprooting of the citizen and in the departure from his homeland.

In this way, despite of the adoption of the UN Convention on Immigrant Rights in 1990, the main countries receiving immigrants did not signed it.

Faced with this scenario of uncertainties, a serious aggravating factor is present: sharp climate changes have caused an environmental imbalance and contributed to an increase in the frequency of extreme climatic events such as hurricanes, tornadoes and cyclones, resulting in the displacement of populations from more vulnerable countries to places with more decent conditions of maintenance.

It is estimated that around 50 million people were forced to leave their homes as a result of climate change or natural disasters. These include internally displaced persons and migrants (or “refugees”) — these who cross international borders — all of them covered by the term “environmental displaced persons”.

It happens that setting these environmentally displaced persons at the category of “refugees”, as will be seen, face a strong doctrinal dissent, resulting in weakening the protection of the displaced persons. For this reason, the present essay will provide an overview of the current legal framework and the need to improve the protection of displaced persons.

1. INTERNATIONAL MIGRATION LAW AND THE REFUGEES

In regard of the International Migration Law, Jubilut and Apolinário (JUBILUT, APOLINÁRIO, 2010) argue that migrations are classified as voluntary migrations on the one hand, and forced or involuntary migrations on the other. In voluntary migrations, the displacement usually occurs in search of better living conditions, driven by the search for better job opportunities, for example. Voluntary international migration is protected in some international instruments, such as the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as ILO Conventions¹ and the 1977 European Convention related to the Legal Status of Migrant Workers.

In relation to the forced or involuntary migrations, they occur due to circumstances beyond the control of individuals, whether through political persecution, armed conflicts, wars, natural disasters or other aspects caused by human action.

With specific reference to “forced migration”, there is an agreement by the United Nations High Commissioner for Refugees (UNHCR) that the “forced migration” institute does not have a legal concept, encompassing a wide range of phenomena. It should be noted that “refugees”, on the other hand, “are clearly defined by international and regional refugee law, and

¹ In this sense: Art. 11 of the 1975 ILO Convention on Migrations in Abusive Conditions and Protection of Equal Opportunities and Treatment of Migrant Workers (No. 143) and the 1979 ILO Migrant Workers Convention (No. 97).

States have agreed to a specific and well-defined set of legal obligations towards refugees”². In this line, it was concluded that treating refugees as “forced migrants” could compromise the protection afforded to these displaced persons.

Regarding the categorization of displaced persons as a result of environmental causes, some organizations refer to them as “environmental refugees”, while others adopt UNHCR's restrictive position, limiting the use of the term “refugee” in the context of the 1951 Geneva Convention, concerning the Statute of Refugees. For this reason, alternative terms such as “environmental migrants” and “environmentally motivated migrants” have been pointed out (UNHCR, 2011).

Anyway, concerning the treatment of the issue of "refugees" in an international level, there is an important advance. Initial steps can be identified in the context of the Universal Declaration of Human Rights of 1948, specifically in the provisions establishing the right of every person who is a victim of persecution to seek and enjoy asylum in another country (article 14) and the right to freedom of movement (article 13). In this regard, as Jubilut and Apolinário (JUBILUT; APOLINÁRIO, 2010) pointed out, there was the creation of the United Nations High Commission for Refugees (UNHCR), responsible for institutionalizing the protection of refugees and stateless persons, caring about rights of most vulnerable parties involved in the migration process.

Since then, there has been a considerable development of the subject, and there are now several international instruments that guarantee the protection of refugees — with guarantees of protection of human rights, freedom of movement, and other relevant legal assets.

These include the Geneva Convention relating to the Statute of Refugees of 1951, the New York Protocol of 1967, the Convention of the former African Unity of 1969, and the Declaration of Cartagena of 1984. The Convention on the Status of Stateless Persons of 1954 and the 1961 Convention on the Reduction of Statelessness should also be mentioned.

