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**Gender and Climate Change:
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based approach**

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ABSTRACT

Questo lavoro vuole determinare se la prospettiva di genere è integrata nelle norme di diritto ambientale a livello internazionale ed europeo, in particolare, sottolineando gli effetti del cambio climatico sui diritti delle donne e la loro posizione nelle società dei paesi in via di sviluppo. In questa tesi, il termine “*gender*” farà riferimento esclusivamente alla prospettiva della donna. Infatti, lo scopo è quello di sovvertire il quadro comune che vede la normativa ambientale e i diritti umani delle donne come due regimi separati, non convergenti.

Si vuole dunque comprovare la concreta correlazione tra cambio climatico, ambiente e diritti delle donne prendendo in considerazione molteplici punti di vista ed esempi, provenienti da diverse aree geografiche come ad esempio la zona asiatica (Bangladesh, India, Nepal) e la zona sudamericana (Ecuador, Brasile). Anche le Isole del Pacifico, tra cui le Isole Fiji e Kiribati, saranno prese in esame in quanto casi unici e significativi nel contesto del cambio climatico.

L’analisi proposta inizia considerando i movimenti femministi ed ambientalisti degli anni Settanta nell’Occidente per arrivare poi alla prospettiva eco-femminista tipica dei paesi in via di sviluppo, determinante per capire la relazione tra donna e natura. Infatti, è proprio a partire dagli anni Settanta che si avverte il grande legame tra le necessità delle donne e una maggior consapevolezza sui rischi a livello ambientale, provocati dall’uomo. Da qui si deduce la posizione marginale della donna in società fortemente patriarcali, sebbene il suo ruolo risulti fondamentale per la sussistenza della famiglia e della popolazione. Le donne, infatti, stando a stretto contatto con la natura per motivi di lavoro, sono state le prime ad avvertire problemi di salute considerevoli senza che ne venisse, però, riconosciuta la correlazione. Ecco, dunque, che emerge la necessità di tutelare l’ambiente per il rispetto dello stesso insieme alla salute delle persone.

Tutto ciò è aggravato dal cambiamento climatico nelle sue diverse manifestazioni che, a partire dagli anni Novanta, ha esacerbato la situazione di tali soggetti rendendoli particolarmente vulnerabili e spesso vittime, creando un effetto moltiplicatore. Come viene spiegato, il fenomeno del cambiamento climatico può essere considerato a tutti gli effetti come una comune preoccupazione per l’umanità che, non solo determina la distruzione

degli ecosistemi, ma presenta serie ripercussioni economico-sociali portando a migrazioni consistenti e anche all'aumento delle violenze sulle donne.

Secondo molti studi, soprattutto in aree geografiche come quelle sopracitate, la violenza di genere è diventata un fenomeno molto diffuso in seguito ad eventi climatici distruttivi. Gli stereotipi culturali acquisiscono maggior peso e, in situazioni di stress pari a queste, le donne sono spesso vittime di violenze non solo fisiche ma anche psicologiche o nella forma di matrimoni precoci. Ciò si verifica non soltanto nelle proprie abitazioni ma, soprattutto, nei rifugi di accoglienza post-tsunami o conseguenti ad eventi catastrofici. Spesso in queste infrastrutture manca un adeguato accesso all'acqua e alle cure sanitarie. Dunque, le donne, si trovano in una situazione di ulteriore svantaggio, in quanto i loro diritti alla salute e all'acqua non sono garantiti. L'esempio dell'India, spiegato nel capitolo terzo, illustra come già in condizioni normali le donne non hanno potere decisionale nella gestione delle acque e nei periodi di siccità la situazione si rivela ancora più critica.

Per quanto riguarda la migrazione di genere, il Bangladesh sembra essere l'esempio giusto per spiegare la realtà che milioni di donne devono affrontare. Infatti, movimenti continui di migrazioni di donne avvengono dalle zone rurali alla capitale Dacca e verso paesi limitrofi o più lontani come l'Arabia Saudita. Sfortunatamente, anche in questo contesto le donne subiscono violazioni dei loro diritti, non soltanto in quanto lavoratrici ma anche ed in quanto donne e quindi sottomesse a codici etici di comportamento. Questo elaborato testimonia la correlazione tra migrazione interna e migrazioni internazionali offrendo una panoramica completa sul fenomeno.

Inoltre, nei paesi in via di sviluppo la presenza di comunità indigene, categoria più vulnerabile della società, risulta consistente. Infatti, spesso le loro terre sono sfruttate ed espropriate a favore di grandi colossi industriali, senza tener conto dei diritti di tali gruppi. Queste comunità non solo risultano fondamentali per il mantenimento degli ecosistemi, ma anche per le loro conoscenze tradizionali millenarie trasmesse di generazione in generazione. Questi gruppi, spesso guidati da donne, richiedono da sempre maggiori tutele poiché la loro vita dipende dall'equilibrio naturale dell'ambiente. Esempi emblematici sono il *Greenbelt Movement* in Africa, il *Chipko movement* in India, ed il gruppo *Waorani* in Ecuador.

Da sempre, secondo la loro visione, la natura dev'essere intesa come soggetto del diritto e non come oggetto. Ciò si ricollega ad una prospettiva di pensiero diversa da quella

occidentale in cui la natura sembra sottomessa e relazionata alla figura della donna ed in quanto tale oggetto di usurpazione.

In effetti, è vero che le donne appartengono alla parte più svantaggiata della società, ma esse devono essere riconosciute anche per la loro virtuosità, come affermato nel terzo capitolo di questo lavoro. Inoltre, la Dichiarazione di Pechino (1995) afferma che le donne svolgono un "ruolo importante nella promozione dello sviluppo sostenibile attraverso la loro preoccupazione per la qualità e la sostenibilità della vita per le generazioni presenti e future". Allo stesso modo le donne indigene devono essere considerate come attori notevoli per la trasmissione di importanti conoscenze tradizionali e olistiche e come tali salvaguardate. Tuttavia, il ruolo emblematico delle donne è notevolmente emerso con il cambiamento climatico. Considerando tutti questi concetti, anche se potrebbe sembrare paradossale, il cambiamento climatico dovrebbe essere visto come il punto di partenza per una profonda trasformazione nel ruolo del genere e nelle relazioni di potere.

Questo elaborato si sofferma dunque, nel verificare come l'impatto della prospettiva gender incida sulle norme ambientali vincolanti e non vincolanti a livello europeo ed internazionale. Tra le convenzioni più importanti, in cui si riscontra una visione più inclusiva, si trovano la Convenzione sull'Eliminazione di tutte le Forme di Discriminazione nei confronti delle Donne (CEDAW, 1979) insieme alle raccomandazioni del relativo Comitato e alla Convenzione delle Nazioni Unite sulla Diversità Biologica (CBD, 1992). Nonostante qualche riferimento, una disciplina vincolante più inclusiva risulta ancora assente sia a livello europeo che internazionale, mentre la cosiddetta *soft law* è sicuramente più orientata verso il riconoscimento del diritto ad un ambiente salubre integrando i diritti umani. Infatti, un'analisi di genere viene anche valutata dalla Conferenza delle Nazioni Unite sull'ambiente di Stoccolma (1972), l'Agenda 21 e la Dichiarazione di Rio sull'ambiente e lo sviluppo. Inoltre, il 1995 è un anno di riferimento per quanto riguarda i diritti delle donne, grazie alla creazione del forum di Pechino, che collega chiaramente le donne e l'ambiente nella sua sezione K. In questo settore specifico, il diritto delle persone ad una vita sana e produttiva in armonia con la natura appare una reale necessità per l'intera umanità.

Ciò viene confermato anche nel 2005 dalla Conferenza mondiale delle Nazioni Unite sulla Riduzione dei Disastri tenutasi a Hyogo (Giappone). Le risoluzioni del Consiglio per i Diritti Umani sono sicuramente molto significative nello sviluppo di un nuovo approccio, tuttavia, un reale cambiamento di modello arriva già nel 2017 sottolineando il rapporto tra

le donne e il cambiamento climatico utilizzando una prospettiva di genere. L'analisi segue con l'Agenda 2030, la Conferenza delle Nazioni Unite sui cambiamenti climatici COP 25 (dicembre 2019) e il Forum Generazione Uguaglianza del 2021, prima di passare all'esame dei principali strumenti a livello europeo.

L'Unione Europea è percepita come veicolo di diffusione delle politiche nel campo dello sviluppo sostenibile e, più recentemente, della tutela della parità di genere. Molti strumenti sono presi in considerazione a partire dalla Convenzione Europea dei Diritti dell'Uomo e, sebbene i concetti di base sulla parità di genere e il rispetto dell'ambiente siano chiariti dal Trattato sul Funzionamento dell'Unione Europea (TFUE) e dal Trattato dell'Unione Europea (TUE), non esistono direttive o regolamenti che si rivolgano direttamente alle donne e all'ambiente. A sostegno della *hard law*, la *soft law* appare, anche in questo caso, notevole. Nel 2009 il Consiglio Europeo ha adottato la risoluzione sul cambiamento climatico e lo sviluppo e nel 2012 il Consiglio dell'Unione europea ha presentato le sue conclusioni su "Parità di genere e ambiente". Di conseguenza, molte relazioni sono state pubblicate dall'Istituto Europeo per l'Uguaglianza di Genere (EIGE), che ha svolto un lavoro emblematico in materia, e il Parlamento Europeo è stato molto attivo in questo campo dal 2011. È intervenuto con diverse risoluzioni per integrare la questione di genere nelle strategie di prevenzione e gestione dei rischi associati alle catastrofi naturali con l'intento di migliorare l'*empowerment* delle donne attraverso molteplici strategie. Poi, l'analisi arriverà fino ai più recenti accordi sul Green Deal Europeo e la legge sul Cambiamento Climatico (2020).

Si vuole dunque dimostrare come ci sia l'esigenza di creare una vera interconnessione tra i diritti umani e i diritti ambientali, iniziando da politiche di mitigazione e adattamento che portino ad una *governance* più inclusiva e giusta. L'obiettivo del diritto internazionale è realizzare il "*greening*" dei diritti umani. Dunque una maggior tutela a livello ambientale porterà ad una maggior tutela dei diritti umani. L'interconnessione tra queste due sfere può essere stabilita a partire dal riconoscimento al diritto ad un ambiente sano. Secondo le osservazioni del Relatore Speciale Mr. John H. Knox sui Principi Quadro sui Diritti Umani e l'Ambiente (2018) "gli Stati dovrebbero garantire un ambiente sicuro, pulito, sano e sostenibile al fine di rispettare, proteggere ed adempiere ai diritti umani". Così, un futuro migliore potrebbe essere modellato con la collaborazione di tutti gli Stati e le istituzioni. Di conseguenza, l'importanza del ruolo dello Stato e il ruolo di un buon governo diventano ancora più cruciali. Fortunatamente, quando gli Stati non hanno né l'interesse né la capacità

di proteggere i diritti dei loro cittadini, le ONG sono utili a fornire una forte leva per costringere gli Stati ad assumere posizioni chiare.

Pertanto, se tale diritto venisse riconosciuto come diritto autonomo, garantirebbe anche il diritto delle donne alla salute, in particolare il diritto alla salute riproduttiva, strettamente connesso al loro diritto all'acqua. Alcune sentenze fondamentali, pronunciate dalla Corte Europea dei Diritti dell'Uomo, dalla Corte Interamericana dei Diritti Dell'uomo e dalla Commissione Africana, sono prese in considerazione da tale elaborato per dimostrare il processo in corso dei diritti umani nei confronti del diritto ambientale mostrando il cambiamento dell'approccio intrapreso dai tribunali. Si potrebbe facilmente concludere che il ruolo dei tribunali regionali è un chiaro esempio di come debba essere garantito il diritto di beneficiare di un ambiente sano. Gli stessi tribunali stanno fornendo un quadro e un'applicazione pratica di tale diritto: La Corte Interamericana dei Diritti Dell'uomo, nel suo parere consultivo del 15 novembre 2017, ha riconosciuto l'esistenza di un diritto a un ambiente sano come diritto autonomo perché, nella sua dimensione collettiva, costituisce un interesse universale.

Il via a questo processo può essere visto anche da un'ottica geopolitica che vede soluzioni quali l'adattamento, la mitigazione, lo sviluppo di capacità, il meccanismo di finanziamento e il trasferimento tecnologico in un'ottica di gender assieme ad una *governance* multistrato e policentrico. A questo proposito, questa tesi ha esaminato diversi Programmi Nazionali di Adattamento (NAPA) intrapresi dai paesi in via di sviluppo sotto il suggerimento della Convenzione quadro delle Nazioni Unite sui cambiamenti climatici (UNFCCC). Le iniziative ideate in Brasile, Nepal, India e Isole del Pacifico sono esempi concreti che testimoniano come una partecipazione più attiva potrebbe migliorare sia i diritti delle donne che le soluzioni di gestione del rischio dovute al cambiamento climatico. Inoltre, molte città stanno già assumendo il ruolo di centri per i diritti umani in modo da essere percepiti come centri fondamentali per la diffusione dei diritti e dell'equità tra le persone e l'ambiente in cui vivono.

Il diritto è quindi nella giusta direzione per raggiungere un approccio più olistico in cui i diritti delle donne siano realmente rispettati e intrecciati con quelli ambientali. Tuttavia, anche se fino ad oggi sono stati apportati diversi miglioramenti, la prospettiva di genere non è ancora completamente integrata. Solo con l'affermazione del diritto a un "*healthy environment*" come diritto autonomo, le donne potranno ottenere il rispetto che meritano.

Per questi motivi, questo lavoro mira a rafforzare e sostenere il nuovo processo olistico di “ecologizzazione” dei diritti umani, per affrontare il cambiamento climatico e lo sviluppo sostenibile da una nuova prospettiva di genere in cui i co-benefici siano destinati anche alle persone più vulnerabili che meritano di vivere in maniera dignitosa.

TABLE OF ABBREVIATIONS

AUDA-NEPAD: Assembly of African Union Heads of State and Government

BPfA: Beijing Platform for Action

CBD: Convention on Biological Diversity

CBR+ : Community-Based Redd+

CDM: Clean Development Mechanism

CDR: Carbon Dioxide Removal

CEDAW: Convention on the Elimination of all Forms of Discrimination Against Women

CIFs: Climate Investment Funds

CMRA: Child Marriage Restraint Act

COMESA: Common Market for Eastern and Southern Africa

CONCONAWEP: Coordinación de la Nacionalidad Waorani de Ecuador-Pastaza

COP: Conferences of the Parties

CSW: Commission on the Status of Women

DSAP: Sustainable Agricultural Development Programme

ECHR: European Convention on the Protection of Human Rights

ECOSOC: Economic and Social Council

ECtHR: European Court of Human Rights

EIAs: Environmental Impact Assessments

EIGE: European Institute on Gender Equality

EJOLT: Environmental Justice Organizations, Liabilities and Trade

ETS: Emission Trading System

EU: European Union

FAO: Food and Agricultural Organization

FPE: Feminist Political Ecology

GATT: General Agreement on Tariffs and Trade

GBM: Greenbelt Movement

GCCASP: African Gender, Climate Change and Agriculture Support Program

GEF: Global Environment Facility

GENDERCC: Gender climate change organization

GEWD: Gender Equality and Women's Development

GGCA: Global Gender and Climate Alliance
GHG: Greenhouse Gases
HRC: Human Rights Committee
ICCPR: International Covenant on Civil and Political Rights
ICESCR: International Covenant on Economic, Social and Cultural Rights
ICPD: International conference on Population and Development
ICTA-UAB: Institut de Ciència i Tecnologia Ambientals-Universitat Autònoma de Barcelona
ICWE: International Conference on Water and the Environment
ILO: International Labour Organization
IOM: International Organization for Migration
IPCC: Intergovernmental Panel on Climate Change
IPR: Intellectual Property Rights
IUCN: International Union for Conservation of Nature
JI: Joint Implementation
LDC: Least Developed Countries
MDG: Millennium Development Goals
NAPA: National Adaptation Programmes
NDCs: Nationally Determined Contributions
NGOs: Non-governmental organizations
NSCs: National Steering Committees
NWMLE: Network of Women Ministers and Leaders for the Environment
OAS: Organization of American States
OAU: Organization of African Unity
OHCHR: United Nations Human Rights Office of the High Commissioner
OXFAM: Oxford Committee for Famine Relief
PE: Political Ecology
PRA: Participatory Rural Approach
REDD: Reducing Emissions from Deforestation and Forest Degradation programme
UNWOMEN: United Nations Women
SDG: Sustainable Development Goals
SEWA: Self Employed Women's Association
SGP: Small Grants Programme

SPC: Secretariat of the Pacific Community
SRHR: Sexual and Reproductive Health And Rights
TFEU: Treaty on the Functioning of the European Union
TNC: Transnational corporations
TEU: Treaty on the European Union
UDHR: Universal Declaration of Human Rights
UN: United Nations
UNCCD: United Nations Convention to Combat Desertification
UNCED: United Nations Conference on Environment and Development
UNDP: United Nations Development Programme
UNDRIP: United Nations Declaration on the Rights of Indigenous People
UNECE: United Nation Economic Commission for Europe
UNEP: United Nations Environment Programme
UNESCO: United Nations Educational, Cultural and Scientific Organization
UNFCCC: United Nations Framework Convention on Climate Change
UNICEF: United Nations International Children's Emergency Fund
UNIFEM: United Nations Development Fund for Women
UNODC: United Nations Office on Drugs and Crime
UNSC: United Nations Security Council
USA/US: United States of America
VAW: Violence Against Women
WARN: Women of All Red Nations
WB: World Bank
WECF: Women in Europe for a Common Future
WEDO: Women's Environment & Development Organization
WOCAN: Women Organizing for Change in Agriculture and Natural Resources
WWFIP: Women Working for a Nuclear Free and Independent Pacific

INTRODUCTION

The present work aims at answering a very specific question: namely if in the context of climate change and environmental law a gender perspective is really intertwined at the international and European level. In this dissertation, the term “gender” means exclusively women’s perspective. In particular, this work wants to prove that the interconnection between climate change, the environment, and women’s rights can be observed by different levels and standpoints considering several geographical areas.

As it will be clearly explained later on, climate change can be considered a common concern for humankind, a stress multiplier, and one of the most relevant challenges that humans have to face nowadays. In this complex scenario, women play a particularly important role as they always had during ages. Indeed, with a view to providing a complete and thorough answer, several elements will be touched starting from the first interconnection between women’s movements and environmental awareness-raising since the 1970s.

The first chapter will be especially focused on the historical part explaining the evolution of gender discourses linked to environmental issues. Indeed, it is precisely in the period abovementioned that people and scholars started understanding the limit of natural resources and the need to respect and protect the environment from abuses, not only for an ecological purpose, but also for the health and well-being of humans. The “first comers” in this awareness were precisely women and the first feminist movements which adopted a new ecofeminist perspective that, as the term suggests, focuses on the linkage between feminist theory and ecology. Ecofeminism emerged specifically in developing countries and the so-called Global South, characterized by the remarkable presence of indigenous communities living in close connection with nature and environmental resources. However, especially in countries such as Nigeria, India, Bangladesh, and Ecuador, many territorial cases of abuse took place in the 1970s and 1980s when many companies started exploiting the territories at the expense of local communities. These groups lived thanks to mangroves, trees, natural resources, and rivers and developed a strict relation with nature which was always considered as a living and organic subject, not as an object, typical of the western vision.

To tackle such controversies, women were the first active actors in blocking and opposing oppressions. Besides, women were the ones who spent more time in contact with nature for

their positions in society as food and water providers as well as mothers and caregivers. For this reason, women's movements such as the Greenbelt Movement in Africa, the Chipko movement in India, and the Waorani women in Ecuador appear to be the most emblematic examples of women's struggles in the environmental field. The chapter will provide several examples of how such movements became the roots from which many larger Non-Governmental Organizations grew up to establish environmental rights later on. Considering all these aspects, the chapter will show how the field of political ecology and the feminist political ecology appeared to be the first response to explain a gender-environmental connection and, how including a gender connection in environmental studies will be particularly significant in the future.

This primary historical overview will be then contextualised in a juridical framework to explore in which environmental provisions, starting from the 1970s, a gender perspective is included and whether women's rights go hand in hand with environmental protection. The analysis will present the international background dividing hard from soft law to consider how many international binding treaties and conventions are actually working or if soft law results to be more effective. Considering that there is still the absence of a binding instrument at the international level which includes all the necessary elements in the field of environmental law and human rights, several main hard law conventions will be taken into account. One of the most significant is the Convention on the Elimination of all forms of discrimination against women (CEDAW,1979) along with the CEDAW Committee recommendations¹ and the UN Convention on Biological Diversity (UNCBD, 1992). Both include some provisions which acknowledge the position occupied by women in society, in developing countries, where their role as food provider improved their knowledge and practices in food production. Then, in the 1990s, global warming started to be seen as a real threat to human beings, providing serious consequences to natural ecosystems. Thus, a brief overview of the UN Convention to combat desertification (UNCCD) and the United Nations Framework Convention on Climate Change (UNFCCC) will be offered to find out the direction towards which climate change solutions are going to. Then, the well-known Kyoto Protocol will be considered arriving at the more recent Paris Agreement.

¹ In particular CEDAW Committee article 5(4) of the Optional Protocol, concerning communication No. 2751/2016 (CCPR/C/126/D/2751/2016) in the field of the ICCPR will be considered. The 44th session of the CEDAW Committee on Gender and Climate Change in 2009, recognized the linkage between the discrimination of women and the dramatic impact of climate change

Nonetheless, the effective role at the international level is played by soft law. It will result clear how several declarations and resolutions shaped women's rights in the field of environmental law. A gender analysis will follow considering the United Nations Conference on the Environment in Stockholm (1972), the Agenda 21, and the Rio Declaration on Environment and Development, among the most remarkable instruments. In addition, 1995 is a landmark year considering women's right, thanks to the creation of the Beijing forum will interconnect quite clearly women's and the environment in its section K. Indeed, in this specific area, the right of people to a healthy and productive life in harmony with nature appear a real necessity for the entire humankind².

In the 2000s, climate change appeared a security challenge and there was increasing evidence on the fact that women and men experience climate change differently and that it increases women's vulnerability and gender inequalities at the same time. Thus, the Millennium Development Goals appeared as an initial approach to face the issue, and only in 2005 the UN World Conference on Disaster Reduction hold in Hyogo finally recognised integrating gender equality into all decision-making and planning processes related to disaster risk management.

The analysis will also include a brief outline of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), because Indigenous people are considered a vulnerable category due to their livelihood and way of living. They will be also included in the 2012 UN Conference on Sustainable Development (Rio+20) and its most famous outcome Resolution adopted by the General Assembly "The Future We Want". Also, the Human Rights Council Resolutions are surely quite significant in the development of a new approach, however, a real change of pattern arrives a few years ago in 2017 emphasises the relationship between women and climate change using a gender perspective³. The analysis will follow with the Agenda 2030, the UN Climate Change Conference COP 25 (December 2019), and the Generation Equality Forum 2021, before passing to the examination of the main instruments at the European level.

Also, in this case, the survey will be provided dividing hard law from soft law. The EU is perceived as a normative power or vehicle of policy diffusion in the field of sustainable

² Area K of the Platform for Action, 1995 in the 4th World Conference on Women, the Beijing Declaration

³ Resolution adopted by the Human Rights Council on 22 June 2017, thirty-fifth session 6–23 June 2017, Agenda item 3, "35/20. Human rights and climate change" A/HRC/RES/35/20.

development and, more recently, to the protection of gender equality. Many instruments will be considered starting from the European Convention on Human Rights, and, although the basic concepts on gender equality and environmental respect are made clear by the Treaty on the Functioning of the European Union (TFEU) and Treaty on the European Union (TEU), there are no directives or regulations which directly address women and the environment. In support of hard law, soft law appears, also in this case, remarkable. In 2009 the European Council adopted the Conclusion on Climate Change and Development⁴ and in 2012 the Council of the European Union provided its conclusions on “Gender equality and the environment”⁵. Hence, many reports have been published by the European Institute on Gender Equality (EIGE) which made an emblematic work on the matter, and the European Parliament has been very active in this field since 2011. It intervened with several resolutions to integrate the gender issue into strategies for preventing and managing the risks associated with natural disasters with the intention of enhancing women’s empowerment through multiple strategies⁶. Then, the analysis will arrive until the more recent agreements on the European Green Deal and Climate Change law (2020).

Successively, Chapter three will comprehensively give a precise outline on how climate change is not only a problem as such, but on how its effects arrived everywhere in the world and the most disadvantaged countries (less responsible) are the ones who suffer the most. Thus, again, women are at the centre of the discussion because they are considered vulnerable actors for their roles in the society. Indeed, the vulnerability is due to the unequal power relations connected to gender, and precisely because of the role that is imposed on them in the communities where they live. Generally, women’s rights are not observed and so women bear a double or triple burden considering their social role, their family role, and the burden imposed by climate change consequences. Therefore, we can

⁴ European Council conclusions on Climate change and development 2974th External Relations Council meeting, Brussels, 17 November 2009

⁵ European Council conclusion on Gender equality and the environment: enhanced decision-making, qualifications and competitiveness in the field of climate change mitigation policy, Brussels, 29 June 2012

⁶ European Parliament resolution of 20 April 2012 on women and climate change (2011/2197(INI)); European Parliament adopted the resolution on the role of women in the green economy (2012/2035(INI)); European Parliament Resolution of 9 June 2015 on the EU Strategy for equality between women and men (2014/2152(INI))

talk of feminisation of poverty and gender vulnerability when referring to women living in developing countries.

Chapter three will also offer some precise case studies concerning East Asian countries in order to prove the unequal relations and consequences of climate change on women and how, again, women depend on the environment in which they live. The first example that will be offered is female harassment. Indeed, the case of Bangladesh and the Pacific Islands (especially Fiji and Kiribati) describe how, not only women's death rate overshoots the men's ones, but also during and in the aftermath of a natural hazard women face episodes of violence against women in the forms of rape, child marriage, sexual and mental abuse along with cases of sex traffic. These episodes are perpetrated especially in the context of domestic abuse or during the permanence in shelters. Indeed, during this period of climate hazards, families cannot manage the poor situation in which they live and find themselves obliged to sell their daughters, in other cases, because of stress caused by climate change, men are more prone to abuse their women, as illustrated by several studies. The geographical areas took in exam appeared emblematic considering that the Kiribati Island, in its constitution, does not entail sexual protection, and discrimination against women could be interpreted as technically legal.

Another example to prove how women depend on natural resources, and how climate change deepens their difficulties is water management. Here, India appears to be the right example as it shows both how the codes of behaviour work and how the castes trapped women in their communities.

A final case to testify women's burden is gender migration. Indeed, this phenomenon can be seen as a solution but also as a serious issue. In this context, Bangladesh seems to be the right example to explain the reality that millions of women faces. The paragraph will depict the scenario concerning two interconnected phenomena: internal displacement and international migrations. This overview will add a piece more to arrive to a complete framework and give more detail on this interconnection.

Finally, the last chapter will try to connect all these implications through a reflection on which strategy, or better, gender-sensitive strategy will face climate change effectively and profitably. After having analysed solutions such as adaptation, mitigation, capacity building, financing mechanism, and technologic transfer, a brief overview on a good-multi-layered governance will be provided. Indeed, only by adopting a more holistic perspective in governance based on a multi-layered and polycentric approach, States will effectively

protect people and guarantee the satisfaction of their rights. Many cities are already taking the role of human rights hubs so as to be perceived as fundamental centres for spreading rights and equity among people and the environment in which they live. This can also be translated into the first step to the process of a human rights-based approach to environmental law, meaning a new standpoint from which make human rights and environmental legislations converge to provide a more respectful living. Indeed, the final piece to incorporate these two elements can be represented by the right to a healthy environment.

The chapter will explain the necessity of building harmony with nature through the right to a healthy environment. This is the new frontier of international law that aims at realising the “greening” of human rights. Furthermore, this process has a lot to do with women and their rights. Besides, as it will be explained, women during and after a climate change event find themselves in real danger and see their rights violated. Thus, the existence and recognition of the right to a healthy environment, as a self-standing right, would also guarantee women’s right to health, in particular, their right to reproductive health which is strictly connected to their right to water. Hence, the right to live in a decent and healthy environment could solve and ensure many women’s rights that now are not observed. Some fundamental judgments, from the European Court of Human Rights, the Inter-American Court of Human Rights, and the African Commission, will be proposed to prove the ongoing process of human rights towards environmental law showing the change of the approach undertaken by the courts⁷.

In conclusion, each chapter will contribute step by step, to form a more complete vision on the actual interconnection between women’s rights and environmental law that at the end of the work will appear clear and tangible.

⁷ The judgements will be, accordingly, *Lopez-Ostra vs. Spain* *Awasi Tingni Mayagna Indigenous Community v. Nicaragua*; *Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria*; *Lhaka Honhat Association vs. Argentina*

CHAPTER 1: THE EVOLUTION OF GENDER DISCOURSE LINKED TO ENVIRONMENTAL ISSUES

1. The international notion of a gender perspective in environmental issues: an introduction

Throughout history, women have faced intense discrimination and inequalities from a wide range of perspectives. Indeed, women have long been viewed through male stereotypes that depicted women as less important than men. The patriarchal society shaped gender inequality from the voting rights that were afforded to women much later than men, and only after harsh battles. Moreover, women's livelihoods depended on their husbands and their roles were typically seen as being to raise children and stay at home: the woman was the synonym of housewife while the man corresponded to the breadwinner of the family⁸. Indeed, as Susan Griffin described in her book "Woman and Nature, The Roaring inside her"(1978), "a woman is not fully the master of herself"⁹. According to the general customs, wives fell under the protection of the husband and often became one person in the eyes of the law. Women had no rights to own property, and everything passed in their husbands' hands. As a result, women faced restricted inheritance rights, limited personal effects, and few rights also in the criteria for divorce on behalf of men. These discriminations were provided also through education, a field characterized by inequalities and strongly influenced by the social context¹⁰. Historically, educational needs were perceived to be gendered to the extent that girls were not encouraged academically and were more likely to receive a home education to become the perfect wife and mother. By contrast, scientific subjects such as mathematics were typically reserved for boys who were prepared to be the decision-maker of the family.

As will be described in the following paragraph, starting from the 20th century, women decided to make their voices heard nationally and internationally and, above all, from a legal point of view. The laws and policies of a government played a key role in shaping relations of gender equality over time. Indeed, in its preamble, the Charter of the United

⁸BIANCHI, B., *Introduzione Ecofemminismo: il pensiero, i dibattiti, le prospettive* in Rivista Deportate, esuli, profughi DEP n.20/ 2012, Ca' Foscari, pp.XV-XVI-XVII

⁹GRIFFIN, S., *Woman and Nature, The Roaring inside her*, 3rd edition, California, Counterpoint, Berkeley, 1978, p.15

¹⁰ BASU, A., *Women's Movements in the Global Era*, 1st edition, Westview Press, 2010, pp.419-421

Nations states "the equal rights of men and women" and in Article 55 states "the organization shall promote universal respect for and the realization of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion"¹¹. Thus, it underlines the equality between women and men. However, gender inequality is "pervasive throughout the world"¹² and a widespread concern that needs to be eradicated. For this same reason, it constitutes the fifth objective in the sustainable development goals established by the 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015¹³. Precisely in developing countries, gender inequality is even more exacerbated by environmental disasters because of women's position in society. As in Vandana Shiva's words, "the recovery of the feminine principle is based on inclusiveness"¹⁴.

The Beijing Platform for action (1995) is one of the first conventions that notes the inclusiveness and the linkages among poverty, natural disasters, environment, and gender inequalities. As will be later on described, the Beijing plan shows a multidisciplinary approach introducing gender lenses through which analyse environmental problems: "in both urban and rural areas, environmental degradation results in negative effects on the health, well-being and quality of life of the population at large, especially girls and women of all ages"¹⁵. Moreover, "[...] women play an important role in promoting sustainable development through their concern for the quality and sustainability of life for present and

¹¹UNITED NATIONS, *Charter of the United Nations*, San Francisco, art. 55, available at <https://www.un.org/en/charter-united-nations/>

¹²UNDP, United Nations Development Programme, *Gender Mainstreaming a Key Driver of Development in Environment & Energy, Training Manual*, November 2007, New York, p.3

¹³UNITED NATIONS, *Sustainable Development Goals*, 2015, available at <https://sdgs.un.org/goals>. See also UNITED NATIONS, *Sustainable Development Goals and the 2030 Agenda*: <https://www.un.org/sustainabledevelopment/developmentagenda/>, and UNITED NATIONS, United Nations General Assembly, Resolution 70/01, Seventh Session, Transforming our World: The 2030 Agenda for Sustainable Development, New York, September 25th, 2015.

¹⁴SHIVA,V., *Staying alive: women, ecology, and development*, Reprint edition, North Atlantic Books, Berkeley California, 2016, p.53.

¹⁵ UNITED NATIONS, Fourth World Conference on Women, *Beijing Declaration and Platform for Action*, 4-15 September 1995, Area k, art 247. See also

future generations¹⁶”. These are the first international notions that started to be taken into account challenging the patriarchal and widespread vision of women’s role in society.

This connection between gender and the environment began during the XX century, a period characterized by the intensification of human rights requests by women who took the lead to contribute to shaping the issue of development. These two apparently distinct categories are extremely intertwined between them and have come to a fusion in the 1970s giving rise to the term ecofeminism. This ideology took place and got increasing attention all around the world, as will be described in the following paragraphs. In the last twenty years, women have had considerable influence on international agreements establishing the parameters of gender equality and global justice. Today their leverages at the national and local levels are enormous considering the issue of climate change. Indeed, gender and climate change started to be viewed as two of the main fields of academic enquiry since they have a history based on debates around the role of gender in the environment and development¹⁷.

This chapter aims to analyse the connection between women and the environment during the 20th century and to frame the most important ecological distribution conflicts, and environmental women’s groups that characterized the history of ecofeminism.

1.1 From feminist movements to ecofeminism in the West

The late 1960s and the early 1970s were a period of revolutions that slung the environmental and women’s rights movements to new achievements. Before interconnecting with the environmental field, women began their mobilizations to obtain their rights and to escape from invisibility and subjugation. Since the 1960s, women wanted their voices heard and organized the so-called “feminist” groups “committed to the elimination of male-gender power and privilege, or sexism”¹⁸ and so, to challenge the patriarchal system. The aim was to reverse the social hierarchy in order to improve women’s status in the society. The history of the feminist movement in the West is

¹⁶ *Ibid*, art. 248.

¹⁷ PNUMA, WEDO AND UNITED NATIONS FOUNDATION, *La mujer y el medio ambiente, colección de publicaciones sobre políticas*, 2004, p.1-144.

¹⁸ WARREN, K.J., *Ecofeminism, women, culture, nature*, Indiana, University Press, Bloomington and Indianapolis, 1997, p.3

typically divided into three waves: the first, the second, and the third wave¹⁹. The first wave of feminism took place in the late 19th and early 20th century aiming at introducing universal suffrage, women's education, equal opportunity of employment, and new marriage laws. The second wave developed in the late 1960s with the slogan "the personal is political"²⁰ that sums up how women strike to change lives through intervention and consciousness-raising within the spheres of reproduction, sexuality, and cultural representation. The subjugation of women began to be associated with broader critiques of patriarchy capitalism and women's role as wives and mothers. Women's liberation groups received influences from new branches as radical feminism, lesbian feminism, and black feminism. All these variables led to the third wave of feminism that emerged in the 1990s characterized by post-colonial and postmodern thinking where the main focuses were the body, the concept of gender, heteronormativity, and the environment.

In this period the increasing role of global women's rights movements brought to the formation of transnational networks and advocacy groups with the support of international organizations. Women's requests started to be considered by the United Nations which introduced the "Year of the Woman"²¹ in 1975 and in the same year the UN world conference on women was settled down in Mexico City. Then the UN Convention on the Elimination of all Forms of Discrimination Against Women in 1979 became one of the landmarks achieved by women to monitor their critical realities around the world and to promote women's rights²².

¹⁹ WHITTIER, N., *Identity Politics, Consciousness Raising, and Visibility Politics*, in H.McCammon, V.Taylor, J.Reger, and R.Einwohner (eds.), *The Oxford Handbook of U.S. Women's Social Movement Activism*, Oxford University Press, New York, 2017, pp.376-397.

²⁰ *Ibid.*

²¹ The United Nations (UN) appointed 1975 as International Women's Year, organizing a world conference in Mexico City on the status of women. The conference established a set of objectives for countries to attain over the next ten years in order to advance women's rights around the world. The UN further established the decade from 1976-1985 as the United Nations Decade for Women.

²² UNITED NATIONS, General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, 18th December 1979. See also GILLERI, G., "How are you actually doing, ladies?" *Indicators of gender equality through the lens of the UN Committee on the Elimination of Discrimination against Women*, *The International Journal of Human Rights*, 1218-1246, 2020, DOI: 10.1080/13642987.2020.1717474 which underlines all the indicators that constitute a tool to CEDAW-based reporting processes.

In particular, in the USA, all these women's movements emerged as pacifist antinuclear groups against the nuclear issue of the decade 1970s-1980s. According to Women Working for a Nuclear Free and Independent Pacific (WWFIP), the gendered structural violence was translated through the production of nuclear weapons in a period called nuclear colonialism. According to a feminist perspective, it seemed to be another form of domination and control that endangered everybody's lives. From this standpoint, whereas politics was seen as the masculinized realm of the public, and home a private feminized space, women tried to escape from the private sphere moving to the public in order to break with the common gendered stereotype. Thus, the US Congress answered with the Equal Rights Amendment (1972) and Title IX in the Education Codes (1972)²³, enabling a social revolution of women in the workplace. Indeed, this activism reconfigured gendered roles challenging heterosexual norms²⁴.

Furthermore, starting from the 1970s, these feminist movements went hand in hand with an increasing environmental sensibilisation that testified environmental disasters around the world. Indeed, 1970 has to be considered the watershed of the modern environmental movements. The first ecological crisis that circulated all over the world was The Love Canal Tragedy, the best-known case of environmental injustice in the US. It was a polluted industrial area with a heavy incidence of diseases that pushed residents to reclaim justice. This was only one example that started raising awareness on the environmental conditions of the Planet. Then, in 1972 the Club of Rome's famous book "Limits to growth" demonstrated how the growth population index and the economic system would have led to environmental degradation and the collapse of resource exploitation. This proved the impossibility to have endless and limitless growth in a "finite world"²⁵. For this reason, the Earth Day was settled on April 22, 1970, celebrating the importance of Mother Earth against political and economic capitalism. In 1972 the UN Conference on the

²³ These amendments and codes aimed at prohibiting sex discrimination in any education program or activity receiving federal financial assistance.

²⁴ ODAWARA, R., *Anti-Nuclear Movement and 'Motherhood' in Post-War Japan: A Feminist Perspective* in *Rivista Deportate*, Esuli, Profughi, DEP n.41-42 / 2020, Ca' Foscari. p.54.

²⁵ BLEWITT, J., *Understanding sustainable development*, Routledge, 3rd Edition, 2018, p.8

Human Environment was held in Stockholm and is still considered the first environmental landmark towards a change of paradigm in economic and political terms²⁶.

This environmental awareness along with women's protests and social justice grievances converged in the creation of ecofeminism. Thus, ecofeminism emerged from this intersection to underline the uncovered linkages between oppressions of gender, ecology, race, and species²⁷. As Greta Gaard argues, "ecofeminism is an interdisciplinary field of inquiry"²⁸ that has evolved from different fields of feminist activism. Many books and works put the basis of ecofeminism, in particular, "Silent Spring" by Rachael Carson in 1962; "*Le féminisme ou la mort*" by Francoise d'Eaubonne, published in 1974, which introduced the term ecofeminism for the first time. Other important publications were "Women and Nature: the roaring inside her" written in 1978 by Susan Griffin and "The death of Nature. Women, Ecology and the Scientific Revolution" by Carolyn Merchant, written in the 1980s. All these publications deal with the juxtaposition between the exploitation of nature by capitalism and the oppression of women by patriarchal societies.²⁹ Hence, the domination of women and nature have common roots because of their parallel positions: capitalism and patriarchy have always marginalized both women and nature³⁰. As a result, there is a constant dualism (culture/man versus nature/woman) that allowed man to denigrate nature as a reality³¹. Indeed, "western intellectual tradition has resulted in devaluing whatever is associated with women, emotion, animals, nature, and the body, while simultaneously elevating in value those things associated with men, reason, humans, culture, and the mind"³². In these binary oppositions, apparently, men and the male sphere seem to be superior and more valuable than women³³. What ecofeminists want to achieve is "the end to all oppressions arguing that no attempt to liberate women

²⁶ UEKÖTTER, F., *Myths, Big Myths and Global Environmentalism* in S. BERGER, H. NEHRING (EDS.), *The History of Social Movements in Global Perspective*, pag. 422

²⁷ WARREN, K.J., *Ecofeminism, women, culture, nature*, cit., p.xi

²⁸ GAARD, G., *Ecofeminism, women, animals and nature*, Temple University Press, Philadelphia, 1993, p.vii

²⁹ BIANCHI, B., *Introduzione, ecofemminismo: il pensiero, i dibattiti, le prospettive* cit., p.II.

³⁰ MIES, M., SHIVA, V, AND SALLEH, A., *Ecofeminism*, Zed Books, 2nd edition, London and New York, 2014, p.xvi

³¹ GAARD, G., *Ecofeminism, women, animals and nature*, cit., p.204

³² *Ibid*, p.4

³³ *Ibid*, p.273

will be successful without an equal attempt to liberate nature”³⁴. This means the willingness to overcome the simplistic ecological and social analysis, in order to achieve a radical social transformation. From this standpoint, human beings have to take the distance from the typical western anthropocentric view focusing more on an eco-centric or biocentric view that comprehends the interconnectedness of all life processes: humans should cooperate with the land redistributing power relationships³⁵.

The gender-blindness has to be beaten to erase any dichotomy and push for an inclusive anti-hierarchical way of living³⁶. In "The Ecology of Feminism and the Feminism of Ecology," Ynestra King speaks of the necessity of a "healthy, balanced ecosystem, including human and nonhuman inhabitants, [which] must maintain diversity."³⁷

Besides, the idea that the Earth is female has always been an intrinsic value depicted through the centuries. Indeed, the symbol of the woman has always been the planet Venus. However, this representation of Mother Nature emerges out of a romantic tradition based on a male, immaterial fantasy of the ideal woman. In the 18th century, many ecologists and scholars unconsciously carried on this tradition, blocking the real essence and knowledge of nature. The same ideologies that "justify" the domination of women were used to legitimize the denigration of nature”³⁸. As a result, the metaphor of Mother Nature is shaped within a patriarchal ideology: woman and nature are seen as submissive. Indeed, according to C. Heller “the cult of the romantic erases woman's identity as a wrench in the machine of male domination”³⁹. All this represents a psychological construction of the self since the exploitation of nature is intimately linked to Western Man's attitude toward women. This aspect has to be related to the fact that nature has always been perceived as an object to be exploited. In all the constitutional texts of the world, nature is not considered a subject to be respected. Only in the last decade, we assist in a change of the paradigm above all in the Global South populated by historical ancestral groups who claim

³⁴ *Ibid*, p. I

³⁵ *Ibid*, p.24-25. See also the Statement of Commitment to Ecocentrism 2019 available at <https://www.ecologicalcitizen.net/statement-of-ecocentrism.php>

³⁶ *Ibid*, p.80

³⁷ *Ibid*, p.154

³⁸ *Ibid*, p.220

³⁹ *Ibid*, p.222

their rights. An example is the Bolivian and the Ecuadorian constitutions that represent a biocentric approach giving particular relevance to nature as a real subject with its own rights. As a consequence, also the position of the woman in the society took more attention⁴⁰. To this extent, ecofeminism is about reclaiming and reconstructing reality through women's experiences and perceptions⁴¹.

Finally, as regards the USA, ecofeminist activism has been emblematic in Massachusetts, for instance, where dozens of women defined themselves as Women and Life on Earth or Ecofeminism in the Eighties. They started fighting against environmental disasters due to industrial exploitation because environmental pollution had direct impacts on women and their reproductive systems. Indeed, yet in 1980 the movement of the Women of All Red Nations (WARN) raised the alarm about the increase in the birth of deformed children due to toxic waste spilled in their territories⁴². Other ecofeminist events developed in the Three Mile Island Parades at the Pentagon Action in Washington (1980) and in San Francisco at the Peace's Camps of Greenham Common (1981-87). These groups wanted to create a real

⁴⁰Constitución de la Republica del Ecuador, 2008. Available at <https://biblioteca.defensoria.gob.ec/>

See Capitulo VII, art. 71, “*La naturaleza o Pacha Mama donde se reproduce y realiza la vida, tiene derecho a que se respete integralmente su existencia y el mantenimiento y regeneración de sus ciclos vitales, estructura, funciones y procesos evolutivos. Toda persona, comunidad, pueblo o nacionalidad podrá exigir a la autoridad pública el cumplimiento de los derechos de la naturaleza. Para aplicar e interpretar derechos se observarán los principios establecidos en la Constitución, en lo que proceda. El Estado incentivará a las personas naturales y jurídicas, y a los colectivos, para que protejan la naturaleza y promoverá el respeto a todos los elementos que forman un ecosistema*”.

As defined by S. BAGNI in *A new approach to understanding environmental problems: the UN Harmony with Nature Programme and the global movement for the recognition of Nature's rights* in *Environmental Sustainability in the European Union: Socio-Legal Perspectives* by DE VIDO, S., AND BALDIN, S., this constitutional change in Latin American countries was conceived as “a turning point in the history of environmental law” p. 80; See also BALDIN, S., *La tradizione giuridica contro-egemonica in Ecuador e Bolivia* in *Boletin Mexicano de Derecho Comparado nueva serie, de la Biblioteca Juridica Virtual del Instituto de Investigacione Juridicas de la UNAM*, (143), mayo-agosto de 2015, pp.483-530.

