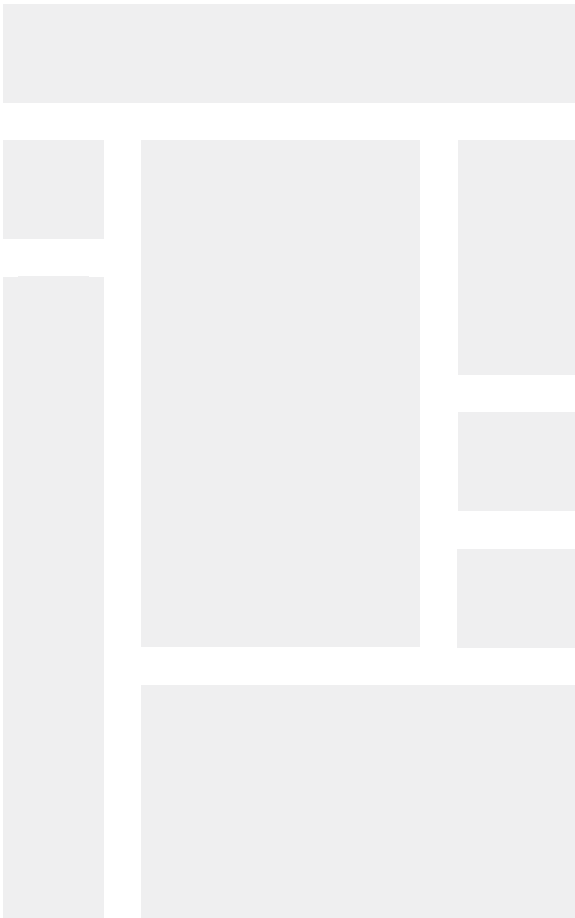


## **Legal Research Series**

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## **Gender, Climate Change & Participation: Women's Representation in Climate Change Law and Policy**

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# GENDER, CLIMATE CHANGE & PARTICIPATION: WOMEN'S REPRESENTATION IN CLIMATE CHANGE LAW AND POLICY

*Shannon Greene*<sup>1</sup>

**Abstract:**

This paper examines gender, climate change and participation, and seeks to identify whether women are effectively participating in climate change law and policy. Persisting gender inequality means that the burden of climate risk is unevenly distributed, thus disproportionately affecting women. Despite this, they are under-represented in climate change litigation and policy formation. Through their experiences and traditional knowledge of natural resources, women can offer valuable insight into climate action, mitigation and disaster risk strategies. This paper explores how women's participation and leadership is vital for climate justice. It will identify the importance of women being included in decision-making at a grass-root level and the social, economic and political barriers that women face that inhibits their involvement in climate justice.

**Keywords:** women, participation, climate change, gender

“The liberation of the earth, the liberation of women, the liberation of all humanity is the next step of freedom we need to work for, and it's the next step of peace we need to create.”

Vandana Shiva<sup>2</sup>

## A. INTRODUCTION

The most recent Intergovernmental Panel on Climate Change Report states that climate change will pose great risks to health, livelihood, food security, water supply, and human security.<sup>3</sup> Extreme weather events, rising sea levels, droughts, floods, heat waves, desertification, water shortages and the spread of vector borne diseases are already taking place as a result. These occurrences both directly and indirectly impact on one's human rights, including the right to life, health, self-determination, culture and development.<sup>4</sup> The effects of climate change will undoubtedly be felt by everyone, however for persons and communities already in disadvantageous circumstances as a result of geography, gender, poverty, age, disability, or cultural or ethnic background, climate change will exacerbate these inequalities.<sup>5</sup> Individuals face an unequal burden as a result of these challenges, and often lack the resources to

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<sup>1</sup> Shannon Greene, LL.M., University College Cork. This paper was submitted as an LL.M. thesis for the LL.M. in International Human Rights Law & Public Policy in September 2019, under the supervision of Dr. Dug Cubie, and has been lightly edited and updated to reflect recent developments up to April 2020. The idea for this paper stemmed from the author's interest in gender equality and ecological justice.

<sup>2</sup> Vandana Shiva (2013), 'Vandana Shiva on International Women's Day', Interview with Democracy Now! Amy Goodman, *Independent Global News*, 8 March 2013.

<sup>3</sup> Intergovernmental Panel on Climate Change (IPCC), *An IPCC Special Report on the Impacts of Global Warming of 1.5°C above Pre-industrial Levels and Related Global Greenhouse Gas Emission Pathways: Summary for Policy-makers* (2018), 6.

<sup>4</sup> UN Office of the High Commissioner for Human Rights, 'Human Rights and Climate Change' (2015), available at: [www.ohchr.org/en/issues/hrandclimatechange/pages/hrclimatechangeindex.aspx](http://www.ohchr.org/en/issues/hrandclimatechange/pages/hrclimatechangeindex.aspx) (last accessed: 16 April 2020).

<sup>5</sup> *Ibid.*

adequately deal with them.<sup>6</sup> Gender equality remains an issue today, and with lack of access to resources, finance, decision-making positions and other socio-cultural inequalities that persist, women bear a disproportionate burden to the effects of climate change.<sup>7</sup>

The World Health Organisation refers to 'gender' as socially constructed characteristics that exist between women and men, such as norms, roles and relationships, that vary throughout societies.<sup>8</sup> While not universal, gender shapes certain expectations, attributes and roles to men and women.<sup>9</sup> Because of these roles, certain relationships and power-dynamics can form, and as a result, can have different impacts. While climate change affects everyone, women may be disproportionately affected due to socially constructed roles.<sup>10</sup> Women may have restricted access to resources, limited rights, be excluded from land ownership and omitted from participating in decision-making.<sup>11</sup> Nonetheless, these gender roles that are ascribed to women, such as caregiving for households and communities, harvesting seeds and soils and maintaining responsibility for agriculture creates opportunities for women and place them in a unique position to bring various integral solutions to climate change. Despite this, women's participation has not been sufficiently valued in decision-making or climate negotiations in the past. As will be discussed in the following paper, women are regularly omitted from decisions made regarding climate change, due to many reasons. Socio-cultural inequalities and the postulation of climate change as a techno-scientific problem, among other obstacles, inhibit women from fully participating.<sup>12</sup>

This paper will examine women's participation in relation to climate change negotiations and decision-making, within the United Nations Framework Convention on Climate Change (UNFCCC) and more generally in the environmental sphere. The UNFCCC was adopted at the Rio Earth Summit in 1992 and entered into force on 21<sup>st</sup> March 1994. Today, it has near-universal membership, with 197 parties to the Convention.<sup>13</sup> The Conference of the Parties (COP) is the supreme decision-making body of the Convention. All state parties are present at the COP. The meeting is held every year, where Parties review the implementation of the Convention.<sup>14</sup> The World Commission on Environment and Development contends that "the right of individuals to know and have access to current information on the state of the environment and natural resources, the right to be consulted and to participate in decision making on activities likely to have a significant effect on the environment, and the right to legal remedies and redress for those whose health or environment has been or may be seriously affected."<sup>15</sup> Women have originally been largely involved in environmental justice campaigns. However, they remain in lower level positions,

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<sup>6</sup> Women's Environment and Development Organization (WEDO), *Gender and Climate Change: A Closer Look at Existing Evidence* (2016) 4.

<sup>7</sup> Sumudu Atapu, *Human Rights Approaches to Climate Change: Challenges and Opportunities* (Routledge, 2015) 198.

<sup>8</sup> World Health Organisation, *Gender Equity and Human Rights*, available at: [www.who.int/gender-equity-rights/understanding/gender-definition/en/](http://www.who.int/gender-equity-rights/understanding/gender-definition/en/) (last accessed: 16 April 2020).

<sup>9</sup> European Capacity Building Initiative (ECBI), *Pocket Guide to Gender Equality Under the UNFCCC* (2018) 4.

<sup>10</sup> Ibid, 3.

<sup>11</sup> Ibid.

<sup>12</sup> Sherilyn MacGregor, 'Gender and climate change: from impacts to discourses' (2010) 6(2) *Journal of the Indian Ocean Region* 229.

<sup>13</sup> UN Framework Convention on Climate Change (UNFCCC), 'What is the United Nations Framework Convention on Climate Change?', available at: <https://unfccc.int/process-and-meetings/the-convention/what-is-the-united-nations-framework-convention-on-climate-change> (last accessed: 16 April 2020).

<sup>14</sup> UNFCCC, 'Conference of the Parties (COP)', available at: <https://unfccc.int/process/bodies/supreme-bodies/conference-of-the-parties-cop> (last accessed: 16 April 2020).

<sup>15</sup> World Commission on Environment and Development (WCED), *Report of the World Commission on Environment and Development: Our Common Future* (1987) 272.

making up a minority of top level management in the environmental sphere.<sup>16</sup> As a matter of fact, women have historically been excluded from participation and decision-making in all political spheres, with 90% of states headed by men.<sup>17</sup> Although this paper will focus specifically on gender, it is not the only social category that experiences inequality as a result of climate change. Gender is one of the many dimensions of vulnerability and adaptive capacity. As the Global Gender and Climate Alliance iterate, differences in experiences in relation to climate change are not restricted to differences between gender, but rather they have dimensions that are shaped by other vectors such as class, race, age, ability and sexuality, among others.<sup>18</sup>

Due to these gendered social roles, women and men often have contrasting outlooks and understandings, and therefore both perspectives are integral to address issues related to climate change. Women however, have historically been underrepresented in decision-making, which means that their perspectives are often not taken into consideration.<sup>19</sup> A 2015 study by the UN Office of the High Commissioner for Human Rights finds that women continue to face significant discrimination in relation to their participation in public and political life in all geographical regions.<sup>20</sup> The Convention for the Elimination of All Forms of Discrimination Against Women has highlighted the omission of women from decision-making positions at all levels.<sup>21</sup> For example, in 2018, only 22% of women were head of delegations at the 24<sup>th</sup> Conference of the Parties.<sup>22</sup> This figure decreased at the most recent conference in December 2019, with only 21% of delegations headed by women.<sup>23</sup> Although the overall participation of women in climate change negotiations *has* improved in recent years, progress has been minimal, and in many instances has decreased. This paper will first and foremost examine specific provisions on gender and climate change in international law. Moreover, it will refer to the acknowledgement of gender within climate finance, disaster risk reduction and representation. Additionally, this paper will outline women's overall participation within climate negotiations and consider why an increase in participation has not been more substantial. Subsequently, it will contemplate what it would mean for climate change efforts if more women were involved in decision-making, including at the highest levels, and the importance of grassroots communities and organisations in protecting the environment from degradation.

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<sup>16</sup> Annie Rochette, 'Transcending the Conquest of Nature and Women: A Feminist Perspective on International Environmental Law', in Doris Buss and Ambreena Manji (eds), *International Law: Modern Feminist Approaches* (Hart, 2005).

<sup>17</sup> UN General Assembly, 'Women in Power', Statement by H.E. Mrs. María Fernanda Espinosa Garcés, President of the 73<sup>rd</sup> Session of the UN General Assembly (12 March 2019), available at: [www.un.org/pga/73/2019/03/12/women-in-power/](http://www.un.org/pga/73/2019/03/12/women-in-power/) (last accessed: 16 April 2020).

<sup>18</sup> WEDO, 'Gender and Climate Change' (n.6) 4.

<sup>19</sup> *Ibid*, 6.

<sup>20</sup> UN Office of the High Commissioner for Human Rights, *OHCHR Report 2015* (2015), 14.

<sup>21</sup> UN Office of the High Commissioner for Human Rights, 'Respect the Rights of Rural Women, Recognise Their Vital Role in Development and Poverty Reduction, UN Experts Urge', Press Release (4 March 2016), available at: [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17148&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17148&LangID=E) (last accessed: 16 April 2020).

<sup>22</sup> Women's Environment and Development Organization (WEDO), 'UNFCCC: Progress of Achieving Gender Balance, Women's Participation in the UNFCCC' (2019).

<sup>23</sup> Women's Environment and Development Organization (WEDO), 'Factsheet: UNFCCC Progress on Achieving Gender Balance (COP25)' (31 January 2020).

## 1. Methodology

The methodology that will be used in this paper is a climate justice approach. The two main principles of climate justice that will be discussed, as referred to by the Mary Robinson Foundation – Climate Justice (MRF CJ), are to ensure that decisions made on climate change are participatory, transparent and accountable and to highlight gender equality and equity.<sup>24</sup> The opportunity to participate in decision-making processes that are fair and accountable is imperative in the climate justice ethos.<sup>25</sup> Those who are most affected by climate change must be involved and heard in the process.<sup>26</sup> Policy developments and implementation should reflect an understanding of the needs of low income countries to climate justice, with those needs understood and addressed. Moreover, it is important that the gender dimension of climate change is highlighted, as the effects are differentiated for both men and women, with women bearing the greater burden in situations of poverty.<sup>27</sup> The concept of Climate Justice is referenced in the *Preamble* of the Paris Agreement,<sup>28</sup> where it notes its importance in tackling climate change.<sup>29</sup> Justice is generally understood to mean what is right, fair, appropriate or deserved, with “justice being achieved when an unjust act is redressed.”<sup>30</sup> Within the context of climate change – according to Mary Robinson – this means that those who have contributed most to climate change should support those from poorer countries.<sup>31</sup> The concept of climate justice that the Mary Robinson Foundation – Climate Justice advocates for states that: “climate justice links human rights and development to achieve a human-centered approach, safeguarding the rights of the most vulnerable and sharing the burdens and benefits of climate change and its resolution equitably and fairly.”<sup>32</sup>

Climate change will inevitably have impacts everywhere in the world, however effects are unevenly distributed due to variable physical geography, historic patterns of responsibility and uneven development within and between nations.<sup>33</sup> Climate justice, according to the UN Framework on Climate Change and the Intergovernmental Panel on Climate Change, will only be achieved when industrialised countries: (i) reduce greenhouse gas emissions accordingly; (ii) provide long and short term climate finance; and (iii) ensure capacity building and technology transfer to help those most vulnerable to become more resilient to climate change.<sup>34</sup>

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<sup>24</sup> Mary Robinson Foundation – Climate Justice, ‘Principles of Climate Justice’ (2017), available at: [www.mrfcj.org/pdf/Principles-of-Climate-Justice.pdf](http://www.mrfcj.org/pdf/Principles-of-Climate-Justice.pdf) (last accessed: 16 April 2020).

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid, 2.

<sup>28</sup> The Paris Agreement is an agreement within the UNFCCC, which emerged out of COP 21 in December 2015. It was the first agreement that explicitly referenced human rights in relation to climate change. The Paris Agreement is discussed further in Section B.

<sup>29</sup> UN Framework Convention on Climate Change, *Adoption of the Paris Agreement*, 21<sup>st</sup> Conference of the Parties (2015), Preamble.

<sup>30</sup> Environmental Protection Agency & Mary Robinson Foundation – Climate Justice, ‘The Geography of Climate Justice – An Introductory Resource’ (2006), 1.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid, 3.

<sup>34</sup> Ibid, 7.