Both the Geneva Convention and the New York Protocol limit the State's sovereignty on the control of its borders. The Geneva Convention obliges countries to examine asylum applications and to grant refugees the same treatment as their own citizens, arising the *principle of non-refoulement* (article 33), certainly one of the most important institutes about the regulation of the subject herein discussed, which prohibits States from expelling a refugee to the borders of territories where their life or freedom is threatened by reason of their race, religion, nationality, social group or their political opinions. The New York Protocol, in turn, contributed to broadening the protection provided by the Geneva Convention by eliminating, for example, time and geographical barriers. On the other hand, the Convention on Statelessness (1954) transfers the responsibility for issuing documents and naturalization proceedings to the country in which they reside.

In 1990, the UN adopted the Convention on the Rights of the Immigrant, which predicted the need for equal treatment between national citizens and legal immigrants, the obligation of immigrants to be informed in an understandable language about their rights and have the right to take legal action in case of deportation. It turns out that the main immigrant receiving countries did not sign this declaration.

Even in the face of all these conventions, meanwhile, no country is obliged to receive refugees; there is, however, a ban on sending them back to the country where they are being persecuted. Even so, the lack of a supranational body with the legitimacy to apply punishment in case of noncompliance, compromises the effectiveness of such predictions.

The situation of irregular (or undocumented) migrants — category where often environmental refugees are placed — is even worse, since it lacks proper regulation in the face of

² Available at: <<http://www.acnur.org/portugues/noticias/noticia/refugiados-e-migrantes-perguntas-frequentes/>>. Accessed on 10/25/2016.

a large legislative gap, resulting often in violation of individuals rights and guarantees, which will be discussed below.

2. CLIMATE CHANGE AND DISPLACEMENT OF PEOPLE

International studies predict that severe climate change will become increasingly frequent, evidencing a serious imbalance in climate conditions and a real risk to all Earth's inhabitants.

Data compiled by the Intergovernmental Panel on Climate Change (IPCC) on the Fourth Assessment Report (IPCC, 2007, 9.2.1, 9.4.4, 9.6.1) suggests severe changes in climate patterns and natural events cycles: in addition to the gradual increase of the average temperature of the Earth, point to changes in rainfall patterns, increased flooding, droughts in regions where rainfall was fairly regular, desertification, salinization, contamination of drinking water sources, and an increase in the frequency of extreme climatic events such as hurricanes, tornadoes and cyclones, and acceleration of the thawing rate of the polar caps.

The global warming, one of the biggest villains according to experts, is attributed, among other factors, to high greenhouse gas emissions. That's the reason why nations are trying to implement effective measures to reduce the emission of gaseous pollutants and limit the increase of the temperature of the planet to 2° C above the pre-industrial average — but making efforts to halt the rise at lower levels. Still, it cannot be ignored that factors such as the increase in uncontrolled consumption, the installation of highly polluting industries and the intensive use of natural resources contribute to increased pollution and harm the environment, so they need to be controlled.

In addition to all these events, beyond the harmful consequences inflicted on the environment, there are also numerous violations of human rights, especially to the population in less developed countries and small island countries, which are more exposed to such effects.

Bearing that in mind, not all the affected population suffers the impacts of climate change with the same intensity. The fact is that a number of countries and regions with greater vulnerability, such as those located in geographically more susceptible areas, the least developed countries, small island states and African States most susceptible to drought, flood and desertification become affected in a more serious way.

Moreover, as the lens of the object approaches, in these States it's realized that there are individuals who, because of their personal conditions, gender or other factors, are more exposed to the risks — and the perpetuation of the damage.

At the forefront of such events are the small island countries, which already face severe consequences, including the risk of the disappearance — as in the case of Kiribati, a small island nation that is in danger of ceasing to exist due to rise in sea level.

In regard of developing countries, they are more vulnerable because of their greater dependence on climate-sensitive sectors, since the poorer population depends, for example, on agriculture for their livelihoods.

According to reports, Bangladesh and Cambodia are witnessing growing crop loss, food shortages and consequent migration from rural to urban areas. In some African countries, recurrent droughts are the problem, while in Gambia the unpredictable rainy season puts the population at risk.

