

## The Principle of Common but Differentiated Responsibilities - Concept and Prospects -

مبدأ المسؤوليات المشتركة ولكن المتباينة - المفهوم والآفاق -

**Beddiar Maher**  
Faculty of Law - University of souk ahras  
Multidisciplinary research and studies laboratory in law, heritage and history  
University of Batna 1  
Maher.beddiar@univ-soukahras.dz

Date of submission:24/02/2023 ;Date of final acceptance:29-05-2023; Date of publication :june 2023

### Abstract :

The principle of "common but differentiated responsibilities" (CBDR) is a cornerstone of the international climate change regime. It is not considered a fixed principle or is subject to development, but it is subject to development in terms of application and validity, and the principle of common but differentiated responsibilities is not limited to the international system of climate change and does not stem from it, but it is undoubtedly its cornerstone. This system, consisting primarily of the 1992 United Nations Framework Convention on Climate Change and the 1997 Kyoto Protocol, is itself a physical expression of this principle, as it allows for differential treatment between the parties and thus precludes traditional coordination. Although it is debatable, the reason for the differential is explained by the existence of more obligations than others in some countries, which means justice and fairness. which in turn justifies the implementation of the poverty reduction strategy for development

**Keywords:** common responsibility; climate change; differentiated responsibility; environmental protection; international environmental law.

ملخص:

يعتبر مبدأ "المسؤوليات المشتركة ولكن المتباينة (CBDR)" حجر الزاوية في النظام الدولي لتغير المناخ. فهو مبدأ ثابتاً وغير خاضعاً للتطوير الإصطلاحي، ولكنه خاضع للتطوير من حيث التطبيق والصلاحيية، ويتألف مبدأ المسؤوليات المشتركة ولكن المتباينة، أساساً من اتفاقية الأمم المتحدة الإطارية بشأن تغير المناخ لعام 1992 وبروتوكول كيوتو لعام 1997، هو في حد ذاته تعبير مادي عن هذا المبدأ، لأنه يسمح بالمعاملة التفاضلية بين الأطراف وبالتالي يرفض التنسيق التقليدي. وعلى الرغم من أنه قابل للنقاش، إلا أن سبب الاختلاف يفسر من خلال وجود التزامات لبعض البلدان أكثر من غيرها، مما يجسد مبدأ العدالة والإنصاف. وهو ما يبرر بدوره تنفيذ استراتيجية التنمية للحد من الفقر.

الكلمات المفتاحية: المسؤولية المشتركة؛ تغير المناخ؛ المسؤولية المتباينة؛ حماية البيئة، القانون الدولي للبيئة.

Auteur correspondant: Beddiar Maher

**Introduction:**

The greatest obstacle facing international environmental legislation is the accomplishment of fairness and equity amongst states. This issue has been a significant challenge for international relations over the last few decades, in terms of the obligations that states have undertaken in response to the existing environmental degradation, attempting to reconcile divergent economic and environmental perspectives in service of the ultimate objective of environmental protection. Differing contributions to environmental issues by industrialized and developing nations, on the one hand, and different capacity of countries to combat environmental degradation, on the other, are the beginning point for attaining international justice. Due to their poor economic and social conditions, as indicated by the spread of poverty and different illnesses, the countries of the South cannot be held accountable for environmental harm for which they were not responsible.

Countries of the Third World are afflicted by extreme poverty, which has caused them to worry a fall in their economic growth due to a growing worldwide awareness of the need to protect the environment and an increase in regulation. That restricts several economic activities, and as a result, these nations struggle to satisfy their international environmental responsibilities. At the United Nations Conference on the Human Environment in 1972, Indian Prime Minister Indira Gandhi addressed the issue of poverty in light of the global trend toward environmental protection, stating: « We do not wish to impoverish by new environment, but we cannot forget the grim poverty of a large number of individuals. How can we Those who live in villages and slums talk about protecting the oceans, rivers, clean air and their privacy are all polluted. Evidence cannot be improved and protected in the light of pervasive poverty. Poverty cannot be eradicated without the use of science and technology ».

From this point of view, considerations of justice and equity have necessitated the imposition of different responsibilities on industrialized and growing countries in many environmental agreements. The application of this principle also makes compliance with the obligations of developing countries conditional on the provision of technical and financial assistance from developed countries, or on ensuring the transfer of technology to developing countries. The principle of joint but differentiated responsibility is one form and still constitutes today the most important principles in the ongoing international negotiations on many environmental issues, the most important of which is the problem of climate change, which has made the object of divergent views between the countries of the South and the North. Especially with many developed countries caught in the current pace of development and indifferent to the damage it will cause in the future, this is revealed by the statement by the President of the United States of America, Donald Trump when he announced the withdrawal of his country from the 2015 Paris Agreement on climate change, since he has explicitly stated that his country's interest is above all. And that his country is not ready to bear the consequences of greenhouse gas emissions when he declared: "It is time for us to think about our cities, companies and countries before thinking of Paris in France."