## 2. Aims and Objectives

The overarching aim of this paper is to *measure if there is effective participation of women within climate change law and policy*. In order to adequately answer this question, it is important to take both substantive and descriptive representation into account. In regard to women, substantive representation – according to Kruse – is the degree to which women’s issues are taken into account.<sup>35</sup> Descriptive representation, on the other hand, refers to the number of women present in decision-making.<sup>36</sup> Thus, to adequately understand whether there is effective participation of women in climate change law and policy, there must be presence of both descriptive and substantive representation. An integral point of reference within this paper is Mary Robinson’s characterisation of participation: presence, partial participation and meaningful participation. Women’s presence or partial participation refers to situations whereby women are present within decision-making structures, but only acknowledged on matters of relevance to women, such as childcare and reproductive health. Meaningful participation occurs where women are represented at all levels of decision-making and are empowered to effect lasting change.<sup>37</sup> On account of this, the paper will include two objectives. The first will aim to *examine the specific provisions relating to gender that are included within climate change law and policy*, such as the Rio Declaration, Paris Agreement, and the Gender Action Plan, among others. Article 7 and 8 of the Convention of Elimination of All Forms of Discrimination Against Women will be employed in order to answer the research questions. Article 7 of the Convention stipulates that state parties must take appropriate measures to ensure women the right “to participate in the formulation of government policy and ... at all levels of government”<sup>38</sup> and non-governmental organisations.<sup>39</sup> Article 8 of the Convention states the right for women – without any discrimination – to participate in the work of international organisations and represent their governments.<sup>40</sup> The second objective will intend to *measure women’s participation within the UN Framework Convention on Climate Change (UNFCCC)*, and more broadly, within the environmental sphere as a whole.

The first section will provide an overview on gender and climate change, contextualising the major discourses that have come up in climate change and gender narratives. The second section will focus on the objective of examining the specific provisions related to gender that are included within international climate law and policy. It will include a brief overview on women’s participation identified as an issue within climate change law and policy. It will also outline recent developments in improving women’s participation and identify certain structural barriers that inhibit women from participating. The third section will specifically look at women’s participation, predominantly under the UNFCCC and in environmental decision-making. It will address the importance of descriptive and substantive representation in detail and outline how women’s participation might be improved. In answering these two objectives, the overarching question – *is there effective participation of women within climate change law and policy* – will be addressed. Finally, the conclusion will identify key issues that have hindered women’s effective participation, and what is expected for women’s participation in the future. Effective and meaningful participation of women is an overarching theme in this paper – that is – acknowledging

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<sup>35</sup> Johannes Kruse, ‘Women’s Representation in the UN Climate Change Negotiations: A Quantitative Analysis of State Delegations 1995-2011’ (2014) 14 *International Environmental Agreements*, 351.

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

<sup>37</sup> Mary Robinson Foundation – Climate Justice (MRFJ), ‘Women’s Participation: An Enabler of Climate Justice’ (2016), 8.

<sup>38</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, 18 December 1979, Art 7(b).

<sup>39</sup> *Ibid.*, Art 7(c).

<sup>40</sup> *Ibid.*, Art 8.

that the presence of women is simply not enough to effect real structural change within climate change law and policy. Women must be fully present in all decision-making structures, and have the voice to effect change. There must be both *descriptive* and *substantive* representation, women must be *present* in negotiations, but most importantly, their voices must influence change.<sup>41</sup> Both descriptive and substantive representation are interconnected, and depend on one another in order to be fully effective.

Women's participation in climate change law and policy has been generally increasing in the last 15 years, however, not by a significant amount, and not at a rate that would indicate gender parity will be achieved in 30 years, as previously hoped.<sup>42</sup> As Bridget Burns, Director of the Women's Environment and Development Organization illustrated:

Climate change is not a problem in and of itself, but a symptom of a growing, industrialised society and how it interacts with the earth. Thus, as a human and societal challenge, humans and social issues, including how society is gendered, must be at the heart of how we aim to mitigate and adapt to this challenge.<sup>43</sup>

## B. GENDER & CLIMATE CHANGE

The following section will link together the discourse on gender and climate change. Examining gender within a climate change context is integral. Although they are not homogenous groupings, men and women tend to experience different effects of climate change, based on it exacerbating existing inequalities.<sup>44</sup>

### 1. Climate Change & Human Rights

The Intergovernmental Panel on Climate Change has highlighted the consequences of climate change, such as glaciers, polar ice melting and a rise in sea levels and greenhouse gases.<sup>45</sup> The displacement of persons from Small Island Developing States as a result of rising sea levels is also a grave human rights issue. Moreover, climate-related displacement is likely to occur all over the world, potentially accelerating tension between states.<sup>46</sup> A wide range of human rights issues are threatened as a result of climate change. In 2009, the UN High Commissioner for Refugees issued a report on climate change and human displacement. It detailed five scenarios that would both directly and indirectly lead to displacement. Hydro-meteorological disasters, zones considered by governments to be too dangerous, environmental degradation, the 'sinking' of small island states, and the violence that occurs due to a depletion in essential resources will certainly have implications for the enjoyment of human rights.<sup>47</sup> The right to life is

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<sup>41</sup> Kruse, 'Women's Representation' (n.35), 351.

<sup>42</sup> WCED, 'Our Common Future' (n.15), para.43.

<sup>43</sup> Bridget Burns, 'Gender, Equality & Climate Policy: Words to Action', Women's Environment and Development Organization, ParlAmericas Keynote speech, Inauguration Ceremony, (2015). Available at: [www.youtube.com/watch?v=wHcq2\\_ODyi4](http://www.youtube.com/watch?v=wHcq2_ODyi4) (last accessed: 16 April 2020).

<sup>44</sup> WEDO, *Gender and Climate Change* (n.6), 4.

<sup>45</sup> IPCC, *Impacts of Global Warming of 1.5°C: Summary for Policy-makers* (n.3).

<sup>46</sup> Sam Adelman, 'Human Rights in the Paris Agreement: Too Little, Too Late?' (2018) 7(1) *Transnational Environmental Law* 19.

<sup>47</sup> UN High Commissioner for Refugees, *Climate Change, Natural Disasters and Human Displacement: A UNHCR Perspective* (2009), 4.



imperilled by extreme weather events, resulting in electricity damage, lack of water supplies and health and emergency services. Severe weather events, such as hurricanes, typhoons, heat waves and floods are leading to a large loss of life.<sup>48</sup> Moreover, the right to health will subsequently be affected through the spread of infectious diseases due to an increase in temperature and risks posed to food and water. Increased exposure to psychological harm will occur as a result of social destabilisation or displacement.<sup>49</sup> Community-based rights, such as the right to free enjoyment of culture and minority rights are threatened by climate change. The procedure of achieving equality outcomes for women and minorities in developing countries will undoubtedly be impacted by climate change.<sup>50</sup> Furthermore, other rights, such as the right to an adequate standard of living, will potentially be violated due to climate change.<sup>51</sup>

## 2. The Effects of Climate Change on Women

The effects of climate change are being felt everywhere in the world, leading many to experience the human rights issues discussed. However, these consequences are disproportionately felt due to persisting inequalities.<sup>52</sup> Individuals face an unequal burden due to these inequalities, and often lack resources to address such challenges.<sup>53</sup> Climate change has a direct impact on women due to environmental degradation, along with a lack of access to finances and resources, the exclusion of women from the decision-making process and discrimination not only resulting in increased susceptibility to the effects of climate change, “[b]ut also makes them more vulnerable because of its interaction with socio-cultural factors”.<sup>54</sup> These socio-cultural factors, such as unequal gender relations and limited access to resources can render women more vulnerable to climate change. Gender inequality is a pervasive issue today, with lack of access to resources, finances and decision-making positions, lack of formal education and economic poverty perpetuating existing inequalities between men and women.<sup>55</sup>

A study conducted by Huynh and Resurrección showed that vulnerability to water scarcity is shaped by vectors such as class, gender, age and race. Interaction between these factors create differentiated access to certain resources such as water, land and credit.<sup>56</sup> Furthermore, another study found that women in Bangladesh are confronted with different issues than their male counterparts, such as higher rates of mortality, increased workload, risk of sexual harassment and little opportunity to be included in disaster management.<sup>57</sup> Although climate change impacts everyone through environmental degradation, because women are faced with these socio-cultural inequities, it makes them more vulnerable to environmental degradation.<sup>58</sup> This perspective of women as vulnerable to climate change is the dominant theme in the adaptation debate, particularly in the global South.<sup>59</sup> As will be discussed below, this perspective can

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<sup>48</sup> International Bar Association, ‘Achieving Justice and Human Rights in an Era of Climate Disruption’ (2014) *Climate Change and Human Rights Task Force* 42.

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*, 43.

<sup>51</sup> Nick Watts *et al.*, ‘The 2018 Report of the Lancet Countdown on Health and Climate Change: Shaping the Health of Nations for Centuries to Come’ (December 2018) 392(10163) *The Lancet*, 589.

<sup>52</sup> WEDO, *Gender and Climate Change* (n.6), 4.

<sup>53</sup> *Ibid.*

<sup>54</sup> Atapu, *Human Rights Approaches to Climate Change* (n.7), 210.

<sup>55</sup> *Ibid.*, 198.

<sup>56</sup> Phuong Huynh and Bernadette Resurrección, ‘Women’s Differentiated Vulnerability and Adaptation to Climate-related Water Scarcity in Rural Central Vietnam’ (2014) 6(3) *Climate and Development*, 6.

<sup>57</sup> Rebecca Pearse, ‘Gender and Climate Change’ (2017) 8 *Wiley Interdisciplinary Reviews: Climate Change*, 4.

<sup>58</sup> *Ibid.*, 210.

<sup>59</sup> Petra Tschakert and Mario Machado, ‘Gender Justice and Rights in Climate Change Adaptation: Opportunities and Pitfalls’ (2012) 6(3) *Ethics and Social Welfare*.

perpetuate negative stereotypes of women as vulnerable and helpless, although women in the global South may be more susceptible to bearing the effects of climate change, Pearse contends that this vulnerability should not be misconstrued as an intrinsic defencelessness of women, but as a result of gender relations in certain socioeconomic and cultural contexts.<sup>60</sup>

This point was specifically noted in General Recommendation No.37 of the UN Committee on the Elimination of All Forms of Discrimination Against Women, which affirmed that:

Well-designed disaster risk reduction and climate change initiatives that provide for women's full and effective participation can advance substantive gender equality and women's empowerment, while ensuring that sustainable development, disaster risk reduction and climate change objectives are achieved.<sup>61</sup>

In its report on gender and climate change, the Global Gender and Climate Alliance further highlighted that male dominated land tenure structures throughout many areas of the world make it difficult for women to own land – thus increasing women's vulnerability to climate change. Moreover, access to tools, seeds and fertilisers are made less available to women, all of which increase women's susceptibility to experiencing the effects of climate change.<sup>62</sup>

In order to understand vulnerability to climate change within certain socioeconomic and cultural contexts, it is integral to recognise how gender relations intersect with other forms of inequality, such as race, ethnicity, class and caste.<sup>63</sup> For example, Onta and Resurrección contemplate the intersection of gender and caste as “producing the social categories that most shape vulnerabilities to climate change”.<sup>64</sup> Women have particular knowledge in ecological linkages and fragile ecosystem management due to their responsibility for fuel and water.<sup>65</sup> They undertake the majority of agricultural work, as well as bearing responsibility for food security and relying on depleting natural resources for their livelihoods.<sup>66</sup> Moreover, their limited access to resources and decision-making positions render them more vulnerable to the effects of climate change. For these reasons, women are integral to the climate justice regime with their capacity to strategize and adapt to change. Their inclusion is vital in addressing the full effects that environmental degradation poses. As highlighted in the Rio Declaration:

Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.<sup>67</sup>

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<sup>60</sup> Pearse, 'Gender and Climate Change' (n.57), 1.

<sup>61</sup> UN Committee on the Elimination of All Forms of Discrimination Against Women, *General Recommendation No.37 on Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change* (7 February 2018) UN Doc. CEDAW/C/GC/37, para 7. See also: Monica Mayrhofer, 'Gender (In)equality, Disaster and Human Rights – the CEDAW Committee and General Recommendation No.37' (2018) 1 *Yearbook of International Disaster Law* 233.

<sup>62</sup> WEDO, *Gender and Climate Change* (n.6), 10.

<sup>63</sup> Pearse, 'Gender and Climate Change' (n.57), 4.

<sup>64</sup> As quoted in: Edward R. Carr and Mary C. Thompson, 'Gender and Climate Change Adaptation in Agrarian Settings: Current Thinking, New Directions and Research Frontiers' (2014) 8(3) *Geography Compass*, 186.

<sup>65</sup> Kiran Soni Gupta, 'Gender and International Environmental Negotiations – How Far and How Much More?' (2006) 15 *International Environmental Negotiation*, 7.

<sup>66</sup> UN Environment Programme (UNEP), *Women at the Frontline of Climate Change – Gender Hopes and Risks* (2011), 19.

<sup>67</sup> United Nations, 'The Rio Declaration on Environment and Development', 1992, Principle 20.

### 3. Virtue and Vulnerability in Climate Change Discourse

There are dual themes that are present in the discourse surrounding gender and climate change literature. Often, women are postulated as vulnerable to the damaging effects of climate change, *or* virtuous agents of change within climate action. The vulnerability discourse is based on the fact that women comprise 70 per cent of the world's poor, and are 14 times more likely to die in climate related disasters than men.<sup>68</sup> This argument – according to Maguire – has no real basis to it, and cannot be empirically proven.<sup>69</sup> Arora-Jonsson reiterates this, and argues that this alludes to women being inherently weaker and vulnerable than their male counterparts. Moreover, it suggests that men in the global North are not as environmentally aware as women.<sup>70</sup> Oldrup and Breengard maintain that in the global South, women's needs are not considered, and their participation is insufficient.<sup>71</sup> Similarly, Tschakert and Machado criticise the depiction of women as “chief victim and caretaker”.<sup>72</sup> Resurrección ascertains that there are three reasons why such discourses have been so compelling. The first is that for gender to enter its way into climate politics, women must be uniform and tied to nature.<sup>73</sup> The second is the discourse to climate vulnerability can serve strategically in gaining feminist advocacy.<sup>74</sup> As elucidated by Arora-Jonsson:

women-environmental links tended to come to mean two things: acknowledging women's environmental roles so that they could be brought into broader project activities such as tree planting, soil conservation and so on, mobilizing the extra resources of women's labour, skill and knowledge; or justifying environmental interventions which targeted women exclusively usually through women's groups.<sup>75</sup>

The third reason Resurrección describes is that previous environmental initiatives have utilised the women-environment link, and have repeated this link within the climate change regime.<sup>76</sup> Tschakert and Machado have argued that this portrayal of women as helpless victims – although aids in placing gender aspects into policy debates – reinforces gender myths and simplifies the power structure that exists between men and women.<sup>77</sup> Arora-Jonsson contends that such simplified consideration for women's knowledge, role and responsibilities can increase the “feminization of responsibility.”<sup>78</sup> Moving away from the depiction of women as vulnerable victims to the effects of climate change, scientific discourse has moved toward promoting women as agents of change and resilient in their knowledge of addressing climate change. Arora-Jonsson describes how women are portrayed as closer to nature and more environmentally conscious than their male counterparts.<sup>79</sup> Women are often described as “inherently

<sup>68</sup> Rowena Maguire, ‘Gender, Climate Change and the UNFCCC’, in Susan Harris Rimmer and Kate Ogg (eds), *Research Handbook on Feminist Engagement with International Law* (Edward Elgar, 2019), 69.

<sup>69</sup> Ibid.

<sup>70</sup> Seema Arora-Jonsson, ‘Virtue and Vulnerability: Discourses on Women, Gender and Climate Change’ (May 2011) 21(2) *Global Environmental Change*, 744.

<sup>71</sup> Ibid, 745.

<sup>72</sup> Tschakert & Machado, ‘Gender Justice and Rights’ (n.59), 277.

<sup>73</sup> Bernadette Resurrección, ‘Persistent Women and Environmental Linkages in Climate Change and Sustainable Development Agendas’ (2013) 40 *Women's Studies International Forum*, 33.

