

## Climate Change And Its Impacts On The Rights Of Children

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**Abstract:** *Climate change has been defined as a change of climate that is ascribed expressly or impliedly to human operation that modifies the composition of the worldwide atmosphere and which in furtherance to natural climate variability observed over comparable periods of time. Such climatic alteration has been shown to have both explicit and implicit consequences on a wide range of human rights, including the rights of children globally, particularly those in the developing countries. The article therefore, investigated climate change crisis and its impacts on the rights of children. The rights of children, as shown in the article, can be categorized into four primary groups, namely, rights to basic needs, specific needs, participatory rights and civic and political rights. The article argued that since there is a linkage between the nature of the human environment and human rights, then human rights-based solution should also be employed in addressing the adverse impacts posed to children by reason of climate change. Such a progressive approach would inter alia, repositions ethical imperatives with a legal framework as well as assist in giving a voice to the vulnerable and marginalized groups like the children at all levels. The article discovered that regardless of their vulnerability, children are not accorded participatory rights in decision makings regarding climate change and accordingly recommended inter alia, that children should be allowed to freely participate in all matters that affect them, including but not limited to climate change issues, and that such expressed views should be accorded due weight in accordance with age and maturity of the child as recognised under Article 12 of the Convention on the Rights of the Child.*

**Key Words:** Anthropogenic, Child's Rights, Climate Change, Global Warming, Green House Gases, Human Activity, Human Rights, Participatory Rights

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### I. Introduction

In 1989, the United Nations General Assembly described environmental contamination, including climate change, as a worldwide predicament and stressed that “poverty and environmental degradation are closely interrelated and that environmental protection in developing countries” will require action at all levels.<sup>1</sup> This recognition subsequently led to the adoption of the United Nations Framework Convention on Climate Change (UNFCCC) in 1992<sup>2</sup> with the aim of stabilizing greenhouse gas concentration in the atmosphere “at a level that would prevent dangerous anthropogenic interference with the climate system.”<sup>3</sup>

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<sup>2</sup>See 31 ILM (1992) 851. See also 1771 U.N.T.S. 107 (June 5, 1992); entered into force on 21 March 1994. About 197 member States, including one regional economic integration organisation, European Union, have so far ratified the convention. See UNFCCC, *Status of Ratification of the Convention*. Available at <https://unfccc.int/process-and-meetings/the-convention/status-of-ratification/status-of-ratification-of-the-convention>. Accessed on 15 March 2020. It would be recalled that the historic adoption of the UNFCCC was done in recognition of previous UNGA resolution 44/228 of 22 December 1989 (on the United Nations Conference on Environment and Development), resolutions 43/53 of 6 December 1988, 44/207 of 22 December 1989, 45/212 of 21 December 1990 and 46/169 of 19 December 1991 (on protection of global climate for present and future generations of mankind), resolution 44/206 of 22 December 1989 (on the possible adverse effects of sea-level rise on islands and coastal areas, principally low-lying coastal areas) and resolution 44/172 of 19 December 1989 (on the implementation of the Plan of Action to Combat Desertification) among others.

<sup>3</sup> UNFCCC, Article 2.

Otherwise called 'global warming,' climate change is defined as "a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods."<sup>4</sup> The Intergovernmental Panel on Climate Change (IPCC) report also defines climate change as a change in the condition of the climate that can be recognized by changes in the mean and/or variability of its properties, and that continues for an extended period, usually decades or longer.<sup>5</sup> Such changes may occur as a result of either natural variability or human activity. It would appear that the major distinction between UNFCCC and IPCC definition is that the latter encompasses all facets of climate change and does not distinguish between climate change attributable to human operation and climate change and variability associated with natural causes.

Simply put therefore, climate change refers to the abnormal rise in the usual atmospheric temperature basically caused by the heat of the sun being trapped in the atmosphere by green house gases (GHGs) irrespective of whether such is caused by human activity or attributable to natural causes.<sup>6</sup> Sadly, the emission of these GHGs is the direct consequence of the actions of man. Therefore, the climate change crisis, as we have it today, is man-made. The concern that man-aided actions significantly contributed to climate change was also captured in the preamble to the 1992 UNFCCC thus:

*Concerned that human activities have been substantially increasing the atmospheric concentrations of greenhouse gases, that these increases enhance the natural greenhouse effect, and that this will result on average in an additional warming of the Earth's surface and atmosphere and may adversely affect natural ecosystems and humankind...*<sup>7</sup>

Although climate change itself is not directly a violation of human rights, nonetheless, it creates circumstances which make the protection and realization of human rights very difficult. It is a noted fact that children's susceptibility to climate change basically threatens the actualization of many, if not all of their rights recognised under United Nations Convention on the Rights of the Child (UNCRC) 1990 and a number of other human rights covenants. Interestingly, many countries of the world have either ratified or domesticated the UNCRC at the national levels.<sup>8</sup> A study has revealed that about 2.2 billion children are confronted with the negative consequences of climate change. The study also highlighted that over the next decade, approximately over 175

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<sup>4</sup> *Ibid*, Article 1(2).

<sup>5</sup> IPCC, 2007: *Climate Change 2007: Synthesis Report. Contribution of Working Groups I, II and III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*, p. 30. IPCC, Geneva, Switzerland. Available at <https://www.ipcc.ch/report/ar4/syr/>. Accessed on 12 March 2020.

<sup>6</sup> It is worthy of note that the UNFCCC 1992 defines greenhouse gases to mean "those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation." *Ibid*.

<sup>7</sup> 1992 UNFCCC, Preamble, paragraph 2.

<sup>8</sup> The UNCRC has remained the most widely ratified international human rights instrument in the world. About a total of 194 governments have ratified the Convention. The Nigerian government has not only ratified it, but has domesticated it. So far, the only countries that have not domesticated the Convention are Somalia, South Sudan and the United States of America. See "25<sup>th</sup> Anniversary of the Convention on the Rights of the Child." Available at <https://www/hrw.org/news/2014/11/17/25th-anniversary-convention-rights-child>. Accessed on 12 March 2020.

million children will be affected by climate-related disasters annually and that by 2050 an estimated 25 million more African children will be undernourished as a result of climate change.<sup>9</sup>

Given such a staggering estimate and in view of the fact that children, both in the present and future generations, have been identified as being vulnerable to the impacts of climate change, it is reasoned that they should be at the forefront for the advocacy and decision-making on climate change policies whether at the national or global levels. However, this has not been the case. In addition, it is within the parameter of the rights of children to be involved in all matters that pertain to them, though it seldom happens. A number of reasons have accounted for this. Mainly, children depend on adults for the realization of most of their rights. Little wonder why some children around the world are now seeking for the enforcement of their participatory rights to be heard regarding emission of greenhouse gases and climate change issues.<sup>10</sup>

## **2.0 The Climate Change Framework/Agreements**

The climate of the planet earth is determined mainly by the presence in the atmosphere of some naturally occurring greenhouse gases (GHGs) such as carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O) and halocarbons.<sup>11</sup> The presence of GHGs causes a warming influence on the earth. Scientific evidence posits that atmospheric concentrations of GHGs increase when emissions are larger than removal processes<sup>12</sup> and this will result in enhanced “greenhouse effect” and global climate change.<sup>13</sup> Thus, the need for cooperation to fashion out a treaty to address climate change and its undesirable impacts was officially set in motion by the United Nations General Assembly and the specialized agencies in the late 1980s. The political push for a framework on climate was further given momentum by the 1990 Second World Climate Conference held in Geneva where both the Conference Statement and the Ministerial Declaration acknowledged and endorsed the work of the World Climate Programme (WCP) and the associated global programmes and Intergovernmental Panel on Climate Change (IPCC) and consequently called for urgent negotiation of a Framework Convention on Climate with a view to minimizing the adverse effects of global warming.<sup>14</sup>

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<sup>9</sup> Joy Guillemot and Jazmin Burgess, “Child Rights at Risk: The Case for Joint Action on Climate Change.” Available at <https://www.unicef-irc.org/article/928-child-rights-at-risk-the-case-for-action-with-climate-change.html>. Accessed on 12 March 2020.

