

Climate Change and Gender Justice: International Policy and Legal Responses

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Abstract

Climate change raises issues of justice for different subjects of law – states and individuals. It is therefore not surprising that international policy and legal responses to climate change took equity concerns on board by considering differentiated responsibilities for climate change and taking respective capabilities of states into account in assigning the role to protect the climate system for the benefit of present and future generations of humankind. While the link between gender and climate change has not always been obvious, there is increasing evidence to demonstrate that women and men experience climate change differently; that climate change increases women’s vulnerability; and gender inequalities worsen women’s coping capacities. This article looks at the relationship between gender and climate change and how international policies and laws on gender and climate change address the interface. It also highlights the increasing advocacy for the inclusion of gender justice in international climate change debates. It concludes that including gender in the laws, policies and discussions on climate change brings a critical constituency to these platforms and also enhances the effectiveness of the interventions aimed at dealing with climate change because of the roles that women play in different programmes and contexts.

A. Introduction

Climate change has become a dominant issue the world over. It is happening in a context that is already complex – with global, national, regional and local dynamics that affect states and individuals in profound ways. These include development challenges, price hikes, population increases and migration, globalisation and economic liberalisation, inter- and intrastate conflict, and health challenges. This has necessitated an array of interventions.

The Stern Review on the Economics of Climate Change¹ and the Fourth Assessment Report of the Intergovernmental Panel on Climate Change² (IPCC) have helped to raise awareness and increase understanding of the climate and environmental changes we can expect. However, the far-reaching effects of climate change on human societies are less understood, and both policy and research on integrating gender perspectives into climate change work is only beginning to emerge. This lack of research and evidence on gender and climate change makes it difficult to bring out this complexity in order to inform policy.

The IPCC Report rightly points out that climate change is a threat multiplier.³ Although the effects of climate change interact with those of other problems, the poor and vulnerable may not perceive climate change as a major problem compared with other urgent problems such as poverty. This conflation has overwhelmed women's rights campaigners and advocates, since the majority of the poor lack not only the skills needed to engage in complex scientific debates, but also the opportunity to engage in debates on climate change in particular, at the international, national and regional levels. Yet the impacts of climate change are apparent at the local and household levels.⁴ Global environmental change jeopardises environmentally based livelihood strategies. Climate change is predicted to accentuate the gaps between rich and poor, as people living in poverty are more vulnerable. Perspectives, responses and impacts surrounding disaster events vary for men and women. They experience environmental change differently because they have different sets of responsibilities and vulnerabilities, as well as unequal capabilities and opportunities for adjustment.

The lack of attention to gender in climate change research and policy is due to the complexity and uncertainty that climate change brings with it. An additional challenge is the insistence on women's universal vulnerability, especially in the developing world, which has contributed to the lack of inclusion of gender in climate change debates. It is assumed the problem – vulnerability of women – is known. This assumption denies women the opportunity to voice their concerns in this era of unprecedented calamities, which in turn reinforces the differences between men and women. Furthermore, these generalisations showcase little on how vulnerability is produced

1 Stern (2007).

2 IPCC (2007).

3 (ibid.).

4 Djoudi & Brockhaus (2001:2).

for other groups, such as certain groups of men, especially when one looks at powerlessness and how this can contribute to a community's vulnerability to famine, for example, or a hazard that has resulted from climate change. The situation is also compounded where women take on male roles, such as herding cattle, within a context where they already have gender-defined roles. These dynamics can deny women the opportunity to voice their concerns, and they thus reinforce the differences between men and women. Generalisations may also mask other climate-change-related causes of vulnerability, such as droughts, hazards and famine, including how these affect different groups of men and women.

Gender equality and women's empowerment are both a means and an end to attaining the eight United Nations Millennium Development Goals (MDGs) and to promoting development in general. It is for this reason that they are included in MDG 3. To achieve the targets under MDG 3, focusing on promoting gender equality and the empowerment of women, a multi-pronged approach needs to be adopted which recognises and acknowledges that gender is a cross-cutting issue and needs to be mainstreamed in all the other MDGs, including the one on environmental sustainability,⁵ if real development progress is to be made.⁶ The MDGs note that gender equality is both a goal and a condition for combatting poverty, hunger and disease, and for achieving all the other MDGs. An analysis of development from a gender perspective makes it clear that, as with poverty, hunger and disease, the impacts of climate change will be closely linked to gender equality and women's empowerment because of socially constructed gender roles. Although location-specific patterns are key factors in assessing risks and threat levels relating to the impacts of climate change, social inequalities in particular have serious repercussions on many women's lives, limiting their access to land ownership, housing, education, and health care, as well as their participation in policy- and decision-making – i.e. limiting their human freedoms and options that would assist in mitigation and adaptation measures.