According to the IPCC Fourth Assessment Report (IPCC, 2007, 9.2.1, 9.4.4, 9.6.1), mentioned in the report “Climate Change, Vulnerability and Human Mobility: Perspectives of Refugees from the East and Horn of Africa” (UNHCR / UNHCR, 2012), agricultural production and food security (including access to food) in many African countries and regions are likely to be severely compromised by the effects of climate change and variability.

It is expected that the major affected will be small farmers and subsistence farmers, potentiating the risk of crop failures, increasing diseases and mortality among animals, with serious damage to livelihoods, which will force families to sell its assets, as well as eventual cutbacks in health and education investments — what can flow into large migration flows, increasing indebtedness and dependence on foreign aid. There is also the risk of return to unsustainable adaptation strategies, which would further contribute to environmental degradation and the worsening of the whole situation.

As a result of this study (UNHCR / UNHCR, 2012), it is possible to identify four areas most affected by climatic changes and variability: a) agriculture and livestock; b) food and livelihood security; c) social cohesion, and d) conflict.

Violent conflicts and State bankruptcy and repression are indicated as factors that contribute to reduce the adaptability of people exposed to extreme climatic conditions, accentuating their vulnerability. The study found out that many refugees have their ability to cope with and adapt to climate events reduced due to the inability of State actors or authorities to maintain order and prevent violent acts, as well as oppressive acts by the actors themselves, forcing them to abandon their territories.

For those who relied on agricultural and pastoral activities to survive, there was a direct and negative impact on their livelihoods and food security. Even those who did not depend directly on these activities were also indirectly affected by declining turnover and profitability besides of the rising of food prices as consequence of agricultural production's losses. It was also pointed out that the impacts of climatic variability have the potential to aggravate events related to violent conflicts and scarce resources.

Despite of all these injuries it can be concluded that the habitat abandonment was only the last resort of the affected populations, after the exhaustion of all efforts to adapt to the new conditions of climate and cultures.

3. THE SITUATION OF ENVIRONMENTAL REFUGEES OR DISPLACED PEOPLE

As already mentioned, recent researches suggest that some 50 million people have already been forced to flee their homes as a result of climate change or natural disasters, often crossing the borders of their States in search for a safer place where they could improve economic activities and their subsistence.

For this reason, specialists are concerned with the current gap on the issue of environmental refugees. Recognizing that the current forecasts are often confined to objectives and action programs at global, regional and local levels, they advise to the need for improving States and international bodies efforts in dealing with the issue.

On its origin, the term “environmental refugees” is attributed to Lester Brown, founder of Worldwatch Institute, which emerged at international forums in 1985 and included in the report “Environmental Refugees” written by Essam El Hinnawi for UNEP and attributed for people who have been forced to abandon their traditional habitat, temporarily or permanently, because of a serious natural or man-made environmental disturbance that threatens the existence and/or seriously affects the quality of their life's conditions.

It is known that displacement can be caused by environmental disruptions including biological, physical, chemical disturbances in the ecosystem, which can change it temporarily or permanently until the point of become impractical for human life.

In other way, there are those who prefer to maintain the distinction between the category of environmental migrants and environmental refugees based on the understanding that migrants are those who voluntarily and rationally have decided to move, while environmental refugees were forced to move because of extreme and irreversible environmental causes.

The implementation of this distinction, however, faces a practical obstacle: the lack of objective criteria to quantify the level of stress or environmental disturbance that can be absorbed by the environment without risks for people's life or subsistence, as it is unknown the interference limit that could be tolerable by this population.

The term "environmental displaced", in turn, is more comprehensive because the geographical location is irrelevant. It thus covers both those displaced within their own country and those who have crossed international borders due to environmental degradation or destruction and may include other causes of displacement.

The big issue for international law is whether these people will need international protection and how this will become a positive right, considering that most of environmental displaced people are located within a nation without crossing international borders.