**1 - THE GENERAL BACKGROUND**

The presence of differences between nations, on the one hand, and ecological and economic interdependence, on the other, has created a variety of obstacles for international cooperation endeavors. Integration of varied states into environmental treaty regimes is a barrier in international environmental cooperation. Over the course of more than three decades of environmental conversation, governments have developed a conceptual legal framework, arrived at a variety of

burden-sharing arrangements, and implemented a number of principles in order to incorporate diverse states into international environmental regimes. The Principle of Common but Differentiated Responsibilities (hereafter CBDR) is one of the most effective principles in the international legal regime governing environmental law<sup>1</sup>.

The concept of "common but differentiated responsibilities" (CBDR) is receiving increasing recognition in international law. "Common" suggests that certain risks affect and are affected by every nation on earth. These include not only the climate and the ozone shield, but all risk-related global public goods, including peace, public health, and terrorism. In reducing the mutual risks, all nations should "cooperate in a spirit of global partnership." Responsibilities are said to be "differentiated," however, in that not all countries should contribute equally. CDR charges some nations, ordinarily the Rich, with carrying a greater share of the burden than others, ordinarily the Poor<sup>2</sup>.

### **First :General concept**

The notion of common but differentiated responsibility had, in effect if not in form, made its appearance prior to Rio, it was in Rio that it was clearly enunciated as a principle. This principle finds specific mention in the United Nations Framework Convention on Climate Change (FCCC), concluded at Rio, and is arguably the basis for the international compact on climate change<sup>3</sup>. Where The CBDR concept legitimizes commitment asymmetry. Although asymmetrical rights and obligations among states are not novel in and of themselves, they nevertheless represent a departure from the customary international law and multilateral accords that normally apply to all nations<sup>4</sup>.

### **Second :The principle CBDR in international agreements**

States have developed specific international law, starting with the United Nations Framework Convention on Climate Change (UNFCCC, 1992), supplemented by its Kyoto Protocol (1997) and then by the Paris Agreement (2015). All three instruments are widely ratified (the UNFCCC has 197 Parties, the Kyoto Protocol 192 and the Paris Agreement 175), but the regime has been slow to develop and is insufficiently ambitious. It has not been able to prevent a temperature increase that is already being felt and is likely to increase in the future<sup>5</sup>. Noting that the expression "the principle of common but differentiated responsibilities" appeared at the beginning of the 1970s of the last century, when the Conference on the Human Environment held in Stockholm in 1972 declared that the protection of the environment is a " common responsibility "of all mankind ; The conference noted that environmental problems in developing countries are "largely due to insufficient development". In the seventh paragraph, it says : « To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environment of the future<sup>6</sup> ».

The CBDR principle is acknowledged in the preamble and in particular reaffirmed in the article 3.1, 3.2, 3.3 and 4.5 of the UNFCCC. However, application of the CBDR principle under the UNFCCC is that only developed countries are required to have commitments of reducing GHG emissions to their 1990 levels by the year 2000, in addition to providing financial resources, including for the transfer of technology to developing countries. As a matter of fact, none of mandatory instruments in the UNFCCC is imposed upon developing countries for taking essential responsibilities to control GHG emissions. The Kyoto Protocol reiterates the CBDR principle in the

article 10<sup>7</sup> but provides quantified reduction target of GHG emissions for each specific developed country and as well introduces various flexible mechanisms and funds for developed countries to achieve their commitments of technology transfer and financial assistance to help developing countries. Developing countries, however, are still free from any operational obligation under the Kyoto Protocol<sup>8</sup>.

## **2 - THE CONTENT OF THE PRINCIPLE**

The UN Framework Convention on Climate Change (UNFCCC) includes the principle of “common but differentiated responsibilities and respective capabilities”. This principle has been widely used to determine differential national responsibilities for mitigation efforts. But the principle of differentiated responsibilities can also be applied to allocating responsibility for climate change itself, and damages related to climate change, on the grounds that countries that have contributed more to global emissions are more responsible for related problems than those that have contributed less<sup>9</sup>.

### **First : The Two Components Of the principle**

The discussion regarding the content, legal significance, organizational status, and application of the principle of common but differentiated responsibility that took place within the ILA Commission, whose first report was published in 2010, is an excellent description of the divergent perspectives on the content. Whereas some members of the ILA Committee, such as Canada's Jutta Brunnée, believe that this principle is fundamental to the future interpretation, implementation, and development of the climate change system, it is necessary to define the aspects of the principle and the concept of each element within it in order to determine which elements are subject to agreement and which can remain in place. Opposition and any potential changes to its meaning.

#### **1.Common responsibility**

The notion of "common responsibility" has been utilized for a very long time. Since 1949, several Member States have opted in various agreements to consider tuna a common concern of the States (common concern), which obligates them to take all necessary steps to safeguard this species of fish. Numerous contemporary international environmental accords, such as the 1992 United Nations Framework Convention on Climate Change and the 1992 United Nations Convention on Biological Diversity, have utilized the same word. All members of the international community are obligated to provide the essential means for the preservation of anything regarded as a component of humanity's shared heritage. Just like the term indicates, this ‘common responsibility’ is closely linked to ‘a common heritage/concern of mankind’, which is a term that has been prevalent in many international regulatory contexts for quite some time. It is also stated first in the preamble of the UNFCCC that ‘change in the Earth’s climate and its adverse effects are a common concern of humankind’. The ‘common’ responsibility of CBDR can be regarded as building on that notion, which means that an issue – in this case the environment – forms a collective heritage to which everything else is linked, thus also calling for cooperative action from all mankind to address associated concerns<sup>10</sup>.

