

GENDER EQUALITY AND CLIMATE CHANGE: THE NEED FOR PROTECTING RURAL WOMEN OF SUB-SAHARA AFRICA

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ABSTRACT

Climate change is a global hazard and a danger to humanity. Its impact is sensed by both the industrialized and the non-industrialized countries of the world. The African continent, especially sub-Saharan Africa, is overwhelmed by the various influences of climate change due to its agrarian way of life. Climate change is felt by all humans, but more on the vulnerable, such as rural women. It impinges on the enjoyment of her fundamental human rights and also heightens some existing gender inequalities, thereby making her more vulnerable to climate change. Gender equality is a fundamental human right as enshrined in international and regional norms, which state parties are bound to observe, while human rights are a platform for social justice. Gender equity is a vital tool to achieving climate justice and sustainable development. This paper analyzed the correlation of climate change, gender equality, and sustainable development. It focused on how the establishment of a human rights methodology can protect the rural woman through existing international human rights norms. The doctrinal method of legal research was adopted in the analysis. It was found that many African countries have good laws in line with their international commitments towards gender equality, human rights, and climate change, yet the rural woman is not protected due to a lack of implementation and insincerity of governance. It was the recommendation of this paper that a gender-responsive climate change, among other things, would be a better approach in solving the climate change crisis.

Keywords: climate change; gender equality; human rights; rural women; women's rights.

1. Introduction

The Earth is under threat of climate change, which manifests as environmental degradation, flooding, drought, landslides, hurricanes, erosion, excessive rainfall, and unpredictable weather conditions etc. These have posed a threat to humanity in recent times and make the future uncertain for mankind. It challenges the sustenance of the human race and has distorted the ecological equilibrium and the entire biosphere. It is a threat to environmental renewability and sustainable development, especially in sub-Saharan Africa.¹ It is adverse to individual rights and the socio-

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¹ B Mayer, *The International Law on Climate Change* (Cambridge University Press 2018)

economic well-being of humans at the international, regional, and domestic levels.² The adverse effect of climate change is not only felt by the vulnerable, but it also cuts across gender lines, thereby highlighting the inequalities that already exist between genders in Africa.³ Gender concerns embrace a series of cultural, social, and religious expectations;⁴ mutual responsibilities, access to resources, policy development, and inclusion, etc.⁵ The African continent is home to many vulnerable people in the world. Gender inequality makes women, particularly rural women, vulnerable to climate change. They face unequal opportunities brought about by cultural, social, and religious beliefs; are more likely to be illiterate; and are disadvantaged in the labour market.⁶ Climate change brings about a chain of reactions that encourage environmental instability and highlight underdevelopment. These upset women's rights to survival and wellbeing, including their fundamental right to life and development.⁷ This paper establishes the correlation between climate change, gender equality, and sustainable development, and how environmental instabilities impinge on sustainable development and the basic rights of rural women in sub-Saharan Africa. For there to be climate justice, environmental sustainability through policy measures can be achieved by promoting and protecting the human rights of rural women and by bridging gender gaps for all-round development in the sub-Saharan. The paper is separated into seven parts; part one is this introduction; part two gave some conceptual clarifications of major terms used in the work; part three discussed the African experience of climate change, gender equality and sustainable development drawing examples from three different African countries thus; the East, West and South of Africa - Kenya, Nigeria and South Africa. Part four discussed the nature and relationship that binds climate change, gender equality and human rights. Part five briefly discusses some effects of climate change on the rural woman. Part six highlights some legal protection for rural women against climate change, while part seven gives the conclusion and makes some recommendations.

2. Conceptual Clarifications.

2.1 Gender Equality and Gender Equity.

²S Atapatu, *Human Rights Approach to climate Change: Challenges and Opportunities* (Rutledge 2016); also available at <<https://doi.org/10.4324/9781315849683>> accessed 11/6/2024.

³ Michael Addaney, and Chantelle Gloria Moyo, 'Women's Rights, Gender and Climate Change Law in Africa: Advancing an Equity Agenda,' [2018] (5) *Journal of Law, Society and Development*, available at <<https://upjournals.co.za/index.php/ajlsd>> accessed 11/6/2024.

⁴ O Adeola et al, 'Gender and Climate Issues in Africa: Rural Insights, Challenges and Recommendations: Gender Equality, Climate Action and Technological Innovation for Sustainable Development in Africa, Sustainable Development Goals Series', available at <https://doi.org/10.1007/978.3.031-40124-4_2>.

⁵ N Bouchama, G Ferrant, L Fuirer, A Meneses, and A Thim (2018) 'Gender inequality in West African Social Institutions,' West African Papers, No. 13, OECD Publishing, <<https://doi.org/10.1787/fe5ea0ca-en>> accessed 11/6/2024.

⁶ R Musavengane, and L Leonard, 'When Race and Social Equity matters in Nature Conservation in Post-apartheid South Africa.' *Conservation and Society*, [2019] (17) (2) 135-146.

⁷ Kleiber Lau et al 'Gender equality in climate policy and practice hindered by assumptions Nature Climate Change' *Nature Publishing Group* [2021] 11(3) 186-192.

Gender equality is equal access to opportunities and resources irrespective of gender.⁸ It is the enjoyment of the same rights, equal opportunities, resources, and privileges by both genders.⁹ It is the fifth of the seventeen sustainable development goals by the United Nations (UN). While gender equity is observing fairness in considering these strategies and yardsticks by having regard to the nature of women. It is respecting their abilities and limitations without discriminating against them. Equity brings into consideration the fact that men and women have different needs and capabilities, and that these differences should be considered and addressed while dealing with both sexes. This could be considered regarding rights, responsibilities, chances, and benefits.¹⁰ Gender equality is a human right and a means of shaping practical involvement based on ideologies of social justice and the dignity of all human beings. Since both men and women play critical roles in the fight against climate and environmental changes, everybody's knowledge and effort are vital for growth and sustainable development. Gender equality is part of the provisions of the Universal Declaration of Human Rights (UDHR).¹¹ Therefore, women's rights are human rights by the provisions of the UDHR and all other UN Human rights provisions. Gender equality prevents violence against women and girls and protects their human, social, and economic rights. While gender equity recognizes the fact that each sex has dissimilar conditions and assigns precise resources and chances needed to attain an equal result.

2.2 Climate change and climate justice.

Climate change is the long-term variations in temperature and climate patterns owing to natural changes in the sun's activities, and mostly as a result of human activities.¹² According to the observations of the UN, human actions are the foremost drivers of climate change due to the burning of fossil fuels like oil, gas, bush burning, coal, etc.;¹³ unsafe use of plastics, dangerous chemicals, etc. The burning of fossil fuels produces greenhouse gas emissions, which envelop the earth, trapping the sun's heat, thereby causing excessive temperatures. These greenhouse gases are largely carbon dioxide and methane. Man clears and burns the bushes for agricultural purposes and cuts down trees, engages in gas flaring, etc., which emit methane and other dangerous gases into the atmosphere. Thus, the activities of humans, through industrialization, transportation, agriculture, energy, and other land uses, inject dangerous chemicals into the atmosphere. The unsustainable use of the environment contributes to distorting the atmosphere and producing greenhouse gases. From the findings of climate scientists, human beings are accountable for

⁸ Wikipedia, 'Gender Equality, what does it Mean? – *Egulte-Femmems/Hommes*' Gender Equality.essec.edu. Archived from the original accessed 17/6/2024.

⁹ UNICEF Roger LeMoyné, 'Promoting Gender Equality: An Equity-based Approach to Programming (2011) PDF OPERATIONAL Guidance Overviews in Brief, Archived from the original accessed 17/6/2024.

¹⁰ A Desprez-Bouanchard, J Doolag, and L Ruprecht, Guidelines on Gender-Neutral Language, Paris, Unesco, (1999) available at <<https://unesdoc.unesco.org/images/0011/001149/114950mo.pdf>>; CEDAW Committee (2010). General Recommendation No.28 on the core obligations of state parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women.

¹¹ Article 1 Universal Declaration of Human Rights (hereafter UDHR) in Barry E Carter (ed) *International Law: Selected Documents*, New York: Aspen Publishers, 2007. P. 396

¹² United Nations, "What is Climate change? Available at <<https://www.un.org>> accessed on 17/6/2024.