It cannot be ignored that several universal rights are constantly violated in the case of environmental displaced persons, among which we can mention the right to live (in adequate conditions), the right to food, clothing and housing, the right to not be deprived of its own means of subsistence, in addition to the right to nationality — warning that in case of a country's complete disappearance due to climate change it could be followed by the rupture of the link between people and its territory, which could endanger the exercise of nationality, increasing the risk of statelessness.

In this way, the Human Rights Council declared in the Resolution 7/23 in 2009, concerning about the immediate threat posed by climate change, reaching populations and people around the world. In the same vein, in March 2009, it was adopted Resolution 10/4 recognizing unequivocally that the impacts associated with climate change causes a multiplicity of direct and indirect implications for the effective enjoyment of human rights.

In addition, several international instruments currently recognize the right to a healthy environment and its indispensability for the people's health and well-being, as well as access to information and procedural rights to ensure the others. In this regard it can be mentioned the Stockholm Declaration; African Charter on the Rights of Men and Peoples; Aarhus Convention; Rio-1992 Convention, 1992 Framework Convention on Climate Change, United Nations Convention to Combat Desertification, among others.

Many of these instruments, however, have no binding effect or implementing measures. In order to be effective, they would depend on prior incorporation into domestic legislation. For this reason, they are considered as "soft law".

For this reason, the international community is seeking to convert such instruments into mandatory obligations. This would have a positive aspect in enabling most vulnerable communities to climate change to stop being passive observers in climate negotiations.

Talking about the limits of refugee protection, the 1951 Convention, also known as the "Refugee Statute", and its 1967 Protocol — which excluded all temporal and geographical limitations of UNHCR's mandate — limits its regime to those who leave their country of origin through a threat of persecution, which is the prerequisite for claiming refugee status. According to this restrictive understanding, environmental factors could not be considered a threat of persecution, since the diploma would not cover this type of situation.

There are those who, such as UNHCR, argue for the need to adopt new protective legal instruments because they perceive the risk of weakening the protection conferred by the 1951 Convention and other standards to "political refugees".

In addition, some distinctions between such regimes build up the need for a separate and specific instrument to be issued: refugee protection is governed by individual persecution situations relating to a single applicant for refugee; in most environmental displacements, there is the need of collective protection, covering groups or all inhabitants of a certain region, even for the preservation of the identity and culture. Regarding a deadline protection for environmentally

displaced persons there is neither no uniform understanding, nor about the possibility of returning to their home country.

There is why UNHCR, International Organization for Migration (IOM) and the Refugee Policy Group have chosen not to use the term “environmental refugee” for such persons, but rather the term “environmental displaced persons”.

It is important to note, however, that Cartagena Declaration includes displaced refugees because of the threat of their life, security or liberty from widespread violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances that seriously disturbed public order. There are those who understand that this forecast would allow the protection of environmental refugees for as much as no specific rule will be edited.

In any case, States have to ensure the enjoyment of civil, political, social and cultural rights to displaced persons in accordance to human rights instruments and customary international law. Even international humanitarian law and environmental law could offer some protection — it cannot be forgotten that human rights are universally applicable regardless the specific causes of displacement.

4. THE NEED OF PLANNING AND REDUCING ENVIRONMENTAL IMPACTS

As seen, there is a relevant gap on the issue of legal protection of environmental displaced persons. A few legal instruments dealing with this issue (mainly on internally displaced persons) have no binding effect and don't have implementing measures, so considered as “soft law”, depending on domestic law's incorporation of international legislation.

For this reason, there is a need to assess how existing international instruments can be applied, reinterpreted and reformed to protect environmental displaced persons. Predictions contained in specific international agreements or humanitarian relief programs should also be used.

In this sense, an important measure suggested by the OECD (2011) and based on numerous studies lies on the edition of long-term policies and projects, which should provide readjustment to these new conditions, influencing large-scale infrastructure projects, transportation networks, land use change projects, urbanization plans and others that play a key role in sustaining economic development and reducing poverty, focusing on resilience.

In this context, the United Nations and their bodies have been strongly engaged in efforts to raise awareness among the population and its leaders of abandoning unsustainable and environmentally harmful trade practices and standards of living, encouraging the development of new policies and plans of action at regional and local levels, always keeping in mind the sustainable development paradigm, which is based on the precautionary canons in the management of resources currently available and is guided by the principles of responsibility and solidarity with the generations to ensure their future and integral enjoyment.