Principle 7 was particularly controversial, with the text satisfying neither developed nor developing States. Whilst developed States disliked the idea of being held legally responsible for their

past acts of environmental degradation, many developing States felt the final text failed to specifically blame the North for its past and current behaviour. The G77 Group of developing States was particularly disappointed as its own proposal for Principle 7 had been rejected. As originally formulated, it read<sup>11</sup> :

« ... The major cause of the continuing deterioration of the global environment is the unsustainable patterns of production and consumption, particularly in developed countries. In view of their main historical and current responsibility for global environmental degradation and their capability to address this common concern, developed countries shall provide adequate, new and additional financial resources and environmentally sound technologies on preferential and concessional terms to developing countries to enable them to achieve sustainable development<sup>12</sup>. ».

While the seventh principle of the Rio Agreement of 1992 was formulated as follows: Principle 7.2 « The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command<sup>13</sup> ». In general, the recognition of the principle of direct responsibility desired by the developing countries through the Group of 77, or even as the developed countries wished, through the Rio Principles of 1992, does not negate not the responsibility of these countries for the environmental deterioration that is taking place in the world, and proof of this, the Emissions Gap Report<sup>14</sup> for 2021 clearly indicated the magnitude of these emissions from developed countries such as China, the European Union, the United States of America<sup>15</sup>, as well as India.

## **2. Differentiated responsibility**

There may be disagreement over exactly which states to classify as great powers and the form that great power responsibility should take, whether it should be attached to special rights, or its moral character. However, there is both a demand for and good reasons to want great powers, however defined, to take on differentiated responsibilities for ensuring the environmental integrity of the planet or avoiding dangerous environmental change to planetary ecosystems<sup>16</sup>.

Whatever the actual justification of the notion of differentiated responsibilities, it is abundantly clear that it plays a very significant part in many international environmental regimes. And this significance is likely to increase as developing States continue to take an active role in environmental policy and law-making. However, the international community's reliance on differential obligations is not without its critics who note that it jeopardises the very purpose of international environmental law<sup>17</sup>.

## **3 - The basis of the differentiation of responsibility**

The development of differentiation can be explained from two different perspectives. Firstly, differential treatment is based on a recognition that deep inequalities must be addressed to ensure the legitimacy of the international legal order. Equity is at the root of measures that seek to foster substantive equality in a world structured around formal equality. Secondly, differentiation is the product of the convergence of different interests in international negotiations that offer a basis for diverging from the usual reciprocity of obligations. In International Environmental Law, differential treatment reflects equity considerations, as well as the necessity for the North to offer suitable conditions to countries of the South to entice them to join environmental regimes on issues of global

importance<sup>18</sup>. The difference in responsibility is based on the capacity and effectiveness to deal with environmental risks, and not on the equality between countries in the face of these risks. The principle of differentiated treatment<sup>19</sup> between developed and developing countries was widely applied in some international environmental treaty instruments, such as 1987 Montreal Protocol to the Vienna Convention for the Protection of the Ozone Layer and the 1991 protocol to the 1979 Convention on Long-Range Transboundary Air Pollution, following provisions that international technical and financial assistance should be provided to developing countries from developed countries to help them meet ‘any costs which may emanate from their incorporating environmental safeguards into their development planning’ in the Stockholm Declaration of the United Nations Conference on the Human Environment in 1972<sup>20</sup>.

### **First : Contribute to environmental degradation**

As a result of the drive for expanding wealth and economic competitiveness between nations, it has become evident that these nations look to nature for economic growth factors. This factor has significantly contributed to the deterioration of the natural environment of wealth-producing countries, not only in these countries, but also in non-wealth-producing countries, resulting in a significant environmental imbalance among these nations, which is borne by the industrialised nations.

Environmental degradation has become a dreadful problem and burning issues for the present world irrespective of a country who is responsible for it. Environmental degradation is a global issue and all countries are facing serious threats from environmental deterioration. Environmental degradation can be defined as exhaustion of natural resources such as land, water, and air. It’s the change towards the ecosystem which is undesirable for environmental health. Increasing human activities, the use of fossil fuels in the part of industrial production and energy consumption has raised the anthropogenic impacts and uplift the global temperature and put maximum pressures on earth resources in direct and indirect ways<sup>21</sup>.