¹³ Ibid.

practically all diminution of the ozone layer, global warming and climate change and the effects of these activities have been on for over 200 years undetected.¹⁴ Meanwhile, climate justice is a methodology to climate action focused on the uneven effects of climate change on vulnerable people. It seeks to achieve an equitable distribution of the burdens of climate change and the struggles to alleviate such changes.¹⁵ Climate justice puts parity and human rights at the centre of decision-making. It recognises the fact that climate change affects people differently and seeks to recognize and protect the most vulnerable.¹⁶ The principle of climate justice is used to address the inequalities in the responsibility, which states and people have about the climate cataclysm ravaging the earth. It suggests that individuals, states, industries, and businesses who have benefited from the activities which have contributed to the greenhouse effect should own up to the responsibility of assisting the vulnerable and those who have been affected by climate change to weather the effects of climate change.¹⁷ Climate justice is reducing activities that may encourage climate change,¹⁸ and helping the most affected countries, communities, and groups, who are most affected by climate change. Climate justice is approaching the effects of climate change by protecting the rights of the most vulnerable, adopting a human-centered approach, and sharing in the burdens and the resolutions of climate change in an equitable way. Climate justice is gender justice, realising the distinct plight of women, especially the illiterate rural woman who depends on her natural habitat for the survival of herself and her children. Climate justice goes beyond environmental justice to include the socio-economic and ecological justice for the vulnerable who may not really have a hand in the cause of climate change but are the greatest sufferers of the consequences of the actions of the perpetrators of environmental damage.¹⁹

There are five approaches to climate justice. These include the environmental rights-based approach; the political developmental rights-based approach, the historical disadvantage approach; the pre-capita equity approach; and the human rights approach,²⁰ which this research adopts. The human rights approach recognizes the fact that climate change cuts across gender lines, class, race, and power inequalities,²¹ and the rural dwellers, especially the rural women of developing or underdeveloped countries, are at the lowest rung of things. Climate justice takes into account the

¹⁴ Ibid.

¹⁵ UN Climate promise “Climate Change is a Matter of Justice- here’s Why” available at <https://climatepromise.undp.org> accessed 17/6/2024.

¹⁶ Ibid.

¹⁷ David Schlosberg and Collins B Lisette, ‘From Environmental to Climate Justice: Climate Change and the Discourse of Environmental Justice’ (2014)5 *Wires Climate Change* 359, 360-64.

¹⁸ Mary Robinson Foundation Climate Justice – The Geography of Climate Justice: An Introductory Resource available at www.ria.ie/climatejustice.aspx accessed 11/7/2024.

¹⁹ Chitresh Saraswat and Pankaj Kumar, Climate Justice in Lieu of Climate Change: a Sustainable Approach to Respond to the climate Change injustice and an Awakening of the Environmental Movement, 1 *Energy, Ecology and Environment* 67, (2016).

²⁰ Darrel Moellendorf, ‘Climate Change and Global Justice’, (2012) 3 *Wires Climate Change* 131 -135, 139; and Kenneth Shockley, ‘A Gentle Critique of the Greenhouse Development Rights Framework’, (2013) 4 *Wires Climate Change* 225 - 228.

²¹ I.E.M Dankleman, and W.H.M Jansen (ed) *Gender, Environment and Climate Change: Understanding the Linkages, in Gender and Climate Change: An Introduction*, (Irene Dankleman 2010).

fact that climate change affects all the essential human rights of the rural woman, including her right to life, right to sustenance, right to health²², which includes her reproductive and mental health, etc.²³

2.3 Sustainable Development:

This is a tactic of advancement and human expansion that aims at meeting the desires of the present without conceding the needs of future generations.²⁴ The United Nations conference on environment provides, “human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.”²⁵ According to Robert *et al*, Sustainable Development targets a society where living conditions and resources meet human desires without destabilising environmental aptitude.²⁶ It targets the economic, social, and environmental well-being of both the present and future generations.²⁷ Sustainability is a long-term goal to achieve, while sustainable development is the way to achieve these goals.²⁸ The implication of sustainable development for Africa is achieving a stable and sustained crop rotation, green space, effective water fittings, sustainable constructions, sustainable wind and solar energy, and sustainable forestry.²⁹ and sustainable mining and drilling. A sustained environment considers human socio-economic and environmental needs continuously. It is both the conservation of the ecosystem and the human resources.³⁰ as provided in the Declaration, “To achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.”³¹

2.4 Human Rights.

These are moral principles for certain standards of human conduct. They are the basic rights due to all humans, and which, if any, are denied, would dehumanise or make that human being less human. These rights apply irrespective of gender, religion, class, or culture.³² Women’s rights are human rights and encompass the basic human rights to certain other rights due to women by their gender, such as their reproductive rights.³³ Human rights are an international responsibility for the preservation of mankind, especially the vulnerable. Women’s rights are entitlements due to women

²² Ibid 25.

²³ David Schloberg and Lisette B. Collins, note 17.

²⁴ Rio Declaration on Environment and Development, Principle 3, Adopted by over 178 Governments at the U.N Conference on Environment and Development (UNCED, hereafter Rio Declaration), held in Rio de Janeiro, Brazil, June 3-14, 1992 in Barry E. Carter Supra.

²⁵ Rio Declaration Supra, Principle 1.

²⁶ W Robert Krates, M Parris Thomas, Anthony A Lei Serowitz, ‘What is Sustainable Development? Goals, Indicators, Values, and Practice.’ *Environment: Science and Policy for Sustainable Development* [2005]47(30) 8-21.

²⁷ Mensah Justice, “Sustainable Development: Meaning, History, Principles, Pillars, and Implications for Human Action: Literature Review” *Cogent Social Sciences* [2019]5(1) 26.

²⁸ “Sustainable Development” UNESCO. 3 August 2015 accessed 11/7/2024.

²⁹ Mensah, note 24.

³⁰ Ibid.

³¹ Rio Declaration Supra, Principle 4.

³² UDHR Supra, Article 2.

³³ UDHR Supra, Article 25.

and which are peculiar to them.³⁴ These rights include economic, social, and civil rights. They include freedom from discrimination and abuse; right to the attainment of physical and mental health; right to own property; right to vote and be voted for; right to employment; right to equal wage; right to access land; right to justice; right to health and right to education.

2.5 Sub-Saharan Africa

This is the non-Mediterranean Africa, south of the Sahara. It stretches to the Central, East, South, and West African regions, with the exclusion of North Africa, which is the Arab Africa. Sub-Saharan Africa consists of 49 out of the 54 countries in Africa, with an estimated population of 1.03 billion people.³⁵ Sub-Sahara African countries include Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroun, Cape Verde, Central Africa, Chad, Congo, Cote d'Ivoire, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra-Leone, Somalia, Sudan, South Africa, Tanzania, Togo, Uganda, Zambia, Zimbabwe, etc.³⁶ Sub-Saharan Africa is the green part of Africa, and they are mostly dependent on its natural environment for survival. This makes them more disposed to the effects of climate change. Sub-Saharan Africa contains most of the low-income countries of the world. Some are so fragile and conflict-affected; 13 of these countries have a small population, a confined land area, and limited human capital.³⁷ Sub-Saharan Africa consists of rich natural resources and the largest free trade zone in the world. They have a rich biosphere and depend mostly on their natural resources. A large proportion of them are in the rural areas and are mostly into subsistence agriculture. Their heavy dependence on their natural resources makes them highly vulnerable to the ravaging climate change. Sub-Saharan Africa has rich tropical rainforests, the Sahel, the Savannah, and the Sahara Desert. It houses one of the largest rivers of the world, large lakes, and mountains. Yet, the world's poverty is concentrated in sub-Saharan Africa.³⁸ Statistics show that East Africa had a poverty rate of 33.8%, West Africa- 36.8%, South Africa- 45.1%, and Central Africa- 54.8% in 2019.³⁹ Not much has changed five years later.

3. Climate Change, Gender Equality, and Sustainable Development in Africa.

As earlier said, the most perplexing threat to sustainable development in Africa is climate change.⁴⁰ Africa is the least contributor to climate change compared to industrialised regions of the world, yet it houses a population most threatened by the damaging effects of climate change. About 70%

³⁴ Convention on the Elimination of all Forms of Discrimination against Women, Article 1, adopted by the General Assembly of the United Nations on December 18, 1979. G.A Res. 280. Entered into force on September 3, 1981, 19 I.L.M 33 (1980); See also Barr E. Carter Supra, 448.

³⁵ Sub-Sahara Africa: 2018 World Region-Global philanthropy Index available at <https://globalindices.indianapolis.iu.edu> accessed 11/7/2024

³⁶ Ibid.

³⁷ Ibid.

³⁸ "Africa is losing the battle against extreme poverty" available at <https://issafrica.org> accessed 12/7/2024.

³⁹ Sub-Sahara Africa International Trade Administration <https://www.trade.gov> accessed 18/6/2024.