In the recent Paris Agreement of 2015, aiming at the global commitment of nations to reduce the emission of gaseous pollutants, the binding nature of the principle of common but differentiated responsibilities was established to assign greater responsibility and commitment to developed nations due to their high pollution record and intense exploitation of mineral resources was established to assign greater responsibility and commitment to developed nations due to their high pollution record and intense exploitation of mineral resources. As a result, it was agreed that more developed countries should offer financial and technological support to developing countries.

For these reasons, poverty eradication planning and targets are set out to enable the poorest to independently and autonomously plan for their own future and prepare for the changes that are to come. This involves the transfer of knowledge capable of guaranteeing them good living conditions in adverse conditions, knowledge of new cultures — in order to ensure a better

cultural exchange —, as well as obtaining socioeconomic conditions to overcome supply crises and progressive reduction of dependence on external assistance.

However, it must not be forgotten that this necessary influence on internal policies and practices may run counter to the national sovereignty of each State. Harmonization of these approaches and closer integration between climate change adaptation measures into national legal systems, development plans and programs of the countries concerned should be sought. This is why national authorities should be encouraged to take on the role of prominence in this moment of transition.

In addition to these measures, there have been frequent actions by non-governmental organizations and international bodies to propose the preparation of disaster risk reduction plans resulting from the impacts of climate change, focusing on poverty reduction.

These plans are characterized by broad participation of governments, experts and researchers, as well as international agencies and organizations and civil society organizations, with the following recommendations: disaster risk reduction and adaptation to climate change cannot be addressed in isolation (mentioned in the Hyogo Action); the risks of disasters and climate change must be known and verified; there should be integration of such studies into local and long-term planning as well as budget forecasts, with the poverty reduction target being a strongly recommended strategy; and last but not least there must be joint participation at local, national, regional and global levels.

In the meantime, there should be a broad reconciliation between such measures and the development process of the nations involved, which is important in prioritizing and implementing adaptation solutions that enable sustainable development to be maintained — particularly in key sectors for developing countries such as energy and agricultural activities.

The adoption of such measures will seek to, at the same time, achieve poverty reduction and adaptation to climate change, as well as to highlight the essential mitigation measures that are very important in this context of imbalance.

5. RESILIENCE AND ADAPTATION MEASURES

As a result of numerous studies conducted at the United Nations Conference on Climate Change, it has been recognized that displacement of people will worsen if no measures are taken to improve resilience in their livelihoods and if they make them climate resilient.

With this approach, there is a strong recommendation to nations to give climate-resilient livelihoods with special attention to the most vulnerable populations in order to avoid activities that are likely to potentiate climate change. In addition, it is proposed to insert, in local policies and debates, themes such as migration planning and adaptation strategies.

Reducing deforestation and expanding access to (and financing of) technologies to help developing countries combat climate change are other measures that need to be implemented.

In a way, there is a common understanding among experts that the increase in the intensity and frequency of certain extreme weather events is often accompanied by population growth and increased poverty, which may contribute to further increase the migratory pressure. It is also evidenced that the lack of proper planning of this migratory movement (both in transit countries and in the final destinations) leads to the risk of causing even more environmental degradation due to the disorderly occupation of the land and overpopulation of small areas with a higher concentration of displaced persons.

According to Robin Mearns (MEARNS, 2011), the World Bank's climate change expert, displacements and migration can be facilitated in a proactive and planned way so, in the future, shifts will be less costly and detrimental.

The major challenge in developing adaptation strategies is to increase the resilience of the hundreds of millions of people living in communities most vulnerable to impacts of climate

change, which involves engaging local authorities and the community in developing adaptation strategies. Reduction and risk management are key elements for adaptation.