⁴¹ GAARD, G., *Ecofeminism, women, animals and nature*, cit., p.135

⁴² BIANCHI, B., *Genere, generazioni e cambiamento climatico. Temi e questioni per una rubrica* in *Rivista Rivista Deportate, esuli, profughi DEP n.41-42 / 2020, Ca' Foscari*, p. 213

women's action agenda to be presented at the 1992 United Nations Conference on Environment and Development (UNCED)⁴³.

1.2 The Global South perspective of ecofeminism linked to the environmentalism of the poor

The anti-nuclear Atlantic ecofeminism present in the US has been articulated from a white feminist standpoint that differed from the one that characterized the Global South⁴⁴. Indeed, ecofeminism in developing countries evolved differently according to specific related issues of those areas. In this case, the evolution of ecofeminism was very linked to the concept of “environmentalism of the poor” developed by Joan Martinez-Alier in the 2000s. According to him, this was the right approach that allowed scholars to analyse the reality in developing countries that clashed with the one in developed realities. Indeed, the visions proposed by the Cult of wilderness and the Eco-efficiency were only First World angles that lacked of a real social concern⁴⁵.

The very concept of environmentalism of the poor was first theorized in India, South-East Asia, and Latin America. It defined those indigenous and peasant groups in the global South that have often “coevolved sustainably with Nature [and] have ensured the conservation of biodiversity”⁴⁶. In these countries, nature is perceived as a living and organic entity because it goes along with religious beliefs and with the livelihood of people. Although some theorists suggested Westerners to adopt the Native American conception of Mother Earth, this image cannot be applied to Western culture because they lack ancestral values and spirituality. Moreover, many times, these values are strictly related to the figure of the woman. Indeed, in these developing countries, women are frequently the major providers of food, fuel, and water, so they have a real psycho-physical relation with Nature⁴⁷. As Vandana Shiva describes in her book “Staying alive: women,

⁴³ ZITOUNI, B., *Distruzione planetaria, ecofemministe e politiche di trasformazione nei primi anni '80* in Rivista Deportate, esuli, profughi DEP n.41-42 / 2020, Ca' Foscari p. 79

⁴⁴ GAARD, G., *Ecofeminism, women, animals and nature*, cit., p.295

⁴⁵ MARTINEZ ALIER, J., *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*, *Progress in Development Studies*, Edward Elgar Pub, New edition (26 agosto 2003), p.14-18

⁴⁶ *Ibid.*, p.11

⁴⁷ GAARD, G., *Ecofeminism, women, animals and nature*, cit., p.5

ecology and development”, “women are the biodiversity experts of the world”⁴⁸. It emerges that women are key figures in developing countries as India because they are essential parts of the agriculture system running small farms. In the words of Shiva, “women-centered agriculture is the basis of food security for rural communities”⁴⁹. Hence, women act as custodians of the Nature or *Prakriti*, as defined in the Indian cosmology. In South America, Mother Earth is called *Pachamama* strongly linked to the concept of *buen vivir*, an ancestral vision of life in total harmony with nature that is now present and recognized also in the constitutions of Ecuador and Bolivia⁵⁰. This *buen vivir* represents a bio-centric way of conceiving life and its core is the strong relationship between the *Pachamama* and human beings⁵¹. The innovative character in this relationship lies in the fact that Mother Nature is seen as a real entity, a subject that includes human life.

According to the indigenous women, there is an inherent knowledge of nature acquired through close contact with it. All this represents a true “biocentric turn”⁵² compared to the typical Western vision⁵³.

It is precisely in this background that a clearer form of active ecofeminism took shape in fighting against the expropriation of people’s lands. The so-called “green revolution” refers to the intensification of industrial production of monocultures destroying the hard work of millions of peasant families. This approach to development is called *maldesarrollo* and showed how these people, above all women, living in poor conditions need their Nature as their lives depend upon that. Speaking of women's acute awareness of ecological crises in India, Vandana Shiva's analysis of development, in the book abovementioned, explains how the interrelated oppressive systems entail ecological degradation in developing countries. She strongly condemned the capitalist market defending the importance of the interconnectedness principle. Therefore, by documenting the poor quality of life for

⁴⁸ SHIVA, V., *Staying alive: women, ecology and development*, cit., p. XIV

⁴⁹ *Ibid.*, p. xvii

⁵⁰ GAARD, G., *Ecofeminism, women, animals and nature*, cit., p.301

⁵¹ ROVOLETTI, R., *Il lato femminile dei conflitti territoriali. Appunti di viaggio in Abya Yala* in Rivista Deportate, esuli, profughi DEP, n° 41-42, gennaio 2020, Ca’ Foscari, p. 194 .

⁵² CARDUCCI, M., *La costituzione come “ecosistema” nel nuovo costituzionalismo delle ande* in S. BAGNI, *Dallo Stato del benessere allo Stato del buen vivir*, Bologna, Filodiritto Editore, 2013, pp. 16-17

⁵³ LONGATO, F., *Filosofie del buen vivir tra passato e futuro*, in BALDIN, S., E ZAGO, M., *Le sfide della sostenibilità*, Bologna, Filodiritto, 2014, pag.52

women, children, people, animals, in the Third World, ecofeminists are able to demonstrate that sexism, racism, classism, the oppression of nature are mutually reinforcing systems of oppression. This oppression emerged from different perspectives, one of which is biopiracy that occurs when “corporations who receive biodiversity and knowledge from indigenous communities freely convert this gift into private property through IPR claims”⁵⁴. Indeed, this phenomenon put at risk the long and historical role of women in collecting knowledge and innovation in their society. Ecofeminism push for the liberation of all oppressed groups in order to emerge from invisibility⁵⁵.

The three main areas in which women started to make their voice heard were India, Africa and Latin American countries. In India, women mobilizations emerged for the first time in the period of India’s independence struggle to manifest against legal inequities in family laws. Then, the “autonomous” women’s movement (the 1970s to the 1990s) emerged to tackle violence against women that was very frequent especially in war periods. Indeed, members of the National Federation of Indian Women demonstrated numerous times outside the Supreme Court in New Delhi to obtain justice⁵⁶.

In Africa, the new women’s movements emerged in the 1990s to challenge issues such as domestic violence, land inheritance by women, female genital cutting, child marriage. Here, forced marriage met the resistance by family law or customary law in comparison with legislative changes that affected gender equality in markets or in state institutions. These movements emerged thanks to the diffusion of international norms regarding gender equality, new donor strategies, democratization, political liberalization, and participation⁵⁷. In Latin America women not only fought for environmental protection but also for better water management, soil conservation, land use, and maintenance of their survival base against the industrial interests. Moreover, they struggled for better work conditions and higher wages in order to guarantee a future for their children. The problem here was the policy behind factories such as *maquilladoras* that allowed factories to be largely duty-free without respecting women's needs⁵⁸.

⁵⁴ SHIVA, V., *Staying alive: women, ecology and development*, cit., p. xix

⁵⁵ *Ibid.*, p. xiv

⁵⁶ GAARD, G., *Ecofeminism, women, animals and nature*, cit., p.247

⁵⁷ BASU, A., *Women’s Movements in the Global Era*, cit., pp.64-70

⁵⁸ *Ibid.*, pp. 291-296

As a result, global south feminism wanted to promote a more holistic and eco-centric approach to development in line with human rights and their difficult realities.

2. Women's role in environmental movements and the issue of ecological distribution conflicts

The environmentalism of the poor is strictly connected with ecofeminism and the issue of ecological distribution conflicts. In the Third World during the 1980s there have been several episodes of defence of common property resources against the state or the market represented by transnational corporations. Analysing the concept of ecological distribution emerges that it refers to “the social, spatial and intertemporal patterns of access to the benefits obtainable from natural resources and the environment”⁵⁹. This means that “ecological distribution conflicts [...] are conflicts over the principles of justice applicable to the burdens of pollution and to access to environmental resources and services”⁶⁰. Meaning that the problem is the conflict over the access to natural resources. Some examples are conflicts over water use, access to forests, the burdens of pollution, and the ecologically unequal exchange of natural spaces. In a different context such as India, Latina America, or Australia, environmental movements came about with strong emphasis on the demonstration on river dam construction so, transnational corporations are always the main polluters to the extent that each struggle is a national struggle with a global approach.

Indeed, as it is widely known, there are many disputes and controversies on the ambiguous position of transnational corporations (TNC). They are incorporated or unincorporated enterprises that are “not directly bound by environmental treaties or customary international law and national courts have not been highly receptive to international environmental law arguments, especially in horizontal litigation. Corporations may nonetheless voluntarily adhere to environmental standards as a form of corporate self-regulation”⁶¹. These standards are like codes of conduct, a set of rules establishing human rights requirements and anti-corruption policies. However, they are not binding instruments and there is no mechanism of compliance. The main problem is that these

⁵⁹ MARTINEZ ALIER, J., *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*, cit.,p. 73

⁶⁰*Ibid.*,p. 181

⁶¹ EVANS, M., *International law*, Oxford, 2018, 5.ed, Paperback, p. 681-682

multinationals became fundamental actors in contemporary international society and contribute, to a large extent, to the pollution of the environment and the violation of human rights⁶². Although many bodies, among which the Inter-American Commission of Human Rights, emphasized the importance to act in respect of human rights, there is a real difficulty in controlling these multinational giants. Indeed, in 2015, this Commission affirmed that although states can exploit their natural resources through concessions and investments, they have to consider that massive activities should not be executed to the detriment of social justice and human rights⁶³.

Especially in the case of indigenous communities that are considered as minorities and so, their rights are not fully recognized. These violations are huge considering the destruction of forests in countries of the global south as in the case of the Amazon⁶⁴.

For all these reasons, many environmental and ecofeminist groups acted in the name of the environmentalism of the poor to challenge these big actors. An emblematic example is the struggle of the Brazilian rubber tapper Chico Mendes who fought against the massive expansion of the road network opened in the 1970s provoking a scale of destruction in the Amazon forest. Along with women and workers, Chico Mendes marched to protect the forest and land rights of its members. Starting from that moment a series of stand-offs helped save a great amount of forest from conversion into pastureland⁶⁵. This event and this ongoing struggle pushed other groups to emerge. In particular, even more frequently, these movements were often led by women who wanted to end environmental and gender subjugation. Indeed, as in the case of the struggles for preserving the environment, the victims against destructive forces happen to be women, as they are important providers of food in their communities living in close relationships with nature⁶⁶. In India, the many instances of resistance by local communities to abusive modes of production are

⁶² CARREAU, D., AND MARRELLA, F., *Diritto Internazionale*, Milano, 2018, 2a edizione, Giuffrè Editore, p.37

⁶³ I/A Court H.R., Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities (2015), <http://www.oas.org/en/iachr/reports/pdfs/ExtractiveIndustries2016.pdf>

⁶⁴ RAFTOPOULOS, M., *Contemporary debates on social-environmental conflicts, extractivism and human rights in Latin America*, in *The International Journal of Human Rights*, 2017, pp. 387-404

⁶⁵ MARTINEZ ALIER, J., *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*, cit., pag. 134-136

⁶⁶ SHIVA, V., *Staying alive: women, ecology and development*, cit., p. viii

underlined by the Chipko movement. It is both a peasant movement of resistance and an environmental movement born thanks to women who acted against logging operations⁶⁷. The first documented case of a woman (of the Bishnoi community) who gave her life for safeguarding the environment goes back to 1730. Starting from that moment, people took the courage to make their voices heard until the creation of the Chipko movement that started officially in the 1970s⁶⁸. The Chipko movement in the foothills of the Himalaya (north India) is particularly known for its pacific actions to resist the destruction of community land and livelihoods. Indeed, “people's direct action to stop the mining was an outcome of the government's failure to implement its own laws”⁶⁹. Forests in India are used by local peasants or by ancestral groups, but since colonial times they belong to the state. Women and peasants, who are invisible in the eyes of the state, prevented trees from felling by threatening to hug or stick (*chipko*, in their language) the trees⁷⁰. This episode triggered a series of similar protests through the 1970s whereby hill peasants stopped contractors from destroying nature or *Dharti Ma*, as they call it, for external markets. These protests collectively constitute the Chipko movement⁷¹.

With the same purpose but in a different region, another emblematic movement emerged in Kenya with the Greenbelt Movement (GBM), led by the Nobel Peace Laureate Wangari Maathai. In this case, environmentalism is directly concerned with livelihood: women here protected the forest because they live there, not for the beauty of Nature. This environmental campaign resulted in the mobilization of thousands of women reclaiming the eroded land by planting indigenous trees. The movement created a national network designed to combat creeping desertification, restore soil health and protect water catchment areas. The GBM has always tried to address issues of women's empowerment along with environmental protection, livelihood security, and democratization⁷². More recently, in November 2006, Kenya's Greenbelt Movement and the World Bank's Community Development Carbon Fund signed an emission reduction purchase agreement to reforest

⁶⁷ WARREN, K.J., *Ecofeminism, women, culture, nature*, cit., p.5

⁶⁸ MIES, M., SHIVA, V., AND SALLEH, A., *Ecofeminism*, cit., p.246

⁶⁹ *Ibid.*

⁷⁰ MARTINEZ ALIER, J., *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*, *Progress in Development Studies*, cit., pag. 73

⁷¹ DANKELMAN, I., *Gender and Climate Change: An Introduction*, Routledge, 2010, p.224

⁷² *Ibid*, p. 225.

some mountain areas in Kenya. This allowed women's groups to plant thousands of trees providing poor rural women with some economic independence. Women's empowerment through this process not only captured tons of CO₂, but also restored the environmental equilibrium of the area⁷³.

In South-East Asia, and in many coastal areas of the tropical world, women's struggle was against shrimp farming. Many times, shrimps are farmed in ponds in coastal areas increasing industrial aquaculture practice that undermines mangrove forests, fundamental species of biodiversity. In such areas, poor people, and women, in particular, live sustainably near the ecosystem that guarantees their jobs as collecting shellfish and by making use of mangrove wood. Beyond direct human livelihood, mangroves guarantee a natural coastal defence against sea-level rise and climatic disasters, breeding grounds for fish, carbon sinks, and it hosts a wide range of biodiversity⁷⁴. However, shrimp aquaculture has been strongly supported by the World Bank during the 1980s and 1990s as part of the engine for non-traditional exports to repay the external debts. As a result, this shift from primary-sector activities (human labor) toward an intensive capitalist labour, characterized by machines, fuel, and pesticides, was going to produce 'pink gold', as shrimp production is called.⁷⁵ Although it has increased food production, it has engendered conflicts in terms of power and wealth distribution. Hence, the Supreme Court of India's order of December 1996 to close and ban all industrial shrimp aquaculture within the country's coastal zone⁷⁶. The Court stated that there was evidence that the costs of the harm done to the coastal environment and communities far outweighed the value of any benefits that could be attributed to the shrimp industry.⁷⁷ In any case, women result as the main losers when mangroves are converted into shrimp farms because they lose access to a communal source of food and cash income. It is clear that the defence of mangrove forests is a typical example of the environmentalism of the poor, with women often in leading roles⁷⁸.

⁷³ *Ibid*, p.177

⁷⁴ MARTINEZ ALIER, J., *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*, *Progress in Development Studies*, cit.,p.80

⁷⁵ *Ibid*.

⁷⁶ SUPREME COURT OF INDIA, S. Jagannath vs Union of India & Ors on 11 December, 1996

⁷⁷ MARTINEZ ALIER, J., *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*, *Progress in Development Studies*, cit.,p.96

⁷⁸ *Ibid*.,p.109

Moving the focus on the Latin American countries, the environmental groups headed by indigenous women are numerous. Indeed, they are represented as the “Amazon women warrior” as in the case of Brazil, in the state of Maranhão, where the indigenous Guajajara women are called *guerreiras da Floresta*. Here, minorities and indigenous groups own different lands repeatedly exploited by multinationals or by the state itself.

An emblematic and recent case emerged concerning the protection of indigenous lands in Ecuador where Waorani women acted against the government’s extractive policies, supported also by Amazon Frontlines. The Waorani population is an ethnic minority in the Ecuadorian territory, settled in the area that includes the Yasuni National Park⁷⁹. In 2012 the Government decides to grant a vast territory of Amazon to oil exploration, in particular the area of Pastaza province. However, this precise area was the place of settlement of several indigenous peoples, including the Waorani⁸⁰. The provision had been taken without having the consent of the population itself, thus violating Article 57 of the Ecuadorian Constitution, which establishes the obligation of prior consultation for measures in those territories. In the period from 2015 to 2018, in order to face the threat of losing their territory, the Waorani women have carried protests and marches to document the biodiversity that the area hosts showing their real linkage with those lands. On February 27, 2019, 50 community witnesses, including Inés Viviana Nenquimo, leader of CONCONAWEP, and other groups marched in Puyo to present before the Court of Justice the *acción de protección*⁸¹ to guarantee their right to consultation and self-determination. On the 26th of April 2019, Finally, the judgement n°16171-2019-00001⁸² was opened presided over by Judge Esperanza Del Pilar Araujo Escobar, who decided in favor of Pastaza's indigenous nationality. Indeed, the government had not carried out the prior consultation and therefore any mining project could be implemented⁸³. The judgement affirmed that it was necessary to “*aceptar la acción de protección presentada por la*

⁷⁹ Tribunal de garantías penales con sede en el cantón Pastaza, 09 de mayo de 2019, Juicio No. 16171201900001, p.1.

⁸⁰ *Ibid.*, p.2.

⁸¹ CARDONA, A.J.P., *Ecuador: sentencia frena negociación petrolera en territorio de indígenas waorani, en 9 mayo 2019, Revista Mongabay*, <https://es.mongabay.com/2019/05/ecuador-indigenas-waorani-sentencia/>.

⁸² Tribunal de garantías penales con sede en el cantón Pastaza, 09 de mayo de 2019, Juicio No. 16171201900001, cit, p.107.

⁸³ *Ibid.*

*Defensoría del Pueblo de Ecuador, Coordinación de la Nacionalidad Waorani de Ecuador-Pastaza (CONCONAWEP) [...] y declara la vulneración de los derechos colectivos [...]y derechos humanos consagrados en el artículo 57 numerales 1, 7 y 9 de la Constitución de la República y estándares internacionales”*⁸⁴. The case represents a major victory for indigenous people who continue to fight by collecting signatures in global digital campaigns to raise awareness.

To conclude, the European research project EJOLT (Environmental Justice Organizations, Liabilities and Trade), coordinated by ICTA-UAB (Institut de Ciència i Tecnologia Ambientals - Universitat Autònoma de Barcelona), brought together a consortium of activists and organizations from different countries to collect cases of environmental conflicts divided according to the types of resource exploitation⁸⁵. The result was the creation of the interactive map which identifies local resistance cases against harmful projects providing all genres of information on raw materials and forms of mobilization. This is a concrete way to take under control the global image of current conflicts and spread awareness.

2.1. A survey of the main Non-Governmental Organizations dealing with gender and environment

Since the 1980s, women, environmental and ecofeminist groups gave birth to a multitude of non-governmental organizations (NGOs). They are non-state actors important for the enforcement and compliance procedures as they act as a leverage on civil society to change countries' behaviour. Indeed, they are depicted as “*forze transnazionali o gruppi di pressione internazionali*”⁸⁶. NGOs participate in international treaties' negotiations trying to introduce elements of discussions or they can bring cases in front of courts convincing them to accept and analyse valuable cases. Indeed, also at the European level “it is said that those groups would serve to promote a greater sense of responsibility among the principal actors in the *partenariat*, and to ensure effective and transparent application of

⁸⁴ *Ibid.*

⁸⁵ www.ejatl.org

⁸⁶ CARREAU, D., AND MARRELLA, F., *Diritto Internazionale*, cit., p.35

measures”⁸⁷. In addition, NGOs that operate in the field of gender equality share similar elements that demonstrate women’s environmental activism over time: dangers to human and environmental health, lack of policy focus on the future well-being of next generations, the feeling of exclusion from decisions, and lack of participation. It is to say that “NGOs influence is achieved primarily through the mechanism of participation”⁸⁸. In this context, there is a paradox of empty promises because many governments ratify treaties, but they do not respect or apply them. The paradox is related to the fact that these empty promises are not useless from the moment that they empower NGOs and active citizens that appear a strong linkage and leverage aiming at protecting human rights⁸⁹.

Such organizations became important catalysts in empowering women in environmental policy issues, giving them a role and a voice in the international arena. In this context, many international women’s organizations emerged playing an important role. These are the following: Oxford Committee for Famine Relief (OXFAM), the Women’s Environment & Development Organization (WEDO), GenderCC, ENERGIA, Women in Europe for a Common Future (WECF), Women Organizing for Change in Agriculture and Natural Resources Management (WOCAN), the Global Gender and Climate Alliance (GGCA) and the Network of Women Ministers and Leaders for the Environment⁹⁰.

In this area, the United Nations has been a fundamental engine through its agencies. Indeed, the gender programme of the International Union for Conservation of Nature (IUCN) has also been fundamental along with the United Nations Development Programme (UNDP), the United Nations Development Fund for Women (UNIFEM), the United Nations Environment Programme (UNEP), the Food and Agriculture Organization of the United Nations (FAO) and the United Nations Educational, Cultural and Scientific Organization (UNESCO). They have contributed significantly to putting gender and climate change on the international agenda. After a period of *ad hoc* initiatives in the area of gender and environment, in 2000 the World Conservation Congress of the International

⁸⁷ BALDIN, S., AND DE VIDO, S., *Environmental Sustainability in the European Union: Socio-Legal Perspectives*, EUT Edizione Università di Trieste, Biblioteca della società aperta. Studi e ricerche, 2020, p.184

⁸⁸ EVANS, M., *International law*, cit., p. 681

⁸⁹ TSUTSUI, K., AND HAFNER-BURTON, E. M., *Human Rights in a Globalizing World: The Paradox of Empty Promises*, *American Journal of Sociology*, pp. 1373-1408

⁹⁰ BIANCHI, B., *Genere, generazioni e cambiamento climatico. Temi e questioni per una rubrica*, cit., p.238.

Union for Conservation of Nature (IUCN) in Amman approved a resolution that called on its Director General to ensure that ‘the Gender Equity Policy approved by Council is applied in all Secretariat Component Programmes, projects, or initiatives’⁹¹. Starting from that moment, a series of concrete actions, proposed by the office of IUCN’s Senior Gender Advisor, Lorena Aguilar, has accelerated the path of change. Many guidelines and handbooks have been provided to increase gender sensitivity in nature conservation and sustainable development. Since 2005, IUCN’s gender programme specifically focuses its work on gender and climate change with the support of UNCC, UNODC and UNWOMEN which developed a report with the title “Tackling global challenges to equality and inclusion through the gender-responsive implementation of the 2030 Agenda for Sustainable Development: Spotlight on SDGs 10, 13 and 16”⁹².

In order to have a clearer vision of the topic, a brief overview of the most important NGOs at the international level will be provided. The Women’s Environment & Development Organization (WEDO)⁹³ was established in 1991 by a group of American and Indian women, leaders in the environmental field. Wangari Maathai and Vandana Shiva are among these names. WEDO organized women to join in international conferences and activities through its advocacy work. In 1991, WEDO settled the World Women’s Congress for a Healthy Planet to develop a strategy for the United Nations Conference on Environment and Development (UNCED). The result was the Women’s Action Agenda 21 that appeared as an outline to introduce gender equality in the official UNCED outcomes. The main aim of WEDO was to guarantee gender inclusion in the major UN conferences enabling the cooperation with other partners to guarantee government accountability on women’s rights. After working on a wide variety of environmental issues, the organization put at the core of its activity gender and climate change justice⁹⁴.

⁹¹IUCN, World Conservation Congress, Resolutions and recommendations: Amman, Jordan, 4-11 October 2000 available at <https://portals.iucn.org/library/node/7874>

⁹²Tackling global challenges to equality and inclusion through the gender-responsive implementation of the 2030 Agenda for Sustainable Development: Spotlight on SDGs 10, 13 and 16: Report and recommendations available at <https://www.unwomen.org/en/digital-library/publications/2019/06/egm-tackling-global-challenges-to-equality-and-inclusion>

⁹³ WEDO, www.wedo.org

⁹⁴ DANKELMAN, I., *Gender and Climate Change: An Introduction*, cit., p.256.

In the aftermath of the Rio Earth Summit in 1992, Women in Europe for a Common Future (WECF)⁹⁵ was created to give women a stronger voice in sustainable development and environmental policy. Currently, WECF is a strong network that includes Western Europe and Eastern Europe and works to guarantee safe chemicals and food production, safe water and sanitation, and a healthy climate for all. To this extent, WECF promotes poverty reduction, public participation, and environmental women's rights. WECF improves access to affordable and renewable energy in particular for low-income communities by helping partners to develop locally adopted renewable energy. It made a focus on nuclear energy to investigate human rights and environmental health and safety, to redirect nuclear funding to the development and promotion of renewables.

In 1996, ENERGIA⁹⁶ was established as an international organization working on gender and sustainable energy to empower women of rural and urban areas through a specific focus on energy. It is about an international network that drafts projects and policies in terms of the sustainability of energy services. Through its regional networks in Africa and Asia, ENERGIA focuses on capacity building, energy access on livelihoods, including gender mainstreaming at institutional and policy levels. Moreover, the organization has supported the development of gender audits of national energy policies in countries such as Nigeria, India, Senegal, Kenya and Botswana paying more attention to the dramatic phenomenon of climate change.

WOCAN⁹⁷ (Women Organizing for Change in Agriculture and Natural Resources Management) is a "global network committed to increasing rural women's access to and control over resources to sustainably manage agriculture and natural resources". Not only WOCAN is part of the advocacy team of the GGCA and the regional UNFCCC sessions, but also occupies an important role in the implementation of the Reducing Emissions from Deforestation and Forest Degradation programme (REDD) developed in 2008⁹⁸. REDD and REDD+ are programmes that offer incentives for developing countries to reduce emissions and invest in low-carbon paths to sustainable development. The problem is that REDD is still weak concerning the gender dimension. WOCAN tried to address this gap to

⁹⁵ WECF, www.wecf.eu

⁹⁶ ENERGIA, www.energia.org

⁹⁷ WOCAN, www.wocan.org

⁹⁸ UNITED NATIONS, UNREDD programme available at <https://www.un-redd.org/>

foster a gender perspective that results to be fundamental in existing international standards and on REDD programmes⁹⁹.

The Network of Women Ministers and Leaders for the Environment (NWMLE) was established in March 2002 in Finland in line with the need to address more sustainable development policies and change capitalistic development. Its main objective is to raise awareness on gender aspects within environmental issues. This objective had to be achieved through recommendations for gender mainstreaming in environmental policies, practical solutions to environmental problems, and building partnerships with civil society. These policies have been applied at the 2008 UNEP Global Ministerial Forum, in which NWMLE hosted a High-Level Forum on Gender and Environment. In February 2010, in Bali, Indonesia, the NWMLE launched national and regional chapters on women and the environment to strengthen the activities of the network at national and regional levels¹⁰⁰.

In 2007 and 2008 two important networks have been settled to improve gender awareness linked to the imminent reality of climate change. Both aimed to share building capacity actions at the regional and international levels. These are the Global Gender and Climate Alliance (GGCA)¹⁰¹ and the GenderCC¹⁰² –Women for Climate Justice. The first one was established during UNFCCC's COP-14 in Bali, December 2007 thanks to the collaboration between IUCN, WEDO, UNDP, and UNEP; the second one was born in 2008, as a global network of women and gender activists¹⁰³. Both are responsive to gender and climate change justice, indeed, GGCA works to include a gender perspective in all climate change policies to solve the climate crisis; while GenderCC operates on interregional focal points and collaborative gender groups to suggest fundamental changes to our economic, and socio-political systems to achieve women's rights, gender justice, and climate justice.

Moreover, linked to this field of research, a recent development finds several NGOs cooperating in coalition-building projects with civil society and even UN bodies to have a larger impact on climate change policies and practices. The women's constituency under the UNFCCC is a particular coalition in which several organizations (GenderCC, WEDO,

⁹⁹ DANKELMAN, I., *Gender and Climate Change: An Introduction*, cit., p.257

¹⁰⁰ Ibid.,p.233

¹⁰¹ GGCA, www.gender-climate.org

¹⁰² GENDER CC, www.gendercc.net

¹⁰³ (EIGE), *Gender in environment and climate change*, 2016, p. 1-25.

WEFC, LIFE, and ENERGIA) share the responsibility to push a combined input on gender issues in UNFCCC processes.

To conclude, another aspect to be taken into account is the coalition of the Common Market for Eastern and Southern Africa (COMESA) countries, the largest regional economic organization in Africa which along with the Assembly of African Union Heads of State and Government (AUDA-NEPAD) pushed the creation of the African Gender, Climate Change and Agriculture Support Program (GCCASP) in the meeting of Malawi in 2012. This programme had in its main objective to “review gender equality and policies that create conducive environments for equitable participation of women in agriculture”¹⁰⁴. The basic idea is to emphasize all the efforts that women in environmental groups achieved until that moment and to show how the Global South, in particular Africa, is active in the process towards gender equality and sustainable development.

3. The field of political ecology and feminist political ecology as a tool

As a result of all the achievements above mentioned, it is important to stress a relatively new field of study that could be considered a good tool to analyse current and past events from a gender perspective.

All the issues and ecological distribution conflicts analysed in the previous paragraphs are taken into consideration by political ecology (PE), a new discipline that emerged from the fusion between human ecology and political economy, thanks to the interests of scholars such as geographers, and environmental sociologists which examined local cases of rural realities. Indeed, political ecology can be used as a practical tool when dealing with the allocation of environmental resources intertwined with social powers and income distribution. Then, this subject investigated all power relations that define people’s unequal and differentiated access to resources at local, regional, and global scales¹⁰⁵. This approach must be the lens through which analyse economic growth, inequality and environmental degradation involving fields such as political economy, human agency, conflict and competition. Political ecology developed from the 1970s and, since then, a wide range of

¹⁰⁴ GCCASP, *A program of the NEPAD Planning and Coordinating Agency* in collaboration with the Government of Malawi With the support of the Norwegian Government July 2012, Lilongwe, Malawi. Available at <file:///C:/Users/Fujitsu/Downloads/MALAWI%20Final%20Consultation%20Report%20Final.pdf>

¹⁰⁵ MACGREGOR, S., *Routledge Handbook of Gender and Environment*, Routledge, 2017, p.71

research on rural political ecology has been provided by Third World scholars. Only in the last decades, political ecology has moved beyond local situations into the global world. It focused on power relations under the forms of environmental racism, economic struggles, ecologically unequal exchange, biopiracy, social eco-feminism, and environmental feminism. This tool finds its principles on the environmentalism of the poor and environmental justice, considering these aspects as “the main forces for sustainability”¹⁰⁶. During the 1980s, political ecology took a gender perspective on the environment, in particular, the gender division of labor and resources in ecological conflicts. Especially in developing countries, women’s position in society started to be seen in conjunction with issues such as water scarcity, and natural disasters. Thus, insights from feminist geography, political economy, and development studies came together to form the subdiscipline of political ecology: feminist political ecology (FPE). It emerged in the mid-1990s to regain feminist politics in environmental engagements and to readdress the importance of ecofeminism. Indeed, FPE has drawn from ecofeminist political economy, a discipline that emerged out of moral philosophy that brings together insights from three traditional economic thoughts: the Marxian materialism, the ecological economics, and the feminist analysis of gender division of labour and the feminization of social reproduction. Ecofeminist political economy, with its structural material analysis, explains how a destructive economic system is constructed and how human beings organize their economies¹⁰⁷.

Feminist political ecology was first proposed as a new conceptual framework by Dianne Barbara Thomas-Slayter, and Esther Wangari in their landmark book “Feminist Political Ecology: Global Issues and Local Experiences” published in 1996. Moreover, the background from which FPE arose is the period of consistent gendered environmental grassroots activism in local environmental struggles and social movements spread all over the world. Therefore, FPE is a framework for bringing “a feminist perspective to political ecology” in which gender is seen “as a critical variable in shaping resource access and control” always taking into account class, caste, culture, race, and ethnicity¹⁰⁸. It analyses the constitution of gender, nature, and power in different contexts and at multiple levels. In

¹⁰⁶ MARTINEZ ALIER, J., *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*, *Progress in Development Studies*, cit., p.257

¹⁰⁷ MACGREGOR, S., *Routledge Handbook of Gender and Environment*, cit., p.87-89

¹⁰⁸ *Ibid*, p.137

particular, what was relevant for some academics was to insist on analysing gender-nature connections about the colonial period using a poststructuralist theory.¹⁰⁹ In particular, Feminist Political Ecology Theory offers an overall understanding of female forest users' social position, their domestic struggles over household resources, gender-wise division of labour and livelihood security, and how they lose the cash income gained from the forest resources¹¹⁰.

Feminist political ecology and ecofeminism have become prominent approaches to understanding a range of different phenomena, from the feminization of nature to women's environmental activism highlighting that environmental problems have particularly negative effects on women and other marginalized groups¹¹¹. This discipline wanted to put the attention on particular case studies dealing with women's access to forest resources considering gendered knowledge, gendered environmental rights, and responsibilities¹¹². The current issue of climate change is a serious challenge for humankind and FPE appears pioneering because considers all the ecofeminist movements that shaped debates and policies in the last decades¹¹³. Moreover, it aims to understand how decision-making practices and socio-political forces influence environmental laws and issues, as well as access to and control over resources.

FPE follows a "science from below" path that means examining people's experiences of resource degradation or migrations to understand how they live and then interact with other levels of power. Consequently, the main purpose is to reveal the identity of disaster victims that sometimes goes unquestioned remaining in invisibility. Nowadays, feminist political ecological analysis tends to regard gender as the most significant factor in resource struggles and environmental change: everything has to be elaborated in the context of climate change and disaster risk. Popular gender and climate change revolve around a centred feminine subject considering that the poor rural woman the most negatively affected by such phenomenon¹¹⁴. These struggles unfold in everyday practices and

¹⁰⁹ *Ibid.*, p. 31

¹¹⁰ ROY, S., *Climate Change Impacts on Gender Relations in Bangladesh, Socio-Environmental Struggle of the Shora Forest Community in the Sundarbans Mangrove Forest*, Springer Singapore, 2019, p. 19

¹¹¹ MACGREGOR, S., *Routledge handbook of gender and Environment*, cit., p.450

¹¹² *Ibid.*, p. 72

¹¹³ *Ibid.*, p. 95

¹¹⁴ *Ibid.*, p. 166-167

engender body politics. For all these reasons, feminist political ecology aims to transformative politics.

CHAPTER 2: LEGAL FRAMEWORK AT INTERNATIONAL AND EUROPEAN LEVEL

1. The roots of international and regional norms related to gender and environment: the gender gap in the interconnection of two long-standing regimes

This chapter gives an outline of the main international and regional legal instruments currently used to structure the gender and environmental regimes. In particular, its purpose is to verify if gender lenses are considered to analyse environmental issues and recent phenomena. This overview will depict where such tools fall on the range of soft to hard legal instruments. Notwithstanding, as the title of this chapter suggests, there are no clear treaties directly aimed at defining these cross-cutting issues, indeed a legal definition of this interconnection is currently lacking.

Although the 1970s represented a watershed in environmental awareness and fields such as women's rights, it is widely recognised that since the mid-1990s ecofeminism has widely been studied only by sociologists with little inputs by legal environmental scholars. Indeed, many academic works and public international law itself presented environment and gender as two distinct issues without making connections between them. Indeed, international environmental law has emerged as a field of public international law because scholars and civil society recognised that ecological interdependence was a fact and a challenge that did not observe national boundaries. This issue was made visible by the transboundary consequences of industrial activities affecting shared rivers or landscapes leading to the elimination of wildlife¹¹⁵. Hence, a wide range of principles and standards of

¹¹⁵ The *Trail Smelter case (US vs. Canada)* https://legal.un.org/riaa/cases/vol_III/1905-1982.pdf is the first event of transboundary consequence of air pollution. In 1935 the first transboundary Canadian based corporation owned a smelter plant that was causing pollution in the cross border of the US with Canada. Both the US and Canada accepted to bring the case in the arbitral tribunals and two decisions followed. This case is considered a landmark because there was a causal link between the cause of the pollution and the damage. It saw the application of traditional rules on State responsibility because the bilateral character of the dispute and of the obligations. The international principle of no harm was applied as the use of the territory caused injuries to the territory of another state. For this reason, Canada was held responsible. This case allowed the application of different international environmental principles that emerged in the 1980s. In 1996, the International Court of Justice recognised rules of general international environmental law (1996,

environmental law developed, without involving too much of a gender perspective¹¹⁶. This is demonstrated by the fact that, to a certain extent, ecofeminism was not considered a worthwhile contribution to solve environmental problems. Only in the late 1990s and early 2000s, a more complete gender perspective started to be included in 1995 when the United Nations established the Fourth World Conference on Women in Beijing which represented a fundamental landmark for women's rights. As will be described in the following paragraphs, the Beijing Platform for Action (BPfA) identified women's role in society as essential to the ecological development and the management of natural resources, thus, giving them the possibility to escape from the invisibility and recognise their connection with nature.

Nowadays, a radical change in international law is to be achieved moving from "an ethic of right to an ethic of care"¹¹⁷, meaning that a holistic approach instead of an anthropocentric one has to be prioritized. Besides, a reason why gender data is still lacking is that "the environmental data that national governments and international organizations collect is seldom disaggregated by sex"¹¹⁸, this does not allow us to have a clear and precise vision of the reality. Notably, this data is increasingly drawn upon by policymakers, judicial bodies, and civil societies to inform practices at the regional, national and local levels. Hence, as a matter of fact, the following pages will be dedicated to providing a concise reflection on the existing legal instruments, showing the increasing attention to environmental law in the last few decades with a gender perspective.

Firstly, the first paragraphs will offer a comparative analysis at the international level between gender and environment both from the hard and soft law regimes. In this context, it is interesting to see how there is a sharp difficulty to provide a clear legal definition of

ICJ Reports 226 at 242). See also PHILIPPE, S., PEEL, J., MACKENZI, A.F.R, *Principles of International Environmental Law*, Cambridge University Press, 3rd edition, 2012, pp.79-89.

¹¹⁶ PHILIPPE, S., PEEL, J., MACKENZI, A.F.R, *Principles of International Environmental Law*, Cambridge University Press, 3rd edition, 2012, p.70

¹¹⁷ MALONE, L.A., *Environmental Justice Reimagined Through Human Security and Post-Modern Ecological Feminism: A Neglected Perspective on Climate Change*, 2015, Faculty Publications. 1789. p. 1454, Available at <https://scholarship.law.wm.edu/facpubs/1789>

¹¹⁸ GRANT BOWMAN, C., *Path from Feminist Legal Theory to Environmental Law and Policy*, Cornell Journal of Law and Public Policy: Vol. 22: Iss. 3, Article 3. 2013. Available at: <http://scholarship.law.cornell.edu/cjlp/vol22/iss3/3>

the environment. Indeed, the first conventions used the terms flora and fauna instead of speaking of the environment. This trend was also observed in the General Agreement on Tariffs and Trade (GATT), Article XX(b) and (g) which refer to “human, animal or plant life or health” and to the “conservation of exhaustible natural resources”¹¹⁹. The same happened with the 1972 Stockholm Declaration (principle 2) and the 1982 World Charter for Nature¹²⁰. If the definition of the environment resulted challenging to set, the individuation of gender in this framework appeared even harsher. Nonetheless, the Economic and Social Council of the United Nations (ECOSOC) defined in its report in 1997 the meaning of gender mainstreaming: “a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels”¹²¹ (paragraph A). This means that gender mainstreaming is to be intended as a strategy able to put women at the same level as men to create “an integral dimension” in policies to eliminate inequalities¹²².

Secondly, the following paragraphs will focus on the regional level that means the European Union provisions on the issues. Here soft law will emerge as particularly significant showing the signs of progress made by the European Parliament and the European Commission in addressing gender relevance in the policy arena. Especially as far as the climate change phenomenon is concerned, the European Parliament only recently provided different resolutions involving the gender dimension to fill the huge gap in environmental law and creating a real connection between the healthy environment and women¹²³.

¹¹⁹The General Agreement on Tariffs and Trade (GATT 1947), available at

https://www.wto.org/english/docs_e/legal_e/gatt47_01_e.htm See also PHILIPPE, S., PEEL, J., MACKENZI, A.F.R., *Principles of International Environmental Law*, cit., pp.81-83.

¹²⁰ PHILIPPE, S., PEEL, J., MACKENZI, A.F.R., *Principles of International Environmental Law*, cit., pp.81-83

¹²¹ ECOSOC Report, “Gender Mainstreaming”, (A/52/3, 18 September 1997), Chapter IV, Coordination segment of the policies and activities of the specialized agencies and other bodies of the united nations system. Section I. CONCEPTS AND PRINCIPLES,p.2.

¹²² UN ECOSOC, *Report of the Economic and Social Council for 1997 (A/52/3)*, 18 September 1997.

¹²³ EIGE, Gender in Environment and Climate Change, EIGE publication, 26th January 2017 available at <https://eige.europa.eu/publications/gender-environment-and-climate-change>

Nonetheless, before drawing any conclusion regarding the effectiveness of the legal measures at hand, it might be better to analyse those existing documents, which try, more or less directly, to deal with gender lenses through which observe the environment.

2. Types of policies in place at international level applicable to gender equality and environment

As above mentioned, international policies dealing with gender, environment, and climate change have emerged only recently to create a nexus among them. However, even though a large number of resolutions started to create interconnections, there is still the absence of a binding instrument at international level which includes all the necessary elements in the field of environmental law and human rights. In this context, it is fundamental to evidence the difference between soft law and hard law.

Hard law refers to legally binding instruments, while soft law does not create legal obligations for states. Indeed, “soft law is a variety of non-legally binding but normatively worded instruments used by States and international organizations”¹²⁴. Courts refer to soft law to support their argument and some “soft laws are potentially law-making as multilateral treaties are potentially law-making even when they are not yet in force”¹²⁵. Once soft law begins to interact with binding instruments its non-binding character may be lost or altered. Moreover, there are several reasons why soft law instruments represent an alternative to law-making by treaty: firstly, soft law results easier to negotiate added to the fact that it is more likely to amend and replace. Likewise, a State is more prone to adhere to soft law because it overpasses ratification processes of treaties.

Also, soft law represents “an immediate evidence of international consensus”¹²⁶. Indeed, when consensus is highly difficult to be achieved, soft law influences norms of non-state actors as well as states. Non-binding instruments may be useful if they generate widespread and consistent State practice or provide evidence of *opinion Juris* in support of a new customary rule. Many times, soft law acts can be a first step in the process leading to the conclusion of a multilateral treaty or the interpretation of treaties. For all these reasons, soft law prevailed at the international level and has more success in its implementation and

¹²⁴ EVANS, M., *International law*, 5th Edition, Oxford: OUP, 2018, Paperback, 2018, p.123

¹²⁵ *Ibid.*, p.120

¹²⁶ *Ibid.*, p.123

linkages. Moreover, some instruments have such a breadth that “demands synthesizing to extract whether and how they can be drawn upon to forge principles that empower women facing global warming, in particular”¹²⁷. Thus, soft acts play a crucial role in long-term international norms and practices, especially when used as advocacy tools by civil society and non-governmental organisations in the field of human rights.

Furthermore, soft and hard instruments vary in their leverage and their scope. Indeed, within the UN, the leverage of a resolution is generally higher if sourced to the Security Council, and lower in the case in which it comes from the General Assembly. Indeed, a resolution that requires action by all parties to the agreement is more effective and persuading than another “noting” action by states. As far as the declarations are concerned, although the term can denote a non-binding instrument, Countries can also use a declaration to define an arrangement with legal implications or as an annex to a legally binding instrument. Declarations may also reflect well-established customary law and have increased leverage in these circumstances as is the case with the UN Universal Declaration of Human Rights (UN-UDHR). Overall, the broad array of instruments is best understood by examining the circumstance or formality under which each agreement was formed. An instrument with a strong gender perspective may advance gender mainstreaming in all aspects of its implementation, for instance, or have multiple references to gender-specific dimensions as well as advocate for women’s participation in all areas of policy or programming. As will be described, international treaties and soft law declarations have a different level of gender inclusiveness or sustainability¹²⁸.

2.1 The main hard law instruments at international level: the absence of a clear binding instrument

It is widely recognised that the environmental sector and sustainable development should be analysed and implemented through a gender perspective. However, there is still a clear gap in international institutions due to the patriarchal paradigm and the gender bias of institutions. To analyse this aspect is fundamental to take into consideration the work of the United Nations which plays a pioneering role within the consideration of gender aspects in environmental conventions and human rights policies.

¹²⁷ DANKELMAN, I., *Gender and climate change: An introduction*, London, Earthscan, 2010, p.223

¹²⁸ Ibid.

To draw a common thread between the main hard law policies, it is appropriate to start from the Convention of all forms of discrimination against women (hereinafter CEDAW) adopted by the UN General Assembly on 18 December 1979. This is the first international Convention that acknowledges in a very comprehensive global way women's human rights and gender equality. Not only did it address women's human rights for land ownership (art.16), resources (art.17), livelihoods, education, and safety (art.14), but also it is relevant for climate change policies from different standpoints. CEDAW urges parties to take all necessary measures to ensure and guarantee basic benefits for women who live in rural areas and need to be involved in the development of such realities.