Defining environmental degradation poses a much more difficult task. The World Bank’s 1992 World Development Report cites deforestation, land degradation, water shortage and contamination, air pollution, and the loss of biodiversity as some of the many environmental problems we face today in both developed and developing countries. However, unlike poverty which can be defined, at the minimum, on the basis of human nutritional requirements, environmental degradation comprises a large degree of subjectivity on the part of the agents involved or who own the resources. Different ecosystems as well as different values placed on environmental resources by different societies makes the definition of environmental degradation difficult and complex<sup>22</sup>. The shift of many countries, and in particular the United States, towards corporate plutocracies, with wealth (and thus power) transferred in large quantities from the poor and middle-classes to the very rich, is clearly doing enormous environmental damage. The successful campaign of many of the fossil fuel companies to downplay the threat of climate disruption in order to maintain the profits of their industry is a prominent example<sup>23</sup>.

### **Second: The historical and humanitarian responsibility of the developed countries**

Even though difficulties in framing historical responsibility are especially complicated by the growing emissions in rapidly industrializing states of the Global South, one of which (China) is the

world's foremost current emitter. Moreover, the proportion of emissions from many industrialized countries of the Global North in times past are often much larger than their current share. During the period 1850–2002 industrialized countries were responsible for three times the carbon-dioxide emissions of developing countries. The United States is responsible for 20 per cent of total cumulative carbon-dioxide emissions, and the European Union for 17 per cent. Developing countries account for the majority of current emissions<sup>24</sup>.

The interpretation of the CBDR principle is still in debate, no matter which interpretation is, it is generally recognized that both common responsibilities and differentiated responsibilities should be enlisted when the CBDR principle is considered. In the context of international environmental law, common responsibilities demonstrate that each country, whether rich or poor, should participate in a common effort and bear the burden of protecting the environment, whereas differentiated responsibilities indicates that developed countries should take the lead and more burdens due to their large historical and current contributions to environmental deterioration. However, in terms of applying the CBDR principle, measures to ensure the common responsibilities for all countries and to differentiate the responsibilities between developed countries and developing countries are highly dependent upon specific instruments<sup>25</sup>.

### **Third : Variation in the capabilities of countries**

Although the SDGs focus on global emissions reductions, it is important to observe the principle of “common but differentiated responsibility,” whereby high-income nations (referred to in the climate agreements as Annex-1 nations) will need to make more aggressive reductions than poor nations, given their greater historical responsibility for emissions and their greater capacity for managing the costs of transition to a zero-carbon future. The principle of common but differentiated responsibility is also embodied in the SDGs. Anderson and Bows (2011) have modeled the emissions reductions necessary for achieving a 50% chance of staying under 2°C (more relaxed than the two-thirds chance that the UNFCCC calls for), in the absence of BECCS. They assume that non-Annex 1 nations defer peak emissions until 2025, and thereafter are able to mitigate at 7% per year (an ambitious assumption)<sup>26</sup>.

#### **1. Technological and financial capabilities**

Environmental justice refers to the full participation of those affected by environmental risks or harms in environmental lawmaking and policy-making. Procedural environmental justice has limited relevance to debates around the principle of differentiation, although it can be argued that states in the Global South often lack the capacity to participate fully in the negotiation and operation of environmental treaties because of financial and other capacity restraints. This can carry important substantive outcomes in terms of the development and implementation of international law<sup>27</sup>.

Where the capabilities of countries are considered the second basis for holding responsibility for global environmental deterioration, through which a distinction is made between the responsibility of developing and developed countries. The various environmental agreements included a reference to the need to establish the responsibility of states according to their capabilities, which was stated in the seventh principle of the Rio de Janeiro Declaration on Environment and Development of 1992, which reads: « ... The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the

global environment and of the technologies and financial resources they command ». The first paragraph of Article 3 of the 1992 United Nations Framework Convention on Climate Change called for industrialised nations to be the pioneers in combating this phenomena due to their capabilities, and mandated the following: « The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof. » The first paragraph of Article 20 of the United Nations Convention on Biological Diversity of 1992 stipulates that « Each Contracting Party undertakes to provide, in accordance with its capabilities, financial support and incentives in respect of those national activities which are intended to achieve the objectives of this Convention, in accordance with its national plans, priorities and programmes ». While the second paragraph of the same article stipulates that : « The developed country Parties shall provide new and additional financial resources to enable developing country Parties to meet the agreed full incremental costs to them of implementing measures which fulfil the obligations of this Convention... »

## **2. The problem of poverty in developing countries**

Developing nations face numerous problems that do not fit the mold of traditional environmental concerns, but which nonetheless have a dramatic impact upon the environmental quality of those nations. A myopic view of the international environment has led to the conclusion that these problems are domestic and should be addressed with the resources of the developing world<sup>28</sup>. This trend has been met with strong opposition from developing countries, which call for not relying on their financial resources to protect the local environment of poor countries, as former US President Donald Trump stated when he withdrew from the Paris Climate Treaty: "It is time for us to think about our cities, companies, and countries before we think about Paris, France."

However, the basis for adopting the principle of common but differentiated responsibility over the resources of developing countries, to face the environmental problems of poor countries, is not limited to the problem of poverty and wealth for one or another country.

Rather, it depends primarily on the large impact of rich countries on the environment as a result of their extensive exploitation of environmental wealth, in contrast to the inability of poor countries to exploit this wealth, in exchange for the exorbitant bill that poor countries can pay on par with rich countries if this principle is not adhered to.