<sup>74</sup> Ibid.

<sup>75</sup> Arora-Jonsson, ‘Virtue and Vulnerability’ (n.70), 744.

<sup>76</sup> Resurrección, ‘Persistent Women and Environmental Linkages’ (n.73), 33.

<sup>77</sup> Tschakert & Machado, ‘Gender Justice and Rights’ (n.59), 277.

<sup>78</sup> Arora-Jonsson, ‘Virtue and Vulnerability’ (n.70), 746.

<sup>79</sup> Ibid, 745.

peaceful” and “closer to the earth” within development and climate change narratives.<sup>80</sup> For example, Mary Robinson, former president of Ireland and UN High Commissioner for Human Rights expressed:

If we took away barriers to women’s leadership, we would solve the climate change problem a lot faster.<sup>81</sup>

Moreover, it is described that participation of women in climate action would result in greater receptivity to citizens’ needs and the deliverance of “sustainable peace.”<sup>82</sup>

However, as Tschakert and Machado suggest, while recent discourse has succeeded in not placing women as victims of climate change, exacerbating gender differences, attention must be drawn to ensure that it does not go to the other extreme.<sup>83</sup> An overemphasis on women’s virtue in addressing climate change is equally as harmful.

The depiction of women as either virtuous or vulnerable in regard to climate change has the same effect – it portrays women as a homogenous group; “suffering because of their marginal position vis-à-vis men”.<sup>84</sup> As Cornwall describes:

Women often appear in narratives of gender and development policy as both heroines and victims: heroic in their capacities for struggle, in the steadfastness with which they carry the burdens of gender disadvantage and in their exercise of autonomy; victims as those with curtailed choices, a triple work burden and on the receiving end of male oppression and violence.<sup>85</sup>

The depiction of women’s intrinsic vulnerability and virtuousness strengthens the stereotype of fixed gender roles. Moreover, it reinforces the notion that women are innately helpless and closer to nature.<sup>86</sup> Characterising women in this way denies their experiences and places them in a group with the expectation that they all have similar experiences. Women’s participation in climate change law and policy must increase, not as a homogenous group, but as a diverse group of people with a variety of perspectives and experiences. Djoudi *et al* contend that viewing climate change through an intersectional lens – as opposed to a men-versus-women dichotomy – would contribute to a better understanding of the differential impacts of climate change, thus avoiding the “feminization of vulnerability.”<sup>87</sup> If the root causes of vulnerability are not considered, existing inequalities may be perpetuated rather than eradicated, while leaving climate solutions unfulfilled.<sup>88</sup>

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<sup>80</sup> Andrea Cornwall, ‘Gender Myths and Feminist Fables: The Struggle for Interpretive Power in Gender and Development’ (2007) 38(1) *Institute of Social Studies*, 2.

<sup>81</sup> Samantha Harris, ‘Climate Solutions Need Women at the Centre’, (BSR, 25 September 2018), available at: [www.bsr.org/en/our-insights/blog-view/climate-change-womens-empowerment-intersection](http://www.bsr.org/en/our-insights/blog-view/climate-change-womens-empowerment-intersection) (last accessed: 16 April 2020).

<sup>82</sup> MRFCJ, *Women’s Participation* (n.37), 7.

<sup>83</sup> Tschakert & Machado, ‘Gender Justice and Rights’ (n.59), 278.

<sup>84</sup> Arora-Jonsson, ‘Virtue and Vulnerability’ (n.70), 748.

<sup>85</sup> Cornwall, ‘Gender Myths and Feminist Fables’ (n.80), 3.

<sup>86</sup> Pearse, ‘Gender and Climate Change’ (n.57), 5.

<sup>87</sup> Houria Djoudi *et al*, ‘Beyond Dichotomies: Gender and Intersecting Inequalities in Climate Change Studies’ (2016) 45(3) *Ambio* 1.

<sup>88</sup> *Ibid*.

#### 4. Intersectional Inequality

This diversity in experiences and perspectives is integral to ensure that everyone is represented. This means not only gender, but for sexuality, age, race, class, caste and various other forms of inequality. As mentioned briefly, vulnerability to climate change is disproportionate due to persisting inequalities. These inequalities interact and intersect with one another, each sustaining the other. Kaijsera and Kronsell highlight the importance of viewing gender and climate change through an intersectional lens, where the norms embedded in climate change institutions “operate to reinforce inequalities of gender, race, ethnicity and class”.<sup>89</sup> Davis defines intersectionality as:

The interaction between gender, race and other categories of difference in individual lives, social practices, institutional arrangements, and cultural ideologies and the outcomes of these interactions in terms of power.<sup>90</sup>

Although there has been an increasing amount of literature surrounding gender and climate change, this literature often fails to consider how such a base for inequality is often strengthened by other structures of discrimination.<sup>91</sup> With an intersectional analysis, how individuals react to climate change depends on their position in certain power structures. For example, a study conducted after hurricane Katrina found that marginalised people were less likely to be able to evacuate or afford to live somewhere else.<sup>92</sup> The US Government, through inequitable policies and programmes that supported a housing crisis among predominantly African American people violates the Convention on the Elimination of All Forms of Racial Discrimination.<sup>93</sup>

According to Prior and Heinämäki, indigenous women are “particularly vulnerable to the impacts of climate change, due to geography, land rights and ownership, and patriarchal structures.”<sup>94</sup> The Convention for the Elimination of All Forms of Discrimination Against Women (1979) does not include a provision on indigenous women *or* racial discrimination. Moreover, little consideration has been given to the human rights implications of climate change at the intersection of individual and collective identities. Certain systems of power infiltrate all social relations from the individual to the global. There has been a call for an intersectional examination into these various power relations in structural positions. Women, predominantly women of colour, have an overwhelming presence in environmental justice campaigns.<sup>95</sup> Despite their majority in these campaigns, they remain in lower level positions. Slowly as the ranks move up, women’s participation is less and less. Women comprise only a small portion of top-level management in large environmental organisations, leading to a “mostly male-led professional elite and a mostly female-

<sup>89</sup> Pearse, ‘Gender and Climate Change’ (n.57), 4.

<sup>90</sup> Kathy Davis, ‘Intersectionality as Buzzword: A Sociology of Science Perspective on What Makes a Feminist Theory Useful’ (2008) 9(1) *Feminist Theory* 68.

<sup>91</sup> Anna Kaijsers and Annica Kronsell, ‘Climate Change through the Lens of Intersectionality’ (2014) 23(3) *Environmental Politics* 421.

<sup>92</sup> *Ibid.*

<sup>93</sup> Monique Harden and Nathalie Walker, ‘Hurricane Katrina: Racial Discrimination and Ethnic Cleansing in the United States in the Aftermath of Hurricane Katrina – A response to the 2007 Periodic Report of the United States of America’ (30 November 2007).

<sup>94</sup> Tahnee Lisa Prior and Leena Heinämäki, ‘The Rights and Role of Indigenous Women in the Climate Change Regime’ (2017) *Northern Institute for Environmental and Minority Law*, 197.

<sup>95</sup> Shirley A Rainey and Glenn S Johnson, ‘Grassroots Activism: An Exploration of Women of Color’s Role in the Environmental Justice Movement’ (2009) 16(3-4) *Race, Gender and Class*, 146.

led grassroots movement.”<sup>96</sup> In regard to climate negotiations, Kaijser and Kronsell maintain that this is evident in representation in environmental decision making.<sup>97</sup> Moreover, Röhr *et al* confirms that “the degree to which women participate in decision making on climate policies is small.”<sup>98</sup> Nancy and Tuana refer to the importance of considering structural inhibitors to decision-making, and the unequal distribution of vulnerabilities to climate change, and how both intersect across gender, race, class and caste, among many others.<sup>99</sup> The following section will discuss gender and climate change in a policy context, specifically relating to climate law and policy.

## 5. Gender & Climate Change in a Policy Context

The UN Framework Convention on Climate Change (UNFCCC) and Kyoto Protocol did not include a gender perspective until recently. The dialogue surrounding women and climate change emerged from the thirteenth Conference of the Parties (COP) in Bali, where the Global Gender and Climate Alliance was formed.<sup>100</sup> From this, the conversation on women and climate change continued to highlight the importance of gender equality and gender sensitivity.<sup>101</sup> Gender has been considered in more recent documents, however this is largely due to the representation of women as a vulnerable group.<sup>102</sup> A report released in 2010 by the Women and Gender Constituency highlighted that neither the UNFCCC nor the Kyoto Protocol referred to women, either as a vulnerable group *or* necessary actors in adaptation measures.<sup>103</sup> COP 14 and 15 continued on the same trajectory, highlighting the need for gender sensitivity in climate change mandates.<sup>104</sup> The establishment of the Lima Work Programme in 2014 encouraged the integration of gender considerations into climate negotiations, implementation and monitoring. Additionally, it called for the full and equal participation of women in climate related processes and in UNFCCC meetings.<sup>105</sup> COP 23 witnessed the inception of the *Gender Action Plan (GAP)*, to ensure the inclusion of women in decisions made on climate change, and the integration of gender mandates into climate policy.<sup>106</sup> It aims to do this through five main areas, including capacity building, participation, coherence, gender-responsive implementation and monitoring and reporting.<sup>107</sup> Moreover, it entailed that annual workshops would be orchestrated in 2018 and 2019 to ensure the progress of the Action Plan.<sup>108</sup> The GAP was renewed again in 2019 at COP 25 after much deliberation on the proposed language of human rights. This will be discussed in more detail in the following section.

<sup>96</sup> Rochette, ‘Transcending the Conquest of Nature and Women’ (n.16).

<sup>97</sup> Kaijser & Kronsell, ‘Climate Change’ (n.91), 426.

<sup>98</sup> Ulrike Röhr *et al*, ‘Gender Justice as the Basis for Sustainable Climate Policies’ (2008) German NGO Forum on Environment and Development, 6.

<sup>99</sup> Christina Shaheen and Nancy Tuana, ‘Mapping a Research Agenda Concerning Gender and Climate Change: A Review of the Literature’ (2014) *Hypatia* 682.

<sup>100</sup> Kaijser & Kronsell, ‘Climate Change’ (n.91), 427.

<sup>101</sup> Prior & Heinämäki, ‘Rights and Role of Indigenous Women’ (n.94), 204.

<sup>102</sup> Kaijser & Kronsell, ‘Climate Change’ (n.91), 427.

<sup>103</sup> Atapu, *Human Rights Approaches to Climate Change* (n.7), 205.

<sup>104</sup> Prior & Heinämäki, ‘Rights and Role of Indigenous Women’ (n.94), 204.

<sup>105</sup> UN Framework Convention on Climate Change, *Gender and Climate Change*, 21<sup>st</sup> Conference of the Parties (2014) Marrakech, United Nations.

<sup>106</sup> UN Women, ‘First-ever Gender Action Plan to support gender responsive climate action adopted’, 14 November 2017, available at: [www.unwomen.org/en/news/stories/2017/11/announcement-first-ever-gender-action-plan-on-climate-action-adopted](http://www.unwomen.org/en/news/stories/2017/11/announcement-first-ever-gender-action-plan-on-climate-action-adopted) (last accessed: 16 April 2020).

<sup>107</sup> UN Framework Convention on Climate Change, *Establishment of a Gender Action Plan*, 23<sup>rd</sup> Conference of the Parties (2017) Bonn, United Nations.

<sup>108</sup> *Ibid*, 2.

Although women suffer a disproportionate burden of the impact of climate change, they are seriously underrepresented in climate change decision-making and policy formation.<sup>109</sup> The number of women has certainly increased in the last number of years, however no attention has been paid to incorporating a gender or intersectional framework into policy documents.<sup>110</sup> According to a WEDO report, women only make up 26% of high level government positions in environmental and energy policy-making.<sup>111</sup> The 2001 COP decision committed to improving the participation of women in the representation of parties by inviting parties to “give active consideration to the nomination of women for elective posts in any body established under the Convention or the Kyoto Protocol.”<sup>112</sup> It was not until 2012, at COP 18, that action was taken. To date, participation has only increased a minimal amount, and in some instances even decreased. Although more policies have been put in place, there has not been adequate implementation.

The lack of gender balance in decision-making levels in international treaties, as well as their exclusion from the negotiating table, means that women’s distinct needs in relation to climate change are not adequately addressed.<sup>113</sup> According to Gupta, the inclusion of gender issues in the planning, design and implementation of environmental treaties is restricted. When gender is addressed, the focus is primarily on ‘women’ as opposed to gender relations – with a tendency to view women as a “homogenous entity,”<sup>114</sup> and considers them as one group with the same needs and experiences. For example, wealthy women with diverse livelihoods will bear a different impact to climate change than poorer women who are reliant on threatened natural resources.<sup>115</sup> Governance cannot be effective or responsive if it is not inclusive of different experiences. Women’s presence in decision-making in climate change negotiations is therefore essential to ensure their specific needs are protected.<sup>116</sup>

Subsequently, although environmental degradation poses a greater risk for women, the effects of climate change that women face are not a result of perpetual gender inequality, but can act as an agent for “normative disruption to personal and economic life that lead to new forms of gender inequality and possibilities for resilience.”<sup>117</sup> Socio-cultural factors, such as unequal gender-relations and limited access to resources can render women more vulnerable to the effects of climate change. These vulnerabilities are also shaped by vectors such as class, race, and caste. Despite this, women have much to offer because of their distinct knowledge on ecological linkages and climate change. Therefore, women’s participation is vital in climate change negotiations, while also ensuring not to idealise the participation of women as the *solution to climate change*. The next section will consider the various research on gender and climate policy, including Johannes Kruse’ sixteen-year study on women’s representation in the UN Climate Change Negotiations.<sup>118</sup> Moreover, it will observe on a more general scale women in decision-making positions and diplomacy in general, and hopefully ascertain why the participation of women in decision-making will benefit climate change negotiations.

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<sup>109</sup> IPCC, *An IPCC Special Report on the Impacts of Global Warming of 1.5°C above Pre-industrial Levels and Related Global Greenhouse Gas Emission Pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* (2015), Chapter 5, 33.

<sup>110</sup> Kaijser & Kronsell, ‘Climate Change’ (n.91), 427.

<sup>111</sup> WEDO, *Gender and Climate Change* (n.6), 6.

<sup>112</sup> UN Framework Convention on Climate Change, *Report of the Conference of the Parties, 7<sup>th</sup> Conference of the Parties* (2001) Marrakech, United Nations, 26.

<sup>113</sup> Gupta, ‘Gender and International Environmental Negotiations’ (n.65), 15.

<sup>114</sup> *Ibid*, 1.

<sup>115</sup> Carr & Thompson, ‘Gender and Climate Change Adaptation’ (n.64), 188.

<sup>116</sup> Voluntary Service Overseas (VSO), ‘Women in Power: Beyond Access to Influence in a Post 2015 World’ (2015) 9.

<sup>117</sup> Pearse, ‘Gender and Climate Change’ (n.57), 6.

<sup>118</sup> Kruse, ‘Women’s Representation’ (n.35), 352.

## C. GENDER, LAW & POLICY

The Universal Declaration of Human Rights begins with “All humans are born free and equal in dignity and rights.”<sup>119</sup> Pursuant to this, it is stated that equality of men and women in voice and leadership in the decision-making process is a human rights issue that predicates gender and justice.<sup>120</sup> At a gathering in New York in 2015, eighty world leaders pledged to put an end to discrimination against women by 2030, and announced “concrete and measurable national action to kickstart rapid changes.”<sup>121</sup> The countries committed to address barriers for women, including investing in gender equality and attaining equality in decision-making.<sup>122</sup> This was considered to be a great development in the recognition of women’s rights within the climate change process. The following section will address how the inclusion of women in human rights instruments and provisions in relation to climate change has progressed over the last number of years.