<sup>10</sup> Stan Tucker, “Editorial: political awareness or a day off school? Climate protest and young people” (2019) 37(2) *Pastoral Care in Education*, p. 92. See also Greta Thunberg “You did not act in time’: Greta Thunberg’s speech to MPs.” (23 April 2019) *The Guardian*. Available at <https://www.theguardian.com/environment/2019/apr/23/greta-thunberg-full-speech-to-mps-you-did-not-act-in-time>. Accessed on 12 March 2020.

<sup>11</sup> These are a group of gases containing fluorine, chlorine or bromine. See IPCC, 2007: *Climate Change 2007: Synthesis Report. Contribution of Working Groups I, II and III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*, p. 358. IPCC, Geneva, Switzerland. Available at <https://www.ipcc.ch/report/ar4/syr/>. Accessed on 12 March 2020.

<sup>12</sup> *Ibid*, p. 358.

<sup>13</sup> Philippe Sands, *Principles of International Environmental Law* (2<sup>nd</sup> ed., Cambridge: Cambridge University Press, 2003), at p.385.

<sup>14</sup> See Second World Climate Conference, held in the International Conference Centre, Place De Varembé, Geneva, Switzerland, from 29 October to 7 November 1990. Available at <https://core.ac.uk/download/pdf/85214303.pdf>. Accessed on 19 March 2020.

This culminated in the adoption of the United Nations Framework Convention on Climate Change (UNFCCC) in 1992 aimed primarily at stabilizing greenhouse gas concentration in the atmosphere “at a level that would prevent dangerous anthropogenic interference with the climate system.”<sup>15</sup> The world body was also not lost to the fact that

*...the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions.*<sup>16</sup>

In order to achieve the noble objectives of the UNFCCC, State parties are required to be guided by the fundamental principles of inter-generational equity, common but differentiated responsibilities and respective capabilities, the precautionary measures, right of all parties to sustainable development as well as the need to cooperate and “promote a supportive and open international economic system.”<sup>17</sup> Article 3(2) states a specific status for the developing countries that are particularly affected by climate change. It enjoins that the specific needs and special circumstances of developing member States that would have to bear a disproportionate or abnormal burden under the UNFCCC should be accorded full consideration.

It is pertinent to point out that the UNFCCC was the first global environmental treaty to be negotiated by practically the entire global community, with about 143 States participating in the closing session of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change (INC/FCCC).<sup>18</sup> However, since after the 1992 UNFCCC, there have been other global accords or agreements which have equally identified the serious adverse impacts of climate change, especially on vulnerable countries, and the need to provide worldwide comprehensive efforts towards tackling it. For instance, in 2009, the Copenhagen Climate Change Conference produced the Copenhagen Accord,<sup>19</sup> which was formally adopted in 2010 as the Cancun Agreements, where a number of countries like the United States of America, China, India, European Union, among others, became committed to decreasing emissions by year 2020.

Also in 2011, there was a negotiation for a post-2020 climate agreement in Durban, South Africa. This subsequently resulted in the 2015 Paris Agreement which was built on the foundation of the UNFCCC, the Copenhagen Accord and the Cancun Agreement. The central theme of the Paris Agreement was to agree on a legally binding document that would not only permit effective post-2020 climate protection but would enhance the significance of adaptation, provide mechanism for supporting developing nations’ adaptation and mitigation efforts as considered fair to all 196 parties.<sup>20</sup> Mitigation and adaptation are two basic approaches to tackling climate change. While mitigation seeks to limit the scope of worldwide warming by minimizing emission levels

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<sup>15</sup> UNFCCC, Article 2.

<sup>16</sup> *Ibid*, Preamble para. 6.

<sup>17</sup> These principles stated in Article 3 of the 1992 UNFCCC brings to mind the international environmental commitments stipulation in the Rio Declaration and the Agenda 21.

<sup>18</sup> Philippe Sands, *Principles of International Environmental Law* (2<sup>nd</sup> ed., Cambridge: Cambridge University Press, 2003), at p.259.

<sup>19</sup> FCCC/CP/2009/L.7 of 18 December 2009.

<sup>20</sup> Susanne Droge, *The Paris Agreement 2015: Turning Point for the International Climate Regime*, SWP Research Paper (German Institute for International and Security Affairs, 2016), p. 8.

and stabilizing the absorption of GHG in the atmosphere, adaptation on the other hand seeks to reinvigorate the “capacity of societies and ecosystems to cope with and adapt to climate change risks and impacts.”<sup>21</sup>

### **2.1. The Climate Change Crisis**

It is projected that many developing countries which have contributed least to global greenhouse gas emissions, remain highly vulnerable to the effects of global warming because of their low capacity to effectively handle the impacts of climate change.<sup>22</sup> In 2010 alone, about 296,000 people, mostly in developing countries, died as a result of natural disasters which were brought about by the consequences of global warming such as drought, landslides, floods, hurricanes.<sup>23</sup> Previously, the study of climate change and its impacts was viewed as a matter for scientists to deliberate on and as such, meteorologists and physical scientists were the first to look into it.

Climate change discussions have customarily concentrated on scientific, environmental and economic dimensions. As systematic understanding of the sources and effects of climate change has progressed and consequences on human lives and living conditions have become more obvious, the focus of the debate has increasingly shifted to the human and social aspects of climate change. Thus, in more recent times, links have been established between climate change and human rights. In this regard, the first UN resolution on human rights and climate change was adopted by the United Nations Human Rights Council on March 28, 2008. The Council was worried that climate change was not only a global concern which required a worldwide solution but that it also “poses an immediate and far-reaching threat to the people and communities around the world and has implications for the full enjoyment of human rights.”

Moreover, the Council acknowledged that “human beings are at the centre of concerns for sustainable development and that the right to development must be fulfilled so as to equitably meet the development and environmental needs of present and future generations.” Consequently, it requested that the office of the UN High Commissioner for Human Rights in consultation with State Parties, relevant global organisations, intergovernmental bodies and other stakeholders should conduct a detailed study on the nexus between climate change and human rights.<sup>24</sup> The study was prepared and submitted to the tenth session of the Council held in March 2009.<sup>25</sup> The report admitted that there was interface between human rights and climate change and that climate change has “potentially massive human rights and developmental implications.”<sup>26</sup>

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<sup>21</sup> United Nations General Assembly, *Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General*, para. 12. A/HRC/10/61 of 15 January 2009.

<sup>22</sup>Opening Remarks by Ms. Navi Pillay at the Human Rights Council Seminar, “The Adverse Impacts of Climate Change on the Full Enjoyment of Human Rights” 23-24 February 2012. Available at <https://newsarchive.ohchr.org/CH/NewsEvents/Pages/DisplayNews.aspx?NewsID=11872&LangID=e> . Accessed on 27 March 2020.

<sup>23</sup> *Ibid.*

<sup>24</sup>Resolution 7/23 of the UN Human Rights Committee. Adopted on 28<sup>th</sup> March, 2008. Available at [http://www2.ohchr.org/english/issues/climatechange/docs/Resolution\\_7\\_23.pdf](http://www2.ohchr.org/english/issues/climatechange/docs/Resolution_7_23.pdf). Accessed on 12 March 2020.

<sup>25</sup> See Report of the Office of the High Commissioner for Human Rights on Relationship Between Climate Change and Human Rights, U. N. Doc. A/HRC/10/61 of 15 January 2009.

<sup>26</sup> *Ibid.*

Similarly, in March 2009, the UN Human Rights Council adopted resolution 10/4, “Human rights and climate change”<sup>27</sup> in which it *inter alia*, noted that “climate change-related impacts have a range of implications, both direct and indirect, for the effective enjoyment of human rights”<sup>28</sup> and that the consequences of climate change “will be felt most acutely by those segments of the population who are already in a vulnerable situation”<sup>29</sup> as a result of factors like poverty, gender, age and disability. The situation is even worst and precarious for women and children who are more exposed to climate change effects and risks.<sup>30</sup> Consequently, the resolution recognised the necessity for effective global cooperation and sustained implementation of the UNFCCC as a significant step towards supporting national attempts for the realisation of human rights implicated by climate change-associated impacts.