Then, with art. 17 the Convention established a CEDAW Committee to monitor all the advancements that need to be achieved. Moreover, on 22 December 2000, the CEDAW's Optional Protocol entered into force, following the ratification of the tenth State party to the Convention¹²⁹. The Protocol resulted to be fundamental to allow women, under certain conditions, to make complaints about violations of their basic rights. This means that the Committee may receive and consider personal complaints from individuals. Indeed, art. 1 of the protocol "recognizes the competence of the Committee on the Elimination of Discrimination against women to receive and consider communication submitted in accordance with article 2"¹³⁰. Referring to the text of the CEDAW Convention, the preamble and art.2 "notes that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil, and political rights"¹³¹.

Then, art.1 sets the definition of discrimination of women intended as "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

¹²⁹ United Nations General Assembly, *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, A/RES/54/4, 15 October 1999, Fifty-fourth session, Agenda item 109.

¹³⁰ Ibid, art.1

¹³¹ Ibid., art.2 making references also to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Both became international law in 1976.

field”¹³². This article appears of substantial importance to underline the rights of women and the equality with men in every area of interest.

In addition, the CEDAW focuses on gender inequality in rural areas of the world in which these kinds of discrimination are daily above all as concern employment opportunities and safety in the working place. Then, article 14 refers to climate change management and calls for equal access to agricultural credit and loans, marketing facilities, appropriate technology, and equal treatment in land reform. Indeed, when applied to the environmental agenda these articles may facilitate adaptation and enhance women’s resilience to impacts of climate change. Although this first Convention does not recognize a linkage between women and the environment, the 44th session of the CEDAW Committee on Gender and Climate Change in 2009, recognised the linkage between the discrimination of women and the dramatic impact of climate change. This statement adopted climate change as an urgent issue of focus, recognizing the gender-differentiated impacts of climate change and stated that “women’s right to participate at all levels of decision-making must be guaranteed in climate change policies and programmes”¹³³. The Statement wanted to make visible also the difficulty of some women to access shelters during climate disasters and how gender equality would allow the achievement of a successful implementation of climate change policies. Hence, the Statement seemed to be fundamental to urge parties to consider gender equality as a guiding principle when drafting such environmental provisions.

Furthermore, in many resolutions, communications, and case studies, the CEDAW Committee expressed its views trying to apply the linkage between women’s health and the environment. The Committee adopted its views under article 5(4) of the Optional Protocol, concerning communication No. 2751/2016 in the field of the International Covenant on Civil and Political Rights. The Committee affirmed, “that the misuse of toxic agrochemicals can negatively impact the health of rural women and requested the State party to undertake a comprehensive study on the probable negative causes [...]to implement the necessary measures to eradicate their impact on the health of women and

¹³² Ibid., art. 1

¹³³ United Nations, CEDAW, *Statement of the CEDAW Committee on Gender and Climate Change*, 44th session, New York, 20 July – 7 August 2009

their children”(art.3.2)¹³⁴. Thus, although the CEDAW Convention was born to guarantee women’s equality only, in these last decades it tried to make a step further through its Committee going in the direction of gender equality linked to environmental law.

Another fundamental tool remarkable at the international level is the UN Convention on Biological Diversity (UNCBD) adopted by the UN Conference on Environment and Development (UNCED) in 1992¹³⁵. This Convention represents an international framework for the conservation of biodiversity which includes, according to art. 2, plants, animals, microorganisms, and ecosystems. The text of this convention revealed a moderate gender perspective indeed women’s participation has been explicitly addressed within the CBD in paragraph 13 of the Preamble recognising “the vital role that women play in the conservation and sustainable use of biological diversity, emphasising the need for the full participation of women at all levels of policymaking and implementation for biological diversity conservation”¹³⁶.

Hence, yet in 1992 there was a clear idea on the fundamental position occupied by women in developing countries where their role of food provider improved their knowledge, practices in food production. These aspects were already recognised in 1998 when the conferences of the Parties (COP5) had involved gender language in programmes such as the Programme of the working group to implement article 8 (j) of the CBD which “recognises the vital role that women play in the conservation and sustainable use of biodiversity, and emphasizing that greater attention should be given to strengthening this role and the participation of women of indigenous and local communities in the programme of work”¹³⁷. This was extremely relevant in realities such as the ones in the

¹³⁴ United Nations, CEDAW Committee, *Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2751/2016*, CCPR/C/126/D/2751/2016, 25 July 2019, on Crop fumigation with agrochemicals and its impact on people’s lives. Available at <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsjvfIjqiI84ZFdIDNP1S9EJbt9fNOFAeKim6Xa3i%2frdihcAq5mehv%2fTQWGvWXGI9qxCMDHIPL%2f255BdzTObanB0KePC5IUhW9PcaGTS236CEGC%2fxZYkxw6uCobQzU8IvPw%3d%3d>

¹³⁵ UN Conference on Environment and Development (UNCED), United Nations Convention on Biological Diversity (UNCBD) adopted by the 1992, available at <https://www.cbd.int/convention/text/>

¹³⁶ *Ibid.*, paragraph 13 Preamble.

¹³⁷ COP5 Decision V/16, *Programme of the working group to implement article 8 (j) of the CBD, Article 8(j) and related provisions*, available at <https://www.cbd.int/decision/cop/?id=7158>

Middle East and Africa where these women's groups tried to make their voices heard. This confirmed how the CBD Secretariat has made specific efforts to mainstream gender and mainly in 2008 it worked with IUCN's Gender Office to develop a Gender Plan of Action then presented during COP-9 in Bonn (Germany) in May 2008¹³⁸. The Plan of Action focused its attention on implementing a gender perspective into the Convention, promoting gender equality and the benefits of gender mainstreaming in biodiversity conservation and sustainable use of resources¹³⁹.

In the 1990s, global warming and natural hazards started to be seen as a real challenge to human beings providing serious consequences to natural ecosystems. Indeed, the phenomenon of desertification incremented exponentially and in 1994 the UN Convention to Combat Desertification (UNCCD) was adopted. As defined by the UNDP, "this convention is the only internationally recognized legally binding instrument dealing with the problem of land degradation in terra firma rural areas"¹⁴⁰. Indeed, this treaty recognises how desertification is an increasing phenomenon particularly risky for poor people living in rural zones of developing countries¹⁴¹. To some extent, also the UNCCD included a gender perspective promoting equal participation of women and men in desertification: "the important role played by women in regions affected by desertification and/or drought, particularly in rural areas of developing countries, and the importance of ensuring the full participation of both men and women at all levels in programmes to combat desertification and mitigate the effects of drought"¹⁴². Likewise, article 10 (f) of the UNCCD urges

¹³⁸ UNDP's Resource guide on gender and climate change, December 18th, 2015. Available at <https://www.undp.org/content/undp/en/home/librarypage/womens-empowerment/resource-guide-on-gender-and-climate-change.html>

¹³⁹ Secretariat of the Convention on Biological Diversity and the Senior Gender Advisor of IUCN, *Gender Plan of Action under the Convention on Biological Diversity*, January 2008, available at <https://www.cbd.int/gender/decisions/>

¹⁴⁰ UNDP's Resource guide on gender and climate change, December 18th, 2015, p.43.

¹⁴¹ The problem of drought is critically described in the case of Syria by F. DE CHÂTEL, *The Role of Drought and Climate Change in the Syrian Uprising: Untangling the Triggers of the Revolution*, Middle Eastern Studies, 2014. In this respect, in 2010, Syria experienced the most severe drought on record, the effects of which have possibly contributed to political unrest and a situation of internal conflict in a country characterized by poor governance and internal turmoil.

¹⁴² United Nations General Assembly, UN Convention to Combat Desertification (UNCCD), 1994, Preamble, paragraph 20. Available at <https://www.unccd.int/convention/about-convention>

national action programmes to “provide for effective participation at the local, national and regional levels of non-governmental organizations and local populations, both women and men, particularly resource users [...]”¹⁴³. This means that it involves actors such as NGOs and the community to take action and get involved in the issue without excluding women's roles. This proved that yet in the 90s it was clear that women needed to be involved in these issues because of their relations with the environment.

It is interesting to notice that two of three Earth Summit conventions advanced gender mainstreaming measures while the third, the United Nations Framework Convention on Climate Change (UNFCCC), did not include gender actions. This Convention entered into force in 1994 and recognised the real impacts of global change and the real necessity to face its causes. The main purpose was to stabilize GHGs concentrations in the atmosphere and put into action policy measures so that people increase their awareness on the matter. Although the contents of the convention were very innovative and concrete, they did not involve gender discourse. Thus, since 2001, soft law implemented its gaps through the Marrakech decision and the following ones, in particular, Decision 36/CP.7 which improved the participation of women stating that “Parties take the measures necessary to enable women to participate fully in all levels of decision making relevant to climate change”¹⁴⁴. The Conference of the Parties has been slowly taking action towards the goal of gender equality but since then many COP decisions have been built, culminating in the so-called “gender decision” or Doha Decision 23/CP.18 (2012), dedicated to “promote gender balance and improving the participation of women in UNFCCC negotiations”¹⁴⁵. This improvement has been made possible through the role of advocacy groups driven by women who fight to secure recognition as a major group to the UNFCCC. Indeed, in 2009

¹⁴³ Ibid.,art.10

¹⁴⁴Decision 36/CP.7, section FCCC/CP/2001/13/Add.4, “Improving the participation of women in the representation of Parties in bodies established under the United Nations Framework Convention on Climate Change or the Kyoto Protocol, 2001. Available at https://unfccc.int/sites/default/files/decision_36_cp7.pdf

¹⁴⁵ Decision 23/CP.18, section FCCC/CP/2012/8/Add.3, “Promoting gender balance and improving the participation of women in UNFCCC negotiations and in the representation of Parties in bodies established pursuant to the Convention or the Kyoto Protocol”, December 2012. Available at https://unfccc.int/sites/default/files/cop18_gender_balance.pdf. See also M. Williams, *Integrating a Gender Perspective in Climate Change, Development Policy and the UNFCCC*, South Centre, No. 12, November 2013, South centre, climate policy brief.

the UNFCCC body formally recognized women's civil society groups as a Provisional Constituency giving them space and the opportunity to intervene. Women's NGOs rallied together to form a constituency and, along with farmers, youth, and indigenous peoples, became one of the more recent formal fora for civil society engagement in the UNFCCC process.

In 1997, the United Nations Framework Convention on Climate Change (UNFCCC) incorporated the well-known "Kyoto Protocol", which aims to reduce GHG emissions by 5% between 2008 and 2012 through the implementation of legally binding measures for the countries. In fact, it only focuses on mitigation strategies to slow the reduction of emissions, recognizes the "common but differentiated responsibilities" between developed and underdeveloped countries. The Kyoto Protocol includes three flexible mechanisms designed to reduce the cost of complying with emission reduction targets: Clean Development Mechanism (CDM); Joint Implementation (JI); and GHG emissions trading. The Protocol, though, does not include a gender perspective in its operations failing to recognise the gender aspects of climate change and women's participation¹⁴⁶.

The follow-up of this Protocol arrived in 2015 with the Paris Agreement. It is considered a success in terms of negotiations because it came after a long series of failed negotiations in the field of environmental law. It is the first global agreement on climate change that contains policy obligations to all countries. This leaves the contempt of domestic policies to governments, but it creates international legal obligations to develop implement, and regularly transcend actions¹⁴⁷. Although the UNFCCC made its commitments on gender, the Paris Agreement is free of gender discrimination beyond the preamble. If gender is not explicitly mentioned, it may result in parties not adopting gender-sensitive methods when implementing the Agreement. In turn, this may lead to the strengthening of existing gender roles and the persistence of inequality between men and women. Throughout the Paris Agreement, the term "gender" appears only three times: once in the Preamble; once in article 7, and once in article 11. The Preamble acknowledges "that climate change is a common concern of humankind, Parties should [...] respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples,

¹⁴⁶ UNDP's Resource guide on gender and climate change, cit., p.10.

¹⁴⁷ DIMITROV, R. S., *The Paris Agreement on Climate Change: Behind Closed Doors*, Global Environmental Politics 16:3, the Massachusetts Institute of Technology, August 2016, doi:10.1162/GLEP_a_00361

local communities, migrants, children [...] as well as gender equality, empowerment of women and intergenerational equity”¹⁴⁸. Article 7, paragraph 5 states “Parties acknowledge that adaptation action should follow a country-driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities, and ecosystems”¹⁴⁹. Indeed, in adaptation strategies, women’s skills can be identified and actively integrated. Article 11, paragraph 2 of the Paris Agreement states that “[...] Capacity-building should be guided by lessons learned [...] and should be an effective, iterative process that is participatory, cross-cutting and gender-responsive”¹⁵⁰. As well as adaptation, women have to be a proper role also in capacity-building measures. If women are appropriately empowered as agents of change, they can play a key role in responding to climate change and environmental disasters while reducing social inequalities.

In conclusion, it is clear how hard law at the international level tried to take into consideration gender-sensitive discourses creating a cause-effect relationship with the environment in different agreements. However, in some cases, the results seem to be less clear and effective and there is still a lot to do for developing a single binding instrument that regulates women’s rights and nature.

In the next section, this work focuses on the classification of some relevant soft law instruments which shaped the international arena and helped hard law in its path towards sustainability and equality.

2.2 Soft law instruments at international level: a gender analysis of the main environmental declarations and resolutions

Soft law is the most prominent aspect of international environmental law. Indeed, declarations, resolutions, and plans of action fill the gap between environmental and gender issues, more than conventions and treaties did. In addition, in many cases, non-governmental organizations and informal groups have played a role in promoting the implementation of such instruments. Many human rights treaties and agreements

¹⁴⁸ United Nations, *The Paris Agreement*, Paris, COP21, 2015 available at <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>

¹⁴⁹ *Ibid.*, art.7

¹⁵⁰ *Ibid.*,art.11

celebrated at international conferences and established by governments for decades provide a legal basis for eliminating gender discrimination.

To better understand how gender is included in soft law tools it is significant analysing the Universal Declaration of Human Rights adopted by the UN General Assembly 1948. The Declaration is the first step in giving individuals tools to fight oppression, impunity, and attack human dignity and it considered also the gender and climate change agenda. It has deepened the appeal by adopting specific provisions on property ownership, freedom of movement, and equal protection of all persons before the law. Indeed, these rights are vital for all people and especially for women in the context of natural disasters. Article 2 of the Declaration affirms that women and men have equal rights and, for this reason, States must apply policies against inequality and discrimination: “everyone is entitled to all the rights and freedoms set forth in this Declaration, 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”¹⁵¹. This concept is reinforced by article 7 which states that “all are equal before the law and are entitled without any discrimination to equal protection of the law [...]”¹⁵². Thus, yet in 1948, women were seen as equal to men and this declaration put the basis for the recognition of the equality of rights and fundamental freedoms for human beings¹⁵³.

The importance of this Declaration mainly comes from its influence on the interpretation, application, and development of other legal rules. It clarifies the general principles of consensus. After the adoption of the UDHR, countries have adopted other international treaties and agreements, further expounding the types and scope of human rights that should be protected: rights on civil and political issues (International Covenant on Civil and Political Rights, 1966), rights on economic, social and cultural issues (International Covenant on Economic, Social and Cultural Rights, 1966), rights against racial discrimination (International Convention on the Elimination of All Forms of Racial Discrimination 1966, in force as of 1969), rights of migrant workers (Convention for the Protection of Migrants, 1990, in force as of 2003), rights of people with disabilities

¹⁵¹ United Nation General Assembly, Universal Declaration of Human Rights, 1948, art.2 available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

¹⁵² Ibid., art.7

¹⁵³ UNDP’s *Resource guide on gender and climate change*, cit., p.40

(Convention on the Rights of Persons with Disabilities, 2006, in force as of 2008, plus Optional Protocol, 2006 in force as of 2008), rights of children (Convention on the Rights of the Child, 1989, in force as of 1990) and of women (Convention on the Elimination of All Forms of Discrimination against Women, 1979, plus Optional Protocol of 1999). Under these treaties, it is the states that are obliged to respect, protect and fulfil these rights for all persons on their territory¹⁵⁴; “this indicates the positive steps to give effect to or realize the rights guaranteed, through adopting necessary legislative and other measures”¹⁵⁵. Nowadays, States have to acknowledge that many of these categories have to come to terms with the environmental sphere.

Moreover, in 1972 the United Nations Conference on the Environment in Stockholm was the first world conference to make the environment a major issue. The participants adopted a series of principles in favour of the environment including the Stockholm Declaration, the Action Plan for the Human Environment, and several resolutions. However, it was too early to speak of gender, indeed these instruments do not contain any reference to gender. The Stockholm Declaration placed environmental issues at the forefront of international concerns and marked the beginning of a dialogue between industrialized and developing countries on the linkages between economic growth, environmental pollution, and the well-being of people.¹⁵⁶ Indeed, the Stockholm conference anticipated the discussion on the right to a healthy environment. The declaration that emerged was the “declaration of principles”: the environment strictly linked to humanities.

Nonetheless, the emergence of gender as a fundamental issue emerged only in 1975 during the UN First World Conference of the International Women’s year settled down in Mexico. The result was the Declaration of Mexico on the equality of women and their contribution to development and peace and Plans of Actions. What appears interesting is that in section 9 “protection of maternal and child health”, art. 1(b) invites “to give special attention to the development of primary health services [...] and by services for the care of women and children, including nutrition programmes for protection against environmental hazards and

¹⁵⁴ EVANS, M., *International law*, cit., p. 784

¹⁵⁵ SHELTON, D., *Advanced Introduction to International Human Rights Law*, Cheltenham Elgar, 2014, p. 194

¹⁵⁶ <https://www.un.org/en/conferences/environment/stockholm1972>

for health education”¹⁵⁷. This demonstrated that, yet in 1975, the importance to protect women from natural disasters emerged considering them vulnerable parts of society. Hence, even though not explicitly, the linkages between women and the environment were already present. Likewise, in part three, “proceedings of the conference, section V (b) “opening of the conference and election of the president”, article 26 affirmed that “the growing realization that important world problems were interlinked and could not be solved in isolation had given impetus to the simultaneous study of problems relating to the role of women in society and those of food, population, the environment, human settlements, health, and education [...]”¹⁵⁸. This article is emblematic to start a dialogue in the direction of an inclusive gender sensitiveness in an issue such as climate change.

Another strong gender perspective in environmental matters arrived with Agenda 21 and the Rio Declaration on Environment and Development, adopted by the UN conference on environment and development (UNCED) in 1992 in Rio de Janeiro, Brazil. This was considered a watershed in the environmental law that launched the effective role of soft law at international level as well as for gender equality in policymaking. “It provided an opportunity for the international community to prioritise environmental issues and consolidate a vast and unwieldy patchwork of international legal commitments”¹⁵⁹. This World Summit on Environment and Development adopted a gender perspective in all development and environmental policies, thereby promoting women’s effective participation in activities that appropriately use natural resources. Indeed, principle 20 states: “Women have a vital role in environmental management and development. Their full participation is therefore essential in achieving sustainable development”¹⁶⁰.

During this Earth Summit, 178 governments voted to adopt the Agenda 21 programme, a non-binding instrument necessary to promote concretely a sustainable development approach in which women have their role. Indeed, chapter 24 “Global action for women

¹⁵⁷ UN Women, World Conference of the International Women's Year Mexico City, 19 June-2 July 1975, art.1

¹⁵⁸ Ibid, part three, proceedings of the conference, section V (b), “opening of the conference and election of the president”, article 26

¹⁵⁹PHILIPPE, S., PEEL, J., MACKENZI, A.F.R, *Principles of International Environmental Law*, cit., p.4

¹⁶⁰ Rio Declaration on Environment and Development, principle 20. Available at https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CO_NF.151_26_Vol.I_Declaration.pdf

towards sustainable development” is specifically dedicated to identifying areas that require urgent international action for gender equality and women’s crucial role in changing the present consumption and production model. In addition, section 24.8 (a) stresses women’s contributions in the field of biodiversity conservation while section 24.2(f) asks that specific measures be adopted to transform objectives into strategies. Agenda 21 recognises the importance of women’s traditional knowledge and the importance of training, participation, and decision-making also in the field of health, land management, and water resources in which gender-specific programme evaluation is required¹⁶¹.

If Agenda 21 stressed more clearly the necessity to include women as active actors in the international arena also referring to climate change strategies, the linkage with the environment has been strongly reinforced in 1995 in the 4th World Conference on Women. The Conference produced two important outcomes: the Beijing Declaration and the Platform for Action. The former provided significant steps for the advancement of women in twelve critical areas among which women rights and women and the environment. This last area was named Area K of the Platform for Action which clearly explained the relation between Women and Nature, especially significant in developing countries. Indeed, this specific area highlights the right of people to a healthy and productive life in harmony with nature, and article 247 addresses particular attention to women’s social role specifically for the ones living in rural areas. It stresses how “[...] environmental risks in the home and workplace may have a disproportionate impact on women’s health because of women’s different susceptibilities to the toxic effects of various chemicals”¹⁶².

This can be strictly related to the issues of ecological distribution conflicts explained in the first chapter of this thesis. In all the articles of this section K, the fundamental role of women in the rural society emerged, even though in the reality it appears inexistent or very reduced. Moreover, this Declaration identified three strategic objectives with their relative actions concerning women empowerment: in environmental decision-making (K.1), in policies and programmes for sustainable development (K.2), to strengthen mechanisms at all levels to assess the impact of development and environmental policies on women

¹⁶¹ EIGE, *Gender in environment and climate change*, 26 January 2017 available at <https://eige.europa.eu/publications/gender-environment-and-climate-change>

¹⁶² Beijing Declaration and Platform for Action, Beijing, 1995, article 247 area K “women and environment”. available at: www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf

(K.3)¹⁶³. This Declaration was later published and implemented by several international meetings that further explored the relationship between gender and sustainable development. As mentioned by many scholars, this document is widely recognised as a significant pivotal moment for gender equality internationally and it is considered the key global pillar in gender equality.

As mentioned in the first paragraph of this chapter, all these concepts were strengthened in 1997 by the UN's Economic and Social Council (ECOSOC) report which defined gender mainstreaming as a global strategy and approach that aimed to identify gender inequalities and advance proactive actions toward its solution¹⁶⁴.

With the turn of 2000, the phenomenon of climate change started to be envisaged as a real threat. As a result, there was increasing evidence to demonstrate that women and men experience climate change differently and that it increases women's vulnerability and gender inequalities at the same time¹⁶⁵. For this reason, the Commission on the Status of Women (CSW) established by ECOSOC resolution 11(II) of 21 June 1946, from 2002 started to promote the links between gender, disaster, and climate change through different resolutions to report periodically the enhancement and climate issues to be tackled¹⁶⁶.

Moreover, in 2000, countries unanimously adopted the Millennium Declaration, committing to women's empowerment and gender equality as a strategy to achieve

¹⁶³ Ibid.; See also PNUMA, WEDO AND UNITED NATIONS FUNDATION, *La mujer y el medio ambiente*, colección de publicaciones sobre políticas, 2004, p.125-6

¹⁶⁴ ECOSOC Report, "Gender Mainstreaming", (A/52/3, 18 September 1997), Chapter IV, Section I. CONCEPTS AND PRINCIPLES, cit., p.2. See also AGUILAR, L., GRANAT, M., AND OWREN, C. (EDS.), *Roots for the Future: The Landscape and Way Forward on Gender and Climate Change*, IUCN & GGCA, Washington 2015, pp. 27-28 available at <https://genderandenvironment.org/resource/2960/>

¹⁶⁵ This aspect has been clearly explained in KRUPP, S. J., *Environmental Hazards: Assessing the Risk to Women*, *Fordham Environmental Law Review*, Volume 12, Number 1, Article 3, 2000, pp.111-139, and it will be deeper analysed in the following chapter dedicated to climate change.

¹⁶⁶ The main resolutions were Resolution 2006/9 of the ECOSOC in which the CSW identifies emerging global themes that require global; Resolution (jj) on Financing for Gender Equality and Women's Empowerment (E/CN.6/2008/L.8); at its 46th session in 2002, the CSW considered women in disaster management while during the 52nd session in 2008, the "Gender perspective on climate change" emerged. See also UN ECOSOC (2005) Resolution 2005/31: Mainstreaming a Gender Perspective into All Policies and Programmes in the United Nations System.

sustainable development and poverty eradication¹⁶⁷. The MDG agenda proposes a holistic approach to tackle poverty and enhance ecological development. Indeed, although MDG 1 and MGD 2 addressed women in the field of poverty and education recognising their real struggle in developing countries, MGD 3 was totally directed to empower women and their role in civil society. Indeed, this MGD involves women in the context of climate disasters as in different regions of the world restrictions on the independence of women hamper their access to shelter or medical care during cyclones, earthquakes, and floods. MGD 5 “Improve maternal health” focused on women due to their traditional role of taking care of family health¹⁶⁸. This context is strongly related to climate change because of the high index of mortality of mothers during disasters. However, these MDGs received different critics because of their lack of real implementation and effectiveness. Nonetheless, they represented an international step to address the roots of poverty by 2015, and their monitoring and reporting stimulate awareness and action on multiple fronts¹⁶⁹.

In 2005, the UN World Conference on disaster reduction held in Hyogo finally recognised the integration of gender equality into all decision-making and planning processes related to disaster risk management¹⁷⁰. The Framework for Action of the World Conference on Disaster Reduction in section III, A 13(d) states: “A gender perspective should be integrated into all disaster risk management policies [...], including those related to risk assessment, early warning, information management, and education and training [...]. Ensure equal access to appropriate training and educational opportunities for women and vulnerable constituencies, promote gender and cultural sensitivity training as integral

¹⁶⁷ MBOTE, P.K., *Climate Change and Gender Justice: International Policy and Legal Responses in Climate Change: International Law and Global Governance*, p325, vol I, Oliver C. Ruppel edition, <https://www.jstor.org/stable/j.ctv941w8s.16>

¹⁶⁸ Millennium Development Goals available at [https://www.who.int/news-room/fact-sheets/detail/millennium-development-goals-\(mdgs\)](https://www.who.int/news-room/fact-sheets/detail/millennium-development-goals-(mdgs)). See also UN General Assembly (2000), Resolution 55/2; United Nations Millennium Declaration at https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_55_2.pdf

¹⁶⁹ UNDP, *Resource guide on gender and climate change*, December 18th, 2015.

¹⁷⁰ MIGNAQUY, J., *Gender perspective on climate change*, 2013 available at https://www.arts.unsw.edu.au/sites/default/files/documents/1_Gender_perspectives_on_climate_change_Jaz_min_Mignaquy.pdf

components of education and training for disaster risk reduction”¹⁷¹. It includes the acknowledged interconnection between women's vulnerability and environmental disasters particularly in rural areas of developing countries. Nevertheless, the HFA promotes a deeper awareness of disaster risk management strategies along with climate change adaptation strategies. These action plans are fundamental to decrease the level of vulnerability.

The concept of gender equality is also involved in indigenous rights to the extent that many women in rural areas of developing countries are part of indigenous groups. Thus, in 2007, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), was adopted by the General Assembly. It is a rights-based statement recognizing the rights of indigenous peoples to self-determination, economic and political development, land, and education, with due respect to customs and systems of indigenous peoples. This Declaration added value to the ILO 169 convention, signed in 1989, considered the first international binding instrument recognising indigenous peoples and their self-determination rights¹⁷². The Declaration in particular Article 21, put “particular attention to the rights of indigenous women, among other demographic populations” and Article 22 urges states “to take measures to ensure indigenous women’s protection against violence and discrimination”¹⁷³. The Declaration’s application to the gender and climate change agenda lays in that by ensuring the above rights, women and indigenous peoples increase their resilience to climate change impacts as well as their legal rights to land, which could become increasingly relevant concerning upcoming mitigation mechanisms such as Reducing Deforestation and Forest Degradation in developing countries.

In 2012 in Rio de Janeiro, the UN Conference on Sustainable Development (Rio+20) was held, and its most famous outcome is the Resolution adopted by the General Assembly on

¹⁷¹ UN International Strategy for Disaster Reduction (UNISDR), Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters, Extract from the report of the World Conference on Disaster, Hyogo, 2005. Priorities for action 2005–2015, A. General considerations, art.13(b) available at <https://www.unisdr.org/2005/wcdr/intergover/official-doc/L-docs/Hyogo-framework-for-action-english.pdf>

¹⁷² ILO, Indigenous and Tribal Peoples Convention, 1989 (No. C169), available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169c

¹⁷³ The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), 13 September 2007

27 July 2012 66/288 “The future we want”¹⁷⁴. It recognises gender equality as an important cross-cutting issue very intertwined with environmental matters. Not only did it mention gender-specific references in the preamble and sectoral areas, but also it dedicated a special thematic section named “Gender equality and women’s empowerment” (artt. 236-244). The main objective is to enhance gender equality in the context of sustainable development and the promotion of a green economy in which women have a role of leadership. Another aspect to be considered is that this Summit aimed at assessing what has been done in twenty years and highlight one important international environmental principle seen as customary law included in treaties. This is the precautionary principle, a key part of international environmental law, which is mentioned in art. 167 and 158 of the abovementioned Resolution. It means to adopt a precautionary approach to prevent actions that might cause danger to human and non-human beings' health¹⁷⁵.

Moreover, as concerns the Human Rights Council, while its resolutions 7/23 and 10/4 adopted respectively of 2008 and 2009 were more focused on climate change, some developments in terms of gender emerged only a few years ago. Indeed, the resolution adopted on 22 June 2017 specifically emphasises the relationship between women and climate change using a gender perspective¹⁷⁶. Human Rights Council noted “to take into consideration cross-cutting issues, such as gender-responsiveness, human rights, and

¹⁷⁴ United Nations General Assembly, Resolution adopted by the General Assembly on 27 July 2012, 66/288, “The future we want”, A/RES/66/288*. See also UN General Assembly (2009) ‘Resolution 63/32: Protection of global climate for present and future generations’, A/RES/63/32.

¹⁷⁵ The precautionary principle has been used in cases such as the *Case of Beef Hormones* against WTO (EU vs USA) to stop the import of meat treaty with hormones from the USA to Europe. See also SANDS, P., PEEL, J., *Principles of International Environmental Law*, Cambridge University Press, 2018, p. 217-218. There are other important international environmental principles that, for a matter of coherence, will not be described here. These are the “no harm principle or good neighbour” emerged also through the famous Pulp Mills Case; “Obligation of notification” emerged in the 1980s after the Chernobyl disaster; “the obligation to conduct an Environmental Impact Assessment on transboundary projects” emerged in the ICJ case in 2010 Argentina vs. Uruguay; “the principle of public participation”; “the Principle of preventive action and utilisation of shared resources”; “the Principles of sustainable development and the polluter-pays principle”; “the polluter-pays principle”.

¹⁷⁶ Resolution adopted by the Human Rights Council on 22 June 2017, thirty-fifth session 6–23 June 2017, Agenda item 3, “35/20. Human rights and climate change” A/HRC/RES/35/20.

indigenous peoples”¹⁷⁷, but above all, it highlights the consequences of climate change on vulnerable people among which women are a strong percentage. Moreover, this resolution recognized climate change-induced migration affecting children who are displaced because of natural hazards. The resolution calls the States to envisage “the right to development, as well as gender equality, empowerment of women and intergenerational equity”¹⁷⁸, this because gender equality is strictly connected with poverty issues. Finally, in one of the last paragraphs (art.15) it concludes with an invitation to all States “to integrate a gender perspective in pursuing mitigation and adaptation responses to the adverse impact of climate change on the full and effective enjoyment of human rights”¹⁷⁹.

However, a concrete gender perspective has been considered in the Resolution adopted by the Human Rights Council on 5 July 2018 38/4. Here, the term “gender” appears sixteen times. First, the resolution recalls the 2030 Agenda for Sustainable Development, which will be mentioned in the following chapter, and its 5th goal on achieving gender equality and empowering all women and girls. It remembers the adoption of the first gender action plan under the Lima Work Programme on Gender that is considered another landmark in the inclusion of gender at the international level. Then, the Committee highlighted the importance of including the rights of women and girls “who account for the majority of people living in poverty worldwide”¹⁸⁰, particularly if we consider developing countries. The innovative part of the document is that it recognizes the negative impact that climate change has specifically on women and girls who are “disproportionately affected”¹⁸¹. Indeed, the “sudden-onset natural disasters and slow onset events seriously affect their access to food and nutrition, safe drinking water and health-care services”¹⁸². However, women have not to be seen only as victims of this phenomenon but also as “agents of change” because “the integration of a gender-responsive approach into climate policies, including by conducting gender analysis, ensuring women’s right to participate, access to education and training [...] would increase the effectiveness of climate change mitigation

¹⁷⁷ Ibid., Preamble.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid., art.15

¹⁸⁰ Resolution adopted by the Human Rights Council on 5 July 2018 38/4, Thirty-eighth session, 18 June–6, July 2018, Agenda item 3, 38/4. Human rights and climate change. A/HRC/RES/38/4

¹⁸¹ Ibid., Preamble

¹⁸² Ibid.

and adaptation”¹⁸³. This passage is strongly emblematic to make evidence of the necessary role that women in developing countries have in their societies. At the same time it states that “gender-responsive climate policies continue to require further strengthening in all activities concerning adaptation, mitigation and related means of implementation, such as finance, technology development and transfer, and capacity-building”¹⁸⁴, meaning that it is fundamental to follow this path to obtain results. Only in this way, women will have access to basic needs and rights such as food, safe drinking water, and healthcare services, and clean energy. Thus, it is up to States “to strengthen and implement policies aimed at increasing the participation of women in climate change responses at the local, national, regional and international levels, and calls upon the United Nations Entity for Gender Equality and the Empowerment of Women”¹⁸⁵. These appeared to be two important resolutions that pushed International organisms and States to take action.

More recently, the UN Climate Change Conference COP 25 (2– 13 December 2019) took place under the Presidency of the Government of Chile but it was held in Spain. The conference was designed to take the next crucial steps in the UN climate change process. A key objective was to complete several matters concerning the full operationalization of the Paris Climate Change Agreement. What emerged was the Enhanced Lima work programme on gender and its gender action plan (FCCC/CP/2019/L.3). Article 2 premises that it considers the reports “on the persistent gender lack of progress and the urgent need for improving the representation of women in Party delegations and constituted bodies”¹⁸⁶. It emerged the need to provide constant reports and synthesis to keep an eye on the progress of different bodies to enhance women’s status. Among these, article 10 states that it decides to “undertake a review of the implementation of the enhanced Lima work programme on gender and its gender action plan at the sixty-first session of the Subsidiary

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ Ibid., art.6

¹⁸⁶ UNFCCC, Conference of the Parties, Twenty-fifth session, Madrid, 2–13 December 2019, Agenda item 13, Gender and climate change, Proposal by the President, Draft decision -/CP.25, Enhanced Lima work programme on gender and its gender action plan, FCCC/CP/2019/L.3. available at <https://undocs.org/FCCC/CP/2019/L.3>

Body for Implementation (2024)”¹⁸⁷. The keywords are facilitation, participation, and encouragement. The enhanced gender action plan sets out objectives under five priority areas that aim to advance knowledge of gender-responsive climate action in the implementation of the UNFCCC and the work of Parties. The five areas are Capacity-building, knowledge management, and communication; Gender balance, participation, and women’s leadership; Coherence; Gender-responsive implementation and means of implementation; Monitoring and reporting.

Finally, a Forum that needs to be stressed is “Generation Equality 2021”, a campaign that brings together people of all genders, ages, ethnicities, religions, and countries to take action for gender equality. The initiative calls for not only an end to gender-based violence but also economic justice and rights for all, sexual and reproductive health and rights, bodily autonomy, and feminist action for climate justice. The Forum was organized by UN Women and co-chaired by France and Mexico in partnership with civil society. The event was to be launched in Mexico City in May 2020 and, then, be held in Paris in July 2020. Due to the international health crisis caused by the coronavirus-19, the event was postponed to March and July 2021.

The theme is in line with the new multi-generational campaign of UN Women, Generation Equality, which this year marks the 10th anniversary of the founding of UN Women and the 25th anniversary of the Beijing Declaration and Platform for Action, the most progressive agenda for the empowerment of women and girls. The forum launched a series of concrete and transformative actions to achieve objectives immediately and sustainably. This program defined how to remove systemic barriers that prevent women from participating equally in all areas of life (public or private). The main objectives of the Forum will be to define an innovative action programme for the future and to launch “Action Coalitions”: global multi-stakeholder partnerships to achieve concrete results that make a difference for women and girls of all generations¹⁸⁸.

In conclusion, as a new international system is being developed towards a greening economy, it is essential to incorporate gender issues into the field of climate change. Although many policies require a gender equality approach in all areas of development or

¹⁸⁷ Ibid. art.10

¹⁸⁸ The initiative is visible at <https://www.unwomen.org/en/get-involved/beijing-plus-25>

human rights, international environmental programmes still do not have this vision or a concrete application. Many times, States do not comply or apply properly such provisions. All conventions and soft law instruments are a good starting point to stimulate binding rules. Indeed, in most Declarations and Treaties there is the recognition of rights or the willingness to solve the impact of climate change on gender but there is still too much to do to make women visible in climate change decision-making.

Moreover, this is strongly necessary for countries of the Middle East or Asia in which women struggle every day to actively participate in environmental matters. Indeed, despite the good inputs given by international organisations and soft law instruments, a Convention is needed to establish a framework that involves all areas of environment and climate change intertwined with a gender perspective. In this regard, mechanisms at the international, national and regional levels for assessing the impact of development and environmental policies on women should be established if they do not exist and strengthened where they are not effective. Nowadays, global negotiations on climate change are mainly focused on reducing GHGs employing the UNFCCC, the IPCC, and other related mechanisms. The gender dimension has not been significantly broached in considering adaptation and mitigation, and therefore they provide neither a legal framework nor a rights-based approach needed to implement responses to climate change that are equitable for both men and women. Gender-sensitive databases and monitoring systems should also be developed to facilitate action to coordinate internationally a comprehensive strategy on the relationship between gender and climate change. 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 realm¹⁸⁹.

¹⁸⁹ KAMERI-MBOTE, P., *Climate Change and Gender Justice: International Policy and Legal Responses in Climate Change: International Law and Global Governance*, Edited by Oliver C. Ruppel, Christian Roschmann and Katharina Ruppel-Schlichting, 2021, available at <https://www.jstor.org/stable/j.ctv941w8s.16> .See also UNDP, *Resource guide on gender and climate change*, December 18th, 2015.

3. A survey on the main instruments at European level: an introduction

The role of the European Union is seen as a “trend setter in the implementation of sustainable development”¹⁹⁰ and thus it is perceived as a normative power or vehicle of policy diffusion. As will be described in the next paragraphs, the European binding instruments, such as directives and regulations, have an important role in this context but also soft law instruments have been particularly influential in the field of gender and climate change policies. Indeed, the European institutions have developed a wide range of non-binding tools such as guidelines, recommendations, declarations, and resolutions that improved substantially the European framework.

However, it is important to remember that soft law has a potential impact in practice, and “this formally non-binding characteristic does not allow to exclude any juridical effect of the acts”¹⁹¹. This to say that many times, soft law resulted to be very influent in policies development. When the Member States cannot reach a consensus on the use of legally binding measures, they tend to use EU soft law. Therefore, member states and EU institutions can adopt EU policy recommendations, especially those states that do not want to be bound by mandatory provisions. Hence, they are an option used by the Commission when it encounters resistance from certain Member States and encourages them to adopt such policies.

In the following paragraphs, it will be evident how the Commission has made extensive use of action programmes and resolutions to promote equality between women and men. To give more evidence to the important matter, another way to persuade Member States is the organisation of campaigns supported also by NGOs, advocacy groups as in the case of the recent campaign “No Women No Panel”¹⁹² to raise awareness on having gender balance in panels and public events. This is meant to spread from the bottom-up approach the idea that women are still in a situation of gender inequality also in developed countries. Besides, as in the case of international law, the gender dimension in environmental policies has begun to be addressed in policy initiatives and debates at the European level only very recently. Indeed, Gender equality and environmental sustainability have been

¹⁹⁰ BALDIN, S. AND DE VIDO, S., *Environmental Sustainability in the European Union: Socio-Legal Perspectives*, EUT Edizione Università di Trieste, Biblioteca della società aperta. Studi e ricerche, 2020, p.31

¹⁹¹ TESAURO, G., *Diritto dell'Unione Europea*, 7a edizione, CEDAM, 2012, p. 149

¹⁹² See more at <https://www.europarl.europa.eu/italy/it/succede-al-pe/no-women-no-panel-23-marzo-2021>

mainstreamed into EU and international development policies in parallel processes. In the following paragraph, I will offer an outline of the European binding instruments that involved gender equality since 1950 with the European Convention on Human Rights. As will emerge, directives and regulations tried to go towards a more inclusive framework that sees gender equality as central to the protection of human rights, the functioning of democracy, and also in a sustainable model of growth.

3.1 Hard law: the main instruments after the TFEU and TUE

Firstly, it is worth mentioning the European Convention on Human Rights adopted on 4 November 1950 and entered into force on 3 September 1953. This Convention is a pillar of the European framework of Human Rights because it provided positive obligations for States which have to take action to prevent violations of the Convention¹⁹³. Firstly, Article 14 (prohibition of discrimination) of the European Convention states “the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinions, national or social origin, association with a national minority, property, birth or another status”¹⁹⁴. Moreover, this concept of non-discrimination was also pointed out by Protocol No. 12 to the Convention, on 4 November 2000, in article 1¹⁹⁵. This means that since 1950, the prohibition of discrimination, in general, was at the basis of the European policies even if there was not such evidence on gender.

What is even more interesting is that the legal basis for European Union action concerning the environment and gender equality laid down in the Treaties establishing the European Union, which contain provisions on both Union action on the environment and gender equality. Indeed, articles 191 and 192 of the Treaty on the Functioning of the European

¹⁹³ An example to affirm this positive obligation is the *Talpis v. Italy* (no. 41237/14), 2 March 2017, when the ECtHR said that Italy had a positive obligation in investigating and preventing violence against women, and that it failed to take measures to prevent the fatal attack to the applicant’s son, given the immediacy of the risk. See also the comment provided by S. DE VIDO, *The ECtHR Talpis v. Italy Judgment Challenging the Osman Test through the Council of Europe Istanbul Convention?* available at https://edizionicafoscari.unive.it/media/pdf/article/ricerche-giuridiche/2017/2/art-10.14277-Rg-2281-6100-2017-02-001_soQ2GOC.pdf

¹⁹⁴ European Convention on Human Rights, 1950, art. 14.

¹⁹⁵ Protocol No. 12 to the European Convention on Human Rights, on 4 November 2000, art.1

Union are at the basis of the European environmental policy¹⁹⁶. Art 191 states that “Union policy on the environment shall contribute to the pursuit of the following objectives: preserving, protecting and improving the quality of the environment; protecting human health; prudent and rational use of natural resources; promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change”¹⁹⁷. Thus, the article issued the necessity to collaborate with other forces to provide a change and an enhancement of the living conditions of humans and the environment itself. Moreover, it follows with: “it shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay”¹⁹⁸. Here, the international principles such as the precautionary principle and the polluters-pay principle are enshrined in art.191 to show parallelism and collaboration with international law.

Moreover, as stated by art. 192 the treaty highlights the importance of correct management of water resources and land use, which result fundamental in considering climate change impacts. Art. 192 includes another time the polluters-pay principle: “Without prejudice to the principle that the polluter should pay, if a measure based on the provisions of paragraph 1 involves costs deemed disproportionate for the public authorities of a Member State, such measure shall lay down appropriate provisions [...]”¹⁹⁹. All this has to be mentioned to provide a clear overview based on the European Union in environmental law. Indeed, these provisions are fundamental to follow the path towards an eco-centric ethic and a nature-based approach in the European Union. As will be defined in the last chapter (chapter four) of this work, a holistic approach is needed to arrive at the recognition of nature’s rights in line with human rights²⁰⁰.

¹⁹⁶ Consolidated version of the Treaty on the Functioning of the European Union (TFEU), artt.191-192. Available at http://data.europa.eu/eli/treaty/tfeu_2012/oj

¹⁹⁷ Ibid., art.191

¹⁹⁸ Ibid

¹⁹⁹ Ibid., art.192

²⁰⁰ This new horizon to which International and European environmental law should follow is explained and developed by the United Nations Resolution on harmony with nature A/RES/64/196 available at <https://digitallibrary.un.org/record/673697>

As far as gender is concerned, the TFEU aimed to preserve and promote gender equality in article 8 affirming “in all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women”²⁰¹. This is then reiterated in different paragraphs concerning equality in the workplace. Also, the Treaty of the European Union in article 2 states that “[...] these values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity, and equality between women and men prevail”²⁰². Thus, underlining the importance of parity and equality among people. Although these basic concepts on gender equality and environmental respect are made clear by the TFEU and TEU, there are no directives or regulations which address directly women and the environment, but they are always treated separately as the following analysis will show.

In 1987, the Single European Act was introduced and the term sustainable development emerged with the Treaty of Maastricht in 1992. However, an interconnection with women was still absent. Then, more attention to environmental matters in the European Union came with the European Commission Directive 2003/87/EC that regulated the so-called EU emissions Trading System, the European key tool for reducing GHG emissions from industry. This has been enhanced in 2009 by the European Parliament with the Council which adopted the Directive 2009/28/CE on the promotion of the use of energy from renewable sources that aims to promote and increase the use of energy from renewable sources, to achieved energy efficiency and comply with the Kyoto Protocol to the UNFCCC.