In actuality, this equation raises numerous problems, the most important of which are: What are the limits of poor countries' reliance on subsidies from affluent countries for environmental protection? Should wealthy nations foot the tab for interminable environmental devastation coming from the activities of developing nations? The truth is that the solution to these issues resides primarily in the principle of shared but differentiated responsibility, which recognises a shared responsibility for the conservation of the environment, or at least the protection of what may be. Protected in the future, while acknowledging the differentiated responsibility of States, that is, to the extent of the damage caused by States' activities that violate the natural system.

Because The difference in historical emissions between the North and the South is far from negligible. Developed countries were responsible for more than three times as many emissions



between 1850 and 2002 than developing countries while the latter host a much larger part of humanity<sup>29</sup>.

#### **4 - Effectiveness of the principle of common but differentiated responsibility**

From an equity perspective, it is a key tool to reduce the effects that climate change will cause in the most vulnerable countries. The architecture of the Paris Agreement defined a path where the principle is essential for the development of the climate regime, understanding this principle as a 'catalyst for climate action'. Therefore, with the Paris Agreement, the principle of common but differentiated responsibilities recovers its natural dynamic elements. The challenge is mainly related to taking care to avoid unbalanced interpretations of the principle of common but differentiated responsibilities.

##### **First : achieve equality**

The principle of common but differentiated responsibility has an important place in international environmental law because it enshrines justice between states for two main reasons: first, it contributes to how to rationally exploit common wealth, such as global fisheries; and second, whoever has more emissions bears greater responsibility. Professor Dinah Shelton believes that justice-related methods, including the idea of common but differentiated responsibility, encourage effective action on matters of common interest to all nations and contribute to the effective implementation of principles. The principle is not only related to issues of ethics and fairness, but also promotes environmental agreement compliance. In practise, industrialised countries must pay the difference in duty to assure the participation of all nations in global environmental initiatives.

However, although the Paris Agreement includes all countries in its mitigation effort, inclusiveness alone is not sufficient to consider a principle 'effective'. The Paris Agreement certainly side-steps earlier distributional conflicts and pushes for stronger international cooperation. Yet, contrary to Falkner's assertions, an assessment of the effectiveness of CBDR should not rest on political realism alone, but also its ability to genuinely address climate change<sup>30</sup>.

##### **Second: economic and political effectiveness.**

The economic effectiveness of the principle of common but differentiated responsibility is mainly represented in the cost that environmental impacts may cause on countries that are on the path of growth, or that contain wealth that is exploited by developed countries, where this principle, when applied, can distribute the transfer of cost to countries that exploit wealth. natural resources, and not for the countries that have this natural wealth on their soil.

In general, effectiveness in this context can be thought of as being either environmental, economic (that is, cost-effectiveness) or political. The environmental effectiveness of differentiation is reflected in how the state of the environment responds to the measures taken based on an MEA: is the treaty regime with a CBDR approach contributing to the amelioration of the targeted environmental problem? Economic effectiveness is used to assess whether the treaty rules are economically reasonable; for example, cost-effectiveness would, on the one hand, require that the net marginal costs of parties to fulfil their treaty commitments be equal and, on the other, that the benefits from taking action outweigh the associated costs. In contrast, political effectiveness in the

context of CBDR would mean that the treaty arrangements find political support with the members of the international community and that states, consequently, choose to participate in differentiation regimes. CBDR is often used as an inducement for state participation, as an instrument to make a regime more attractive for state<sup>31</sup>.

**Conclusion :**

This shift in motivation may be attributed in large part to the fact that some of today's growing nations are responsible for greenhouse gas emissions, which negates some of the initial motivations of fairness and justice. Typical of international negotiations, the reached agreement will likely be based on the least desirable of the parties involved. There is little evidence to suggest that these measures will be adequate to counteract climate change. There will be a surge in environmental refugees, a loss of small islands (some of which are sovereign), and a heightened emphasis on security and human rights issues. As a result of this fact, developing economies are feeling pressured enough to "join the bandwagon" of easing. Humanity has not been completely faithful to the norms of justice and fairness in its actions since the United Nations Framework Convention on Climate Chang.

The principle of common but differentiated responsibility worked to correct the differences in responsibility in the exploitation of natural resources between countries, however, in view of the lack of proper application of this principle, or the non-compliance of producing countries with this principle, the features of justice and fairness in the international environmental system have changed, however, This matter should not underestimate the effectiveness of the principle of common but differentiated responsibility, as some of the results reached through this study can be referred to.

1- The CBDR principle in law can be interpreted as the origin of a legal obligation and this can be the main reason for the objections of developed countries.

2- The differentiated treatment assumed to address environmental problems does not seek to directly benefit developing countries but to achieve global benefits.

3- The recognition of the principle of common but differentiated responsibilities in international development law necessarily implies, at the international level, a review of the policy established by developed countries and some interested international organizations to determine which countries are eligible to receive official assistance, and this in turn means the different distribution of these increasingly scarce resources.