### 1. Participation & International Treaties

The fundamentals of equality – specifically gender equality – are stipulated in most human rights instruments. The UDHR, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights all prohibit discrimination and promote equality between men and women. Article 21 of the UDHR recognises the rights of every person to take part in the government of their country<sup>123</sup> for the adequate functioning of democracy.<sup>124</sup>

The concept of participation is firmly rooted in international human rights law. The right to participate is enshrined in the Universal Declaration of Human Rights (1948), where it provides that “Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.”<sup>125</sup> Moreover, participation is explicitly mentioned in both the International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966). The Convention on the Elimination of all Forms of Discrimination Against Women makes numerous references to the importance of participation for the development and welfare of the world. It expresses that women have the right to “represent their governments at the international level and to participate in the work of international organisations.”<sup>126</sup> Participation – according to Mohammad and Farjana – is “a right by which one can exercise his/her function in society and even express his/her view or behaviour toward the political system and governance.”<sup>127</sup> In an environmental context, participation has been

<sup>119</sup> UN General Assembly, *Universal Declaration of Human Rights (UDHR)*, 10 December 1948, Article 1.

<sup>120</sup> UN Women & MRFJ, ‘The Full View: Ensuring a Comprehensive Approach to Achieve the Goal of Gender Balance in the UNFCCC Process’ (2018), 9.

<sup>121</sup> UN Development Programme, ‘Human Development Report 2016 – Human Development for Everyone’ (2016) 165.

<sup>122</sup> *Ibid.*

<sup>123</sup> UNGA, *UDHR* (n.119), 217 A (III), Art 21.

<sup>124</sup> Division for the Advancement of Women (DAW), ‘Equal Participation of Women and Men in Decision-Making Processes, with Particular Emphasis on Political Participation and Leadership’ (2005), available at: [www.un.org/womenwatch/daw/egm/eq-men/index.html](http://www.un.org/womenwatch/daw/egm/eq-men/index.html) (last accessed: 16 April 2020).

<sup>125</sup> UNGA, *UDHR* (n.119), Art 21.

<sup>126</sup> UNGA, *CEDAW* (n.38), Art 8.

<sup>127</sup> Nour Mohammad and Yasmin Farjana, ‘Participation as a Human Right: A Rights-Based Approach to Development’ (2018) 14 *Stakeholders and Responsibility* 1.



integral in the protection of the environment.<sup>128</sup> Public participation in environmental matters is stipulated in the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.<sup>129</sup> Out of the 197 signatories to the UNFCCC, 71 are involved with Regional Agreements to encourage public participation in environmental matters, such as the Aarhus and Escazu Agreements. Not only is promoting participation good practice in these countries, but it is obligatory under international law.<sup>130</sup> Where participation has been an integral part of environmental policy, the benefits of such include increased public support for policies and decisions, increased legitimacy and more equitable policies.<sup>131</sup>

The 1979 Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) advocates for equality between women and men by ensuring equal access to political and public life, to participate in the formulation of government policy and non-governmental organisations.<sup>132</sup> Article 8 of the Convention stipulates that parties take adequate measures to ensure that women have an opportunity to represent their governments at an international level and to participate in the work of international organisations.<sup>133</sup>

There are 189 states that have ratified CEDAW,<sup>134</sup> acknowledging that “the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields.”<sup>135</sup> Articles 7 and 8 stipulate the obligation of parties to the convention to ensure women have the right to participate in the political life of their countries at all levels, and to “take all appropriate measures to ensure women, on equal terms with men and without any discrimination, the opportunity to participate in the work of international organisations.”<sup>136</sup> Recognising the obstacles that women face in the realisation of Article 7, CEDAW called for the utilisation of special measures to ensure equal representation of women in *all* fields.<sup>137</sup> Such measures include “a wide variety of legislative executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with frames and quota systems.”<sup>138</sup>

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<sup>128</sup> Ibid, 2.

<sup>129</sup> UN Economic Commission for Europe, *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (2001), known as the ‘the Aarhus Convention’.

<sup>130</sup> Mary Robinson, ‘6<sup>th</sup> Dialogue on Action for Climate Empowerment, 9 May 2018’, Public Participation, Public Access to Information and International Cooperation on These Matters, Mary Robinson Foundation – Climate Justice, 4.

<sup>131</sup> Ibid, 3.

<sup>132</sup> UNGA, CEDAW (n.38), Article 7.

<sup>133</sup> Ibid, Art 8.

<sup>134</sup> UN Office of the High Commissioner for Human Rights, *Status of Ratification Interactive Dashboard*, 20 August 2019, available at: <http://indicators.ohchr.org/> (last accessed: 16 April 2020).

<sup>135</sup> UNGA, CEDAW (n.38), Preamble.

<sup>136</sup> Ibid, Art 8.

<sup>137</sup> UNFCCC, ‘Achieving the Goal of Gender Balance, technical report by the secretariat’, 26 October 2017, UN Doc. FCCC/TP/2017/8.

<sup>138</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *General Recommendation No.25* (2004) para. 22.

## 2. An Overview of Declarations and Policies Relating to Women's Participation

Key intergovernmental bodies that advocate for women's right to participate include CEDAW, the Beijing Platform for Action, as well as several resolutions of the UN, the UN Security Council, and the Commission on the Status of Women.<sup>139</sup> These models have laid a foundation for several important commitments to be made, including the 2030 Sustainable Development Agenda.<sup>140</sup> COP 7 in 2001 intended to improve participation of women in the representation of Parties in bodies established under the UNFCCC and the Kyoto Protocol. It urged parties to give "active consideration to the nomination of women for elective posts" in bodies established under the UNFCCC or the Kyoto Protocol.<sup>141</sup> The UNFCCC is a framework instrument, which lays out certain definitions, objectives, principles and establishes a range of bodies and mechanisms. The Kyoto Protocol and subsequent Paris Agreement detail specific individual targets for parties and comprehensive guidelines to enhance climate adaptation.<sup>142</sup> It was not until 2012 that there was another gender balance goal within the UNFCCC in the Conference of the Parties, with the establishment of a Gender Action Plan.

### (a) *The Rio Declaration on Environment & Development (1992)*

The Rio Declaration on Environment and Development in 1992 explicitly references participation in its principles. Principle 10 states that environmental issues are best handled with the participation of all citizens, where they have an opportunity to partake in the decision-making process.<sup>143</sup> Moreover, Principle 20 states: "Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development."<sup>144</sup> The following year, the Vienna Declaration and Programme of Action was adopted. Paragraph 18 of the Declaration stipulates that the full and equal participation of women is necessary in political, civil, economic, social and cultural life.<sup>145</sup> Paragraph 43 of Part 2 of the Declaration urges governments to "facilitate the access of women to decision-making posts and their greater participation in the decision-making process."<sup>146</sup>

The Copenhagen Declaration in 1995 also included a provision on participation of women, promoting the participation and leadership roles of women in all spheres and development.<sup>147</sup> The Report of the UN Conference on Human Settlements stipulated that "gender-sensitive institutional and legal frameworks and capacity-building at the national and local level" was imperative in encouraging participation.<sup>148</sup>

<sup>139</sup> UN Women & MRFCJ, 'Ensuring a Comprehensive Approach' (n.120), 3.

<sup>140</sup> Maguire, 'Gender, Climate Change and the UNFCCC' (n.68), 64.

<sup>141</sup> UNFCCC, decision 36/CP.7, *Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women*, 2001.

<sup>142</sup> Ibid.

<sup>143</sup> United Nations, *The Rio Declaration on Environment and Development (1992)*, Principle 10.

<sup>144</sup> Ibid, Principle 20.

<sup>145</sup> UN General Assembly, *Vienna Declaration and Programme of Action (12 July 1993)*, Part 1 para 18, UN Doc. A/CONF.157/23.

<sup>146</sup> Ibid, Part 2 para 43.

<sup>147</sup> UN General Assembly, *Copenhagen Declaration on Social Development (14 March 1995)*, Commitments 4 & 5, UN Doc. A/CONF.166/9.

<sup>148</sup> UN General Assembly, 'Report of the United Nations Conference on Human Settlements' (7 August 1996), para 7, UN Doc. A/CONF.165/14.

*(b) The Beijing Declaration & Platform for Action (1995)*

Realising the slow progression of equality in participation, the Beijing Declaration was adopted in September 1995 at the fourth UN conference on women, to accelerate progress.<sup>149</sup> It aimed to eliminate all barriers to women's participation in all spheres of public and private life through a "full and equal share in economic, social, cultural and political decision-making."<sup>150</sup> The Declaration affirmed that equality between men and women was fundamental to equality, development and peace.<sup>151</sup> It called for the establishment of mechanisms at all levels for "accountability to the world's women."<sup>152</sup> Moreover, it stated that to ensure the success of the Platform for Action, a strong commitment from governments, international organisations and institutions was required.<sup>153</sup>

*(c) The Aarhus Convention (2001)*

The Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Environmental Matters was adopted in 2001 by the UN Economic Commission for Europe. It focuses on providing a mechanism for holding governments accountable in their efforts to address the issues that climate change poses.<sup>154</sup> It functions to protect the environment and safeguard the human rights of persons.<sup>155</sup> Article 1 of the Convention states:

In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters.<sup>156</sup>

The Aarhus Convention – according to the International Bar Association – is an integral climate change justice instrument because of its "human-centred, local community empowered approach to addressing environmental problems."<sup>157</sup> Although the Convention serves as an excellent framework in strengthening the environmental rights of citizens, the barriers that women face in the realisation of these environmental rights are not addressed, which is a disappointment, particularly as the Convention is labelled as a 'human-centred' approach to climate change.

The low level of participation of women in environmental delegations contravenes the Aarhus Convention's objectives.<sup>158</sup> According to Women in Europe for a Common Future (WEFC), an increase in the participation of marginalised and vulnerable groups – such as women as girls – is imperative for the enjoyment of human rights, particularly given the lack of participation and decision-making.<sup>159</sup>

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<sup>149</sup> United Nations, *Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women*, 27 October 1995, 7.

<sup>150</sup> *Ibid.*, 7.

<sup>151</sup> *Ibid.*

<sup>152</sup> *Ibid.*

<sup>153</sup> *Ibid.*, 5.

<sup>154</sup> UN Economic Commission for Europe, 'The Aarhus Convention: An Implementation Guide', (2014).

<sup>155</sup> *Ibid.*

<sup>156</sup> UNECE, *Aarhus Convention* (n.129).

<sup>157</sup> IBA, 'Achieving Justice and Human Rights' (n.48), 160.

<sup>158</sup> Women in Europe for a Common Future (WEFC), 'The Gender Dimension Within the Aarhus Convention' (2014), 1.

<sup>159</sup> *Ibid.*

Subsequently, the WEFC recommended that for women to participate in decision-making at an international level, political will and financial means were required.<sup>160</sup> In 2009, at its 44<sup>th</sup> session in New York, the Committee for the Elimination of All Forms of Discrimination Against Women reported on the threat of climate change, calling for a provision on gender equality in future climate change agreements.<sup>161</sup>

(d) *The Cancún Adaptation Framework (2010)*

The 2010 People's Agreement on the Rights of Mother Earth was created in response to the failure of COP 15 to produce a binding agreement to address the issues climate change poses.<sup>162</sup> The agreement recounted climate change as an "ecological and economic crisis caused by a patriarchal and hierarchical model of civilisation based on the submission of human beings and the destruction of nature."<sup>163</sup> Although the UN General Assembly does not formally acknowledge the declaration, the Preamble of the Paris Agreement makes reference to the importance of "ensuring the integrity of all ecosystems, including oceans, and the protection of biodiversity"<sup>164</sup> that is recognised by Mother Earth. Another important step in 2010 was the Cancún Agreement, which highlighted the importance of respecting human rights in climate related action.<sup>165</sup> The Agreement called for the participation of women and other marginalised groups in addressing climate change: "gender equality and the effective participation of women and indigenous peoples are important for effective action on all aspects of climate change."<sup>166</sup>

(e) *Gender Equality, Climate Justice and the Sustainable Development Goals (2015-2030)*

In September 2015, UN Member States adopted the 2030 Agenda for Sustainable Development. Made up of 17 goals, 169 targets and 232 indicators, it aims to tackle a number of issues, including poverty, inequality, climate change and conflict.<sup>167</sup> The Agenda has a stand-alone Goal on gender equality and the empowerment of women and girls; however, gender equality is a cross-cutting theme across all goals.<sup>168</sup> Building on the commitments from the Beijing Declaration and Platform for Action and the Convention on the Elimination of All Forms of Discrimination Against Women, the Sustainable Development Goal's agenda is clear in its aim: development will only be long lasting if there is equality between men and women.<sup>169</sup> Within the SDG Framework, Goal 5 and Goal 13 address issues of gender equality and climate action, with each goal having its own specific targets and indicators.<sup>170</sup> Within Goal 13, where urgent action is needed to tackle climate change, its main target is to "Promote mechanisms for raising capacity

<sup>160</sup> Ibid, 2.

<sup>161</sup> Committee for the Elimination of All Forms of Discrimination Against Women, 'Statement of the CEDAW Committee on Gender and Climate Change', 44<sup>th</sup> Session, New York, 20 July-7 August 2009.

<sup>162</sup> Global Alliance for the Rights of Nature, *Peoples Conference on Climate Change and the Rights of Mother Earth*, n.d, available at: <https://therightsofnature.org/cochabama-rights/> (last accessed: 16 April 2020).

<sup>163</sup> Adelman, 'Human Rights in the Paris Agreement' (n.46), 24.

<sup>164</sup> UNFCC, *Adoption of the Paris Agreement* (n.29), Preamble.

<sup>165</sup> Daniel Bodansky, Jutta Brunnée and Lavanya Rajamani, *International Climate Change Law* (Oxford University Press, 2017).

<sup>166</sup> UN Framework Convention on Climate Change, *The Cancún Agreements*, Decision 1/CP.16 (2010), 3.

<sup>167</sup> UN Women, 'Turning Promises into Action: Gender Equality in the 2030 Agenda for Sustainable Development' (2019), 1.

<sup>168</sup> UN Women, 'Women and Sustainable Development Goals', United Nations Entity for Gender Equality and the Empowerment of Women (2017), 3.

<sup>169</sup> UN Women, 'Turning Promises into Action' (n.167), 1.

<sup>170</sup> Government of Ireland, 'Women as Agents of Change: Towards a Climate and Gender Justice Approach' (2018).

for effective climate change related planning and management in least developed countries and small island developing states, including focusing on women, youth and local and marginalised communities.”<sup>171</sup>

(f) *The Paris Agreement (2015)*

The Paris Agreement emerged out of COP 21 in December 2015, and came into force in November of the following year.<sup>172</sup> It was considered a landmark success and a progressive step in addressing climate change issues.<sup>173</sup> Moreover, it was a step in the recognition of climate change as a human rights issue. The Preamble of the Agreement states:

Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrant children, persons with disabilities and people in vulnerable situations, and the right to development, as well as gender equality, empowerment of women, and intergenerational equity.<sup>174</sup>

The Paris Agreement, in its Preamble, acknowledges the importance of participation at all levels:<sup>175</sup> “Parties shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness and public participation.”<sup>176</sup>

Many hoped that the Paris Agreement in 2015 would encompass a coherent understanding of how human rights are implicated as a result of climate change, that would advocate for the protection of human rights protections amidst the impact of climate change. Although it did highlight the human rights dimension of climate change, it only did so in the Preamble of the Agreement. Moreover, gender is mentioned in the Preamble, and in relation to articles on adaptation and capacity building. Although the importance of participation is highlighted in the agreement, specific barriers to participation are not mentioned, such as the structural barriers women face in participating.