While the link between gender and climate change has not always been obvious, there is now sufficient evidence to demonstrate that societies with more gender equality are less likely to suffer the brunt of climate change. There is continually progressive evidence to show that women and men ex-

5 MDG 7.

6 Kameri-Mbote (2007).

perience climate change differently and that gender inequalities worsen women's coping capacities. Furthermore, it has been acknowledged that women are important agents of change and hold significant knowledge and skills related to mitigation and adaptation to climate change. Indeed, climate change will tend to exacerbate existing environment-related risks and vulnerabilities. It will also reinforce existing inequalities: women and children are especially vulnerable, not least as they tend to be the least able to cope.

Thus, the principal issues to consider in gender and climate change include –

- the causal interrelationship between climate change and gender: Climate change tends to exacerbate existing gender inequalities (gender inequalities result in women having to face larger negative impacts)
- women are not just victims but active agents of change and possess unique knowledge and skills, and
- understanding the risks and different impacts of climate change on men and women is key to achieving sustainable development and the MDGs.

This chapter looks at international policy and legal responses to climate change and gender justice. It is divided into four sections. Section A constitutes this Introduction, while Section B comprises the conceptual framework. Section C discusses international policy and legal responses to climate change and gender justice, and Section D offers a conclusion.

B. Conceptualising Gender and Climate Change

Feminist scholars use *gender* as an analytical variable. *Gender* is a relational concept that denotes the manner in which women and men are differentiated and ordered in a given sociocultural context.⁷ Sexuality appears as the interactive dynamic of gender as an inequality predicated on sex. Gender emerges as the congealed form of the sexualisation of inequality between men and women. As long as this is socially the case – the feelings, acts or desires of particular individuals notwithstanding – gender inequality will divide society into two communities of interest. The male features centrally

7 Kameri-Mbote (2003:56).

in the hierarchy of control; for the female, subordination is sexualised – in the way that dominance is for the male.

The gender–climate change nexus is usually conceptualised at three levels. Firstly, the negative impacts of climate change aggravate gender inequalities. Secondly, those gender inequalities result in different experiences for women during natural disasters such as floods and droughts. Thirdly, women tend to be perceived as victims only; for this reason they are sidelined when decisions are made that relate to adaptation measures. Thus, the knowledge and relevant ideas possessed by women from their day-to-day experiences are not taken into account.

Scholarly work on climate change recognises that its effects will be harshest in tropical countries in the south, and will affect the poor and the vulnerable most severely. According to the traditional approach, a poor person is someone whose income falls below the poverty threshold. This argument is widely discussed in economic literature. Amartya Sen included another dimension in this literature, and argued that monetary poverty represents only a partial view of the problem of poverty as it is experienced by the poor.⁸ According to Sen, a *poor person* is someone who has very few opportunities and whose capacity to seize such opportunities is limited.⁹

From a human development perspective, a poor person lacks basic capabilities and sufficient income, suffers poor health, and is insufficiently educated.¹⁰ As a result, such a person is excluded from society because s/he cannot participate fully as a citizen. The intersection of gender with poverty is highlighted in scholarly work on climate change.¹¹

An analysis of the different vulnerabilities for men and women to climate change looks at what people value. For example, this includes their cultural identity, livelihoods, sense of place, visions for the future, and human security. Climate change will affect what people value in terms of survival, security, identity and self-actualisation.¹² These values are nuanced by the contexts in which people experiencing climate-change-related vulnerability live, and may be non-economic.¹³ Such values may be invisible and unquantifiable, such as values that men and women have due to their gender-

8 Sen (1999).

9 (ibid.).

10 UNDP (1997).

11 See e.g. Demetriades & Esplen (2008).

12 Adger et al. (2009).

13 (ibid.).

differentiated roles, and there may be conflicts between these values at local and household levels. Such values can be the basis for adaptation strategies, such as crop diversification or changing livestock breeds. As noted by Nussbaum,¹⁴ increases in choice per se do not necessarily lead to an increase in freedom; this may partly be because the options added may not be the ones we value anyway, and partly because we may lose the option to live a peaceful and unbothered life. This is especially the case in gendered contexts, where options are influenced by power dynamics and the influence of different actors. Gender, as a social construction of maleness and femaleness, influences the norms and values as well as the roles and relations considered appropriate for men/boys and women/girls. It determines what is permitted, valued and expected from a man or a woman in a given context, and these distinct roles and relations give rise to gender differences.

Gender inequality can arise from these constructions, where the rights, responsibilities and opportunities of individuals are determined by the fact of being biologically male or female. For this reason the quest for gender equality has permeated international and national human rights discourses. The aim is to ensure that men and women have equal rights and opportunities to participate in political, economic, social and cultural development, and that they both benefit from the results.¹⁵

Gender equity supplements equality, and relates to fairness in the treatment of men and women. It is predicated on the fact that inequality between men and women may arise – despite provision for normative equality – because of structural conditions raising the need for differential treatment of men and women to get rid of such inequality.¹⁶

C. *International Climate Change and Gender Intervention*

Climate change and related policies are likely to have wide-ranging effects on gender relations. The nature of climate change is such that global measures that are taken to curb it need to be backed by national, regional and local plans. Indeed, while agreements to curb greenhouse gas (GHG) emissions are between states, the emissions and actions to deal with them need to be taken by individuals and corporations. From the outset, the legal re-

14 Nussbaum (2000).

15 Kameri-Mbote (2007).

16 Cullet (1998).

sponses designed for climate change anticipated equity as a guiding principle. The states parties to such agreements adverted to equity and the common but differentiated responsibilities and respective capabilities in assigning roles to protect the climate system for the benefit of present and future generations of humankind.¹⁷ Developed-country states parties who bore more responsibility for emissions than their developing country counterparts took the lead in combating climate change and its adverse effects.