4- The application of this principle involves shifting greater responsibility to those countries, which are more developed in general, and which have contributed to a greater extent in the degradation of the environment and which therefore had to respond in the same proportion, which involves the irrational exploitation of natural resources.

---

<sup>1</sup> - MABASI THADEUS : The principle of common but differentiated pesponsabilities in the international climate chahge legal framework, University of Oslo Faculty of Law, 2010, Link : <https://www.duo.uio.no/bitstream/handle/10852/22657/MABASIXTHADEUSxTHESIS.pdf?sequence=1&isAllowed=y>

<sup>2</sup> - Christopher D. Stone : Common but Differentiated Responsibilities in International Law, *The American Journal of International Law*, Vol. 98, No. 2 (Apr., 2004), pp. 276-277. Available at : <http://www.jstor.org/stable/3176729>

<sup>3</sup> - Rajamani, L. (2000). *The Principle of Common but Differentiated Responsibility and the Balance of Commitments under the Climate Regime. Review of European Community and International Environmental Law*, 9(2), 120–131. doi:10.1111/1467-9388.00243

<sup>4</sup> - Per Kågeson – KTH : Applying the Principle of Common but Differentiated Responsibility to the Mitigation of Greenhouse Gases from International Shipping, Centre for Transport Studies SE-100 44 Stockholm Sweden, 2011, P 06. Link : <https://www.transportportal.se/SWoPEc/CTS2011-5.pdf>

<sup>5</sup> - Sandrine Maljean-Dubois. LA RESPONSABILITE INTERNATIONALE DE L'ETAT POUR LES DOMMAGES CLIMATIQUES. Cournil C. Varison L. Les procès climatiques : du national à l'international, Pedone, 2018. P 1-2, available at : <https://halshs.archives-ouvertes.fr/halshs-01894640>

<sup>6</sup>- Declaration of the United Nations Conference on the Human Environment (1972). The United Nations Conference on the Human Environment, having met at Stockholm from 5 to 16 June 1972, having considered the need for a common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment,

<sup>7</sup>- *the Kyoto Protocol operationalizes the United Nations Framework Convention on Climate Change adopted on 11 December 1997. Owing to a complex ratification process, it entered into force on 16 February 2005, Article 10 : «All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, without introducing any new commitments for Parties not included in Annex I, but reaffirming existing commitments under Article 4, paragraph 1, of the Convention, and continuing to advance the implementation of these commitments in order to achieve sustainable development, taking into account Article 4, paragraphs 3, 5 and 7, of the Convention... » available at : <https://unfccc.int/resource/docs/convkp/kpeng.pdf>*

<sup>8</sup> - Yuli Chen : Reconciling common but differentiated responsibilities principle and no more favourable treatment principle in regulating greenhouse gas emissions from international shipping, Elsevier, 2021, p 03. <https://doi.org/10.1016/j.marpol.2020.104317>

<sup>9</sup> - Jason Hickel : Quantifying national responsibility for climate breakdown: an equality-based attribution approach for carbon dioxide emissions in excess of the planetary boundary, *The Lancet Planetary Health*, Elsevier, Volume 4, Issue 9, September 2020, P e399. [https://doi.org/10.1016/S2542-5196\(20\)30196-0](https://doi.org/10.1016/S2542-5196(20)30196-0)

<sup>10</sup> - Per Josephson : COMMON BUT DIFFERENTIATED RESPONSIBILITIES IN THE CLIMATE CHANGE REGIME - Historic Evaluation and Future Outlooks, Thesis in International Environmental Law, Stockholm University, 2017, p 8. Available at : <https://www.diva-portal.org/smash/get/diva2:1134510/FULLTEXT01.pdf>

<sup>11</sup> - Duncan French (2000). Developing States and International Environmental Law: The Importance of Differentiated Responsibilities. *International and Comparative Law Quarterly*, 49, pp 35-60 doi:10.1017/S0020589300063958

<sup>12</sup> - UN Doc A/CONF.151/PC/WO.HI/L20/REV.1 (1992): (Proposal submitted on behalf of the Group of 77)

<sup>13</sup> - UN Doc : Rio Declaration on Environment and Development 1992, available at : <https://www.jus.uio.no/lm/environmental.development.rio.declaration.1992/portrait.pdf>

<sup>14</sup>-Emissions Gap Report 2021: The Heat Is On. Available at : <file:///C:/Users/pc/Desktop/article%20anglais/EGR21.pdf>

<sup>15</sup> - The United States of America has returned to the Paris Agreement and reversed many policies of the Trump Administration that would have led to increased emissions. The central estimate for the country's 2030 emissions in this year's assessment decreased by about 0.5 GtCO<sub>2</sub>e. source Gap rapport 2021

<sup>16</sup> - Steven Bernstein : The absence of great power responsibility in global environmental politics, *European Journal of International Relation*, Vol 26 (1), 2021, p11. Available at : <https://journals.sagepub.com/doi/pdf/10.1177/1354066119859642>

<sup>17</sup> - Duncan French : op cit, p 59.