⁴⁰ Patricia Alexander (AFDB Consultant); Alice Nabalamba (Statistics deoartment, AFDB); AND Maurice Nubila (Statistics Department, AFDB), "The Link between Climate Change, Gender and Development in Africa" *The African Statistical Journal* [2011]12 (1).

of sub-Saharan Africans depend on subsistence agriculture;⁴¹ 57% of Africans are engaged in agriculture; women represent more than 40% of the agricultural workforce.⁴² They engage in subsistence farming, fishing, and marketing of their produce for other economic sustenance. Their overdependence on their environment for livelihood makes them more susceptible to climate change. One of the issues before the UN Commission on Sustainable Development (CSD 14) is how the world can mitigate its effects on the earth and especially on the vulnerable, and it considers Africa the most vulnerable continent because of its economic dependence on its ecosystem, unlike the industrialised continents of the world.⁴³ Parts of the sub-Saharan have begun to experience unusually heavy rainfalls, excessive flooding, extreme drought and other adverse weather occurrences. For instance, over 800 persons died in the flooding, which swept across Chad, Niger, and Nigeria and other neighboring countries in 2022.⁴⁴ This was after the devastating drought in Burkina Faso, Chad, Niger and Nigeria in 2021, which led to food crisis in 2022.⁴⁵ Same 2022, an estimated 612 persons were killed, about 570,000 hectares of farmland were damaged, and 1.5 million people were forced to leave their homes. Niger lost an estimated 195 persons and Chad lost 22 persons along with Cameroun and Benin with no known number of loss.⁴⁶ Before the flooding of Chad in 2022, the country experienced an extensive dry period, which killed crops and led to the food crisis in 2023.⁴⁷ Fredi Otto summed it up when he said that ‘African countries are among the most vulnerable to the impacts of climate change... many of these impacts are happening, even if they do not make international headlines....’⁴⁸ The Assessment of Impacts and Adaptation to Climate Change (AIACC) shows the risks of climate change in sub-Saharan.⁴⁹ Analysis reveals changes in temperatures, causing a significant rise in heat waves from 1978 to date. Analysis of the period 1961 to 2001 also detected an increase in rainfall at altitudes above sea level,⁵⁰ with significantly high temperatures across the sub-Saharan. For example, there is a rise in temperature in Kabale, Uganda, from 2°C to 3.6°F in 3 years.⁵¹

The quest for development and the discovery of oil in some parts of sub-Saharan Africa further encouraged degradation of the environment in the last few decades. Developmental activities have

⁴¹ Ibid.

⁴² Ibid.

⁴³ Clemente-Alloza, “COP27; What You Need to know about this Years’ Big UN Climate Conference” UN News, 28 October 2022 <<https://news.un.org/en/story/2022/10/1129947>>.

⁴⁴ Mark Pointing and Esmestallard- ‘How Climate Change worsens Heat Waves, Droughts, Wildfires and Floods. BBC News Climate Change made Rain behind Deadly West Africa Floods 80 times more likely’ - *Imperial News* 16/11/22 available at <www.imperial.ac.uk> accessed 12/7/2024.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Fredi Otto, a Lecturer in Climate Science, Grantham Institute, Imperial College London; and Co-founder of World Weather Attribution, quoted in Simon Levey, 2022. ‘Climate change made rain behind deadly West Africa floods 80 times more likely’ available at <<https://www.imperial.ac.uk>> accessed 7/8/2024.

⁴⁹ AIACC Project Profile <www.aiaccproject.org> accessed 15/7/2024.

⁵⁰ Wandiga et al (2004) Vulnerability to climate induced Highland Malaria in East Africa. Report of the Assessment of Impacts and Adaptation to climate change in multiple Regions and sectors (AIACC) Project in Preparation

⁵¹ Ibid.

necessitated deforestation; pollution of land, air, and sea; high energy consumption, burning of fossils, soil pollutants due to modern chemical additives to land and foods; and use of dangerous weapons due to increased conflict situations and insecurity in the sub-region. Also, gas flaring due to industrialisation and combustion of petroleum-based fuels adds carbon and dangerous gases to the atmosphere. More so, Africa is a dumping site for used vehicles. This has increased the number of vehicles in sub-Saharan countries. It is a common sight to have traffic congestion in urban areas, leading to localized emissions of gaseous substances into the atmosphere. Development has also increased the deforestation of arable lands for construction. Though development is welcoming but Africa must focus on development without harming the present or future of the region.⁵² The aim is to have a system that meets human needs without compromising planetary integrity.⁵³ Sustainable Development aims at balancing the needs of the environment, economy, and social wellness.⁵⁴ Climate change is a threat to sustainable development as it affects all areas of human existence, including agriculture, public health, water resources, etc.⁵⁵ It is quite clear that the sub-Saharan region in particular is at great risk of climate change, however, reports have highlighted an even greater risk on female gender, especially the rural illiterate farmers.⁵⁶ The rural African woman is not empowered. She depends heavily on the subsistence of her natural environment. Climate change merely adds to her vulnerability despite her unique endowments and skills, which can assist in dealing with climate change.

Women constitute a greater part of the world's low-income group and are more reliant on their natural environment. They face economic, social, cultural, religious, and political barriers that limit their abilities. Though both men and women in the rural areas are vulnerable due to their high reliance on natural resources for their livelihoods but traditionally, women and girls are charged with the responsibility to get food, water, and fuel for the family, and this task is daunting in the face of climate change. The African woman is culturally and socially disadvantaged in terms of access to resources, especially land, and is mostly excluded from the decision-making process.⁵⁷

⁵² United Nations General Assembly (1987). Report of the World Commission on Environment and Development: Our Common Future, chapter 2: Towards Sustainable Development; Paragraph 1 United Nations General Assembly. Archived 31 March, 2022 at the Wayback Machine. Transmitted to the General Assembly as Annexed to document A/42/427-Development and International Co-operation: Environment.

⁵³ Kate W Robert, Thomas M Parris, Anthony A. Leiserowitz, "What is sustainable Development? Goals, Indicators, Values and Practice." [2005]47 (3) *Environment: Science and Policy for sustainable development* 8-21.

⁵⁴ Mensah Justice, "Sustainable Development: Meaning, History, Principles, Pillars, and Implication for Human Action: Literature Review" [2019]5 (1) *Cogent Social sciences* 165.

⁵⁵ United Nations Environment Programme (UNEP) African Regional Implementation Review 4, the 14th Session of the Commission on Sustainable Development (CSD-14): Report on Climate Change. Prepared by UNEP on behalf of the Joint Secretariat UNECA, UNEP, UNIDO, UNDP, ADB and NEPAD Secretariat pg. 2.

⁵⁶ O Adeola, et al, "Gender and Climate Issues in Africa: Regional Insights, Challenges, and Recommendation," *Gender Equality, Climate Actions, and Technological Innovation for Sustainable Development in Africa*, Sustainable Development Goals Series <https://doi.org/10.1007/978-3-031-40124-4_2>

⁵⁷ 52nd Session of the Commission on the Status of Women (2008) "Gender Perspectives on Climate Change: Issues Paper 4, Interactive Experts Panel on Emerging Issues, Trends and New Approaches to Issues Affecting the Situation of Women or Equality between Women and Men, available at <<https://www.un.org/womenwatch/daw/csw52/issuesspapers/Gender%20and%20climate%20change%20paper%20final.pdf>> accessed on 12/7/2024.

This is where climate justice comes in to ensure these disparities between men and women, as they face the effects of climate change, are addressed through gender-sensitive schemes in the response to ecological and humanitarian emergencies caused by climate change.⁵⁸ Rural women are not just vulnerable, but their skills and expertise could be useful in the mitigation and adaptation tactics to climate change. They are not just restricted to their households, but as stewards of natural resources, they can contribute greatly to livelihood strategies and adaptations to face environmental uncertainties,⁵⁹ and sustainable developments.

4. Nature of Climate Change, Gender Equality and Human Rights.

Climate change defies individual rights, social groups, environmental sustainability, ecological equilibrium, and sustainable development.⁶⁰ No region, whether developed or developing, is completely left out in its far-reaching social and economic effects. Climate change impacts directly or indirectly on many internationally guaranteed human rights.⁶¹ It is a global menace, but its impact is felt more by some parts of the world than others.⁶² In Africa, different countries are facing different climate challenges.⁶³ Climate change affects all the inherent rights of humans, including the right to life, the right to health, the right to a sustainable environment, and all economic, social, and political rights. African women are culturally and socially subjugated to men. Climate change further highlights the existing gender inequality. International norms on climate change are supposed to guarantee equality, equity, and fairness bearing in mind that the African belief system excludes women from resource control and in decision-making, thereby, making them unequal and more vulnerable than the men in most things and this further affects the way both gender suffer the impacts of climate change.⁶⁴ All human rights instruments impose obligations on state parties to take steps to protect human rights in their climate change response, and this should be done without discrimination. The failure to check human rights abuses caused by climate change is a direct breach of these obligations. It is an obligation on states to ensure that everyone has the necessary ability to adjust to climate change, and in doing this, they should pay attention to the needs and abilities of the most vulnerable, such as rural women, children, the disabled, migrants, the aged, and the very poor.⁶⁵

⁵⁸ Ibid.

⁵⁹ B Mayer, *The International Law on Climate Change*, (Cambridge University Press 2018) 45.