The challenge of cascading this *equity* notion to the national and local levels where the gender dimension can be captured has dogged the international regime over time.

The translation of the gender variable in climate change policies can be analysed at five levels: *international*, *regional* (and *subregional*, where applicable), *national*, *local* and *household*. At the international level, the role of technology in climate change adaptation and mitigation and the technical nature of the debates have contributed to the marginalisation of women. Indeed, while climate change policies are developed at the international, national and regional levels and have taken technical solutions on board, local and household solutions are likely to be nuanced by the gender division of labour, with female preferences assuming greater importance at these lower levels. For instance, technical solutions emphasise the need for bio-fuels, carbon capture and storage which, according to Hemmati and Rohr,¹⁸ are not sufficient to meet the requirements of developing a low-carbon economy. Besides, biofuels may compete for land that is required for household subsistence. Furthermore, the proposed remedy that households use less energy will impact on women in their performance of domestic chores. Such commitments made to reduce carbon emitted by individual households, especially in Africa, will have an adverse impact on gender equality.

Since 2002, the Commission on the Status of Women has promoted awareness of the links between gender, natural disasters, and climate change.¹⁹ At its 46th Session in 2002,²⁰ and at its 52nd Session in

17 Article 3, United Nations Framework Convention on Climate Change (UNFCCC).

18 Hemmati & Röhr (2009:14).

19 In accordance with Resolution 2006/9 of the United Nations Economic and Social Council (ECOSOC), the Commission on the Status of Women identifies emerging global themes that require global and regional actions in each of its annual sessions. Specifically, Resolution (jj) on Financing for Gender Equality and Women's Empowerment (E/CN.6/2008/L.8) requests governments to "integrate a gender per-

2008,²¹ the Commission raised the need for differentiating gender impacts of climate change as an issue requiring special attention. It called for action to mainstream gender perspective into ongoing research and policymaking on the impact of climate change. However, in 2008, during its 42nd Session, the Committee on the Elimination of Discrimination against Women²² expressed its concern about the continued absence of a gender perspective in the United Nations Framework Convention on Climate Change (UNFCCC), as well as in related global and national policies and initiatives on climate change. Gender equality, the Committee argued, should be an overarching guiding principle in UNFCCC and related agreements dealing not only with the impact of climate change on humans, but also with adaptation measures.

I. International Level

1. Environmental Agreements

The multilateral environmental agreements concluded in the last two decades seek to establish a legal framework for environmental resources management as well as create a favourable environment for sustainable and equitable development. It is in this context that climate change has been dealt with. Agenda 21, for example, outlines the role of women in environmental management.²³

spective in the design, implementation, monitoring, evaluation and reporting of national environmental policies, strengthen mechanisms and provide adequate resources to ensure women's full and equal participation in decision-making at all levels on environmental issues, in particular on strategies related to the impact of climate change on the lives of women and girls".

20 E/1998/INF/3/Add.2.

21 Resolution (jj) on Financing for Gender Equality and Women's Empowerment (E/CN.6/2008/L.8).

22 CEDAW/C/2008/III/1.

23 Report of the United Nations Conference on Environment and Development, United Nations, Rio de Janeiro, 3–14 June 1992, UN Doc. A/CONF.151/26/Rev. 1, Vol. 1, Annex II. Agenda 21 identifies the following actions as critical to sustainable development: full, equal and beneficial integration of women in all development activities, including national ecosystem management and control of environmental degradation; increase in the proportion of women decision-makers, planners, technical advisers, managers and extension workers in the environment and development fields; elimination of constitutional, legal, administrative, cultural, behavioural, so-

The Convention on Biological Diversity (CBD) also recognises the role that women play in the management of biological resources and calls for women's performance in these critical roles to be facilitated.²⁴ Similarly, Principle 20 of the Rio Declaration²⁵ states the following: "Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development."