<sup>18</sup> - Philippe Cullet : *Differential Treatment in Environmental Law : Addressing Critiques and Conceptualizing the Next Steps*, *Transnational Environmental Law*, Cambridge University Press, p 04, Available at : [https://eprints.soas.ac.uk/22774/1/Cullet\\_22774.pdf](https://eprints.soas.ac.uk/22774/1/Cullet_22774.pdf)

<sup>19</sup> - « The Differential treatment does not encompass every deviation from the principle of sovereign equality. It refers to non-reciprocal arrangements which seek to foster substantive equality in the international community. In practice, this mainly includes deviations which seek to favour least favoured states. The latter can often be equated with developing and least developed countries. This categorization, which is based mainly on a measure of economic development, is relevant in a number of cases because economic development is of prime importance in a range of fields, such as trade, that are covered by international cooperation and because it is often correlated with levels of political or military power. However, the level of economic development is not the only means of categorizing states for purposes of differentiation ». For more information of this topic : Philippe Cullet : *Differential Treatment in International Law : Towards a New paradigm of Inter-state Relations*, *EJIL*, 1999. Available at : <http://www.ejil.org/pdfs/10/3/599.pdf>

- Yuli Chen : Op cit, p 03. <sup>20</sup>

<sup>21</sup> - MUZIAN BATOOL, Muhammad Jamil. *Environmental Degradation in Developed and Developing Countries from the Stand Point of Financial Development and Institutional Quality*.

<sup>22</sup> - DURAIAPPAH, Anantha. *Poverty and environmental degradation: a literature review and analysis*. CREED Working Paper Series No 8, 1996. P04.

<sup>23</sup> - BRUNDTLAND, Gro Harlem, EHRLICH, Paul, GOLDEMBERG, Jose, *et al.* *Environment and development challenges: the imperative to act*. *The Asahi Glass Foundation, Tokyo*, 2012.

<sup>24</sup> - Sarah Mason-Case and Julia Dehm : *Redressing Historical Responsibility for the Unjust Precarities of Climate Change in the Present*, Cambridge University Press, 2021, P172. <https://doi.org/10.1017/9781108879064.014>

<sup>25</sup> - Yuli Chen : Op cit, p 03.

<sup>26</sup> - Jason Hickel : *The contradiction of the sustainable development goals: Growth versus ecology on a finite planet*, Welly online Library, sustainable, Development, Volume27, Issue5, 2019, P 6. <https://doi.org/10.1002/sd.1947>

<sup>27</sup> - Patricia Galvao Ferreira : *Differentiation in International Environmental Law Has Pragmatism Displaced Considerations of Justice?*, Cambridge University Press, 2018, p25. DOI: <https://doi.org/10.1017/9781108526081.003>

<sup>28</sup> - Shearer, C. R. H. (1994). *INTERNATIONAL ENVIRONMENTAL LAW AND DEVELOPMENT IN DEVELOPING NATIONS : AGENDA SETTING, ARTICULATION, AND INSTITUTIONAL PARTICIPATION*. *Tulane Environmental Law Journal*, 7(2), 391–430. <http://www.jstor.org/stable/43291244>

<sup>29</sup> - Lukas H. Meyer & Dominic Roser (2010) *Climate justice and historical emissions*, *Critical Review of International Social and Political Philosophy*, 13:1, 229-253, DOI: 10.1080/13698230903326349

<sup>30</sup> - Eponine Howarth : *Common But Differentiated Responsibilities: Inequitable and Ineffective?*, *LSE Law Review*, 2021

<sup>31</sup> -Tuula Honkonen: *The Common But Differentiated Responsibility Principle in Multilateral Environmental Agreements*, Kluwer Law International B.V, 2009.

## **Bibliography:**

### **A-International documents and agreements**

- Declaration of the United Nations Conference on the Human Environment (1972). The United Nations Conference on the Human Environment, having met at Stockholm from 5 to 16 June 1972,
- the Kyoto Protocol operationalizes the United Nations Framework Convention on Climate Change adopted on 11 December 1997. Owing to a complex ratification process, it entered into force on 16 February 2005,
- UN Doc A/CONF.151/PC/WO.HI/L20/REV.1 (1992): (Proposal submitted on behalf of the Group of 77)
- UN Doc : Rio Declaration on Environment and Development 1992, available at : <https://www.jus.uio.no/lm/environmental.development.rio.declaration.1992/portrait.pdf>
- Emissions Gap Report 2021: The Heat Is On. Available at: <file:///C:/Users/pc/Desktop/article%20anglais/EGR21.pdf>

### **B- Books:**

- MUZIAN BATOOL, Muhammad Jamil. Environmental Degradation in Developed and Developing Countries from the Stand Point of Financial Development and Institutional Quality. Ar Edition, 2010.
- Sandrine Maljean-Dubois. LA RESPONSABILITE INTERNATIONALE DE L'ETAT POUR LES DOMMAGES CLIMATIQUES. Cournil C. Varison L. Les procès climatiques: du national à l'international, Pedone, 2018, available at: <https://halshs.archives-ouvertes.fr/halshs-01894640>