⁶⁰ S Atapattu, *Human Rights Approach to Climate Change: Challenges and Opportunities* (Rutledge 2016) also <<https://doi.org/10.4324/978315849683>> accessed 12/7/2024.

⁶¹ Submission of the Office of the High commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change.

⁶² M Addaney and P.B. Cobbinah, 'Climate Change, Urban Planning and Sustainable Development in Africa: The difference Worth Appreciating' in P.B. Cobbinah and M. Addaney (Eds) *Geography of Climate Change Adaptation in Urban Africa* (Springer 2019) <<https://doi.org/10.1007/978-3-030-04873-0>>.

⁶³ Ibid.

⁶⁴ J Nagel, 'Introduction; Why Gender and Climate Change?' In Joanne Nagel (ed) *Gender and Climate Change; Impacts, Science, Policy* (Rutledge 2015); <<https://doi.org/10.4324/9781315675275>>. Accessed 18/6/2024.

⁶⁵ M Addaney and P.B. Cobbinah, note 63.

Rural women are susceptible to discrimination due to the already established cultural and social inequalities. Culturally, women are not endorsed to own land; in their domestic responsibilities, they are more likely to be the ones to get water, food, and fuel for the well-being of the family. They carry pregnancy and nurture children, and they are excluded from the decision-making process, which is seen as the prerogative of men. Although the decisions reached in many cases affect women and children more. The rural women are prone to poverty than the men because of the unequal balance of power and resources. In most parts of Africa, women have no property rights, they have no access to land or other natural resources except as much as could be allowed them in marriage. This cultural belief has not changed much despite sound policies and case laws on the subject of female inheritance. In the case of *Ukeje v. Ukeje*,⁶⁶ the Supreme Court of Nigeria abolished the custom of male primogeniture, which disinherits the girl child. Also, in *Unity Dow v. A.G. Botswana*,⁶⁷ the High Court of Botswana interpreted a statutory provision in favour of the inheritance rights of the Botswana women.⁶⁸ These cases, particularly, spotlight the disadvantaged position of African widows and their children in the hands of their deceased husband's relatives. African widows are stripped of all entitlements and their human dignity, despite many legal reforms on women's rights.⁶⁹ One of the latest legislations in Nigeria's Niger Delta States provides, "No woman shall be subjected to any form of discrimination or deprivation in the distribution, allocation or inheritance of family or community property."⁷⁰ Yet, this has not reduced gender inheritance discrimination.

The rural woman who could also be a widow is illiterate, poor, and vulnerable to approach the law for her rights. Her heavy reliance on her natural environment for her livelihood is further threatened by climate change.⁷¹ Thus, the rural women remain in unending poverty. The UN observed that rural women in underdeveloped or developing countries experience unsatisfactory access to natural resources and are excluded from decision-making.⁷² The pressure associated with the right to use economic and social resources, coupled with dominant inequitable practices like the exclusion of women from decision-making on matters concerning the environment and the resources thereon, are regarded as the primary factors that make women most vulnerable to the effects of climate change. As the UN rightly suggests as part of its Sustainable Development Goals (SDGs), incorporating gender concerns and women's rights into climate change adaptations,

⁶⁶ [2014] LPELR-22724 (SC).

⁶⁷ [1994] 6 (BCLR) 119 (CA).

⁶⁸ The Bill of Rights, section 15.

⁶⁹ Abby Morrow Richardson, 'Women's Inheritance Rights in Africa: The Need to Integrate Cultural Understanding and Legal Reforms,' *Human Rights Brief* (2004)11(2)19-22, available at <<https://digitalcommons.wcl.american.edu>> accessed 18/7/2024.

⁷⁰ Rivers State Prohibition of the Curtailment of Women's Rights to Share in Family Property Law, Pt. 1 Paragraph 3.No. 2, 2022.

⁷¹ E Skinner, 'Gender and Climate Change Overview Report: Bridge Cutting Edge Pack on Gender and Climate Change,' *Institute of Development Studies* (Brighton 2011).

⁷² United Nations Development Programme (UNDP), 'Global Gender and Climate Alliance, Overview of Linkages between Gender and Climate Change' 2011. Available at <<http://www.undp.org/content/dam/undp/library/gender/Gender%20and%20Environment/PBI-APOverview-Gender-and-climate-change.pdf>> accessed 18/7/2024.

alleviations, financing, and empowerment will encourage an inclusive development and world best practices.⁷³

Decisions on climate change must be holistic and all-encompassing. Human rights are the nucleus of human existence and must be considered in all facets of human existence. Denial of these rights is dehumanising. All UN state parties are expected to acknowledge the link between climate change, gender equality, and human rights and to guarantee and incorporate gender realities and human rights into their climate change policies and agenda as provided in the 2016 SDGs⁷⁴ and the Paris Agreement.⁷⁵ Though the advocates of the gender-responsive and rights-based approach to climate change are yet to figure out possible mechanisms for more equitable and operative reactions to climate change.⁷⁶ But, state parties are bound to observe international human rights laws.⁷⁷ Human rights are intrinsic rights which every human being must enjoy without discrimination as to sex, status, class, race, religion, birth, language, colour, ethnicity, nationality, or political party.⁷⁸ This should be a guiding principle in making compatible laws in response to climate change. Perhaps, as Wachira suggested, it is good to critically survey the compatibility of the laws and strategies of climate change actions at the regional and state levels in the Sub-Saharan.⁷⁹ It is important to consider how the poorer countries and vulnerable groups within a state are affected by climate change.⁸⁰ International human rights law is the platform to handle issues of equality and non-discrimination in climate change action. For instance, the UDHR lays the foundation for the protection of fundamental rights to life and right against discrimination; the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides norms which could be used to protect the rights of vulnerable groups, including rural women⁸¹. These rights include the right against discrimination,⁸² right to decent living standard,⁸³ right to employment

⁷³ UN Development Programme, note 73; also, Bali Action Plan 2007. Available at <<http://unfccc.int/resource/docs/2007/cop13/eng/06a01.pdf>> accessed 18/7/2024.

⁷⁴ P.G Ferreira, "Did the Paris Agreement Fail to Incorporate Human Rights in Operative Provisions? Not if you consider the 2016 SDGs." CIGI Papers No. 113, 2016.

⁷⁵ Paris Agreement, 2015.

⁷⁶ Koivurova, Timo; Duyck, Sebastien; and Heinamaki, Leena. 2013. "Climate Change and Human Rights" in Erkki J. Hollo, Kati Kulovesi and Michael Mehling (eds), *Climate Change and the Law*. Dordrecht: Springer at 287.

⁷⁷ Rayamani, I., Darrow, M and McInerney-Lankford, SA 2011. *Human Rights and Climate Change: A Review of the International Legal Dimensions*. Washington, DC: The World Bank, <<https://doi.org/10.1596/978-0-8213-8720-7>> accessed 11/7/2024.

⁷⁸ World Bank. 2006. World Development Report 2006: Equity and Development.

⁷⁹ G.M. Wachira, 'Indigenous People's Rights to Land and Natural Resources' in S. Dersso (ed) *Perspectives on the Rights of Minorities and Indigenous Peoples in Africa* (PULP 2010).

⁸⁰ Intergovernmental Panel on Climate Change (IPCC), 'Summary for Policymakers' in CB Field, VR Barros, DJ Dokken, KJ Mach, MD Mastrandrea, TE Bilir, M Chatterjee, KL Ebi, YO Estrada, RC Genova, B Girma, ES Kissel, AN Levy, S MacCracken, PR Mastrandrea and LL White *Climate Change 2014: Impacts, Adaptation and Vulnerability. Part A: Global and Sectoral Aspects*. Contribution of Working Group 11 to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change 1-32.

⁸¹ International Covenant on Economic, Social and Cultural Rights (hereafter ICESCR), adopted by the U.N. General Assembly at New York on December 16, 1966. Annex to G.A. Res. 2200. Entered into force on January 3, 1976 *U.N.T.S* 3 in Barry E. Carter Supra, 424.

⁸² Ibid. Article 2 (2).

⁸³ Ibid. Article 7(a)(ii).

and social security, right to health,⁸⁴ etc.; the International Covenant on Civil and Political Rights (ICCPR) also provides more provisions for the civil rights of rural women and Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) specifically, provides for equality, justice and non-discrimination.⁸⁵ At the regional level, the African Charter and its Protocols emphasize equality, non-discrimination and self-development.⁸⁶ Besides the basic rights, international and regional human rights laws provide the basis for participation and inclusion. Every human being is entitled to free, active, and meaningful participation necessary to the full enjoyment of all rights, including social, cultural, and self-development, through which the assured rights could be fulfilled. All of these serve as the bases upon which rural women and other vulnerable groups could keenly partake in the climate change response within the state.⁸⁷ This is in line with the provisions of the ICCPR, which encourages people to participate unhindered in public assessments in their state. Rural women should be encouraged to participate actively in politics that affect them, both at the legislative, executive, and administrative decision-making stages. At the regional scene, the African Charter also stressed participation in public decision-making.⁸⁸ Thus, by the human rights-based approach to climate change, states are to provide suitable mechanisms to encourage the vulnerable to exercise their right to participation in their national laws and policies on climate change.⁸⁹ Since human rights are the direct offshoot of natural law, universally accepted and respected by all, they can adequately applied to climate change actions to ensure justice for all. Through human rights, the plights of the vulnerable groups could be addressed.⁹⁰ More so, for a just resolution of climate change concerns, it is only natural and ideal to reach out to all stakeholders, including rural women.⁹¹

According to research from the Office of the High Commissioner for Human Rights (OHCHR), a human rights approach to climate change will expedite the advancement of a consistent gender-responsive and rights-protective international legal context.⁹² This will empower communities and

⁸⁴ Ibid Article 7.