Furthermore, the 2002 United Nations World Summit on Sustainable Development's Plan of Implementation identified women as key to the attainment of sustainable development.²⁶ The Plan explicitly states that women need to be provided with access to agricultural resources, and that land tenure arrangements should recognise and protect indigenous and common property resource management systems. This is in recognition of the critical role that agriculture plays in addressing the needs of a growing global population, agriculture's inextricable link to poverty eradication – especially in developing countries – and the realisation that enhancing the role of women at all levels and in all aspects of rural development, agriculture, nutrition and food security is imperative.²⁷

Paragraph 38(i) points to the need to –

[a]dopt policies and implement laws that guarantee well defined and enforceable land and water use rights, and promote legal security of tenure, recognizing the existence of different national laws and/or systems of land access and tenure, and provide technical and financial assistance to developing countries as well as countries with economies in transition that are undertaking land tenure reform in order to enhance sustainable livelihoods;

Paragraph 38(f) of the Plan of Implementation identifies the need to enhance women's participation in all aspects and at all levels relating to sustainable agriculture and food security. With regard to women's knowledge on environmental conservation and natural resource management, paragraphs (g) and (h) of the Plan are relevant. They point to the need to –

cial and economic obstacles to women's participation in sustainable development; passing relevant knowledge to women through curricula in formal and non-formal education; valuation of roles of women; and ensuring women's access to property rights and agricultural inputs.

24 IPCC (2007:Articles 8j, 10c).

25 Djoudi & Brockhaus (2001).

26 Available at http://www.johannesburgsummit.org/html/documents/summit_docs/2309_planfinal.htm, last accessed 10 February 2013.

27 Plan of Implementation, para. 38.

- (g) [i]ntegrate existing information systems on land-use practices by strengthening national research and extension services and farmer organizations to trigger farmer-to-farmer exchange on good practices, such as those related to environmentally sound, low-cost technologies, with the assistance of relevant international organizations;
- (h) [e]nact, as appropriate, measures that protect indigenous resource management systems and support the contribution of all appropriate stakeholders, men and women alike, in rural planning and development;

These provisions, as well as developments in other related United Nations (UN) agencies, can inform the quest to mainstream gender in climate change discourses. In this regard, it is noteworthy that, since 2007, the CBD Secretariat has made specific efforts to mainstream gender. For example, in January 2008, it designated a Gender Focal Point within the Secretariat, and developed a Gender Plan of Action in collaboration with the Gender Office of the International Union for Conservation of Nature (IUCN).²⁸ Similarly, the United Nations Convention to Combat Desertification (UNCCD), adopted in 1994 and the only internationally recognised legally binding instrument dealing with the problem of land degradation,²⁹ goes beyond mainstreaming gender. It not only recognises the role women play in rural subsistence, but also promotes the equal participation of women and men.³⁰ In the UNFCCC documents, however, the only reference to gender is in the guide on how to prepare National Adaptation Plans of Action. Nonetheless, gender equality was one of the principles included when these Plans were designed, and it

28 This Plan was approved by the Bureau of the Convention and was presented during the Ninth Conference of the Parties (COP9) in Bonn, Germany, in May 2008. The Plan of Action has four strategic objectives: 1) To mainstream a gender perspective into the implementation of the Convention and the associated work of the Secretariat; 2) To promote gender equality in achieving the three CBD objectives and the 2010 Biodiversity Target; 3) To demonstrate the benefits of gender mainstreaming in biodiversity conservation, sustainable use and benefit-sharing from the use of genetic resources; and 4) To increase the effectiveness of the work of the CBD Secretariat.

29 The UNCCD's objective is to demonstrate that the risks of desertification are substantial and clear. Present calculations show that the means of subsistence of more than one billion people could be at risk because of desertification and, as a consequence, 135 million people could be in danger of being driven from their lands. Especially vulnerable are poor people living in rural zones, particularly those in less-developed countries. For that reason, there is an urgent need to tackle the implications of this problem.

30 Article 5, UNCCD.

advises that experts – both women and men – be included on the teams working on gender questions.³¹

States parties to these international conventions and those on human rights and gender equality have put in place robust national systems for ensuring gender equality through their constitutions, national laws and related institutions. There is, therefore, ample scope for integrating gender considerations into climate change interventions.

2. Gender Equality Interventions

The campaign for women's rights as human rights emerged in the 1960s, when women realised that their needs were not being adequately catered for in terms of human rights or that their rights were often violated; hence, there was a need to have their own rights. Indeed, the idea of *women's rights/human rights of women* has developed as it has become increasingly clear that the enjoyment of human rights purportedly guaranteed for all has not been equal for men and women. Both the Nairobi Forward-looking Strategies on the Advancement of Women (NFLS)³² and the Beijing Platform for Action (BPFA)³³ put women at the centre of the quest for sustainable environmental management, while underscoring the importance of resources for women's empowerment.

a) Nairobi Forward-looking Strategies

The NFLS deal with food, water and agriculture, underscoring the need to recognise and reward women for their performance of specific tasks, equip them with the resources necessary to perform these tasks, and ensure that they actively participate in planning, decision-making and implementation of programmes.³⁴ Paragraph 182 specifically requires that rural women's

31 (ibid.).

32 UN (1985).

33 Beijing Declaration and Platform for Action, adopted at the 16th Plenary Meeting of the United Nations Fourth World Conference on Women, Beijing, China, September 1995, available at <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>, last accessed 10 February 2013.

34 UN (1985:para.'s 174–188).

rights to land be secured to ensure that they have access to land, capital, technology, know-how and other productive resources that they need. This action is critical for women's participation in climate change mitigation and adaptation.