### 3. Structural Issues in International Environmental Law

International climate law is based upon three legally binding instruments: the UNFCCC, the Kyoto Protocol<sup>177</sup> and the Paris Agreement.<sup>178</sup> These instruments are supplemented by Conference of the Parties (COP) decisions, which are considered soft law, but highly integral for the enactment of instruments.<sup>179</sup> Although soft law is considered imperative to the functioning of international climate law, it is not binding

<sup>171</sup> UN Women, ‘SDG 13: Take urgent action to combat climate change and its impacts’, available at: [www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-13-climate-action](http://www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-13-climate-action) (last accessed: 16 April 2020).

<sup>172</sup> Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* (4<sup>th</sup> ed, Cambridge University Press, 2018), 318.

<sup>173</sup> Kayla Clark, ‘The Paris Agreement: Its Role in International Law and American Jurisprudence’ (2018) 8(2) *Notre Dame Journal of International Comparative Law*, 107.

<sup>174</sup> UNFCCC, *Adoption of the Paris Agreement* (n.29), Preamble.

<sup>175</sup> *Ibid.*

<sup>176</sup> *Ibid.*

<sup>177</sup> UN, *Kyoto Protocol to the United Nations Framework Convention on Climate Change*, 11 December 1997 (entered into force 16 February 2005), available at <https://unfccc.int/resource/docs/convkp/kpeng.pdf> (last accessed: 16 April 2020).

<sup>178</sup> UNFCCC, *Adoption of the Paris Agreement* (n.29).

<sup>179</sup> Maguire, ‘Gender, Climate Change and the UNFCCC’ (n.68), 64.

and states are not obligated to comply. Many provisions on environmental law protection only reference women in the preamble of binding agreements, or in non-binding soft law agreements.<sup>180</sup> An example of this is the Paris Agreement, which was an opportunity to include an in-depth provision on gender, however it was just briefly touched on in the Preamble. Chinkin and Charlesworth reiterate this, and contend that there is a “double marginalisation” of women when women are only included in soft law instruments:

The subject matter of many ‘soft’ law instruments is significant. States use ‘soft’ law structures for matters that are not regarded as essential to their interests or where they are reluctant to incur binding obligations. Many of the issues that concern women thus suffer a double marginalisation in terms of traditional international law making: they are seen as the ‘soft’ issues of human rights.<sup>181</sup>

Although it is effective in involving a broad range of actors and creates roles as opposed to duties, hard law remains as the preferred paradigm of international law. As acknowledged by Chinkin, international law remains entwined with gendered subjectivity and perpetuates a system of male ‘power’.<sup>182</sup> She maintains: “Until international law focuses on all people and peoples, not just the powerful few, it will always be subject to geopolitical agendas inimical to genuine security.”<sup>183</sup> She contended that although conventions, declarations and resolutions were an integral framework in empowering women, men and children, they were not enough to protect the rights of women.<sup>184</sup> Furthermore, some scholars disagree that the inclusion of women in international law is even possible. Critics with a structural bias critique, such as Engle, argue that international law had initially been viewed as male, which subsequently makes it biased against women.<sup>185</sup> This led to the argument that women’s inclusion in international law should not be “add women and stir,” but “add women and alter.”<sup>186</sup>

Another difficulty in including gender provisions in international environmental law is the equality approach. This approach is best expressed in the paper ‘Transcending the Conquest of Nature and Women: A Feminist Perspective on International Environmental Law’ by Annie Rochette. According to Rochette: “The assumption appears to be that the gendered impacts of environmental degradation will be addressed simply by giving women the same rights as men, and that women’s role in environmental protection will be realised by giving women access to environmental and developmental decision making.”<sup>187</sup> She argues that this is due to three reasons: the first is that an approach to equality that is determined on access to decision making ignores the existing structures that have functioned to exclude women.<sup>188</sup> The second is under the equality approach, where the focus is on equality between men and women, the acknowledgement of the intersection between gender and other vectors of inequality such as race, class, culture and sexuality are ignored. The third is that the presence of women in environmental

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<sup>180</sup> Rochette, ‘Transcending the Conquest of Nature and Women’ (n.16).

<sup>181</sup> Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester University Press, 2000), 66.

<sup>182</sup> Christine Chinkin *et al*, ‘Feminist Approaches to International Law: Reflections from Another Century’, in Buss & Manji, *International Law* (n.16) 44.

<sup>183</sup> *Ibid*.

<sup>184</sup> *Ibid*.

<sup>185</sup> Karen Engle, ‘International Human Rights and Feminisms: When Discourses Keep Meeting’, in Buss & Manji *International Law* (n.16), 52.

<sup>186</sup> *Ibid*, 52.

<sup>187</sup> Rochette, ‘Transcending the Conquest of Nature and Women’ (n.16), 223.

<sup>188</sup> *Ibid*.

negotiations will leave these misogynist institutions intact, and therefore sustain the notion that they are 'fit for purpose'.<sup>189</sup> Women's meaningful participation within these frameworks would allow for a shift in the architecture of these structures as we know them, thus rejecting the ubiquitous 'giving men and women the same rights' approach.

The imbalance of men and women within the UNFCCC has certain implications. Chinkin referred to the human rights issue, which is still relevant nearly twenty years later.<sup>190</sup> The UN has a commitment to human rights and the equality of men and women through a series of instruments and negotiations. Moreover, the definition of discrimination on the basis of sex in international law includes both direct and indirect discrimination.<sup>191</sup> The participation of women, men and gender non-conforming persons in climate negotiations is necessary not to achieve equality, but to adequately address climate change issues. However, in order to achieve full and effective participation of women, it is imperative that these structural inequalities are taken into consideration. Chinkin and Charlesworth refer to the omission of women in major hard law instruments, contending that this almost undermines women's issues.<sup>192</sup> This is illustrated in the lack of action taken by the UNFCCC to address the issue of women's participation. Despite the acknowledgement of the issue in 2001, it was not until 2012 that there was an endeavour to address this.

#### 4. Gender & Climate Finance

Frameworks and policies that express gender considerations and uphold engagement in climate financing now exist in all four main public climate finance mechanisms. The Adaptation Fund (AF), Climate Investment Funds (CIF), the Green Climate Fund (GCF) and Global Environment Facility (GEF) are multilateral mechanisms that have continued to increase gender mainstreaming in recent years through policy and practice.<sup>193</sup> According to WEDO, whilst there have been efforts to provide space for women's organisations and gender groups to engage with climate funding as stakeholders, there has yet to be a sustainable participation from women at a grassroots level.<sup>194</sup> Climate finance mechanisms of various types and funds created under the UNFCCC are beginning to ensure that climate change projects will involve women in project selection, implementation and assessment, as well as addressing gender concerns.<sup>195</sup> Tinker and Alvarenga contend that proposals for funding climate action should be screened according to gender policies.<sup>196</sup> When discussing climate finance, the UNFCCC focuses on fund mobilisation, fund administration and governance, and fund disbursement and implementation, all of which are linked to key principles such as transparency, accountability and respective capability.<sup>197</sup>

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<sup>189</sup> Ibid.

<sup>190</sup> Charlesworth & Chinkin, *Boundaries of International Law* (n.181), 189.

<sup>191</sup> Ibid.

<sup>192</sup> Chinkin *et al*, *Feminist Approaches to International Law* (n.182), 66.

<sup>193</sup> WEDO, 'Women's Organization and Climate Finance: Engaging in Processes and Accessing Resources', (2019), 8.

<sup>194</sup> Ibid, 8.

<sup>195</sup> Catherine Tinker and Renata Koch Alvarenga, 'Gender Equality in Climate Finance: Progress and Aspirations' (Spring/Summer 2019) XX(2) *Seton Hall Journal of Diplomacy and International Relations*, 58.

<sup>196</sup> Ibid.

<sup>197</sup> Ibid, 59.

## 5. The UNFCCC Gender Action Plan (2007)

The Gender Action Plan of the UNFCCC was adopted on 14 November 2017 at COP 23. The Action Plan aims to advance women’s full and meaningful participation and to promote gender-responsive climate policy and the mainstreaming of a gender perspective.<sup>198</sup> Its priority areas include: (1) capacity-building, knowledge sharing and communication; (2) gender balance, participation and women’s leadership; (3) coherence; (4) gender-responsive implementation; and (5) monitoring and reporting.<sup>199</sup> It also affirmed the need to promote travel funds, organise and conduct capacity building, cooperate in promoting facilitating and implementing formal and non-formal education and include regular notifications to parties at the time of nominations to UNFCCC bodies.<sup>200</sup> At the 2019 UN Conference of the Parties in Bonn, governments and non-government organisations were urged to fully implement the Gender Action Plan under the UNFCCC.<sup>201</sup> A synthesis report was made to highlight the differentiated impacts of climate change on women and men.<sup>202</sup> Moreover, it addressed the integration of gender considerations into climate adaptation, mitigation, capacity building, ACE, technology, finance policies and plans and actions.<sup>203</sup> The report asserted that the impact of climate change on men and women are more critical in developing countries, and for local communities and indigenous peoples.<sup>204</sup> In order to approach this, the report advised gathering sex-disaggregated data and undertaking a gender analysis to ensure “effective, sustainable and just climate policies, plans and actions.”<sup>205</sup> The report additionally made reference to the quality of gender integration in climate projects and programmes. It was stated that gender considerations were at risk of being “tokenistic or superficial.”<sup>206</sup> Another issue raised was the lack of information in regard to enhancing gender balance in climate negotiations. Posterior to this, at the 25<sup>th</sup> Conference of the Parties in December 2019, the Gender Action Plan was renewed that progressively built upon the previous GAP and Lima Work Programme, and recognises many of the concerns raised by civil society and the Women and Gender Constituency, including calls for greater focus on implementation and scaling up gender-just climate solutions. This enhanced GAP acknowledges further need for mainstreaming gender throughout the UNFCCC in order to increase effective, fair and sustainable climate action and policy formation.<sup>207</sup> This improved Gender Action Plan is certainly a progressive step forward in this realisation of *effective* participation of women.

A report conducted by UN Women noted that although there is increasing attention being paid to gender statistics, there are remaining challenges which inhibit gender-responsive monitoring. These include uneven coverage with gender indicators, the absence of internationally agreed targets, and uneven

<sup>198</sup> ECBI, *Pocket Guide* (n.9).

<sup>199</sup> UNFCCC, Decision-/CP.23, ‘Establishment of a gender action plan’, (2017), 3.

<sup>200</sup> *Ibid*, 4.

<sup>201</sup> UNFCCC, ‘Bonn Conference Urges More Gender-Responsive Climate Action’ (United Nations Climate Change, 11 July 2009), available at: [https://unfccc.int/sites/default/files/resource/sbi2019\\_inf8.pdf](https://unfccc.int/sites/default/files/resource/sbi2019_inf8.pdf) (last accessed: 16 April 2020).

<sup>202</sup> UN General Assembly, *United Nations Framework Convention on Climate Change*, Synthesis Report by the Secretariat (12 June 2019), 5. Available at: [https://unfccc.int/sites/default/files/resource/sbi2019\\_inf8.pdf](https://unfccc.int/sites/default/files/resource/sbi2019_inf8.pdf) (last accessed: 16 April 2020).

<sup>203</sup> *Ibid*.

<sup>204</sup> *Ibid*.

<sup>205</sup> *Ibid*, 5.

<sup>206</sup> *Ibid*.

<sup>207</sup> UNFCCC, ‘Strengthened 5-year Action Plan on Gender Adopted at COP 25’ (28 January 2020), available at: <https://unfccc.int/news/strengthened-5-year-action-plan-on-gender-adopted-at-cop25> (last accessed: 16 April 2020).



availability of gender statistics across countries and over time.<sup>208</sup> The report contended that tracking progress is critical in strengthening accountability, and can contribute to catalysing action.<sup>209</sup> Data can inform decision-making and hold decision-makers to account in their actions and promises, thus creating positive consequences. In its report on gender equality within the 2030 Agenda for Sustainable Development, UN Women calls for the prioritisation of gender-responsive investments, policies and programmes.<sup>210</sup> It recommended the development of equitable resource mobilisation strategies, the monitoring of budget allocations for gender equality programmes, scale-up financial support for women's organisations and promoting meaningful participation of women.<sup>211</sup>

## 6. Participation & Disaster Risk Reduction

In 2016, CEDAW initiated a discussion on gender and disaster risk reduction, in the context of the provisions of CEDAW.<sup>212</sup> It was emphasized that climate change disasters affect men and women in different ways, often exacerbating the existing inequalities that exist. Discriminatory boundaries which restrain women's access to education, information, justice systems, healthcare, adequate housing, employment and social protection increase their vulnerability to climate change and climate-related disasters.<sup>213</sup>

The Committee advocated for the participation of diverse groups of women and girls.<sup>214</sup> It asserted that promoting the participation of women and girls is imperative in the creation, development and implementation of policies "because those groups are often overlooked – even though they will experience the impacts of these phenomena throughout their lifetimes."<sup>215</sup> It advocated for equal opportunities for men and women to participate and engage in decision-making activities, particularly in disaster risk reduction.<sup>216</sup>

According to the most recent Intergovernmental Panel on Climate Change (IPCC) report on land, the specific barriers that women face in participating and decision-making include disproportionate responsibility for unpaid domestic work, risk of violence in public and private spheres – which inhibit women's mobility for capacity-building – less access to finance, lack of organisational social capital, and lack of ownership of productive assets and resources.<sup>217</sup> It was reported with high agreement that gender is a social inequality that intersects across other marginalisations – such as race, culture, socioeconomic status, location, sexuality and age.<sup>218</sup> It reports that using a "framework of intersectionality" to integrate

<sup>208</sup> UN Women, 'Turning Promises into Action' (n.167), 12.

<sup>209</sup> Ibid, 10.

<sup>210</sup> Ibid, 13.

<sup>211</sup> Ibid.

<sup>212</sup> UN Women & MRFCJ, 'Ensuring a Comprehensive Approach' (n.120), 201.

<sup>213</sup> Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), Committee on Gender and Climate Change, *44<sup>th</sup> Session*, New York, 2009, 201.

<sup>214</sup> Committee for the Elimination of Discrimination Against Women, *General Recommendation No.37 on the gender-related dimensions of disaster risk reduction in the context of climate change* (7 February 2018), 9.

<sup>215</sup> Ibid.

<sup>216</sup> Ibid, 10.

<sup>217</sup> Margot Hurlbert and Jagdish Krishnaswamy, *Risk Management and Decision-making in Relation to Sustainable Development: An IPCC Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security and Greenhouse Gas Fluxes in Terrestrial Ecosystems* (2019), 66.

<sup>218</sup> Ibid.

gender into climate change research aids in recognising “overlapping and interconnected systems of power.”<sup>219</sup>

While improvements have been made in terms of participation, the quality and effectiveness of such has varied. Although reference has been made to gender, there has been little progress as a whole in terms of participation. A lack of will to execute such policies may have an effect on how well they are implemented. Governments have increasingly made legally binding commitments to respect, protect and fulfil women’s human rights. Maintaining the focus on human rights, according to UN Women, is integral to ensuring the implementation of the Sustainable Development Goals.<sup>220</sup> To conclude, regardless of whether there are gender specific policies put in place, it is the implementation of them that is important in furthering women’s rights. In order to achieve effective participation, women’s issues must not only be taken into account, but acted upon to positively address them. In the next section, women’s participation in relevant environmental bodies and within the UNFCCC will be examined.