In parallel, the gender perspective has been approached by different Directives to guarantee correct equality in different areas. Firstly, the Council Directive 2004/113/EC of 13 December 2004 implemented the principle of equal treatment between men and women in the access to and supply of goods and services²⁰³. This provided a framework to reiterate the equality between men and women as a fundamental basis of the European Union with the purpose “to lay down a framework for combating discrimination based on sex in access

²⁰¹ Consolidated version of the Treaty on the Functioning of the European Union (TFEU), art.8

²⁰² The Treaty on European Union, art.2 available at http://data.europa.eu/eli/treaty/teu_2012/oj

²⁰³ Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0113>

to and supply of goods and services”²⁰⁴(art.1). Secondly, in 2006 emerged the Directive 2006/54/EC of the European Parliament and the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation²⁰⁵. Thus, another time the focus on equal opportunities but in another field. Here, art. 29 is devoted to gender mainstreaming that affirms “The Member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to in this Directive”²⁰⁶. This concept has been found also in Article 153 of the Treaty on the Functioning of the European Union (TFEU) which enables the Union to support and complement the activities of the Member States. Thirdly, in 2010 the Directive 2010/41/EU reflected on the application of the principle of equal treatment in the field of self-employment underlying the importance of “promoting entrepreneurship initiatives among women”²⁰⁷.

A step further in the direction of intertwining gender in these environmental regulations has been made by the European Regulation No 1291/2013 of the European Parliament and of the Council on December 2013, establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)²⁰⁸. The objective is the Europe 2020 strategy which aimed at achieving smart, sustainable, and inclusive growth through research, innovation, and technology, seen as “key drivers of social and economic prosperity and of environmental sustainability” (paragraph 3 Preamble). In this context, the strategy focuses also to face climate change because “climate action and resource efficiency are mutually reinforcing objectives for achieving sustainable development” (paragraph 10). Paragraph 11 states that Horizon 2020 focuses on generating excellent science and tackling societal challenges at the same time. Indeed, with social challenges it refers also to gender equality

²⁰⁴ Ibid.art.1

²⁰⁵ Directive 2006/54/EC of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation Available at <http://data.europa.eu/eli/dir/2006/54/oj>

²⁰⁶ Ibid.

²⁰⁷ Directive 2010/41/EU, art.5 available at <http://data.europa.eu/eli/dir/2010/41/oj>

²⁰⁸ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC Text with EEA relevance available at <http://data.europa.eu/eli/reg/2013/1291/oj>

as mentioned in art.16: “Horizon 2020 shall ensure the effective promotion of gender equality and the gender dimension in research and innovation content[...]. The gender dimension shall be adequately integrated into research and innovation content in strategies, and projects and followed through at all stages of the research cycle”²⁰⁹. This gendered approach is repeated also in article 25 affirming that activities have to be gender-sensitive also “by addressing the underlying causes of gender imbalance, by exploiting the full potential of both female and male researchers, and by integrating the gender dimension”²¹⁰. Also in Annex, I Gender is approached as a commitment of the Union and identified as a cross-cutting issue to rectify imbalances between women and men. For the first time, this Regulation acknowledges gender as a transversal issue that has to be implemented to improve women’s participation and the quality of ongoing research.

Thus, this brief analysis distinguishes the important outcomes that need to be achieved in the following years considering all the steps further that the Institutions did. Although there is no real directive or regulation that treats directly women along with the environment, some notions have been developed in this direction.

The following paragraph will offer an overview of the main resolutions put in action by the Council and the European Parliament that resulted fundamental in spreading the linkages between gender and environment.

3.2 Soft law: the main European Parliament Resolutions and European Council conclusions

In this section, a brief overview of the most relevant European Parliament Resolutions and European Council Conclusions will be provided showing how the European Union moved towards a more comprehensive approach in the field of gender and environment only in the last decade. Indeed, soft law results far more inclusive than hard law in this field, because soft law tried to create a real connection between the two themes. All the conclusions and resolutions are non-binding acts by their nature, and therefore without obligations on the EU Member States, the European Parliament’s resolutions are nevertheless regarded as elements of international practice. At the same time, the resolutions call for a debate in the regional context of the European Union and may constitute a "model" for the adoption of

²⁰⁹ Ibid.,art.16

²¹⁰ Ibid., art.25

further actions²¹¹. Particularly, the European Union took its steps starting from the late 2000s considering the real challenge posed by climate change, as will be described in the third chapter of this work. To better understand the evolution of European soft law in the interconnection between women's rights and the environment, it is important to consider several resolutions both by the European Parliament and the council.

On November 17, 2009, the European Council adopted the Conclusion on Climate change and development. The document refers to gender equality and women's empowerment at the end of paragraph 6 stating that special attention and support should be provided to these issues. Then, in the section devoted to adaptation strategies, in paragraph 8, the document identifies "the human dimension of climate change, including a gender perspective"²¹² thus, it underlines the most disadvantaged people at risk who need real help to face this threat. In this view, the European Council wanted to create a more climate-resilient development path to the adverse impacts of climate change.

All these first intentions have been emphasized on the 25th of June of 2012 when the Council of the European Union provided its conclusions on "Gender equality and the environment: enhanced decision-making, qualifications, and competitiveness in the field of climate change mitigation policy"²¹³. This conclusion underlined the importance of considering gender perspective in European environmental policies. Indeed, paragraph 1 states: "women play a vital role in sustainable development, and that gender as well as social and employment aspects need to be integrated into efforts to combat climate change to improve them"²¹⁴. Thus, women's rights are seen as a priority. Then, paragraph 2 appears emblematic because not only did it mention the Beijing Platform for Action (1995) and its area K "women and environment", but it also acknowledges a holistic approach that has to be followed to accomplish with a real gender perspective. Paragraph 3 focuses its

²¹¹ BALDIN, S. AND DE VIDO, S., *Environmental Sustainability in the European Union: Socio-Legal Perspectives*, EUT Edizione Università di Trieste, Biblioteca della società aperta. Studi e ricerche, pp. 32-33, 2020

²¹² European Council conclusions on Climate change and development 2974th External Relations Council meeting, Brussels, 17 November 2009, art.8 available at https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/111283.pdf

²¹³ European Council conclusion on Gender equality and the environment: enhanced decision-making, qualifications and competitiveness in the field of climate change mitigation policy, D/12/8, Brussels, 29 June 2012, available at https://ec.europa.eu/commission/presscorner/detail/en/DOC_12_8

²¹⁴ Ibid., paragraph 1

attention on climate change mitigation and the importance to include gender lenses through which to analyse the issue and solutions. Moreover, paragraph 4 stated: “Women and men affect the climate differently [...] they have different CO2 footprints, and they are not represented equally in decision-making in this field”²¹⁵. This means that it is widely known that their positions in society are different according to their jobs and importance.

As will be explained, women have no active roles in challenging climate change, especially in developing countries where they should be seen as agents of change. Thus, in paragraph 9, the conclusion highlights “the urgent need to improve gender equality in decision-making in the field of climate change mitigation [...] and to increase the number of women with relevant qualifications in scientific and technological fields [...]”²¹⁶. It is generally known that gender-based prejudices are still present in our societies and these stereotypes strongly prejudicated women deepening the “gender pay gap” in the field of economic inequality. As a result of all these points, the Council calls on the Member States and the Commission “to take active and specific measures aimed at achieving a balanced representation of women and men in decision making in the field of climate change mitigation at all levels”²¹⁷.

Thus, Countries are the main responsible for providing real support to women in scientific fields at national and European level to eliminate all forms of gender stereotypes. Indeed, the principle of gender mainstreaming has to be the lens through which to analyse all relevant legislation and policies. To do so, the Commission has to act as a leader offering annual reports on the progress on gender equality following the indicators included in the Annex of the conclusion. More interestingly, the Council wanted to include the participation of civil society “to raise awareness of the gender dimension of climate change policy”²¹⁸, this shows how civil society can be an important leverage in this field. In addition, this conclusion mentions (in artt. 6, 7, 11) the report adopted by the European Institute on Gender Equality (EIGE), the “Review of the Implementation in the European Union of area K of the Beijing Platform for Action: Women and the Environment Gender

²¹⁵ Ibid., paragraph 4

²¹⁶ Ibid., paragraph 9

²¹⁷ Ibid., paragraph 13

²¹⁸ Ibid., paragraph 24

Equality and Climate Change”²¹⁹. Indeed, in 1995, the European Council acknowledged the European’s commitment to the BPfA and stated its intention to review its implementation across the Member States yearly. It developed quantitative and qualitative indicators and by 2010 EIGE has been supporting the Presidencies of the Council of the European Union in the follow-up of the BPfA. This is a significant European report on gender equality and climate change that provides comparable data at the regional level²²⁰. This report aims at introducing guidelines to support policymakers in measuring progress and see the real achievements of the European Union Member States in the implementation of area K: Women and the Environment of the Beijing Platform for Action (BPfA). This report was born by the collaboration between the Danish Government (who held the Presidency of the Council of the European in 2012), the European Commission, and the High-Level Group on Gender Mainstreaming. The core of this work is considering women’s engagement in climate change and women’s role in decision-making that is still low. By signing up the document, the Member States of the EU officially acknowledged their responsibility to implement the BPfA and to monitor the progress in each of the areas of concern.

As far as the European Parliament is concerned, it is worthy to stress that it has been very active in this field since 2011, producing several resolutions which address climate change from a gender perspective. However, the first Resolution intertwining the two issues is the European Parliament Resolution on women and climate change (20th of April 2012-2011/2197/(INI)). It reiterates the fact that gender roles and equality are still an objective that needs to be achieved concerning climate change. Starting from the general provisions the articles identify the clear interconnection between the two regimes and the impact that this phenomenon has on women. For instance, article 8 “calls on the Commission and the Member States to collect country-specific and gender-disaggregated data when planning, implementing and evaluating climate change policies”²²¹ this would allow to effectively

²¹⁹ EIGE Report, Review of the Implementation in the EU of area K of the Beijing Platform for Action: Women and the Environment Gender Equality and Climate Change, Luxembourg: Publications Office of the European Union, 2012

²²⁰ Another previous report by EIGE is the one entitled “Gender in environment and climate change” of the 26 of January 2017.

²²¹ European Parliament resolution of 20 April 2012 on women and climate change (2011/2197(INI)), art.8 available at https://www.europarl.europa.eu/doceo/document/TA-7-2012-0145_EN.html

assess the differing effects of climate change on each gender to provide better policies to cope with the problem. In the section concerning adaptation, article 20 “calls on the Commission and the Member States to integrate the gender issue into strategies for preventing and managing the risks associated with natural disasters” with the intention of enhancing women’s empowerment through capacity-building, that is one of the three main ways to tackle climate change²²². Although the important role played by women in all these strategies is acknowledged, there is a very low level of application. Hence, to give them relevance and active involvement, there is “the need for financing mechanisms to reflect women’s priorities and needs”²²³. Another time, this resolution provides the European Union as pioneering in distinguishing the importance of the issue and creating the opportunity to spread awareness through Member states.

Moreover, on the 11th of September of the same year, the European Parliament adopted the resolution on the role of women in the green economy (2012/2035(INI))²²⁴. After having mentioned all the previous resolutions and Commission communications, the European Parliament states at art. 3 that “regrets that the Commission's communication to EU institutions and committees regarding ‘Rio+20: towards a green economy and better control’ lacks a gender perspective”²²⁵. This because the real implementation of sustainable measures many times do not include a gender sensitiveness approach. Thus, as suggested by art 4 a “gender-disaggregated data when strategies, programmes, and budgeting projects are being planned” is essential to have a wide range of data to improve reports on gender. So, as in the previous resolutions, the Resolution “calls on the Commission and Member States to establish gender mainstreaming mechanisms at international, national and regional levels in environmental policies, as gender concerns and perspectives are not well integrated with policies and programmes for sustainable development”²²⁶. Thus, in some ways, this resolution wanted to emphasize the gender gap still present in the implementation of regional norms and environmental policies. The resolution includes other recommendations regarding gender aspects of the environment, sustainability, and

²²² Ibid., art.20

²²³ Ibid., art.42

²²⁴ European Parliament adopted the resolution on the role of women in the green economy (2012/2035(INI)) available at https://www.europarl.europa.eu/doceo/document/TA-7-2012-0321_EN.html?redirect

²²⁵ Ibid., art.3

²²⁶ Ibid., art.5

the green economy, as well as specific recommendations relating to sustainable consumption, transport, ‘green’ jobs, and sustainable policies in international relations.

This gender gap has been reconsidered in 2015 with the Resolution on the EU Strategy for equality between women and men of 9 June 2015 when the European Parliament underlined the EU’s responsibility to act as a model for gender equality to overcome the lack of implementation. Indeed, it acknowledges that “there has been a slowdown in political action and reform for gender equality during the last decade at EU level” (paragraph B)²²⁷. The issue of equality is essential for the EU because not only did it recognise it in the TEU and TFEU but also the EU has the responsibility to develop specific gender tasks and activities. Thus, the European Parliament “calls on the Commission to draw up and adopt a new separate strategy for Women’s Rights and Gender Equality in Europe aimed at creating equal opportunities” and “this Strategy must thoroughly take into account the multiple and intersectional forms of discrimination”²²⁸. Differently from the previous resolutions, this one appears extremely innovative because it adopts an intersectional perspective considering also LGBTI groups. After a section dedicated to the important issue of violence against women and gender-based violence, the resolution offers the linkage between women and climate change in article 73 that “Calls on the Commission to gather gender-specific data with a view to conducting an impact assessment for women in the areas of climate, environment and energy policy”²²⁹. Thus, this resolution represents an important step for a more inclusive gender discourse also in the field of LGBTI groups and climate change.

On 4 April 2018, to strengthen this gender perspective, the “Position in the form of amendments of the Committee on Women's Rights and Gender Equality for the Committee on the Environment, Public Health and Food Safety” tried to modify some articles for a decision of the European Parliament and the Council, namely Decision No 1313/2013/EU on a Union Civil Protection Mechanism²³⁰. The amendments involve different articles of

²²⁷European Parliament Resolution of 9 June 2015 on the EU Strategy for equality between women and men (2014/2152(INI)). Available at https://www.europarl.europa.eu/doceo/document/TA-8-2015-0218_EN.html

²²⁸ Ibid., art.1 General Recommendations

²²⁹ Ibid. art.73

²³⁰ COM(2017/0772 - C8-0409/2017 - 2017/0309(COD))

Available at https://www.europarl.europa.eu/doceo/document/FEMM-AD-619422_EN.pdf

the decision in which there was no gender perspective or reference. Basically, the Committee added a more inclusive vision to make concrete efforts to drive a change.

In this period, the European Parliament adopted the resolution on women, gender equality, and climate justice (of 16 January 2018- 2017/2086(INI)) that resulted emblematic to mark a strong change in the European Union²³¹. This resolution has been adopted after the discussion of the detailed report of the Committee on Women's Rights and Gender Equality and the opinions of the Committee on Foreign Affairs and the Committee on Development (A8-0403/2017)²³². Like other resolutions, the preamble recalls the most important international declarations, conventions, and treaties, namely the Universal Declaration of Human Rights (1948) along with the CEDAW convention and the UNCCD environmental convention; the TEU, the TFEU, and the Conferences of the Parties in particular COP18 and the following COP20, COP21, and COP22. In paragraph A of the Preamble, the European Parliament emphasized climate change's destructive impacts on developing countries in which women face "higher risks and burdens for various reasons"²³³. Indeed, as will be explained in chapter three of this work, women are particularly hit by climate change because of their roles as food providers as mentioned in paragraph C of the resolution.

Moreover, even though a consistent percentage of women work and spend time in the agricultural sector, only a few participate actively in developing climate policies. Indeed "whereas in the agricultural sector in Africa, women produce over 90 % of basic foods and at the same time own only about 1 % of the arable land"²³⁴ (paragraph E). Thus, women have no privileges, no rights, and no recognition. This bears witness to the high level of gender inequality and the practical inexistence of women's rights in developing countries such as the cases of the Middle East, South Africa, and South America. This resolution shows real attention to the linkage between environmental disasters, economic and social rights with the willingness to push for a more equitable system. Indeed, it recognises the

²³¹ Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018IP0005> See also the analysis provided by DE VIDO, S., *Risoluzione del Parlamento europeo "Donne, parità di genere e giustizia climatica*, 2018, in *Rivista DEP* n. 41-42 / 2020 Numero Doppio, p. 273-279

²³² Available at https://www.europarl.europa.eu/doceo/document/A-8-2017-0403_EN.html

²³³ European Parliament adopted the resolution on women, gender equality and climate justice (of 16 January 2018- 2017/2086(INI)), paragraph A.

²³⁴ *Ibid.*, paragraph E

harsh situations in which women live considering that “[..]nearly two-thirds of women, remain illiterate, while access to information and education through appropriate communication channels is vital for ensuring women’s autonomy, especially during disasters”²³⁵ (paragraph D). Many times, the real problem is those vulnerable people who live in rural areas have no connection with the main cities and so they have no access to information in real-time. Then, the resolution touches an important aspect that will be clearly explained in chapter four of this work, that is how climate change exacerbates gender inequalities in terms of discrimination meaning “in relation to threats to health, loss of livelihood, displacement, migration, poverty, human trafficking, violence, sexual exploitation”²³⁶ (paragraph H).

For all these reasons, the resolution calls for the participation of all grassroots women and groups to enhance the quality of disaster management. As mentioned in chapter one of this work, women’s movements developed exponentially to have their voices heard, so, they represent a powerful leverage in civil society. In addition to this, “taking women’s knowledge, including local and indigenous knowledge, into account can lead to advances in disaster management”²³⁷ (paragraph Q). Thus, the European Parliament acknowledges the importance of indigenous groups who live in strict contact with nature and need to have their rights recognised as established by the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in September 2007.

Considering that climate change has to be viewed as “a common concern for humankind”, human rights need to be treated considering climate change: climate justice means also human rights and women’s justice. This is considered also in terms of migration (see articles 22;25;26) and climate refugees (art.41) because one of the main consequences of environmental disaster is climate-induced migration above all in areas as Sub-Saharan Africa and South Asia. Indeed, in Chapter three there will be a clear example of gender migration in the case of Bangladesh, the country the most hit by environmental hazards. Then, the European Parliament provides concrete actions to be applied by Member States: art. 3 invites “to implement programmes through which the transfer of modern technologies and know-how”, art. 6 “insists on binding status for the social and

²³⁵ Ibid., paragraph D

²³⁶ Ibid., paragraph H

²³⁷ Ibid., paragraph Q.

environmental norms” and articles 9 and 10 aim to reiterate support for the comprehensive development of concrete plans “to achieve the goal of gender balance in delegations to the UNFCCC”²³⁸.

The European Parliaments calls the member states to adhere to Decision 21/CP.22 on gender and climate change “to provide support for gender focal points in third countries and/or partner countries”²³⁹ where climate disasters are on a daily basis and governments do not take steps to face that dilemma. Although the resolution provides different and concrete actions to be taken into account (articles 34-35-36-38-39), it also recognizes the gaps and lacks in the European systems recognising that “the EU has to show a strong institutional commitment to GEWE in relation to climate change” and “that improvements to technical guidance will not be sufficient on their own to transform the EU’s effectiveness on GEWE”²⁴⁰. This document appears comprehensive of all the main issues tackled by the most vulnerable people in the world. With this resolution, the European Parliament demonstrated that it is possible to intertwine human rights and environmental regimes to enhance the quality of life of thousands of people and to provide a clear framework of action.

Furthermore, in 2019, gender mainstreaming has been strengthened by the European Parliament resolution on gender mainstreaming in the European Parliament (15.01.2019-2018/2162(INI)) showing the willingness to achieve gender equality and empower all women and girls by 2030. A year later, on the 15th of January, the European Parliament adopted the resolution on the European Green Deal (2019/2956(RSP)) and it showed another step forward the integration of environmental and human rights regimes. It states the real necessity to tackle climate change seen as a stress multiplier. Indeed, “all people living in Europe should be granted the fundamental right to a safe and healthy sustainable environment”²⁴¹(art.2). Then art.4 focuses on the Green Deal, a plan of action that should be the core of the European strategy for issues such as the development of sustainable growth in line with new economic opportunities and social progress. According to the European Parliament, only in this way, the European Union will succeed in a “modern,

²³⁸ Ibid., artt.3-6-9-10

²³⁹ Ibid., art.13

²⁴⁰ Ibid., artt. 31-33

²⁴¹ European Parliament adopted the resolution on the European Green Deal (2019/2956(RSP)) available at https://www.europarl.europa.eu/doceo/document/TA-9-2020-0005_EN.html

resource-efficient and competitive economy” in the respect of the environment. The Green Deal offers the possibility to improve the well-being of all and reduce economic imbalances between Member States, and disparities between gender and generations.

Art 6. Tries to link the importance of the Green Deal in the field of human rights and environment emphasizing “[...] the need for a gender perspective on actions and goals in the Green Deal, including gender mainstreaming and gender-responsive actions; reiterates that the transition to a climate-neutral economy and a sustainable society must be carried out in conjunction with the implementation of the European Pillar of Social Rights [...]”²⁴². It follows with the section dedicated to the EU’s climate ambition for 2030/2050 in which at art.12 “calls for an ambitious Climate Law with a legally binding domestic and economy-wide target for reaching net-zero greenhouse gas emissions by 2050”²⁴³. Thus, this article underlines the lack of binding instruments to regulate greenhouse gas emissions and the fundamental shift that needs to be done: soft laws have to push for a more comprehensive binding system.

Then it follows with different technical sections from the field of energy, to the food system, until artt.112-113 in the section “EU as a global leader” where gender perspective re-emerges innovatively. Indeed, article 112 the “principle of policy coherence” results totally innovative recalling the needs to be applied in different sectors such as development, and “must approach EU climate and environmental diplomacy holistically by creating links between climate change, the protection of biodiversity [...] migration, human rights, and humanitarian and gender concerns”²⁴⁴. It is precisely in this article that the connection between human rights, gender and environment is made visible and clear. Thanks to article 113, the European Parliament “calls on the Commission in its efforts to promote the EU as leader of international climate and biodiversity negotiations to design a concrete action plan to deliver on the commitments of the renewed five-year Gender Action Plan agreed at COP25 (Enhanced Lima work programme), to promote gender equality in the UNFCCC process, and to appoint a permanent EU gender and climate change focal point”²⁴⁵. Hence, this last sentence demonstrated how only in 2020 the need for a gender focal point in climate change issues emerged linking the two regimes. In

²⁴² Ibid., art.6

²⁴³ Ibid., art.12

²⁴⁴ Ibid., art.112

²⁴⁵ Ibid., art.113

conclusion, these two articles demonstrate that the European Union is acting in the right direction to enhance its system in the field of climate and gender justice.

All these resolutions and conclusions show an excursus that made steps back and forward because many times “in industrialized nations the performance standards currently in circulation provide insufficient guidance for adequate mitigation, and suitable responsibilities have not yet been established for individuals, organizations, and institutions in relation to one another”²⁴⁶. Thus, there has been a clear inability of State bodies and international organisms to cooperate and implement long-term strategies in recognising once and for all the interconnection between women and the environment. The final aim must guarantee the legitimacy of women in the political sphere eliminating all ranges of stereotypes that currently discourage them from engaging in climate action. Thus, the European Union, along with international institutions, needs to adopt and apply a binding instrument that regulates the issue starting from what has been achieved so far to guarantee a decisive outcome in the following years.

²⁴⁶ DOAN, M. D. ,*Climate Change and Complacency*, in *Hypatia*, Summer 2014, Vol. 29, No. 3, Special Issue: Climate Change, Wiley on behalf of Hypatia, Inc., p. 643

CHAPTER 3. CLIMATE CHANGE EFFECTS ON WOMEN IN THE GLOBAL SOUTH

1. The relevance of Climate Change as a stress multiplier

Among the main issues that international environmental law has to address, there are acid rains, climate change, loss of biodiversity, toxic wastes, and environmental pollution²⁴⁷. In particular, climate change “refers to changes to regional or global climate patterns that persist for an extended period of time”²⁴⁸ and for this reason has often been denominated as the single biggest challenge for humanity. In 2007, the Intergovernmental Panel on Climate Change (IPCC) revealed climate change scientific correlation with human practices such as the burning of fossil fuels, land-use changes, and water pollution²⁴⁹. Besides, over the last 200 years, the planet has experienced a continuous exacerbation of this event caused by the rising global temperatures. This led to anthropogenic climate change that compromised the conservation and proliferation of biodiversity along with human health²⁵⁰.

Moreover, according to some scientists, in May 2020, CO₂ concentrations reached 417ppm and the same level has been recorded in 2021 during February and March. Indeed, 2021 is expected to be “the first year on record with CO₂ levels more than 50% above pre-

²⁴⁷ SANDS, P., PEEL, J., *Principles of International Environmental Law*, Cambridge University Press, p.3,

²⁴⁸ AGUILAR, L., GRANAT, M., AND OWREN, C., *Roots for the future: The landscape and way forward on gender and climate change*. Washington, DC: IUCN & GGCA, 2015 p.17. Ban Ki-moon, United Nations Secretary General Declaration at the high-level meeting on climate change New York, in September 2007 affirmed that “Climate change is a serious threat to development everywhere. Indeed, the adverse impacts of climate change could undo much of the investment made to achieve the Millennium Development Goals. But it is not a zero-sum game. By being creative, we can reduce emissions while promoting economic growth. This is our opportunity to advance sustainable development, encourage new kinds of cleaner technologies, industries and jobs, and integrate climate change risks into national policies and practices.”

²⁴⁹ IPCC, *Climate Change 2007: Synthesis Report*, IPCC Plenary XXVII (Valencia, Spain, 12-17 November 2007) available at https://www.ipcc.ch/site/assets/uploads/2018/02/ar4_syr_full_report.pdf

²⁵⁰ BALDIN S. AND DE VIDO, S., *Environmental Sustainability in the European Union: Socio-Legal Perspectives*, EUT Edizione Università di Trieste, Biblioteca della società aperta, p.121, 2020

industrial levels for longer than a few days”²⁵¹. In spite of some denialists’ comments, the IPCC claimed that the warming of the climate system is exacerbating day-by-day taking into account not only air pollution but also the raising of ocean temperature. Indeed, ice melting in the northern hemisphere is seen with particular concern since it leads to rising sea levels with serious consequences for animals and human environments²⁵².

On the occasion of the UN Climate Action Summit 2019, held on the 23rd of September, the 195 IPCC Member governments approved a Special Report on the Ocean and Cryosphere in a changing climate, which stressed how the “urgent” reduction of greenhouse gas emissions (GHGs) would limit the scale of the ocean and cryosphere changes²⁵³. Especially, starting from November 2020 to February 2021, there has been a considerable melting period for the Antarctic Peninsula already observed in 2016/17 when Antarctic temperatures have been 20°C higher than expected²⁵⁴. Although these scientific facts have been recognised also at the international level through all the UN agencies, the magnitude of adverse climate change in the last twenty years has been underestimated or resulted to be not adequately addressed. For instance, GHG emissions continue to rise and the binding successor agreement to the 1997 Kyoto Protocol appeared to be not effective enough to many observers²⁵⁵. Even though the Human Rights Council in its resolution 10/4 of 2009 affirmed that climate change is a “global problem requiring a global solution”²⁵⁶, the 2015 Paris Conference of the Parties (COP21) did not meet all assumptions.

²⁵¹ Prof Richard Betts MBE, head of climate impacts research at the Met Office Hadley Centre and University of Exeter. “Met Office: Atmospheric CO2 now hitting 50% higher than pre-industrial levels”, 16 March 2021, Carbon Brief, available at [Met Office: Atmospheric CO2 now hitting 50% higher than pre-industrial levels | Carbon Brief](#)

²⁵² IPCC, *Climate Change 2007*.

²⁵³ IPCC, *Climate Change and Land*, 2019 <https://www.ipcc.ch> This is also connected to the importance of the SDG 14 “conserve and sustainably use the oceans, seas and marine resources” <https://www.un.org/sustainabledevelopment/oceans/>

²⁵⁴ National Snow & Ice Data Center (NSIDC), *Greenland Ice Sheet today*, available at <http://nsidc.org/greenland-today/>; See also J. BLEWITT, *Understanding sustainable development*, cit., p. 91

²⁵⁵ HUNTJENS, P., AND NACHBA, K., *Climate Change as a Threat Multiplier for Human Disaster and Conflict*, Policy and Governance Recommendations for Advancing Climate Security, The Hague Institute for Global Justice, working paper 9 May 2015, p. 1

²⁵⁶ Human Rights Council Tenth Session Resolution 10/4. *Human rights and climate change 25/03/2009 A/HRC/RES/10/4*, Preamble.

As abovementioned, this agreement has been significant from the point of view of negotiations but not cost-effective in terms of binding outcomes²⁵⁷. Indeed, the Special Rapporteur held consultations in Geneva in March 2019 to call for inputs on climate change and human rights. In point 17 of its report, it envisages a problematic scenario because “despite the Paris Agreement, energy-related carbon dioxide emissions rose in 2018 [...] with the United States, China and India accounting for 85 percent of the increase [...] Emissions from natural gas jumped 5 percent. Deforestation in Brazil’s Amazon rainforest increased 14 percent in 2018”²⁵⁸. For this reason, scholars underlined an intensified sense of urgency for countervailing action.

Yet in 2011, the UNDP Human Development Report and the annual IPCC reports provided overwhelming evidence that we are reaching a maximum limit to our capacity to emit GHGs²⁵⁹. The unexpected factor is the speed of anthropogenic climate and its sphere of change. As reported by art.1 of the Human Rights Council resolution 35/20 in 2017, climate change strongly contributes “to the increased frequency and intensity of both sudden-onset natural disasters and slow-onset events, and that these events have adverse effects on the full enjoyment of all human rights”²⁶⁰. Thus, as explained, climate change seems to be strongly intertwined with several issues and can be defined as a national security challenge or a stress multiplier considering that its effects involve a chain of consequences strictly related to people's security within a Country.

We are living in a period of climate turmoil characterized by less stable, less predictable, and more deadly dramatic events where everything is interconnected. As a result, climate change not only undermines the very existence of the State, but also the livelihood of people exacerbating the gaps between poor and rich²⁶¹. As stated by the Human Rights

²⁵⁷ BLEWITT, J., *Understanding sustainable development*, cit., pp. 89-90

²⁵⁸ United Nations General Assembly, Safe climate, *Report of the Special Rapporteur on Human Rights and the environment*, David R. Boyd. A/74/161

²⁵⁹ UNDP, *Sustainability and Equity: A Better Future for All*, New York: Palgrave Macmillan, 2011. See also IPCC, *Climate Change 2014: Impacts, Adaptation, and Vulnerability*, Working Group II, 5th Assessment Report Cambridge: Cambridge University Press, 2014.

²⁶⁰ Resolution adopted by the Human Rights Council on 22 June 2017, no. 35/20, *Human rights and climate change* A/HRC/RES/35/20, Thirty-fifth session 6–23 June 2017, Agenda item 3

²⁶¹ GARAI, J., *Gender Specific Vulnerability in Climate Change and Possible Sustainable Livelihoods of Coastal People. A Case from Bangladesh*, *Journal of Integrated Coastal Zone Management*, vol. 16(1), 2016, p.80. See also chapter 1 in SINGER, M., *Climate change and social inequality*, London, Routledge, 2019.

Council in its declaration of the 5th of July 2018 on human rights, “the Paris Agreement adopted under the United Nations Framework Convention on Climate Change acknowledges that climate change is a common concern of humankind”²⁶². This is true especially in underdeveloped countries where not only it has a political meaning inflaming violent conflicts and the economic system, but also it has to be understood “as the outcome of social pressures”²⁶³. Therefore, the General Assembly Resolution 63/32 on the protection of global climate for present and future generations “recognizes that climate change poses serious risks and challenges to all countries [...] especially the least developed countries, landlocked developing countries, small island developing States and countries in Africa”²⁶⁴.

Indeed, as mentioned in chapter 1 and chapter 2 of this work, these countries are populated by several indigenous groups and a considerable number of the population lives in poor conditions. These people resulted to be the most affected by climate change although they are not responsible for such phenomenon. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in September 2007, is meant to guarantee protection to these people recognising their right to self-determination with particular attention to indigenous customs and the rights of indigenous women (art.21) ²⁶⁵. Also, the Human Rights Council Resolution adopted in 2017 aimed at “strengthening the global response to climate change, considering the human dimension, and indigenous peoples’ traditional knowledge”²⁶⁶.

As will be later on explained, the concept of vulnerability is strongly related to climate change above all in the so-called global South hemisphere. To better understand the importance of this linkage with indigenous people, it is fundamental to consider the Bali principle n.20 dedicated to indigenous relation to climate change: “Climate Justice

²⁶² Human Rights Council Resolution, *Human rights and climate change*, 5 July 2018, thirty-eighth session 18 June–6 July 2018 Agenda item 3 A/HRC/RES/38/4

²⁶³ ROY, S., *Climate Change Impacts on Gender Relations in Bangladesh, Socio-environmental Struggle of the Shora forest Community in the Sundarbans Mangrove Forest*, Springer Singapore, 2019, p.vi

²⁶⁴ UN General Assembly, Resolution 63/32, *Protection of global climate for present and future generations*, art.9, 2009 available at www.unece.org/trans/doc/2009/themes/A-RES-63-32e.pdf

²⁶⁵ UN General Assembly, *Declaration on the Rights of Indigenous Peoples*, 2007 <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

²⁶⁶ Human Rights Council Resolution 35/20 on *Human rights and climate change* on 22 June 2017, cit.

recognizes the right to self-determination of Indigenous Peoples, and their right to control their lands [...] and to the protection against any action or conduct that may result in the destruction or degradation of their territories and cultural way of life”²⁶⁷. Indeed, the 27 principles of climate justice affirmed in Bali in 2002 are considered an important milestone in the field of climate change and environmental justice²⁶⁸. The principles were elaborated by a coalition of groups during the preliminary negotiations at the Earth Summit held in Bali in June 2002 and then presented at the Johannesburg Summit.

They affirmed the sacredness of Mother Earth, the interdependence of living species, and the rights of indigenous peoples. One of the main objectives was to struggle against the oppressing multinational powers to follow the path of climate justice. Yet art.1 affirmed, “the sacredness of Mother Earth, ecological unity and the interdependence of all species, Climate Justice insists that communities have the right to be free from climate change, its related impacts and other forms of ecological destruction”²⁶⁹. Few years later, the Bali Road Map was adopted at the 13th Conference of the Parties and the 3rd Meeting of the Parties in December 2007 in Bali. The Bali Road Map includes the Bali Action Plan, which set up the course for a new negotiating process to tackle climate change²⁷⁰.

Also, the Resolution adopted by the General Assembly n.63/32 on the protection of global climate for present and future generations (2009) “welcomes the decisions adopted during the thirteenth session of the Conference of the Parties to the Convention, including the Bali

²⁶⁷ International Climate Justice Network, *Bali Principles on Climate Change*, 29th August, 2002, art.20 available at <http://www.ejnet.org/ej/>

²⁶⁸ The concept of environmental justice is strictly related to the equity principle, described by Cutter., S.L. yet in 1995 in her article “The forgotten casualties: women, children, and environmental change” in “Global Environmental Change”, vol. 5, No 3, pp. 181-194, 1995 : “the equal access to resources equal allocation and treatment of societal risk, and the equal consideration of competing interests. Environmental equity manifests itself in two ways: as an outcome and as a process. Outcome equity is the distributional pattern of social benefits and environmental risks. Process equity is the underlying social, economic, political, or institutional causes of these uneven distributions.” This implies the government’s intervention to achieve environmental justice.

²⁶⁹ Ibid, principle 1.

²⁷⁰ See also FIORE, F., *Principi di Bali sulla giustizia climatica*, 29 agosto 2002, traduzione e cura di Francesca Fiore, in Rivista DEP n. 41-42 / 2020 Numero Doppio, p. 279, available at <https://www.unive.it/pag/39857/?L=1> and ERMACORA, M., *Roots for the future. L’Alleanza femminile globale e il cambiamento climatico*, in Rivista DEP n. 41-42 / 2020 Numero Doppio, p. 265 at <https://www.unive.it/pag/39857/?L=1>

Action Plan, by which the Conference of the Parties decided to launch a comprehensive process aimed at enabling the full, effective and sustained implementation of the Convention”²⁷¹. In 2017, intending to actively face climate change, the Human Rights Council adopted the abovementioned resolution in which it contemplates “the 2030 Agenda for Sustainable Development, including, its Goal 13 on taking urgent action to combat climate change and its impact”²⁷². The Sustainable Development Goals were published as an essential element of the UN's 2015 development agenda formally adopted in New York at the UN sustainable development summit in September 2015. Especially SDG 13 underlines the urgent action to face climate change impacts and the need to enhance concrete mechanisms to help least developed countries in this fight. Moreover, this has to be done “focusing on women, youth and local and marginalised communities”²⁷³.

According to the Human Rights Council resolution in 2018, all these actions have to be achieved through “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”²⁷⁴. Countries' participation is fundamental because climate change interacts with poverty, conflict, and resource depletion that cause food insecurity and loss of livelihoods. What emerges is that we are ecologically interdependent and human activity takes place within ecological systems at the expense of political frontiers, natural resources, and people’s well-being. Thus, negative impacts widespread without reservation. It is a multi-dimensional problem whose causes and consequences are clearly related to the capitalist development model which led to the proliferation of socio-economic inequalities²⁷⁵.

²⁷¹ UN General Assembly, Resolution 63/32, *Protection of global climate for present and future generations*, 2009 available at: www.unece.org/trans/doc/2009/themes/A-RES-63-32e.pdf

²⁷² Human Rights Council Resolution 35/20 on Human rights and climate change on 22 June 2017, cit.

²⁷³ SDG, 13 Agenda 2030, paragraph 13(b).

²⁷⁴ Human Rights Council Resolution on Human rights and climate change 5 July 2018, thirty-eighth session 18 June–6 July 2018 Agenda item 3 A/HRC/RES/38/4

²⁷⁵ UNDP, Resource guide on gender and climate change, December 18th, 2015. Available at <https://www.undp.org/content/undp/en/home/librarypage/womens-empowerment/resource-guide-on-gender-and-climate-change.html>

This means that global climate change impacts dramatically on the economic and political system of fragile States in terms of resources and quality of policies. It is a global security threat linked to the concept of human security: this concept broadens the traditional conceptualization of state security emphasising communities as part of a State and menaced by climate turmoil²⁷⁶.

In this respect, in 2011, Syria experienced the most severe drought on record, the effects of which have possibly contributed to political unrest and a situation of internal conflict in a country characterized by poor governance and internal turmoil²⁷⁷. It seemed that climate change particularly endangered the fragile political situation leading to radicalism and conflict. In general, in States in distress like Syria, climate change heightens the likelihood of terrorist threats and insurgencies²⁷⁸. Besides, the drought that the country experienced was not a fast and sudden event but a long and low exacerbation of the soil very well-known by the authorities. Thus, a problem of governmental mismanagement of resources 'overexploitation emerged, rising rural poverty²⁷⁹. Hence, governments need to focus more on human security, a concept also stressed by the UNDP in the 1994 Human Development Report²⁸⁰. Finally, in April 2007, for the first time in its history, the UN Security Council took up the issue of climate change as an important human security challenge and agreed that it is seriously threatening geopolitical security²⁸¹. This approach wants to focus on

²⁷⁶ MAYESHA A., RUKMANI B. AND BRIANA M., *Women and Climate Change: Impact and Agency in Human Rights, Security, and Economic Development*, Georgetown Institute for Women, Peace and Security (GIWPS), 2015, p.16

²⁷⁷ Another dramatic event is the Sahel area as described by Denton, F. in *Climate Change Vulnerability, Impacts, and Adaptation: Why Does Gender Matter?*, Gender and Development, Jul., 2002, Vol. 10, No. 2, Climate Change (Jul., 2002), p. 14, Taylor & Francis, Ltd. on behalf of Oxfam GB

²⁷⁸ DE CHÂTEL, F., *The Role of Drought and Climate Change in the Syrian uprising: Untangling the Triggers of the Revolution*, Middle Eastern Studies, 2014, 521-535

²⁷⁹ BRZOSKA, M., FRÖHLICH, C., *Climate change, migration and violent conflict: vulnerabilities, pathways and adaptation strategies*, Migration and Development, 2016, 190-210

²⁸⁰ UNDP, *Human Development Report*, Oxford University Press, 1994 available at http://hdr.undp.org/sites/default/files/reports/255/hdr_1994_en_complete_nostats.pdf, See also HUNTJENS, P. AND NACHBAR, K., *Climate Change as a Threat Multiplier for Human Disaster and Conflict*. The Hague Institute for Global Justice, May 2015, pp.5-6,

²⁸¹ UNSC, *Security Council Holds First-Ever Debate On Impact Of Climate Change*, SC/9000, 17 April 2007 available at <https://www.un.org/press/en/2007/sc9000.doc.htm> See also DANKELMAN, I. *Gender and Climate change: an introduction*, cit., p. 56

humans and environmental security giving the right importance to peace and human dignity including the livelihood conditions of vulnerable people.

2. Feminization of poverty and social vulnerability as new paradigms in the Global South

Having understood the different implications of climate change and how it interacts and exacerbates longstanding issues, it is fundamental to stress some basic concepts, in particular the meaning of vulnerability.

The IPCC defines it as “the degree to which a system is susceptible to and unable to cope with, adverse effects of climate change, including climate variability and extremes”²⁸². Thus, it involves exposure to physical threats, the risk to human well-being, and the capacity of people to face hazardous events. Vulnerability is also recognised as “the characteristics of a person or group and their situation influencing their capacity to anticipate, cope with, resist and recover from the impact of natural hazard”²⁸³. It is important to highlight that the physical circumstances depend on the place and the community, thus, vulnerabilities and capacities are context-specific²⁸⁴. Moreover, although climate change touches everyone regardless of class, race, age, its impacts are more heavily felt “by those segments of the population that are already in vulnerable situations owing to factors such as geography, poverty, gender, age, indigenous or minority status”²⁸⁵.

²⁸² 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 [Core Writing Team, Pachauri, R.K and Reisinger, A. (eds.)]. IPCC, Geneva, Switzerland, 104 p.89

²⁸³ WISNER, B. ET ALL, *At risk: Natural hazards, people's vulnerability and disasters*, 2nd ed. London: Routledge, 2004, p.11

²⁸⁴ Special Report of the IPCC, *Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation*, 2012, Cambridge University Press, New York. The 2012 Special Report of the Intergovernmental Panel on Climate Change (IPCC) discovered the social as well as physical dimensions of vulnerability resulting from the weather- and climate-related disasters, with the report claiming that the extreme weather and climatic events influence the increasing threats to populations and assets.

²⁸⁵ Human Rights Council Resolution on Human rights and climate change 5 July 2018, thirty-eighth session 18 June–6 July 2018 Agenda item 3 A/HRC/RES/38/4. See also figure 2a in MIGNAQUY, J., *Gender perspective on climate change*, 2013, p.7 and MACGREGOR (ED.), S., *Routledge Handbook of Gender and Environment*, Routledge, Abingdon-New York 2017, p.209

At this point, it is relevant to focus on the term “gender” because in this context it refers “to a relational concept that denotes the manner in which women and men are differentiated in a given sociocultural context [...] and emerges as the congealed form of the sexualisation of inequality between men and women”²⁸⁶. Undoubtedly, climate change tends to magnify existing inequalities within societies in which gender discrimination is already present given the fact that the majority of the world’s poor and disadvantaged people are women. Thus, since the 1970s on the side-lines of the Fourth World Conference on Women, many scholars introduced the concept of “the feminization of poverty” to account for the divergences between male and female poverty in a specific context over time²⁸⁷. The expression “feminization of poverty” returned to prominence in the second half of the 1990s in numerous United Nations reports and since then many studies have confirmed the correlation between climate change and poverty with the need to solve both issues simultaneously²⁸⁸. The crux of the matter is that “marginalization and vulnerability are due to inequalities in power”²⁸⁹ and this reflects the strict connection between climate change and gender.

Actually, it is not gender-neutral: it affects men and women differently according to their existing inequalities in terms of power relationships²⁹⁰. This means that climate change leverage people’s value in terms of survival, security, roles, and identity. The IPCC's Fourth Assessment Report recognises how gender roles and relations shape vulnerability and people's capacity to adapt to climate change. It makes special mention of the vulnerability of rural women in developing countries. The concept of gender vulnerability refers to “the way of economic activities and lives of women are affected due to climate

²⁸⁶ As pointed out by MBOTE, P.K., *Climate Change and Gender Justice: International Policy and Legal Responses* in *Climate Change: International Law and Global Governance*, vol I, Oliver C. Ruppel edition, <https://www.jstor.org/stable/j.ctv941w8s.16>

²⁸⁷ JONSSON, S. A., *Virtue and vulnerability: Discourses on women, gender and climate change*, *Global Environmental Change: Human and Policy Dimensions*, ELSEVIER, Vol. 21, Issue. 2, 2011, pp. 746

²⁸⁸ MORIGGI, A., *una prospettiva di genere sui cambiamenti climatici. Vulnerabilità e adattamento, discorso internazionale e gender mainstreaming*, in *Rivista DEP n. 30 / 2016 Numero miscellaneo*, p. 39

²⁸⁹ JOHNSON, A.S., *Virtue and Vulnerability: Discourses on Women, Gender, and Climate Change*, cit., p.749

²⁹⁰ GARAI, J. *Gender Specific Vulnerability in Climate Change and Possible Sustainable Livelihoods of Coastal People. A Case from Bangladesh*, cit., p.83. See also table 1 in MORIGGI, A., *una prospettiva di genere sui cambiamenti climatici. Vulnerabilità e adattamento, discorso internazionale e gender mainstreaming*, cit.

change-induced natural hazards”²⁹¹. Thus, why is gender important in climate change? In all countries, climate change has a greater collision on those sections of the population that are most reliant on natural resources for their livelihoods and who are least capable of responding to natural hazards²⁹². In particular, “the gender–climate change nexus is usually conceptualised at three levels: the negative consequences of such event aggravate gender inequalities that translate in harsh experiences for women during natural disasters. Women tend to be perceived as victims only, for these reasons they are side-lined when decisions are made that relate to adaptation measures”²⁹³.