Paragraph 200 requires the enhancement of the full and effective participation of women in the decision-making and implementation process related to science and technology, including the setting of priorities for research and development, as well as the choice and application of science and technology for development. This would avoid instances where technology adversely impacts on women's performance of their tasks or leads to their marginalisation. This is very relevant in the realm of climate change, where technology is a critical factor, and its adoption may result in the marginalisation of women's ways of doing things.

On energy, women's participation in energy needs assessments, technologies and energy conservation management and maintenance will ensure that women's energy needs are taken into consideration in planning.³⁵ Additionally, the initiation of farm woodlot development involving men and women, proposed at paragraph 222 of the NFLS, would balance the needs of women for fuel wood on the one hand, and sustainable development on the other.

Paragraphs 224 to 227 deal explicitly with the interface between the environment and women's empowerment. Paragraph 224 recognises the following:

Deprivation of traditional means of livelihood is most often a result of environmental degradation resulting from such natural and man-made disasters as droughts, floods, hurricanes, erosion, desertification, deforestation and inappropriate land use ... Most seriously affected are women ... These women need options for alternative means of livelihood. Women must have the same opportunity as men to participate in ... irrigation and tree-planting

Other issues addressed include improvements in sanitary conditions and drinking water, the home and work environment,³⁶ and the need for environmental impact assessments of policies, programmes and projects on women's health and activities.³⁷

35 (ibid.:para. 220).

36 (ibid.:para. 226).

37 (ibid.:para. 227).

It is clear that the NFLS interventions have implications for climate change mitigation and adaptation even though they predate major international policy pronouncements on climate change.

b) Beijing Platform for Action

The BPFA clearly articulates the linkage between women's empowerment and sustainable environmental management. It reiterates the principle that human beings are at the centre of concerns for sustainable development.³⁸ More specifically, the BPFA points out that –

- women's empowerment is being sought against the background of resource depletion, natural resource degradation, and pollution of the environment by dangerous substances; these conditions are displacing communities, especially women, from productive activities³⁹
- women have a role to play in sustainable development as consumers, producers, caretakers of families, and educators for current and future generations, and there is commitment by governments to integrate environmental sustainability with gender equality and justice⁴⁰
- environmental degradation has specific impacts on women⁴¹
- poverty eradication and peace are integral to sustainable development⁴²
- women's work related to natural resources is often either not recognised or remunerated⁴³
- women remain largely absent at all levels of policy formulation and decision-making in natural resource and environmental management, conservation, protection and rehabilitation, and their experience and skill in the advocacy for and monitoring of proper natural resource management are marginalised in policymaking and decision-making bodies, educational institutions and environment-related agencies⁴⁴

38 *Sustainable development* is defined as development that meets the needs of current generations without compromising those of future generations; see WCED (1987:8).

39 UN (1985:para. 246).

40 (ibid.:para. 248).

41 (ibid.).

42 (ibid.:para. 247).

43 (ibid.).

44 (ibid.:para. 249).

- women are rarely trained as natural resource managers; and even where they are trained, they are under-represented in formal institutions with policymaking capacities at international, national and regional levels⁴⁵
- women's non-governmental organisations (NGOs) have weak links with national environment management institutions,⁴⁶ and
- women play leadership roles in environmental conservation and management, are well placed to influence sustainable consumption decisions, are involved in grass-roots campaigns to protect the environment, and – especially indigenous women – have particular knowledge of ecological linkages and fragile ecosystem management.⁴⁷

The BPFA recognises that there is a need for a holistic, intersectoral approach to environmental management. It also maintains that it is imperative for men and women to be involved in sustainable development policies.⁴⁸ It calls for the need to mainstream gender in all policies and programmes and to analyse the gender-differentiated impacts of such policies and programmes before decisions are taken.⁴⁹

Three strategic objectives are identified for action by governments, regional and international organisations and NGOs:

1. The need to involve women actively in environmental decision-making at all levels⁵⁰

45 (ibid.).

46 (ibid.).

47 (ibid.:para. 250).

48 (ibid.:para. 251).

49 (ibid.:para. 252).

50 This is to be done through (a) granting them opportunities as managers, designers, planners, implementers and evaluators of environmental projects; (b) availing them of the requisite information and education; (c) protecting their knowledge, innovations and practices, especially for indigenous women and local communities, and promoting the wider application of such knowledge with the involvement and approval of the knowledge-holders; (d) protecting the intellectual property rights of women relating to traditional knowledge; (e) encouraging and ensuring fair and equitable sharing of benefits arising from the utilisation of women's traditional and indigenous knowledge, innovations and practices; (f) reducing environmental hazards within and outside the home; (g) applying clean technologies; (h) integrating a gender perspective into the design and implementation of environmentally sound and sustainable resource management mechanisms; (i) promoting the participation of local communities, particularly women, in the identification of urban and rural environmental needs; (j) empowering women to take effective environmental actions

2. The need to integrate gender concerns and perspectives into policies and programmes for sustainable development, and⁵¹
3. The need to strengthen or establish mechanisms at international, national and regional levels to assess the impact of development and environment policies.⁵²