Instead of a vague reality confined mainly to the sphere of the natural sciences, global climate change in fact comprises human processes with identifiable human cause and effect which qualifies it, like any other aspect of human relations, to be located within a human rights framework of responsibility, accountability, and justice.<sup>31</sup> In actual fact, the recent global interest concerning the impact of climate change on human rights was ignited by Inuit’s 2005 petition before the Inter-American Commission on Human Rights in which they asserted that the impacts of climate change could be credited to acts and omissions of the United States, which constituted a violation of their human rights, particularly the rights to life, health, security, property and culture which they claim are protected under international human rights instruments.<sup>32</sup> The possible reason why the petition focused on the USA may not be unconnected with the fact that the USA is “by far the largest emitter of greenhouse gases” and it has refused to join in a global attempt to reduce emissions.<sup>33</sup> Though the petition was refused in 2006, the Inuit Alliance along with representatives of the Center for International Environmental Law (CIEL) and Earthjustice were invited by the Commission to provide evidence on the nexus between global warming and human rights.<sup>34</sup>

Furthermore, the 2007 Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC AR4) reflected very much on the devastating consequences of climate change on human rights, nature and

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<sup>27</sup> United Nations Human Rights Council, U. N. Doc. A/HRC/10/29 of 20 March 2009.

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> Veronica De La Rosa Jaimes, “The Arctic Athabaskan Petition: Where Accelerated Arctic Warming Meets Human Rights” (2015) 45(2) *California Western International Law Journal*, p. 221.

<sup>31</sup> Marc Limon, “Human Rights and Climate Change: Constructing a Case for Political Action” (2009) 33 *Harvard Environmental Law Review*, p. 441.

<sup>32</sup> EarthJustice, “Inuit Human Rights Petition Filed Over Climate Change.” Available at <https://earthjustice.org/news/press/2005/inuit-human-rights-petition-filed-over-climate-change>. Accessed on 12 March 2020.

<sup>33</sup> *Ibid.*

<sup>34</sup> Letter from Ariel E. Dulitzky, Assistant Executive Secretary, Organisation of American States Inter-American Commission on Human Rights to the Inuit Alliance, Earthjustice, and Center for International Environmental Law (1 February 2007). Available at [http://www.ciel.org/Publications/IACHR\\_Response\\_1Feb07.pdf](http://www.ciel.org/Publications/IACHR_Response_1Feb07.pdf), see also [http://www.earthjustice.org/library/legal\\_docs/inter-american-commission-on-human-rights-inuit-invite.pdf](http://www.earthjustice.org/library/legal_docs/inter-american-commission-on-human-rights-inuit-invite.pdf).

communities.<sup>35</sup> The report being that of expert meteorological scientists brought a degree of certainty and tangibility to the climate change debate and now forms the scientific bedrock for most human rights analysis being carried out today. Global warming, as we have it today, has been partly attributed to a number of human activities including burning of fossil fuels which leads to the emission of green house gases (GHGs).

As a matter of fact, carbon dioxide (CO<sub>2</sub>) has been shown to be the most significant anthropogenic green house gas (GHG) representing over 77% of total anthropogenic GHGs emissions.<sup>36</sup> In 2007, the USA alone accounted for the emission of 7.2 million metric tons carbon dioxide.<sup>37</sup> According to a more recent data by the Global Carbon Project 2018, the top five countries emitters of CO<sub>2</sub> in year 2017 were China (9.8 billion metrics tons-with the largest major source being fossil fuels); USA (5.3 billion metric tons-with the largest source of CO<sub>2</sub> emission derivable from power generation, transportation, and industry); India (2.5 billion metric tons), Russia (1.7 billion metric tons), and Japan (1.2 billion metric tons).<sup>38</sup>

Unfortunately, countries and groups which are most vulnerable to the negative impacts of climate change are those that have least contributed to it. There appears to exist an inverse relationship between responsibility for climate change and susceptibility to its effects.<sup>39</sup> This has made Robinson, a leading international jurist and the first UN Commissioner for Human Rights, to refer to this imbalance as a global injustice when viewed from the human rights perspective. She stressed the fact that the global community has acknowledged that deference for human rights was at the centre of sustainable development and that human rights were part of a shared universal language, and further that “human rights instrument gave the international multilateral system the means of putting into practice shared values.”<sup>40</sup>

Stressing the argument further, she maintained that climate change can no longer be considered as a situation whereby charity is given by the rich to help the poor put up with the its adverse impacts but should now be seen as a matter of global injustice that requires to be addressed radically with a view to bringing about global justice.<sup>41</sup> Accordingly, while governments are fashioning out global agreements to combat climate change, they must also be conscious of their commitments under international human rights instruments. For instance,

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<sup>35</sup> IPCC, 2007: *Climate Change 2007: Synthesis Report. Contribution of Working Groups I, II and III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*. IPCC, Geneva, Switzerland. Available at <https://www.ipcc.ch/report/ar4/syr/>. Accessed on 12 March 2020.

<sup>36</sup> *Ibid*, p.36

<sup>37</sup>US Department of Energy, “US green house gas emissions still increasing,” (5 December 2008) *Science Daily*. Available at <http://www.sciencedaily.com/releases/2008/12/081204093041.html>.> on 16th December, 2014.

<sup>38</sup> See Andriy Blokhin, “The 5 Countries that Produce the Most Carbon Dioxide (CO<sub>2</sub>).” Available at <https://www.investopedia.com/article/investing/092915-countries-produce-most-carbon-dioxides-co2.asp>. Accessed on 19 March 2020.

<sup>39</sup>United Nations Development Programme, *Fighting Climate Change: Human Solidarity in a Divided World*, Human Development Report 2007/08. Available at <[http://hdr.undp.org/sites/default/files/hdr\\_20072008\\_summary\\_english.pdf](http://hdr.undp.org/sites/default/files/hdr_20072008_summary_english.pdf)>.

<sup>40</sup> See International Institute for Environment & Development (IIED), “2006 Barbara Ward Lecture: Mary Robinson makes climate change a justice issue.” Available at <https://www.iied.org/2006-barbara-ward-lecture-mary-robinson-makes-climate-change-justice-issue>. See also <https://pubs.iied.org/G00101/> both accessed on 19 March 2020.

<sup>41</sup> *Ibid*.

Robinson rightly submits that “countries working on climate change were also parties to the Convention on the Rights of the Child, and had agreed to assist developing countries to protect children’s human rights.”<sup>42</sup> Such international human rights instrument can therefore act as catalysts or powerful change agents to strengthen or reinvigorate climate change agreements. One of such ways of addressing the adverse impacts of climate change through the human right dimension is by instituting human rights actions in courts against emitters that have undermined the human, social and economic rights of the vulnerable nations and groups, including children.

## **2.2 Nexus between the Human Environment and Human Rights**

It is indisputable that human rights became a subject of global concerns long before the world directed its attention towards environmental issues. This assertion bears credence in the fact that while the United Nations Universal Declaration of Human Rights 1948 marked the starting point of modern global human rights instruments, the Stockholm Declaration of 1972 is generally considered as the beginning of contemporary worldwide framework for environmental protection. Regardless of the distinct starting points, the nexus between the nature of human environment and the enjoyment of fundamental human rights was acknowledged by the UN as far back as in the late 1960s.<sup>43</sup> Similarly the 1972 Stockholm Declaration and the subsequent 1992 Rio Declaration made direct connections between the environment and the right to life<sup>44</sup> as well as the right to a healthy and productive life in synchronization with nature and the right of access to environmental information and of public participation in environmental decision-making.<sup>45</sup> These boil down to the fact that apparently, human rights and the environment are inherently “interlinked as the life and the personal integrity of each human being depend on protecting the environment as the resource base for all life.”<sup>46</sup>

To illustrate the significant correlation between human rights and environmental protection, Lador uses an example of a rural community in Paraguay where 600 tons of expired pesticide-treated seeds containing a living, laboratory-produced organism were discharged. Several men, women and children without protective clothing helped in offloading the chemical substances from the trucks that brought them for a little pay. Later, the dumping site began to give off a nauseating smell and this intensified following heavy downpour of rain. Within coming days,

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<sup>42</sup> *Ibid.*

<sup>43</sup>The United Nations General Assembly adopted Resolution 2398(XXIII) of 3 December 1968 in which it decided to convene a UN Conference on the Human Environment and consequently requested the Secretary-General to submit a report regarding, *inter alia*, the nature, scope and progress of work being carried out in the area of human environment. This subsequently led to the United Nations Conference on the Human Environment which was held in Stockholm, Sweden from 5-16 June 1972. A number of Conference documents were drawn upon or received from governments, inter-governmental and non-governmental organisations, including 86 national reports on environmental problems. See generally, Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972, A/CONF.48/14.