⁸⁵ Convention on the Elimination of all Forms Discrimination against Women, adopted by the General Assembly of the United Nations on December 18, 1979, G.A. Res.280. Entered into force on September 3, 1981. There is an optional Protocol of October 1999, which entered into force on December 22, 2000.

⁸⁶ African Charter on Human and Peoples' Rights (Banjul Charter), adopted by the Organization of African Unity (now African Union AU) at Nairobi, Kenya, on June 27, 1981. Entered into force on Oct. 21, 1986. *I.L.M* 59 (1981).

⁸⁷ Ibid.

⁸⁸ Banjul Charter, Article 13.

⁸⁹ D Hunter, 2009. 'Human Rights Implications for Climate Change Negotiations' [2009] (11) *Oregon Review of International Law* 331, 344.

⁹⁰ M Hall and D Weiss, 'Avoiding Adaptation Apartheid' 2012 (37) *Yale Journal of International law* 309, 344-345.

⁹¹ G Fox, 'A H/Rs Perspective on Climate Change: What value can I add to International Efforts to Mitigate Climate Change?' *Georgetown Environmental Law Review* blog post, 31 March 2015. Available at <https://gdr.org/2015/03/31/a-human_rights-perspective-on-climate-change-what-value-can-it-add-to-international-efforts-to-mitigate-climate-change-part-ii-georgetown-international-environmental-law-review/> accessed 18/6/2024; also, Simon Canes, 'Cosmopolitan Justice, Rights and Global Climate Change' [2015]19 *CAN. J.L. and Jurisprudence* 255 -278.

⁹² OHCHR Working Paper: Update to do 2012 Analytical Outcome Study on the Normative Standards in International Human Rights Law in Relation to Older Persons, March 2021, available at <<https://www.ohchr.org>> accessed 20/7/2024.

indeed rural women to seek legal remedies against their state violations and make it less challenging to access justice.⁹³ Applying human rights principles will align with fundamental principles for assessing climate change action.⁹⁴ Any action plan taken in climate change response without due consideration to the intrinsic rights of human beings, especially the vulnerable and minorities, could cause a devastating effect on the people.⁹⁵ As John Knox, a UN Independent Expert on Human Rights and the Environment, rightly observed, environmental degradation affects all aspects of human rights, including the right to freedom of speech, peaceful assembly, the right to political participation, and the right to information.⁹⁶ No wonder Toussaint *et al* emphasised the need to assume the human rights approach to reparation, such as considering the loss and damage incurred by the people.⁹⁷ This breakthrough was eventually achieved in COP27, which gave five key points for reacting to climate change. These include the establishment of a dedicated fund for losses and damages; maintenance of a clear aim to limit global warming to 1.5°C; holding industries and organizations accountable; mobilising more fiscal support for developing countries; and making efforts toward implementation.⁹⁸ Further agreement to end the fossil era by adopting a swift, just, and equitable transition was reached in the COP28. State parties were urged to further enhance a transparency framework for the execution of the Paris Agreement.⁹⁹ During the COP28, the US Vice-President Harris announced the United States government-led Women in the Sustainable Economy (WISE) Initiative, which pledged to intensify its commitments towards a public and private partnership to increase women's access to training, employment, leadership, and financial resources.¹⁰⁰ The COP28 set a global target to increase its capacity for renewable energy and amplified yearly developments towards energy efficiency.¹⁰¹ One of the expectations for COP29, coming up in November 2024 is an agreement towards a fair and ambitious New Collective Quantified Goal on Climate Finance (NCQG) to address the

⁹³ M Hall and D Weiss, 'Avoiding Adaptation Apartheid' (2012) 37 *Yale Journal of International Law* 309, 344-345.

⁹⁴ G Affreosson, "Human Rights and Indigenous Rights" in Loukachaa, N. (ed) *Polar Law Textbook*. Copenhagen: Nordic Council of Minister 2010.

⁹⁵ 'Understanding Human Rights and Climate Change.' Submission of the Office of the High Commissioner for Human Right to the 21st Conference of the Parties to the United Nations Framework Convention on Climate change <https://www.ohchr.org/sites/default/files/Documents/issues/ClimateChange/cop_21.pdf> accessed 18/7/2024

⁹⁶ Imane Chrif and Catia Trevisani, 'Women's Rights, Climate Change and Environment: Materializing Climate Action on the Ground: *Geneva Centre for Human Rights Advancement and Global Dialogue*, November 2022.

⁹⁷ Toussaint, Patrick and Adrian Martinez Blanco. 'A Human Rights-based Approach to loss and Damage under the Climate Change Regime.'" [2020] 20 (6) *Climate Policy* 743-757, <<https://doi.org/10.1080/1469062.2019.1630354>> accessed 18/7/2024.

⁹⁸ UN Climate Change Conference 'Five Key Takeaways from COP27: UNFCCC' <<https://unfccc.int>> November 2022 accessed 20/7/2024.

⁹⁹ UN Climate Change Conference- "COP 28: What was achieved and What Happened Next?" UNFCCC <<https://unfccc.int-5-key-takeaway>> accessed 20/7/2024.

¹⁰⁰ USAID Announcement at COP28- Climate Change Conference <<https://www.usaid.gov>> Accessed 20/7/2024.

¹⁰¹ COP28: Charting the Road map for Climate Action- Drishti-As <<https://www.drishtialias.com>> accessed 20/7/2024.

urgency and magnitude of the climate situation, with particular consideration for the needs and priorities of state parties especially, developing countries.¹⁰²

5. Climate Change and the Rural Woman.

5.1 Agriculture

The rural woman depends heavily on her environment for her livelihood. She farms, fishes, and trades her produce for other economic needs of the family. She gathers fuel for cooking and water for her domestic and farm needs. A fact sheet circulated by the Global Gender and Climate Alliance (GGCA) shows that women manage just 15% of land in sub-Saharan Africa, even though much of their survival and that of their children depend on the use of farm land.¹⁰³ Also, it was discovered that rural women rarely own agricultural tools and livestock;¹⁰⁴ they are more likely to cultivate their farmlands manually because they cannot easily access farm animals or tractors for mechanised farming.¹⁰⁵ They are not empowered with capital-intensive and efficient methods of irrigation like the men.¹⁰⁶ Men are more likely to have access to better meteorological information than women.¹⁰⁷ The efforts of the rural woman is further frustrated by heavy flooding, drought, and other evidence of climate change. Male-headed households are meaningfully able to cope better in their reaction to climate change than female-headed households.¹⁰⁸ The rural woman is less successful in agriculture due to her natural make-up, like her menstrual flow, pregnancy, lactation, and household chores. It is worse for female-headed households. Meanwhile, according to research, rural women are accountable for 45%-80% of food production in sub-Saharan.¹⁰⁹ Climate change has a substantial impact on water sources. The rural woman needs water for household use and to irrigate her farm.¹¹⁰ In some cases, women and girls have to trek long

¹⁰² 'Letter to Parties and Constituencies- COP29 Azerbaijan' <<https://cop29.az-news-letter-to-parties-and-constituencies>> accessed 20/7/2024.

¹⁰³ 'Gender and Climate Change in Africa: Facts from Gender and Climate Change: A closer look at existing evidence.' (Global Gender and Climate Alliance 2006(GGCA); Also, M Alston, B Bock and S Shortall (eds), 'The Gendered Impact of Drought: Rural Gender Relations,' (Cab I/International 2006) 165-180.

¹⁰⁴R Lane, R McNaught, Building Gendered Approaches to Adaptation in the Pacific *Gender Development* (2009)17(1) 67-80.

¹⁰⁵ S Tony, X Y Wang, W Yu, D Chen, and X Wang, 'The Impact of Heat waves on Mortality in Australia' [2014] 9 4(2) *Multiplicity Study BMJ Open*.

¹⁰⁶ Ibid.

¹⁰⁷ G FitzGerald, W Du, A Jamal, M Clark, and X Y Hou, (2010) Flood Fatalities in Contemporary Australia: 1997-2008 [2010] 62 (2) *Emergency Medicine Australia* 180-186.