These proposed interventions proceed from the premise that women have been excluded from available opportunities and that such exclusion impacts negatively not just on women, but also on society and on resources. To deal with this problem, gender mainstreaming is needed at different levels. Firstly, there is a need for gender mainstreaming in the normative legal and policy frameworks governing these resources. The aim here is to include women's concerns in laws and policies. Secondly, women need to be involved in the institutions charged with shepherding these norms. An effective mainstreaming strategy, according to Seager and Hartman,⁵³ seeks to bring women into positions where they can take part on an equitable basis with men in

at home, within communities and at the workplace; (k) integrating gender into the work of international environmental organisations; (l) planning projects funded by the Global Environment Facility; and (m) facilitating advocacy for environmental issues of concern to women and access to environmentally sound technologies.

- 51 This is to be done through (a) integrating a gender perspective into all national and international environmental initiatives and facilitating capacity-building for women in resource management; (b) evaluating the environmental impacts of programmes and policies on women's access to and use of natural resources; (c) researching the impacts of environmental hazards on women; (d) integrating women's traditional knowledge and practices of sustainable resource use and management into environmental management programmes; (e) eliminating obstacles to women's full and equal participation in sustainable development; (f) involving female professionals and scientists in environmental management; and (g) ensuring clean water is accessible and plans are in place to restore polluted water systems and rebuild damaged watersheds.
- 52 This is to be done through (a) providing technical assistance to women involved in agriculture, fisheries and small enterprises; (b) developing gender-sensitive databases, information and monitoring systems and participatory action-oriented research on women's knowledge and experience of environmental management and conservation, the impact of environmental degradation on women, the structural links between gender relations, environment and development, and gender mainstreaming in development and monitoring of programmes; (c) ensuring full compliance with international obligations under multilateral environmental agreements; and (d) coordinating both within and among institutions implementing the BPFA and Agenda 21.

53 Seager & Hartmann (2005).

determining an institution's values, directions and allocation of resources. Such a strategy also seeks to ensure that women have the same access as men to resources within the institution. Effective gender mainstreaming facilitates the participation of women (as well as men) to influence the entire agenda, priorities and culture of the organisation. The proposed actions are useful in engendering climate change interventions.

c) Convention on the Elimination of all Forms of Discrimination against Women

CEDAW,⁵⁴ adopted in 1979, is the most exhaustive international legal instrument on the rights of women. It provides the following at Article 3:

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

It contains explicit provisions on the rights of women in the areas of political and public life (Article 7), government representation (Article 8), nationality (Article 9), education (Article 10), health (Article 12), employment (Article 11), economic and social benefits (Article 13), marriage and family (Article 16), and equality before the law (Article 15). It also takes into account the situation of rural women (Article 14), and targets culture and tradition as influential forces in shaping gender roles and family relations.

In Article 1, CEDAW defines *discrimination* as follows:

... any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 5(a) places a duty on states parties to take all appropriate measures –

... to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of the sexes or on stereotyped roles of men and women

54 Available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>, last accessed 6 May 2013.

States parties to CEDAW are obliged to translate its provisions to national law for implementation. The provisions on women's rights are predicated on the notions of the equality between women and men, as well as equity. *Equality* between women and men relates to the dignity and worth of women and men; equality in their rights; opportunities to participate in political, economic, social and cultural development; and opportunities to benefit from the results of such development. *Equity*, on the other hand, relates to fairness in the treatment of women and men. It adverts to the possibility of inequality between women and men, which necessitates the application of differential treatment to get rid of inequality.⁵⁵

Formal equality gives all individuals the same choices and, therefore, allows them to maximise their well-being.⁵⁶ However, equality premised on equal treatment is difficult to achieve. De jure equality can lead to de facto discrimination, where the consequences of the law are not anticipated. For instance, the legal mandate of equal treatment is interpreted as the treatment of likes in a similar manner, and unlikes in an unlike manner. In the realm of gender, such a distinction fails to take into account the distinctions that are the result of social constructions rather than difference per se.⁵⁷ In such cases, the application of laws without discrimination may, in essence, result in discrimination. Substantive equality seeks to address the shortcomings of formal equality and seeks to ensure that equity is achieved. The quest for substantive equality will lead to some form of discrimination or differential treatment. This is justified on account of levelling the playing field, it being recognised that equal rights will not deal with past injustices occasioned by formal equality that does not take into account structural distinctions.⁵⁸ Indeed, even if national laws on participation in political life provide for equal treatment of women and men, women will continue to be relatively disadvantaged due to historical impediments to their entry into the political realm. As Aristotle points out, —⁵⁹

[i]f they [women and men] are not equal, they will not have what is equal, but this is the origin of quarrels and complaints – when either equals have and are awarded unequal shares, or unequals equal shares. Further, this is plain from

55 (ibid.).

56 Becker (1994:68–81).

57 MacKinnon (1987:32).

58 Kameri-Mbote (2003:56).

59 Ross (1991:3).

the fact that awards should be ‘according to merit’; for all men agree that what is just in distribution must be according to merit in some sense.