<sup>44</sup> See Declaration of the United Nations Conference on the Human Environment (The Stockholm Declaration 1972), 11 ILM 1416 (1972) preamble para. 1 and Principle 1.

<sup>45</sup> Rio Declaration on Environment and Development, 31 ILM 876 (1992) Principles 1 and 10.

<sup>46</sup> Franz Xaver Perrez, “Key questions concerning the human rights and environment debate: An introduction” in *Human Rights and Environment, Proceedings of a Geneva Environment Network Roundtable* (United Nations Environment Programme /The Geneva Environment Network/Swiss Agency for the Environment, Forests and Landscape, 2004), p. 4.



*More and more people in Rincon'i were now falling ill, and dozens were suffering from severe headaches, nausea, diarrhoea, general weakness, insomnia and vertigo. Only 150 meters from Julio Chávez's plot of land stood the Federico Bécker School which was attended by 262 pupils. To get there, children who lived in the northern and eastern parts of the catchment area had to use a route that went straight past the contaminated land. Their parents stopped sending their children to school because the buildings were close to what everyone now knew were the source of their ailments: the Delta & Pine seeds.<sup>47</sup>*

From the illustration, what began as an environmental contamination issue had ended up becoming a compounded multifaceted human rights violations. The failure to secure an ecologically healthy environment violates other rights as well, such as the right to information, right to participate in decision making regarding environmental matters, the right to health or to food and even has devastating effects for children who can no longer gain access to education.

### **2.3 Benefits of a Human Rights-Based Linkage to Climate Change**

Not only is there a nexus between human rights and the environment, there is also a human right angle to the climate change problem. Global attention to the link between climate change and human rights is a relatively recent occurrence. The concern that climate change constituted both immediate and far-reaching danger to people and communities globally and that it has connotations for the complete enjoyment of human rights was first overtly recognised in a UN resolution 7/23 on human rights and climate which was adopted by the United Nations Human Rights Council on 28 March 2008.

As pointed out earlier, the Inuit case could be said to be the vehicle that initiated the thought that instead of being a universal and vague occurrence belonging exclusively to the realm of natural sciences, the global climate change actually is a human development with provable human cause and effect.<sup>48</sup> Robison has also opined that "climate change has already begun to affect the fulfillment of human rights, and our shared human rights framework entitles and empowers developing countries and impoverished communities to claim protection of these rights."<sup>49</sup>

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<sup>47</sup> Carlos Amorin, *Las Semillas de la Muerte*, REL-UITA, Montevideo, 1999, (*Seeds of death*, UITA translation) quoted in Yves Lador, "The challenges of human environmental rights" in *Human Rights and Environment, Proceedings of a Geneva Environment Network Roundtable* (United Nations Environment Programme /The Geneva Environment Network/Swiss Agency for the Environment, Forests and Landscape, 2004), pp. 7-8.

<sup>48</sup> Martins Wager and Donald M. Goldberg, "An Inuit Petition to the Inter-American Commission on Human Rights for Dangerous Impacts of Climate Change," being a paper presented at the 10<sup>th</sup> Conference of Parties to the Framework Convention on Climate Change in Buenos Aires, Argentina, available at [http://www.ciel.org/Publications/COP10\\_Handout\\_EJCIEL.pdf](http://www.ciel.org/Publications/COP10_Handout_EJCIEL.pdf), cited in Marc Limon, "HUMAN RIGHTS AND CLIMATE CHANGE: CONSTRUCTING A CASE FOR POLITICAL ACTION," (2009) 33 *Harvard Environmental Law Review*, p. 441.

<sup>49</sup> Mary Robinson, "Rights Focus Sought over Climate," (11 December 2006) *BBC News*. Available at <http://news.bbc.co.uk/2/hi/europe/6166835.stm>.

Moreover, the Male Declaration on the Human Dimension of Global Change of 2007<sup>50</sup> while reaffirming that the fundamental rights to a healthy environment capable of sustaining human society and the full enjoyment of human rights is recognised in varying formulations in the Constitutions of over 100 countries and explicitly or implicitly in various international instruments<sup>51</sup> noted that “the impacts of climate change pose the most immediate, fundamental and far-reaching threat to the environment, individuals and communities around the world and that these impacts have been observed to be intensifying in frequency and magnitude.”<sup>52</sup> It went further to declare that “climate change has clear and immediate implications for the full enjoyment of human rights”<sup>53</sup> and accordingly solemnly requested the United Nations Human Rights Council to convene a debate on human rights and climate change as a matter of urgency<sup>54</sup> to “safeguard human lives, homes, rights and livelihoods.”<sup>55</sup>

A similar response was re-echoed by Kyung-wha Kang, the then Deputy UN High Commissioner for Human Rights, who stated that [a]ny strategy to deal with climate change, whether in terms of adaptation or mitigation, must incorporate the consequences for humans, as individuals and communities, and the human rights framework is the most effective way to do so.”<sup>56</sup> The United Nations Development Programme (UNDP) in its Human Development Report also expressed the view that climate change characterizes “a systematic violation of the human rights of the world’s poor and future generations, and a step back from universal values.”<sup>57</sup>

The Office of the High Commissioner for Human Rights (OHCHR) in one of its reports has resolutely responded to the inquiry whether there was a link between climate change and human rights, and if there was, what the character of the connection was. In this respect, the report clearly admitted that there was a significant relationship between climate change and the enjoyment of human rights and that “the effects on human rights can be of a direct nature, such as the threat extreme weather events may cause to the rights to life, but will often

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<sup>50</sup> Adopted at Male by the representatives of the small Island Developing States of the Republic of Maldives on 14 November 2007. The Declaration was later taken to the Thirteen Conference of Parties to the UNFCCC (COP 13) in Bali and was presented to assembled world governments by President Maumoon Abul Gayoom, President of the Republic of Maldives. See the text of the presidential Address at [http://www.maldivesmission.ch/fileadmin/Pdf/Environment/President\\_at\\_Bali\\_Conference\\_2012122007\\_final\\_.pdf](http://www.maldivesmission.ch/fileadmin/Pdf/Environment/President_at_Bali_Conference_2012122007_final_.pdf).

<sup>51</sup> *Ibid*, Preamble para. 9.

<sup>52</sup> *Ibid*, Preamble para. 4.

<sup>53</sup> *Ibid*, Preamble para. 13.

<sup>54</sup> *Ibid*, Article 4.

<sup>55</sup> See the address of President Maumoon Abul Gayoom, President of the Republic of Maldives, presented to assembled world governments at the Thirteen Conference of Parties to the UNFCCC (COP 13) held in Bali in December 2007, *op. cit.*

<sup>56</sup> Kyung-wha Kang, Deputy High Commissioner for Human Rights, Office of the U.N. High Commissioner for Human Rights, Address at the Conference of Parties to the UNFCCC and its Kotoyo Protocol (14 December 2007). Available at [http://www.maldivesmission.ch/fileadmin/Pdf/Environment/DHC\\_Statement\\_Bali\\_Final.pdf](http://www.maldivesmission.ch/fileadmin/Pdf/Environment/DHC_Statement_Bali_Final.pdf).