### **C – Theses:**

- Per Josephson : COMMON BUT DIFFERENTIATED RESPONSIBILITIES IN THE CLIMATE CHANGE REGIME - Historic Evaluation and Future Outlooks, Thesis in International Environmental Law, Stockholm University, 2017. Available at: <https://www.diva-portal.org/smash/get/diva2:1134510/FULLTEXT01.pdf>
- MABASI THADEUS : The principle of common but differentiated responsibilities in the international climate change legal framework, Thesis, University of Oslo Faculty of Law, 2010, Link: <https://www.duo.uio.no/bitstream/handle/10852/22657/MABASIXTHADEUSxTHESIS.pdf?sequence=1&isAllowed=y>

### **D - Newspaper articles:**

- BRUNDTLAND, Gro Harlem, EHRLICH, Paul, GOLDEMBERG, Jose, et al. Environment and development challenges: the imperative to act. The Asahi Glass Foundation, Tokyo, 2012.
- Christopher D. Stone : Common but Differentiated Responsibilities in International Law, The American Journal of International Law, Vol. 98, No. 2 (Apr., 2004), pp. 276-277. Available at: <http://www.jstor.org/stable/3176729>
- Duncan French (2000). Developing States and International Environmental Law: The Importance of Differentiated Responsibilities. International and Comparative Law Quarterly, 49, pp 35-60 doi:10.1017/S0020589300063958
- DURAIAPPAH, Anantha. Poverty and environmental degradation: a literature review and analysis. CREED Working Paper Series No 8, 1996. P04.
- Eponine Howarth :Common But Differentiated Responsibilities: Inequitable and Ineffective?, LSE Law Review, 2021

- Jason Hickel : Quantifying national responsibility for climate breakdown: an equality-based attribution approach for carbon dioxide emissions in excess of the planetary boundary, The Lancet Planetary Health, Elsevier, Volume 4, Issue 9, September 2020. [https://doi.org/10.1016/S2542-5196\(20\)30196-0](https://doi.org/10.1016/S2542-5196(20)30196-0)

- Jason Hickel : The contradiction of the sustainable development goals: Growth versus ecology on a finite planet,Welly online Library, sustainable, Development, Volume27, Issue5, 2019, P 6. <https://doi.org/10.1002/sd.1947>

- Lukas H. Meyer & Dominic Roser (2010) Climate justice and historical emissions, Critical Review of International Social and Political Philosophy, 13:1, 229-253, DOI: 10.1080/13698230903326349

- Patricia Galvao Ferreira : *Differentiation in International Environmental Law Has Pragmatism Displaced Considerations of Justice?*, Cambridge University Press, 2018, p25. DOI: <https://doi.org/10.1017/9781108526081.003>
- Philippe Cullet : *Differential Treatment in Environmental Law : Addressing Critiques and Conceptualizing the Next Steps*, Transnational Environmental Law, Cambridge University Press, , Available at : [https://eprints.soas.ac.uk/22774/1/Cullet\\_22774.pdf](https://eprints.soas.ac.uk/22774/1/Cullet_22774.pdf)
- Philippe Cullet : *Differential Treatment in International Law : Towards a New paradigm of Inter-state Relations*, EJIL, 1999. Available at : <http://www.ejil.org/pdfs/10/3/599.pdf>
- Per Kågeson – KTH : *Applying the Principle of Common but Differentiated Responsibility to the Mitigation of Greenhouse Gases from International Shipping*, Centre for Transport Studies SE-100 44 Stockholm Sweden, 2011, P 06. Link : <https://www.transportportal.se/SWoPEc/CTS2011-5.pdf>
- Rajamani, L. *The Principle of Common but Differentiated Responsibility and the Balance of Commitments under the Climate Regime. Review of European Community and International Environmental Law*, (2000) 9(2), 120–131. doi:10.1111/1467-9388.00243
- Sarah Mason-Case and Julia Dehm : *Redressing Historical Responsibility for the Unjust Precarities of Climate Change in the Present*, Cambridge University Press, 2021. <https://doi.org/10.1017/9781108879064.014>
- Shearer, C. R. H. (1994). *INTERNATIONAL ENVIRONMENTAL LAW AND DEVELOPMENT IN DEVELOPING NATIONS : AGENDA SETTING, ARTICULATION, AND INSTITUTIONAL PARTICIPATION*. *Tulane Environmental Law Journal*, 7(2), 391–430. <http://www.jstor.org/stable/43291244>
- Steven Bernstein : *The absence of great power responsibility in global environmental politics*, *European Journal of International Relation*, Vol 26 (1), 2021. Available at : <https://journals.sagepub.com/doi/pdf/10.1177/1354066119859642>
- Yuli Chen : *Reconciling common but differentiated responsibilities principle and no more favourable treatment principle in regulating greenhouse gas emissions from international shipping*, Elsevier, 2021. <https://doi.org/10.1016/j.marpol.2020.104317>
- Tuula Honkonen : *The Common But Differentiated Responsibility Principle in Multilateral Environmental Agreements*, Kluwer Law International B.V, 2009.