Furthermore, where the socioeconomic status of women is high or equal to men, people die in roughly equal numbers without strong gender implications, whereas when the socioeconomic status of women is low, more women than men die²⁹⁴. Indeed, on such occasions, women lack preparedness and access to information. In this way, they are not allowed to face such adversities. This is translated also in women’s inaccessibility to shelter facilities that contribute to mortality. Despite being caretakers for children and the elderly, women are less informed on storm and flood warnings and related shelter information. In 2005, some practical cases have been presented by UNIFEM to demonstrate the high mortality of women. Data showed how during the Indian Ocean tsunami that hit Eastern Africa and Southeast Asia in December 2004, women made up 55-70% of the deaths in the Aceh district in Indonesia²⁹⁵.

Similarly, in the U.S. Hurricane Katrina entrenched poor African American women, who were already the most impoverished group in the nation, into deeper levels of poverty²⁹⁶. A famous study conducted by E. Neumayer and T. Plümper presented how disaster mortality affected women in hazardous events during the period 1981–2002. The main findings of

²⁹¹ Ibid, p.81

²⁹² UNFCCC, Introduction to Gender and Climate Change, <https://unfccc.int/gender>

²⁹³ MBOTE, P.K., *Climate Change and Gender Justice: International Policy and Legal Responses in Climate Change: International Law and Global Governance*, cit., p.9.

²⁹⁴ NEUMAYER, E. AND PLÜMPER, T., *The Gendered Nature of Natural Disasters: The Impact of Catastrophic Events on the Gender Gap in Life Expectancy*, 2007, *Annals of the Association of American Geographers*, p. 552

²⁹⁵ UNIFEM, *Responds to the Tsunami Tragedy One Year Later: A Report Card*, 2005, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/AEC8595ED6FCCDEC492570DC00FDDB2-unifem-tsunami-19dec.pdf>

²⁹⁶ DANKELMAN, I., *Climate Change and gender: an introduction*, cit.,p.10

this study confirmed that natural disasters lower the life expectancy of women more than that of men: the stronger the disaster, the stronger this effect on the gender gap in life expectancy. They recognise also that women are effectively disadvantaged when considering the biological and physiological area, the cultural norms, and the behavioural restrictions²⁹⁷.

As will be later on described with the example of Bangladesh²⁹⁸, cultural norms influenced considerably social gender vulnerability that is concretised through a lack of education and decision-making power, plus limited access to resources: “women carry the major responsibility for household water supply, as well as energy gathering for cooking and food security”²⁹⁹. In Africa women engaged in agricultural work goes from 30 % in Gambia to 60-80% in Cameroon. Also, in Asia, the percentage is consistent because it involves 32% in India³⁰⁰. Similarly, women who work in agriculture in Latin American and the Caribbean arrive at 21% of the population³⁰¹. Thus, this means that while men are responsible for the household decisions like how to use the family’s assets, women are

²⁹⁷ NEUMAYER, E. AND PLÜMPER, T., *The Gendered Nature of Natural Disasters: The Impact of Catastrophic Events on the Gender Gap in Life Expectancy*, cit., p. 552. As described by the article, the scholars used also the Data Base (IDB) of the U.S. Census Bureau, which is the most reliable source for life expectancy data in panel form. Indeed according to a UNDP report of 2007 stated: “Loss of livelihood assets, displacement and migration may lead to reduced access to education opportunities...Depletion of natural resources and decreasing agricultural productivity may place additional burdens on women’s health and reduce time for decision-making processes and income-generating activities, worsening gender equality and women’s empowerment”.

²⁹⁸ In this context, Neumayer and Plumber underlined how, for example, “in rural Bangladesh women are expected to wear a sari, traditional clothing that hampers running and swimming, and to remain in the *bari*, typically the houses of the family and near kin. These strictures can impede their movements and their access to information about cyclone-induced flood”.

²⁹⁹ GARAI, J., *Gender Specific Vulnerability in Climate change*, cit., p.80. See also CUTTER, S.L., *The forgotten casualties: women, children, and environmental change*, cit., p.9 and MARTINEZ-ALIER, J., *The Environmentalism of the Poor*, cit., p.223.

³⁰⁰ FAO, *The Role of Women in Agriculture*, ESA Working Paper No. 11-12, 2011, p.7 available at <http://www.fao.org/3/am307e/am307e00.pdf>

³⁰¹ UNCCD, *Turning the tide, the gender factor in achieving land degradation neutrality*, 2016, p.5

responsible for intensive subsistence agricultural work, water, and soil conservation efforts, often without being paid³⁰².

This aspect is especially significant for indigenous women who greatly depend on their environment for their family's survival, the maintenance of their cultural identity, their medical practices, the exchange of food resources such as plants and seeds³⁰³. The focus on indigenous women has been proposed by Australia in its periodic report to the CESCR, illustrating the concern in relation to the negative effects of climate change on indigenous women who need "an adequate standard of living, including on the right to food and the right to water"³⁰⁴. Therefore, when a slow or sudden natural disaster hits, indigenous women are burdened by several adversities such as their difficulty in finding energy sources, clean water, safe sanitation, and health challenges³⁰⁵. Indeed, often in Nigeria, when a drought hits, women have to work harder to secure these resources: this implies more hours needed to collect water and fuel or to resort to inferior sources of energy which increases their exposure to indoor air pollution. This implies the dependence of women on

³⁰² The publication EIGE, *Gender in agriculture and rural development*, Luxembourg, Publications Office of the European Union, 2016 describes the relevance that women have in agricultural work and the gender inequality that they face because of the "masculinisation of rural areas". Women are described as invisible.

³⁰³ See STLOUKAL, L., HOLDING, C., KAARIA, S., GUARASCIO, F. AND GUNewardena, *Forests, Food Security and Gender*. In *Unasylva* 241, Vol. 64, 2013/2. Available at [Unasylva 241 \(fao.org\)](http://Unasylva 241 (fao.org)) Indeed, women are able to identify and use a broader range of plant species than men. Such knowledge can be particularly important in times of stress caused by natural disasters or food shortages. An interesting reflection on the rights of indigenous women in comparison with the local legal standards is proposed by Rights and Resources Initiative (RRI), *Power and Potential A Comparative Analysis Of National Laws And Regulations Concerning Women's Rights To Community Forests*, May 2017 available at https://rightsandresources.org/wp-content/uploads/2017/05/Power_and_Potential_Final_EN_May_2017_RRI-1.pdf. See also FAO, *Gender: The Missing Component of the Response to Climate Change*, 2006; SHIVA, V., *Staying Alive Women, Ecology and development*, cit., p.xix

³⁰⁴ CESCR, *Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: concluding observations of the Committee on Economic, Social and Cultural Rights*, Australia, 12 June 2009, E/C.12/AUS/CO/4, Forty-second session, Adopted 20 May 2009, para. 27. available at <https://www.refworld.org/publisher,CESCR,,AUS,4af181b00,0.html>

³⁰⁵ TERRY, G., *No climate justice without gender justice: an overview of the issues*, Gender and Development, March 2009, Vol. 17, No. 1, Climate changes and climate justice, pp. 7-8, Taylor & Francis, Ltd. on behalf of Oxfam GB

natural resources that are precisely endangered by climate change. As a result, gender differences must be considered both in terms of vulnerabilities and in terms of adaptive capacities³⁰⁶.

According to scholars, these aspects seem to be the outcome of the interconnection between poverty, underdevelopment, and social stereotypes that drives to an “environmental degradation spiral”³⁰⁷ where women are perceived as “forgotten casualties”³⁰⁸ or “latecomers” to climate change. This is to say that when speaking of climate change, gender is always underscored or excluded by the debate because the phenomenon is analysed by market consideration³⁰⁹. Actually, women can play a critical role in response to climate change due to their local knowledge and leadership in sustainable resource management. However, even though women could be “key agents of change”³¹⁰, development programmes and policies do not always consider them effectively, spreading inequalities. Women’s participation at the political level would result in greater responsiveness to citizen’s needs because “women are critical to the success of any concept of sustainable development”³¹¹. Then in 2007, during the UNCCC in Bali, a network of over 50 intergovernmental and non-government agencies (i.e. GGCA, Gender CC, Women for Climate Justice, WEDO) was launched to implement real projects to guarantee social justice among women hit by climate change.

In 2015 GGCA in collaboration with IUCN and the Finnish government published the famous report “Roots for the Future: The Landscape and Way Forward on Gender and Climate Change” in which the alliance focused on the close relationship between climate change and gender vulnerabilities, highlighting the socio-political consequences and the new perspectives for intervention in order to define the so-called “female resilience”³¹².

³⁰⁶ Ibid., pp. 552-3. See also GARAI, J., *Gender Specific Vulnerability in Climate Change and Possible Sustainable Livelihoods of Coastal People. A Case from Bangladesh*. cit., p.85

³⁰⁷ CUTTER., S.L., *The forgotten casualties: women, children, and environmental change*, cit.

³⁰⁸ Ibid.

³⁰⁹ MALONE, L.A., *Environmental Justice Reimagined Through Human Security and Post-Modern Ecological Feminism: A Neglected Perspective on Climate Change*, 2015, Faculty Publications, p. 1457, Available at <https://scholarship.law.wm.edu/facpubs/1789>

³¹⁰ ROY, S., *Climate Change Impacts on Gender Relations in Bangladesh*, Springer. 2019, p.4

³¹¹ MALONE, L.A., *Environmental Justice Reimagined*, cit., p. 1454.

³¹² ERMACORA, M., *Roots for the future. L’Alleanza femminile globale e il cambiamento climatico*, in *Rivista DEP n. 41-42 / 2020 Numero Doppio*, p. 266 disponibile al <https://www.unive.it/pag/39857/?L=1>

2.1 Female harassment in natural disasters: the case of Bangladesh and the Pacific Islands

When dealing with women's vulnerability, a fundamental aspect to be taken into account is the issue concerning female harassment in the aftermath or during a natural disaster especially in developing countries where State intervention is less present.

Although several international frameworks focused on women's disaster reduction, the issue is not widely known especially in considering women's reproductive and sexual health³¹³. Indeed, several studies that have identified the vulnerability of women have missed the focus on violence against women. However, after a natural disaster, women are more likely to become victims of domestic and sexual violence because of situations of increased poverty and social stress³¹⁴. When poor women lose their livelihoods, they slip deeper into poverty, and the marginalization they suffer increases³¹⁵. Research studies, concerned with violence against women, affirmed that violence is caused by female economic marginalization along with women's low social status, and unequal treatment during climate disasters. These issues have defined it as climate change-induced violence against women³¹⁶.

Post-traumatic stress increases after natural disasters, especially when families are displaced and have to live in temporary housing in overcrowded conditions with no privacy and limited livelihoods. This places women and girls at greater risks for bodily injury, rape, and harassment even when they must travel further away from home to secure household drinking water, fuel and food. The WHO warns that during any type of disaster,

³¹³ The Rio Conference on The Environment and Development (1992) accredited the predominantly vulnerable situation of gender equality and its need of inclusiveness in all initiatives associated with climate change. Similarly, the "Sendai Framework on Disaster Risk Reduction" (2015-2030) highlights the need for gender-sensitive disaster risk reduction policies, plans and programs. DE VIDO, S., *Violence against women's health in international law*, Manchester, Manchester University Press, p.1

³¹⁴ This aspect has been documented by the portal Open Global Rights which offers a wide range of articles and reports on the issue. An example is provided in [Climate change exacerbates gender inequality, putting women's health at risk | OpenGlobalRights](#).

³¹⁵ DANKELMAN, I., *Gender and climate change: An introduction*, cit, p. 61

³¹⁶ SHAD MEMON, F., *Climate Change And Violence Against Women: Study Of A Flood-Affected Population In The Rural Area Of Sindh*, Pakistan, Institute Of Business Management, Karachi, 2020,p.66. See also articles in OpenGlobalRights sections <https://www.openglobalrights.org/climate-change-exacerbates-gender-inequality-putting-womens-health-at-risk/>

women are the most vulnerable with an increased rate of sexual and domestic violence causing serious and injurious repercussions to their reproductive and sexual health³¹⁷. In 2015, some reports on Cyclone Pam Vanuatu stated that the number of cases about domestic violence against women increased by 300% post-cyclone or during re-settlement³¹⁸. Indeed, when dealing with such dramatic events, women are harassed not only physically but also mentally³¹⁹.

As will be later on described, the United Nations General Assembly Declaration on Elimination of Violence Against Women in its Resolution 48/104 of 20 December 1993 defines violence against women in art. 1 as “any act of gender-based violence that results in physical, sexual or physiological harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty and needs in public and private life”³²⁰.

Moreover, during and after disasters such as long periods of drought, more girls leave school to reduce household expenses, or to assist in the household with tasks such as fetching water, or as a result of pregnancy and early marriage³²¹. All these dynamics are presented by different studies among which Pakistan represents one of the main countries in which there are evident social problems caused by floods. Indeed, in 2010, a large part of the rural areas of the country remained underwater. This increased the rate of early marriages and the number of reported and unreported cases of girls’ sexual assault. Flood-affected females also have had to pass through a serious issue connected to overcrowded

³¹⁷ World Health Organization (WHO), *Weekly epidemiological record: Cholera 2014*. 90: 517-544. See also SHAD MEMON, F., *Climate Change And Violence Against Women: Study Of A Flood-Affected Population In The Rural Area Of Sindh*, cit. See also [GenderClimateChangeHealthfinal.pdf \(who.int\)](#)

³¹⁸ CARE, *Rapid Gender Analysis Cyclone Pam Vanuatu*, 2015. Available at <https://care.ca/wp-content/uploads/2018/12/RGA-Cyclone-Pam-Vanuatu-7-April-2015.pdf>

³¹⁹ SHAD MEMON, F., *Climate Change and Violence Against Women*, Pakistan, cit., p.70

³²⁰ Declaration on the Elimination of Violence against Women Proclaimed by General Assembly resolution 48/104 of 20 December 1993 available at <https://www.ohchr.org/en/professionalinterest/pages/violenceagainstwomen.aspx>. See also DE VIDO, S., *Violence against women's health in international law*, cit., p.1

³²¹ WILLIAMS, M., *Integrating a gender perspective in climate change, development policy and the UNFCCC*, South Centre climate policy brief, No 12, 2013, p.3 available at https://www.southcentre.int/wp-content/uploads/2014/12/CPB12_Gender-Perspective-in-Climate_EN.pdf

relief shelters where most of them have been raped: in the province of Sindh overall 172 women were reported as raped from 2008-2011³²².

Much of the evidence regarding the vulnerable position of women in climate change-related disasters comes from Bangladesh. This country represents an emblematic case because here the frequency and magnitude of disasters have increased considerably. The UNDP has identified Bangladesh to be the most vulnerable country in terms of cyclones and natural disasters especially in the coastal area of the Bay of Bengal where they hit with frequency and severity³²³. Indeed, its geographical location exposes the country to a high level of physical disaster risks that exacerbate the social conditions of women already burdened by socioeconomic obstacles. Consequently, during natural catastrophes, women face dynamic pressures due to poor communication: they cannot coordinate or get information from local institutions facing scarcity in terms of commodities, unable to cope with the critical situation. This is problematic as women in rural Bangladesh tend to be responsible for domestic duties and are less likely to be present in public spaces where warnings are provided.

In this context, women are more keen or susceptible to sexual harassment in the wake of a flood considering the long-existing gender disparities due to the patriarchal nature that

³²² AHMAD BUKHARI, S. I., AND RIZVI, S.H., *Impact of Floods on Women: With Special Reference to Flooding Experience of 2010 Flood in Pakistan in Journal of Geography & Natural Disasters*, January 2015, p.4. In particular they reported that “Out of these 49 were raped in 2008, 20 in 2009, 50 in 2010 and 16 women were reported as raped in 2011. In KPK overall reported raped cases were 654 from 2008-2011, out of these 158 women were reported as raped during 2010. In Punjab, as many as 1,075 women were raped from 2008-2011 out of these, 237 rape cases were reported in 2010 and 225 in 2011. If we compare the figures of rape cases these have been comparatively higher in 2010 as compared to other years”. See also A study examining intimate partner violence after Hurricane Katrina, which hit the USA in 2005, revealed that psychological victimization of women and men increased by 35 per cent and 17 per cent respectively six months after the cyclone, while physical victimization of women increased by 98 per cent. THORNTON, W., *Disaster rape: vulnerability of women to sexual assaults during Hurricane Katrina*. *J Public Manage Soc Policy* 13(2):23–49, 2007

³²³ NAPA and UNFCCC, *Ministry of Environment and Forests Government of the People’s Republic of Bangladesh*, Updated Version June 2009, p.1 available at <https://unfccc.int/resource/docs/napa/ban02.pdf> See also GARAI, J. , *Gender Specific Vulnerability in Climate Change and Possible Sustainable Livelihoods of Coastal People. A Case from Bangladesh*, cit., p.80

shapes the society³²⁴. Women in Bangladesh are burdened by the *purdah* system, a code of conduct that restricts women's behaviours and puts a burden on their lives. In the study provided by Azad, Hossain, and Nasreen, they found that 35% of the women surveyed were harassed in the aftermath of flooding due to increased stress and social disruption. Harassment during and after floods was frequent and included mental, physical, and sexual dimensions. As it will be explained in the conclusion of this paragraph, these situations can provoke serious problems to women's health³²⁵. Indeed, this is underlined by researchers who suggest that shelters in Bangladesh often lack hygienic facilities for women, as well as private spaces for breastfeeding or changing menstrual pads, and that all too often, women are harassed or threatened in these settings³²⁶. The infrastructure and mechanisms of refugee camps or shelters are, as a result, the most serious challenges to women's safety because adolescent girls are at risk of sexual violence along with kidnapping³²⁷.

Moreover, according to the OHCHR, early marriage or child marriage constitutes a form of "violation of women's sexual and reproductive health and rights"³²⁸. Indeed, "child and forced marriage have an especially significant impact on the enjoyment of sexual and

³²⁴ AZAD, A. K., ET AL., *Flood-Induced Vulnerabilities and Problems Encountered by Women in Northern Bangladesh*, International Journal of Disaster Risk Science 4, no. 4 (2013): 190-199. See also WEDO, Gender Climate Change and Human Security, Lessons from Bangladesh, Ghana and Senegal, Prepared for ELIAMEP,

May 2008, pp.47-50

³²⁵ Ibid.

³²⁶ Ibid, p.196

³²⁷ WEDO, *Gender and Climate Change: A Closer Look at Existing Evidence*, Global Gender and Climate Alliance, 2016 available from <http://wedo.org/wpcontent/uploads/2016/11/GGCA-RP-FINAL.pdf> SHAD MEMON, F., *Climate Change And Violence Against Women*, Pakistan, cit., p.70 .See also NEUMAYER, E. AND PLÜMPER, T., *The Gendered Nature of Natural Disasters: The Impact of Catastrophic Events on the Gender Gap in Life Expectancy*, cit., 13. In particular they describe how "in overcrowded camps anarchy rules, leaving unaccompanied women and girls particularly vulnerable to sexual abuse and rape. Data disaggregated according to gender is very rare, but Toole reports data from a Burmese refugee camp in Bangladesh where female infants were twice as likely to die than male infants and the mortality rates of females above the age of five was 3.5 times higher than that of males."

³²⁸ UNHR, Sexual and reproductive health and rights, <https://www.ohchr.org/EN/Issues/Women/WRGS/Pages/HealthRights.aspx>

reproductive health”³²⁹. Thus, States have obligations to respect, protect and fulfil the rights of women and girls in eliminating harmful practices. In particular, “states must prevent violations committed by private individuals and organizations and provide protection to girls running away from their families to avoid forced marriage”³³⁰. However, Bangladesh has the fourth-highest rate of child marriage in the world, after Niger, the Central African Republic, and Chad, according to the United Nations children’s agency, UNICEF³³¹.

Especially in Bangladesh, some families rushed to marry off their daughters to prevent the loss of their homes in case of natural hazards. Indeed, as testified by Human Rights Watch, decisions about marriage were made directly related to natural disasters seen as a recurring stress factor.

In this case, considering climate change and cultural practices, child marriage results as the best option to “save” the reputation of the family and protect children because families are too poor to feed them³³². Thus, social pressures influenced families because the widespread practice of girls’ families paying dowry to their groom creates additional burdens, as dowry tends to be lower for the youngest of brides. In these situations, girls became pregnant early, either because they are pressured to or because they had no access to contraception and information about family planning. This implies harmful consequences to women’s health. Although Bangladesh’s government has responded to the harms linked

³²⁹ Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, Joint General Recommendation 31/General Comment 18 (2014) on harmful practices, para. 68. See also Committee on Economic, Social and Cultural Rights, General Comment 22 (2016) on the right to sexual and reproductive health, para. 29. <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17168&LangID=E>

³³⁰ OHCHR, Information Series on Sexual And Reproductive Health And Rights Updated 2020, available at [INFO_Harm_Pract_WEB.pdf\(ohchr.org\)](INFO_Harm_Pract_WEB.pdf(ohchr.org))

³³¹ See the following report on child marriage produced by UNICEF https://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR..pdf

³³² Girls not Brides, *Humanitarian and Natural Disasters Linked to Increase in Child Marriage*, 2015. Available from <https://www.girlsnotbrides.org/humanitarian-and-naturaldisasters-linked-to-increase-in-child-marriage-warns-girls-not-brides/>

to child marriage through the Child Marriage Restraint Act (CMRA), in 1929, the law has not been translated into adequate action³³³.

An assessment after 2012 flooding in Fiji encountered similar themes to those in Bangladesh. Indeed, Pacific Islands face a significant obstacle in dealing with climate change and managing women's harassment during and after a climate disaster³³⁴. Pacific Islands, among which Kiribati, are already in danger because of their geographical position, and the increased level of oceans menace the very existence of the so-called “sinking islands”³³⁵. This amplifies the level of stress, leads to poverty, and deepens gender

³³³ HRW, *Marry Before Your House is Swept Away*, 2015. Available from <https://www.hrw.org/report/2015/06/09/marry-your-house-swept-away/child-marriagebangladesh> See also MORIGGI, A, *Una prospettiva di genere sul cambio climatico*, in Rivista DEP 2016, cit. The cases in Africa, in particular in Zimbabwe where, in the face of the increasingly frequent droughts affecting the country, the local populations have begun to resort to a new method to compensate for the lack of harvest and income: to grant daughters in marriage much earlier than usual, to get the dowry and have one less mouth to feed. See also, BIANCHI, B., *Genere, generazioni e cambiamento climatico. Temi e questioni per una rubrica*, in Rivista DEP n. 41-42 / 2020 Numero Doppio, p.215 in which the author described the reality in Kenya where child marriages are prohibited but because of hunger, many women and mother pushed them to sell their daughters in secret. This phenomenon is called “brides girls of drought”. See also “Rural women tackle drought-affected Mozambique’s rise in child marriage” available in <https://www.unwomen.org/en/news/stories/2017/11/feature-mozambique-rural-women-tackle-drought-related-rise-in-child-marriage> ;Also South Sudan appeared very significant in situation concerning violence against women as described in this review: [Illegal logging fuels conflict and violence against women in South Sudan | OpenGlobalRights](https://www.openglobalrights.org/climate-change-worsening-gender-based-violence-in-pacific-islands/).

³³⁴ MCLEOD, E., ARORA-JONSSON, S. ET ALL, *Raising the voices of Pacific Island women to inform climate adaptation policies*, Marine Policy, Volume 93, July 2018, Pages 178-185 available at <https://www.sciencedirect.com/science/article/pii/S0308597X18300344>; See also Thomas, E. and Lee Candolfi, M., “Is climate change worsening gender-based violence in the Pacific Islands?” available at <https://www.openglobalrights.org/climate-change-worsening-gender-based-violence-in-pacific-islands/>

³³⁵ This chapter cannot offer a complete framework on the issue, however, the following article present an overview on the concept of disappearing islands also in terms of international law. Indeed, it does not consider the vanishing of a State for climate change causes. This because any territory lost is presumably not available to another. ALLEN, E., *Climate Change and Disappearing Island States: Pursuing Remedial Territory in Brill Open Law*, 2018, Advance Articles. See also https://www.weadapt.org/sites/weadapt.org/files/2017/june/pacific_gender_toolkit_full_version.pdf: Most climate change projection scenarios predict that water resources on small islands in the Pacific will be seriously compromised by climate change. Several Pacific island countries have no significant surface water resources and limited groundwater resources, and rely heavily on rainwater, making them extremely

inequalities. Indeed, in the Pacific, it is common to find significant differences between men and women in terms of their roles and responsibilities, daily activities, and access to strategic resources³³⁶. In March 2012, flooding caused by torrential rain devastated the western and northern parts of Fiji's main island, Viti Levu, leaving more than 8,000 people sheltered in 91 evacuation centres. Some women reported being coerced into having sexual relations with their husbands in shelters after the flood, despite the lack of privacy in these settings³³⁷.

According to the Fiji Women's Crisis Centre, approximately 66% of Fijian women can expect to experience physical and/or sexual violence in their lifetime, on a par with many other Pacific countries and twice the global average. Indeed, in the aftermath of climate change events disasters like the flooding in Fiji, women, and girls face a higher risk of violence and abuse. For example, according to an OHCHR report, after two tropical cyclones hit Tafe Province in Vanuatu in 2011, the Tanna Women's Counselling Centre reported a 300% increase in new domestic violence cases³³⁸. This shows how humanitarian assistance needs to take into consideration some details such as providing gender-separated, lockable, and well-lit toilet facilities to avoid the risk of sexual and physical violence³³⁹. UNWOMEN is supporting training and developing educational materials on gender-based violence for first responders and disaster risk reduction planners in Fiji to prevent, recognize and respond to abuse in emergencies across the Pacific. The initiative

vulnerable to changes in rainfall patterns. According to the Australian government report (http://www.bom.gov.au/climate/annual_sum/2011/index.shtml), it is likely that the impacts of climate change will affect the quality and quantity of clean drinkable water.

³³⁶ TROHANIS, Z.E., SVETLOSAKOVA, Z., AND CARLSSON-REX, H., *Making Women's Voices Count in Natural Disaster Programs in East Asia and the Pacific*, Working Paper Series No. 24, EAP DRM Knowledge Notes, World Bank, GFDRR, available at [World Bank Document](#)

³³⁷ MCLEOD ET AL, *Raising the voices of Pacific Island women to inform climate adaptation policies*, Marine Policy 93 (2018), p.180.

³³⁸ CARE. *Rapid Gender Analysis Cyclone Pam Vanuatu*, 2015. <http://care.ca/sites/default/files/files/RGA%20Cyclone%20Pam%20Vanuat%207%20April%02015.pdf> See also UNHR, Climate change and disaster displacement at <https://www.unhcr.org/climate-change-and-disasters.html>; UNHR, Protecting the Human Rights of Internally displaced persons in natural disasters, discussion paper 2011, available at https://pacific.ohchr.org/docs/IDP_report.pdf

³³⁹ UNWOMEN, <https://www.unwomen.org/en/news/stories/2014/11/in-fiji-first-responders-train-to-address-sexual-violence-in-disasters>

aims at raising awareness and giving women a voice. In the case of Fiji, along with the important role of the Fiji Women's Crisis Centre, a Fiji National Service Delivery Protocol emerged to respond to Cases of Gender-Based Violence³⁴⁰.

As well as Fiji, an emblematic case is the reality of the Kiribati Island. As Kiribati is extremely low-lying, it is extremely vulnerable to the impacts of climate change such as high tides and sea-level rise. Related to climate change, there is the issue of women's conditions and their subjugation in a patriarchal society. In Kiribati, the social difference between women and men is considerably marked and, even though the Kiribati's constitution accords to women formal equality before the law, it did not guarantee them all the benefits required by CEDAW. While these formal anti-discrimination grounds exist, they do not include sex as a protected ground³⁴¹. This means that discrimination against women could be interpreted as technically legal in Kiribati and laws, which somehow discriminate women, cannot be declared unconstitutional. "Kiribati law allows for evidence of prior sexual history to be admissible where it is deemed relevant to the reliability of the victim's testimony, and common law rules that require proof of physical resistance in order to establish the absence of sexual consent are still applied"³⁴². This implies that women have no legal recourse where these infringe on the enjoyment of their rights and freedom³⁴³.

The case of Kiribati has been examined by the UNCEDAW Committee that published its findings on the countries it examined during its latest session from 10 to 28 February

³⁴⁰ <https://asiapacific.unwomen.org/en/digital-library/publications/2019/09/sops-gbv-fiji-service-delivery-protocol>; See also LECKIE, J., *Women in post-coup Fiji: negotiating work through old and new realities*, in *Confronting Fiji Futures*, A. Haroon Akram-Lodhi, ANU Press, p. 187

³⁴¹ The Constitution of Kiribati, art.15 (3), available at <https://www.wipo.int/edocs/lexdocs/laws/en/ki/ki001en.pdf>

³⁴² UNWOMEN report available at <https://asiapacific.unwomen.org/en/countries/fiji/co/kiribati>. See also UNWOMEN Climate Change, Disasters And Gender-Based Violence In The Pacific https://www.preventionweb.net/files/52741_52741sidsbrief2climatechangedisaste.pdf

³⁴³ Data reported in <https://asiapacific.unwomen.org/en/countries/fiji/co/kiribati>; WHO, Measuring and responding to violence against women in Kiribati Action on gender inequality as a social determinant of health, Country case, 2013 available at <https://iris.wpro.who.int/handle/10665.1/10446>

2020³⁴⁴. The findings contain a complete overview of the positive and negative aspects that the State implemented in the respect of the CEDAW Convention. In the concluding observations on the combined initial to third periodic reports of Kiribati, the Committee welcomes the progress achieved since the entry into force in 2004 of the Convention for Kiribati. Indeed, the Committee recognised all the State's commitments in improving its institutional framework to eliminate gender discrimination through the National Policy and Action Plan to Eliminate Sexual and Gender-Based Violence (2011-2021) and the Gender Equality and Women's Development Plan 2019-2021 (GEWD)³⁴⁵. After having recalled in point C the importance of SDG 5 to end all forms of discrimination against all women and girls everywhere, the Committee urges the Kiribati State to recognise women's role in society as active part of sustainable development. However, in point E, the Committee externalises its concern on the "lack of awareness among government and law enforcement officials, as well as the public, on the concept of substantive equality of women and men"³⁴⁶, thus, underlining a basic concept to be implemented.

Shortly after, at point 14, the Committee considers section 3 of the Kiribati Constitution and recalls its general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention³⁴⁷. It recommends the State party "to incorporate into the Constitution a comprehensive definition of discrimination against women and girls in line with article 1 of the Convention, encompassing direct and indirect discrimination in both the public and private spheres and recognizing intersecting forms of discrimination"³⁴⁸. The Committee really emphasised the need for a drastic change in prohibiting discrimination based on sex or gender. To do so, it strongly recommends decreasing gender discrimination also in terms of stereotypes and invite the state party to

³⁴⁴ CEDAW/C/KIR/CO/1-3, Distr.: General 2 March 2020, Committee on the Elimination of Discrimination against Women, concluding observations on the combined initial to third periodic reports of Kiribati available at <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25642&LangID=E>

³⁴⁵ Gender policy for Kiribati launched <https://pacificwomen.org/news/gender-policy-for-kiribati-launched/>; See also National Approach to Eliminating Sexual and Gender Based Violence in Kiribati Policy and National Action Plan 2011-2021 available at <http://www.mfed.gov.ki/sites/default/files/National%20ESGBV%20Policy.pdf>

³⁴⁶ CEDAW/C/KIR/CO/1-3, Distr.: General 2 March 2020, cit., point E.

³⁴⁷ CEDAW General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the CEDAW, 16 December 2010 Available at <https://www.refworld.org/docid/4d467ea72.html>

³⁴⁸ CEDAW/C/KIR/CO/1-3, Distr.: General 2 March 2020, cit., point E (14).

guarantee adequate access to justice³⁴⁹. Moreover, the Committee provided a complete framework on the way in which the State has to implement gender inclusion in each part of women's life, considering also reproductive health services (art.32). Thus, it emerges how the Committee, not only analysed the Kiribati reality in terms of gender violence but also produced all the framework and instruments to solve the situation gradually "following the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document" (art.62)³⁵⁰.

All this because women's human rights, as endorsed by the CEDAW several times, have to be applicable to all phases of climate change and disaster response planning. Moreover, as pointed out by the UN CEDAW Committee "gender-based violence is a critical health issue for women in particular to their rights to health and reproductive health"³⁵¹. However, CEDAW was born to ensure women's equality but did not include provisions on violence against women (VAW). Only in 1992, thanks to the general recommendation No.19/1992, the CEDAW Committee pronounced itself on VAW and in 2017 provided a more specific framework³⁵². In addition to this, it is relevant to underline that the ESCR

³⁴⁹ See DE VIDO, S., *Violence against women's health in international law*, cit., p.3: "In 2015, UN human rights experts, the Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights (IACommHR) and the SR on the Rights of Women, and Human Rights Defenders of the African Commission on Human and Peoples' Rights presented a joint statement in which they stressed that also harmful gender stereotypes lead to the violation of women's sexual health because it implies consequences on women"

³⁵⁰ CEDAW/C/KIR/CO/1-3, Distr.: General 2 March 2020, cit.

³⁵¹ UN General Assembly (UN GA) Declaration on the Elimination of Violence against Women. See also DE VIDO, S., *Violence against women's health in international law*, p.1. See in particular views of 27 November 2012, S.V.P. v. Bulgaria, Communication No. 31/2011, para. 9.10 available at https://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-53-D-31-2011_en.pdf

³⁵² GR No. 35 on gender-based violence against women, updating GR No. 19, 14 July 2017, CEDAW/C/GC/35. Considering violence against women see Council of Europe Treaty Series - No. 210 Council of Europe Convention on preventing and combating violence against women and domestic violence Istanbul, 11.V.2011, preamble, available at [CETS 210 - Council of Europe Convention on preventing and combating violence against women and domestic violence \(coe.int\)](https://www.coe.int/t/treaties/ETS/Convention_on_preventing_and_combating_violence_against_women_and_domestic_violence_coe.int). In 2011 the Council of Europe Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence promoted "the realisation of de jure and de facto equality between women and men" as the only way to prevent VAW. This means that all the 33 members' states have to contribute to such objective with negative and positive obligations.

Committee in its general comment on the right to sexual and reproductive health affirmed that “States parties have a core obligation to ensure, at the very least, minimum essential levels of satisfaction of the right to sexual and reproductive health”³⁵³. This demonstrates the necessary role that state parties have in such issues and how they must follow international protocols and guidelines.

An interesting aspect, strictly related to VAW in the Global South is that in 2016, the UN working group on the issue of discrimination against women in law, established that “women’s bodies are instrumentalised for cultural, political and economic purposes rooted in patriarchal traditions”³⁵⁴. However, in 2009 the ESCR Committee provided a General Comment (No. 21) arguing that “applying limitations to the right of everyone to take part in cultural life may be necessary in certain circumstances, in particular in the case of negative practices, including those attributed to customs and traditions, that infringe upon other human rights”³⁵⁵. Thus, it seems that the focus has to be on which grounds discrimination is perpetrated. Moreover, it has to be clear that “the right to culture is limited at the point at which it infringes on another human right”³⁵⁶. For this reason, VAW has to be understood as a public health concern or better an illness with a negative and influential consequence on the entire society³⁵⁷. Indeed, many times the State itself acts as a “male” actor that does not recognise the real necessities of women and the clear support to limit such violations³⁵⁸.

A step further would be the real application of all the Sustainable Development Goals established in 2015 by the United Nations. Especially SDG 5 seeks to achieve gender

³⁵³ C No. 22, para. 49.

³⁵⁴ Report of the working group on the issue of discrimination against women in law and in practice, A/HRC/32/44, 8 April 2016, para. 18. See also DE VIDO, S., *Culturally motivated crimes against women in a multicultural Europe. The case of criminalization of FGM in the 2011 CoE Istanbul Convention*, in L. Zagato and M. Vecco (eds), *Citizens of Europe: Cultures and Rights* (Venice: Edizioni Ca’ Foscari, 2015).

³⁵⁵ GC No. 21, Right of everyone to take part in cultural life (art. 15, para. 1 (a), International Covenant on Economic, Social and Cultural Rights (ICESCR)), 21 December 2009, ESCR Committee, E/C.12/GC/21, para. 19

³⁵⁶ DE VIDO, S. *Culturally motivated crimes against women in a multicultural Europe. The case of criminalization of FGM in the 2011 CoE Istanbul Convention*, cit, p.94

³⁵⁷ WHO, Violence against women: an urgent public health priority, *Bulletin of the World Health Organization* 89 (2011) 2.

³⁵⁸ DE VIDO, S., *Violence against women's health in international law*, p.96

equality and women empowerment and proposes up to 9 targets to end all discriminations against women³⁵⁹. This goal considers gender equality not only as a fundamental human right but also as a necessary foundation for a peaceful, prosperous and sustainable world. Too often gender equality is added on, many times at the last minute, to broader development or human rights projects. This means that it becomes a side-objective to the primary goals of the activity.³⁶⁰

In conclusion, this section wants to show the urgent need to include climate-change-induced violence in the main climate change studies and related debates. Gender-focused climate actions can act as the essential component in campaigns and programmes focusing on the elimination of gender-induced violence. This goal can only be achieved by incorporating the different dimensions of climate change studies focusing on women.

2.2 Water management and women: the case of India

According to Loic Fauchon, President of the World Water Council since 2018, water is a good that must be guaranteed in terms of availability and protection³⁶¹. Indeed, water security is crucial for the development and enjoyment of human rights but, most importantly, access to water is recognized by the United Nations as a fundamental human right for people³⁶².

Although water has not been explicitly recognized as a self-standing human right in international treaties, international human rights law implies specific obligations related to access to safe drinking water. Indeed, the International Covenant on Economic, Social and Cultural Rights (CESCR) does not explicitly refer to the right to water that “clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival”³⁶³. Only after,

³⁵⁹ <https://sdgs.un.org/goals/goal5>

³⁶⁰ <https://www.openglobalrights.org/inaction-on-gender-equality-puts-sdgs-at-risk/>

³⁶¹ World Water Council <https://www.worldwatercouncil.org/en>

³⁶² OHCHR, UN Habitat, WHO, Fact sheetn.35 on Human Right to Water, available at <https://www.ohchr.org/Documents/Publications/FactSheet35en.pdf>

³⁶³ General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant) Adopted at the Twenty-ninth Session of the Committee on Economic, Social and Cultural Rights, on 20 January 2003 (Contained in Document E/C.12/2002/11), paragraph 3, referring to Article 11, paragraph 1, of the Covenant on Economic,

in 2002, CESCR adopted its general comment No. 15 on the right to water, defined (in art.2) as the right of everyone “to sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses”³⁶⁴. Subsequently, in 2007, OHCHR conducted a study on behalf of the Human Rights Council, on the scope and content of human rights obligations, in which the High Commissioner for Human Rights highlighting the importance to recognize access to safe drinking water and sanitation as a human right³⁶⁵. International human rights law demands integration between human rights and development plans in order to progressively reduce inequalities and people's stigmatization concerning water and sanitation access³⁶⁶.

Moreover, it is widely recognised that, in the long run, peace will depend on access to development opportunities and the protection of the natural world³⁶⁷. Water is one of the resources and has become a rare and vulnerable commodity called "blue gold", in fact,

Social and Cultural Rights, available at <https://www.refworld.org/pdfid/4538838d11.pdf>. See also SHELTON, D., *Advanced Introduction to International Human Rights Law*, Cheltenham Elgar, p.146, 2014

³⁶⁴ Ibid.. In particular, “sufficient” refers to the water supply for each person must be sufficient and continuous for personal and domestic uses; “Safe” means that the water required for each personal use must be free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person’s health; “Acceptable” means that water should be of an acceptable colour, odour and taste for each personal or domestic use; “Physically accessible” means that everyone has the right to a water and sanitation service that is physically accessible within, or in the immediate vicinity; “Affordable” means that water, and water facilities and services, must be affordable for all, <https://www.unwater.org/water-facts/human-rights/>. See also BALDIN S. AND DE VIDO, S., *Environmental Sustainability in the European Union: Socio-Legal Perspectives*, EUT Edizione Università di Trieste, Biblioteca della società aperta. Studi e ricerche, p.145, 2020

³⁶⁵ Human Rights Council, Report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, A/HRC/6/3, 16 August 2007, Sixth session available at https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/6/3. See also Resolution 7/22. Human rights and access to safe drinking water and sanitation available at https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_22.pdf

³⁶⁶ IUCN, UNDP, GGCA, *Training manual on gender and climate change*, 2009, pp.120-121 available at <https://www.iucn.org/content/training-manual-gender-and-climate-change-0>

³⁶⁷ See the article “Water Scarcity: Glaciers Sound the Alarm” <https://www.climateforesight.eu/water-food/glaciers-melt-water-security-is-under-threat/> and also the CMCC centre: <https://www.cmcc.it/it>

while the water demand grows its supply begins to run low³⁶⁸. According to the report provided by UNICEF and the WHO, despite the efforts and the goals achieved with the SDG 6 ensuring access to water and sanitation, billions of people around the world are continuing to suffer from poor access to water, sanitation, and hygiene³⁶⁹. Yet in 2009 the UN reported, “how 884 million people worldwide relied on unimproved water sources for their drinking, cooking and other domestic activities; of these, 84% lived in rural areas of sub-Saharan Africa, eastern and southern Asia”³⁷⁰.

Furthermore, starting from the 1940s, the World Bank and the IMF spread the creation of large dams to enhance new techniques of cost-benefit analysis in river development³⁷¹. For this reason, the drying up of several areas of the world is a man-made rather than a natural disaster. In India, there has been overexploitation of water due to the massive construction of dams: more than 1554 large dams have been built during the past three decades³⁷². Thus, the issue of water scarcity has been the most dominant in the 1980s as far as struggles for survival in the subcontinent are concerned. Indeed, the manufacture of drought and desertification is the result of western modes of development that violate cycles of lives in

³⁶⁸ World Energy Review “water stories”, March 2020, n.46, Eni Spa editor. See also UNEP, *Training Manual on International Environmental Law*, 2006, p. 245

³⁶⁹ UNICEF/WHO, “1 in 3 people globally do not have access to safe drinking water”, New York/ Geneva, June 2019, available at <https://www.who.int/news/item/18-06-2019-1-in-3-people-globally-do-not-have-access-to-safe-drinking-water-unicef-who> . In particular, as reported by V. Shiva in her book “Staying Alive”, in India, in the region of Gujarat the situation is critical: “for the first time in the history of the state, the shortage of the wells, ponds, and dams have gone dry. The number of villages declared as “no source” villages has been increasing each year [...] in 1985 arrived to 8.000 villages and between 1985-6 potable water was being supplied by special trains, tankers, camels and bullock-carts” p. 174; See also “the Summary Progress Update 2021: SDG 6 — water and sanitation for all” available at <https://www.unwater.org/publications/summary-progress-update-2021-sdg-6-water-and-sanitation-for-all/>

³⁷⁰ UN, *The Millennium Development Goals Report 2009*, UN, New York, p.48. See also AGUILAR, L., GRANAT M. AND OWREN, C. (EDS.), *Roots for the Future: The Landscape and Way Forward on Gender and Climate Change*, cit., p. 144

³⁷¹ MARTINEZ-ALIER, J., *The Environmentalism of the Poor A Study of Ecological Conflicts and Valuation*, cit., p.138

³⁷² SHIVA, V., *Staying Alive Women, Ecology and development*, cit., p.190 : “In particular the groundwater survey an development agency of Maharashtra has found that out of 1481 watersheds in the State, there is overexploitation of 77 spread over 14 districts”

rivers and natural environments. Groundwaters as well are drying up because of over-exploited to feed water-intensive cultivation of cash crops³⁷³.

Along with groundwater, also underground water is a widespread system of irrigation in India. Particularly in this country, rural water use is anchored in the inequalities of castes. Underground water, which used to be abundant in some regions of Gujarat, was not in open access since British imperialism. Only landowners enjoy the right to draw groundwater from their property with no limit on the amount that may be extracted. Starting from the 1970s, private ownership of the wells and the change in techniques have meant that water has become scarcer. The disadvantages are strongly felt by farmers who have to bore wells deeper and, to recoup the investment, they have to get and sell more water. On these occasions, access to underground water is controlled by the upper caste who prevent themselves from taxing or licensing water. In Gujarat some NGOs along with Hindu groups fought successfully asserting water rights between castes to guarantee equality in water management. Indeed, especially poor women cannot find the satisfaction of their water needs at the local level and have to use the judicial system or depend on their own direct action with support from NGOs. Thus, whether water is made available, water use and water management are determined by caste and gender inequalities exacerbated by capitalist agriculture³⁷⁴.

For these reasons, many parts of India, nearly all villages of the Malwa region, suffer from a water crisis³⁷⁵. The cause of this crisis and the failure of solutions arise also from maldevelopment working against the logic of water cycle and the integrity of water flows, a concept to which many indigenous people are attached above all in rural areas of India. Indeed, this reductionist western vision perceives rivers as a linear flow and is indifferent to ecological disasters. However, Indians are very attached to the eco-processes of water cycle in particular as far as sacred rivers are concerned. Nonetheless, “violence to water cycle is probably the worst but most invisible form of violence because it simultaneously threatens the survival of all” and “reductionists create an illusion of producing abundance

³⁷³ See the first paragraph of this chapter in which it is demonstrated how climate change and natural sources can induced violence among villages of the subcontinent.