<sup>57</sup> United Nations Development Programme, Human Development Report 2007/2008, p. 4, cited in Marc Limon, “HUMAN RIGHTS AND CLIMATE CHANGE: CONSTRUCTING A CASE FOR POLITICAL ACTION,” (2009) 33 *Harvard Environmental Law Review*, p. 443.

have an indirect and gradual effects on human rights, such as increasing stress on health systems and vulnerabilities related to climate change-induced migration.”<sup>58</sup>

Limon<sup>59</sup> has further identified some interconnected and overlapping potential gains for adopting a “rights based approach” to climate change. First, engaging human rights dimension in climate change issues help in re-channeling the global debate on climate change more directly onto individuals and the adverse impacts of climate change on their lives.<sup>60</sup> In the words of Marc Limon, humanizing climate change can with time “resituates ethical imperatives within a legal framework.”<sup>61</sup> Second, such an approach would assist in amplifying the voices of the vulnerable and marginalized people such as women, children, the old and indigenous groups who might “otherwise not be heard and who, if empowered to do so, could make an important contribution to improving climate change policy.”<sup>62</sup>

The third reason given by Limon why the human rights approach to climate change should be adopted is that it provides a level “playing field” in global negotiations where all individuals are considered to equal status under international law as against the present situation that has been “dominated by large states involved in largely economically motivated power plays and trade-offs.”<sup>63</sup> Fourth, placing focus on individual human rights based on globally acceptable set of principles and values has the likelihood of contributing qualitatively to “the construction of better policy responses” whether at domestic or global levels.<sup>64</sup> Finally, Limon submits that human rights instruments have the capability of emphasizing on the need for international cooperation.

This fact last point has also been buttressed by the framers of the UNFCCC that, “the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response.”<sup>65</sup> The implication of such obligations within the context of human rights is that State parties to such instruments are to ensure that proper concern are given to human rights issues in global agreements and that such treaties do not adversely impact on human rights. In other words, countries that are parties to human rights instruments, whether at the global or regional levels, have a legal responsibility through global cooperation instruments like the UNFCCC to reduce emissions to acceptable limits consistent with the complete actualization of human rights in all countries, especially the vulnerable countries.

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<sup>58</sup> U. N. High Commissioner for Human Rights, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship Between Climate Change and Human Rights*, U. N. Doc. A/HRC/10/61 of 15 January 2009, p. 92, cited in Marc Limon, “HUMAN RIGHTS OBLIGATIONS AND ACCOUNTABILITY IN THE FACE OF CLIMATE CHANGE” (2010) 38 *GA. J. INT’L. & COMP. L.*, p. 552.

<sup>59</sup> Marc Limon, “HUMAN RIGHTS AND CLIMATE CHANGE: CONSTRUCTING A CASE FOR POLITICAL ACTION,” (2009) 33 *Harvard Environmental Law Review*, pp. 439-476.

<sup>60</sup> *Ibid*, pp. 450-451.

<sup>61</sup> *Ibid*, p. 451.

<sup>62</sup> *Ibid*.

<sup>63</sup> *Ibid*.

<sup>64</sup> *Ibid*, pp. 451-452. It is worthy of note that the notion that human rights principles and norms, including access to information, decision making, and a judicial remedy can enhance policymaking in the area of climate change was undertaken by States in preambular paragraph 10 of the Human Rights Council Resolution 10/4, U. N. Doc. A/HRC/10/29 of 20 March 2009.

<sup>65</sup> 1992 UNFCCC, Preamble para. 6.

In making this latter assertion, one is not unmindful of the opposing opinions expressed by some developed countries regarding the impracticability and possible challenges to the adoption of a human rights-based option to climate protection. For instance, the United States of America has indicated three such major theoretical challenges. In its submission report to the OHCHR, the USA government observed thus:

1. [C]limate change is a highly complex environmental issue, characterized by a long chain of steps between the initial human activities that produce greenhouse gas emissions and the eventual physical impacts that may result from those emissions....Furthermore, many uncertainties exist regarding the magnitude of current and future climate change, including distinguishing between those impacts that are part of natural climate variability and those that are influenced by anthropogenic climate change.<sup>66</sup>
2. [C]limate change is a global phenomenon. A worldwide and diffuse set of actors-public and private, wealthy and poor-collectively determine the world's anthropogenic greenhouse emission levels.<sup>67</sup>
3. [C]limate change is a long-term challenge. Emissions of carbon dioxide, on average, remain in the atmosphere for about 100 years....Accordingly, the impacts of climate today are caused not by recent emissions but the accumulation of greenhouse gases over long periods of time by diffuse set of actors, most of whom would have been unaware of any potentially adverse future impact...<sup>68</sup>

As a result, the USA government submitted that “a complex global environmental problem with these characteristics does not lend itself to human right-based solutions.”<sup>69</sup>

While these contentions by the USA may have some elements of correctness, they appear nonetheless inconclusive and primarily represent a one-sided outlook of the probable hypothetical connection existing between climate change and human rights. As a matter of fact, human rights-based solution should not be deemed as merely a way of seeking remedy for injury or damages suffered but also as a progressive mechanism for promoting the growth of sustainable policy responses at the global, regional and national levels.<sup>70</sup> It is in this forward-looking sense, as Limon rightly noted, “that the contemporary value of linking human rights and climate change is to be found, and it is in this progressive sense that the various benefits of a human rights approach...come to the fore.”<sup>71</sup>

### **3.0. Instruments on Child's Rights**

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<sup>66</sup> See generally Submission of U. S. to OHCHR Report, Observations by the United States of America on the Relationship between Climate Change and Human Rights, p. 18-21. Available at <http://www2.ohchr.org/English/issues/climatechange/docs/submissions/USA.pdf>, cited in Marc Limon, “HUMAN RIGHTS AND CLIMATE CHANGE: CONSTRUCTING A CASE FOR POLITICAL ACTION,” (2009) 33 *Harvard Environmental Law Review*, p. 457.

<sup>67</sup> *Ibid.*

<sup>68</sup> *Ibid.*

<sup>69</sup> Submission of U. S. to OHCHR Report, *op. cit.*, p. 23.

<sup>70</sup> However, this is not to be taken as meaning that human rights solution should not be employed as an accountability or responsibility agenda to address damages and seek redress for wrongs suffered as a result of damages occasioned by reason of climate change-related impacts.

<sup>71</sup> Marc Limon, “HUMAN RIGHTS AND CLIMATE CHANGE: CONSTRUCTING A CASE FOR POLITICAL ACTION,” (2009) 33 *Harvard Environmental Law Review*, p. 458.

It may be recalled that the United Nations had in the Universal Declaration of Human Rights (UDHR) 1948 unanimously declared that everyone is entitled to all rights and freedoms stated in the said human rights instruments without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>72</sup> Equally, the UDHR had proclaimed that every child was entitled to special care, assistance and that the family, as the basic group of society and natural environment for the growth and well-being of all its members, particularly children, should be given the vital protection and assistance so that it can fully discharge its duties within the human community.<sup>73</sup>

It must be borne in mind that the need for extending special care to the child has previously been recognised in the Geneva Declaration on the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the UNO in 1959.<sup>74</sup> Other instruments where the rights of the child have been acknowledged include the International Covenant on Civil and Political Rights,<sup>75</sup> the International Covenant on Economic, Social and Cultural Rights,<sup>76</sup> United Nations Convention on the Rights of the Child, and other relevant human rights instruments of specialized agencies and global or regional organisations regarding the welfare of the child.

However, the United Nations Convention on the Rights of the Child (UNCRC) 1989 is significant for not only being the first global treaty that exclusively entrenches definable rights for children but also the most internationally ratified treaty.<sup>77</sup> The enunciation of these rights in a multilateral treaty helped to draw attention to fundamental but globally acceptable principles, which the signatories became duty-bound to incorporate in their domestic laws and policies.<sup>78</sup> Caballero<sup>79</sup> has classified the Child's rights guaranteed under the Child's Rights Convention into four basic categories. These are, rights to basic needs (i.e. right to life, right to health, right to water, right to food and right to housing); rights to specific needs (i.e. right to be cared for by parents, rights to education and rights to rest, play, leisure/recreational activities and freely have access to cultural life); participatory rights (i.e. rights to active participation, right to freedom of expression, association and assembly, accountability and right to effective remedy); as well as civil and political rights (i.e. right to nationality, right to birth registration, right to preservation of identity, right to equal protection against discrimination, right to

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<sup>72</sup> See UDHR, Article 2.

