

CLIMATE CHANGE AND WOMEN'S RIGHTS. INTERNATIONAL LEGAL RECOGNITION AS A SOLUTION.

With women making up 70% of the world's most impoverished population, they are deeply susceptible to climate damage.

Climate change is a phenomenon that discriminates. This is because the effects of global warming, water pollution and deforestation exacerbate existing inequalities in our societies and make it difficult for the most fragile communities to adapt. According to a study by Stanford University, it has been concluded that the difference between the richest and poorest countries is 25 percentage points greater than if climate change did not exist. In countries such as Sudan, climate change has reduced per capita income by 36%, while in countries such as Canada it has increased it by 32%¹. Furthermore, this inequality is also seen within countries themselves, where greater suffering from climate impacts is determined by factors such as age, gender, ethnicity and race².

Consequently, given that women make up 70% of the world's poorest population, they are deeply susceptible to climate damage.

1 Diffenbaugh & Burke, 2019

2 Nazrul Islam & Winkel, 2017

Historical and current discrimination against women has resulted in fewer economic opportunities and less land ownership, between 10 and 20%, although the proportion of women working on land is as high as 50% in regions such as Asia³. In this sense, according to data from a World Bank study, 155 of the 173 countries analysed had a law that prevented or hindered women's economic and development opportunities⁴.

This lack of accessibility to resources means that nearly 500 million women working in the agricultural sector are unable to access the technology needed to increase production, receive only 5% of the agricultural products they produce, and are the main victims of crop failures caused by climate change⁵. This also leads to profound discrimination in food accessibility, especially for rural women, who

3 FAO, 2011

4 Iqbal, 2015

5 Glazebrook et al., 2020

are the main victims of food shortages in the Global South⁶.

Also, in rural areas, women are responsible for obtaining and managing water at the household level. However, the greater frequency of droughts in areas such as sub-Saharan Africa results in less accessibility to this resource and, consequently, in women having to travel greater distances to obtain it, pay higher prices and sometimes ration it. This also makes it difficult for women to invest time in other income- and resource-generating activities⁷. Studies have also shown that food shortages lead to a significant increase in gender-based violence within the family⁸.

In the same vein, lack of resources is one of the key elements in addressing the challenges of climate adaptation, as the unequal economic distribution between genders in the face of environmental impacts such as droughts, floods and natural disasters has a lethal effect on women. A study of natural disasters in 141 countries found that women and girls are 14 times more likely to die in such circumstances as a result of economic and social inequalities⁹. Clear examples of natural disasters in which the highest number of victims were women are Hurricane Katrina in New Orleans in 2005¹⁰, the cyclones in Bangladesh in 1991¹¹, the tsunami in the Indian

6 Botreau & Cohen, 2019

7 Sellers, 2016

8 Amali Tower, 2020

9 Neumayer & Plümper, 2007

10 Gault et al., 2005

Ocean in 2004¹² or the heat wave in France in 2003¹³, among others.

Similarly, one of the worst consequences of the effects of climate change are the resulting forced migrations, which also affect women unequally, since, according to the United Nations in 2015, 80 percent of climate migrants were women¹⁴. As a result, women are forced to leave their homes and during this journey, and even in camps for displaced persons, they are often victims of sexual assault and abuse¹⁵.

In addition, women have been relegated to the role of victims, creating a narrative that perpetrates the lack of women's participation in decision-making and a profound gender inequality in the membership of international organisations and environment ministries. In the last Rio Conventions (COP11, COP12 and COP20), in no case has equal representation been achieved, neither among those attending as government delegates, nor among bureau members, nor among NGO representatives¹⁶. Likewise, in terms of women's participation on the boards of climate change financing mechanisms, such as the *Global Environmental Facility*, the *Adaptation Fund* and the *Green*

11 Ikeda, 1995

12 Rex & Trohanis, 2012

13 Pirard et al., 2005

14 UNDP, 2015

15 Action Against Hunger et al., 2018

16 IUCN, 2015

Climate Fund, in no case did women's participation exceed 35%¹⁷.