## D. WOMEN, PARTICIPATION & REPRESENTATION

“The effects of gender imbalance amongst decision-makers go beyond headline statistics. The lack of power and influence wielded by women in public and political life is undermining progress towards a world where poverty is eradicated and men and women are able to build sustainable and secure futures for themselves and their families.”

Voluntary Service Overseas (2015)<sup>221</sup>

As previously discussed, a large number of reports have found that women have unequal access to policy and decision-making processes. The Convention for the Elimination of Discrimination Against Women has highlighted that “in many countries, [women’s] specific needs are not adequately addressed in laws, national and local policies and budgets. They remain excluded from leadership and decision-making positions at all levels.”<sup>222</sup> Moreover, women have been excluded from access to use of land and resources.<sup>223</sup> Women’s participation is covered by the UN’s Sustainable Development Goals. In the 2030 Agenda for Sustainable Development, it is acknowledged that “women and girls must enjoy equal access to quality education, economic resources and political participation, as well as equal opportunities with men and boys for employment, leadership and decision making at all levels.”<sup>224</sup>

### 1. Women & Participation

It has been argued that one of the most persistent fault lines of inequality is the lack of access to decision-making that women possess compared to men. According to statistics, only one in five parliamentarians

<sup>219</sup> Ibid.

<sup>220</sup> UN Women, ‘Turning Promises into Action’ (n.167), 2.

<sup>221</sup> VSO, ‘Women in Power’ (n.116), 4.

<sup>222</sup> Committee on the Elimination of Discrimination Against Women, ‘Respect Rights of Rural Women, Recognise Their Vital Role in Development and Poverty Reduction, UN Experts Urge’, Press Release (4 March 2016), available at: [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17148&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17148&LangID=E) (last accessed: 16 April 2020).

<sup>223</sup> Ragnhild Lunner, ‘Access to Voice in Corporate Consultations’, in Beate Sjøfjell and Irene Lynch Fannon (eds) *Creating Corporate Sustainability; Gender as an Agent for Change* (Cambridge University Press, 2018), 50.

<sup>224</sup> Ibid, 51.

are women. Moreover, women make up a mere 17% of high-level decision-making positions.<sup>225</sup> The Executive Secretary of the UNFCCC, Patricia Espinosa, highlighted the work that was specifically being done to improve female representation in the negotiation process and beyond. She accentuated the importance of implementing gender-related decisions and mandates under international climate policy. Moreover, she pointed out that the only nationally determined contributions that contained a reference to gender are in developing countries.<sup>226</sup>

The commitments undertaken by Parties to the Paris Agreement to deliver progressive climate action has increased the significance of procedural rights in the context of climate decision-making.<sup>227</sup> As Mary Robinson has argued: “A robust commitment to public participation in decision-making is urgently needed at a UNFCCC level in order to ensure human rights protections are integrated into climate processes and interventions and so that states are held to account for progress on their Paris Commitments.”<sup>228</sup> Article 12 of the Agreement states that all parties should cooperate in taking appropriate measures to strengthen climate change education, training, public awareness, public participation and public access to information.<sup>229</sup> Moreover, the Agreement requires parties to take a “participatory and transparent” approach.<sup>230</sup> However, there is no specific reference to women, or the barriers they face in participating.

The Human Development Report in 2011 highlighted that sustainability was inextricably linked with women’s participation in environmental decision-making. It found that countries with a higher representation of women were more likely to ratify international environmental treaties and set aside protected land areas.<sup>231</sup> Moreover, the increase of participation of women in climate negotiation – Kruse argues – will contribute to the equality and effectiveness of climate policy in two ways. First, the number of women in such negotiations may transcribe into the results of the presence of women’s and gender issues. He asserts that a higher number of female delegates would assist parties in recognising the gendered impact of climate change, formulate gender-sensitive mitigation and adaptation strategies and critique existing climate policies on their gender mandates. Moreover, he suggests that more gender-balanced negotiations would be beneficial for environmental and climate policy on a national level, with delegates expanding their knowledge of international climate policy.<sup>232</sup> Ergas and York’s research found that in more gender equitable nations, there is more effort put toward CO<sup>2</sup> emissions reductions.<sup>233</sup> Another study conducted by Mavisakalyan and Tarverdi sought to discover if representation of females in political decision-making contributed to climate change policy action. They analysed the association between female representation in countries’ parliaments and the level of its climate policies and found that female representation led to more stringent climate policies across countries.<sup>234</sup>

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<sup>225</sup> VSO, ‘Women in Power’ (n.116), 3.

<sup>226</sup> Patricia Espinosa, ‘Women’s Leadership in Climate Diplomacy’, UNFCCC (18 October 2017), available at: <https://unfccc.int/news/women-s-leadership-in-climate-diplomacy> (last accessed: 16 April 2020).

<sup>227</sup> Ibid, 3.

<sup>228</sup> Robinson, ‘6<sup>th</sup> Dialogue on Action for Climate Empowerment’ (n.130) 4.

<sup>229</sup> UNFCCC, *Adoption of the Paris Agreement* (n.29), Art 12.

<sup>230</sup> Ibid, Art 7(5).

<sup>231</sup> International Union for Conservation of Nature (IUCN), *The Environment and Gender Index (EGI)*, (2013), 66.

<sup>232</sup> Kruse, ‘Women’s Representation’ (n.35), 352.

<sup>233</sup> Gunnhildur Lily Magnusdottir and Annica Kronsell, ‘The (In)Visibility of Gender in Scandinavian Climate Policy Making’ (2015) 17(2) *International Feminist Journal of Politics* 309.

<sup>234</sup> Astghik Mavisakalyan and Yashar Tarverdi, ‘Gender and Climate Change: Do Female Parliamentarians Make a Difference?’ (2019) 56 *European Journal of Political Economy* 163.

A recent study conducted by Hossain *et al* analysed the relationship between female representation on corporate boards and Carbon Disclosure scores in 33 countries.<sup>235</sup> It revealed that gender diversity in the boardroom influences disclosures on greenhouse gas emissions and climate change strategies, thus justifying the need for a diversified board in addressing such issues: “diversity among board directors improves the chances that different knowledge domains, perspectives and ideas will be considered in the decision-making process.”<sup>236</sup> Moreover, Al-Shaer and Zaman reported that gender diverse boards are correlated with higher sustainability reports.<sup>237</sup> In the sphere of political participation, 90% of heads of state are men, as well as 76% of members of parliament.<sup>238</sup> With the current trend, gender parity would take 107 years, contrary to the projection of closing the gap within 30 years.<sup>239</sup>

## 2. Women’s Participation Within the UNFCCC

In the past few years, there has been an increase in women’s participation and decision-making. This – according to WEDO – can be attributed to decisions promoting women’s participation in mitigation and adaptation efforts, the introduction of gender quotas and the implementation of gender plans at a national level.<sup>240</sup> Eight of the top ten countries with the highest participation of women are located within Sub-Saharan Africa, Latin America and the Caribbean.<sup>241</sup> The UNFCCC has worked to enhance women’s leadership in climate negotiations. COP 18’s decision focused on promoting gender balance and improving the participation of women in UNFCCC negotiations, thus highlighting countries’ awareness of equal participation.<sup>242</sup> Although women’s participation rose in 2017 – with 47% of participants at COP 23 women – there is a significantly less number of women who are heads of delegations. In 2019, at COP 25, only 21% of delegation heads were women.<sup>243</sup> According to WEDO, participation has seen little progress since COP 18, with not enough attention being paid to structural inequalities.<sup>244</sup>

At COP 22 in 2016, women, on average, accounted for around 32% of all national party delegates and 23% of head of delegations. Women’s participation in Eastern and Western Europe is around 45%, whilst in Africa and the Asia-Pacific it is around 25%.<sup>245</sup> The 2001 COP decision encouraged parties to actively consider the election of women in any respective post under the Convention or the Kyoto Protocol to increase women’s participation in international climate law.<sup>246</sup> In 2002, Fatima Denton observed from the Kyoto Protocol and other negotiations that women were underrepresented in climate change decision-making.<sup>247</sup> The Charter of Women and Gender Constituency highlights several principles that lay as the

<sup>235</sup> Mohammed Hossain *et al*, ‘Women in the Boardroom and their Impact on Climate-Related Disclosure’ (2017) 13(4) *Social Responsibility Journal* 829.

<sup>236</sup> *Ibid*, 834.

<sup>237</sup> Habiba Al-Shaer and Mahbub Zaman, ‘Board Gender Diversity and Sustainability Reporting Quality’ (2016) 12(3) *Journal of Contemporary Accounting & Economics* 212.

<sup>238</sup> UNGA, ‘Women in Power’ (n.17).

<sup>239</sup> *Ibid*.

<sup>240</sup> WEDO, *Mobilizing Women for Gender Justice* (2016), available at: <https://wedo.org/what-we-do/our-programs/mobilizing-womenfor-climate-justice/> (last accessed: 16 April 2020).

<sup>241</sup> UN Women & MRFCJ, ‘Ensuring a Comprehensive Approach’ (n.120), 43.

<sup>242</sup> WEDO, *Mobilizing Women for Gender Justice* (n.240).

<sup>243</sup> WEDO, ‘UNFCCC: Progress on Gender Balance by the Numbers: A Quick Overview’ (2019), available at: <https://wedo.org/wp-content/uploads/2020/01/Factsheet-UNFCCC-Progress-Achieving-Gender-Balance-2019.pdf> (last accessed: 16 April 2020).

<sup>244</sup> WEDO, *Mobilizing Women for Gender Justice* (n.240).

<sup>245</sup> WEDO, ‘UNFCCC: Progress on Gender Balance’ (n.243).

<sup>246</sup> Maguire, ‘Gender, Climate Change and the UNFCCC’ (n.68), 65.

<sup>247</sup> Pearse, ‘Gender and Climate Change’ (n.57), 7.

basis for its work. These include democratic participation, equality, democracy and transparent procedures. It works to ensure that “human rights and a gender perspective is incorporated into UNFCCC negotiations, plans and actions.”<sup>248</sup> They recognise – however – the issue of gender equality and gender justice can often be a ‘tick the box’ mechanism, whereby measures are rarely taken into action.<sup>249</sup> A roundtable discussion on women and climate change was held by Mary Robinson and Women’s Environment and Development Organisation (WEDO) in 2007, and criticised the lack of attention paid to gender in the UNFCCC: “It is not an oversight that gender isn’t being addressed, but instead part of a systematic problem of societies and governments marginalising women.”<sup>250</sup> The Lima Work Programme was born out of COP 20 in 2014, where a two-year programme was established in achieving a gender-responsive climate policy and the Secretariat began to publish reports on gender composition under the Convention and the Kyoto Protocol.<sup>251</sup> Despite women’s low participation at the Conference of the Parties, the quality of their participation has been very high, with women playing an integral role in constructing the Kyoto Protocol.<sup>252</sup>

The UN officially began to track gender balance within the UNFCCC in 2013, however, an independent study conducted by Johannes Kruse measured women’s participation in COP delegations from 1995-2011.<sup>253</sup> In his study, Kruse indicated that women’s representation had increased from 18% of female delegates in COP 1 to 31% in COP 17.<sup>254</sup> This number has since increased to 39% in the most recent Conference of the Parties in December 2019.<sup>255</sup> Moreover, the participation levels of individual delegations varied, with higher rates of participation of women from developed countries with more political equality.<sup>256</sup> Through decisions made within COP meetings to address the issue of gender imbalance among national delegations and memberships of constituted bodies, there has been an increase in participation of women. However, a review of reports suggest that improvements have not been consistent or sustained between 2013-2017. In fact, trends have shown an overall decline in women’s participation.<sup>257</sup>

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<sup>248</sup> Atapu, *Human Rights Approaches to Climate Change* (n.7), 205.

<sup>249</sup> Ibid.

<sup>250</sup> Ibid, 207.

<sup>251</sup> UNFCCC, Decision 18/CP.20, *Lima Work Programme on Gender*, Lima, Peru (2014) UN Doc. FCCC/CP/2014/10/Add, 3.

<sup>252</sup> Minu Hemmati and Ulrike Röhr, ‘Engendering the Climate-change Negotiations: Experiences, Challenges and Steps Forward’ (2009) 17(1) *Gender and Development*, 28.

<sup>253</sup> Maguire, ‘Gender, Climate Change and the UNFCCC’ (n.68), 65.

<sup>254</sup> Atapu, *Human Rights Approaches to Climate Change* (n.7), 353.

<sup>255</sup> WEDO, ‘UNFCCC: Progress on Gender Balance’ (n.243).

<sup>256</sup> Maguire, ‘Gender, Climate Change and the UNFCCC’ (n.68), 65.

<sup>257</sup> UNFCCC, ‘Achieving the Goal of Gender Balance: Technical Note by the Secretariat’ (2017) 8, UN Doc. FCCC/TP/2017/8.

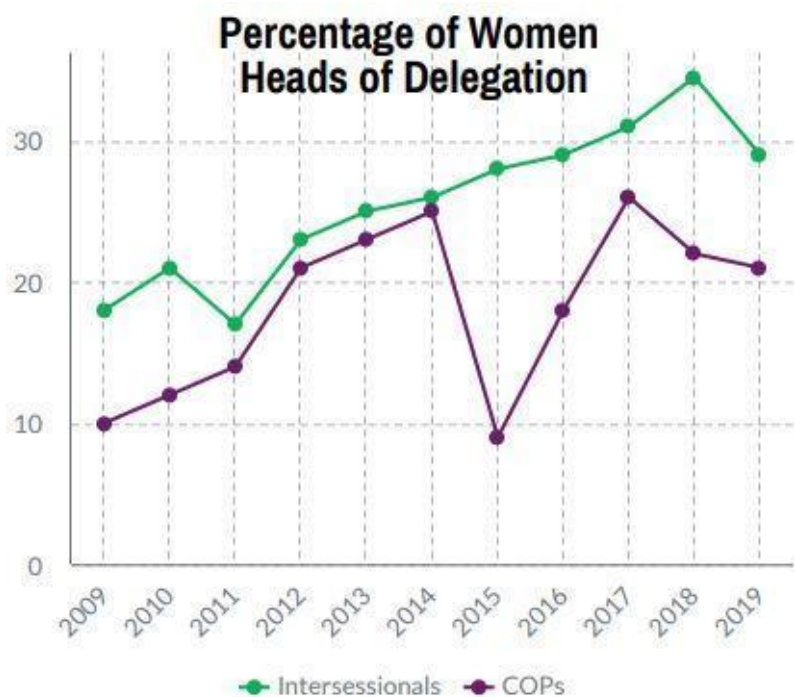


Figure 1: WEDO, *Report: Women's Participation in the UNFCCC*, (2019)

This graph illustrates the ratio of women in COP meetings in comparison to UNFCCC intersessional meetings. There appears to be a trend of a smaller number of women attending Conferences of the Parties in comparison to intersessional meetings. Moreover, the most recent figures have shown a decline in both Intersessionals and COP 25 in December 2019.

In its report on how delegates recognised challenges to gender balance within the UNFCCC, a survey was undertaken by UN Women and the Mary Robinson Foundation – Climate Justice. Respondents were of the belief that participation of women in the UNFCCC process were “impeded by several structural and institutional barriers across all levels.”<sup>258</sup> In the following paragraphs, women’s participation under specific bodies within the UNFCCC will be addressed.