³⁷⁴ MARTINEZ-ALIER, J., *The Environmentalism of the Poor*, cit., p.130

³⁷⁵ RAO,N., LAWSON, N.T., ET ALL, *Gendered vulnerabilities to climate change: insights from the semi-arid regions of Africa and Asia*, Climate and Development, 2019, p. 18

while manufacturing scarcity”³⁷⁶. Indeed, all the technological solutions set up want to favour irrigation of intensive cultivations that actually extend the hydric crisis. Additionally, these projects proposed by engineers trained in patriarchal, western paradigms, destroyed local organisation of resources based on the respect of nature: “sacred rivers have been transformed into passive water resources that can be exploited in the service of profit”³⁷⁷. Thus, although environmental degradation, poor water management and inequalities exacerbate the situation, climate change puts a burden on developing countries.

The impacts of climate change on freshwater systems are mainly due to the increase in temperature, evaporation, and precipitation variability. Semi-arid and arid areas are particularly exposed to these phenomena, while higher water temperatures and increased precipitation intensity are likely to exacerbate many forms of water pollution with strong consequences for both ecosystems and human health³⁷⁸. In West Africa, changes in seasons mean that women and children have to use water supplies from dirty ponds, as these tend to dry up during the dry season, increasing their exposure to water-borne diseases³⁷⁹.

Moreover, climate change exacerbates both water scarcity and water security. Water scarcity is intended as the lack of water resources to meet the water usage demand, while water security relates to the reliable availability of accessible, affordable drinking water sources and sanitation facilities. This implies the real necessity to provide adaptation strategies so as to cope with these stressors³⁸⁰. The second National Communication to the UNFCCC also identifies water as a key priority area. Indeed, changes in rainfall patterns due to climate change have pushed usually rain-fed areas toward irrigated agriculture, mounting the water demands. An increase in water scarcity leads to insufficient domestic water supplies, having serious implications for equity of access and the quality of potable

³⁷⁶ SHIVA, V., *Staying Alive Women, Ecology and development*, cit., p.175

³⁷⁷ Ibid.

³⁷⁸ IPCC, *Freshwater resources and their management*, in AR4 Climate Change 2007: Impacts, Adaptation, and Vulnerability, 2007, available at <https://www.ipcc.ch/report/ar4/wg2/fresh-water-resources-and-their-management/>

³⁷⁹ DENTON, F., *Climate Change Vulnerability, Impacts, and Adaptation: Why Does Gender Matter?*, Gender and Development, Jul., 2002, Vol. 10, No. 2, Climate Change (Jul., 2002), pp., Taylor & Francis, Ltd. on behalf of Oxfam GB, p.14

³⁸⁰ AGUILAR, L., GRANAT M. AND OWREN, C. (EDS.), *Roots for the Future*, p.144

water³⁸¹. Scarcity of clean water and unreliability of the supply is a major challenge for women and girls, as they are the main suppliers of drinking water in many areas around the world³⁸².

This aspect demonstrates a clear division of labour between men and women in water resources management. Understanding gender differences in the use and allocation of water is important in identifying how climate change impact on water supply for different groups within the community³⁸³. Men are more likely to use water for agriculture and livestock production, while women are responsible for household water usage. Despite the fact that women might be the primary users of water and energy resources, their access to these resources might be completely dependent upon men. Men play important leadership roles within their families and communities, while women are not normally involved with decision-making.

However, water management is impossible without women's involvement in community-based organizations, as well as risk reduction approaches: women have a pivotal role as guardians of the living environment³⁸⁴. Indeed, women are defined as water experts also by several international statements and reports³⁸⁵. The results of the International Drinking Water Supply and Sanitation Decade (1981-1990) in New Delhi in 1990 presented the real necessity to increase women's decision-making and management of water resources³⁸⁶. The Dublin Statement (1992), during the International Conference on Water and the Environment (ICWE), recognises that women play a central part in the provision,

³⁸¹ IUCN and GGCA, *The art of implementation: Gender strategies transforming national and regional climate change decision-making*, Gland. Report, IUCN, 2012, 119 pp. available at <https://www.iucn.org/content/art-implementation-gender-strategies-transforming-national-and-regional-climate-change-decision-making>

³⁸² DANKELMAN, I., *Gender and climate change: An introduction*, London, Earthscan, 2010, p.39

³⁸³ IFAD, *Gender and water, Securing water for improved rural livelihoods: The multiple-uses system approach*, pp. 2-28

³⁸⁴ MACGREGOR (ED.), S., *Routledge Handbook of Gender and Environment*, Routledge, Abingdon-New York 2017, p.291

³⁸⁵ Gender Water Alliance (GWA) and UNDP, *Mainstreaming Gender in Water Management*, Version 2.1 November 2006

³⁸⁶ United Nations international drinking-water supply and sanitation decade, 1981-1990 (Resolution), available at <https://apps.who.int/iris/handle/10665/141107>

management, and safeguarding of water resources³⁸⁷. Then, principle 20 of the Rio Declaration (1992) states, “women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development”³⁸⁸. Also, Agenda 21 (1992) dedicated an entire chapter to women and water management (Chapter 18)³⁸⁹. Some women are using this crisis as an opportunity to create an improved water management system that stores water underground during excess rainfall and then lifts it out for irrigation during dry spells³⁹⁰.

Nonetheless, women are doubly burdened because they face both climate change and man-made consequences. However, it is widely documented that harsh seasonal droughts in Gujarat (India) make it extremely difficult for women and their children who spent many more hours walking to collect water from rivers. Thus, women and children are the worst victims of scarcity conditions³⁹¹. Besides, the construction of dams and the prevailing western management of waters implied the destruction of women’s knowledge and productivity. Indeed, women’s knowledge is the basis of the countervailing power of women movements as the famous case of the Chipko movement, as explained in the first chapter of this work, and the Narmada movement. Their resistance is against the destruction of entire civilizations and ways of life in the varied process of dam building³⁹². It is widely known that in the Indian system, water distribution was based on nature’s logic according to nature’s cycles.

³⁸⁷ The Dublin Statement in the International Conference on Water and the Environment, 26-31 January 1992, Dublin Ireland available at <https://www.gdrc.org/uem/water/dublin-statement.html> See also UNEP, *Training Manual on International Environmental Law*, 2006, United Nations Environment Programme, p. 246

³⁸⁸ Rio Declaration on Environment and Development, Rio de Janeiro, 3-14 June 1992, principle 20.

³⁸⁹ “The fragmentation of responsibilities for water resources development among sectoral agencies is proving, however, to be an even greater impediment to promoting integrated water management than had been anticipated. Effective implementation and coordination mechanisms are required” (art.18.6) United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992 AGENDA 21.

³⁹⁰ AGUILAR, L., GRANAT M. AND OWREN, C. (EDS.), *Roots for the Future*, p.147

³⁹¹ BIANCHI, B., *Genere, generazioni e cambiamento climatico. Temi e questioni per una rubrica*, in Rivista DEP n. 41-42 / 2020 Numero Doppio, p.218. See also CAPRI. *A Literature Review of the Gender Differentiated Impacts of Climate Change on Women’s and Men’s Assets and Well-being in Developing Countries*, 2012, Available from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.303.5287&rep=rep1&type=pdf>

³⁹² Ibid.

As will be analysed in the last chapter of this work, water should be treated as common goods that opposed to the commodification of nature started by institutions such as the World Bank and the IMF that, during the 1980s and 1990s, privatised these goods introducing them in the market³⁹³. These common goods are in the middle between "public" and "private", but irreducible to both categories. According to Federici “The concept of common [...] is a principle of cooperation and mutual responsibility towards the earth, forests, oceans and animals”³⁹⁴. It implies a broader conception of property in which a community owns and manages collectively such goods³⁹⁵. In conclusion, it is demonstrated how gender is strictly connected to climate change implications also considering water management in rural communities.

2.3 Gender migration, issue or solution? The case of Bangladesh

Another important climate change implication that cannot be ignored is climate-induced migration and displacement. Indeed, people are increasingly being displaced due to severe coastal weather events, such as the erosion of shorelines, flooding, droughts, and agricultural disruption.

According to the UN climate change refugee map, many countries of Asia are exposed to hurricanes as Japan, Madagascar, and other Pacific islands. This is exacerbated by arctic areas' permafrost melting. Many areas of Africa, Middle East and Latin America are exposed to desertification and drought³⁹⁶. Indeed, “since 2008, an average of 26.4 million

³⁹³ FEDERICI, S., *Il Femminismo e la politica dei beni comuni* in Rivista DEP n. 41-42 / 2020 Numero Doppio, p.65-66, available at <https://www.unive.it/pag/39857/?L=1>

³⁹⁴ Ibid.,p.71

³⁹⁵ FEDERICI, S, *Le donne, le lotte per la terra e la ricostruzione dei “commons”*, in Rivista DEP n. 41-42 / 2020 Numero Doppio, p.109 available at <https://www.unive.it/pag/39857/?L=1>. See also, chapter two, three and six in BALDIN, S. AND DE VIDO,S., *Environmental Sustainability in the European Union: Socio-Legal Perspectives*, EUT Edizione Università di Trieste, Biblioteca della società aperta. Studi e ricerche, 2020

³⁹⁶ See the UN's climate change refugee map available here <https://www.migrationinstitute.org/blog/climate-refugees-the-fabrication-of-a-migration-threat>. Also, the New York Times provided a complete overview on migration available at <https://www.nytimes.com/interactive/2020/07/23/magazine/climate-migration.html>; An interactive map on “attributing extreme weather on climate change” is provided in the website Carbon Brief available at <https://www.carbonbrief.org/mapped-how-climate-change-affects-extreme-weather-around-the-world>; See also figure 1 p. 4 on “Security risks associated with climate change, Source: WBGU” available at http://ccsl.iccip.net/wbgu_jg2007_engl.pdf

people per year have been forced from their homes by natural disasters”³⁹⁷. In 2017, the Human Rights Council in the Resolution no.35/20 on Human rights and climate change affirmed, “the adverse consequences of climate change impact for all, particularly in developing countries and the people whose situation is most vulnerable to climate change, including migrants and persons displaced across international borders in the context of the adverse impact of climate change”³⁹⁸.

Yet in the preamble, the Human Rights Council recognised the “General Assembly resolution 71/1 of 19 September 2016, in which the Assembly adopted the New York Declaration for Refugees and Migrants and the annexes thereto, and Assembly resolution 71/280 of 6 April 2017, in which it adopted the modalities for the intergovernmental negotiations of the global compact for safe, orderly and regular migration”³⁹⁹. In addition, in the preamble, the Council mentions the State-led Platform on Disaster Displacement and the Nansen Initiative Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change. This Agenda along with the Platform represents a significant and comprehensive globally consultative process to provide a clearer framework to respond to displacement in climate-induced migration⁴⁰⁰. Then, in article 10, the Council requests the OHCHR to organise “an intersessional panel discussion prior to the commencement of phase II of the intergovernmental process leading to the global compact on safe, orderly and regular migration, with the theme “Human rights, climate change, migrants and persons displaced across international borders”. Thus, the Human Rights Council invites all the UN Agencies and bodies to collaborate, to enhance and face the issue collectively and with urgency in order to protect and guarantee human rights to migrants displaced across international borders.

Then, despite national governments try to manage actions to protect vulnerable groups, many people feel threatened and look at migration as the only solution. In this context, the term “climate change refugee” addresses people who migrate because of climate disasters,

³⁹⁷ UNEP, International Migrants Day: The plight of environmental migrants, 16 December 2016, <https://www.unep.org/news-and-stories/story/international-migrants-day-plight-environmental-migrants>

³⁹⁸ Resolution adopted by the Human Rights Council on 22 June 2017, 35/20. Human rights and climate change, art.2, A/HRC/RES/35/20 Thirty-fifth session, 6–23 June 2017, Agenda item 3, available at <https://www.ohchr.org/en/hrbodies/hrc/regularsessions/session35/pages/resdecstat.aspx>

³⁹⁹ Ibid., preamble

⁴⁰⁰ Ibid. See also <https://disasterdisplacement.org/>

as these events resulted to be major factors of displacement. Nevertheless, there are controversies related to that label. The “environmental refugee” or “climate refugee” was thereby soon joined by the “environmental migrant”, “climate exile” and the “eco migrant”. For example, the International Organization for Migration (IOM) has argued that those compelled to move in response to climatic and other environmental changes are “environmental migrants” or: “persons or groups of persons who, for reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to have to leave their habitual home, or choose to do so, either temporarily or permanently, and who move either within their territory or abroad.”⁴⁰¹ However, the 1951 Refugee Convention does not entail this category on its grounds, since climatic events are not always the only cause of migration: refugees are people who

“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”⁴⁰².

Thus, three reasons, in particular, seem to testify that the Geneva Convention does not fit the case of environmental migrants. Firstly, refugees are supposed to be unable to avail themselves of the protection from persecution by their government. However, it may be very difficult to verify that a person’s own government is somehow the persecutory agent, or that it has failed to prevent persecution where harm has occurred as a result of climatic change. Secondly, even if it was somehow possible to locate persecutory elements in the detrimental consequences arising in connection with changing climates, persecution would

⁴⁰¹ Migration, Environment and Climate Change: Evidence for Policy (MECLEP), Glossary, July 2004, International Organization for Migration (IOM), https://publications.iom.int/system/files/pdf/meclep_glossary_en.pdf?language=en; See also https://migrationdataportal.org/themes/environmental_migration

⁴⁰² UNHCR, Convention and protocol relating to the status of refugees, 1951 available at <https://www.unhcr.org/3b66c2aa10>

still have had to occur for one of five carefully delineated Convention reasons, none of which seem relevant in the context of climate change and migrations. Thirdly, the fact that the path to refugeehood should include an international border crossing, falls in the case of climate-induced migrations which can be related to internal displacement. For all these reasons, the issue of climate migrants is very complicated to solve⁴⁰³.

As far as gender migration is concerned, Bangladesh represents a remarkable example. As previously mentioned, Bangladesh appeared to be the most vulnerable country in terms of cyclones, floods, and natural disasters. In the southwest part of Bangladesh, in the Satkhira district, there is an area called Burigoalini and Gabura of Shymnagar that is one of the most vulnerable lands in the country. This district is adjacent to the Bay of Bengal where climatic hazards as cyclones and floods are daily occurrences⁴⁰⁴. Here there is the so-called *Sundarbans*, “the largest area of tidal mangrove forest in the world”⁴⁰⁵. Throughout the year, mangroves play a pivotal role in serving as a source of livelihood, protecting from coastal erosion and counterbalancing the aftermath of disasters⁴⁰⁶.

In this region, women are most vulnerable in hazardous periods during which the unequal access to natural resources is harsher. Women working in the fields, or the rivers, are even more put at risk given that strong winds destroy trees, and this means that the forest around the coastal belt cannot protect people from the flowing waters. Indeed, as the degree of salinity in river waters increases, women cannot fish, and drinking waters are menaced too. Thus, in this area, women, as well as men, struggle to find new income sources to survive⁴⁰⁷.

In addition, during the last decades, the expression “feminization of migration” emerged underlying that also women have to be considered “birds of passage”⁴⁰⁸. Indeed, in realities such as Bangladesh, there is a tendency to overshadow female migrants when, actually,

⁴⁰³ Ibid.

⁴⁰⁴ GARAI, J., *Gender Specific Vulnerability in Climate Change and Possible Sustainable Livelihoods of Coastal People*, cit., p.82

⁴⁰⁵ ROY, S., *Climate Change Impacts on Gender Relations in Bangladesh*, Springer, 2019, p.5

⁴⁰⁶ Ibid.,p.26

⁴⁰⁷ GARAI, J., *Gender Specific Vulnerability in Climate Change and Possible Sustainable Livelihoods of Coastal People*, cit.,p.85

⁴⁰⁸ MARCHETTI, S., *Gender, migration and globalisation: an overview of the debates*”. *Handbook of Migration and Globalisation*, edited by A. Triandafyllidou, Edward Elgar Publishing, 2018, pp.444

they are exploited too by the market in the field of care works. These women move temporarily or permanently to look after members of a private household in richer countries and “because of the asymmetrical socioeconomic conditions, these migrants prefer care work abroad to unemployment in the country of origin”⁴⁰⁹. Hence, the feminisation of migration is defined in two ways: quantitative and qualitative. The former dimension refers to the number of migrant women and has to be seen along with the qualitative approach that focuses on the experiences of migrants that envisage different outcomes⁴¹⁰. At this level scholars tried to understand how migration change gender roles because, generally, “by crossing borders, men tend to be seen as [...] mobile family breadwinner while women [...] followed as dependents or remain invisible”⁴¹¹. However, Bangladeshi women started to be seen as active actors who consider migration as an opportunity to escape oppressive marriages, climatic disasters, and gaining economic independence.

Accordingly, the case of Bangladesh includes both an issue of internal displacement and international migration. Indeed, it is widely recognised that there is a consistent flux of women moving from the Bhola district to Dhaka. In Bangladesh, gender roles act as social barriers to female adaptation because deep gender inequalities persist due to the cultural practice of *purdah*, a set of norms that regulate female morality and roles⁴¹². In the Bhola district, an administrative area in south-central Bangladesh, women have no real income opportunities, and migration is the only way to improve their lives. Since the 1971 cyclone, people have been moving to the capital Dhaka, establishing a migration pattern between the city and the Bhola district. However, today, Dhaka contains more people than its capacity, and it is exposed to environmental stressors too as fires and floods, pushing migrants into a dilemma: they move to spend a better life, but they find new obstacles and

⁴⁰⁹ LUTZ, H., AND PALENGA-MÖLLENBECK, E., *Care Workers, Care Drain, and Care Chains: Reflections on Care, Migration, and Citizenship*, Social Politics: International Studies in Gender, State and Society, vol 19, 2012, p.229

⁴¹⁰ MARCHETTI, S., *Gender, migration and globalisation: an overview of the debates*, cit., p. 445

⁴¹¹ MOROKVASIC, M, *Migration and gender*”. *Routledge Handbook of Immigration and Refugee Studies*, edited by Routledge, edited by A. Triandafyllidou, 2016, p.56

⁴¹² See paragraph 2.

menaces⁴¹³. Thus, cities like Dhaka represent the “focus of international efforts to deal with climate change and migration”⁴¹⁴ since “unhealthy, disaster-prone and environmentally unsafe slums are often the destination of migrants”⁴¹⁵. Precisely in the Bholia slum of Dhaka, many young unmarried women work as housemaids or in the garments sector since this industry creates an “economic pull factor for women to migrate”⁴¹⁶.

However, these favourable working conditions are created since women are easier to control as they do not complain about bad working conditions. Paradoxically, women result in having a more stable income than men, but this reliance on female income finds itself in striking disagreement with the *purdah* system deepening women workers’ stigmatization. All these aspects contribute to the creation of a bad reputation that involves social costs both for the woman and her family, especially if she is still unmarried. In this case, her value on the marriage market will drop because the price of dowry is closely linked to reputation. Hence, women migrants have always to preserve a good reputation in order not to intensify the cultural burden upon them⁴¹⁷.

In addition, according to the report of the UN Women “Bangladesh is one of the major labour-sending countries of the Asia-Pacific region”⁴¹⁸. Because of environmental disasters, women migrants increased considerably in the last decade towards Middle East countries as Lebanon, the Arabian Peninsula, and the United Arab Emirates⁴¹⁹. In the pre-departure phase of migration, most migrants use a wide range of networks to achieve the

⁴¹³ EVERTSEN, K. AND VAN DER GEEST, K., *Gender, environment and migration in Bangladesh*. *Climate and Development*, April 2019, p.5.

⁴¹⁴ TURHAN, E. AND ARMIERO, M., *Of (not) being neighbors: cities, citizens and climate change in an age of migrations*, *Mobilities*, vol. 14(3), 2019, pp. 363

⁴¹⁵ *Ibid.*, p.365

⁴¹⁶ EVERTSEN, K. AND VAN DER GEEST, K. *Gender, environment and migration in Bangladesh*, *cit.*, p.6

⁴¹⁷ *Ibid.*, p.7

⁴¹⁸ UNWOMEN. *Country overview: Women and Migration in Bangladesh*, UNWOMEN publication, 2018. Available at <https://asiapacific.unwomen.org/en/digital-library/publications/2018/03/women-and-migration-in-bangladesh>

⁴¹⁹ *Ibid.*, p.5

destination country⁴²⁰. They can be migrant associations, NGOs, or private contacts that result fundamental in providing solidarity, legal advice, and protection⁴²¹. While many women migrate as domestic workers through regular, documented channels, other migrants lean on the assistance of illegal intermediaries or sub-agents. Illegal migration is particularly dangerous because “it renders certain migrants extraordinarily vulnerable to the recriminations of the law”⁴²². Most of the people are hired from recruitment agencies through different types of illegal visas and forgery documents that create a gap in workers ‘protection who could end up deported by smugglers’⁴²³. Nevertheless, informal networks based on a well-known person already living in the destination country can be very useful in recruiting female migrants who acquire specific information about life and work abroad. Despite this, women are likely to accept the *kafala* system in the Arab countries, where this is a legal contract framing the relationship between migrant workers and their employers. In this way, women migrants do not need forthright payments and they are easily recruited. However, the *kafala* system makes women workers completely dependent on their employers with the possibility to lose their permits becoming undocumented migrants⁴²⁴. In the countries in which women form the majority of *kafala* workers, gendered abuses are frequent: female migrants in precarious situations face sexual violence, confinement, or underpayment⁴²⁵.

Indeed, in this context of exploitation during migration, in 2020, the CEDAW Committee adopted the General Recommendation n.38 to underline the trafficking of women and girls

⁴²⁰ To have a more complete vision of migration patterns and the importance of networks see HOLDAWAY, J., AND DEWIND, J., *Migration and Development Within and Across Borders: Research and Policy Perspectives on Internal and International Migration*, International Organization for Migration, 2008.

⁴²¹ O'REALLY, K, *Migration theories: a critical overview*, Handbook of Immigration and Refugee Studies, edited by A. Triandafyllidou, Routledge, 2015, p.28

⁴²² DE GENOVA, N. AND ROY, A. *Practices of Illegalisation*. Department of Comparative Cultural Studies, Antipode, Vol. 52 No. 2, Texas, 2019, p. 354

⁴²³ ILO Country Office for Bangladesh. “Gender and migration from Bangladesh”, 2014, p.20 available at https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_310411.pdf

⁴²⁴ Ibid., p.21. This concept is also stressed by the CEDAW Committee General Recommendation n.38 in paragraphs 26-27 “Visa regimes may be responsible for creating an economic and legal dependency on an employer or spouse, creating the conditions for exploitation and for such sponsors to operate with impunity”.

⁴²⁵ UNWOMEN, *Country overview: Women and Migration in Bangladesh*.cit.,p.7

who are exposed to various types of exploitation, including sexual exploitation. The Recommendation is divided into seven main parts among which “IV. Root causes of trafficking in women and girls, V. Assistance and protection for women and girls who are victims of trafficking, VI. Access for victims to justice”⁴²⁶. Its main purpose is to stress the real necessity to deal with the problem considering the gravity of the events according to the UN Office on Drugs and Crime report published in 2018⁴²⁷. Indeed, “The Committee highlights the particular vulnerability of smuggled women and girls to being trafficked and underlines the conditions created by restrictive migration and asylum regimes that push migrants towards irregular pathways”⁴²⁸. Then, the Committee stressed the way in which trafficking women is a real form of gender violence because it is “unequivocally a phenomenon rooted in structural, sex-based discrimination, constituting gender-based violence”⁴²⁹. Although a real juridical definition of sexual exploitation is not provided. Then the Committee reiterated the obligation and responsibility of States that have to ensure women's protection through inclusive and accessible services as well as to victims who have to receive “special assistance and protection”⁴³⁰. Then, the final recommendations are based on a victim-oriented approach favouring the pillars of prevention and protection rather than that of the criminalisation of those responsible. Indeed, the gender approach aims to dismantle the patriarchal system and the systemic conditions that put women at a disadvantage. The General Recommendation is certainly a very useful tool for States to implement the obligations stemming from CEDAW and other binding instruments to which they are party to combat trafficking.

⁴²⁶CEDAW Committee, General Recommendation n.38, CEDAW/C/GC/38, available at <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhslldCrOIUTvLRFDjh6%2fx1pWDzDf17M0o0BdlJx4bGjoTpEC7aWTfIJ%2bMFyvHZlvCfZVEqSL1jJIWyeU8VOBm0RI5RWK%2bGtjkDtGDFxuwvZtW>. See also DE VIDO, S., *General Recommendation n. 38 del Comitato per l'Eliminazione di ogni forma di discriminazione nei confronti delle donne sulla tratta di donne e bambine nel contesto delle migrazioni globali in ordine internazionale e diritti umani*, vol. 1, pp. 161-168.

⁴²⁷UNODC, Global Report On Trafficking In Persons, 2018 available at [GLOTiP_2018_BOOK_web_small.pdf \(unodc.org\)](https://www.unodc.org/documents/trafficking-in-persons/2018-report-on-trafficking-in-persons/GLOTiP_2018_BOOK_web_small.pdf)

⁴²⁸ CEDAW Committee, General Recommendation n.38, CEDAW/C/GC/38 , par.5

⁴²⁹ Ibid., par.10

⁴³⁰ Ibid., paragraphs 38-39-40

In addition to this, considering a sociologist point of view, female domestic migrants' work defined by feminists as "social reproduction"⁴³¹ is part of the global care economy or care industry that portrays "the marketisation of care as a fictitious commodity"⁴³². This is characterized by an international division of reproductive labour that appears unequally distributed due to globalisation. Indeed, this phenomenon generates a system of exploitative cheap labour on behalf of less privileged migrant women, as in the case of Bangladesh⁴³³.

Moreover, these women should not be seen as isolated individuals but as members of a family: the concept of the global care chain shows how domestic migrant women move leaving a gap in their families. In its turn, the family may pay another poor woman to fill the gap creating a care drain-care gain system. As a result, the winning families in the richer countries will profit from the "emotional added value" of the care worker, while the rest of the family in the home country is considered "the loser who has to pay the emotional price"⁴³⁴.

This care substitution establishes new forms of transnational families in which gender roles and primary responsibilities are re-defined. Besides, new technologies gave birth to the virtualisation of family life allowing people to keep in touch even when they are physically separated. For these reasons, some scholars prefer the expression care circulation for this exchange of care support. Then, migrant women contribute to send remittances to their left-behind families that constitute an important source of income. All these aspects happen daily in Bangladesh where women, thanks to care jobs, are capable to send back home a greater portion of their earnings than men. This could change gender relations presenting women as the breadwinners of their families. Apart from financial payments, there are also social remittances that cover all those new skills and knowledge that can help women to boost socio-economic development in their communities. However, in the case of Bangladesh, women cannot apply practically those abilities upon return because they find

⁴³¹ MARCHETTI, S. *Gender, migration and globalisation: an overview of the debates*, cit., p. 450

⁴³² LUTZ, H., AND PALENGA-MÖLLENBECK, E. *Care Workers, Care Drain, and Care Chains: Reflections on Care, Migration, and Citizenship*, cit., p.232

⁴³³ YEOH S. A., BRENDA, ET AL. *Transnational family dynamics in Asia*. Handbook of Migration and Globalisation, edited by A. Triandafyllidou, Edward Elgar Publishing, 2018, pp.415

⁴³⁴ LUTZ, H., AND PALENGA-MÖLLENBECK, E. *Care Workers, Care Drain, and Care Chains: Reflections on Care, Migration, and Citizenship*, cit., p.230

themselves bound by socio-religious constraints. Their stigmatization and institutional inefficiency do not allow them to be totally reintegrated into the society, leaving women in a low status within their community⁴³⁵.

In conclusion, having seen the complexities in defining climate change-induced migrations, Bangladesh appeared a difficult reality in terms of inequalities and environmental migration. In the context of climate change hazards, women's life choices are compromised by a constant dilemma: starting from the very first phase of migration to their likely return home. As a result, an important step to enhance female migration (internally and internationally) would be bringing the issue to the current agenda of policymakers and NGOs because the existent measures are not enough. For this reason, increased awareness is a precondition to make legal ways even more effective. Concrete actions are needed to change women's subjugated status, making their voices heard to disempower their social stigma and giving them good means to achieve an upper level in the society. The following chapter will be dedicated to the solution internationally and regionally towards a human rights-based approach.

⁴³⁵ ILO Country Office for Bangladesh, *Gender and migration from Bangladesh*, cit., p.25

CHAPTER 4. GENDER STRATEGIES TO FACE CLIMATE CHANGE AND HUMAN RIGHTS-BASED APPROACH TO ENVIRONMENTAL LAW

1. Possible solutions related to gender: adaptation, mitigation, capacity building, financing mechanism and technologic transfer

After having seen all the implications and issues generated by climate change and how gender is a fundamental component in the narrative, this paragraph provides valuable solutions considering women's participation. Indeed, climate change policies need to establish a comprehensive, integrated and long-term approach, including the definition of global targets and actions at every scale⁴³⁶. In 2015, during the Third UN World Conference on Disaster Risk Reduction in Sendai (Japan), The Sendai Framework for Disaster Risk Reduction 2015-2030 was adopted aiming to achieve the substantial reduction of disaster risk, losses in livelihoods, and assets through the creation of some global targets along with strengthening disaster risk governance and resilience⁴³⁷.

In order to understand better this framework, it is necessary to outline the main strategies developed until now to fight climate change. Three approaches, which consider also a gender perspective, are mitigation, adaptation, and capacity building⁴³⁸. All countries should embrace a process of mitigation that means "all human interventions to reduce anthropogenic forcing of the climate system. It includes strategies to reduce greenhouse gases (GHG) sources and to enhance GHG sinks"⁴³⁹. Indeed, the IPCC measures aim at limiting the temperature rise to 1.5°C underling the importance of removing CO₂ from the

⁴³⁶ EIGE Report, Review of the Implementation in the EU of area K of the Beijing Platform for Action: Women and the Environment Gender Equality and Climate Change, Luxembourg: Publications Office of the European Union, 2012, p. 13. See also European Commission report on Climate Change, Special Eurobarometer, 490, 2019 p. 5 available at

https://ec.europa.eu/clima/sites/clima/files/support/docs/report_2019_en.pdf

⁴³⁷ UNDRR, Sendai Framework for Disaster Risk Reduction 2015-2030, available at <https://www.undrr.org/implementing-sendai-framework/what-sendai-framework>

⁴³⁸ IPCC, AR4 Climate Change 2007: Impacts, Adaptation, and Vulnerability, 2007 available at <https://www.ipcc.ch/report/ar4/wg2/>

⁴³⁹ Ibid.; See also BLEWITT, J., *Understanding sustainable development*, Routledge, 2018, p.15

atmosphere to implement emissions reduction policies. Countries signatories to UNFCCC committed to “adopt national policies and take a responding measure on the mitigation of climate change by limiting anthropogenic emissions [...] and protecting and enhancing its greenhouse gas sink reservoir”⁴⁴⁰. Indeed, all countries should participate and observe the principle of common but differentiated responsibility in which rich countries take the lead in addressing the challenges caused by climate change⁴⁴¹.

Yet in 1997, countries acted through the Kyoto protocol creating the Emission Trading System (ETS) and the Clean Development Mechanism (CDM), two systems that allowed states to manage and exchange trading polluting rights in an artificial market⁴⁴². In particular, the CDM enables industrialised countries to invest in projects that reduce emissions in developing countries as a valuable alternative to more expensive emission reductions in their own countries⁴⁴³. In this way, the rich countries receive a certified emission reduction (CER). The underlying idea is that the “incremental impact of a ton of Green House Gases on climate change is independent of where in the world it is emitted” because is a global phenomenon⁴⁴⁴. The problem is that these mechanisms, pushed also by the Paris Agreement (2015), work on the basis of a goodwill attitude but the agreement itself did not provide binding measures, excluding the system of procedures. Thus, it provided the intended Nationally Determined Contributions (NDCs) that involve the steps to reduce CO2 emissions, meaning the targets in terms of CO2 reduction to attain them⁴⁴⁵.

⁴⁴⁰ UN, United Nations Framework Convention On Climate Change, 1992, Article 4(2a))

⁴⁴¹ The principle of common but differentiate responsibilities has been set by principle 7 of the Rio Declaration in 1992, “States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth’s ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities [...]”.

⁴⁴² See Emission Trading system under the Kyoto Protocol available at <https://unfccc.int/process/the-kyoto-protocol/mechanisms/emissions-trading>

⁴⁴³ UNEP, *Training Manual on International Environmental Law*, 2006, p. 43

⁴⁴⁴ Nationally Determined Contributions (NDCs), <https://unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributions-ndcs/nationally-determined-contributions-ndcs>; See also BLEWITT, J., *Understanding sustainable development*, cit., p. 15

⁴⁴⁵ A remarkable example is Denmark that declared its willingness to reduce emissions to 70% of its 1990 carbon levels within 10 years, see <https://www.brinknews.com/denmark-becomes-a-leader-in-climate-change/>

Also at the European level, there is the willingness to being a leader in global climate action. As a party to the Paris Agreement, the European Union has committed to implement climate mitigation policies to keep the average temperature rise indicated by the IPCC. Commission President Ursula von der Leyen presented in 2019 the European Green Deal as the strategy towards a climate-neutral Europe by 2050 and proposed a European climate law in 2020 to make this target legally binding. The Commission has been empowered to set out an emissions trajectory for the period 2030-2050 along with carrying out five-yearly assessments of progress made towards the objectives and the carbon dioxide removal (CDR) portfolio. In September 2020, the Commission amended the proposal to present the updated 2030-climate target of a net reduction of at least 55 % of the EU's GHG and then increased to a 60 % emissions reduction by the Parliament⁴⁴⁶. This change in the production of energy involves new techniques from nature-based practices to technological alternatives such as enhanced weathering, and bioenergy with carbon capture and storage⁴⁴⁷.

The second approach is adaptation defined by the IPCC as “the adjustment in natural or human systems in response to actual or expected climatic effects which moderates harm or exploits beneficial opportunities”⁴⁴⁸. Adaptation involves climate-proofing agriculture and ensuring food security, promoting the conservation and efficient use of water, disease management, a sustainable development resilience. National governments need to coordinate adaptation efforts of local governments, by protecting vulnerable groups, supporting economic diversification, and providing financial support.

During this process of adaptation, differences between developed and underdeveloped countries emerged along with the concept of environmental injustice. Indeed, if in

⁴⁴⁶ European Parliament, European climate law, Briefing EU Legislation in Progress, 2020, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649385/EPRS_BRI\(2020\)649385_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649385/EPRS_BRI(2020)649385_EN.pdf); See also the European target Plan, Raising the level of ambition for 2030, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/659370/EPRS_BRI\(2020\)659370_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/659370/EPRS_BRI(2020)659370_EN.pdf)

⁴⁴⁷European Parliament, Carbon dioxide removal Nature-based and technological solutions, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689336/EPRS_BRI\(2021\)689336_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689336/EPRS_BRI(2021)689336_EN.pdf). See also the postponement of the COP26 climate change conference by one year slows down international climate action, but also offers the opportunity for the Parties to develop ambitious long-term strategies in the aftermath of the coronavirus crisis.

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652032/EPRS_BRI\(2020\)652032_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652032/EPRS_BRI(2020)652032_EN.pdf)

⁴⁴⁸IPCC, AR4 Climate Change 2007: Impacts, Adaptation, and Vulnerability, cit.

developed countries governments invest in artificial and technological tools, in import countries (Africa and Asia) people see as a fundamental action planting mangroves to protect themselves against monsoons while women and children are being taught to swim to face the rise of sea level⁴⁴⁹. Because of a distributive issue, poor countries are less responsible but they bear major impacts and they have no resources to adapt: adaptation means receiving financial support from rich countries. As the Paris agreement underlines, poor developing countries need to implement a system of “loss and damage” to manage a system of economic and financial relief in order to address irrecoverable negative impacts⁴⁵⁰. A sort of solution has been found creating the Green Climate Fund to be fed with US 100\$ billion, per year, taking into account developing countries’ needs⁴⁵¹.

The third approach is capacity building, a tool for the enforcement of national environmental laws thanks to which poor countries use the support of rich countries to build the capacity they need (resources, quality of institutions, finance, organisation, technical tools) to address climate change⁴⁵². Also the UNFCCC-related institutions, complemented by arrangements, provide means of implementation to sustain their adaptation efforts. Three elements for capacity building have been identified to implement a global climate change strategy: alleviation of poverty, transfer of technology, and good governance. Indeed, improving the transparency process in the local and national governance helps the participation of all stakeholders in the decision process guaranteeing democracy⁴⁵³. As above mentioned, the Paris agreement continues the UNFCCC’s call for GCC strategies and invites states to provide efficient adaptation measures along with fostering climate resilience⁴⁵⁴. Thus, it is evident how international cooperation is at the basis of the achievement of such measures that need to be translated into national policies.

⁴⁴⁹ WALLACE, D. AND SILANDER, D., *Climate Change, Policy and Security*, Routledge, 2018, chapter 2, pp.46-49

⁴⁵⁰ Paris Agreement, art.8 “1. Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage”. See also WALLACE, D. AND SILANDER, D., *Climate Change, Policy and Security*, cit., chapter 2, p.48

⁴⁵¹ The Green Climate Fund <https://www.greenclimate.fund/>

⁴⁵² UNEP, *Training Manual on International Environmental Law*, 2006, cit.p.19-20

⁴⁵³ WALLACE, D. AND SILANDER, D., *Climate Change, Policy and Security*, cit, p. 18

⁴⁵⁴ COP21, The Paris Agreement, Paris, 2015, art.3

The WB estimates that if actions do not take place to promote adaptation an additional 100 million people will be pushed into poverty by 2030 as a consequence of GCC⁴⁵⁵.

Moreover, mitigation actions appear less easy to apply than the other solutions because it can question the economic structure and political status quo of a country⁴⁵⁶. Indeed, the restructuring process of many economic sectors can play a role both in improving the environmental condition and the business dynamism of the country. Thus, the economy should go side by side with the solution for global climate change. Very often, developed countries prefer adaptation measures as they have enough resources (financial, technological, political) for adapting and building resilience, avoiding mitigation efforts. Adaptation is seen also as a form of state securitization because, instead of taking actions for improving the social and economic situation, States seek forms of reinforcing legislation, building physical walls form protecting the borders, and limiting the environmental-forced migration of neighbouring countries⁴⁵⁷.

In addition to these basic definitions, solutions to climate change should embark a gender-responsive approach to create reliable solutions for women⁴⁵⁸. As defined by the UNISDR “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,

⁴⁵⁵ See “Rapid, Climate-Informed Development Needed to Keep Climate Change from Pushing More than 100 Million People into Poverty by 2030”, 2015 <https://www.worldbank.org/en/news/feature/2015/11/08/rapid-climate-informed-development-needed-to-keep-climate-change-from-pushing-more-than-100-million-people-into-poverty-by-2030>

⁴⁵⁶ WALLACE, D. AND SILANDER, D., *Climate Change, Policy and Security*, cit., chapter 1.

⁴⁵⁷ Ibid.

⁴⁵⁸ As described by the Agenda 2030, “Women and girls must enjoy equal access to quality education, economic resources and political participation as well as equal opportunity with men and boys for employment, leadership and decision-making at all levels. We will work for a significant increase in investments to close the gender gap and strengthen support for institutions in relation to gender equality and the empowerment of women at the global, national and regional levels. The systematic mainstreaming of a gender perspective in the implementation of the Agenda is crucial”, paragraph 20 of the Declaration by the UN Sustainable Development Knowledge Platform “Transforming Our World: the 2030 Agenda for Sustainable Development”, available at <https://sustainabledevelopment.un.org/post2015/transformingourworld>

information management, and education and training”⁴⁵⁹. This aspect has already been considered by the IPCC when, in 2001, considered that climate change impacts would have disproportionately affected people living in poverty, among which women⁴⁶⁰. The emphasis on resilience and adaptation characterizes the debate developed, in recent years, within broad spheres of feminism. As already mentioned in the previous chapter, women and men have different capabilities in terms of mitigating and adapting to climate change at the individual and group levels. However, if there is no gendered approach toward environmental strategies, differences between men and women may be overlooked or reinforced spreading gender inequality and women’s vulnerability to climate change⁴⁶¹.

As far as adaptation is concerned, prevailing gender roles and identity differences showed that women are more likely to have a greater awareness of health issues, thus, they can play an important role in adaptation, while men tend to be more strongly oriented towards convenience. Mitigation can help to promote gender equity and women’s empowerment by addressing women and men’s energy uses as well as their traditional knowledge and practices in the use, conservation, and management of the environment⁴⁶².

Moreover, from a gender perspective, climate change can also represent an opportunity to change gender relations so as to create an “innovative or radical adaptation” in society. Indeed, apart from being vulnerable, women had to be considered for their virtuousness and primary role: “women are vital agents of change, holders of valuable knowledge and skills, and can be powerful leaders from the community to the global level in climate

⁴⁵⁹ UNISDR, Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters, Extract from the report of the World Conference on Disaster, Hyogo, 2005, part III (A), art.13 (d) Available at <https://www.unisdr.org/2005/wcdr/intergover/official-doc/L-docs/Hyogo-framework-for-action-english.pdf>; See also the Manila Declaration para. B “Women and men must equally participate in climate change, disaster risk reduction decision-making processes at community, national, regional and international levels”.

⁴⁶⁰ UNDP, Resource guide on gender and climate change, December 18th, 2015. Available at <https://www.undp.org/content/undp/en/home/librarypage/womens-empowerment/resource-guide-on-gender-and-climate-change.html>

⁴⁶¹ UNDP, Gender, Climate Change and Community-Based Adaptation: A Guidebook for Designing and Implementing Gender-sensitive Community-based Adaptation Programmes and Projects, 2010.

⁴⁶²EIGE, Gender in environment and climate change, 26th January 2017 available at <https://eige.europa.eu/publications/gender-environment-and-climate-change>

change mitigation, adaptation and disaster risk reduction”⁴⁶³. As defined by the Manila Declaration, women can be positive contributors to enhance the development of sustainable practices acting as guardians of valuable traditional and indigenous knowledge on land use. Women are keener to risk and more likely to support the drastic policies on climate change⁴⁶⁴. Women have been willing and able to take an active role in what is traditionally considered “male” tasks in responding to disasters. Indeed, local coping and adaptation strategies, in which women are involved, aim to strengthen the security of their families and household through moving to safer places, adapting agricultural practices, enhancing reforestation, funding alternative health care, organising collective actions. It is widely known that gender-specific climate change adaptive capacities are context-specific, however, in many cases, women appeared to develop innovative strategies to address climate change impacts⁴⁶⁵.

In 2017, Gender Action Plan under the UNFCCC was adopted at COP23. Its objective was to support the implementation of gender-related decisions in the UNFCCC process, with activities identified under five priority areas⁴⁶⁶. Moreover, it aimed at ensuring women's influence in climate change decisions as well as an equal gender representation in all aspects of the UNFCCC. The Gender Action Plan activities ranged from increasing knowledge and capacities of women and men through workshops and information exchanges. In this way, they could systematically integrate gender considerations in all

⁴⁶³ Manila Declaration for Global Action on Gender in Climate Change and Disaster Risk Reduction Manila, Philippines 22 October 2008 available at https://www.preventionweb.net/files/8731_maniladeclarationforglobalactionongenderinclimatechangeanddisasterriskreduction1.pdf ; See also JERNECK, A., *What about Gender in Climate Change? Twelve Feminist Lessons from Development*, in Sustainability Journal 2018, 10, 627, MDPI p.9

⁴⁶⁴ JONSSON, S. A., *Virtue and vulnerability: Discourses on women, gender and climate change*, Global Environmental Change: Human and Policy Dimensions, Elsevier, Vol. 21, Issue. 2, 2011, pp. 744-751. See BIANCHI, B., *Genere, generazioni e cambiamento climatico. Temi e questioni per una rubrica*, in Rivista DEP n. 41-42 / 2020 Numero Doppio, p.274 paragraph “Resilienza, mitigazione, adattamento. L’inclusione delle donne nelle politiche sul cambiamento climatico”.

⁴⁶⁵ DANKELMAN, I., *Gender and climate change: An introduction*, London, Earthscan, 2010, pp.93-95

⁴⁶⁶ UNEP, *Gender and Climate Change*, 2017; See also UNFCCC, *Pocket Guide to Gender Equality*, 2017; See also UNFCCC, *Establishment of a Gender Action Plan*, 2017

areas of their work, to obtain the full and meaningful participation of women from national delegations, grassroots organizations, local and indigenous groups⁴⁶⁷.

The gender linkage between climate change solutions has been embarked on by the UNFCCC considering the inclusion of gender equality in National Adaptation Programmes (NAPA) to enhance the resilience of vulnerable communities and the implementation of gender-sensitive perspective in ecosystem-based approaches. Indeed, the UNFCCC required that Least Developed Countries (LDC) submit a NAPA where the country describes its priorities concerning coping with climate change⁴⁶⁸. Gender-responsive adaptation needs to consider several factors among which food security, gender groups at risk, access to resources, access to water and its management, leadership⁴⁶⁹. Indeed, the capacity to adapt to climate change is linked to people's ability to exercise their fundamental human rights and socio-economic conditions⁴⁷⁰.