<sup>73</sup> See a community reading of UDHR, Articles 22 and 25(2).

<sup>74</sup> Adopted on 20 November 1959. The Declaration admitted that "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth."

<sup>75</sup> See for instance, Articles 23 and 24 thereof.

<sup>76</sup> See for example Article 10 of the ICESCR.

<sup>77</sup> Adopted by the United Nations General Assembly Resolution 44/25 of 20 November 1989.

<sup>78</sup> Bolaji Owasanoye and Adedeji Adekunle, "Overview of the Rights of the Child in Nigeria," in I. A. Ayua and I. E. Okagbue (eds.) *The Rights of the Child in Nigeria* (Nigerian Institute of Advanced Legal Studies, 1996), p. 28.

<sup>79</sup> Susana Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child," (2013) 13 *Ethics in Science and Environmental Politics*, pp. 1-14.

privacy and family life).<sup>80</sup> These rights are also recognised under the defunct Organisation of African Unity (now African Union- AU) Charter on the Rights and Welfare of the Child.<sup>81</sup>

### **3.1. Impacts of Climate Change on the Rights of Children**

Children's rights, just like adults, are affected by climate change. This is because children share many of the same rights as adults. However, they remain vulnerable chiefly because they have to depend on adults for the realization of most of their rights. Consequently, the infringement of the rights of a child happens not necessarily because they are direct contraventions of the rights assigned to them but also because of violations of the rights of communities where children live. It is a notable fact that children are generally members of a family and community. What affects a family or a community where a child lives is bound to affect the interest of the child either explicitly or implicitly.

Thus, different climatic occurrences have diverse consequences on different basic human rights that children should be entitled to as members of the human family. Similarly, the denial of one right may pose a serious threat to the full enjoyment of other protected or guaranteed rights of the child. For instance, when a family or a whole community is displaced due to climate-related disaster, children get exposed to diseases as a result of poor living conditions; some become undernourished and may even die from starvation; some other children may be forced to stop schooling because family resources would have depleted or schools may have been destroyed.<sup>82</sup>

In this section of the article, attention would be focused on some of the various rights of children breached either expressly or impliedly as a result of climate-associated damages or injuries.

#### **3.1.1. The Right to Life**

The right to life is expressly recognised in a number of international,<sup>83</sup> regional<sup>84</sup> and national<sup>85</sup> human rights instruments. The UNCRC expressly ties the right to life of the child to the duty of States parties to "ensure to the maximum extent possible the survival and development of the child."<sup>86</sup> The scope of the right to life and the

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<sup>80</sup> Susana Sanz-Caballero, "Children's Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child," (2013) 13 *Ethics in Science and Environmental Politics*, pp. 2-3.

<sup>81</sup> See for instances Articles III-XIV, XVIII-XX of the OAU Charter on the Rights and Welfare of the Child.

<sup>82</sup> Stephanie Hodge, "Social Consequences of Climate Change Child Rights and Participation" (UNICEF, 14 December, 2009). Available at <[http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/presentation/wcms\\_120076.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/presentation/wcms_120076.pdf)>. Accessed on 27 March 2020.

<sup>83</sup> See for example UDHR 1948, Article III, UNCRC, Article 6, International Covenant on Civil and Political Rights (ICCPR), Article 6.

<sup>84</sup> See for instance, African Charter on Human and People's Rights (African Charter) 1981, Article IV, OAU Charter on the Rights and Welfare of the Child, Article 5.

<sup>85</sup> See for example, the Constitution of the Federal Republic of Nigeria (as amended) 1999, section 33.

<sup>86</sup> UNCRC, Article 6. See also OAU Charter on the Rights and Welfare of the Child, Article 5.

obligation of State parties would mandate them to adopt practical measures for the protection of children, including but not limited to taking adequate measures to minimize mortality, malnutrition and epidemics. According to the Committee on the Rights of the Child, the right to survival and development further entails the implementation in a holistic manner “through the enforcement of all the other provisions of the Convention, including rights to health, adequate nutrition, social security, an adequate standard of living, a healthy and safe environment.”<sup>87</sup> The implication of this is that the right to life of a child is necessarily connected to and dependent on the state of the physical environment.<sup>88</sup>

Actually, the impact of climate change on the right to life of a child can be either immediate or gradual. But in either situation, change in the climate often results in adverse and unfavourable environmental events such as flooding, hurricanes, desertification or sinking of stretches of land, all of which make survival and enjoyment of human rights mostly elusive. Due to their physical nature, poor health conditions caused by environmental hazards may lead to diseases and ultimate fatality of vulnerable children.<sup>89</sup>

As a matter of fact, the World Health Organization (WHO) has estimated that 88 per cent of the existing burden of disease as a result of climate change occurs in children less than 5 years of age.<sup>90</sup> Thus, when it comes to the spread of diseases influenced by climate change, the risk falls squarely on children. Such preventable diseases like malaria, dengue fever, cholera, meningococcal meningitis and other food-borne diseases, including diarrhea caused by climate change may at times be fatal and result in deaths of vulnerable children.<sup>91</sup>

### **3.1.2. The Right to Adequate Food**

This right is expressly recognised under the International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>92</sup> the UNCRC,<sup>93</sup> and impliedly in connection with provisions regarding adequate standard of living under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>94</sup> as well as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).<sup>95</sup> The import of these provisions is to ensure the availability of adequate food and its accessibility to every individual at all times, including periods of natural or other forms of disasters. However, it is common knowledge that extreme

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<sup>87</sup> See, Committee on the Rights of the Child, General Comment No. 7 (2006) on the Implementing Rights in Early Childhood, para. 10.

<sup>88</sup> S. M. Christiansen, *Environmental Refugees: A Legal Perspective* (Berlin: Wolf Legal Publishers, 2010), p. 57.

<sup>89</sup> Katherine M. Shea and the American Academy of Pediatrics Committee on Environmental Health, “Global Climate Change and Children’s Health”. (2007) 120(5) *Pediatrics*, pp. e1359-e1367 at p. e1361. Available at <https://pubmed.ncbi.nlm.nih.gov/17967924/>. Accessed on 27 March 2020. See also OPCC AR4 Working Group II (WG II) Report, *op. cit.*, pp. 317, 393.

<sup>90</sup> United Nations Children’s Fund, *Unless We Act Now: The Impact of Climate Change on Children* (United Nations Children’s Fund, 2015), p. 48. See also World Health Organisation and United Nations Environment Programme, *Healthy Environment for healthy Children: Key Messages for Action* (World Health Organisation, 2010). Available at [http://www.who.int/ceh/publications/hehc\\_booklet/en/](http://www.who.int/ceh/publications/hehc_booklet/en/). Accessed on 11 November 2015.

<sup>91</sup> Stephanie Hodge, “Social Consequences of Climate Change Child Rights and Participation,” *op. cit.*

<sup>92</sup> ICESCR, Article 11.

<sup>93</sup> UNCRC, Article 24(c).

<sup>94</sup> CEDAW, Article 14(2)(h).

<sup>95</sup> ICERD, Article 5(e).

climate changes are progressively threatening livelihood and food security. According to IPCC and UNDP Human Development reports, an estimated 600 million people are likely to face malnutrition as a result of climate change, with particular adverse consequences on the sub-Saharan African countries, especially children.<sup>96</sup>

It has been reported, for instance, that in Kenya, climate change is negatively affecting children's rights and well-being by "increasing the need to go without breakfast, borrow food from their relatives, or wait for food aid to arrive, which in some cases is delivered but lasts just a week."<sup>97</sup> Similarly, having to travel long distances, sometimes in the dark, to fetch water, put children particularly girls, at risk of attack or sexual abuse.<sup>98</sup> Sadly enough, the right against sexual abuse and exploitation is one of the protected rights of the child both under the UNCRC<sup>99</sup> and the OAU Charter on the Rights and Welfare of the Child.<sup>100</sup> The right to adequate and good quality food is intrinsically linked to the inherent dignity of the child and his/her total wellbeing. In the absence of availability of good quality food, a child will be subjected to malnutrition which in turn will expose him/her to all kinds of sicknesses or diseases.