#### (a) *The Adaptation Committee*

The Adaptation Committee is one of the first environmental bodies under the UNFCCC to reach equal participation of men and women. Since its operation in 2012, the committee has had an equal representation of men and women presiding officers. The gender composition of the Adaptation Committee in February 2019 was 56 per cent female.<sup>259</sup> The Committee, in its 2019-2021 work plan, included a goal of incorporating gender into all of its activities. It sets out five priority areas to achieve this objective: capacity building; participation; coherence; gender-responsive implementation; and monitoring and reporting.<sup>260</sup> According to the UNFCCC, the Adaptation Committee are known for their accessible and open approach:

<sup>258</sup> UN Women & MRFCJ, ‘Ensuring a Comprehensive Approach’ (n.120), 26.

<sup>259</sup> Fifteenth Meeting of the Adaptation Committee; *Incorporating Gender Considerations into Adaptation, Action and Across the Adaptation Committee’s Workplan Activities* (8 March 2019) 2, UN Doc. AC/2019/4.

<sup>260</sup> *Ibid*, 2.

AC meetings are open to observers, and observers are actively contributing to plenary discussions and breakout groups. Notifications are sent to all constituencies before the meetings. Representatives of the women and gender constituency have participated in AC meetings, including AC14, and are welcome to attend on a regular basis.<sup>261</sup>

*(b) Green Climate Fund's (GCF) Gender Policy & Action Plan*

In March 2015, the GCF Gender Policy and Action Plan came into effect until 2017.<sup>262</sup> In preparation of the document, gender assessment questions were addressed. The principles of the Gender Policy included ownership, resource allocation and gender balance in advisory and decision-making bodies.<sup>263</sup> The Gender Action Plan consists of six policy areas: governance and institutional structure; operational guidelines; capacity-building; outcomes, impacts and paradigm-shift objectives used to monitor, report and evaluate; and knowledge generation and communications.<sup>264</sup> Moreover, it recognises actions, indicators and timelines for each priority area.<sup>265</sup> An updated version of the Action Plan was extended from 2018 and will continue until 2020. The policy places an emphasis on gender responsiveness as opposed to gender sensitivity, keeping in line with an endeavour to overcome historical biases.<sup>266</sup> Moreover, the policy is aligned with the UN Sustainable Development Goals in its commitment to gender equality.<sup>267</sup>

*(c) Women & Nationally Determined Contributions*

Nationally Determined Contributions (NDC's) are an integral tool in advancing the UN Framework Convention on Climate Change. They outline the obligation of parties to prepare and maintain NDC's that "intends to achieve."<sup>268</sup> While the main purpose of NDC's may be to encourage commitment among states to determine what they contribute to mitigation, it also clarified the scope of national climate change plans and policies.<sup>269</sup> Parties are invited to include an adaptation component along with any other information that facilitates the understanding of NDC's.<sup>270</sup> Governments are not required to provide such information, however. It is the government's discretion on what information they show about their climate policies in their NDC.<sup>271</sup> The process of NDC's provides an opportunity to ensure that countries are appropriately adhering to gender responsive climate action. A study conducted by WEDO analysed the extent to which Nationally Determined Contributions address women's human rights. It was observed that in total, 64 of 290 INDC's included a reference to gender. Furthermore, all 64 countries are considered non-Annex 1 countries.<sup>272</sup> Another important point raised was in the context of which gender was mentioned. Of the 64 countries, 27 mentioned gender in relation to adaptation, followed by mitigation (12 countries), implementation of commitments (9 countries) and capacity building (5 countries). Only 37.5% per cent explicitly mention 'women' or 'gender' in the context of national ambitions, with sub-

<sup>261</sup> Ibid, 3.

<sup>262</sup> UN Women & MRFCJ, 'Ensuring a Comprehensive Approach' (n.120), 27.

<sup>263</sup> Ibid, 27.

<sup>264</sup> Green Climate Fund (GCF) 'Gender Policy and Action Plan' (2015), 9-10.

<sup>265</sup> UN Women & MRFCJ, 'Ensuring a Comprehensive Approach' (n.120), 27.

<sup>266</sup> Green Climate Fund, 'Updated Gender Policy and Action Plan 2018-2020' (7 June 2018), 4.

<sup>267</sup> Ibid.

<sup>268</sup> UNFCCC, *Adoption of the Paris Agreement* (n.29).

<sup>269</sup> WEDO 'UNFCCC: Progress on Gender Balance' (n.243).

<sup>270</sup> WEDO, 'Gender and Climate Change: An Analysis of Intended Nationally Determined Contributions' (2016), 1.

<sup>271</sup> Ibid, 2.

<sup>272</sup> Ibid, 3.

Saharan Africa the only exception.<sup>273</sup> The most frequent way in which women were described was as a vulnerable group.<sup>274</sup> Moreover, only fifteen Intended Nationally Determined Contributions acknowledged women as important decision-makers in the context of climate change policy-making.<sup>275</sup> There is a need for gender responsive technology and finance mechanisms, as well as gender informed decisions on the preparation of NDC's. Country specific gender and data analysis are integral in the preparation of commitments of each signatory to the Paris Agreement. Governments must ensure that NDC's are designed in a participatory manner, that enables the full participation of women, indigenous peoples and other marginalised communities.<sup>276</sup>

### **3. Barriers to Women's Effective Participation in Environmental & Climate Decision-Making**

#### *(a) North/South politics – the focus on vulnerable nations*

Politics between the North and South have dictated the climate regime. Historically, the North has been regarded as most responsible for greenhouse gas emissions.<sup>277</sup> The degenerate consumption of the planet's resources by its most wealthy inhabitants (mostly in the global North or large cities in the South) has brought about environmental degradation.<sup>278</sup> As articulated by Gonzalez:

From colonialism to the present, the North's appropriation of the South's natural resources in order to fuel its economic expansion has generated harmful economic and environmental consequences, trapping Southern nations in vicious cycles of poverty and environmental degradation, and producing global environmental problems (such as climate change and biodiversity loss) that will constrain the development options of generations to come.<sup>279</sup>

As already discussed in the previous section, the impacts of global environmental degradation disproportionately affects the most vulnerable humans, including the rural and the poor, racial and ethnic minorities and women and indigenous peoples.<sup>280</sup> In the North and South, the communities who are most affected by poverty, political disempowerment and social exclusion are most exposed to air and water pollution, and most affected by climate change and other environmental issues.<sup>281</sup> Sherilyn MacGregor postulates that the climate justice discourse within the climate change regime is partly attributed to feminist activists.<sup>282</sup> This would suggest that women view climate change as an issue of justice as opposed to a scientific or economic problem.

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<sup>273</sup> UN Women & MRFCJ, 'Ensuring a Comprehensive Approach' (n.120), 27.

<sup>274</sup> WEDO, 'Gender and Climate Change' (n.270), 4.

<sup>275</sup> Ibid.

<sup>276</sup> Asia Indigenous Peoples Pact & Women's Environment and Development Organisation, 'Delivering on the Paris Promises: Combating Climate Change with Protecting Rights' (2017), 13.

<sup>277</sup> Ibid, 74.

<sup>278</sup> Carmen Gonzalez, 'Human Rights, Environmental Justice, and the North-South Divide' (2015) 151 *Santa Clara Journal of International Law* 154.

<sup>279</sup> Ibid, 154.

<sup>280</sup> Ibid.

<sup>281</sup> Ibid.

<sup>282</sup> Maguire, 'Gender, Climate Change and the UNFCCC' (n.68), 74.



*(b) The scientific framing*

Climate change has been shaped by a number of hegemonic vectors which set out to inform certain understandings and experiences.<sup>283</sup> The dominant voices in the climate regime are the voices of the natural sciences and economics, with the belief that only credible solutions lie within those fields. As MacGregor postulates: “Climate change is widely represented as a techno-scientific problem requiring technical solutions.”<sup>284</sup> In many instances, international debates have side-lined the priorities of the poor – predominantly of women – in favouring discussion on fungibility and certified emissions reductions.<sup>285</sup> She argues that a large reason for overlooking gender has been that it is assumed the effects of climate change are distributed evenly. This approach subsequently disregards the contributions of other disciplines – in particular, the social sciences. Many feminists have argued that women have traditionally been considered to have a much better ability to understand social life.<sup>286</sup> Men far outnumber women in both scientific and decision-making organisations. In a recent IPCC report, it was documented that women – on average – make up 28% of all scientific researchers worldwide. It illustrated that many professions that influence climate adaptation and mitigation, even within the IPCC, are male-dominated.<sup>287</sup> International environmental delegations are predominantly made up and led by men. As MacGregor asserts: “Climate politics has been shaped by stereotypically masculinist discourses that work to ‘invisibilise’ and alienate women and their concerns.”<sup>288</sup> Moreover, it is argued that the discussion on climate change is inaccessible, with policy makers and researchers using technical language.<sup>289</sup> It is contended that including women and other marginalised groups in positions of influence in climate policy development would in turn lead to more diverse perspectives and solutions being put forward.<sup>290</sup> A greater focus on the social sciences in regard to climate change would understand the issue through a people lens. As Denton explains: “If addressing the negative effects of climate change is a prerequisite to sustainable development, then it is imperative that the debate is given a people’s perspective.”<sup>291</sup> While it is important for climate policy to somewhat be based on science, focusing solely on science and economics inhibits the type of solution and policy responses that could be helpful to the climate regime.<sup>292</sup> This outlook is certainly changing, however it is questionable to what degree. It was a great progress to witness the integration of the human rights element of climate change into the Paris Agreement (2015) however the inclusion of it solely in the Preamble suggests that it is not of great importance to the climate change agenda as a whole.

*(c) Grassroots participation in decision-making*

Participation by local communities in sustainable development has been integral to development practice since the 1970’s. The knowledge and skill that indigenous women possess is vital in climate change adaptation and mitigation. The capacity building of women at a local level is imperative in enabling

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<sup>283</sup> MacGregor, ‘Gender and Climate Change’ (n.12), 229.

<sup>284</sup> *Ibid*, 230.

<sup>285</sup> Fatma Denton, ‘Climate Change Vulnerability, Impacts and Adaptation: Why Does Gender Matter?’ (2010) 10(2) *Gender and Development*, 12

<sup>286</sup> MacGregor, ‘Gender and Climate Change’ (n.12), 230.

<sup>287</sup> IPCC, ‘Report from the IPCC Task Group on Gender’ (2019), 6.

<sup>288</sup> MacGregor, ‘Gender and Climate Change’ (n.12), 230.

<sup>289</sup> Denton, ‘Climate Change Vulnerability’ (n.285), 12.

<sup>290</sup> Maguire, ‘Gender, Climate Change and the UNFCCC’ (n.68), 77.

<sup>291</sup> Denton, ‘Climate Change Vulnerability’ (n.285), 12.

<sup>292</sup> Maguire, ‘Gender, Climate Change and the UNFCCC’ (n.68), 76.

participation in decision-making.<sup>293</sup> Ferguson and Lovell contend that the capability for grassroots actors to innovate and adapt to a changing climate in a way that large institutions are unable to do, renders them integral as agents of change.<sup>294</sup> As expressed by Robert Bullard:

Grassroots groups challenge the ‘business as usual’ environmentalism that is generally practiced by the more privileged ... The focus of activists of color and their constituencies reflect their life experiences of social, economic and political disenfranchisement.<sup>295</sup>

With women at the core of the environmental movement at a grassroots level, it would be reasonable to assume that this would be the same as ranks moved up. However, this has not been the case. When asked if indigenous and gendered knowledge were reflected in the Paris Agreement – Ursula Rakova, an executive director of an NGO in Papua New Guinea, replied:

Look at human rights and then gender inequality: that clause isn’t there. I don’t think the traditional law or culture is really in the agreement ... It’s kind of hypocritical in the sense that it talks about protecting our rights as vulnerable people, but then it places us outside this agreement.<sup>296</sup>

#### 4. Expanding Descriptive & Substantive Representation

Wängernud describes the distinction between descriptive and substantive representation as the number of women elected and the effects of women’s presence in parliament.<sup>297</sup> The politics of presence – which was published in 1995 – presented the theory that female politicians are better equipped to represent the interests of women.<sup>298</sup> In research on substantive representation, it is commonly argued that societies will not achieve equality between men and women by ignoring gender-related differences.<sup>299</sup> The structural inequality of *why* women are not participating needs to be addressed. The main focus of descriptive representation in the climate change context has been to examine and address the structural, cultural and political factors that inhibit women from integrating with the political system. Generally speaking, an increase in the number of women in political institutions is associated with quota systems and the appearance of left wing parties.<sup>300</sup> Kruse, in his study, describes *descriptive* representation as the number of women present in climate negotiations, where *substantive* representation measures to what degree women’s or gender issues are taken into account, and how this influences policy outcome.<sup>301</sup> An important point raised by Tremblay highlighted the importance of substantive representation:

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<sup>293</sup> UN Women & MRFCJ, ‘Ensuring a Comprehensive Approach’ (n.120), 58.

<sup>294</sup> Rafter Sass Ferguson and Sarah T. Lovell, ‘Grassroots Engagement with Transition to Sustainability: Diversity and Modes of Participation in the International Permaculture Movement’ (2015) 20(4) *Ecology and Society* 39.

<sup>295</sup> Robert D. Bullard, *Confronting Environmental Racism: Voices from the Grassroots* (Boston, MA South End Press, 1993).

<sup>296</sup> Ursula Rakova (2016), ‘Women in the Paris COP 21 Climate Negotiations: An Interview with Ursula Rakova’, Sophoe Pascoe, *Australian Institute of International Affairs*, 7 November 2016.

<sup>297</sup> Lena Wangernud, ‘Women in Parliaments: Descriptive and Substantive Representation’ (2009) 12 *Annual Reviews*, 52.

<sup>298</sup> *Ibid.*

<sup>299</sup> *Ibid.*, 54.

<sup>300</sup> Maguire, ‘Gender, ‘Climate Change and the UNFCCC’ (n.68), 66.

<sup>301</sup> Kruse, ‘Women’s Representation’ (n.35), 351.

While descriptive representation functions somewhat by default (because there are women in parliament, women are therefore said to be represented), substantive representation requires consciousness and deliberate actions: a woman MP must speak and act in favour of the expectations, needs and interests of women.<sup>302</sup>

Another study conducted into Scandinavian policy-making sought to explore *whether* and *how* equal representation of both women and men had made reference to gender.<sup>303</sup> It found that substantive representation draws attention to the fact that women's contributions to political decisions are different to men's contributions.<sup>304</sup> According to feminist standpoint theory, women's unique position in society provides certain experiences of the "dominant make elites."<sup>305</sup> Moreover, post-structural feminist theory argues that the lack of descriptive representation of women is a "crisis of representation."<sup>306</sup> The number of female representatives is significantly lower than men, but also even where women are represented, they are regularly excluded from the 'political elite' that possess an extensive amount of power, due to the existence of masculinist norms of international relations.<sup>307</sup> As highlighted by Maguire:

Addressing female representation within the climate regime therefore not only requires increasing the number of women participating, but also addressing the institutional cultures which prevent the inclusion of more diverse perspectives.<sup>308</sup>

In order to achieve full and effective participation of women, there is a need for both descriptive and substantive representation. Participation of women will remain low if the barriers they face in participating is not recognised. Moreover, if women are not participating, then it is likely their needs are not effectively being met.