According to UNCCC, adaptation is the area in which gender is most well integrated⁴⁷¹. Taking into account some UN key decisions, the UNFCCC Cancun Agreement established “enhanced action on adaptation [...] should follow a country-driven, gender-sensitive, participatory and fully transparent approach, taking into consideration vulnerable groups, and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional and indigenous knowledge [...]” (part II, art. 12)⁴⁷². Then, in 2010,

⁴⁶⁷UNWOMEN, First-ever Gender Action Plan to support gender-responsive climate action adopted, November 14, 2017 <https://www.unwomen.org/en/news/stories/2017/11/announcement-first-ever-gender-action-plan-on-climate-action-adopted>

⁴⁶⁸ IUCN, UNDP, GGCA, *Training manual on gender and climate change*, 2009, p. 130, available at <https://www.iucn.org/content/training-manual-gender-and-climate-change-0>

⁴⁶⁹Climate Resilient Women <https://undp-climate.exposure.co/climate-resilient-women>

⁴⁷⁰ UNFCCC, *Pocket Guide to Gender Equality*, cit. See also UN WomenWatch. *Women, Gender Equality and Climate Change Fact Sheet*, 2009. Available at http://www.un.org/womenwatch/feature/climate_change/downloads/Women_and_Climate_Change_Factsheet.pdf; See also WHO, *Gender, climate change and Health*, 2009 <https://www.preventionweb.net/publications/view/12683>

⁴⁷¹ An interesting gender Analysis of the Paris Agreement has been provided by African Working Group on Gender and Climate Change (AWGGCC) highlighting art.7 and 11 of the Agreement through gender lenses: “Gender analysis of the Paris Agreement and Implications for Africa” available at <https://idl-bnc-idrc.dspacedirect.org/handle/10625/56476>

⁴⁷² UNFCCC Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, FCCC/CP/2010/7/Add.1, Conference of the

the Adaptation Committee was established as part of the Cancun Adaptation Framework to promote the implementation of enhanced action on adaptation coherently under the UNFCCC⁴⁷³. Then, Decision 5/CP.17 reiterates that the NAPA process should be country-driven, gender-sensitive, and participatory (art.2-3-4)⁴⁷⁴. This decision provides also some guidelines to enable least developed countries to formulate national adaptation plans including key goals and suggestions such as using sex-disaggregated data and adaptation assessments. In this context, States need to play an active and effective role in ensuring the equal participation of women, supporting concretely people living in poverty through new comprehensive policies. For example, assess adaptation and mitigation technologies and gender-conscious steps to improve their critical roles in the provision of water, food, and energy in rural areas⁴⁷⁵.

Moreover, Decision 6/ CP.17 requests the Nairobi Work Programme to include indigenous knowledge connected to practices for adaptation and gender-sensitive tools approaches for assessing impacts, vulnerability, and adaptation to climate change issues⁴⁷⁶. A joint meeting on the same topic followed in 2014, between the Adaptation Committee, the

Parties Report of the Conference of the Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010 Addendum Part Two: Action taken by the Conference of the Parties at its sixteenth session available at <https://unfccc.int/sites/default/files/resource/docs/2010/cop16/eng/07a01.pdf>

⁴⁷³ Knowledge Support provided to the Adaptation Committee, <https://unfccc.int/topics/adaptation-and-resilience/workstreams/nairobi-work-programme-nwp/supporting-the-constituted-bodies/knowledge-support-provided-to-the-adaptation-committee> Another decision that can be considered is Decision 6/CP.16 that requires the Least Developed Countries Expert Group should be mandated to provide technical guidance and advice onto provide technical advice on gender-related considerations (art. 2c). UNFCCC, Decision 6/CP.16 Extension of the mandate of the Least Developed Countries Expert Group, Conference of the Parties, FCCC/CP/2010/7/Add.2, Report of the Conference of the Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010 available at <file:///C:/Users/Fujitsu/Downloads/07a02.pdf>

⁴⁷⁴ Decision 5/CP.17, National adaptation plans, FCCC/CP/2011/9/Add.1, available at <file:///C:/Users/Fujitsu/Downloads/09a01.pdf>

⁴⁷⁵ Gender Action Learning for Sustainability at Scale (GALSatScale), <http://www.galsatscale.net>

⁴⁷⁶ Decision 6/CP.17, Nairobi work programme on impacts, vulnerability and adaptation to climate change, FCCC/CP/2011/9/Add.2 available at <file:///C:/Users/Fujitsu/Downloads/09a02.pdf> ; See also UNFCCC, Best practices and available tools for the use of indigenous and traditional knowledge and practices for adaptation, and the application of gender-sensitive approaches and tools for understanding and assessing impacts, vulnerability and adaptation to climate change, FCCC/TP/2013/11 available at <https://unfccc.int/resource/docs/2013/tp/11.pdf>

Nairobi Work Programme, and expert stakeholders that generated a report including the importance of gender perspective and indigenous culture⁴⁷⁷.

Following these decisions, different actors started to take action to support countries in integrating gender into climate change strategies⁴⁷⁸. An emblematic example of gender adaptation to climate change emerged from Brazil with the Pintadas Solar case⁴⁷⁹. This case attests that climate change strategies can be effectively used to empower women and build a new sustainable development based on a gender-sensitive approach. The north-eastern region of Brazil has been particularly affected by strong natural disasters due to climate change, but in 2006, some Brazilian NGOs along with networks implemented an adaptation strategy focusing on irrigation for small agriculture. The pilot project took place in Pintadas, an area very well known for the several women's mobilization struggles (Lameiro struggle) to possess their lands. During the years that followed, a group of women formed the Association of Women of Pintadas who built some reservoirs to collect water for domestic use and agricultural use. The Pintadas Solar project was designed to identify appropriate small-scale irrigation technology, water, and energy-efficient, that could ensure food security and income generation for rural families. They developed two different types of systems: drip irrigation and a Brazilian technology without chemical fertilizers (organoponia). They created revolving funds and transformed the local cooperatives into retailers of the irrigation systems. The successful factor was to consider both women and men on an equal basis in terms of training and micro-credit. The leadership of the project was also assigned to a woman farmer in order to highlight the feminine qualities that are embedded in the project⁴⁸⁰.

Remaining in the field of agriculture but shifting the geographical focus, in Tamil Nadu (India), some traditional agricultural activities (threshing, winnowing, cleaning, and drying

⁴⁷⁷ UNFCCC, The Nairobi work programme: The UNFCCC Knowledge-to-Action Hub for Climate Adaptation and Resilience, available at <https://unfccc.int/topics/adaptation-and-resilience/workstreams/the-nairobi-work-programme-the-unfccc-knowledge-to-action-hub-for-climate-adaptation-and-resilience>

⁴⁷⁸ Also UNFCCC Decision 28/CP.7 helped stating that preparation of National Adaptation Programmes of Action (NAPAs) must be guided by gender equality.

⁴⁷⁹SEED, 2008 SEED Award Winner Sustainable Agriculture Brazil, available at <https://www.seed.uno/enterprise-profiles/pintadas-solar>

⁴⁸⁰ DANKELMAN, I., *Gender and climate change: An introduction*, cit., p.169; See also OBERMAIER, M. ET ALL., Dryland adaptation in Northeast Brazil: Lessons from a community-based pilot project, 2014 in the Journal of Field Actions

practised by women during ages, contributed to climate change adaptation. For instance, women farmers have improved traditional post-harvest systems to make food last longer⁴⁸¹. This project was also supported by ActionAid⁴⁸² that sought to transform gender relations by redistributing more equally the resources, responsibilities, and power between women and men in the society. ActionAid project focused mainly on increasing women's participation in community decision-making through awareness-raising and skills training (concretely women's groups learning to swim and to fish)⁴⁸³. In near Bangladesh, in the district of Gaibandha, a committee was created to prepare women in case of floods and natural disasters. Women were taught to make portable clay ovens, raise their houses, managing new marine species, and use radios in case of climate emergence. The committee promoted training and men-women cooperation to monitor climate change events, ensured access credit to improve living conditions for families, included gender criteria and strategies in Environmental Impact Assessments (EIAs)⁴⁸⁴. Then, Climate Change Adaptation and Disaster Risk Reduction in Bangladesh is a women-centred initiative that helps women to adapt to climate change participating actively and getting involved in activities such as identifying action plans, build temporary dams to avoid salinisation of freshwater while sharing knowledge. This community-based approach empowers women to express their needs, increases their resilience to climate change to ensure the spreading of this effective system, and gives them more autonomy and independence⁴⁸⁵.

⁴⁸¹ World Farmers Organization. 2013. Women Adapt to Climate Change. P.13-14; See also other examples provided in Women, Gender, Constituency "Gender Climate Solutions" <http://womensgenderclimate.org/wp-content/uploads/2016/12/ENG-WGCSolutionsPublFINALWEB.pdf>

⁴⁸² Due to a lack of capacity of local partners, ActionAid implemented this programme directly, supported by the Disasters Emergency Committee (DEC). The DEC is a UK-based umbrella organization that launches and coordinates international disaster response by raising funds on behalf of UK NGOs.

⁴⁸³ ISDR, Gender Perspectives: Integrating Disaster Risk Reduction into Climate Change Adaptation Good Practices and Lessons Learned, 2008, p. 34

https://www.un.org/waterforlifedecade/pdf/2008_isdr_gender_perspectives_disaster_risk_reduction_cc_eng.pdf

⁴⁸⁴ IUCN, UNDP, GGCA, *Training manual on gender and climate change*, cit., p.137

⁴⁸⁵ ActionAid Bangladesh, *Climate Change Adaptation and Disaster Risk Reduction in Bangladesh*, chapter 7 in *Roots for the future*, p.429 available at <http://wedo.org/wp-content/uploads/2015/12/Roots-for-the-future-final-1.pdf> ; See also the report by ABEKA, S., ET ALL, *Women Farmers Adapting to climate change*,

Also in the Pacific Island adaptation programs started to be developed. Since 2003, the Secretariat of the Pacific Community (SPC) has been implementing a sustainable agricultural development programme (DSAP) throughout the Pacific region. The programme focused on testing technologies to improve farmers' traditional agricultural systems, and the main adaptation measures were enhancing the quality of soil and more use of drought-resistant techniques. This has been achieved by establishing some National Steering Committees (NSCs) including the use of a participatory rural approach (PRA) meaning the participation of relevant stakeholders from both government and civil society to focus on better environmental resource management to achieve sustainable livelihoods. This allowed to developed benefits in terms of disaster risk reduction and gender equality in the region⁴⁸⁶. Indeed, the programme included a gender-responsive approach at every level and in capacity-building activities where gender indicators were used as a mean of measuring women's participation⁴⁸⁷.

The UNFCCC highlights the relevance of women also in capacity buildings including all levels of climate change policymaking (at international, national and local level)⁴⁸⁸. The Commission on the Status of Women on the fifty-second session (2008), held a panel discussion on “capacity-building on mainstreaming a gender perspective in the development, implementation, and evaluation of national policies and programmes for financing gender equality and the empowerment of women”⁴⁸⁹. Like adaptation, gender is

Diakonisches, dialogue 09, 2012 available at https://www.brot-fuer-die-welt.de/fileadmin/mediapool/2_Downloads/Fachinformationen/Dialog/dialog09_women-farmers.pdf

⁴⁸⁶ See MCLEOD ET ALL, *Raising the voices of Pacific Island women to inform climate adaptation policies*, Marine Policy 93, 2018, pp.182-183

⁴⁸⁷ ISDR, *Gender perspectives: Integrating Disaster Risk Reduction into Climate Change Adaptation*. cit, 2008 p.21. See also South Pacific Disaster Reduction Programme (SPDRP), Gender, households, community and disaster management: case studies from the Pacific Islands, 2002. In 2007 the Programme gained the SPC Gender Award (SOPAC Technical Report 282). Resource presented at Gendered Dimensions of Disaster Risk Management and Adaptation to Climate Change in the Pacific Islands, AusAID and UNDP Pacific Centre Workshop, 20–21 February, 2008, Fiji

⁴⁸⁸ UN WomenWatch, *Women, Gender Equality and Climate Change Fact Sheet*, cit.

⁴⁸⁹ Commission on the Status of Women 25 February-7 and 13 March 2008 available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N08/290/62/PDF/N0829062.pdf?OpenElement> and <https://www.un.org/womenwatch/daw/csw/52sess.htm> ; See also IUCN, UNDP, *Training Manual on Gender and Climate Change*, cit., p. 133

well-integrated under capacity building, including several decisions adopted by the UNFCCC that involve a gender-sensitive approach⁴⁹⁰. In particular, Decision 16/CP.22 and Decision 21/CP.22 invite the Paris Committee on Capacity Building to take gender-responsiveness and human rights as cross-cutting issues in the 2016-2020 period and to “increase the active participation of women in the bodies established under the Convention” (art.10)⁴⁹¹.

A concrete case of capacity building is the one of India concerning Self Employed Women’s Association (SEWA), a membership-based organization created in 1972 from the collaboration between women, and cooperative movements, to push self-employed women in the informal economy and assist them in order to achieve social justice, equality during work. Since the 1980s, SEWA supported women to enhance their job opportunities through unions and cooperatives, facilitating their access to social security, social protection, and labour standards. SEWA provided also training and capacity building in managerial skills above all concerning water management. Starting from the 2000s with climate change disasters, the association embarked adaptation measures. For its efficiency, SEWA was invited in the drought-prone Banaskantha district of Gujarat by the Indian government, to assess the impact of a water-pipeline project⁴⁹².

According to UNFCCC, mitigation is, however, one of the strategies in which gender concerns are least incorporated due in part to women being understood mainly in the context of vulnerability. Key mitigation areas have been promoted by several decisions to reduce emissions from forest degradation, but few address gender considerations when implementing national actions⁴⁹³. Thus, UNFCCC decision 1/CP. 20 calls for the effective

⁴⁹⁰ Decision 1/CP.16 decides that capacity-building support to developing countries should take into account gender aspects; Decision 15/CMP.7, on capacity building under the Kyoto Protocol, affirms the importance of taking into account gender considerations.; Decision 15/CP.18, on Article 6, observes gender as a crosscutting issue in all six areas of Article 6 of the Convention.

⁴⁹¹ UNFCCC Decisions: 16/CP.22 Third comprehensive review of the implementation of the framework for capacity-building in developing countries under the Convention 21/CP.22 Gender and climate change FCCC/CP/2016/10/Add.2, available at <https://unfccc.int/resource/docs/2016/cop22/eng/10a02.pdf>

⁴⁹² SEWA Report available at

http://www.ilo.org/wcmsp5/groups/public/@ed_emp/@emp_policy/documents/publication/wcms_234890.pdf; See also UNDP, *Gender mainstreaming, a key driver of development in environment & energy, training manual*, p. 9

⁴⁹³ Decision 1/CP.16; Decision 2/CP.17 (in particular Part F art.90); Decision 12/CP.17

engagement of women in the technical examination process for mitigation plans. Gender considerations could be improved concerning mitigation in many areas. For example, there are no guidelines on integrating gender into Nationally Appropriate Mitigation Actions (NAMAs) in the way they are considered in adaptation programmes. This type of guidance would be very useful for Parties given that most climate financing instruments have requirements for gender considerations, as elaborated below⁴⁹⁴.

A particular case study regarding mitigation concerned the protection of forests, an important biodiversity environment that guarantees livelihood, food and shelter. Nowadays, deforestation and forest degradation considerably affect forest-dependent communities and indigenous peoples, while causing the release of carbon dioxide into the atmosphere. The Community-Based Redd+ (CBR+) is a partnership between the UN-REDD Programme and the GEF Small Grants Programme (SGP), implemented by UNDP, delivering grants directly to indigenous peoples and forest communities. The project aims to empower such communities to fully engage in REDD+, including a better definition of land use rights and the development of benefit-sharing mechanisms. In this case, gender considerations are part of the criteria for project selection. Also, some guidelines are provided to each pilot country to ensure gender equality principles are promoted within the framework of their CBR+ Country Plans. During the pilot phase (2014-2017), CBR+ has been implemented in several countries such as Paraguay, Panama, Nigeria, the Democratic Republic of Congo, Cambodia, and Sri Lanka. Particularly in these last three, gender considerations were clearly integrated into the outputs defined in the Country Plans, giving women a central position as a key stakeholder⁴⁹⁵.

Last but not least, the financing mechanism and technologic transfer represent two additional fields important to understand the opportunities for gender equality. In this regard, the Manila Convention abovementioned stresses that all financial institutions and mechanisms related to climate change should envisage the importance of gender-sensitive criteria such as “allocate adequate resources to address the needs of women in climate change mitigation, adaptation and disaster risk reduction, for example through funding

⁴⁹⁴ UNFCCC, Pocket Guide to Gender Equality, cit.

⁴⁹⁵ Un-Redd Methodological Brief on Gender. 2017. <http://www.unredd.net/documents/global-programme-191/gender-and-womensempowerment-in-redd-1044/global-gender-resources/15952-technical-resource-series-4-un-redd-methodological-brief-on-gender-low-resolution-version.html>; The Redd Desk. 2016. Forests: Why Are They Important? <https://thereddesk.org/what-redd>

appropriate and environmentally sound technologies and supporting women's grassroots initiatives in sustainable use of natural resources"⁴⁹⁶. This has to be done considering climate change's effects on poor discriminated people. Moreover, at point f, the Manila Convention refers to the Clean Development Mechanism (CDM), which emerged from the Kyoto Protocol, underlying the importance to make carbon trading funds and credits equally accessible to both women and men in the fulfilment of renewable energy technologies⁴⁹⁷. Reducing Emissions from Deforestation and Forest Degradation (REDD) programme and REDD+ offer incentives for developing countries to reduce emissions and invest in low-carbon paths to sustainable development⁴⁹⁸. UN-REDD has been taking active steps towards gender equality and a human rights-based approach. Support has been provided both at the global level, with tools and reporting on gender, as well as at the national level, with assistance in women's empowerment principles within nationally led REDD+ action⁴⁹⁹.

Since the UNFCCC positioned clean technologies at the centre of global responses to climate change, technology has become increasingly relevant in adapting to and mitigating climate change.⁵⁰⁰ Financing mechanisms must be flexible enough to reflect women's priorities and needs. The active participation of women in the development of funding

⁴⁹⁶ Manila Convention, cit., paragraph e.

⁴⁹⁷ Manila Convention, cit., paragraph f.

⁴⁹⁸ DANKELMAN, I., *Gender and climate change*, cit., p.200; REDD+: reducing emissions from deforestation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries. This is based on paragraph 1(b)(iii) of the Bali Action Plan, which was adopted at the 13th session of the Conference of Parties (COP13) in December 2007. The main difference between REDD and REDD+ is that REDD+ gives the same level of priority to conservation, sustainable management and the enhancement of forest carbon stocks as to deforestation and degradation of forests. It is predicted that financial flows for GHG emission reductions from REDD could reach up to US\$30 billion a year (REDD, 2009). See also <https://sgp.undp.org/about-us-157/partnerships/community-based-redd-cbr.html>

⁴⁹⁹ UNREDD Programme, Un-Redd Methodological Brief On Gender, January 2017, <https://www.unredd.net/documents/global-programme-191/gender-and-womens-empowerment-in-redd-1044/global-gender-resources/15952-technical-resource-series-4-un-redd-methodological-brief-on-gender-low-resolution-version.html?path=global-programme-191/gender-and-womens-empowerment-in-redd-1044/global-gender-resources>

⁵⁰⁰ UN WomenWatch, *Fact Sheet, Women, Gender Equality and Climate Change*, cit. See also IUCN, UNDP, GGCA, *Training Manual on Gender and Climate Change*, cit.

criteria and allocation of resources for climate change initiatives is critical, particularly at local levels. Gender analysis of financial instruments for climate change is needed to guarantee gender-sensitive investments in all strategies to face climate change. Technological developments should take into account women's specific priorities along with their knowledge and expertise, including indigenous knowledge. Women should also have equal access to training, credit and skills-development programmes to increase their abilities⁵⁰¹.

In Nepal, the Pragati Women's Cooperative, one of several grassroots women's cooperatives, is an NGO established in 1993, to reduce risk from climate change. The cooperative represents squatter women and tries to reduce women's dependency on moneylenders providing them with access to and control over financial resources. When women are organized in groups they have a greater chance of influencing disaster risk reduction programs, and accessing resources. In Bharatpur, in Nepal, women from the squatter communities have been taking the lead in the construction of 750 toilets to improve sanitation in the area. Starting with a basic hygiene assessment of communities, they go on motivating on the importance of the matter and supervise the project⁵⁰².

In conclusion, adaptation, mitigation, capacity building, financial mechanisms, and technologies are concrete solutions that can be adapt to women's inclusion adopting a gender-responsive approach to limit the spread of inequalities. Many programmes and initiatives have been developed at the international, national, and local level, however, this perspective needs to be supported by good-multi-layered governance that envisages the change.

1.1 Good-Multi-Layered Governance and resilient cities as a solution: an overview

In considering climate change, and all its solutions, it is fundamental to embrace a new type of national perspective. In particular, to cope with climate change, new forms of governance are needed. Indeed, there is a difference between government and governance. While the former reflects a top-down national government-driven approach, the latter

⁵⁰¹ Ibid.

⁵⁰² DANKELMAN, I., *Gender and climate change: An introduction*, cit., p.91

considers the importance of multi-level and multi-actor approaches. This is in line with the idea that new types of governance are evolving “above” and “below” the State level⁵⁰³. Government focuses on the organization through which power and authority are exercised in a political unit such as a nation-state. Although the national government is the key actor, it implies a top-down approach, while a more holistic government would facilitate greater effectiveness, intergovernmental communication, and challenges that can no longer be administratively confined within a single departmental boundary⁵⁰⁴. According to the United Nations, governance refers to “the exercise of political, economic and administrative authority in the management of a country’s affairs at all levels. It comprises the mechanisms and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences”⁵⁰⁵. Over the past 10 years, the number of country-level programmes on governance supported by the United Nations system has expanded considerably. This implies a multilevel inclusive governance that supports decentralised local networks and territories⁵⁰⁶. Indeed, “the concept of multilevel governance is an effort to collectively solve public problems by involving a series of relevant actors from the local to the global level, such as institutions, states, civil society, and business”⁵⁰⁷. Thus, this type of governance mixes top-down and bottom-up approaches characterised by the interactions among several actors which promote the fulfilment of international agreements, global networks, cooperative efforts, etc. In a period of climate stress and natural disasters, a polycentric diversity in a system of good governance would improve the understanding of environmental governance.

Moreover, the good governance should embrace six key principles: openness, meaning people’s human rights and fundamental freedoms; active participation; accountability

⁵⁰³ BLEWITT, J., *Understanding sustainable development*, cit., pp.153-156. See also MURRAY, W.E AND OVERTON, J., *Geographies of Globalization*, Routledge, 2015, chapter 5, p.

⁵⁰⁴ Ibid.

⁵⁰⁵ UNDP, Definition of Governance, 1997 policy paper <https://www.parlicentre.org/Governance.php>

⁵⁰⁶ OECD, Multi-level Governance, Public Investment and Subnational Finance, available at <https://www.oecd.org/regional/multi-level-governance/>

⁵⁰⁷ HUNTJENS, P., AND NACHBAR, K., Climate Change as a Threat Multiplier for Human Disaster and Conflict, Policy and Governance Recommendations for Advancing Climate Security, The Hague Institute for Global Justice, working paper 9, May 2015, p. 9

meaning people can hold decision-makers accountable; effectiveness; coherence; and civic peace⁵⁰⁸. Thus, this demonstrates how the good governance is an “enabling tool” in providing inclusion, reducing urban poverty, improving services, fostering civic participation, and enhancing economic performance along with ensuring gender equality. In particular, a gender approach to governance should be always considered concretely to provide a real change in the socio-economic ground⁵⁰⁹. Political ecology, along with feminist political ecology (as explained in the first chapter of this work), can act as a frame for good governance because it explicitly recognises the multi-scaled factors that influence communities, local environments, and the global scenario.

This framework would lead to win-win solutions pushing for a sustainable development intended as a democratic dialogue of values among actors in order to abandon a “size-fits-all approach”⁵¹⁰. Indeed, at the core of the good governance there is participation based on the belief that each actor can play a fundamental role contributing to a unique local dimension: the difference is the key. Only in this way, sustainable governance will work in a heuristic way enhancing multidimensionality and multi-criteria assessments, and promoting a new perspective of development which includes equity, democracy, and human rights⁵¹¹.

Following this approach, as already mentioned in chapter three, governments need to implement strategies prioritizing a human security approach in the framing of global climate change. This approach wants to focus on humans and environmental security giving the right importance to peace and human rights⁵¹². Human security involves the security of living a decent livelihood with dignity encompassing the security of food, water, and environmental security⁵¹³. However, Western developed states see climate change more as a threat to their status in the international arena. In so doing, they tend to adopt a state-centred perspective on security, rather than a human-centred perspective,

⁵⁰⁸ BLEWITT, J., *Understanding sustainable development, cit.*, chapter 5, pp.160-162

⁵⁰⁹ BIANCHI, B., *Genere, generazioni e cambiamento climatico. Temi e questioni per una rubrica, cit.*, pp.214-218

⁵¹⁰ MURRAY, W.E AND OVERTON, J., *Geographies of Globalization*, Routledge, 2015, chapter 8

⁵¹¹ BLEWITT, J., *Understanding sustainable development, cit.*, chapter 1, p. 35

⁵¹² United Nations Trust Fund For Human Security, Climate change www.un.org/humansecurity/climate-change/

⁵¹³ DANKELMAN, I., *Gender and climate change: An introduction, cit.*, p.94

deemphasizing the need for dealing with mitigation and climate responsibility. They view climate change as “portending the scarcity of resources, the forced migration of masses of humans, and large scale-related disasters”, with major attention on preserving international order⁵¹⁴. Paradoxically, developing States, which could frame climate change both as a human-security issue and as a state-security issue, prioritise the human security approach developing mitigation, adaptation, and capacity building strategies.

This approach, within the good governance, focused on enhancing preparedness also in urban areas. Indeed, the strengthening and empowering of communities is instrumental from a gender perspective to map women's risks, identify hazards, and enhance capacity building to mitigate the impacts of climate-induced disasters. Communities need to be supported to reconsider urban planning taking into account poverty, gender-responsive actions and climate impacts. Indeed, climate coping strategies have to be translated and explained to people in order to make them identify how to manage disasters and increase their knowledge and preparedness⁵¹⁵. This preparedness would enhance urban climate change resilience⁵¹⁶.

Resilient cities are cities “that have the ability to absorb, recover and prepare for future shocks, economic, environmental, social and institutional”⁵¹⁷. Also, according to the European Commission, “a resilient city is able to maintain a continuity of services and functions throughout any shock or stress while protecting and enhancing people’s lives”⁵¹⁸. Indeed, the concept of resilience refers to the “capacity of a system to survive, adapt, and grow in the face of unforeseen or catastrophic events”⁵¹⁹. These cities are the result of good governance that aims to elaborate a sustainable development, the well-being of an inclusive society, and inclusive growth coherent with policies and the environment⁵²⁰. Since the Rio Earth Summit (1992), the notion of sustainable cities has shifted the urban

⁵¹⁴ WALLACE, D. AND SILANDER, D., *Climate Change, Policy and Security*, cit., p.22

⁵¹⁵ DANKELMAN, I., *Gender and climate change: An introduction*, cit., p.63 and 89

⁵¹⁶ Ibid., p.121

⁵¹⁷ OECD, resilient cities, <https://www.oecd.org/cfe/regionaldevelopment/resilient-cities.htm>

⁵¹⁸ European Commission, *The future of cities, the resilient cities*, available at <https://urban.jrc.ec.europa.eu/thefutureofcities/the-resilient-city#the-chapter>

⁵¹⁹ CARTALIS, C., *Toward resilient cities, a review of definitions, challenges and prospects*, Advances in Building Energy Research, p.261 , 2014

⁵²⁰ FIGUEIREDO, L., HONIDEN, T., AND SCHUMANN,A., *OECD Regional Development Working Papers 2018/02, Indicators for Resilient Cities*, 2018, available at [6f1f6065-en.pdf \(oecd-ilibrary.org\)](https://www.oecd-ilibrary.org/publications/6f1f6065-en.pdf)

planning paradigm⁵²¹. Indeed, the potential implications of the destructive climate change events on cities almost require an acceleration of the holistic urban planning giving priority to pro-poor and gender-sensitive criteria, participation in decision-making, the concrete respect of human rights also in post-disaster reconstruction⁵²².

Governments need to speed up because most of the future population will reside in cities where the impacts of climate change are more likely to take place. Indeed, cities are inevitably key sites for actions to adapt and mitigate. However, it happened that the processes of urbanization themselves have created conditions that intensify such weather phenomena. For instance, the case of urban heat islands shows that cities are growing warmer at a higher rate than elsewhere. Infrastructures trap solar radiation during the daylight hours and release it at night⁵²³. In addition, climate change exacerbates humanitarian crises in urban areas and peripheries populated mainly by people living in vulnerable conditions: “what was once dispersed rural poverty is now concentrated in urban informal and squatter settlements”⁵²⁴.

In the context of cities and climate change, a gender analysis is critical to understand how poor women live and work in cities and how they can be marginalised because of their intersecting identities⁵²⁵. Broadly speaking, urban populations tend to be more heterogeneous than rural populations especially in the cities of the south with their high rates of urbanization. Here, poor urban women experience discrimination and violations of their human rights on a daily basis for their gender status and unequal power relations due to class, age, ethnicity, caste, race, among the main grounds. For this reason, particularly in developing countries, a gender intersectional lens should be used in city planning and management in order to guarantee women the right to equality by providing disaster-

⁵²¹ See also PIZARRO, R. E., BLAKELY, E. AND DEE, J., *Urban Planning and Policy Faces Climate Change*, in “Built Environment (1978-)”, 2006, Vol. 32, No. 4, Alexandrine Press, Learning from Urban Disasters: Planning for Resilient Cities (2006), pp. 400-412. See also BUTT., N., ET ALL, *Opportunities for biodiversity conservation as cities adapt to climate change*, Geo: Geography and Environment, 2018.

⁵²² DANKELMAN, I., *Gender and climate change: An introduction*, cit.,p.108

⁵²³ SINGER, M., *Climate change and social inequality*, Routledge, 2019, see chapter 1

⁵²⁴ WB, climate resilient cities, A Primer on Reducing Vulnerabilities to Disasters, 2009 available at <https://openknowledge.worldbank.org/handle/10986/11986>

⁵²⁵ CAVELLI, M., *From Habitat to WSSD: Gender issues and globalization*, in Why women are essential for sustainable development, Policy, gender and environment: recommendations, p.72

resilient infrastructure such as shelter with adequate services in both pre-and post-disaster settings⁵²⁶.

For this reason, cities must develop to become new human rights hubs⁵²⁷. Indeed, cities play a vital role in protecting, promoting, and fulfilling human rights and the respect of the environment through the language of global justice. Some cities already achieved this objective, others are working on this goal, but the focus should be on human rights that appear as a guiding norm of governance in light of international human rights standards, which put individual rights at the centre of public policies empowering synergies between communities. In such a pro-poor climate-just deal, gender equity will continue to feature prominently through disaggregated data and adaptation planning based on vulnerable areas⁵²⁸. Such human rights cities' hubs adopted the Universal Declaration of Human Rights as a norm of governance, establishing a socio-political process where the community and the municipality cooperate to the realisation of the fundamental values⁵²⁹. This creates linkages between human rights and sustainable development goals at a local level, in particular, SDG 11 calling cities and communities to be “open to all, safe, resilient and sustainable”⁵³⁰. Also, UN-Habitat is supporting such projects ensuring human rights while building more sustainable and resilient cities through its robust City Resilience Profiling Tool⁵³¹. It involves a series of enhancers to allow cities to zoom in specific themes with the overall objective of raising awareness and taking action. The latest in this series is the Human Rights Enhancer, launched on Human Rights Day 2018⁵³². This model outlines a human rights-based approach to resilience that guarantees empowerment

⁵²⁶ Ibid.

⁵²⁷ See the webpage of Human Rights Cities Network: <https://humanrightscities.net/human-rights-cities/>

⁵²⁸ DANKELMAN, I., *Gender and climate change: An introduction*, cit.,p. 93

⁵²⁹ Ibid.

⁵³⁰ Ibid., See also SDG 11, “Make cities and human settlements inclusive, safe, resilient and sustainable” <https://sdgs.un.org/goals/goal11>; See also SANCHEZ RODRIGUEZ, R., ÜRGE-VORSATZ, D. AND SALISU BARAU, A., *Sustainable Development Goals and climate change adaptation in cities*, The Sustainable Development Goals provide a window of opportunity for creating multidimensional operational approaches for climate change adaptation in cities, in *Nature Climate Change*, Vol. 8, March 2018, 174-185

⁵³¹ Urban Resilience Hubs, Cities Resilient Profiling Tools <http://urbanresiliencehub.org/wp-content/uploads/2018/02/CRPT-Guide.pdf>

⁵³² UN Habitat, *City Resilience Profiling Programme: Human Rights Enhancer*, 29 Jan 2019 available at <https://reliefweb.int/report/world/city-resilience-profiling-programme-human-rights-enhancer>

asserting people's rights. When applied to urban resilience, the human rights-based approach adds value to urban planning by prioritising the interests of the most vulnerable, among which women. Also, the Global Environment Facility (GEF) proposed different programmes on resilient cities among which the “Sustainable Cities Program” developed in 2017 as well as the Climate Investment Funds (CIFs) with the Climate-Smart Urbanization Program (2020)⁵³³. Only by addressing cities as human rights challenge the vision of inclusive, safe, and resilient cities become a reality⁵³⁴.

In conclusion, recognizing the scale of adaptation efforts needed in many cities, particularly of the Global South, pro-poor and gender-sensitive good governance offers an opportunity to bring together the development agenda of equality, equity, and justice with climate change imperatives. Resilient cities represent a first approach in intertwining human rights and environmental law to greening human rights and provide a new framework for action, in which gender is at the core.

2. A human rights-based approach to environmental law as a new perspective

Considering all the above-mentioned solutions to climate change, many scholars started considering an intertwined approach between human rights and environmental rights. Indeed, as it has been explained, environmental degradation has an adverse impact on the quality of human life and the full enjoyment of human rights. Especially, vulnerable people, among which women and indigenous communities, are the main victims of environmental degradation that deepens their social burden particularly when the violation of their human rights results from irreparable environmental harm. Despite the clear interrelationship and the interdisciplinary field between environmental issues and human rights, most organizations and governments have treated human rights violations and environmental degradation as parallel-unrelated issues. Indeed, human rights advocates have emphasized civil and political rights, while environmentalists focused mainly on

⁵³³ Climate investment Funds (CIF), *climate-smart urbanization program driving the spatial transformation of cities toward low-carbon and climate-resilient development*, Joint meeting of the CFT and SCF committees, Washington, March 2020 available at https://www.climateinvestmentfunds.org/sites/cif_enc/files/meeting-documents/joint_ctf-scf_22_4.2_cif_climate_smart_urbanization_program_final_0.pdf

⁵³⁴UN Habitat, for a better urban future, <https://urbanresiliencehub.org/2018/12/10/hrd-2018/>; See the GEF, Sustainable Cities Program, <https://www.thegef.org/publications/sustainable-cities-program>

natural resource preservation without addressing the human impacts of environmental abuse⁵³⁵. Currently, no comprehensive legally binding instrument for the protection of the environment exists globally.

Only in recent years the process of “greening” human rights or having a human rights-based approach to environmental law has emerged, recognising many basic human rights as essential to further environmental objectives⁵³⁶. This new attempt to treat environmental protection as a human rights issue has been embarked on by the United Nations Human Rights Council in 2011 and by the Council of Europe in 2005-2012⁵³⁷. Indeed, in March 2012, an independent expert was appointed to make recommendations on human rights obligations relating to the enjoyment of a “safe, clean, healthy and sustainable environment”⁵³⁸. The independent expert then renamed Special Rapporteur, provided a review containing a set of coherent human rights obligations relating to the environment that reflect the emergence of a new human right: the right to a safe, clean, healthy, and sustainable environment (healthy environment)⁵³⁹. Indeed, “states should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights”⁵⁴⁰.

There are different considerations on how human rights and environmental rights could be intertwined. Environmental protection can be seen as a “precondition to the enjoyment of human rights” or “a tool to address environmental issues, both procedurally and substantively”, or again “the integration of human rights and the environment under the

⁵³⁵ UNEP, *Training Manual on International Environmental Law*, cit., p.300

⁵³⁶ Council of Europe, *Manual on Human Rights and the Environment*, 2nd ed., 2012, pp.5-11

⁵³⁷See United Nations Human Rights Council (UN HR Council), *Report of the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment*, John H. Knox, Preliminary Report, UN Doc. A/HRC/22/43, December 2012, available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-43_en.pdf;

See also Council of Europe, *Manual on Human Rights and the Environment*, cit., that reviews the Court’s decisions and sets out some general principles.

⁵³⁸ HRC, *Human rights and the environment*, Resolution 19/10, A/HRC/19/L.8/Rev.1, 20 March 2012

⁵³⁹ BOYD, D., R., AND KNOX, J. H, *Report of the UN Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment to the UN General Assembly*, A/73/188, 19 July 2018, para. 28, available at: <https://undocs.org/A/73/188>.

⁵⁴⁰ Framework Principles on Human Rights and the Environment, 2018, available at <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/FrameworkPrinciplesReport.aspx>

concept of sustainable development”⁵⁴¹. Indeed, a degraded environment certainly does not foster the full exercise of human rights, including social and economic rights⁵⁴².

Moreover, human rights can be classified through different methodologies. One method is considering the subject matter meaning political, civil, economic social, or cultural rights⁵⁴³. For instance, the right to health, to food and water, and the right to an adequate standard of living are the ones considered as vehicles to improve environmental protection when dealing with cases of environmental degradation. Another division is between substantive and procedural rights⁵⁴⁴. The substantives are namely the right to life which entails also the right to health and well-being, the right to respect for private and family life, the right to a decent environment, etc.⁵⁴⁵. Procedural rights are a critical complement to substantive rights and enable people to contribute actively to the protection of the environment: the right to information, the right to participation, to equal protection, to be free from discrimination, and the right to a judicial remedy⁵⁴⁶.

Human rights may also be categorized according to the scope of the protection afforded. Some rights, as the right to life, the right to be free from torture, the right of non-discrimination, are identified as "non-derogable" rights because they may never be suspended whatever the national emergency⁵⁴⁷. Other rights may be suspended when

⁵⁴¹ Report of the United Nations High Commissioner for Human Rights, *Analytical Study on the Relationship between Human Rights and the Environment*, , UN Doc. A/HRC/19/34 (16 December 2011), para. 6-9; See also SHELTON, D., *Advanced Introduction to International Human Rights Law*, cit, 2014

⁵⁴² POSTIGLIONE, A., *Human rights and the environment*, *The International Journal of Human Rights*, 2010, p.524

⁵⁴³ All these rights are understood as interdependent and indivisible as proclaimed and reaffirmed by the 1968 UN conference on human rights in Teheran and by the UN membership in the Vienna Declaration including the 1993 UN conference on HR. See also SHELTON, D., *Advanced Introduction to International Human Rights Law*, cit.

⁵⁴⁴ According to Boyle, “Procedural rights are the most important environmental addition to human rights law since the 1992 Rio Declaration on Environment and Development”.

⁵⁴⁵ Expressly recognized by the African Charter on Human and Peoples’ Rights and the San Salvador Protocol to the American Convention on Human Rights.

⁵⁴⁶ Council of Europe, *Manual on Human Rights and the Environment*, cit., pp.31-32

⁵⁴⁷ See art.15 of the European Convention on Human Rights (ECHR) on the derogation in time of emergency available at https://www.echr.coe.int/documents/Guide_Art_15_ENG.pdf. See SHELTON, D., *Advanced Introduction to International Human Rights Law*, cit., pp.89-90; See Human Rights Committee, Comment no. 29 on State emergency issued in 31 August 2001 referring to art.4 (2) of the Covenant on Civil and

strictly required by the exigencies of a national emergency threatening the life of the nation⁵⁴⁸.

At this point, a brief overview of the international and regional human rights systems is necessary to understand how some environmental rights can be intrinsically included in human rights and vice versa, according to some provisions, comments, or judgements.

As mentioned in the previous paragraphs, in 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights (UDHR) that describes the fundamental rights through which individuals became subjects of international law in their own right⁵⁴⁹. Then, in 1966, two human rights covenants were adopted. The first was the International Covenant on Civil and Political Rights (ICCPR), which outlined the basic civil and political rights of individuals and groups. The corresponding Committee provides recommendations individually or issues General Comments to all state parties. If the state has also accepted the first Optional Protocol to the 1966 ICCPR, the Human Rights Committee may hear individual complaints against the state party⁵⁵⁰. The second covenant was the International Covenant on Economic, Social, and Cultural Rights (CESCR), focused on the basic economic, social, and cultural rights of individuals and groups. Also in this case the Committee supervises the implementation of this Covenant. For instance, concerning environmental provisions, in 2000, the Committee issued the General Comment No. 14 on Substantive Issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights. In particular, paragraph four states that “the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying

Political rights “no derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision”.

⁵⁴⁸ UNEP, *Training Manual of International Environmental Law*, chapter 22, p.310.

⁵⁴⁹ SHELTON, D., *Advanced Introduction to International Human Rights Law*, cit. Within the United Nations, human rights activities are pursued by bodies under the authority of the UN Charter or established by human rights treaties, such as the Security Council, the General Assembly, the Economic and Social Council (ECOSOC) and the Commission on Human Rights (CHR).

⁵⁵⁰ Optional Protocol to the International Covenant on Civil and Political Rights <https://www.ohchr.org/en/professionalinterest/pages/opccpr1.aspx>

determinates of health, such as a healthy environment”⁵⁵¹. Moreover, among the main articles of the Covenant, art. 11 (a) affirms “the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions [...]” thus, living in a healthy environment must be guaranteed to all people⁵⁵². However, what is missing here is the right to water that should be included also as a right to life or as an independent right considering its importance especially for women and children. Thus, some environmental provisions are already intrinsic in the Covenants themselves.

Furthermore, in 1994, the Special Rapporteur Mme Ksentin included in her final Report on Human Rights and the Environment to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, a draft declaration of Principles on Human Rights and the Environment⁵⁵³. This declaration is the first international instrument that comprehensively addresses the linkage between human rights and the environment. Yet in these provisions, environmental and human rights principles embody the right of everyone to a secure, healthy environment.

Likewise, a reference to human rights is nonetheless explicit in the preamble to the Paris Agreement (COP21-2015) which affirms, “acknowledging that climate change is a common concern of humankind, Parties should change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples [...] as well as gender equality, empowerment of women and intergenerational equity”⁵⁵⁴. Indeed, in this paragraph, not only is the connection between human rights and the environment made clear, but also a strong consideration for women and gender equality. More recently, the UNFCCC report “Delivering on the Paris Promises: Combating Climate

⁵⁵¹ CESCR, 22nd Session, Geneva, 25 April-12 May 2000, *Agenda Item 3, Substantive Issues Arising In The Implementation Of The International Covenant On Economic, Social And Cultural Rights*, General Comment No. 14 (2000) available at <https://digitallibrary.un.org/record/425041#record-files-collapse-header>; See also SHELTON, D., *Advanced Introduction to International Human Rights Law*, cit.

⁵⁵² ICESCR, 1996, art.11 (a)

⁵⁵³ F. Z. KSENTINI, *Special Rapporteur Human rights and the environment: final report*, available at <https://digitallibrary.un.org/record/226681>; See also Draft Principles On Human Rights And The Environment, E/CN.4/Sub.2/1994/9, Annex I (1994) available at <http://hrlibrary.umn.edu/instree/1994-dec.htm>

⁵⁵⁴ Paris Agreement, 2015, Preamble, paragraph 7

Change while Protecting Rights” proposes a roadmap to find the right approach to tackle climate change. This includes a guidance on how key human rights and environmental rights should be integrated into the Paris implementation guidelines, ensuring policy coherence through nationally determined contributions, adaptation communications and transparency frameworks⁵⁵⁵.

As far as the regional level is concerned, there are three main systems of protection of human rights that in some ways provided environmental connections too: the European system, the Inter-American system and the African one⁵⁵⁶. In 1950, the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR) has been adopted to give effect to some of the civil and political rights contained in the 1948 Universal Declaration of Human Rights (UDHR). Even though the 1950 ECHR does not contain any specific rights to a clean environment, nor the Charter of Fundamental Rights of the European Union (2000)⁵⁵⁷, the European Court of Human Rights (ECtHR) has considered environmental issues in relation to other provisions of the 1950 ECHR⁵⁵⁸.

One of the most emblematic cases, under the 1950 ECHR, representing the convergence between human rights and the environment, was *Lopez-Ostra vs. Spain* (1994). The applicant was Ms. Ostra whose flat, in Lorca (Spain), was located next to a waste disposal plant that emitted hydrogen sulphide emissions dangerous for the family’s health conditions. Such emissions exceeded the permitted limits causing a real health problem that could be connected to the applicant’s daughter’s disease. Indeed, the Court, after having applied a test based on article 8 of the ECHR (the right to privacy) stated that

⁵⁵⁵ “Delivering on the Paris Promises: Combating Climate Change while Protecting Rights” <https://unfccc.int/sites/default/files/903.pdf> See also UNFCCC, Pocket guide to gender equality, cit., 2018

⁵⁵⁶ For instance, some of these are the right to life (Article 2), prohibition of torture and degrading treatment (Article 3), right to liberty and security as a person (Article 5); SHELTON, D., *Advanced Introduction to International Human Rights Law*, cit., p.101

⁵⁵⁷ A similar approach to the environment was taken by the European Union at its Nice Summit.. The Charter of Fundamental Rights of the European Union, adopted during the Summit on 7 December 2000, omits environmental protection from its listed rights of persons and duties of member states. The Charter simply provides in article 37 that “A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.”