Differential treatment is allowed under CEDAW’s Article 4, which decrees that adoption by states parties of –

... temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

The principle of common but differentiated responsibility is an example of differential treatment/affirmative action, taking into account the diverse positioning of states in terms of contribution to climate change, as well as capabilities. Throughout the discussions on climate change, the issue of financial and technological assistance to less-developed countries has been canvassed. While this has focused attention on states, it can be inferred that, by extension, equity in measures within nation states is also expected.

3. Gender in Climate Change Negotiations

For a long time, global negotiations on climate change mainly focused on reducing GHGs. Because the gender dimension was missing, these negotiations provided neither the legal framework nor the rights-based approach needed to implement responses to climate change that are equitable for both men and women. Since 2007, however, a series of climate change negotiations have given the issue of gender due consideration. For instance, in 2007, at the 13th Meeting of the Conference of the Parties (COP13) on Climate Change held in Bali, attention was given to the promotion of gender equality in the UNFCCC, and efforts were made to promote incorporation of the gender theme. Especially noteworthy among these efforts was the meeting of the Network of Women Ministers and Leaders for Environment on 11 December 2007, and their call for the UNFCCC states parties and Secretariat to –

- recognise that women are powerful agents of change and that their full participation in climate change adaptation and mitigation policies and initiatives is indispensable
- ensure participation of women and female gender experts in all decisions relating to climate change

- take steps to ensure that the UNFCCC acts in accordance with human rights frameworks and with national and international agreements on gender equality and equity, including CEDAW
- develop a gender strategy, invest in research on the gender implications of climate change and establish a system of gender-sensitive criteria and indicators for governments that include national communications sent to the UNFCCC Secretariat
- analyse and identify protection impacts and measures, disaggregated by gender, to deal with floods, droughts, heat waves, diseases and other environmental changes and disasters, and
- design financial mechanisms to which women have access and which make them less vulnerable, recognise the fact that millions of poor women who are affected by climate change live and work outside formal markets, and provide women and men living in poverty with greater access to commercial mitigation initiatives, such as the Clean Development Mechanism.

The momentum was sustained at the 14th Meeting of the Conference of the Parties (COP14) on Climate Change in Poznan in 2008, where gender and climate change advocates had a high profile. For example, the Global Gender and Climate Alliance (GGCA)⁶⁰ led various events, including a high-level panel advocating for the inclusion of gender in the climate change dialogue; the meeting of the Network of Women Ministers and Leaders for the Environment, which addressed the need for a gender perspective within the UNFCCC process and produced a joint letter of recommendations to the UNFCCC; and a side event on gender and climate change finance, led by the Women's Environment and Development Organization (WEDO), which highlighted the need for gender-sensitive funding for climate change. Furthermore, the GGCA, led by the IUCN, compiled a training manual on gender and climate change and trained 17 regional trainers from Africa, the Arab States, Asia, Latin America and the Caribbean, as well as oriented over 50 national delegates to the UNFCCC. This raised awareness about the gen-

60 GenderCC – Women for Climate Justice is a global network of women and gender activists and experts working on gender and climate justice. It actively advocates for gender justice in climate change, including facilitating the daily women's caucus meetings and participation in other advocacy events; see <http://www.gendercc.net/>, last accessed 6 May 2013.

dered impacts of climate change and resulted in greater delegate support to address the dire need to include a gender strategy in the UNFCCC.⁶¹

a) Global Gender and Climate Alliance

Within the UNFCCC COP13 framework, and in an unprecedented effort, the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the IUCN and WEDO launched the GGCA, with the principal objective of ensuring that policies, initiatives and decision-making processes on climate change included the gender approach at global, national and regional levels.⁶² The fundamental principle is to guarantee the inclusion of women's voices in decision-making and in policymaking. The GGCA seeks to –⁶³

- integrate the gender approach in world policies and decision-making to ensure full compliance with UN mandates on gender equality
- ensure that mitigation and adaptation financing mechanisms take equal account of the needs of poor men and women, and
- build capacities at global, regional and local levels to design policies, strategies and programmes on climate change that recognise gender equity.

To achieve these objectives, the GGCA employs a number of strategies, namely to –⁶⁴

- establish a global policy on climate change and gender equity
- collaborate with the UNFCCC Secretariat to prepare a plan to incorporate a gender perspective into the UNFCCC
- develop gender guidelines for financing mechanisms associated with climate change, and
- attempt to advise UNFCCC delegates about gender and climate change.

61 UNDP (2008).

62 Available at <http://www.wedo.org/themes/sustainable-development-themes/climate-change/global-gender-and-climate-alliance>, last accessed 5 January 2013.

63 Available at <http://www.wedo.org/library/global-gender-climate-alliance-ggca>, last accessed 5 January 2013.

64 (ibid.).