¹⁰⁸ B M McDermott, V E Cobham, H Berry, H M Stallman, 'Vulnerability Factors for Disaster-induced Child Post-traumatic Stress Disorder: The Case for Low Family Resilience and Previous Mental Illness' [2010]44 (4) *Austnz. J Psychiatric* 384-9.

¹⁰⁹ FAO. Women and Food Security. FAO Focus <<https://www.fao.org/FOCUS/E/Women/Sustin-e.htm>. Accessed 20/7/2024.

¹¹⁰ UN Chief Executive Board (CEB). 2007. Coordinated UN System Action on climate Change. United Nations http://www.uneca.org/eca_programmes/sdd/events/climate/CEB-Climte.pdf accessed 20/7/2024.

distances to fetch water.¹¹¹ The aquatic environment is also not yielding its best due to pollution, flooding, drought, and various human activities, which have distorted the aquatic habitat.¹¹²

5.2 Health

Climate change affects the health of rural women. Research has shown an increased morbidity, low birth weight and pre-term birth, poor maternal health, higher risk of complications in pregnancy such as gestational diabetes, etc., and a high mortality rate of mother and child in recent times.¹¹³ These women are less likely to access good health facilities due to their poor means and lack of health infrastructure in most African countries. Many resort to traditional medication and quacks, leading to both long-term and short-term health complications. Their reproductive health is affected by rising temperatures and air pollution.¹¹⁴ They are most likely not to have air-conditioners, and have higher rates of pre-existing respiratory and cardiac disorders.¹¹⁵

5.3 Illiteracy

Climate Change hampers childhood education and intensifies cases of child marriage.¹¹⁶ Climate change may not be the cause of high illiteracy among rural women, but it is a threat multiplier. Drought, floods, poverty due to loss of livelihoods, etc., impact the education of girls who are likely to be pulled out of school and into forced marriages.¹¹⁷ For instance, research has shown that 70% of young people who drop out of school and into child marriage in Botswana are girls.¹¹⁸ Families resort to giving out their girl child as a way of poverty alleviation caused by drought and loss of livelihood. Climate change causes loss of livelihood, poverty, displacement, etc., which exposes girls to sexual assaults and abuse.

5.4 Food and water scarcity

Climate change is a threat to food security and water supply in sub-Saharan. Malnutrition, especially during pregnancy and lactation, could be adverse to the rural woman and her baby. Limited access to clean water also affects hygiene and makes women more vulnerable to infection and health challenges. A situation whereby women and girls have to trek very long distances in

¹¹¹ Babugura Agnes, C M Nompumelelo, and Mtshali Mthokozisi, 'Gender and Climate Change: South Africa Case Study' Heinrich Boll Stiftung, available at <https://www.boell.de/ecology> accessed 7/8/2024.

¹¹² Oxfam Budgit Foundation, 'Impact of Climate Change on Women in Delta State' March, 2024, available at <https://budgit.org> accessed 7/8/2024.

¹¹³ Fact Sheet 'Women, Gender Equality and Climate Change.' UN Women Watch: www.un.org/womenwatch; also, Mathias Berninger, 'Climate Change Impacts Women more: We must legislate to protect their Health.' Global Head of Public Affairs, Science, Sustainability, Health, Safety and Environment, Bayer AG. <https://www.weforum.org> accessed 20/7/2024.

¹¹⁴ Skye Wheeler, "How the Climate Crisis Affects Reproductive Rights," -Human Rights Watch, 2024. Available at <<https://www.hrw.org>

¹¹⁵ Ibid.

¹¹⁶ Olivia Amitay, "Five Ways Climate Change Affects Women's Wellbeing" (2022) available at <<https://www.pbs.org> accessed 6/8/2024.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

search of water for domestic use could expose them to harm at a time when Africa is passing through various forms of terrorism and insecurity due to poor economic conditions.¹¹⁹ and bad governance is tormenting the region.

6. Legal Protection for Rural Women against Climate Change.

The international human rights outline offers a reservoir of legal obligations with which to frame ethically suitable responses to climate justice and gender equity.¹²⁰

6.1 International Protection.

All human rights norms apply in the protection of rural women in the climate change response. These include the United Nations (UN) Charter; Universal Declaration of Human Rights (UDHR); International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the UN Declaration on the Rights to Development, and more. The ICESCR provides human rights standards to protect the vulnerable, like rural women. This includes their rights to non-discrimination, adequate living standards, employment, education, social security and a clean and healthy environment. The UDHR, ICCPR, and CEDAW all provide a credible basis for equality and non-discrimination. The ICCPR specifically provides the right to participation in public affairs.¹²¹ Furthermore, the major instruments for the international climate change response are the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, and the Paris Agreement.¹²² The UNFCCC, which was adopted in the Rio Earth Summit of 1992, offers a significant legal structure for the mitigation and adaptation to climate change.¹²³ It places an obligation on state parties to “protect the climate system for the benefits of present and future generations ..., based on equity and by their common but differentiated responsibilities and respective capabilities.”¹²⁴ Neither the UNFCCC nor the Kyoto Protocol did not reflected gender in their approach to climate change.¹²⁵ However, the Human Rights Council through its resolutions, have come up with Special Procedures Mechanisms

¹¹⁹ UN Press “Greater Support Urgently Needed to Tackle Sahel Region’s Growing Insecurity, Aid Fight against Terrorism, Extremism, Senior Official Tells Security Council” available at <https://www.press.un.org> accessed 7/8/2024.

¹²⁰ Mary Robinson Foundation- Climate Justice “Principles of Climate Justice” <https://www.mrfcj.org> accessed 21/7/2024.

¹²¹ ICCPR, article 25.

¹²² United Nations Framework convention on Climate Change, 1992; Kyoto Protocol to the United Nations Framework Convention on Climate Change, Dec 10, 1997, 2303 *UNTS*. 162; and Paris Agreement on Climate Change UN Doc.FCCC/CP/2015/10/Add.1 Decision 1/CP.21.

¹²³ J H Ruhl, “Climate Change Adaptation and the Structural Transformation of Environmental Law” [2010]40(2) *Environmental Law Review* 363, 431.

¹²⁴ UNFCCC, article 1.

¹²⁵ B Mayer, *The International Law on climate Change*. (Cambridge University Press 2018); also, S Atapattu, 2016. *Human Rights Approaches to Climate Change: Challenges and Opportunities*. (Rutledge 2016); <https://doi.org/10.4324/9781315849683>.

to addressing the human rights impacts of climate change;¹²⁶ and in one of such resolutions,¹²⁷ it acknowledged that climate change will impact more on persons already in a vulnerable situation, which by implication includes rural women.

6.2 Regional Protection

At the regional scene, the African Charter on Human and Peoples' Rights (ACHPR) and its Protocols assure the right to equality and non-discrimination. Both international and regional human rights norms expect all humans, including rural women and other marginalised groups, to actively participate in the enjoyment of civil, economic, social, cultural, and political rights to live an accomplished life. The African Charter assures the right to participate in decision-making and expects states to make gender-friendly laws and policies in its climate change response.¹²⁸ The ACHPR provides the right to enjoy freedom without discrimination.¹²⁹ The African charter also specifically, provides the right to information and a satisfactory environment. The African Charter is intentional in the protection of the African woman.¹³⁰ It obligates state-parties to discourage all forms of discriminatory practices against women through apposite legislations and institutional measures, and that they should adopt a gender perspective in their decision-making and legislations.¹³¹ State-parties should ensure active participation of women in the preservation of their natural resources.¹³² Women are entitled to a full enjoyment of their right to sustainable development.¹³³ In other words, this provision encourages women's access to resource control and property rights. They need easy access to credit, skill acquisition, mechanised tools, adequate information, etc. to help mitigate and adjust to climate change.

6.3 National Protection

6.3.1 Kenya

Kenya is a state-party to the UN and has adopted most international human rights norms. It is therefore under obligation to respect and observe all the United Nations provisions. It is also bound by regional laws. In line with the UN 2030 Development agenda and other international and regional norms, the country has local laws and policies to ensure and integrate gender equality in its climate change response.¹³⁴ The Kenyan Constitution¹³⁵ provides equality before the law,¹³⁶

¹²⁶ The Report of the 2010 Social Forum is contained in A/HRC/16/62.

¹²⁷ The Human Rights Council Resolution 10/4 (March 2009).

¹²⁸ ACHPR, Article 13 and 23

¹²⁹ ACHPR, Article 13.

¹³⁰ The Maputo Protocol.

¹³¹ Ibid, article 2(1).

¹³² Ibid, article 18(2a).

¹³³ Ibid, article 9.

¹³⁴ Patricia Kameri Mbote and Nkatha Kabira, 'Gender Equality and Climate Change in Plural Legal Contexts: A Critical Analysis of Kenya's Law and Policy Framework.' *Feminist Frontiers in Climate Justice*, 2023.