Consequently, the climate crisis is a global emergency that particularly affects women as victims of inequality. It is therefore necessary to analyse what legal and economic tools exist at the international level to be able to tackle climate change from a gender perspective that provides a response that includes all vulnerable groups and especially gives women the necessary tools to be able to adapt and empower themselves in the face of the effects of global warming.

International recognition of women as essential actors in the fight against climate change.

In light of the above, it is necessary to analyse what kind of international recognition is given to women in relation to the fight against climate change, and how this recognition has evolved so far, especially with regard to the UN Conferences of the Parties, the 2030 Agenda and climate finance mechanisms.

In 1992, 197 parties signed the foundational agreement to recognise and combat climate change, the United Nations Framework Convention on Climate Change, which, while

not explicitly mentioning women's vulnerability to climate change and the need for gender-sensitive solutions, did foresee that all actions aimed at protecting the planet and present and future generations had to be based on the principle of equity.

That same year, in the Rio Declaration, the need for women to be an active actor of change and struggle was recognised for the first time through Principle 20 of the Declaration, acknowledging their essential role in environmental management and development of countries.

However, this recognition of women as essential actors in climate decision-making did not materialise explicitly until the Marrakesh Conference of the Parties in 2001, where it was explicitly stated in Decision No. 36 that greater participation of women in the bodies established by the United Nations Framework Convention on Climate Change and the Kyoto Protocol was necessary. It was also established that the gender composition of the various bodies would be monitored from that time onwards.

With the same objective, in 2012, Decision 23/CP.18 was approved in the framework of



the United Nations Climate Change Conference in Doha 2012. This decision again stressed the need to achieve gender parity in the composition of the bodies created as a result of the Convention. In addition, a work programme was created to monitor the composition of the different delegations, as well as to analyse the different opportunities for including women in the negotiations and representation of the different institutions.

However, it was not until 2014, at the Lima Conference, that the need was included not only to obtain equal representation in international climate bodies, but also to analyse and implement the climate mitigation and adaptation policies adopted by countries from a gender perspective.

Since then, and in subsequent COPs, it has been possible to see the mention of gender as a key element to be taken into account when taking further climate action. The 2015 Paris Agreement, for example, repeatedly mentions the need for adaptation measures implemented by countries to be gender-responsive and thus promote women's empowerment.

Likewise, the Bonn Conference in 2017 adopted the **Gender Action Plan**, which established concrete actions to achieve greater representation of women in the bodies, as well as to ensure gender mainstreaming in climate policies, both in their design, implementation and monitoring. Finally, this Action Plan, together with the Lima Work Programme, was extended for a further five years at the last Conference of the Parties in Madrid in 2019.

On the other hand, the international recognition of gender as a factor of vulnerability, as well as the figure of women as

actors of change, are two elements that have been transferred to the **global Sustainable Development Goals of the 2030 Agenda**.



Thus, Goal 5 envisages gender equality and the empowerment of women and girls, which has a series of goals and sub-goals consisting of the total eradication of discrimination and violence against women, the achievement of equal economic rights, participation in public life, access to sexual and reproductive health and the promotion of the use of technology by women, among others.

However, the gender perspective is not only limited to Goal 5, but is also included in the other goals in a cross-cutting manner¹⁸. Examples are Goal 2 on "Zero Hunger", which recognises that, due to their vulnerable position, women are the first victims of hunger as well as being essential in world agriculture and in the provision of food for families, as well as Goal 6 on "Water and Sanitation" and Goal 7 on "Affordable and Clean Energy", which recognises the central role of women as the main collectors of water and fossil fuels for households in the countries of the Global South, or Goal 8 "Decent work and economic

¹⁸ UN Women, 2018

growth" which seeks to eliminate the gender pay gap and enable women to hold positions of responsibility and wealth generation in the global ecological transition.