⁵⁵⁸ POSTIGLIONE, A., *Human rights and the environment*, cit., p.534

“severe environmental pollution, could affect the well-being of individuals and impede their enjoyment of their homes in such a manner as to harm their private and family life” (paragraph 58)⁵⁵⁹. Thus, the Court found that Spain had not fulfilled its duty to take appropriate measures to secure the applicant’s rights and did not balance the private well-being of people and the general economic concerns, thus, violating article 8 of the ECHR⁵⁶⁰. For this reason, the State had an obligation to not refrain from interfering and a positive duty to actively protect human rights concerning environmental protection⁵⁶¹. This case allowed the use and application of article 8 also in other cases dealing with environmental pollution effects on people’s health⁵⁶².

Shifting the focus on the Inter-American System of Human Rights, other environmental human rights provisions emerge intrinsically. The basic texts of this system are the Charter of the Organization of American States (“OAS”), The American Declaration of the Rights and Duties of Man (1948), and The American Convention on Human Rights (1969) with its two Protocols⁵⁶³. In this system, any person or group can file a petition alleging the violation of the 1969 American Convention or the 1948 American Declaration by an OAS member state. The several case laws of the Inter-American human rights system have contributed considerably to recognizing specifically the rights of indigenous peoples in respect to their environmental and natural resources. Indeed, the case of *Awas Tingni Mayagna Indigenous Community v. Nicaragua* involved the protection of Nicaraguan

⁵⁵⁹ Case of *López Ostra v. Spain*, 1994 <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%5B%2201-57905%22%5D%7D>, paragraph 58.

⁵⁶⁰ *Ibid.*, paragraph 58

⁵⁶¹ *Ibid.*, Alleged Violation Of Article 8 (Art. 8) Of The Convention

⁵⁶² According to Boyle, A. the case “show how the right to private life, or the right to life, can be used to compel governments to regulate environmental risks, enforce environmental laws, or disclose environmental information”. See BOYLE, A., *Human Rights and the Environment: Where Next?*, in B. BOER (ED.), *Environmental Law Dimensions of Human Rights*, 2015, Oxford, OUP, p.204. Other similar cases: *Maria Guerra v. Italy* (1998) and *Arrondelle v. United Kingdom*

⁵⁶³ SHELTON, D., *Advanced Introduction to International Human Rights Law*, cit., p.101. See also UNEP, *Training Manual of International Environmental Law*, chapter 22, p.307

forests in lands traditionally owned by the Awas Tingni⁵⁶⁴. The case was an action against government-sponsored logging of timber on native territories by Sol del Caribe, S.A. (SOLCARSA). The government did not previously consult the community before granted the concession to the company. Thus, the Awas Tingi filed a case at the Inter-American Commission alleging that the government violated their rights to cultural integrity, religion, equal protection, and participation⁵⁶⁵. The violation was found by the Commission, which brought the case before the Court.

In 2001, the Court issued its judgment deciding that the state violated the American Convention's right to judicial protection (article 25) and the right to property (article 21)⁵⁶⁶. The Court unanimously declared that the state must adopt all necessary means to manage the effective demarcating indigenous properties, abstain from realizing infrastructure and provide monetary compensation to the collective benefit of the community⁵⁶⁷. Furthermore, the Additional Protocol to the American Convention in the area of Economic Social and Cultural Rights was signed in San Salvador in 1988 and article 11 dedicated to the right to a self environment states that "Everyone shall have the right to live in a healthy environment and to have access to basic public services, the State Parties shall promote the protection, preservation, and improvement of the environment."⁵⁶⁸

Another emblematic example is presented by the African Human Rights System. The African Charter of Human and Peoples' Rights (1981) was adopted by the Organization of African Unity ("OAU") and entered into force in 1986⁵⁶⁹. The 1981 African Charter enumerates the traditional list of civil and political rights, but also includes economic, social and cultural rights and is the first to include a right to the environment. Indeed,

⁵⁶⁴ Inter-American Court of Human Rights, Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Judgment of August 31, 2001 (Merits, Reparations and Costs) https://www.corteidh.or.cr/docs/casos/articulos/seriec_79_ing.pdf

⁵⁶⁵ Ibid, art.2

⁵⁶⁶ Ibid., VIII VIOLATION OF ARTICLE 25 Right to Judicial Protection and IX VIOLATION OF ARTICLE 21 Right to Private Property

⁵⁶⁷ Ibid, paragraph 173

⁵⁶⁸ Additional Protocol to the American Convention in the area of Economic Social and Cultural Rights, 1988, San Salvador, <https://www.oas.org/juridico/english/treaties/a-52.html>

⁵⁶⁹ African Charter of Human and Peoples' Rights (1981) <https://www.achpr.org/legalinstruments/detail?id=49>

article 24 “right to a General Satisfactory Environment” states, “all peoples shall have the right to a general satisfactory environment favourable to their development.”⁵⁷⁰

The African Commission was the first international human rights body to adjudicate a contentious case on the violation of the right to a general satisfactory environment in 2002. The case took place in Nigeria, where two NGOs filed a petition on behalf of the people of Ogoniland. The African Commission found that Nigeria had breached its obligations to respect, protect, promote, and fulfil rights guaranteed by the 1981 African Charter⁵⁷¹. Indeed, according to the Communication, the military government of Nigeria was involved in oil production through two companies whose operations produced contamination, environmental degradation and health problems in the population. Indeed, the consortium disposed of toxic wastes in violation of applicable international environmental standards, causing not only spills over in near villages, but also poisoning of the soil, of water and everything was well-known by the government that provided military powers at the disposal of the oil companies. After finding the petition admissible, the Commission acknowledged the State’s duties to respect, protect, promote, and fulfill human rights.

The Commission assessed the violations of the rights to health under article 16 and a general satisfactory environment under article 24. Then, imposed the state to take reasonable measures to prevent pollution and ecological degradation and to guarantee an ecologically sustainable development of natural resources. The Commission concluded that although Nigeria had the right to produce oil, the state had not protected the Ogoni region⁵⁷². The Commission insisted on environmental protection requiring states to adopt various techniques such as environmental impact assessment, public information and participation, access to justice for environmental harm, and monitoring of potentially

⁵⁷⁰ Article 24 Right to a General Satisfactory Environment of the 1981 African Charter <https://www.achpr.org/legalinstruments/detail?id=49>

⁵⁷¹ Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria (Communication No. 155/96) <http://hrlibrary.umn.edu/africa/comcases/155-96b.html> ; See also COOMANS, F., *The Ogoni Case before the African Commission on Human and Peoples' Rights*, *The International and Comparative Law Quarterly* , Cambridge University Press on behalf of the British Institute of International and Comparative Law, Jul., 2003, Vol. 52, No. 3 (Jul., 2003), pp. 749-760.

⁵⁷² See also Boyle, A. *Human Rights and the Environment: Where Next*, cit., p.211

harmful activities⁵⁷³. Hence, this case represents a landmark moment in considering the human rights linked to environmental protection.

All these systems indirectly and directly through some judgements show and testify how the emergence of a new kind of human rights-based approach to the environment is planned by all the regional system which consider the fundamental consequences on people and the environment itself.

Thus, there are all the elements to enhance a new perspective and to guarantee more equality and respect not only to people but also to the environment. Regardless of whether one favours a rights-based approach to environmental protection or not, the field of human rights will remain vital for environmental protection and achieving sustainable development.

2.1 Building harmony with nature through the right to a healthy environment

As described above, international law along with regional systems appeared to be in the direction of a more concrete “greening” human rights approach. Among the main rights considered in this new framework, the right to a healthy environment is deemed a remarkable one.

Although it is not included in any global human rights instrument, many constitutions, declarations and two regional human rights instruments refer to such right. Indeed the right to a healthy environment does exist in the African Charter of human and peoples’ rights⁵⁷⁴ and in the Additional Protocol to the American Convention on Human Rights (Area of Economic, Social and Cultural Rights)⁵⁷⁵. In addition, yet in 1998, the importance of a healthy environment has been accepted at the European level by the adoption of the so-called Aarhus Convention, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, under the auspices of the United Nation Economic Commission for Europe (“UNECE”)⁵⁷⁶. It builds on principle

⁵⁷³Communication No. 155/96 <http://hrlibrary.umn.edu/africa/comcases/155-96b.html>

⁵⁷⁴ Article 24 Right to a General Satisfactory Environment of the 1981 African Charter.

⁵⁷⁵ Additional protocol to the American convention on human rights provides that everyone shall have the right to live in a healthy environment and to have access to basic public services.

⁵⁷⁶ Aarhus Convention <https://ec.europa.eu/environment/aarhus/> ; See also Council of Europe, *Manual On Human Rights And The Environment*, 2012,p.

10 of the Rio Declaration and principle 1 of the Stockholm Declaration that already considered in some ways environment and human rights connections. The preamble states “that every person has the right to live in an environment adequate to his/her health, and the duty to protect and improve the environment for the benefit of present and future generations”⁵⁷⁷. Thus, the convention provides for a comprehensive global framework to public participation in environmental decision-making and a right of access to environmental information.

Moreover, the concept of a healthy environment has been progressively stressed also by UN experts who have affirmed how “a safe climate is a vital element of the right to a healthy environment and is absolutely essential to human life and well-being”⁵⁷⁸. In this way, climate change would be considered as an international human rights issue as well as an issue of justice and a common concern for humanity⁵⁷⁹. This consideration could lead to a new perspective of such phenomenon considering its impact on the healthy environment, especially in developing countries.

This implies a shift in the paradigm of the anthropocentric approach to a more holistic perspective in which the human right to a healthy environment involves also the rights of nature. Thus, first, nature needs to be accepted as a subject of rights and not an object⁵⁸⁰. As already mentioned in the first chapter of this work, this step has been implemented already by some constitutions around the world such as Ecuador, in which the right of Nature is recognised “to exist, persist, maintain and regenerate its vital cycles” (art. 71)⁵⁸¹,

⁵⁷⁷ Aarhus Convention, Preamble, paragraph 7 <https://unece.org/DAM/env/pp/documents/cep43e.pdf>

⁵⁷⁸ Safe Climate report , 2019 available at

<https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SafeClimate.aspx>

⁵⁷⁹ UN HR Council, *Human Rights and Climate Change*, UN Doc. A/HRC/RES/10/4 (25 March 2009)

⁵⁸⁰ BALDIN, S. AND DE VIDO, S., *Environmental Sustainability in the European Union: Socio-Legal Perspectives*, cit., pp.100-106

⁵⁸¹ Ecuador constitution: art. 71. *Pachamama*, “where life is reproduced and exists, has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution. Every person, people, community or nationality, will be able to demand the recognitions of rights for nature before the public organisms [...]” and art 72. Nature has the right to restoration “this integral restoration is independent of the obligation on natural and juridical persons or the State to indemnify the people and the collectives that depend on the natural systems. In the cases of severe or permanent environmental impact, including the ones caused by the exploitation on non-renewable natural resources, the State will establish the most efficient mechanisms for the restoration, and will adopt the adequate measures to eliminate or mitigate

and the constitution of Fiji that states “every person has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations [...]” (art. 40 (1))⁵⁸².

These constitutions are part of a new constitutional cycle, a turning point in environmental law, called “*Nuevo constitucionalismo*” based on an innovative counter-hegemonic model reevaluating the indigenous tradition thanks to the jurisprudence of mainly Latin American courts⁵⁸³. They referred to the concept of Earth Jurisprudence meaning the legal theory that enshrines constitutional recognition of the rights of nature since the Earth must be considered a primary source of law. This philosophy was born thanks to the two scholars T.Berry and C.D. Stone who state that it is a human being's responsibility to protect the planet and have respect for it, avoiding all those activities that can destroy the integrity, life, and well-being of living species. The basis of this theory stands to conceive nature no longer as an object, but as a plurality of subjects to whom precise rights belong. The formulation of these concepts originates in the indigenous world where it is clear that the laws of man and his rights must respect the *Pachamama* from which everything originates according to the Andean cosmovision⁵⁸⁴.

the harmful environmental consequences”. Sentencia No. 166–15-SEP-CC (Constitutional Court of Ecuador, 2015), pp. 9–10. “In this sense, it is important to reiterate that the Constitution of the Republic consecrates a double dimension to nature and the environment in general, considering it not only based on the traditional paradigm as the object of rights, but also as an independent subject with its own specific rights. This reflects that within the juridical relationship between nature and humanity, there is a biocentric vision in which nature is prioritized, in counterpoint to the classical anthropocentric conception in which the human being is at the center and nature is surrounded by nature which was considered merely the supplier of resources”.

⁵⁸² Also the Constitution of Costa Rica states: “All persons have the right to a healthy and ecologically balanced environment” (art. 50); Actually, other constitutions considered the environment or the protection of a healthy environment as indicated by Roschmann, C., *Climate change and human rights in Climate change: international law and global governance*, Vol.I, Nomos Edition, p.231

⁵⁸³ BAGNI,S., *introduzione: il costituzionalismo andino nel contesto politico latinoamericano* in S. BALDIN, M. ZAGO, *le sfide della sostenibilità, il buen vivir andino dalla prospettiva europea*, Bologna, Filodirittoeditore, 2014, pp.73-76

⁵⁸⁴ It is a communitarian and ecological worldview, which accepts the inter-dependence between all Earth beings and understands their connection with natural cycles and laws. Everything revolves around the concept of *buen vivir-sumak kawsay*” and “*vivir bien-suma qamaña*”, respectively the Kichwa and Aymara version of an Andean cosmovision, along with an ecological normativity where the earth is seen as a legacy, a common good to be preserved for posterity.

In 2010, the People’s World Conference on Climate Change and the Rights of Mother Earth to Cochabamba in Bolivia, further highlighted nature as a subject of rights and all the participants approved the draft of the Universal Declaration of the Rights of Mother Earth⁵⁸⁵. Then, on 20 December 2010, the first UN General Assembly Resolution on Harmony with Nature (no. 65/164) was adopted providing also a report on the matter⁵⁸⁶. In the Report, the Secretary-General claimed the origin of the Harmony with Nature that comes from the ancient civilisations and their “symbiotic connection between human beings and nature”⁵⁸⁷. He began also an interactive dialogue between States, institutions, experts and stakeholders from all over the world, so as to explore a new holistic approach to sustainable development. Since the first Virtual Dialogue of the General Assembly on Harmony with Nature in 2016, the focus has emphasized even more the Earth Jurisprudence approach. This perspective has been integrated into the following reports and meetings until the most recent one in 2020⁵⁸⁸.

This legal trend mostly involves Latin America, but also other continents, and even some countries such as Australia and New Zealand⁵⁸⁹. Indeed, in these years an increasing awareness has been created on the concept that serious damage to the environment should be seen also as a criminal act. Higgins, a British environmental lawyer has recently addressed audiences in New Zealand, expounding on her proposal that Ecocide becomes the 5th Crime Against Peace considering that “ecocide occurs where any state, individual or organisation causes or permits harm to the natural environment on a massive scale

⁵⁸⁵ Act no. 71 of 2010, *Ley de derechos de la Madre Tierra*; and Act no. 300 of 2012, *Ley marco de la Madre Tierra y desarrollo integral para vivir bien*

⁵⁸⁶ Resolution adopted by the General Assembly on 21 December 2009, 64/196. Harmony with Nature (A/RES/64/196)

⁵⁸⁷ Harmony with Nature Report of the Secretary-General <https://undocs.org/A/65/314>

⁵⁸⁸ the UN General Assembly, at its 75th session, adopted the twelfth resolution on Harmony with Nature (A/RES/75/220)

⁵⁸⁹ New Zealand (2017): government enacted legislation recognizing the Whanganui River as a legal person, holding rights and responsibilities equivalent to a person. A case can be brought on behalf of the ecosystem related to this river. See Hutchison, A., *The Whanganui River as a Legal Person*, September 1, 2014, *Alternative Law Journal* <https://journals.sagepub.com/doi/abs/10.1177/1037969X1403900309?journalCode=aljb>

breaches a duty of care owed to humanity”⁵⁹⁰. Also, in 2020, international lawyers Sands QC and D. F.Sow co-chaired an expert drafting panel on the legal definition of ecocide. They launched a preparatory work and set to draft the definition in 2021⁵⁹¹.

Thus, a human right to a healthy environment acquired even more relevance being affirmed as a self-standing independent right. It means that could be invoked as justiciable right in front of human rights and domestic courts by individuals or groups. More recently, to give more relevance to this, the former Special Rapporteur on human rights Mr. John Knox, and the current Special Rapporteur Mr. David Boyd examined the importance of the potential recognition of the right to a healthy environment by the UN. Indeed, in 2018, the SR pointed out in its report that the greening of well-established human rights, including several rights among which the rights to life, health, and water, has contributed to improvements in the well-being of people. He set also a series of State obligations that countries need to follow to promote the rule of law because “in this way governments become directly accountable for their failure to regulate and control environmental nuisances”⁵⁹². A year later, in 2019, the SR proposed a report on a safe climate and clear air, while in 2020 the focus has been on the issue of human rights obligations relating to

⁵⁹⁰ See GRAY, M. A., *The International Crime of Ecocide*, California Western International Law Journal: Vol. 26 : No. 2 , Article 3, 1996 .

⁵⁹¹ The panel has been convened by the Stop Ecocide Foundation on the request of interested parliamentarians from governing parties in Sweden. See <https://www.stopecocide.earth/expert-drafting-panel> and <https://www.otago.ac.nz/law/research/otago036666.html> ; See also the European Law Institute on the matter <https://www.europeanlawinstitute.eu/projects-publications/current-projects-upcoming-projects-and-other-activities/upcoming-projects/ecocide/>

⁵⁹² BOYLE,A., *Human Rights and the Environment: Where Next?*, in B. BOER (ED.), *Environmental Law Dimensions of Human Rights*, cit, p.202. See also Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/73/188). Obligations for states identified by the SR: Procedural obligations. the procedural obligations of States in relation to the right to breathe clean air include duties related to promoting education and public awareness; providing access to information; ensuring freedom of expression, association and assembly; facilitating public participation in the assessment of proposed projects, policies and environmental decisions; and ensuring affordable, timely access to remedies; Substantive obligation. Duty to protect. States must not violate the right to breathe clean air through their own actions; and must establish, implement and enforce laws, policies and programmes to fulfil the right. States also must avoid discrimination and retrogressive measures.

the enjoyment of a safe, clean, healthy, and sustainable environment⁵⁹³. Here, the SR provided a study on good practices specifically related to the implementation and promotion of the right to a safe, clean, and healthy environment.

Moreover, many scholars have commented on the possibility of conceptualising a right to a decent environment and of locating it within the corpus of economic, social, and cultural rights. According to Boyle, this recognition “would entail giving greater weight to the global public interest in protecting the environment and promoting sustainable development”⁵⁹⁴. In this way “a right to a decent environment has to address the environment as a public good”⁵⁹⁵. Likewise, the Inter-American Court of Human Rights, in its Advisory opinion of 15 November 2017, acknowledged the existence of a right to a healthy environment as an autonomous right because, in its collective dimension, it constitutes a “universal interest”, while in its individual dimension, its violation might directly or indirectly impact the rights to health or life⁵⁹⁶.

The Court acknowledged that the right to a healthy environment is fundamental for the same existence of humankind. This recognition has been applied in the dispute *Indigenous Communities Members of the Lhaka Honhat Association vs. Argentina* (2020), in which the IACHR held that Argentina violated an autonomous right to a healthy environment, to indigenous community property, cultural identity, food, and water⁵⁹⁷. Thus, it incorporated the right to a healthy environment among the rights protected by art. 26 of the American Convention. For more than 20 years, indigenous communities struggled to claim those

⁵⁹³ Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment A/HRC/43/53. See also Report of the Special Rapporteur on Safe Climate, cit, 2019 and Clean Air and Human Rights (2019) <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/CleanAir.aspx>

⁵⁹⁴ BOYLE, A., *Human Rights and the Environment: Where Next?*, cit, pp.237

⁵⁹⁵ Ibid., p.221

⁵⁹⁶ I/A Court H.R. Advisory Opinion Oc-23/17 Of November 15, 2017 Requested By The Republic Of Colombia <https://www.refworld.org/cases,IACRTHR,5e67c7744.html>

⁵⁹⁷ *Aboriginal Community of Lhaka Honhat v. Argentina*, 2020 available at https://www.corteidh.or.cr/docs/casos/articulos/resumen_400_ing.pdf

properties occupied by other residents. Finally, the Court decided on the pertinence of their rights in the respect of a healthy environment⁵⁹⁸.

In conclusion, the consolidation of a right to a healthy environment in international law does not seem far to be achieved but more work needs to be done at the international level. One possible explanation for this delay by UN human rights institutions is their long-standing controversy with transnational companies. Indeed, it is widely known that such companies have strongly contributed to human rights and environmental violations but recognising them as responsible is still problematic⁵⁹⁹. Nevertheless, the shift of paradigm from a mere anthropocentric to a more eco-centric approach seems a priority considering how fast environmental degradation proceeds until today.

Approaching environmental problems from a human rights perspective can have several advantages considering that a human rights perspective directly addresses environmental impacts on health rather than on the environment in general. The human rights system already provides for various courts, commissions, and other bodies, where individuals can raise human rights and associated environmental issues. Governments need to understand that human well-being depends upon the health of the environment and that human beings bear the responsibility to protect this value. Nowadays, we are experiencing a moment of awareness raising in which citizens and NGOs are acting as leverage to push courts to recognise States' obligations for the protection of the environment as a living element. As in the words of Boyle, "the response of human rights law needs to be in global terms, treating the global environment and climate as the common concern of humanity"⁶⁰⁰.

⁵⁹⁸ Ibid., "to declare the petition admissible as it relates to alleged violations of the rights protected in Articles 8, 13 in connection with 23, 21 and 25 of the American Convention, in relation with the obligations of Articles 1 and 2 of that instrument".

⁵⁹⁹ BOYLE, A., *Human Rights and the Environment: Where Next?*, cit., p.210. This thesis does not focus on the relation between human rights and business' impacts on the environment but a complete and comprehensive explanation is proposed by UN HR Council, Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, UN Doc. A/HRC/8/5 (7 April 2008)

⁶⁰⁰ BOYLE, A. *Human Rights and the Environment: Where Next?*, cit., p.202

2.2 The importance of “greening” human rights for women: the reproductive health

As explained in the third chapter of this work, women face multiple burdens during and after a climate change disaster. In particular, climate resilience and gender equality are inextricably linked with sexual and reproductive health and rights (SRHR) which result be an essential element of gender equality⁶⁰¹.

Despite increasing recognition that climate action must be gender-responsive, only limited attention has been paid to the interconnection between climate change and SRHR, which involves issues such as access to shelters, SRHR facilities, maternal and new-born health, and gender-based violence⁶⁰². Indeed, the connection between violence against women, women’s rights, reproductive health, and climate change effects is still new in international law. Barriers to the realization of SRHR impede progress toward gender equality and climate action. Indeed, women not only have to fear human rights violations because they are human beings but also because of their gender⁶⁰³. Hence, the impacts of climate change may negatively affect SRHR, for example, through direct impacts such as disruptions in sexual and reproductive health services caused by extreme natural hazards and heat stress. Indirect impacts include the increased incidence of gender-based violence including early marriage, sexual violence, and sex trafficking, during times of drought and crisis. Also, The World Health Organization (WHO) made the point explaining that “women who were living in a violent relationship before the disaster may experience violence of increasing severity post-disaster, as they may be separated from family, friends, and other support systems that previously offered them some measure of protection.”⁶⁰⁴ In particular, as

⁶⁰¹ WHO, Sexual and reproductive health and rights: a global development, health, and human rights priority, July 2014 available at https://www.who.int/reproductivehealth/publications/gender_rights/srh-rights-comment/en/; DE VIDO, S., *Violence against women's health in international law*, Manchester, Manchester University Press, p.12

⁶⁰² Climate Change and Sexual and Reproductive Health and Rights: Exploring the Linkages <https://womendeliver.org/publications/climate-change-and-srhr/>

⁶⁰³ Raoul Wallengerb Institute of Human Rights and Humanitarian Law, Women’s Human Rights and the Right to a Clean, Safe, Healthy, and Sustainable Environment Reference Manual for Judges 2019, p.12 available at <https://www.icj.org/wp-content/uploads/2019/12/Women%E2%80%99s-Human-RigHts-and-tHe-RigHt-to-a-Clean-safe-HealtHy-and-sustainable-enviRonment-Reference-Manual-for-Judges-2019.pdf>

⁶⁰⁴ WHO, Violence and Disasters, 2005, p. 1, available at: https://www.who.int/violence_injury_prevention/publications/violence/violence_disasters.pdf

explained, VAW has a strong implication on women's health and reproductive health that can cause physical and mental health problems⁶⁰⁵. These impacts affect people who already face barriers to realizing their SRHR more significantly than others. As noted by the UN Committee on Economic, Social and Cultural Rights (CESCR): “The realization of women’s right to health requires the removal of all barriers interfering with access to health services, education and information, including in the area of sexual and reproductive health.”⁶⁰⁶

When women are not able to realize their SRHR, they cannot live in a decent way because of the decreased opportunities to pursue education and improve their livelihoods.

Considering international law, women’s right to sexual and reproductive health is an essential element of international human rights law. Indeed, they are part of women's general right to health included in the category of social rights, which include economic, social, and cultural rights⁶⁰⁷. The right to health is solidly rooted in the Economic Covenant as well as the right of all persons to the highest attainable standard of health included in article 12 of the International Covenant on Economic, Social and Cultural Rights recognizes⁶⁰⁸. As already mentioned in chapter three, women reproductive health is guaranteed by ESCR Committee in its general comment on the right to sexual and reproductive health⁶⁰⁹, but yet in 1994 the International Conference on Population and Development (ICPD), in Cairo marked a remarkable moment in the history of rights-based

⁶⁰⁵ OECD, Gender and Sustainable Development maximising the economic, social and environmental role of women, section women and health, 2008, p.49

⁶⁰⁶ CESCR, General Comment No. 14, 2000, art.12, E/C.12/2000/4, 11 August 2000, para. 21

⁶⁰⁷ OHCHR, Sexual and reproductive health and rights, available at <https://www.ohchr.org/en/issues/women/wrgs/pages/healthrights.aspx>

⁶⁰⁸ HENDRIKS,A., *Promotion and protection of women’s right to sexual and reproductive health under international law: the economic Covenant and the women’s Convention conference on the interventional protection of reproductive rights: the right to health*, American University Law Review 44 (1995), p. 112; See UNFPA, OHCHR, *Reproductive Rights Are Human Rights A Handbook For National Human Rights Institutions*, HR/PUB/14/6, 2014, see p.109

⁶⁰⁹See General comment No. 22 on the right to sexual and reproductive health, article 12 of the International Covenant on Economic, Social and Cultural Rights, E/C.12/GC/22, 2016

development⁶¹⁰. Indeed, it highlighted the connection between women's empowerment (SRHR) and other aspects of development. All the participants agreed to a Programme of Action as a guide that focused on people's reproductive needs, particularly women's, providing a gender perspective on reproductive health services connected with sustainable development and resilience⁶¹¹.

In 1995, the Beijing conference ensured in section C the rights to women and health considering the unequal access to health services faced by women in the least developed countries. Especially, article 94 is dedicated to the definition of reproductive health and discrimination against women when there is no access to reproductive health. Also art. 96 states that "the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence."⁶¹² Then, the CEDAW Convention at article 12 obliges states to take a number of concrete measures to promote and protect women's right to health. Moreover, in several of its General Recommendations, CEDAW refers to practices that are particularly harmful to women's health and defines these in terms of human rights violations⁶¹³.

More recently, established in 2016, the Guttmacher-Lancet Commission on Sexual and Reproductive Health and Rights has developed a comprehensive and actionable agenda for

⁶¹⁰International Conference on Population and Development (ICPD), 5-13 September 1994, Cairo, Egypt <https://www.un.org/en/conferences/population/cairo1994>; See also McGregor, *Routledge Handbook of Gender*, 2017, p.347

⁶¹¹ AGUILAR, L., GRANAT M. AND OWREN, C. (EDS.), *Roots for the Future: The Landscape and Way Forward on Gender and Climate Change*, cit., p.60

⁶¹² Beijing platform and declaration, in particular see articles 94 and 96 <https://www.un.org/womenwatch/daw/beijing/platform/health.htm>

⁶¹³ General Recommendation No. 12: Violence Against Women, in Report of the Committee on the Elimination of Discrimination Against Women, 8th Sess., U.N. Doc. A/44/38 (1989); General Recommendation No. 19, in Report of the CEDAW, 11th Sess., U.N. Doc. A/47/38 (1992); General Recommendation No. 15: Avoidance of Discrimination Against Women in National Strategies for the Prevention and Control of Acquired Immuno-deficiency Syndrome (AIDS), in Report of the CEDAW Committee, 9th Sess., U.N. Doc. A/45/38 (1990); General Recommendation No. 18: Disabled Women, in Report of the CEDAW Committee, 10th Sess., U.N. Doc. A/46/38 (1991).

key sexual and reproductive health and rights (SRHR) priorities globally⁶¹⁴. The Commission is an international partnership that brought together experts from all the continents with multidisciplinary experience in a wide range of SRHR issues. The Commission's work resulted in the report published in May 2018. In particular, it affirmed, "sexual and reproductive health and rights (SRHR) are essential for sustainable development because of their links to gender equality and women's wellbeing, their impact on maternal, new-born, child, and adolescent health, and their roles in shaping future economic development and environmental sustainability"⁶¹⁵.

In addition, two targets of the adopted 2030 Agenda for Sustainable Development explicitly mention sexual and reproductive health. Target 3.7 (the health goal) affirms, "by 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes"⁶¹⁶. Then, target 5.6 (the gender equality goal) states "ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the ICPD and the Beijing Platform for Action and the outcome documents of their review conferences"⁶¹⁷. Although these targets offer a solid basis for moving forward, they do not offer a comprehensive agenda for SRHR.

Analysing the regional system, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) is the only regional binding legal instrument that openly acknowledges the reproductive rights of women⁶¹⁸. Contrarily, the ECtHR has only indirectly promoted and protected the right to health of female victims

⁶¹⁴ Sexual and reproductive health and rights for all: report of the Guttmacher–Lancet Commission Ann M Starrs et al. <https://www.thelancet.com/commissions/sexual-and-reproductive-health-and-rights> and <https://www.guttmacher.org/guttmacher-lancet-commission#>

⁶¹⁵ Ibid.

⁶¹⁶ Indicators and a Monitoring Framework, Launching a data revolution for the Sustainable Development Goals <https://indicators.report/targets/3-7/>

⁶¹⁷ Ibid., target 5.6

⁶¹⁸ African Union, Maputo plan of action 2016–2030 for the operationalisation of the continental policy framework for sexual and reproductive health and rights, Addis Ababa, African Union, 2015. <https://www.au.int/web/en/document/maputo-plan-action-2016-2030-operationalisation-continent-policy-framework-sexual-and> ; See also DE VIDO, S., *Violence against women's health in international law*, cit., p.

of violence, by applying articles of the European Convention on Human Rights (ECHR)⁶¹⁹. The right to reproductive health has recently gained momentum, thanks to an increasing number of cases, in particular related to violence against women⁶²⁰.

In 2019, the Joint Statement on "Human Rights and Climate Change" has been embarked on by Five UN human rights treaty bodies such as the CEDAW Committee, the ESCR Committee, the Committee on the Protection of the Rights, of All Migrant Workers and Members of their Families, Committee on the Rights of the Child, Committee on the Rights of Persons with Disabilities. In article 3 they claimed how “negative impacts are also illustrated in the damage suffered by the ecosystems which in turn affect the enjoyment of human rights”⁶²¹, providing a clear connection between the ecosystem in which people live and human rights.

Moreover, women's reproductive health is strongly connected to the right to water underlining how these human rights can be seen also through a gender perspective⁶²². Indeed, as described in the previous chapter, women need free access to water, not only to provide natural resources for the household but also to their right to health and sanitation. Water scarcity or water pollution impact also on the accessibility of safe and private sanitation facilities for women⁶²³. Indeed, considering their specific hygiene routines, this put women through a humiliating and indecent situation, detrimental to their health. Hence,

⁶¹⁹ See in particular, ECtHR, Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence, Updated on 31 December 2020, https://www.echr.coe.int/documents/guide_art_8_eng.pdf

⁶²⁰See MCQUIGG, R. J. A., The European Court of Human Rights and domestic violence: Valiuliene v.Lithuania, The International Journal of Human Rights, 2014, 756-773; See Valiuliene v. Lithuania section B art.65 “the nature and context of the treatment, its duration, its physical and mental effects and, in some instances, the sex, age and state of health of the victim”. See European Parliament, study requested by the FEMM committee, Sexual and reproductive health rights and the implication of conscientious objection, 2018 available at https://eurogender.eige.europa.eu/system/files/post-files/eige_icf_sexual-and-reproductive-health-rights.pdf

⁶²¹ Five UN human rights treaty bodies issue a joint statement on human rights and climate change. Joint Statement on "Human Rights and Climate Change" <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24998&LangID=E>

⁶²² UNWATER, Water and gender <https://www.unwater.org/water-facts/gender/>

⁶²³ IFAD, UN, Gender and Water, securing water for improved rural livelihoods: the multiple-uses system approach, 2007

poor drinking water infrastructure combined with socially defined gender roles portray women as vulnerable subjects⁶²⁴. This is precisely what States must guarantee according to the Statement in the context of the Rio+20 Conference published by the Committee on Economic, Social and Cultural Rights in 2012⁶²⁵. It imposed State parties to apply integrated strategies to ensure that there is sufficient and safe water. In particular, they have to include "(b) the role of women in environmental conservation and proper use and management of natural resources, as well as the disproportionately negative impact and burden on women [...]" and "(e) the need to conserve the natural habitat and sustainable uses of natural resources as elements of the enjoyment of the right to health [...]" considering also the importance to dignify sanitation. Indeed, reproductive justice is only possible when women have real access to water and sanitation facilities⁶²⁶.

Hence, connecting human rights with environmental law, in particular climate change policies, would be a step further to ensure a decent livelihood for women. Indeed, the right to a decent environment find application through the right to health considering that both are linked to the right to food, to housing, to access to safe and potable water and adequate sanitation, along with safe and healthy working conditions. As declared by the Committee on Economic, Social and Cultural rights, the right to water recognises the right of everyone "to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses", such as drinking, food preparation, and personal and household hygiene⁶²⁷.

⁶²⁴ POMMELLS, M., ET ALL, *Gender Violence as a Water, Sanitation, and Hygiene Risk: Uncovering Violence Against Women and Girls as It Pertains to Poor WaSH Access* in *Violence Against Women*, 2018, Vol.24(15) 1851-1962

⁶²⁵ CESCR, Statement in the context of the Rio+20 Conference on the green economy in the context of sustainable development and poverty eradication, adopted by the Committee at its 48th session, 30 April to 18 May 2012, E/C.12/2012/1. See in particular paragraph 6; See also PILLAY, A. G., *Economic, Social and Cultural Rights and Climate Change*, in *Climate Change: International Law and Global Governance*, Volume I: Legal Responses and Global Responsibility

⁶²⁶ UNWATER, Human Rights to Water and Sanitation, <https://www.unwater.org/water-facts/human-rights/>

⁶²⁷ Committee on Economic, Social and Cultural rights, General Comments 14 and 15 on the access to sufficient, safe, and affordable water for domestic uses and sanitation available at <https://www.refworld.org/pdfid/4538838d11.pdf> . See also Human Rights Council Resolution 7/22 HR and access to safe drinking water and sanitation available at https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_22.pdf

Thus, the paradigm including women’s reproductive rights and right to water can be obtained in the context of a decent healthy environment. These principles “cannot be realised in the absence of the right to a healthy environment”⁶²⁸. As claimed by the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, adopted by the African Union, women shall have “the right to live in a healthy and sustainable environment” and “the right to fully enjoy their right to sustainable development”⁶²⁹.

Only this year, Women Deliver, a leading global advocate, thrilled to publish two new reports that explore the inextricable linkages between climate change, gender equality, and sexual and reproductive health and rights (SRHR) to propose recommendations for decision-makers. In particular, the second report, “Sexual and Reproductive Health and Rights in National Adaptation Plan (NAP) Processes” provides an overview of how SRHR can be integrated into national plans to adapt to climate change⁶³⁰. The main idea is that “Population, Health, and the Environment” efforts can support climate adaptation and sexual and reproductive health and rights”⁶³¹. In this way, they foster gender participation in environmental and climate action to address the linkages between climate change and SRHR, using existing guidance on gender and health in NAP processes.

The final aim is creating the so-called co-benefits for health and the environment meaning health gains from strategies that are directed primarily at climate change, but at the same time involve chosen policies for health advancement⁶³². Adaptation and mitigation

⁶²⁸ BUTTER, M., *Environmental rights and human rights: getting it on the wssd agenda*, in Why women empowerment essential for sustainable development, Results of the European Women’s conference for a sustainable future, Prague, 14th-17th March 2002

⁶²⁹ The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, Articles 18 and 19 available at <https://www.achpr.org/legalinstruments/detail?id=37>

⁶³⁰ Sexual and Reproductive Health and Rights (SRHR) in National Adaptation Plan (NAP) Processes Exploring a pathway for realizing rights and resilience to climate change, February, 2021 <https://napglobalnetwork.org/resource/srhr-in-nap-processes/>

⁶³¹ Women Deliver report, the Link Between Climate Change And Sexual And Reproductive Health And Rights 21 An Evidence Review, January 2021, available at <https://womendeliver.org/wp-content/uploads/2021/02/Climate-Change-Report.pdf>

⁶³² SMITH, K.R., ET ALL, *Human health: impacts, adaptation, and co-benefits*. In: *Climate Change 2014, Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, Cambridge University

strategies have a potential for generating co-benefits by improving health facilities in addition to reducing greenhouse gas emissions. Fulfilling human rights and addressing climate change are two mutually reinforcing goals. Hence, States should “respect, protect and fulfil human rights to ensure a safe, clean, healthy and sustainable environment” and “should prohibit discrimination and ensure equal and effective protection against discrimination concerning the enjoyment of a safe, clean, healthy and sustainable environment”⁶³³.

In conclusion, the Former UN Special Rapporteur on Human Rights and the Environment Knox, in some ways, summarised greatly the essence of environmental protection within human rights saying “human beings are part of nature, and our human rights are intertwined with the environment in which we live. Environmental harm interferes with the enjoyment of human rights, and the exercise of human rights helps to protect the environment and to promote sustainable development.”⁶³⁴ Thus, global recognition of the right to a healthy environment, interconnecting human rights (in particular women’s rights) and the environment “strengthens environmental rule of law by encouraging stronger environmental statutes, filling gaps in existing law, providing procedural protections, and highlighting the importance of environmental law in society.”⁶³⁵

Press, Cambridge, United Kingdom and New York, NY, USA, pp. 709-754
https://www.ipcc.ch/site/assets/uploads/2018/02/WGIIAR5-Chap11_FINAL.pdf

⁶³³ Framework Principles on Human Rights and the Environment (2018), cit.

⁶³⁴ KNOX, J.H., Former UN Special Rapporteur on human rights and the environment, Framework Principles on Human Rights and the Environment, 2018, p. 5

⁶³⁵ UNEP, *Environmental Rule of Law, First Global Report*, 2019, p. 156 available at <https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report>

CONCLUSION

The present work has proposed a deep analysis through different standpoints in order to demonstrate that women's rights are strongly dependent on environmental rights. Indeed, their recognition and interconnection represent a new frontier for international law, which would guarantee a more decent and equal way of living, starting from a healthy environment. This thesis contributes to rethink and subvert the common framework that sees environmental law and women's human rights as two separate and parallel regimes. As deeply explained, since the 1970s, their interconnection is living and present considering that the first social movements in favour of the protection of the environment were precisely embarked by women. Women who, in the Western developed countries, appeared relegated to the private sphere, dependent on the figure of the husband, while in developing countries the situation was and is still more dramatic. Indeed, differences and gender inequalities shape the daily life of women who are burdened by the patriarchal system in which they appear as objects to be exploited as it also happens with nature.

This thesis has voluntarily focused on the countries of Bangladesh and India where women's rights are particularly limited by the *purdah* system that condemns women not only from an economic point of view, but especially from a cultural and social standpoint. However, this work has tried to represent that women do not have to appear merely as vulnerable and undefended actors. Indeed, it is true that they belong to the most disadvantaged part of the society, but women have to be recognised also for their virtuousness as stated in the third chapter of this work. As indicated by the Beijing Declaration and Platform for Action women play an "important role in promoting sustainable development through their concern for the quality and sustainability of life for present and future generations"⁶³⁶. As far as indigenous women are concerned, they have to be considered as remarkable actors for the transmission of important traditional and holistic knowledge that needs to be safeguarded. Moreover, it could be stated almost beyond doubt, that their intangible cultural heritage, on many occasions, represents the very identity of indigenous people.

⁶³⁶ UNITED NATIONS, Fourth World Conference on Women, *Beijing Declaration and Platform for Action*, 4-15 September 1995, Area k, art 247

Nonetheless, the emblematic role of women undeniably emerged even more with climate change. The third chapter has presented the challenging situations linked to climate change and how this phenomenon strongly puts in danger women's health and rights. The example of female harassment and violence against women seemed to be one of the most serious and actual issues in contexts such as the Pacific Islands where women's reproductive health is at stake. Moreover, the case of water management in India strongly reiterated the connection between women and their right to water, as well as the case of Bangladeshi gender migration due to climate change which demonstrated, again, how women's rights are undervalued. Considering all these concepts, even though it could appear paradoxical, climate change should be seen as the point of departure for a deep transformation in gender's role and power relations. Feminist Political Ecology tried to frame a new vision that started to be materialized through adaptation, mitigation, and capacity-building policies. As explained by the last chapter, which proposes several gender-sensitive solutions to climate change stress, women should be put at the centre of each strategy.

Women should finally acquire importance through new roles, such as being involved in decision-making and leadership positions. It might be significant to restate the words of the Manila Declaration which states "women are vital agents of change, holders of valuable knowledge and skills, and can be powerful leaders from the community to the global level in climate change mitigation, adaptation, and disaster risk reduction"⁶³⁷. In this regard, this thesis examined different National Adaptation Programmes (NAPA) embarked by least developing countries under the suggestion of the UNFCCC. The initiatives devised in Brazil, Nepal, India, and the Pacific Islands, are concrete examples testifying that a more active participation could enhance both women's rights as well as climate hazardous risk management solutions.

Thus, a better future could be shaped with the collaboration of all States and Institutions around the world. Consequently, the significance of the role of the State along with the role of a good governance becomes even more crucial. Fortunately, when States do lack either the interest or the ability to protect the rights of their citizens, NGOs do come in handy providing a strong leverage to force States to take clear positions.

⁶³⁷ Manila Declaration for Global Action on Gender in Climate Change and Disaster Risk Reduction Manila, Philippines 22 October 2008

Hence, this change of perspective towards a more gender-responsive view could be achieved only if it goes step by step with the respect to the environment itself. Indeed, it might be important to restate the observations of the Special Rapporteur Mr. John H. Knox on the Framework Principles on Human Rights and the Environment (2018) in which the concept of a new right to a healthy environment emerges. Principle one affirms “States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights”⁶³⁸. Thus, women's and people's rights could be guaranteed if the respect of the environment is respected, too. As proposed by the final paragraphs of Chapter three, although the right to a healthy environment is not included in any global human rights instrument, many constitutions, declarations, and scholars affirm the urgency to include such right because it is perceived as a vital element. Only through a healthy environment women and people, in general, could finally have their rights respected.

It could be easily concluded that the role of the regional courts is a clear illustration of how the right to benefit from a healthy environment should be guaranteed. Courts themselves are providing a framework and a practical application of such right: the Inter-American Court of Human Rights, in its Advisory opinion of 15 November 2017, recognised the existence of a right to a healthy environment as an autonomous right because, in its collective dimension, it constitutes a universal interest.

In conclusion, the main purpose of this work has been that of targeting a specific question: to determine whether women's rights and a gender perspective are intertwined with environmental law and environmental rights at international and European levels. By now, it should be clear that we are in the right direction to achieve a more holistic approach in which women's rights are observed and intertwined with environmental ones. However, even though several enhancements and commitments have been done until today, a gender perspective is still not totally integrated. Only with the affirmation of a right to a healthy environment as an autonomous right, women will achieve the respect they deserve.

I would like to conclude this dissertation with a personal but well-thought comment based on what I have studied until now. I have read several solutions proposed by experts and the difficulty in implementing such rights, some have been significantly effective in the fight

⁶³⁸ Framework Principles on Human Rights and the Environment, 2018, available at <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/FrameworkPrinciplesReport.aspx>

against climate change, and others have not delivered the hoped results. For months, I have dedicated myself to the study of the interconnection between human rights and environmental rights from a gender perspective, and to finally assessing that their rights are far from being completely observed in developing countries, but there are positive assumptions. I have tried to provide an outline on the main points which make environmental law, climate change law and women's rights converge to have a clearer view on the matter. As long as women and nature are treated as a means to exploit, rather than subjects which transcends the mere economic values, all the solutions provided at national, regional and international level will hardly be enough. For these reasons, this work aimed at reinforcing and sustaining the new process of greening human rights which has to be deeply analysed by researchers to break the common ideas that see nature as an object to be exploited. The work proposes a new holistic approach to face climate change and sustainable development which has at the core human rights and the respect of nature. Research has to go hand in hand with development policies to offer a more inclusive structure in which co-benefits are destined also to the most vulnerable people who face the worst obstacles to live decently. This is why adding a human rights perspective on climate change law is something basic and fundamental at the same time. Assessing that climate change is showing its real danger, policymakers should provide binding instruments to respect the environment and safeguard human rights, which are the values upon which the modern-day world was founded, and which should be shared by all communities.

Perhaps the solution should be that of considering more the indigenous cosmovision and their respect for nature in order to really feel the necessity to respect, protect and fulfil human rights, above all women's rights.

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