### **3.1.3. Right to Clean and Safe Water**

Part of the consequences of climate change relates to availability of water. While some areas experience excess of water leading to flooding, some other areas suffer scarcity of it leading to drought. Both conditions have implications on children's rights. As earlier noted, while drought may lead to malnutrition and starvation in children due to food scarcity, flooding on the other hand creates conducive environment for mosquitoes to breed and diseases to spread as the immune system of the children have been undermined or compromised as a result of malnutrition.<sup>101</sup>

Climate change constitutes a threat to safe drinking water and sanitation. There is high probability of rising sea levels leading to the salinity of estuaries, which might threaten groundwater sources. If safe drinking water gets polluted, people will place reliance more and more on unsafe sources of water.<sup>102</sup> According to CESCR, the right to water implies that everyone has physical access to sufficient, safe, acceptable and affordable water for

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<sup>96</sup> IPCC AR4 Working Group II (WGII) Report, *op. cit.*, p. 359. See also United Nations Development Programme, *Human Development Report, 2006. Beyond Scarcity: Power, Poverty and Global Water Crisis* (United Nations, 2007).

<sup>97</sup> Emily Polack, *Child Rights and Climate Change Adaptation: Voices from Kenya and Cambodia*, Children in a Changing Climate Research, Institute of Development Studies, February 2010, p.18. Available at <https://resourcecentre.savethechildren.net/library/child-rights-and-climate-change-adaptation-voices-kenya-and-cambodia>. Accessed on 29 March 2020.

<sup>98</sup> *Ibid.*

<sup>99</sup> UNCRC, Article XXXIV.

<sup>100</sup> See Article XXVII.

<sup>101</sup> Save the Children, *Legacy of Disasters: The Impact of Climate Change on Children* (Save the Children UK, 2010), p. 9 . Available at <https://resourcescentre.savethechildren.net/library/legacy-disaster-the-impact-climate-change-children>. Accessed on 29 Marcy 2020.

<sup>102</sup> *Ibid.* See also Tony Watterston and Simon Lenton, "Sustainable Development, Human Induced Global Climate Change, and the Health of Children" (1997) 87 *British Medical Journal*, pp. 95-97.



personal and domestic purposes, such as drinking, food preparation, personal and household hygiene.<sup>103</sup> Similarly the UNCRC calls on the State parties to provide “clean drinking water, taking into consideration the dangers and risks of environmental pollution,” as part of the steps to be taken in tackling diseases and malnutrition.<sup>104</sup>

The OAU Charter on the Rights and Welfare of the Child also recognizes “safe drinking water” as a vital necessity if a child is to “have the right to enjoy the best attainable state of physical, mental and spiritual health.”<sup>105</sup> Thus, climate change will worsen extant stresses on water resources and compound the problem of people, especially children, having access to clean and safe drinking water. In this respect and according to a UNDP report, climate change interrelates with other causes of water stress like population growth, environmental pollution, poor water management, poverty and inequality.<sup>106</sup> The WHO estimates that approximately 1.62 million children less than 5 years old die of diarrhea yearly and in most cases, the deaths are attributed to polluted water.<sup>107</sup>

#### **3.1.4. The Right to Highest Attainable Standard of Health**

The right to the highest attainable standard of physical and mental health is recognised in a number of global, regional and national human rights covenants or instruments.<sup>108</sup> The scope of this right includes the enjoyment of, equal access to apposite health care facilities, goods, services and conditions which makes it possible for a person, including children, to live a healthy life. No doubt, other determining factors which enhance a healthy living include, but not limited to adequate food and nutrition, housing, availability of clean water as well as pollution-free environment. Climate change affects all these factors and as stated earlier, correspondingly undermines the right of a child to the highest attainable standard of health.

Furthermore, due to their physical, physiologic, and cognitive immaturity, children are often most susceptible to unpleasant health conditions from environmental vulnerabilities and may suffer consequences such as injury, death from severe weather conditions and natural disasters, climate-sensitive infections as well as air pollution-

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<sup>103</sup> See CESCR General Comment No. 15 of 2002, Articles 11 and 12. The General Comment No. 15, *inter alia*, makes additional provisions regarding the guidance on the normative contents of the right to water and the duties assigned to State parties in connection thereto.

<sup>104</sup> UNCRC, Article 24(2)(c).

<sup>105</sup> OAU Charter on the Rights and Welfare of the Child, Article 14(2)(c). See also Nigeria’s Child’s Rights Act (CRA) 2003, Article 13(3)(c).

<sup>106</sup> United Nations Development Programme, *Human Development Report, 2006. Beyond Scarcity: Power, Poverty and Global Water Crisis* (United Nations, 2007).

<sup>107</sup> World Health Organisation, *Water, Sanitation, and Hygiene Links to Health* (Geneva: World Health Organisation, 2004). Available at [www.who.int/water\\_sanitation\\_health/publications/facts2004/en/index.html](http://www.who.int/water_sanitation_health/publications/facts2004/en/index.html).

<sup>108</sup> See for example, ICESCR, Article 7(b) and 10, UNCRC, Article 24, CEDAW, Articles 12 and 14(2)(b), OAU Charter on the Rights and Welfare of the Child, Article XIV(2)(c), African Charter on Human and People’s Rights, Article XVI and CRA 2003, Article 13(3)(c).

related diseases.<sup>109</sup> The additional stress to the global health system has warranted calls by a UN Special Rapporteur on the right to health to caution that neglect by the global community to address the health threats constituted by global warming will jeopardize the lives of millions of people, including children.<sup>110</sup>

### **3.1.5. Right to Adequate Housing**

Climate change negatively impacts on the rights of children to adequate housing recognised in a number of human rights covenants.<sup>111</sup> The right to adequate housing has been defined to include the “right to live somewhere in security, peace and dignity.” It also consist of protection against coerced evictions, availability of services, materials, facilities and basic infrastructure, affordability, habitability, accessibility, location and cultural adequacy.<sup>112</sup> Inarguably, climate change undermines every aspect of this right as millions of children are rendered homeless or compelled to migrate and live in unsafe shanties or “ghettoized” regions<sup>113</sup> as a result of climatic-related catastrophes like flooding, landslide, droughts, etc.<sup>114</sup> Children living in such areas may also become victims of human trafficking, sexual exploitation/abuses, child labour and slavery-related conditions which are also seriously prohibited under the UNCRC.<sup>115</sup>

### **3.1.6. Rights to Education, Family Life and Recreational Activities**

The rights to education, family life, leisure and recreational activities of the children can be compromised as a result of adverse impacts of climate change. For instance, when children and their families are compelled to migrate as a result of climatic phenomena or uninhabitable situations, their education may be interrupted until they are able to possibly resume in their new locations. Even in situations where they do not embark on migration, adverse effects of the climatic conditions on the means of livelihoods of the parents may also force children to drop out of schools till when the parents’ financial abilities are restored. Also, the pulling down of schools, destruction of educational materials and exit of school teachers as a result of climate change threats also negatively affect the right of children to education.

Moreover, in some cases of natural disasters, there are possibilities for parents to either lose their lives or leave their children behind in search of better means of livelihoods in other locations. The children may be left behind in uninhabitable conditions. In either situation, the right to family environment and to be cared for by their

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<sup>109</sup> Katherine M. Shea and the American Academy of Pediatrics Committee on Environmental Health, “Global Climate Change and Children’s Health”. (2007) 120(5) *Pediatrics*, pp. e1359-e1367 at p. e1361. Available at <https://pubmed.ncbi.nlm.nih.gov/17967924/>. Accessed on 27 March 2020.