¹³⁵ The Constitution of Kenya, 2010.

¹³⁶ Ibid, article 27.

which includes the full enjoyment of the basic rights and freedoms for all.¹³⁷ The Constitution recognises international treaties,¹³⁸ which the country has ratified into law.¹³⁹ All civil, political, social, economic, property, and labour rights apply to both men and women.¹⁴⁰ The Constitution places an obligation on states to make state laws to address inequalities.¹⁴¹ The states are also bound to take steps to correct inequalities.¹⁴² States are to ensure that not more the 2/3 members in any appointive or elective body are the same gender.¹⁴³ The Constitution provides for children, including girls.¹⁴⁴ It also provides for socio-economic rights to food, health, education, water, sanitation, housing and welfare;¹⁴⁵ right to acquire and own property.¹⁴⁶ It recognizes equality and non-discrimination as key values of government at all levels.¹⁴⁷ The constitution forbids any form of gender discrimination in law or customary practices about land and property.¹⁴⁸ Other laws include the Land Act,¹⁴⁹ the Community Land Act,¹⁵⁰ the National Land Policy Sessional Paper,¹⁵¹ and the National Policy on Gender and Development.¹⁵² All of these, provide equality between men and women in land matters.

These laws coupled with state laws within Kenya are enough to check discriminatory customs against women. In *Republic v. Head Teacher, Kenya High School and Anor Ex-parte SMY*,¹⁵³ the court emphasized that the Constitution is against discrimination of any person on grounds of sex, race, religion, status, age, colour, pregnancy, ethnic or social origin, disability, belief, dressing, birth, language or culture. In *Mohamed Fugicha v. Methodist Church in Kenya (suing through its Registered Trustees) and 3Ors*,¹⁵⁴ the Court held that differential treatment was necessary to overcome a history of systematic discrimination to achieve equality. The Constitution also, specifically provides for the right to a clean and healthy environment.¹⁵⁵

¹³⁷ Ibid, article 27(2).

¹³⁸ Ibid, article 2(5) and (6).

¹³⁹ These include the UN Charter; UDHR; ICCPR; ICESCR; CEDAW; the Vienna Declaration and Platform for Action (1993); International Conference on Population and Development, Cairo (1994); Nairobi Forward Looking Strategies, Beijing Declaration and Platform for Action (1995).

¹⁴⁰ The Constitution of Kenya, note 136, articles 38, 40, 41 and 43.

¹⁴¹ Ibid, article 27(6).

¹⁴² Ibid.

¹⁴³ Ibid, article 27(8)

¹⁴⁴ Kenya Constitution, article 53.

¹⁴⁵ Ibid, article 43.

¹⁴⁶ Ibid, article 40(1).

¹⁴⁷ Ibid, article 10(2) (b).

¹⁴⁸ Ibid, article 60(f).

¹⁴⁹ The Land Act No. 6 of 2012.

¹⁵⁰ The Community Land Act, 2016.

¹⁵¹ The National Land Policy Sessional Paper No. 3, 2009.

¹⁵² The National Policy on Gender and Development Sessional Paper No. 2, 2019.

¹⁵³ [2012] EKLK (HC).

¹⁵⁴ [2016] EKLK.

¹⁵⁵ The Constitution of Kenya, article 42.

Kenya has adopted the UNFCCC,¹⁵⁶ and has also signed the Paris Agreement on climate Change. It targets the implementation of the 2030 Action Plan, which gives a high importance to the Rio Convention for advancing sustainable development.¹⁵⁷ In response to this global framework, Kenya has made various policies and Action Plans on climate change. These include the integration of climate change responses into development, sectoral plans and gender consideration plans;¹⁵⁸ and green growth and low carbon strategies; bearing in mind the short and long-term impacts of climate change on women.¹⁵⁹ Kenya has a central legislation on climate change, which is the Climate Change Act.¹⁶⁰ This Act provides a supervisory framework for enhanced machinery and measures of achieving low-carbon climate development.¹⁶¹ It ensures equity and social inclusion for the vulnerable, etc. It also encourages public participation for all. The Act establishes the National Climate Change Council to implement its objectives.¹⁶² It behooves a duty on the Climate Change Directorate to ensure the coordination and implementation of gender climate change education at all levels.¹⁶³ It necessitates the cabinet secretary to articulate gender-responsive national public awareness strategies on climate change.¹⁶⁴ The Act establishes a climate change fund.¹⁶⁵ Despite these well-intentioned laws and judicial decisions, there is no tangible commitment to climate justice for the rural woman in Kenya.¹⁶⁶

6.3.2 Nigeria

Climate change in Nigeria is marked by rising temperatures, variability in rainfall, drought, flooding, desertification, erosion, thunderstorms, rising sea levels, bushfires, land degradation, landslides, and loss of biodiversity.¹⁶⁷ It has the highest rate of deforestation in the world, and losing about 3.7% of its forest annually. It houses Africa's largest mangrove forest but only 60% is protected.¹⁶⁸ Rural women make up to 70% of the agronomic labour force. Nigeria ranks 53rd

¹⁵⁶ UN Framework Convention on Climate Change (UNFCCC) Protocols.

¹⁵⁷ UN General Assembly, 'Transforming Our World: The 2030 Agenda for Sustainable Development' (Agenda 2030), Resolution adopted by the General Assembly on 25th September, 2015, A/RES/70/1.

¹⁵⁸ One of such is the Kenya's National Climate Change Response Strategy, Ethiopia's Climate Resilient Green Economy, Tanzania's Agriculture climate Resilience Plan 2014-2019, and Uganda's National Climate Change Policy 2015.

¹⁵⁹ Valerie Nelson, 'Gender, Generations, Social Protection and Climate Change: A Thematic Review' (2011) *Overseas Development Institute* <https://odi.org/en/publications/gender-generations-social-protection-climate-change-a-thematic-review/> accessed 18/6/2024.

¹⁶⁰ Climate Change Act 11 of 2016, Kenya Gazette Supplement No.68.

¹⁶¹ Ibid, Section 24.

¹⁶² Ibid, Sections 5-7.

¹⁶³ Ibid, Section 9.

¹⁶⁴ Ibid, section 8.

¹⁶⁵ These are the Wajir County Climate Change Fund Act 2016; Garissa County Climate Change Fund Act, 2018; County Government of Laikipia, second County Integration Development Plan 2018-2022; Isiolo Country Climate Change Fund Regulation, 2018; and a host of others.

¹⁶⁶ Meghan Campbell, "A Greener CEDAW: Adopting Women's Substantive Equality Approach to Climate Change" in *Feminist Frontiers in Climate Justice*, 2023.

¹⁶⁷ O A Olaniyi, I O Olutimehin, O A Fumilayo, (2019) 'Review of Climate Change and its Effect on Nigeria Ecosystem,' [2019]3(3) *International Journal of Rural Development, Environment and Health Research* 92-100; <<http://doi.org/10.22161/ljreh.3.3.3>> Accessed 21/7/2024.

¹⁶⁸ Ibid.

most vulnerable country to climate change and 14th least ready to adjust to climate change.¹⁶⁹ It is a signatory to international human rights, gender equality and climate change norms. It has signed the Paris Agreement and other UN Resolutions. It is also bound by regional norms. These have served as the foundation for many national legislations. The country at the Federal level has many policies, frameworks, laws and institutions to enable it respond to the global climate change issues. One of these is the National Climate Change Policy (NCCP).¹⁷⁰ The NCCP is an all-inclusive charter established to direct the country in its climate change response. It aims to stimulate sustainable development while increasing resilience to climate change.¹⁷¹ It has an Action Plan for 2021 to 2030. This will enable it safeguard the environment, ensure a sustainable development and a climate-proof economy and prioritise a low carbon, climate-resilient, gender-responsive and sustainable socio-economic development.¹⁷² The policy consists of sections and a general background on climate change, the Paris Agreement, goals, guiding principles, and basic pointers to adaptation and implementation. All are geared towards reducing the greenhouse gas emissions and to intensify the GDP by 20% by the year 2030. It is also committed to reducing the greenhouse gas emissions and cultivating the evolution of a clean and affordable energy sources. The NCCP also aims to promote healthy infrastructures that are climate change resistant. It is also committed to reducing the greenhouse gas emissions in the industrial, oil gas, waste management, transportation routes, waste water treatments, and drinking water.¹⁷³ Other policies include the Nigeria Climate Change Act, 2021; the Nigeria Energy Transition Plan (ETP); National Agency for the Great Green Wall (NAGGW) Initiative,¹⁷⁴ etc. Despite these numerous and well-intentioned policies on gender equality and climate change, a survey shows that 74% of the rural women are not involved in any sustainable environmental practice.¹⁷⁵ This is because many of them are not aware and the government is not sincere in its duties.