4. Other Relevant Forums

a) United Nations Permanent Forum on Indigenous Issues

At its 6th Session, the United Nations Permanent Forum on Indigenous Issues requested that a document be prepared to investigate and report on “the impacts of mitigation measures on indigenous peoples”. In compliance with that request, the impact of mitigation on indigenous peoples was taken up as a special theme at the Forum’s 7th Session (April–May 2008) entitled “Climate Change, Bio-cultural Diversity and Livelihoods: The Role of Indigenous Peoples and New Challenges”. Recommendation 78 in the subsequent report recognised women’s important role, stating the following:⁶⁵

The principles of shared but differentiated responsibilities, equity, social justice and sustainable development must remain as key principles that sustain climate change negotiations, policies and programmes. The approach to development and the ecosystem, based on human rights, should guide the design and implementation, at national, regional and global levels, of policies and projects on climate. The crucial role of women and indigenous girls in developing mitigation and adaptation measures must also be ensured.

b) World Conference on Disaster Reduction⁶⁶

This Conference counts as one of the most recent international advances in efforts to integrate gender equity into all decision-making and planning processes related to disaster risk management. The framework set up advocates for integration of a gender perspective in all disaster risk management policies, plans and decision-making processes.⁶⁷ It recommended three relevant actions:⁶⁸

65 United Nations Economic and Social Council, Permanent Forum on Indigenous Issues, 2008, *Impact of Climate Change Mitigation Measures on Indigenous Peoples and on Their Territories and Lands*, E/C.19/2008/10, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/277/65/PDF/N0827765.pdf?OpenElement>, last accessed 11 February 2013.

66 See Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters, *A/CONF.206/6*, available at <http://www.unisdr.org/2005/wcdr/intergover/official-doc/L-docs/Final-report-conference.pdf>, last accessed 11 February 2013.

67 (ibid.).

68 (ibid.).

1. *Gender consideration of action priorities:* A gender perspective should be integrated into all disaster risk management policies, plans and decision-making processes, including those related to risk assessment, early warning, information management, and education and training
2. *Essential priority activity to take early warning action:* Early warning systems that are people-centred should be developed, particularly systems whose warnings are timely and understandable to those at risk, which take into account the demographic, gender, cultural and livelihood characteristics of the target audiences, including guidance on how to act upon warnings, and that early warning systems support effective operations by disaster managers and other decision-makers, and
3. *Essential priority activity for action for teaching and training:* Equal access to appropriate training and educational opportunities for women and vulnerable constituencies should be ensured equal and gender and cultural sensitivity training as integral components of education and training for disaster risk reduction are promoted.

c) High-level Roundtable on Gender and Climate Change

In September 2007, WEDO, the Heinrich Böll Foundation and the Council of Women World Leaders organised a High-level Roundtable on Gender and Climate Change in New York. This meeting was a prelude to the UN Secretary General's High-level Event on Climate Change in New York that same month, and was attended by representatives of the UN, NGOs, and officials from 60 countries. The Gender and Climate Change Roundtable included extensive discussions on the connection between climate change and gender; presentations from various countries demonstrating that relationship; mention of the importance of including the gender approach in all policies about climate change, especially in adaptation policies; and suggestions for specific steps to ensure that gender equity is included in decision-making processes.⁶⁹

Post-2007, COPs have acknowledged gender equality concerns, albeit indirectly. At side events organised at these meetings, there have been discussions on how to address inequalities in mitigation and adaptation actions

69 Available at <http://www.wedo.org/wp-content/uploads/roundtable-final-report-6-nov.pdf>, last accessed 11 February 2013.

as well as in financing. This creates the momentum for gender activists at the national level to demand actions in national climate change interventions. This is important considering the acknowledgment that gender inequalities intersect with climate risks and vulnerabilities, and that climate change is likely to magnify the existing patterns of gender disadvantage declared in the UNDP Report in 2007.⁷⁰ The 2012 Africa Human Development Report focusing on food security is also awash with descriptions of different existing and potential contributions of women to a food-secure Africa which is threatened by climate change.

D. Conclusion

Bringing gender concerns into the climate change arena is critical as a new international regime is being crafted. This will ensure that equity concerns are not ignored. The principles in both the NFLS and the BPFA are a good starting point, namely equality of opportunity; recognition and protection of rights; attention to gendered impacts of climate change; making women visible in climate change decision-making; involving women actively in climate change decision-making at all levels; and integrating gender concerns and perspectives into climate change policies and programmes. Other interventions include integrating a gender perspective in all national and international climate change initiatives; facilitating capacity-building for women; and evaluating the environmental climate change impacts of programmes and policies focusing on gender-differentiated impacts.

In this regard, mechanisms at the international, national and regional levels for assessing the impact of development and environment policies on women should be established if they do not exist, and strengthened where they are not effective. As a corollary to these interventions, technical assistance targeting women should be provided to enable them to engage. Gender-sensitive databases and information and monitoring systems should also be developed to facilitate action.

CEDAW and related gender interventions at the international, national and regional levels should be used as enablers for both formal and substantive gender equality in the climate change realm.

70 UNDP (2007).

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