It is also necessary in this case to mention one of the targets set out in Goal 13 "*Climate Action*", specifically target 13.b, which establishes as an objective the establishment of planning and climate management mechanisms in the countries of the Global South that take into account the development of groups such as women, young people and local communities.

Thus, the Sustainable Development Goals seek, first and foremost, to uphold and promote Human Rights, under the principles of universality and equity, it is therefore essential that all the Goals recognise situations of inequality, especially on the issue of gender, and align with international law to promote greater equality and protection of women's rights in all spheres¹⁹.

Finally, it is necessary to pay attention to the international resources and financial means that are being made available to countries so that the fight against climate change with a gender perspective can materialise in concrete projects and legal and technological infrastructure. To this end, the work of two international funds, the Adaptation Fund and the Green Climate Fund, should be acknowledged.

The Adaptation Fund is an international fund that was established as a result of the Kyoto Protocol and has invested USD 814 million in

19 UN Women, 2018

climate adaptation and mitigation projects to date. In 2016, the fund adopted a Gender Policy aimed at ensuring equal rights, responsibilities and opportunities for both genders, as well as taking into account in all projects the different needs of women and men, especially with regard to the vulnerability of women. In 2021, the Fund has updated this policy to include new monitoring and assurance mechanisms to ensure the gender perspective of the climate projects it finances²⁰.

Similarly, the Green Climate Fund is a climate fund created in 2010 within the framework of the United Nations Framework Convention on Climate Change. To date, they have invested 5.7 billion dollars in climate projects to reduce emissions and create adaptation infrastructure²¹. In 2015, they published their Gender Policies, placing a gender perspective as a cross-cutting element in their project architecture, and in 2019 they updated them, requiring a gender audit for all projects in their planning, preparation and implementation phases²².

Consequently, it is possible to see that the gender perspective has gradually become one of the essential elements in international climate policies, giving recognition and visibility to a situation of inequality and vulnerability that affects millions of women. However, it is necessary to analyse how these international policies can move from mere

20 Adaptation Fund, 2021

21 Green Climate Fund, 2021

22 Green Climate Fund, 2020

recognition to national climate action by governments and institutions that truly guarantee the path towards women's security and equality.

Climate litigation as a response to human rights violations

International law recognises that it is the obligation of states to protect their citizens from the effects of climate change. This protection can take the form of mitigation measures, i.e. the cessation of carbon emissions, deforestation or polluting discharges, among others, or adaptation measures, which consist of restoring, compensating and building the necessary infrastructure to cope with the unavoidable effects of climate change²³. Consequently, the last decade has seen a proliferation of climate litigation by citizens or associations against states for failure to comply with such climate protection obligations.

In such climate litigation, it is increasingly common for state actions or inactions to be challenged on the basis of a violation of citizens' human rights, in particular the protection of life, health and private property, which are directly affected by climate change. Thus, in order to protect these fundamental rights, governments are asked to adopt more ambitious measures to reduce emissions and the use of fossil fuels, or even to deny operating licenses to non-renewable energy companies, deforesters or producers of polluting waste²⁴.

23 Vanderheiden, 2011

24 Savaresi & Auz, 2019

There are several cases in which judicial recognition has been granted to plaintiffs' climate petitions based on legal arguments relating to the protection of human rights, such as *Children and Youth v. the Colombian Government*, in which the Colombian Supreme Court recognised that the Colombian Government's failure to halt deforestation in the Amazon directly infringed on the human rights of Colombian citizens, as recognised in the Constitution²⁵. Or along the same lines, the case of *Urgenda Foundation and 886 citizens v. the State of the Netherlands*, in which the Court of Appeal of The Hague recognised the inadequacy of the climate measures adopted by the Dutch government and the consequent violation of the human rights of its citizens as victims²⁶.

Climate litigation has thus become a relatively effective means of holding respective governments accountable for their adoption of climate actions. Fortunately, the enforcement of countries' climate obligations and the protection of human rights in the context of climate change is in constant development, especially thanks to the proposed introduction of the crime of **Ecocide into** the list of crimes against humanity, recognised by the Rome Statute of the International Criminal Court.