While improvements have been made in terms of participation, the quality and effectiveness of such has varied. There appears to be a dominant focus on participation by civil society organisations rather than grassroots actors, according to a UN Women report conducted in 2016.<sup>309</sup> It referenced the Convention on Biological Diversity, which includes communities and indigenous peoples as stakeholders, due to their valuable knowledge of conservation and sustainable use of biological diversity.<sup>310</sup> Moreover, a funding mechanism for facilitating participation from indigenous and local communities supports participation of representatives from developing countries.<sup>311</sup> The report recommended a similar platform to be created for the UNFCCC, to increase awareness of the value of traditional and local knowledge.<sup>312</sup> Significant progress has been made that can be built on in further negotiations. However, in the development of mechanisms, instruments and measures, there remains an absence of gender issues. Many lobbyists

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<sup>302</sup> Drude Dahlerup, *Representing Women: Defining Substantive Representation of Women* (Oxford University Press, 2014), 61.

<sup>303</sup> Magnusdottir & Kronsell, 'The (In)Visibility of Gender' (n.233), 310.

<sup>304</sup> *Ibid*, 313.

<sup>305</sup> *Ibid*.

<sup>306</sup> Maguire, 'Gender, Climate Change and the UNFCCC' (n.68), 66.

<sup>307</sup> *Ibid*, 67.

<sup>308</sup> *Ibid*.

<sup>309</sup> UN Women & MRFCJ, 'Ensuring a Comprehensive Approach' (n.120), 62.

<sup>310</sup> *Ibid*.

<sup>311</sup> *Ibid*.

<sup>312</sup> *Ibid*.

argue that gender issues are used to fill in gaps, rather than act as “substantive agenda points” within climate negotiations.<sup>313</sup>

## 5. Improving Participation of Women in Climate Change Negotiations

Not only is the participation of women beneficial in climate negotiations, but it is also necessary. The impacts of environmental degradation – as already discussed – are not distributed evenly. Highlighting the gender dimensions of climate change allows for a more accurate representation and a more promising solution, while also negating dominant tendencies to see society as homogenous and one dimensional.<sup>314</sup> According to Denton, the increase of participation of women in UNFCCC bodies is integral if policies want to aid rather than inhibit gender equality.<sup>315</sup> Increasing women’s participation, would lead to environmental and development outcomes for everyone.<sup>316</sup> However, participation alone is not enough to secure gender equality. The Mary Robinson Foundation – Climate Justice conducted a report on women’s participation and identified three ways in which it can be categorised:

**Presence:** Where women are present in decision-making, but lack the support and acknowledgement in their capability to effect change.<sup>317</sup> This is what Christine Chinkin describes as the “add women and stir” approach, as it fails to address structural inequalities, thus preserving social, political and economic disadvantages.

**Partial Participation:** Women are present in decision-making but have limited voice – usually in areas that are traditionally associated with women – such as childcare and women’s health.<sup>318</sup>

**Meaningful Participation:** This is the most desired mode of participation – where women are fully present in decision-making and have a voice to effect change in all areas.<sup>319</sup>

A report conducted by UN Women and the Mary Robinson Foundation encouraged action to address the lack of gender equality, and to ensure the inclusion of women in the UNFCCC.<sup>320</sup> In the report, there were three recommendations in helping to achieve this. The first recommendation, it is urged that parties authorise the development of a gender policy that provides the principles and framework to implement gender-related mandates of the UNFCCC decisions and the Paris Agreement.<sup>321</sup> The second recommendation referred to the elaboration of the Gender Action Plan (GAP), which would provide analysis on certain issues, mechanisms for reporting and capacity building. Additionally, the report encouraged for the Gender Action Plan to be supplemented by a work programme, which would be updated every three years.<sup>322</sup> The report highlighted that in order to progress toward gender balance under the UNFCCC, systematic steps must be taken. Challenges such as a lack of political will, insufficient targeted funding, weak enforcement and monitoring and limited awareness and understanding of gender

<sup>313</sup> Hemmati & Röhr, ‘Engendering the Climate-climate Negotiations’ (n.252), 29.

<sup>314</sup> Sherilyn MacGregor, ‘A Stranger Silence Still: The Need for Feminist Social Research on Climate Change’ (2009) 57(2) *The Sociological Review* 124.

<sup>315</sup> Denton, ‘Climate Change Vulnerability’ (n.285), 12.

<sup>316</sup> MRFCJ, ‘Women’s Participation’ (n.37), 8.

<sup>317</sup> *Ibid.*

<sup>318</sup> *Ibid.*

<sup>319</sup> *Ibid.*

<sup>320</sup> UN Women & MRFCJ, ‘Ensuring a Comprehensive Approach’ (n.120), 5.

<sup>321</sup> *Ibid.*

<sup>322</sup> *Ibid.*

stereotypes all contribute as barriers to participation.<sup>323</sup> The report suggested that prioritised the participation of women in constituted bodies.<sup>324</sup>

## 6. Examples of Good Practices

### (a) *The Environment & Gender Index*

The Environment and Gender Index (EGI) was set up to help transform global agreements on gender and the environment into progress for women. It was launched at COP 19 to monitor progress on gender equality in an environmental context.<sup>325</sup> It aims to measure progress, improve information and empower countries to take more steps toward gender equality and the environment. It assesses the conditions for gender equality and women's empowerment by scoring 72 countries between 2010-2012 along 27 aspects, each divided into 6 categories. For example, aspects such as gender-based rights and participation are broken down into women in COP delegations, women in policy-making positions and women managers.<sup>326</sup> Its major findings were that there was little information on women's role and access to environmental related sectors, implementation of international global agreements were lacking in many countries, and there was a clear lack of gender parity in environmental decision-making.<sup>327</sup> The EGI has not been updated in recent years, despite the need for more gender-specific data on women in environmental policy-making.

### (b) *Women & Gender Constituency*

The Women Gender Constituency promotes human rights and gender equality, as well as the full and effective participation of women at all levels of decision-making,<sup>328</sup> by taking a gender responsive approach in all policies and measures related to climate change.<sup>329</sup> The Constituency – which embraces principles of democratic and participatory governance – provides a platform for women's leadership.<sup>330</sup> The Constituency formulated a Gender Just Climate Solutions Award, which was separated into technical climate solutions, non-technical climate solutions and transformational climate solutions.<sup>331</sup> It focuses on providing equal access to men, women and youth, alleviating women's workload and empowering women through better mobility/accessibility.<sup>332</sup>

### (c) *Women's Delegate Fund*

Acknowledging the necessity to support women's participation and leadership within the UNFCCC, the Global Gender and Climate Alliance launched the Women's Delegate Fund. Focusing on travel support, capacity building and networking and outreach and advocacy, the fund builds on submissions from parties which highlighted the need to address gender disparities of participation in the UNFCCC process. From

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<sup>323</sup> Ibid, 28.

<sup>324</sup> Ibid.

<sup>325</sup> IUCN, *Environment and Gender Index* (n.231).

<sup>326</sup> Ibid, 25.

<sup>327</sup> Ibid, 32.

<sup>328</sup> Women Gender Constituency, *Gender Just Climate Solutions* (2018), 1.

<sup>329</sup> Ibid.

<sup>330</sup> Ibid.

<sup>331</sup> Ibid, 2.

<sup>332</sup> Ibid.

2009-2016, the Women's Delegate Fund provided transport for 218 trips for 54 women spanning across 40 countries to attend sessions of the UNFCCC. Among those funded, over 40% were the only women on their national delegations.<sup>333</sup> Moreover, a number of training programmes have been orchestrated, as well as advocacy and capacity building.<sup>334</sup>

*(d) Women's Environment & Development Organisation (WEDO)*

WEDO advocates for diversity in leadership in relation to environmental decision-making and maintains that women – as a result of socially constructed gender roles – are more directly impacted by environmental degradation. It advocates for sustainable development policies that are gender-responsive, and empowering women as decision-makers, advocates and leaders.<sup>335</sup> It does this through advocacy, capacity building and training, and knowledge production and outreach.<sup>336</sup>

This section examined women's participation within the UNFCCC and more broadly, within environmental decision-making. From the information provided, it appears that there is a real lack of meaningful participation among women within climate change law and policy. Moreover, when women are in a decision-making position, they rarely hold an extensive amount of power due to the underlying systemic inequalities between men and women. The impact of environmental degradation affects those who experience inequalities the most, including the poor, racial and ethnic minorities and women. The structural inequalities of why women and other marginalised groups are not participating must be addressed. Meaningful participation is the only form of participation that is adequate, as women's presence is meaningless if they are not empowered to effect change.

## E. CONCLUSIONS

“When we invest in women's participation, we have an ally who wants a stable community and roots for her family. Each woman is not only a worker, but also a provider, a caretaker, an educator, a networker and a vital forger of bonds in a community. Moreover, women's participation brings constructive, creative and sustainable solutions to the community.”<sup>337</sup>

This paper has aimed to measure if there is effective participation of women within climate change law and policy. It did this through two objectives. The first, examined the specific provisions relating to gender by analysing the various international treaties, declarations and policies put in place to improve women's participation. The second, measured women's descriptive participation within the UNFCCC and other areas of environmental decision-making. On completion of the paper, it has been uncovered that there is a vast contrast between women's presence within environmental decision-making structures, and *effective* participation. Furthermore, unless there is sufficient and meaningful participation of women, and women's issues are fully incorporated into climate change law and policy, then participation will not be effective.

<sup>333</sup> UNFCCC, 'Achieving the Goal of Gender Balance: Technical Paper by the Secretariat' (2017), UN Doc. FCCC/TP/2017/8, 17.

<sup>334</sup> *Ibid.*

<sup>335</sup> WEDO, 'Vision and Mission', available at: <https://wedo.org/about-us-2/vision-mission-2/> (last accessed: 16 April 2020).

<sup>336</sup> WEDO, 'What We Do', available at: <https://wedo.org/what-we-do/> (last accessed: 16 April 2020).

<sup>337</sup> Ela Bhatt at the UN Development Programme Sustainable Lifestyles event at COP 21 in Paris (11 December 2015).

To conclude, it is not that women are vulnerable to climate change, but rather the socio-cultural inequalities that women face renders them more periled to its effects. Moreover, their knowledge is integral to climate research, with their responsibility for food security. The dual theme of labelling women as ‘vulnerable’ or ‘virtuous’ of climate change is not only generalising women’s experiences, but it is also damaging and exacerbates stereotyped gender differences. Diversity is vital within climate negotiations, to avoid homogenous tendencies to view society as one dimensional or that solutions are ‘one size fits all’, subsequently omitting diverse experiences and perspectives. Despite this position, women are underrepresented in decision-making positions within climate change law and policy. This variety of experiences and perspectives is vital in ensuring everyone is represented in climate negotiations and decision-making structures. This is the only way that there will be effective, sustainable and fair climate solutions.

Going forward, there is a need for a participatory approach to climate change, with the full involvement of women, and other marginalised peoples. Women’s participation at a grassroots level is high, but when translated into ‘higher’ decision-making positions, participation of women is less and less. Being so heavily involved at a grassroots level, women are vital to the progression of climate solutions. Women have a human right to be involved in decision-making and to participate, substantively and descriptively. Article 7 and 8 of CEDAW both stipulate that women must have the right to participate at a government level, and with concerns of the public life of the country.<sup>338</sup> When women are not represented in decision-making on climate change, then their human rights are not being fully acknowledged. Moreover, when women are *present* but not meaningfully participating, not only does it *not* bring about the change that is needed to inform effective climate policy, but most importantly, it does not create equality between men and women in environmental decision-making. It is not enough to acknowledge that there must be more diversity within climate change law and policy. These words must be accompanied with plans, policies, training, statistical analysis and contextual data, aimed at addressing the root cause of women’s lack of participation.

## 1. Women’s Participation – Looking to the Future

This paper has highlighted some ways in which women’s participation can be improved. A more in-depth and country specific gender and data analysis to accurately pinpoint the exact issues at hand, intersectional capacity-building and training and an integrated human rights approach is needed when looking to the future for women’s meaningful and effective participation:

### (a) *Contextualised country specific gender and data analysis*

Gender and data analysis that is specific to each country will help in identifying barriers to women’s participation, thus highlighting how it can be improved. The Environment and Gender Index highlighted the lack of gender-disaggregated data and the need for information on women’s role and access to environmental related sectors.<sup>339</sup> Moreover, the need for gender and data analysis is important for the preparation of NDC’s. There is an issue with only 15 NDC’s acknowledging women as vital decision-makers in climate change policy-making.<sup>340</sup> With parties to the Paris Agreement preparing for post-2020

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<sup>338</sup> UNGA, *CEDAW* (n.38).

<sup>339</sup> IUCN, *Environment and Gender Index* (n.231).

<sup>340</sup> WEDO, ‘Gender and Climate Change’ (n.270) 4.

commitments in NDC's, it is integral that they are designed in a manner that encourages the participation of women and other marginalised groups.

*(b) Intersectional capacity building and training*

The lack of diversity in climate negotiations in relation to race, class, gender and ethnicity is something that should be looked at further. Moreover, the intersection and existence of such vectors should also be addressed, to encourage structural change.

The lack of participation of women in decision-making positions is as a result of inhibitors in the form of direct and indirect discrimination in laws, regulations, customs and practices, as well as perpetuated gender-based stereotypes. Even in situations where women are present at a community level, it is often a result of 'top-down' management in an effort to tick the box on gender mainstreaming. Without supporting a behavioural change, the issue will remain the same.<sup>341</sup> For participation of women to be effective and equal, words must be brought to action through training, capacity building and financial support that transforms who has access and influence in the decision-making process.<sup>342</sup>

*(c) An integrated human rights-based approach*

Women have a human right to participate in the issues that are affecting them. Climate change is largely a human rights issue, and will affect everyone regardless of gender, age, sexuality or race. With the increase of climate-related disasters, the rights of persons must be protected. Climate justice advocates for a human-centred approach to climate change, that protects those most vulnerable, and shares the burden of climate change.<sup>343</sup> Policies and projects that are formed without meaningful participation of women will reinforce existing gender inequalities, which is a violation of human rights.

This paper has sought to measure if there was effective participation of women within climate change law and policy. Through examining the specific provisions related to gender included within climate change law and policy, and observing women's participation within the UNFCCC and environmental decision-making, the author has come to the conclusion that in order to gain effective participation of women, there must be both a presence of women in decision-making positions, and an existence of provisions that acknowledge and identify women's issues within climate change law and policy. The connection of both the descriptive and substantive when it comes to representation is essential; it is not enough for women to be solely present within environmental decision-making. Their representation *must* be substantive, whereby women's issues are not only taken into account, but it shapes how policies are formed. This analysis should not be confined to informing policies on gender, but in all policy areas, including climate finance, agriculture, forestry, mitigation, adaptation and disaster risk reduction.

This means that women must not only be present, but they must be empowered to effect lasting change. Improving women's participation in national and international policy making bodies – or what Christine Chinkin describes as an "add women and stir" approach, does little to change decisions and raise awareness. It does not challenge the structural roles themselves:

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<sup>341</sup> MRFCJ, 'Women's Participation' (n.37) 9.

<sup>342</sup> WEDO, *Mobilizing Women for Gender Justice* (n.240).

<sup>343</sup> MRFCJ, 'Principles of Climate Justice' (n.24).



Words on paper will not be enough to fully transform participation levels, particularly as gender imbalance in decision-making is a reflection of larger structural gender equality issues at international, national and local levels.<sup>344</sup>

Meaningful participation requires the recognition of the social and cultural barriers that have functioned to exclude women from being represented in climate negotiations, and the attempt to *break down* those barriers to fully support women's participation in the process.

There is a requirement for structural change from the bottom up. This requires a full effort from the UNFCCC and environmental decision-makers to make a conscious decision to support behavioural change within the inherently masculine structure of international law. Encouraging the participation of women – not only white women – but women of colour, indigenous women, women in the global south, poor women and young women is integral for climate justice, and the integrity of our planet.

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<sup>344</sup> WEDO, *Mobilizing Women for Gender Justice* (n.240).