<sup>110</sup> See Resolution A/62/214, para. 102. See also United Nations General Assembly, *Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights*, A/HRC/10/61 of 15 January 2009, para. 29.

<sup>111</sup> See for examples, UDHR, Article 25(1), ICESCR, Article 11(1), UNCRC, Article 27(3), and the OAU Charter on the Rights and Welfare of the Child, Article 20(2)(a).

<sup>112</sup> See Committee on Economic, Social and Cultural Rights, General Comment No. 4-the right to adequate housing, (United Nations, 12 December 1991), paras. 6 and 8.

<sup>113</sup> Susana Sanz-Caballero, “Children’s Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child,” (2013) 13 *Ethics in Science and Environmental Politics*, p. 6.

<sup>114</sup> International Council on Human Rights Policy, *Climate Change and Human Rights: A Rough Guide* (Geneva: International Council on Human Rights Policy, 2008), p. 1.

<sup>115</sup> UNCRC, Articles 34, 35 and 36.

parents would be disrupted.<sup>116</sup> Climate change also stops millions of children from having full enjoyment of their leisure time and recreational activities. For example, in cases of desertification, drought or floods, children may be forced by the circumstances to walk long distances in search of clean water or look for vegetations to feed their animals. Embarking on such activities has the potentials of depriving them of enjoying their leisure times, recreational and cultural activities as identified under Article 31 of the UNCRC.<sup>117</sup>

### **3.1.7. Participatory Rights**

Though they are rarely mentioned in the perspective of environmental harm, participation or procedural human rights are equally adversely impacted by climate change.<sup>118</sup> Article 6 of the UNFCCC also recognizes this “empowerment rights” and correspondingly enjoins State parties to promote and facilitate the principles of participation of citizens by providing them access to information on climate change and its effects; public participation in addressing climate change and its effects as well as developing adequate responses and the need to encourage public educational awareness; the right to effective access to administrative and judicial proceedings, including redress and remedy.<sup>119</sup>

The UNCRC makes a number of provisions granting some participation rights to children.<sup>120</sup> Access to information, especially for children, is a vital tool in the fight against climate change. This is because well-informed citizens and children can cope better with the harmful consequences of climate change and can address effectively the accompanying risks of climate change.<sup>121</sup> The right to information is also related to the right of the affected people, including children, to be actively involved and be consulted in decision making processes regarding governmental policies that affect them, including climate change and related environmental matters. Virtually all decisions taken by the governments and relevant agencies on issues of climate change are without inputs or contributions from the children, who as noted earlier, are more vulnerable to the negative impacts of climate change.

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<sup>116</sup> UNCRC, Articles 7 (1) and 27(2)(3).

<sup>117</sup> See also OAU Charter on the Rights and Welfare of the Child, Article 12; Susana Sanz-Caballero, “Children’s Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child,” (2013) 13 *Ethics in Science and Environmental Politics*, p. 8.

<sup>118</sup> See generally Marc Pallemarts, “Proceduralizing Environmental Rights: The Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters in a Human Rights Context” in *Human Rights and Environment, Proceedings of a Geneva Environment Network Roundtable* (United Nations Environment Programme/The Geneva Environment Network/Swiss Agency for the Environment, Forests and Landscape, 2004), pp. 14-21.

<sup>119</sup> See also Principle 10 of the Rio Declaration.

<sup>120</sup> See generally UNCRC, Articles 12-17.

<sup>121</sup> See Amnesty International, *Upholding Human Rights While Confronting Climate Change* (London: Amnesty International, 2009), cited in Susana Sanz-Caballero, “Children’s Rights in a Changing Climate: A Perspective from the United Nations Convention on the Rights of the Child,” (2013) 13 *Ethics in Science and Environmental Politics*, p. 8.

This position is contrary to the requirement of Article 12 of the UNCRC which mandates that children are entitled to freely express their own views in all matters affecting them. The Committee on the Right of the Child correctly noted this when it stated thus:

*If the best interests of a large number of children are at stake, heads of institutions, authorities, or governmental bodies should also provide opportunities to hear the concerned children from such undefined groups and to give their views due weight when they plan actions, including legislative decisions, which directly affect children.*<sup>122</sup>

It is therefore, submitted that the children have participatory rights, according to their maturity, in climate change issues, programmes and decisions. Though they are exposed to global warming and its adverse effects, they should not be treated as merely victims but as equal and active participants<sup>123</sup> in the fight to address climate change at the global, regional and national levels. Fortunately, given the facts of globalisation and unprecedented advancement in technology, children's voices can now be heard louder than would have been expected some decades ago. Many demonstrations calling for action against climate change are now being initiated by children, starting with the "one-child protest" about climate change by Greta Thunberg outside the Swedish parliament in 2018. Greta's example was quickly followed by children and young people across the globe.<sup>124</sup>

## **5.0. Conclusion and Recommendations**

The article examined the impacts of global change on the rights of children. It was noted in the article that climate change relates to a change in the state of the climate that can be identified by changes in the mean and/or variability of its properties and that continues for an extensive period of time. Such climatic modifications happens as a result of either natural unpredictability or human-aided activities resulting in such occurrences like global warming, droughts, flooding, landslide, tsunamis, etc. The potentially considerable human rights and developmental implications of climate change affect both adults and children, though children are noted to be more vulnerable. Such violations of children's rights occur because they are members of the human family and concomitantly, what affects the larger community is bound to affect their rights either directly or indirectly.

The article mentioned some of the rights of children affected by climate change to include, the rights to life, adequate food, clean and safe water, highest attainable standard of health, adequate housing, education, family life, leisure and recreational activities as well as the right to actively be informed and to participate freely in taking decisions regarding climate change matters as are defined and protected under a number of global, regional and national human rights treaties and laws.

It is submitted that protection of the right to life of the child is very essential and in the perspective of climate change, is directly linked to methods to be engaged towards the attainment of the full enjoyment of other rights

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<sup>122</sup> Committee on the Rights of the Child, General Comment No. 12-on the right to be heard (Geneva: United Nations, 20 July 2009), para.73. CRC/C/GC/12.

<sup>123</sup> E. Back and C. Cameron, *Climate Change Report: Our Climate, Our Children, Our Responsibility-The Implications of Climate Change for the World's Children* (London: UNICEF, 2008), p. 2.

<sup>124</sup> Stan Tucker, "Editorial: Political Awareness or a Day off School? Climate Protest and Young People" (2019) 37 *Pastoral Care in Education* p. 2.

such as rights to food, clean water, health, housing, education, etc. Moreover, since extreme climate events seriously threaten livelihoods and food security, there is a need to ensure that special attention is given to vulnerable children. The reason is that in the absence of availability of good quality food, a child would be at risk of malnutrition which would necessarily result in exposing the child to all manner of avoidable sicknesses and diseases as a result of a compromised immune system.

Moreover, promoting the right to health in the face of climate change will necessitate, *inter alia*, wide-ranging steps, including mitigating the undesirable effects of global warming on basic determinants of health, some of which have been mentioned earlier in the article, and giving primary attention to protecting vulnerable individuals like children and communities. In addition, since children are equal partners and victims in cases of climate change, they should also be given opportunity to be heard and to freely express their views regarding climate change matters. Such views should be taken into consideration when vital decisions are to be taken bothering on climate matters. As a matter of fact, the active participatory rights of children in this manner should also be extended to their entitlements to be heard in any judicial and administrative proceedings affecting them. Such remedy/remedies could be pursued either personally or through their legal representatives in a manner consistent with laid down global, regional or national laws and procedures.

Finally, a community reading of Article 6 of UNFCCC, Article 24 of the UNCRC and the General Comment 5 on the UNCRC saddles the governments with the duties of ensuring that the rights of children are taken into consideration both in the developed and developing countries. The provisions of the UNCRC and the UNFCCC should therefore, be seen as powerful instruments to hold governments answerable not only in the area of protecting children's rights against climate change but also in encouraging their participations in decisions regarding climate change issues.