The final definition of the crime of Ecocide presented by the Panel of Independent Experts convened by the Dutch Stop Ecocide Foundation describes it as follows: "*Ecocide*" means any unlawful or arbitrary act

25 *Children and Youth v. the Colombian Government*, 2018

26 *Urgenda Foundation and 886 citizens v. the State of the Netherlands*, 2019

*perpetrated in the knowledge that there is a substantial likelihood of causing serious, widespread or long-term damage to the environment*²⁷. International recognition of such a crime would protect the environment as well as the fundamental rights to health, life and private property.

Climate change has been shown to jeopardise access to food, water and economic development for countless communities, exacerbating inequalities and generating high numbers of forced displacements. A crime against ecocide would therefore not only protect the environment, but also the human rights of all those who suffer from the effects of global warming and pollution.

However, is it possible that **women's rights** can be protected from the effects of climate change through the aforementioned legal instruments?

In certain cases, climate litigation has been a key instrument to demand the protection of women's human rights and, in particular, the need to address climate policies in order to avoid the severe climate damages they suffer as a vulnerable group²⁸. The paradigmatic example of this is the case of *Maria Khan et al. v. Federation of Pakistan*²⁹.

In this case, in 2019, a group of Pakistani women filed a constitutional petition alleging

27 Stop Ecocide et al., 2021

28 Garofalo, 2020

29 *Maria Khan et al. v. the Federation of Pakistan*, 2018

that the Pakistani government's inaction on climate change constituted a human rights violation against them and future generations under their right to a clean environment and the right to life and health. They also alleged that the government's inaction violated women's rights to equal protection and non-discrimination because the effects of climate change disproportionately affect Pakistani women due to their particular vulnerability. This was the first time that the impact of a country's environmental policies on women's rights had been raised in court on a climate issue, arguing that because of the unequal conditions faced by women, government inaction or inadequate action constitutes a serious failure to guarantee women's human rights.

Following the aforementioned example, in November 2020, Greenpeace Spain, Ecologistas en Acción-CODA and Oxfam Intermón filed a lawsuit before the Spanish Supreme Court alleging the inadequacy of the climate measures being taken by the Spanish government and the lack of compliance with the targets set out in international agreements, such as the Paris Agreement. In the aforementioned lawsuit, among other arguments, it is alleged that the failure to comply with climate obligations disproportionately affects women due to their unequal economic and social situation. A report on the relationship between the gender gap and climate change was also provided as expert evidence in order to prove that climate change deepens gender inequality in Spain³⁰.

Both lawsuits are still pending, and it is not possible to say whether they will constitute a definitive precedent for defending women's

rights in the context of climate change, beyond an instrument of denunciation and public visibility.

In conclusion, although there is high international visibility of the problem, governments need to recognise the consequences of climate inaction or insufficient action on gender inequality. Mitigation and adaptation policies must always be gender-sensitive, enabling projects to be monitored and corrected in order to ensure material gender equality and to put the protection of human rights at the centre of the issue.

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30 Appeal 2/265/2020 brought by Greenpeace et al. before the Spanish Supreme Court, 2020

References:

- Action Against Hunger, Save the Children, & OXFAM. (2018). *Rohingya Refugee Response Gender Analysis. Recognizing and responding to gender inequalities*. OXFAM International.
- Adaptation Fund. (2021, May 4). *Gender Policy and Action Plan of the Adaptation Fund (amended in March 2021) - Adaptation Fund*. Adaptation Fund.
<https://www.adaptation-fund.org/document/opg-annex4-gender-policy/>
- Amali Tower. (2020, May 19). *Climate Refugees*. Climate Refugees.
<https://www.climate-refugees.org/perspectives/genderedimpactsofclimatechange>
- Botreau, H., & Cohen, M. J. (2019). *GENDER INEQUALITIES AND FOOD INSECURITY Ten years after the food price crisis, why are women farmers still food-insecure?* Oxfam International.
<https://doi.org/10.21201/2019.4375>
- Children and Youth v. the Colombian Government, (Supreme Court of Colombia April 5, 2018).
- Diffenbaugh, N. S., & Burke, M. (2019). Global warming has increased global economic inequality. *Proceedings of the National Academy of Sciences*, 116(20), 201816020.
<https://doi.org/10.1073/pnas.1816020116>
- FAO. (2011). *The State of Food and Agriculture*. World Bank, World Development Report 2012.
- Glazebrook, T., Noll, S., & Opoku, E. (2020). Gender Matters: Climate Change, Gender Bias, and Women's Farming in the Global South and North. *Agriculture*, 10(7), 267.
<https://doi.org/10.3390/agriculture10070267>
- Green Climate Fund. (2020, September 28). *Gender*. Green Climate Fund.
<https://www.greenclimate.fund/projects/gender>
- Green Climate Fund. (2021). *Green Climate Fund*. Green Climate Fund.
<https://www.greenclimate.fund/>
- Appeal 2/265/2020 brought by Greenpeace et al. before the Spanish Supreme Court, (December 15, 2020).
- Iqbal, S. (2015). Women, business and the law 2016: Getting to equal. 1, 2.
<http://documents.worldbank.org/curated/en/455971467992805787/Women-business-and-the-law-2016-getting-to-equal>
- IUCN. (2015, November 2). *Gender and climate change*. IUCN.
<https://www.iucn.org/resources/issues-briefs/gender-and-climate-change>
- Maria Khan et al. v. Federation of Pakistan, (Lahore High Court 2018).
- Nazrul Islam, S., & Winkel, J. (2017). Climate Change and Social Inequality. *UN/DESA Working Papers*, 152.
<https://www.un.org/en/desa/climate-change-and-social-inequality>
- Neumayer, E., & Plümper, T. (2007). The Gendered Nature of Natural Disasters: The Impact of Catastrophic Events on the Gender Gap in Life Expectancy, 1981-2002. *Annals of the Association of*

- American Geographers*, 97(3), 551-566.
<https://doi.org/10.1111/j.1467-8306.2007.00563.x>
- UN Women. (2018). *Making Promises Real: Gender Equality in the 2030 Agenda for Sustainable Development*. UN Women.
- Rex, H. C., & Trohanis, Z. (2012). Making women's voices count : integrating gender issues in disaster risk management : overview and resources for guidance notes. In (Vol. 0). East Asia and Pacific Region Sustainable Development, World Bank Group; <http://documents.worldbank.org/curated/en/723731468234284901/Making-womens-voices-count-integrating-gender-issues-in-disaster-risk-management-overview-and-resources-for-guidance-notes>
- Savaresi, A., & Auz, J. (2019). Climate Change Litigation and Human Rights: Pushing the Boundaries. *Climate Law*, 9(3), 244-262. <https://doi.org/10.1163/18786561-00903006>
- Sellers, S. (2016). *Gender and Climate Change: A Closer Look at Existing Evidence* (pp. 1-27). Global Gender and Climate Alliance.
- Stop Ecocide, Sands QC, P., Fall Snow, D., Mackintosh, K., J. Rogers, R., Cabanes, V., Fajardo, P., Rizwana Hasa, S., C. Jalloh, C., Lledó, R., Neroni Slad, T., Voigt, C., & Whitihng, A. (2021). *COMMENTARY ON THE DEFINITION OF ECOCIDIO* (p. 5).
- UNDP. (2015). Climate Change and Disaster Mitigation: Gender Makes the Difference. In <https://t.co/BwOt3btKjt?amp=1>. IUCN.
- Urgenda Foundation and 886 citizens v. the State of the Netherlands, (Supreme Court of the Netherlands December 20, 2019).
- Vanderheiden, S. (2011). Globalizing Responsibility for Climate Change. *Ethics & International Affairs*, 25(01), 65-84. <https://doi.org/10.1017/s089267941000002x>

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