The Climate Change Act, 2021, offers a structure for mainstreaming climate change actions in Nigeria. Its objective is to encourage the reduction of greenhouse gas emission, enhance green growth and sustainable economic development.¹⁷⁶ It established the National Council of Climate Change to administer the Act.¹⁷⁷ The functions and powers of the Council are to coordinate and oversee the implementation of the Act, and administer the Climate Change Fund, etc.¹⁷⁸ The Council consists of the Minister for Women Affairs, and one representative each of women, youths, and persons with disabilities.¹⁷⁹ The Climate Change Fund is from grants, donations, sums appropriated by the National Assembly, funds from international organisations; fines and charges

¹⁶⁹ Ranking//Notre Dame Global Adaptation Initiative//University of Notre Dame (nd.edu).

¹⁷⁰ National Climate change Policy, 2021-2030.

¹⁷¹ Ibid.

¹⁷² O A Olaniyi, I O Olutimehin, O A Fumilayo, note 168.

¹⁷³ National Climate Change Policy for Nigeria, 2021-2030/UNEP LAW and Environment Assistance Platform.

¹⁷⁴ https://en.wikipedia.org/wiki/National_Agency_for_the_Great_Green_Walls accessed 18/7/2024.

¹⁷⁵ Babugura Agnes, C M Nompumelelo, and Mtshali Mthokozisi, note 112.

¹⁷⁶ Climate Change Act of Nigeria, 2021, section 1.

¹⁷⁷ Ibid, section 3.

¹⁷⁸ Ibid, section 4.

¹⁷⁹ Ibid, section 5(1).

from private and public entities for flouting Climate Change mitigation and adaptation responsibilities.¹⁸⁰ The Director-General of the Council is expected to submit yearly reports on climate change to the National Assembly.¹⁸¹

6.3.3 South Africa

A huge fraction of the populace in South Africa live in penurious conditions where unplanned settlements are set up in localities vulnerable to dangerous weather actions and these do not have good infrastructure to withstand harsh climate conditions like wind, heavy rainfall and extreme cold.¹⁸² And farming and fishing play very important roles in food security and employment opportunities, and many subsistent farmers are vulnerable to water shortages and droughts leading to low yields.¹⁸³ The greatest impact of climate change is felt by the rural dwellers. They lack access to good drinkable water and may go a very long distance in search of water for their household needs. And many of these are women and girls.¹⁸⁴ They are faced with extreme economic, social and political hurdles that limit their ability to make their livelihoods in the face of climate change.¹⁸⁵ South Africa is committed to playing its part in the global response on climate change.¹⁸⁶ The implications of climate change have gained some impetus in the country in the last few years.¹⁸⁷ South Africa has ratified almost all UN instruments on human rights, gender equality and climate change. It is committed to observing both the UNFCCC, the Kyoto Protocol and the Paris Agreement.¹⁸⁸ This is evident in some of the moves it has taken so far in its climate change response. For example, it developed a greenhouse Gas Inventory, and produced a National Communication, which was submitted to the UNFCCC. Also, the country has participated actively in the Clean Development Mechanism (CDM).¹⁸⁹ It has introduced the Policy Discussion Document for the National Climate Change Response; Climate Change R and D Strategy for South Africa; and South Africa County Study on Climate Change Vulnerability and Adaptation Assessment, etc.

South Africa has established a National Strategy toward Gender Mainstreaming in the Environment Sector. This is to provide strategic supervision for gender inclusion in the

¹⁸⁰ Ibid, section 15(1) (a-f).

¹⁸¹ Ibid, section 21(1).

¹⁸² A submission by South Africa on Gender and Climate Change: Priority Area on Monitoring and Reporting under the Gender Action Plan, 8 May, 2019. <<https://www.environment.gov.za/sites/default/files/docs/publications/strategytowadgendermainstreamingintheenvironmentsector2016-2021.pdf>> accessed 23/7/2024.

¹⁸³ Ibid.

¹⁸⁴ Babugura Agnes, Nompumelelo, C. M. and Mthokozisi, Mtshali, note 112.

¹⁸⁵ Ibid.

¹⁸⁶ A O Jegede, and U C Mokoena, 2019. 'Thinking into the Future: Constructing Social Security Law as Climate Change Adaptation Strategy in urban South Africa' in PB Cobbinah and M Addaney (Eds) *The Geography of Climate Change Adaptation in Urban Africa*, (Springer 2019); <https://doi.org/10.1007/978-3-030-04873-0_12>

¹⁸⁷ Policy Discussion Document for the National Climate Change Response Policy, 2009.

¹⁸⁸ Ibid.

¹⁸⁹ Babugura, Agnes, Executive Summary, "Gender and Climate Change: South Africa case Study," Heinrich Boll Stiftung, Southern Africa <https://www.boell.org.za> accessed 23/7/2024.

environment sector. It also has a National Policy Framework for Women Empowerment and gender equality. South Africa is acquainted with the Sustainable Development Goals (SDGs) of 2015. Also, there are other meaningful documents on climate change worth mentioning, like, the National Climate Change Response White Paper (2011), the National Adaptation Strategy (2016), and Climate Change Reports. For example, the 2016 report stressed that the socio-economic and environmental impacts of drought occurrences occasioned water scarcity and social vulnerability.¹⁹⁰ The Constitution¹⁹¹ provides the right to human dignity, equality, and freedom for all.¹⁹² It provides for full and equal enjoyment of all rights and freedoms.¹⁹³ It prohibits discriminatory practices based on sex. All of these is to encourage a climate justice and sustainable development, which considers the needs of all including the rural woman. The NCCRS specifically, recognises female participation in decision-making. The country's highly awaited Climate Change Act was signed into law by President Ramaphosa on the July 23, 2024. This pivotal legislation is designed to define, monitor and implement the country's climate change response.¹⁹⁴ Though, not yet operational, it is believed that it will be comprehensive in its climate change response.

7. Conclusion/Recommendations.

Climate change is badly affecting rural women in sub-Saharan Africa in an unpredictable degree. The impact of climate change poses a momentous challenge for rural women in the sub-region.¹⁹⁵ The effects of climate change touch practically all aspects of their lives, including their livelihood, other socio-economic conditions, health, and, of course, all their fundamental human rights.¹⁹⁶ Climate change highlights the existing inequalities that already exist between men and women.¹⁹⁷ As vital contributors to agriculture, the rural woman experiences interferences in farming practices due to uneven weather conditions caused by climate change and are marginalized by cultural, social and political impediments, which include denial of access to land, lack of information and exclusion in decision-making on matters of climate change. These make her aptitude to cope with climate change more daunting.¹⁹⁸ For there to be climate justice for women, especially, rural women in the sub-region, there need to be an all-inclusive and gender-responsive approach, which identifies the distinctive encounters faced by rural women and inspire their active participation in the climate change response. The Africa region and the sub-Saharan countries in

¹⁹⁰ Department of Environmental Affairs 2016, 6.

¹⁹¹ Constitution of the republic of South Africa, 1996.

¹⁹² Ibid, section 7.

¹⁹³ Ibid, section 9.

¹⁹⁴ 'Climate Change Act Signed into Law but not yet operational,' South Africa Centre for Environmental Rights, available at <https://cer.org.za> accessed 8/8/2024.

¹⁹⁵ 'Understanding Human Rights and Climate Change.' Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate change https://www.ohchr.org/sites/default/files/Documents/issues/ClimateChange/cop_21.pdf, accessed 18/7/2024

¹⁹⁶ Ibid.

¹⁹⁷ Oxfam Budget Foundation, 'Impact of Climate Change on Women in Delta State' March, 2024, available at <https://budget.org> accessed 7/8/2024.

¹⁹⁸ Ibid.

particular, must key into already established international human rights provisions on gender equality and the international climate change responses to protect rural women against climate change. Sub-Sahara states must work towards building more resilient and sustainable initiatives that stimulate gender equality and collective justice for rural women. Although some African countries have good laws to tackle climate change, rural women are not positively impacted due to poor implementation of these laws and corruption.

This paper therefore recommends, that Africa, especially, the sub-Saharan states should integrate climate concerns and sustainable development practices into all sectors, such as agriculture, environmental protection, water resources management, disaster risk prevention, and infrastructural development. They should empower rural women towards climate-resilient livelihoods by way of incentives and trainings, such as, eco-tourism, renewable energy projects, sustainable farming and fishing mechanisms. States should advocate for climate-friendly practices at all levels. Rural women must be made aware of the dangers of climate change and how to adapt. They should be included in decision-making. They should be involved in regular trainings and capacity-building. There should be women's involvement through gender-responsive policies and programs. Countries should initiate climate actions, with regard for human rights in all economic sectors; more emphasis should be placed on sustainable infrastructural and environmental projects. Furthermore, there should be gender-responsive actions against economic and conflict disasters. Concerted efforts should be made towards designing long-term gender action plans and sticking to them; adopting a human rights approach and gender-responsive approaches to climate change response, among other things.