In a study by the UNFCCC (2009), the six main strategies to support local action in the sense of implementation of the adaptation are gathered:

1. Prioritize adaptation efforts in communities where vulnerabilities are highest and where the need for security and resilience is greatest;
2. Raise climate change trends based on today's risk and vulnerability assessment based on current climate variability;
3. Fully integrate adaptation to long-term sustainable development, national and local, and poverty reduction strategies;
4. Prioritize existing capacity building among local authorities, civil society organizations, and the private sector to lay the foundations for robust climate risk management and rapid enhancement of adaptation through community and effective risk reduction Local governance;
5. Develop robust mobilization mechanisms and resources for adaptation that ensure the flow of technical and financial support to local actors;
6. Take advantage of opportunities in disaster prevention and response, through improved early warning systems, contingency plans and integrated response, to promote effective adaptation and risk reduction for the community.

The implementation of coordinated adaptation activities with central local bodies should be implemented, as well as include prediction of long-term climate risks in national planning processes and in the budgetary plans of these countries.

Against this backdrop, there is a need to better assess the implications of climate change, as well as to question and test existing plans and policies on their resilience to possible and anticipated climate change to occur. All of this will require broad coordination and joint action among agencies and international bodies with the various levels of government and civil society.

However, we know that if there is no commitment to the sustainable development paradigm the entire process of adaptation and resilience of affected populations themselves may be at risk.

It is worth mentioning that the concept of sustainable development proposes, on the one hand, the need to meet the essential needs of the poorest sections of the population and, on the other, the recognition that the capacity of natural resources to meet them is limited. In order to achieve the objective of sustainable development, it is necessary to improve national and international strategies in order to revitalize economic growth.

All of these call to reduce the use of natural resources, as well as efforts to make them more equitable. In addition, it is recommended to meet the basic human needs of labor, food, energy, water and hygiene, as well as conserve and add natural resources to the planet, reorient technology to contribute to those objectives and reduce the risks arising from its use.

There is therefore a pressing need to meet common efforts and objectives at all levels (global, regional and local) so as to contribute to the adaptation and increase of resilience, not only to the most vulnerable population but also of urban spaces that will welcome displaced people in the event of extreme weather events, according to experts' forecasts.

CONCLUSION

The progressive intensification of extreme weather events and natural disasters has brought a notable reflection on the phenomenon of human migration, with an unprecedented increase in international flows due to environmental issues.

Gathered by the term “environmental displaced persons”, given the lack of consensus on the use of the term “environmental refugees”, it is clear that a number of human rights violations have been reported, particularly with regard to the populations of the less developed countries and small island states that are more exposed to the effects of climate change, including to the detriment of agricultural production and food security.

In the current scenario, it has been recognized that the risks and impacts associated with climate change lead to a multiplicity of direct and indirect implications for the effective enjoyment of human rights — in this sense, the UN Human Rights Council has issued Resolutions no. 7/23 and 10/4, both of 2009.

Other instruments expressly recognize the right to a healthy environment, as well as its indispensability for the development and maintenance of people’s health and well-being. However, they have no binding effect or implementing measures but only considered as “soft law”, requiring incorporation into domestic legislation.

For this reason, the regulatory gap on the issue of environmental refugees (or displaced persons) is worrying, as current forecasts are often confined to objectives and action programs. This has given rise to disregard for basic rights and abuses of all kinds, demanding greater attention from States and international bodies.

What is sought, then, besides the publication of specific instruments for the protection of environmental displaced persons — although through the extension of refugee protection — is the conversion into legal obligations of current and future declarations of intent on the subject to make them binding.

In addition, there must be a global commitment by the nations to reduce and mitigate climate change, in addition to adopting resilient and long-term policies and projects, all with a view to meeting the sustainable development paradigm.

Since it is a complex issue, in the search for a solution to the question we must work on two fronts: on the one hand, in the direct and incisive fight against the causes of climate change, with the global awareness and binding emission reduction commitments; on the other hand, specific protection should be given to environmental displaced persons in order to safeguard their basic human rights, as well as the importance of migration planning and the development of adaptation strategies in order to reduce the impact on affected populations and allow them to be reallocated in decent conditions of existence.

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